

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

FIFTEENTH CONGRESS
Second Regular Session

House Bill No. 6008



Introduced by Deputy Speaker **PABLO P. GARCIA**

EXPLANATORY NOTE

This bill seeks to establish the law that shall govern the conduct of the next synchronized national and local elections in May 2013.

For a number of years, there has been expressed, in a number of measures, a legislative policy to automate elections in the country. It is a policy borne out of the collective desire to rid the country's electoral process of some, if not all, of the decades-old problems that plague it: padded voter's registries, disenfranchisement of voters, the generally slow and tedious process of manual counting, canvassing and certification of results, the attendant fraud, and the creeping lack of faith in the entire electoral system.

In 1997, Republic Act No. 8436 was enacted into law authorizing the COMELEC to use an automated election system. Then Republic Act No. 9369 was passed in January 2007 to finally enable the COMELEC to conduct automated elections in 2010 and in the succeeding electoral exercises.

These landmark measures ushered in a high sense of hope that the country's electoral system will finally be insulated from the numerous ills that have perennially plagued the manual election system. Hopes were high that an automated system will ensure the country's elections to truly reflect the sovereign will of the Filipino people.

However, all these seem now a wishful thinking as the conduct of the first so-called 'automated' national and local elections in May 2010 proved otherwise. The failures and shortcomings of the system applied were so grave that they cast serious doubts on the integrity and credibility of that 'automated' election. To put it bluntly, the May 2010 'automated' election was an illegal and constitutionally infirm electoral process due to the refusal or failure of COMELEC to comply with the provisions of Republic Act No. 9369 for reasons known only to the COMELEC and its partner SMARTMATIC.

In contravention of Republic Act No. 9369, the system applied in the 2010 election was a hybrid automated election system – a purely COMELEC-SMARTMATIC invention which is far different from the automated election system mandated by Section of R.A. No. 9369, a blatant violation of the intents and purposes of the law. Instead of employing voting machines, what were used were counting machines. The Precinct Count Optical Scan (PCOS) machine utilized in 2010 was more of a counting and transmission machine than the voting machine contemplated by RA 9369.

In plain language, an Automated Election System is a system where a machine is used by the voter in the act of voting or in recording his vote. The automation should cover the act of voting, which is the most important step in the electoral process. In short, Republic Act No. 9369 prescribed and mandated the use of voting machines with which to record or register the votes. This mandate is very clear and is self-evident from the language of the law itself. Unfortunately, this essential requirement was totally ignored. The voting was manual (the voter manually filled the ballot by shading a small oval before the name of the candidate on the ballot and not by the use of a machine) which is uncharacteristic of the contemplated automated election system.

Section 2 of RA 9369 defines automated election system (AES) "as a system using appropriate technology which has been demonstrated in the voting, counting, consolidating, canvassing, and transmission of election results, and other electoral process" and certainly the PCOS did not meet the requirements of the system. Automation should have covered the entire election process including especially the act of voting.

Moreover, The PCOS machine was not properly equipped to meet the minimum functional capabilities of the automated election system mandated by RA 9369. It did not have a provision for a voter-verified paper audit trail (VVPAT), a receipt which the voter gets or receives from the voting machine after voting. It indicates how the vote or the ballot of the voter can be identified later. The PCOS was bereft of a verification system that enables the voter to determine if the machine has registered his actual and true choice or choices.

Finally, the PCOS machine was not equipped with an electronic display as prescribed by Section 13 of RA No. 9369, the pertinent portion of said section provides:

"Official Ballot. – The Commission shall prescribe the format of the electronic display and/or the size and form of the official ballot, which shall contain the titles of the position to be filled and/or the proposition to be voted upon in an initiative, referendum or plebiscite. Where practicable, electronic displays must be constructed to present the names of all candidates for the same position in the same page or screen, otherwise, the electronic displays must be constructed to present the entire ballot to the voter, in a series of sequential pages, and to ensure that the voter sees all of the ballot options on all pages before completing his or her vote and to allow the voter to review and change all ballot choices prior to completing and casting his or her ballot."

