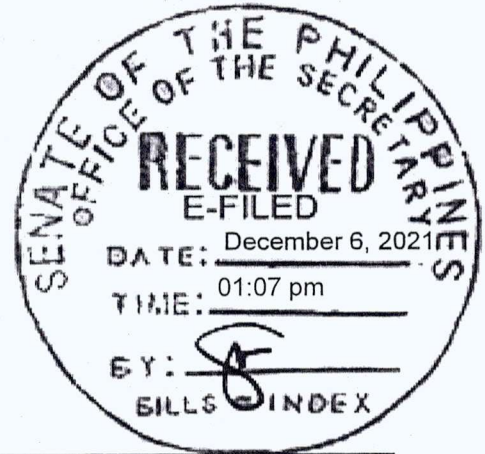


EIGHTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*Third Regular Session* )



SENATE

S. No. 2461

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Introduced by **SENATOR LEILA M. DE LIMA**

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**AN ACT**  
**TO PREVENT ABUSE OF THE LAW GOVERNING THE SUBSTITUTION**  
**OF CANDIDATES FOR THE NATIONAL AND LOCAL ELECTIONS,**  
**AMENDING FOR THE PURPOSE SECTION 77 OF BATAS PAMBANSA**  
**BLG. 881, OTHERWISE KNOWN AS THE OMNIBUS ELECTION CODE**

**EXPLANATORY NOTE**

The Omnibus Election Code recognizes the importance of our party system and our political parties and therefore provides for an opportunity for political parties to replace their candidates before the elections.

Substitution of candidates is therefore a privilege accorded to political parties, and not to individual candidates. This is why substitution is accorded only to candidates of political parties, and not to independent candidates.

In light of this, it can readily be gleaned that the practice of substituting candidates with individuals who were not party members, but only belatedly, even up to the point of taking their oath as party member only on the date of the filing of the substitute certificate of candidacy, is an outright bastardization of the privilege of substitution accorded by the law to political parties. In this practice, political parties merely become the vehicle of prominent personalities shopping for a political party -- regardless of the fact that they then only become nominal party members, or party members by convenience -- instead of candidates becoming the vehicle of political parties. It reinforces the impression on the character of our electoral exercises as being based on personalities instead of platforms and programs of government.

In order to facilitate this abuse, some parties resorted to fielding “placeholders”, or nominating persons who have no real intention to run for office, with the clear intent of substituting a different candidate during the period provided for by law. In order to prevent this from happening, the COMELEC should be able to determine whether these “placeholders” are nuisance candidates in spite of substitution, which, in turn would void the substitution by the political party which nominated them.

This bill, amending Sec. 77 of the Omnibus Election Code and incorporating the modifications introduced by Sec. 12 of RA 9006 (Fair Elections Act) in light of election automation and printed ballots, seeks to concretize into legislation COMELEC Rules which already provide that substitution due to withdrawal must be more limited in scope than substitution due to death and disqualification. Thus, this bill allows substitution due to withdrawal only up to the period allowed by COMELEC before the printing of the ballots (as it is now the practice of COMELEC), and allows substitution due to death and disqualification up to mid-day of election day, provided that the substitute has the same surname as the candidate who died or was disqualified (in reiteration of Sec. 12 of RA 9006).

Most importantly however, the proposed amendments to Sec. 77 of the OEC in this bill makes it a paramount requirement that the substitute of a candidate who withdrew his candidacy must, at the very least, already be a member of the political party of the candidate withdrawing at the time of the filing of the latter’s certificate of candidacy. This would preclude the now prevalent practice of political parties filing nuisance candidacies of party members, but only as placeholders to strong and popular candidates of other political parties or who are otherwise independent, in anticipation that their political party will be the one eventually picked by the strong and prominent candidate, in what can only be considered as a “rigodon” of popular candidates among the various political parties.

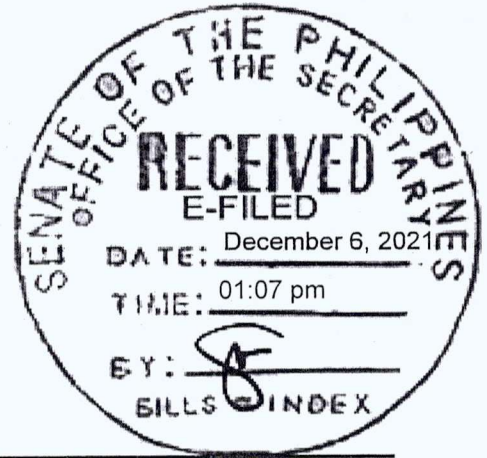
This practice of last-minute party-hopping or party-hunting during and even after the original COMELEC period for filing certificates of candidacies has ended must stop now, as it puts to shame even ordinary and regular party-hopping done several months or weeks before the filing of certificates of candidacy.

This bill likewise makes the substitution without prejudice to any proceeding to declare the original candidates as nuisance candidates and to void any substitution of the same.

