



**SENATE**

Senate Bill No. 809

'19 JUL 29 P 4 :04

Introduced by Sen. Imee R. Marcos

RECEIVED

**AN ACT  
TO AMEND SECTION 12 OF REPUBLIC ACT NO. 8436, AS AMENDED BY  
REPUBLIC ACT NO. 9369 ENTITLED, "AN ACT AUTHORIZING THE  
COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM  
IN THE MAY 11, 1998 NATIONAL AND LOCAL ELECTORAL EXERCISES",  
AND FOR OTHER PURPOSES**

**EXPLANATORY NOTE**

The existing law on automated elections require specific pre-conditions on the automated election system (AES) the Commission on Elections (COMELEC) is authorized to use.

Republic Act No. 9369, which amends Republic Act No. 8436, requires that the AES should have "demonstrated the capability and had been successfully used in a prior electoral exercise here or abroad." In effect, this is a pre-condition before an automated elections system can be considered for use by the COMELEC. By requiring the successful use of an AES in a prior electoral exercise here or abroad, the options of the COMELEC are reduced to only one AES – that which is provided by *Smartmatic*, thereby, negating all other technical requirements.

Amending the law by deleting this provision will pave the way for more options in the selection of AES and AES system providers since other service providers that can meet all the other requirements and pre-conditions shall have equal opportunity to be considered and eventually chosen by the COMELEC.

To level the playing field and to open up the bidding for automated election system equipment, materials, and other services, particularly, to Filipino companies, this bill proposes to exempt prospective bidders from the single largest completed contract requirement.

Under the premises, the approval of this bill is highly recommended.

**IMEE R. MARCOS**

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**COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM**  
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**AND FOR OTHER PURPOSES**

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

1       **SECTION 1.** Section 12 of Republic Act No. 8436, as amended by Republic  
2 Act No. 9369, is hereby further amended to read as follows:

3               **"SECTION 12.** *Procurement of Equipment and Materials.* – To  
4 achieve the purpose of this Act, the Commission is authorized to  
5 procure, in accordance with existing laws, by purchase, lease, rent or  
6 other forms of acquisition, supplies, equipment, materials, software,  
7 facilities and other services, from local or foreign sources free from  
8 taxes and import duties, subject to accounting and auditing rules and  
9 regulations. With respect to the May 10, 2010 elections and succeeding  
10 electoral exercises, the system procured must have demonstrated  
11 capability [and been successfully used in a prior electoral exercise here  
12 or abroad]. Participation in the 2007 pilot exercise shall not be  
13 conclusive of the system's fitness.

1            "In determining the amount of any bid from a technology,  
2 software or equipment supplier, the cost to the government of its  
3 deployment and implementation shall be added to the bid price as  
4 integral thereto. The value of any alternative use to which such  
5 technology, software or equipment can be put for public use shall not  
6 be deducted from the original face value of the said bid.

7            **"FOR THE SOLE PURPOSE OF PROCURING SUPPLIES,  
8 EQUIPMENT, MATERIALS, SOFTWARE, FACILITIES AND  
9 OTHER AUTOMATED ELECTION SERVICES, UNDER THIS  
10 SECTION OF THIS ACT ONLY, PROSPECTIVE BIDDERS ARE  
11 EXEMPTED FROM COMPLETING THE SINGLE LARGEST  
12 COMPLETED CONTRACT REQUIREMENT UNDER SECTION  
13 23.4.1.3 OF THE 2016 REVISED IMPLEMENTING RULES AND  
14 REGULATIONS OF REPUBLIC ACT NO. 9184."**

15            **SEC. 2. *Separability Clause.*** - Should any part of this Act be declared  
16 unconstitutional, the other parts not affected thereby shall remain valid and  
17 effective.

18            **SEC. 3. *Repealing Clause.*** - All laws, decrees, orders, and issuances, or  
19 portions thereof, which are inconsistent with the provisions of this Act, are hereby  
20 repealed, amended, or modified accordingly.

21            **SEC. 4. *Effectivity.*** - This Act shall take effect fifteen (15) days after its  
22 publication in two (2) newspapers of general circulation.

*Approved,*