In other words, RA No. 9369 requires that the voting machine whether DRE or paper-based should be equipped with an electronic display to enable the voter to see his ballot, the names of the candidates and the choice or choices that he registered and even review his choices and make corrections thereto, if he chooses to. The PCOS was not properly equipped with these essential feature leaving a big question mark in the minds of the voters of whether or not their votes were counted and whether or not they were counted

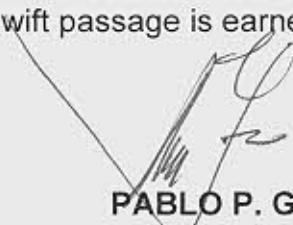
properly to reflect their true choices as there is no proof whatsoever that would assure them so.

All told, the PCOS machine did not meet the minimum functional capabilities of the voting machine contemplated by RA No. 9369 for the automation of the country's election system. Hence, the 2010 'automated' election was conducted in palpable disregard and contravention of applicable laws casting serious doubts on the integrity and credibility of the electoral exercise and any forthcoming election, plebiscite, referendum or initiative that may be conducted under the said system. This is now a cause for serious concern considering that the next election is only a year and half away.

Moreover, and this is possibly the reason COMELEC resorted to the use of a counting machine instead of a voting machine, the use of a voting machine, whether DRE or paper based is much, much more expensive. But definitely, this is no excuse for not complying with the law.

A contingency plan, is therefore, a necessity to avoid a possible derailment of our electoral process since going on with the system used in 2010 would be irresponsible, if not downright reckless. COMELEC has already demonstrated its inability to implement the automation contemplated and mandated by RA 9369, hence, Congress needs to come up with a viable, less costly, simpler and more acceptable alternative for the coming May 2013 election. The alternative should be able to strike a balance between the acknowledged benefits of electronic technology and the time-honored familiarity and proven acceptability of manual elections. It should plug the proven weaknesses of the old system while a reliable, credible and acceptable automated system is yet in the works. It should pass constitutional scrutiny, and be at par with the hopes, and the faith, of the sovereign people who possess the sacred right to vote.

This bill offers such an alternative. Hence, its swift passage is earnestly prayed for.



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AN ACT
PROVIDING FOR THE CONDUCT OF ELECTION ON MAY 2013 AND FOR OTHER
PURPOSES

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

SECTION 1. Title. This Act shall be known as the "*Act Providing for the Conduct of the May 2013 Elections*".

SEC. 2. Coverage. The coverage of the provisions of this Act shall be limited to the conduct of the election in May 2013.

SEC. 3. Filing of Certificates of Candidacy. - The certificate of candidacy of any person running for the office of President, Vice-President, Senator, Member of the House of Representatives, Party-list Representatives or any elective provincial, city or municipal official shall be filed in five (5) legible copies with the offices of the Commission specified hereunder not later than the day before the date legally fixed for the beginning of his campaign period.

- (a) The certificate of candidacy for President, Vice-President, Senators and Party-list Representatives shall be filed with the main office of the Commission in Manila;
- (b) The certificate of candidacy for the Members of the House of Representatives shall be filed with the provincial election supervisor of the province concerned. Those for legislative districts in the National Capital Region shall be filed with the regional election director of said region and those for legislative districts in cities outside the National Capital Region which comprise one or more legislative districts shall be filed with the city election registrar concerned;
- (c) The certificate of candidacy for provincial offices shall be filed with the provincial supervisor concerned; and

- (d) The certificate of candidacy for city or municipal offices shall be filed with the city or municipal election registrar concerned.

Whenever practicable, the names of registered candidates for local positions shall be printed in the election returns: Provided, That, if a candidate has been disqualified or declared a nuisance candidate, it shall be the duty of the Commission to instruct without delay the appropriate election officials to delete the name of said candidate as printed in the election return.

The certificate of candidacy shall be filed by the candidate personally or by his duly authorized representative. No certificate of candidacy shall be filed or accepted by mail, telegram or facsimile.

