

THIRTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
Third Regular Session )

SENATE  
S.B. No. 2667

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Introduced by Senator Miriam Defensor Santiago

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#### 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 24<sup>th</sup> 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.

  
MIRIAM DEFENSOR SANTIAGO  
fdr

THIRTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
Third Regular Session )

SENATE  
S.B. No. 2657

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Introduced by Senator Miriam Defensor Santiago

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AN ACT  
AMENDING BATAS PAMBANSA BLG. 881, AS AMENDED ALSO KNOWN AS  
THE OMNIBUS ELECTION CODE OF 1985, SECTION 240 ON ELECTIONS RESULTING  
IN TIE.

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

SECTION 1. Section 240 of Batas Pambansa Blg. 881, also known as the Omnibus Election Code of 1985, as amended is hereby further amended to read as follows:

Sec. 240. Election resulting in tie. - Whenever it shall appear from the canvass that 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, after recording this fact in its minutes, shall by resolution, upon five days notice to all the tied candidates, TRANSMIT THE FINAL RESULTS TO THE SANGGUNIAN CONCERNED. THE SANGGUNIAN SHALL hold a special SESSION THREE DAYS AFTER RECEIVING THE TRANSMITTAL FROM THE BOARD OF CANVASSERS at which the SANGGUNIAN shall BREAK THE TIE BY A MAJORITY VOTE and shall proclaim as elected the candidate who WILL be CHOSEN BY THE VOTE OF A MAJORITY OF ALL THE MEMBERS OF THE SANGGUNIAN, and the candidate so proclaimed shall have the right to assume office in the same manner as if he had been elected by plurality of vote.

The SANGGUNIAN shall forthwith make a certificate stating the name of the candidate who WAS CHOSEN BY THE MAJORITY VOTE OF THE SANGGUNIAN and his proclamation on the basis thereof. PROVIDED HOWEVER, THAT IN CASE WHERE THE

POSITION TO BE FILLED IS FOR DISTRICT REPRESENTATIVE OR DISTRICT SANGGUNIAN MEMBER, ONLY THE MEMBERS OF THE SANGGUNIAN OF THAT DISTRICT WILL BE ALLOWED TO VOTE.

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

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

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

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

Approved,