Early approval of this measure is earnestly sought.

*Leila de Lima*  
**LEILA M. DE LIMA**

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**AN ACT**  
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**AMENDING FOR THE PURPOSE SECTION 77 OF BATAS PAMBANSA**  
**BLG. 881, OTHERWISE KNOWN AS THE OMNIBUS ELECTION CODE**

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

1 Section 1. Section 77 of Batas Pambansa Blg. 881, s. 1985, otherwise known as  
2 the "Omnibus Election Code," is hereby amended to read as follows:

3 **Section 77. SUBSTITUTION OF [c]andidates in**  
4 *case of death, disqualification or withdrawal of another.* - If  
5 after the last day for the filing of certificates of candidacy, an  
6 official candidate of a registered or accredited political party  
7 dies, withdraws or is disqualified for any cause, only a person  
8 belonging to, and certified by, the same political party may file  
9 a certificate of candidacy to replace the candidate who died,  
10 withdrew or was disqualified. The substitute candidate  
11 nominated by the political party concerned may file his  
12 certificate of candidacy for the office affected in accordance  
13 with the preceding sections ~~not later than mid-day of the day~~  
14 ~~of the election.~~ If the death, withdrawal or disqualification  
15 ~~should occur between the day before the election and mid-day~~  
16 ~~of election day,~~ said certificate may be filed with any board of  
17 ~~election inspectors in the political subdivision where he is a~~

1 candidate, or, in the case of candidates to be voted for by the  
2 entire electorate of the country, with the Commission.

3  
4 THE SUBSTITUTION IN CASE OF  
5 WITHDRAWAL SHALL BE MADE WITHIN THE  
6 PERIOD DESIGNATED BY COMELEC WHICH  
7 SHALL BE PRIOR TO THE PRINTING OF THE  
8 BALLOTS. THE PERIOD FOR SUBSTITUTION IN  
9 CASE OF DEATH OR DISQUALIFICATION SHALL BE  
10 UP TO MID-DAY OF ELECTION DAY; *PROVIDED*  
11 *THAT*, IN THE CASE OF SUBSTITUTION AFTER THE  
12 PRINTING OF BALLOTS, THE SUBSTITUTE SHALL  
13 HAVE THE SAME SURNAME AS THE CANDIDATE  
14 WHO DIED OR WAS DISQUALIFIED.

15  
16 FOR PURPOSES OF SUBSTITUTION DUE TO  
17 WITHDRAWAL, THE SUBSTITUTE CANDIDATE  
18 MUST ALREADY BE A MEMBER OF THE POLITICAL  
19 PARTY AT THE TIME OF THE FILING OF THE  
20 CERTIFICATE OF CANDIDACY OF THE CANDIDATE  
21 TO BE SUBSTITUTED DURING THE ORIGINAL  
22 PERIOD FOR FILING SET BY THE COMELEC. SUCH  
23 MEMBERSHIP SHALL BE PROVEN BY A  
24 NOTARIZED OATH OF MEMBERSHIP TO THE  
25 POLITICAL PARTY TAKEN BY THE SUBSTITUTE  
26 CANDIDATE, DULY ATTESTED TO BY THE  
27 AUTHORIZED REPRESENTATIVE OF THE  
28 POLITICAL PARTY, AND BY SUCH OTHER PROOF  
29 AS MAY BE ADDITIONALLY REQUIRED BY THE  
30 COMELEC.

31  
32 ANY MISREPRESENTATION AS TO THE  
33 ABOVE REQUIRED MEMBERSHIP SHALL BE  
34 CONSIDERED A MATERIAL MISREPRESENTATION

1           **IN A PETITION FOR THE CANCELLATION OF A**  
2           **CERTIFICATE OF CANDIDACY.**

3  
4           **THE SUBSTITUTION DUE TO WITHDRAWAL**  
5           **SHALL BE WITHOUT PREJUDICE TO ANY**  
6           **PROCEEDING TO DECLARE THE ORIGINAL**  
7           **CANDIDATE AS A NUISANCE CANDIDATE. IF THE**  
8           **ORIGINAL CANDIDATE IS DECLARED AS A**  
9           **NUISANCE CANDIDATE, THE SUBSTITUTION**  
10          **SHALL BE DEEMED VOID.**

11          *Sec. 2. Separability Clause.* – If any provision of this Act is declared  
12          unconstitutional or invalid, other parts or provisions hereof not affected shall continue  
13          to be in full force and effect.

14          *Sec. 3. Repealing Clause.* – All laws, executive orders, presidential decrees,  
15          presidential proclamations, letters of instruction, rules and regulations or parts  
16          thereof which are inconsistent with the provisions of this Act are hereby repealed or  
17          modified accordingly.

18          *Sec. 4. Effectivity Clause.* – This Act shall take effect fifteen (15) days following  
19          its publication in the Official Gazette or in a newspaper of general circulation in the  
20          Philippines.

Approved,