SEC. 4. *Officials Ballots*. -

- (a) Ballots for national and local elections, regular or special, plebiscites and referenda, shall be of uniform size and shall be prescribed by the Commission. They shall be printed in black ink on which security paper with distinctive, clear and legible watermarks that will readily distinguish it from ordinary paper. Each ballot shall be in the shape of a strip with stub and detachable coupon containing the serial number of the ballot, and a space for the thumb mark of the voter on the detachable coupon. It shall bear at the top of the middle portion thereof the coat-of-arms of the Republic of the Philippines, the word "Official Ballot," the name of the city or the municipality and province in which the election is to be held, the date of the election, and the following notice in English: "Fill out this ballot secretly inside the voting booth. Do not put any distinct mark on any part of this ballot."
- (b) The official ballot shall also contain the names of all the offices to be voted for in the election, allowing opposite the name of each office, sufficient space or spaces with horizontal lines where the voter may write the name or names of individual candidates voted for by him.
- (c) There shall not be anything printed or written on the back of the ballot except as provided in Section 24 of this Act.
- (d) Official ballot for cities and municipalities where Arabic is of general use shall have each of the titles of the offices to be voted for printed in Arabic in addition to and immediately below the English title.
- (e) Notwithstanding the preceding provisions, the Commission is hereby authorized to prescribe a different form of official ballot on the same watermarked security paper to facilitate voting by illiterate voter only and to use or adopt the latest technological and electronic devices in connection therewith as provided under Section 52(i) of the Omnibus Election Code.

SEC. 5. *Signature of Chairman and Watchers at the Back of Every Ballot*. - In every case before delivering an official ballot to the voter, the chairman of the board of election inspectors and one watcher for the majority and another for the dominant minority parties shall, in the presence of the voter, affix their signatures at the back thereof. Failure to so authenticate shall be noted in the minutes of the board of election inspectors and shall

constitute an election offense punishable under Section 263 and 264 of the Omnibus Election Code. (Sec. 24 of RA 7166)

SEC. 6. *Manner of Counting votes.* In addition to the requirement in the fourth paragraph of Section 12 of the Republic Act No. 6646 and Section 210 of the Omnibus Election Code, in reading the official ballots during the counting, the chairman, the poll clerk and the third member shall assume such positions as to provide the watchers and the members of the public as may be conveniently accommodated in the polling place, an unimpeded view of the ballot being read by the chairman, of the election return and the tally board being simultaneously accomplished by the poll clerk and the third member respectively, without touching any of these election documents. The table shall be cleared of all unnecessary writing paraphernalia. Any violation of this requirement shall constitute an election offense punishable under Section 263 and 264 the Omnibus Election Code.

The chairman shall first read the votes for national positions.

Any violation of this Section, or its pertinent portion, shall constitute an election offense and shall be penalized in accordance with Batas Pambansa Blg. 881.

SEC. 7. *Counting of Votes to be Public.* - As soon as the voting is finished, the board of election inspectors shall publicly count in the polling place the votes cast and ascertain the results. The board may rearrange the physical set up of the polling place for the counting or perform any other activity with respect to the transition from voting to counting. However, it may do so only in the presence of the watchers and within close view of the public. At all times, the ballot boxes and all election documents and paraphernalia shall be within close view of the watchers and the public.

The board of election inspectors shall not adjourn or postpone or delay the count until it has been fully completed, unless otherwise ordered by the Commission.

The Commission, in the interest of free, orderly, and honest election, may authorize the board of election inspectors to count the votes and to accomplish the election return and other forms prescribed under the code in any other place within a public building in the same municipality or city on account of imminent danger of widespread violence or similar causes of comparable magnitude: *Provided*, That the transfer shall have been recommended in writing by the board of election inspectors by unanimous vote and endorsed in writing by the majority of watchers present: *Provided, further*, that the said public building shall not be located within the perimeter of or inside a military or police camp, reservation, headquarters, detachment or field office nor within the premises of a prison or detention bureau or any law enforcement or investigation agency.

Any violation of this section, or its pertinent portion, shall constitute an election offense and shall be penalized in accordance with Batas Pambansa Blg. 881."

SEC. 8. *Election Returns.* - The board of election inspectors shall prepare the election returns simultaneously with the counting of votes in the polling places as prescribed in Section 210 hereof. The recording of votes shall be made as prescribed in said section. The entry of votes in words and figures for each candidate shall be closed with the signatures and the clear imprint of the thumb mark of the right hand of all the members,

likewise to be affixed in full view of the public, immediately after the last vote recorded or immediately after the name of the candidate who did not receive any vote.

The returns shall also show the date of the election, the polling place, the barangay and the city or municipality in which it was held, the total number of ballots found in the compartment for valid ballots, the total number of valid ballots withdrawn from the compartment for spoiled ballots because they were erroneously placed therein, the total number of excess ballots, the total number of marked or void ballots, and the total numbers of votes obtained by each candidate, writing out the said number in words and figures and, at the end thereof, the board of election inspectors shall certify that the contents are correct. The returns shall be accomplished in a single sheet of paper, but if this is not possible, additional sheets may be used which shall be prepared in the same manner as the first sheet and likewise certified by the board of election inspectors.

