

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
First Regular Session

House Bill No. **310**

Introduced by HON. ROILO GOLEZ

EXPLANATORY NOTE

The State, by the provisions of 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 PAMPANSA BLG. 881, AS AMENDED, REPUBLIC ACT NO. 7166 AND OTHER RELATED ELECTIONS LAWS, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES", as amended by Republic Act No. 9369, recognizes the mandate and authority of the Commission on Election to prescribe the adoption and use of the Automated Election System with the most suitable technology and of demonstrated capability for the purpose of ensuring the country's democratic objectives of holding free, orderly, honest, peaceful, and credible elections.

In pursuit thereof, Republic Act No. 9525 was passed approving the P11.3 billion supplemental budget for the full automation of the 2010 national elections.

The implementation of the Automated Election System on a national scale during the recently concluded 2010 elections made apparent the necessity to install safeguards to ensure that we address the threat of election result manipulation that may come not only from machine and software but also, more importantly, from the people who control or have access to the electronic voting machines, compact flash cards or its proprietary software.

In a proprietary system, such as that being utilized and adopted by the present hardware and software provider for the Automated Election System Smartmatic-TIM, there are inherent security risks, both internal and external. In fact, in even the supposedly most secure systems in the world have become vulnerable to hacking, some upon initiative of the developers themselves.

Thus, to ensure the integrity of the automated election system, we need to provide more stringent safeguards and to penalize in particular acts that pertain to persons involved in carrying out the automated election such as those by the officers and employees of Smartmatic-TIM and the officials of the Commission on Elections (COMELEC), local and national elective officials,

candidates, and their representatives, or any other person with the motive to tamper with the automated election process.

In view of the foregoing, the passage of this measure is earnestly sought.

A handwritten signature in black ink, appearing to be 'Roilo Golez', with a long, sweeping flourish extending upwards and to the right.

ROILO GOLEZ

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AN ACT

TO INSULATE THE AUTOMATED ELECTION SYSTEM FROM THE REST OF THE COMELEC ORGANIZATION, OTHER OFFICERS OF THE GOVERNMENT, CANDIDATES, REPRESENTATIVES AND AGENTS OF CANDIDATES AND ANY OTHER PERSON

Section 1. Short Title. – This act shall be known as the "Automated Election Anti-collusion Act of 2010".

Section 2. Declaration of Policy. – It shall be the policy of the State to ensure free, honest, democratic, orderly, peaceful, informed and credible elections with particular reference to the implementation of Republic Act No. 8436 as amended by Republic Act No. 9369 authorizing the Commission on Elections to use an automated election system in the 2010 national or local elections and in subsequent national and local electoral exercises. In this connection, the Automated Election System shall be insulated from any officer or employee of the Commission on Elections, other officials of the government, candidates, representatives and agents of candidates, and any other persons.

Section 3. Prohibition. – It is hereby prohibited for any officer of the Commission on Elections (COMELEC), any elective official, whether national or local, candidates or representatives of candidates and any other person from approaching or meeting in private with any officer, employee of the private entity that is the winning bidder for the automated election and contracted, commissioned, or hired to provide the automated vote counting systems, software and hardware, for whatever purpose. Said officer of the Commission on Elections (COMELEC), any elective official, whether national or local, candidates or representatives of candidates and any other person may meet with any officer, employee of the private entity that is the winning bidder for the automated election only in open hearings or meetings with official recording such as for the purpose of overseeing the conduct of the automated elections.

The act of approaching the officer or employee of the winning bidder for the automated election includes, but is not limited to, the following acts:

- a.) telephone calls

- b.) mobile phone text messages
- c.) email messages
- d.) other forms of electronic communications

Section 4. Disclosure Requirement. – Any person who, by his position or otherwise, gains knowledge of any private meeting or attempts to have such a private meeting prohibited under this Act or done in violation hereof shall have the obligation to disclose such knowledge to the law enforcement authorities within twenty-four (24) hours from the time he/she had such knowledge in order to avoid the penal liability hereunder imposed for such omission.

Section 5. Penalties Imposable – In addition to the penalties prescribed under the Revised Penal Code and special laws for acts or omissions punishable under existing penal laws, any attempt to meet, to invite or induce by any means, or any actual meeting in violation of the provision of this Act and its Implementing Rules and Regulation shall be punishable with life imprisonment with the accessory penalty of perpetual absolute disqualification to hold public office in any capacity, both elective and appointive.

The same penalty mentioned in the next preceding paragraph of this Section shall be imposable upon employees or officers of the private entity contracted, commissioned, or hired to provide the automated vote counting systems, if they agree to meet or actually meet, or did not disclose within twenty-four (24) hours any attempt for such prohibited meeting in violation of this Act;

The penalty of imprisonment of Five years and One day to Ten years shall be imposable upon any person convicted for violation of the Disclosure Requirement under Section 4 hereof.

Section 6. Implementation Rules and Regulations. – The COMELEC in coordination with the DOJ shall, within ninety (90) days from the effectivity of this Act, promulgate the rules and regulations necessary to implement the provision of this Act.

Section 7. Repealing Clause. – All laws, decrees, orders, rules and regulations, and other issuances, or parts thereof, which are inconsistent with the provisions of this Act, are hereby deemed repealed, amended or modified accordingly.

Section 7. Effectivity. – This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least two (2) newspapers of general circulation, whichever comes earlier.

Approved,