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Senate
Office of the Secretary

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

13 JUL -1 P4:24

SENATE
S. No. 185

RECORDED BY: ja

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The divided Supreme Court's decision in *Peñera v. Comelec*¹ is reflective of the problem occasionally encountered by judges: how to interpret a law that does not mean what it says. Batas Pambansa Blg. 881, or the "Omnibus Election Code of the Philippines," provides for penalties for premature campaigning, but amendments to the law itself ensure that the formal goal of the law is frustrated. Thus, while premature campaigning is a prohibited act punishable by disqualification from public office, the law's definition of a candidate gives those interested in public office an opportunity to evade the sanction of the law. In the end, the (final) majority led by Justice Antonio Carpio decided to apply the logical meaning of the law even if the consequences undermined the policy; on the other hand, the dissents decided to apply the policy of the law at the cost of sacrificing the intent of congress. Either position is rational and defensible. Given that it is quite unlikely that *Peñera* will be reversed any time soon, the remedy to the problem of premature campaigning lies outside the courts.

An obvious remedy is the amendment of the law, deleting Section 13 of R.A. No. 9369,² which allows those who file their certificates of candidacy to be considered candidates only at the start of the campaign period. This would effectively result in a reversal of the *Peñera* majority and an affirmation of the position of the minority. This would also shift the burden to the Commission on Elections (Comelec), giving it the power to define what constitutes electioneering or partisan political activity, that is, any activity that is designed to promote the

¹599 SCRA 609 (2009).

² An Act Amending Republic Act No. 8436, entitled "An Act Authorizing the Commission on Elections to Use an Automated Election System in the May 11, 1998 National or Local Elections and in Subsequent National and Local Electoral Exercises, to Encourage Transparency, Credibility, Fairness and Accuracy of Elections, Amending for the Purpose Batas Pambansa Blg. 881, as amended, Republic Act No. 7166 and Other Related Elections Laws, Providing Funds Therefor and For Other Purposes".

election or defeat of any candidate. This would give some teeth to the law and allow the Comelec to regulate the problem of premature campaigning.

In lieu of amending the law on candidates for purposes of premature campaigning, one can approach the problem by creating a separate and defined period in which certain activities generally understood as premature campaigning can be more effectively regulated. Thus, Congress should pass a law requiring those interested to run for public office to file a "Certificate of Intention to Run for Public Office" or CIRPO, six months before the deadline for the filing of a certificate of candidacy. This means that the Comelec can substantially regulate prospective candidates' activity for a certain period prior to the elections.

The CIRPO is a mandatory requirement for anyone who wants to run for public office; failure to file a CIRPO makes a person interested in running for public office ineligible to file a certificate of candidacy. This character of the CIRPO ensures that candidates will have to submit to the regulatory regime that covers everyone who is interested in an elective public office. The greatest advantage of the CIRPO is that once filed, the prospective candidate for public office can then be subjected to a host of regulations which can effectively curb premature campaigning.

This makes premature campaigning much easier to regulate and identify, giving the public, the prospective candidates, and the Comelec prior notice of what types of behavior are prohibited and not prohibited. For instance, the proposed CIRPO bill may state that those who have filed their CIRPO shall not —

- a) endorse any product or service, whether for a fee or not;
- b) appear on any infomercial;
- c) accept any employment in any media outfit as a news anchor, writer, or regular talent;
- or
- d) buy any print, radio, or television space to advertise himself/herself or any product or service.

This simple enumeration of prohibited acts by any person who has filed a CIRPO already covers a wide set of activities that are generally considered premature campaigning. Along with my Anti-Epal Bill (Senate Bill No. 1967, entitled "Anti-Signage of Public Works Act"), the CIRPO regulations can substantially curb the unethical practice of premature campaigning and

make it a bit more difficult for candidates with deep pockets to take advantage of their easy access to public utilities and commercial entities. In addition, because these prohibitions constitute grounds for refusal of the Comelec to consider or nullify a subsequent certificate of candidacy, they have the power to actually affect candidates' behavior.³


MIRIAM DEFENSOR SANTIAGO

³ This bill was originally filed during the Fifteenth Congress, Third Regular Session.

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RECEIVED BY: *ja*

Introduced by Senator Miriam Defensor Santiago

1 AN ACT
2 REQUIRING ANY PERSON INTERESTED IN RUNNING FOR PUBLIC OFFICE TO FILE
3 A CERTIFICATE OF INTENTION TO RUN FOR PUBLIC OFFICE SIX MONTHS BEFORE
4 THE DEADLINE FOR THE FILING OF A CERTIFICATE OF CANDIDACY

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

5 SECTION 1. *Short Title.* – This Act shall be known as the “CIRPO Act of 2012.”

6 SECTION 2. *Certificate of Intention to Run for Public Office or CIRPO.* – Any person
7 interested in running for public office shall file with the Commission on Elections a “Certificate
8 of Intention to Run for Public Office” or CIRPO not later than one hundred eighty (180) days
9 immediately preceding the deadline for the filing of a certificate of candidacy.

10 SECTION 3. *Failure to File a CIRPO.* – Any person interested in running for public
11 office who has failed to file his/her CIRPO within the deadline for filing the same shall be
12 ineligible to file a certificate of candidacy.

13 SECTION 4. *Prohibited Acts.* – Prior to the campaign period, any person who has filed
14 his/her CIRPO shall not:

- 15 (a) endorse any product or service, whether for a fee or not;
16 (b) appear on any infomercial;
17 (c) accept any employment in any media outfit as a news anchor, writer, or regular
18 talent; or

1 (d) buy any print, radio, or television space to advertise himself/herself or any
2 product or service

3 Any person found by the Commission on Elections, *motu proprio* or upon verified
4 complaint of any interested party, after due notice and hearing, to have violated this Section shall
5 be ineligible to file a certificate of candidacy; or if he/she has filed a certificate of candidacy,
6 he/she shall be disqualified from continuing as a candidate.

7 SECTION 5. *Implementing Rules and Regulations.* – Within ninety (90) days from the
8 effectivity of this Act, the Commission on Elections shall promulgate the rules and regulations to
9 implement this Act. Such rules and regulations shall take effect fifteen (15) days after its
10 publication in a newspaper of general circulation.

11 SECTION 6. *Separability Clause.* – If any provision of this Act shall be declared
12 unconstitutional, any other provision not affected thereby shall remain in full force and effect.

13 SECTION 7. *Repealing Clause.* – All laws, decrees, orders, rules and regulations, or
14 parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

15 SECTION 8. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication
16 in at least two (2) newspapers of general circulation.

Approved,