The Commission shall take steps so that the entries on the first copy of the election returns are clearly reproduced on the second, third, fourth, fifth, sixth copies thereof, and for the purpose the Commission shall use a special kind of paper.

Immediately upon the accomplishment of the election return for national positions, the poll clerk shall announce the posting of the second copy of the election return on a wall with sufficient lighting within the premises of the polling place or counting center. He shall then proceed to do the same in the presence of the other members of the Board, the watchers and those present in the polling place or counting center. Without delay and, when feasible, he shall secure an image of the election return using a secured data capturing device and immediately thereafter, while in the premises of the polling place or counting center, directly print thirty (30) copies of the election return. Once the prints have been produced, the poll clerk shall call the other members of the board to authenticate each printed copy by closely comparing the same with the election return posted on the wall in the presence of the watchers and within view of the public. If the Board finds each print a faithful reproduction of the election return, all members thereof shall annotate and sign a certification to that effect on the bottom front of the print.

Each certified printed copy shall be placed in an envelope and distributed as herein provided. Designated recipients of the certified print copies may receive their copies at the polling place or counting center.

Immediately upon the accomplishment of the election returns for local positions, the second copy of the same shall be posted on a wall with sufficient lighting within the premises of the polling place.

The other copies of election returns for both national and local position shall be sealed in the presence of the watchers and the public, and placed in the proper envelope, which shall likewise be sealed and distributed as herein provided.

Any election return with a separately printed serial number or which bears a different serial number from that assigned to the particular polling place concerned shall not be canvassed. This is to be determined by the board of canvassers prior to its canvassing on the basis of the certification of the provincial, city or municipal treasurer as to the serial number of the election return assigned to said voting precinct, unless the Commission shall order in writing for its canvassing, stating the reason for the variance in serial numbers.

If the signatures and/or thumb marks of the members of the board of election inspectors or some of them as required in this provision are missing in the election returns, the board of canvassers may summon the members of the board of election inspectors concerned to complete the returns.

The citizen's arm is mandated to present for perusal its copy of the election return to the board of election canvassers upon the request of any interested candidate.

Any violation of this section or its pertinent portion, shall constitute an election offense and shall be penalized in accordance with Batas Pambansa Blg. 881

In addition, the following shall likewise be guilty of an election offense:

- (a) Any Person who removes the election return posted on the wall, whether within or after the prescribed forty-eight (48) hours of posting, or defaces the same in any manner;
- (b) Any person who simulates an actual election return, or a print or digital copy thereof;
- (c) Any person who simulates the certification in a print of an election return;
- (d) The chairman or any member of the board of election inspectors who, during the prescribed period of posting, removes the election return from the wall on which it had been posted other than for the purpose of immediately transferring it to a more suitable place;
- (e) The chairman or any member of the board of election inspectors who signs or authenticates a print of the election return outside of the polling place; and
- (f) The chairman or any member of the board of election inspectors who signs or authenticates a print which bears an image and/or data different from the election return produced after counting and posted on the wall.

SEC. 9. - *Number of Copies of Election Returns and their Distribution.* - The board of election inspectors shall prepare in handwriting the election returns in their respective polling place, in the number of copies herein provided and in the form to be prescribed and provided by the Commission.

The copies of election returns shall be distributed by the chairman of the board of election inspectors as follows:

- (a) In the election of president, vice-president, senators and members of the House of Representatives including the party-list representatives:
 - (1) The first copy shall be electronically transmitted to the city or municipal board of canvassers and the copy itself shall be delivered later;
 - (2) The second copy to be posted on a wall within the premises of the polling place;
 - (3) The third copy, to the congress, directed to the President of the Senate;

