

FIFTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

SENATE
OFFICE OF THE SECRETARY

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SENATE
S. No. 2254

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

In a democratic country like the Philippines, elections are periodically held. Since there is always that slim possibility that the elections will result in a tie, the Constitution and Batas Pambansa Blg 881, also known as the Omnibus Election Code, provided different solutions to that scenario in the different levels of government.

The Constitution provided for tie-breakers in cases of presidential and vice presidential elections while BP 881, as amended provided for tie-breakers in the other election cases.

Under the Constitution, Article VII, Section 4, paragraph 5, "the person having the highest number of votes shall be proclaimed elected, but in case two or more shall have an equal and highest number of votes, one of them shall forthwith be chosen by the vote of a majority of all the Members of both Houses of the Congress, voting separately." Thus, in case of a tie for president and vice-president, Congress, as the representative of the people, shall vote separately to break such tie.

However, in the case of other officials as provided for under our Omnibus Election Code, Section 240, in cases where two or more candidates have received an equal and highest number of votes, or in cases where two or more candidates are to be elected for the same position and two or more candidates received the same number of votes for the last place in the number to be elected, the board of canvassers shall proceed to the drawing of lots of the candidates who have tied and shall proclaim as elected the candidates who will be favored by luck. In short, if the elections result in a tie, the future leaders will be determined through chance.

I believe that there is a more rational way of breaking a tie and not just through the drawing of lots. Thus, following the formula in the Constitution, I believe that it is better for the Sanggunian (in place of Congress) concerned to break the tie rather than leave everything to

chance. For instance, if there is a tie after the elections in a certain municipality or city, the duly-elected Sanggunian will now be called upon to decide who their next official will be. Be it for Mayor, Vice-Mayor, Sanggunian member or District Representative. However, in cases of district representation, only the Sanggunian members of the district concerned will cast their vote to break the tie.

In the case of Senators, if there is a tie for the last place, the remaining 23 senators will vote among themselves on who the 24th senator will be. I believe that this formula is more rational because it is the people's duly elected representative who will be breaking the tie and not just pure luck.¹

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO
ACS

¹ This bill was originally filed in the Thirteenth Congress, Third Regular Session.

1 SANGGUNIAN and his proclamation on the basis thereof. PROVIDED
2 HOWEVER, THAT IN CASE WHERE THE POSITION TO BE FILLED IS
3 FOR DISTRICT REPRESENTATIVE OR DISTRICT SANGGUNIAN
4 MEMBER, ONLY THE MEMBERS OF THE SANGGUNIAN OF THAT
5 DISTRICT WILL BE ALLOWED TO VOTE.

6 IN CASES OF SENATORS, THE DULY ELECTED 23 SENATORS
7 WILL VOTE AMONG THEMSELVES ON WHO WILL BE THE LAST
8 SENATOR WHO WILL COMPLETE THEIR ROSTER.

9 Nothing in this section shall be construed as depriving a candidate of his
10 right to contest the election.”

11 SECTION 2. *Repealing Clause.* - Any law, presidential decree or issuance, executive
12 order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent
13 with the provisions of this Act is hereby repealed, modified or amended accordingly.

14 SECTION 3. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its
15 publication in at least two (2) newspapers of general circulation.

Approved,

/ptm02july2010