- (4) The fourth copy, to the Commission;
 - (5) The fifth copy, to the dominant majority party as determined by the Commission in accordance with law;
 - (6) The sixth copy, to the dominant minority party as determined by the Commission in accordance with law;
 - (7) The seventh copy, to a citizens' arm authorized by the Commission to conduct an unofficial count: *Provided, however, That the accreditation of the citizens' arm shall be subject to the provision of Section 52(k) of Batas Pambansa Bldg. 881; and*
 - (8) The eighth copy shall be deposited inside the compartment of the ballot box for valid ballots; and
- (b) In the election of local officials;
- (1) The First copy shall be electronically transmitted to the city or municipal board of canvassers and the copy itself shall be delivered later;
 - (2) The second copy to be posted on a wall within the premises of the polling place;
 - (3) The third copy, to the Commission;
 - (4) The fourth copy, to the provincial board of canvassers;
 - (5) The fifth copy, to the dominant majority party as determined by the Commission in accordance with law;
 - (6) The sixth copy, to the dominant minority party as determined by the Commission in accordance with law;
 - (7) The seventh copy, to a citizens' arm authorized by the Commission to conduct an unofficial count: *Provided, however, That the accreditation of the citizens' arm shall be subject to the provisions of Section 52(k) of Batas Pambansa Bldg. 881; and*
 - (8) The eighth copy shall be deposited inside the compartment of the ballot box for valid votes.

The copy of the election return posted on the wall shall be open for public viewing at any time of the day for forty-eight (48) hours following its posting. Any person may view or capture an image of the election return by means of any data capturing device such as, but not limited to, cameras at any time of the day for forty-eight (48) hours following its posting. After the prescribed period for posting, the chairman of the board of election inspectors shall collect the posted election returns and keep the same in his custody to be produced for image or data capturing as may be requested by any voter for any lawful purpose as may be ordered by competent authority.

Except for those copies that are required to be delivered, copies of election returns may be claimed at the polling place. Any unclaimed copy shall be brought by the chairman of the board of election inspectors to the canvassing center where the recipients or their representatives may claim them. Copies still unclaimed at the canvassing center shall be deemed placed in the custody of the chairman of the board of election inspectors, who shall produce them when requested by the recipient or when ordered by a competent authority.

The Thirty (30) certified print copies of the election return for national positions shall be distributed as follows:

- (a) The first fourteen (14) copies shall be given to the fourteen (14) accredited major national parties in accordance with a voluntary agreement among them. If no such agreement is reached, the Commission shall decide which parties shall receive the copies on the basis of the criteria provided in Section 26 of Republic Act 7166.
- (b) The next three copies shall be given to the three accredited major local parties in accordance with a voluntary agreement among them. If no such agreement is reached, the Commission shall decide which parties shall receive the copies on the basis of criteria analogous to that provided in Section 26 of Republic Act 7166.
- (c) The next five copies shall be given to national broadcast or print media entities as may be equitably determined by the Commission in view of propagating the copies to the widest extent possible;
- (d) The next two copies shall be given to local broadcast or print media entities as may be equitably determined by the Commission in view of propagating the copies to the widest extent possible;
- (e) The next four copies to the major citizens' arms, including the accredited citizens' arms and other non-partisan groups or organizations enlisted by the Commission pursuant to Section 52(k) of Batas Pambansa Blg. 881;
- (f) The next copy to be placed inside the compartment of the ballot box for valid ballots; and
- (g) The last copy to the provincial board of canvassers."

The certified printed copies may be claimed at the polling place. Any unclaimed copy shall be brought by the chairman of the board of election inspectors to the canvassing center where the recipients or representatives may claim them. Copies still unclaimed at the canvassing center shall be placed in the custody of the chairman of the board election inspectors, who shall produce them when requested by the recipient or when ordered by a competent authority.

Any provision of law to the contrary notwithstanding, any of the recipients of the printed or digital copies of the election return may conduct an unofficial consolidation of votes and may announce the result to the public.

The Commission shall post its digital files in its website for the public to view or download at any time of the day. The Commission shall maintain the files at least three years from the date of posting.

Any violation of this section, or its pertinent portion, shall constitute an election offense and shall be penalized in accordance with Batas Pambansa Blg. 881;

SEC. 10. *Canvassing by Provincial, City, District, and Municipal Board of Canvassers.* - a) The City or municipal of board of canvassers shall canvass the election returns for President, Vice president, Senator and Members of the House of Representatives and for elective provincial and city or municipal officials: *Provided*, That the returns for national positions shall be canvassed first. Upon completion of the canvass, it shall prepare the certificate of canvass for Representatives and elective provincial officials, announce the results of the election for national positions in the city or municipality, and thereafter, proclaim the elected city or municipal officials, as the case may be.

b) The city board of canvassers of cities comprising one or more legislative district shall canvass the election returns for president, vice-president, senator, members of the House of Representatives and elective city officials: *Provided*, That the returns for positions shall be canvassed first. Upon completion of the canvass, the board shall prepare the certificate of canvass for president, vice-president, and senators, announce the results of the election for national positions in the city, and thereafter, proclaim the elected members of the House of the Representatives and city officials.

c) (1) In the Metro Manila Area such municipality comprising a legislative district shall have district board of canvassers which shall canvass the election returns for President, Vice-Presidents, Senators, Members for the House of Representatives and elective municipal officials: *Provided*, That the returns for national positions shall be canvassed first. Upon completion of the canvass, it shall prepare the certificate of canvass for president, vice-president, and senators, announce the results of the election for national position in the municipality, and thereafter, proclaim the elected member of the House of the Representatives and city officials.

(2) Each component municipality in a legislative district in the Metro Manila Area shall have a municipal board of canvassers which shall canvass the election returns for president, vice-president, senators, members of the House of Representatives and elective municipal officials: *Provided*, That the returns for national positions shall be canvassed first. Upon completion of the canvass, it shall prepare the certificate of canvass for president, vice-president, senators, and members of the House of the Representatives; announce the results of the election for national position in the municipality; and thereafter, proclaim the elected municipal officials.

(3) The district board of canvassers of each legislative district comprising two municipalities in Metro Manila area shall canvass the certificate of canvass for president, vice-president, senator s and members of the House of Representatives submitted by the municipal board of canvassers of the component municipalities. Upon completion of the canvass, it shall prepare a certificate of canvass for president, vice-president, and senator, announce the results of the election for national positions in the district, and thereafter, proclaim the elected member of the House of the Representatives in the legislative district.

(d) The provincial board of canvassers shall canvass the certificates of canvass for president, vice president, senators and members of the House of Representatives and elective provincial officials as well as plebiscite results, if any plebiscite is conducted simultaneously with the same election, as submitted by the board of canvassers of municipalities and component cities: *Provided*, That the returns for national positions shall be canvassed first. Upon completion of the canvass, it shall prepare the certificate of canvass for president, vice-president, and senators, announce the results of the election for national positions in the province, proclaim the elected member of the House of Representatives and provincial officials as well as the plebiscite results, if any.

In conducting the canvass of election returns or certificates of canvass, as the case may be, the board of canvassers in a municipality, city, district or province shall project each election return or certificate of canvass on a wall from which its contents shall be read in order that those present in the canvassing center may follow the progress of the canvassing process from beginning to end. The Commission may utilize the appropriate projection equipment for this purpose.

Immediately after the certificate of canvass for national positions is accomplished, the chairman of the Board of Canvassers shall announce the posting of the second copy thereof and its supporting statement of votes on a wall with sufficient lighting within the premises of the canvassing center. He shall then proceed to do the same in the presence of the other members of the board, the watchers and within public view in the canvassing center. Without delay and when feasible, he shall capture images of the certificate of canvass and supporting statements of votes using a secured data capturing device and thereafter, while in the premises of the canvassing center, immediately print the data so captured in thirty (30) copies. The board of canvassers shall then authenticate each printed copy, in the presence of watchers and within public view, by closely comparing the same with the certificate of canvass or statement of votes, as the case may be, posted on of the wall. If the board finds each printed copy a faithful reproduction of the certificate of canvass or statement of votes, all members thereof shall annotate and sign a certification to that effect on the bottom front of the printed copy.

Each certified printed copy shall be placed in an envelope and distributed as herein provided. Designated recipient of the certified printed copies may receive their copies at the canvassing center.

The Chairman of the board shall transmit the digital files of the certificate of canvass and its supporting statement of votes using a secured transmission device with authentication features to the secured tabulation system of the Commission and to the systems of the other designated recipients as herein provided.

Any provision of law to the contrary notwithstanding, any of the recipients of the print or digital copies of the certificate of canvass and the supporting statements of votes may conduct an unofficial consolidation of votes and may announce the result thereof to the public.

Any violation of this section, or its pertinent portion, shall constitute an election offence and shall be penalized in accordance with Batas Pambansa Blg. 881.

In addition, the following shall likewise be guilty of an election offense:

- (a) Any person who removes the certificate of canvass posted on the wall, whether within or after the prescribed forty-eight (48) hours of posting, or defaces the same in any manner;
- (b) Any person who simulates an actual certificate of canvass or statement of votes, or a print or digital copy thereof;
- (c) Any person who simulates the certification of a certificate of canvass or statement of votes;
- (d) The chairman or any member of the board of canvassers who, during the prescribed period of posting, removes the certificate of canvass or its supporting statement of votes from the wall on which they have been posted other than for the purpose of immediately transferring them to a more suitable place;
- (e) The chairman of any member of the board of canvassers who signs or authenticates a print of the certificate of canvass or its supporting statement of votes outside of the polling place: and
- (f) The chairman or any member of the board of canvassers who signs or authenticates a print which bears an image and/or data different from the certificate of canvass or statement of votes produced after counting and posted on the wall.

SEC. 11. *Number of Copies of Certificate of Canvass and their Distribution.* - a) the certificate of canvass for president, vice-president, senators and members of the House of Representatives and elective provincial officials shall be prepared in seven copies by the city or municipal board of canvassers and distributed as follows:

- (1) The first copy shall be delivered to the provincial board of canvassers for use in the canvass of election results for president, vice- president, senators and members of the House of Representatives and elective provincial officials;
 - (2) The second copy shall be sent to the Commission;
 - (3) The third copy shall be posted on a wall within the premises of the canvassing center
 - (4) The fourth copy shall be kept by the chairman of the Board: and
 - (5) the fifth copy shall be given to the citizens' arm designated by the Commission to conduct a media-based unofficial count, and the sixth and seventh copies shall be given to the representatives of two of the six major political parties in accordance with the voluntary agreement of the parties. If no such agreement is reached, the commission shall decide which parties shall receive the copies of the certificate of canvass on the basis of the criteria provided in Section 26 of RA 7166. The parties receiving the certificate shall have the obligation to furnish the other parties with authentic copies thereof with the at least possible delay.
- b) The certificates of canvass for president, vice president, senators shall be prepared in seven (7) copies by the city board of canvassers of cities comprising one or more legislative

districts, by provincial boards of canvassers in the Metro Manila Area, and distributed as follows:

- (1) The first copy shall be sent to the Congress directed to the President of the Senate for use in the canvass of election results for president and vice-president;
- (2) The second copy shall be sent to the Commission for use in the canvass of the election results for Senators;
- (3) The third copy shall be posted on a wall within the premises of the canvassing center;
- (4) The fourth copy shall be kept by the Chairman of the Board; and
- (5) The fifth copy shall be given to the citizens' arm designated by the Commission to conduct a media -based unofficial count, and the sixth and seventh copies shall be given to the representatives of two of the six major political parties. If no such agreement is reached, the commission shall decide which parties shall receive the copies of the certificate of canvass on the basis of the criteria provided in Section 26 of RA 7166. The parties receiving the certificates shall have the obligation to furnish the other parties with authentic copies thereof with the least possible delay.

The copy of the certificate of canvass posted on the wall shall be open for public viewing at any time of the day for forty-eight (48) hours following its posting. Any person may view or capture an image of the certificate of canvass .After the prescribed period for posting, the chairman of the board of canvassers shall collect the posted certificates of canvass and keep the same in his custody to be produced for image or data capturing as may be requested by any voter or for any lawful purpose as may be ordered competent authority.

Except for those copies that are required to be delivered, copies of certificates of canvass may be claimed at the canvassing center. Any unclaimed copy shall be deemed placed in the custody of the chairman of the board of canvassers, who shall produce them when requested by the recipient or when ordered by a competent authority.

The thirty (30) certified print copies of the certificate canvass for national positions shall be distributed as follows:

- (a) The first fourteen (14) copies shall be given to the fourteen (14) accredited major national parties in accordance with a voluntary agreement among them. If no such agreement is reached, the commission shall decide which parties shall receive the copies on the basis of the criteria provided in Section 26 of RA 7166;
- (b) The next three copies shall be given to the three accredited major local parties in accordance with a voluntary agreement among them. If no such agreement is reached, the Commission shall decide which parties shall receive the copies in the basis of criteria analogous to the criteria provided in Section 26 of RA 7166;
- (c) The next five copies shall be given to national broadcast or print media entities as may be equitably determined by the commission in view of propagating the copies to the widest extent possible;

- (d) The next two copies shall be given to local broadcast or print media entities as may be equitably determined by the Commission in view propagating the copies to the widest extent possible;
- (e) The next four copies to the major citizen's arms, including accredited citizen' arm, and other non -partisan groups or organizations enlisted by the commission pursuant to section 52(K) of Batas Pambansa Blg. 881; and
- (f) The last two copies to be kept in file by the chairman of the board of canvassers to be subsequently distributed as the national board of canvassers may direct.

The certified print copies may be claimed at the canvassing center. Any unclaimed copy shall be deemed place in the custody of the chairman of the board of canvassers, who shall produce them when requested by the recipient or when ordered by a competent authority.

The commission shall post its digital files in its website for the public to view or download at any time of the day. The commission shall maintain the files for at least three years from the date of posting.

Any violation of this section, or its pertinent portion, shall constitute an election offense and shall be penalized in accordance with Batas Pambansa Blg. 881.

SEC. 12. Congress as the National Board of Canvassers for the Election of President and Vice President: The Commission en banc as the National Board of Canvassers for the election of Senators: Determination of Authenticity and Due Execution of Certificates of Canvass.- Congress and the Commission *en banc* shall determine the authenticity and due execution of the certificates of canvas for president and vice - president and senators, respectively, as accomplished and transmitted to it by the local boards of canvassers, on a showing that: (1) each certificate of canvass was executed, signed and thumb marked by the chairman and members of the board of canvassers and transmitted or caused to be transmitted to Congress by them; (2) each certificate of canvass contains the names of all of the candidates for president and vice - president or senator, as the case may be, and their corresponding votes in words and in figures; (3) there exists no discrepancy in other authentic copies of the document such as statements of votes or any of its supporting document such as statement of votes by city/municipality/by precinct or discrepancy in the votes of any candidate in words and figures in the certificate; and (4) there exist no discrepancy in the votes of any candidate in words and figures in the certificates of canvass against the aggregate number of votes appearing in the election returns of precincts covered by the certificate of canvass: *Provided*, That certified print copies of election returns or certificates of canvass may be used for the purpose of verifying the existence of the discrepancy.

When the certificate of canvass, duly certified by the board of canvassers of each province, city or district, appears to be incomplete, the Senate President or the Chairman of the Commission, as the case may be, shall require the board of canvassers concerned to transmit by personal delivery, the election returns from polling places that were not included in the certificate of canvass and supporting statements. Said election returns shall be submitted by personal delivery within two (2) days from receipt of notice.

When it appears that any certification of canvass or supporting statement of votes of each province, city or district, appears to be incomplete, the Senate President or the Chairman of the Commission, as the case may be, shall require the board of canvassers concerned to transmit by personal delivery, the election returns from polling places that were not included in the certificate of canvass and supporting statements. Said election returns shall be submitted by personal delivery within two (2) days from receipt of notice.

When it appears that any certificate of canvass or supporting statement of votes by city/municipality or by precinct bears erasures or alteration which may cast doubt as to the veracity of the number of votes stated herein and may affect the result of the election, upon request of the presidential, vice - presidential or senatorial candidate concerned or his party, Congress or the Commission en banc, as the case may be shall, for the sole purpose of verifying the actual number of votes cast, may count the votes as they appear in the copies if the election returns submitted to it.

In case of any discrepancy, incompleteness, erasure or alteration as mentioned above, the procedure on pre-proclamation controversies shall be adopted and applied as provided in Sections 17,18,19 and 20 of Republic Act No. 7166.

Any person who presents in evidence a simulated copy of an election return, certificate of canvass or statement of votes, or a printed copy of an election return, certificate of canvass or statement of votes bearing a simulated certification or a simulated image, shall be guilty of an election offense and shall be penalized in accordance with Batas Pambansa Blg. 881.

SEC. 13. *Communication Channels for Electronic Transmissions.* - All electronic transmissions of the election returns, certificates of canvass and other related documents shall utilize secure transmission channels as recommended by the DOST and the National Telecommunications Commission to ensure authenticity and integrity of transmission.

The Commission is hereby authorized to procure the necessary equipment, facilities and services for putting up the electronic transmission system contemplated in this Act.

SEC. 14. *Appropriations.* The amount necessary to carry out the provisions of this Act shall be charged against the Php 8 billion election automation budget provided in the 2012 General Appropriations Act .

If the said funds shall not be fully utilized, the remaining amount shall continue to be appropriated for the implementation of the mandatory Biometric Registration Project and electoral modernization projects of the Commission.

SEC. 15. All laws, decrees, executive orders, resolutions, regulations, ordinances or circulars inconsistent with the provisions of this Act are hereby repealed or modified accordingly or declared null and void and inoperative.

SEC. 16. This Act shall take effect upon its approval.

Approved,