

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 4499



Introduced by BAYAN MUNA
Representatives NERI J. COLMENARES and CARLOS ISAGANI ZARATE

AN ACT
TO INSTALL A PROTEST MECHANISM
IN THE AUTOMATED ELECTION SYSTEM
AMENDING REPUBLIC ACT NO. 8436, ALSO KNOWN AS
"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," AS AMENDED BY REPUBLIC ACT NO. 9369.

EXPLANATORY NOTE

Automated election systems were touted to prevent *dagdag-bawas* or wholesale cheating in manual elections that has become almost synonymous with the conventional manual process.

But it did not fulfil its promise as the last two automated elections were marred by election protests. So far, automation has not solved the issues perpetually hounding the conduct of the elections in the country.

In the 2010, there were 96 cases of election protests lodged with the COMELEC. In 2013, there were 62 cases. The mechanism used by the COMELEC in 2010 in resolving protests was for the protestants to get the pilot 20 percent of ballots from protested precincts and bring the ballot boxes and revise the ballots. But in 2013, protestants were given an option to "waive the bringing of the ballot boxes and the ballots for revision. The option for them is to allow the use of decrypted picture image of the ballots (in the compact flash cards)."

But due to the lack of security measures in the PCOS machines, including the flash cards, it may be vulnerable to tampering and alteration of the images saved in the flash cards. The other option though can produce correct results if not subjected to ballot switching, but it is more expensive as a protestant will have to pay a fee of P3,000 per contested precinct. Decrypting the CF cards, on the other hand, costs only P500 per CF card.

This bill seeks to install a safer, more accurate and cheaper mechanism to produce evidence for the resolution of election protest cases. Our own Filipino IT community has come up with such

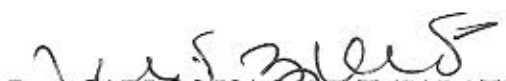
mechanism and therefore can be relied on in the development and/or installation of this in the PCOS machines; thus we do not have to rely on foreign private entities.

This is only among the many reforms legislation can do for the improvement of our election system in the country – not only for securing the sanctity of the ballot but also a start for salvaging what is left of the people's trust in the electoral system.

Hence, the passage of this bill is therefore earnestly sought.



Rep. NERI J. COLMENARES
Bayan Muna Party-list



Rep. CARLOS ISAGANI T. ZARATE
Bayan Muna Party-list

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EXERCISES," AS AMENDED BY REPUBLIC ACT NO. 9369.

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

SECTION 1. Section 2 of Republic Act No. 8436, as amended by Republic Act No. 9369, is hereby amended to include the following definition of terms:

SEC. 2. *Definition of Terms.* - As used in this Act, the following terms shall mean:

xxx

14. **DATA CONSISTENCY ERRORS.** DATA CONSISTENCY REFERS TO THE EQUALITY OF CONTENT OF A DOCUMENT SUCH AS ER, SOV, OR COC WHEREVER THE DOCUMENT MAY BE FOUND SUCH AS AT THE VOTING MACHINE, OR THE CCS SERVER AT ANY LEVEL.

SECTION 2. A provision, to be inserted as Section 10, is hereby added as follows:

SECTION 10. COMPUTERIZATION ERRORS AS GROUNDS FOR ELECTION PROTEST. THERE IS A COMPUTERIZATION ERROR WHEN THE AUTOMATED ELECTION SYSTEM (AES) FAILS TO PROPERLY EXECUTE OR PERFORM ACCORDING TO EXPECTATIONS THAT INCLUDE THE FEATURES PROVIDED IN SECTION 7 OF RA 8436. THESE ERRORS INCLUDE, BUT ARE NOT LIMITED TO THE AES' FAILURE TO:

- (a) CAPTURE THE VOTER'S INTENT, OR
- (b) ADD THE VOTER'S VALID VOTES TO THE VOTE COUNTS FOR HIS/HER CHOSEN CANDIDATES;
- (c) COMPUTE THE CORRECT VOTE TOTALS FOR EACH CANDIDATE;
- (d) TRANSMIT THE AUTHENTIC DIGITALLY-SIGNED ELECTION RETURN (ER) OR ANY OF ITS PARTS TO THE CANVASSING MACHINES;

- (e) TRANSMIT THE AUTHENTIC DIGITALLY-SIGNED SOV AND COC OR ANY OF THEIR PARTS FROM ONE CANVASSING LEVEL TO THE HIGHER CANVASSING LEVEL;
- (f) CORRECTLY CONSOLIDATE ALL VOTES FOR EACH CANDIDATE AT THE MUNICIPAL, CITY, DISTRICT, AND PROVINCIAL LEVELS, OR
- (g) RECORD ALL THE VOTES AND TOTALS IN THEIR PROPER ELECTION FORMS (ER, SOV, COC); OR
- (h) ANY FAILURE OF THE AES THAT RESULTS IN ERROR IN ANY OF THE TABULATIONS AT ANY LEVEL OF CANVASSING, SUCH AS THE TABULATIONS PUBLISHED BY THE COMELEC PUBLIC ACCESS WEBSITE

SECTION 10.1. DOCUMENTATION OF AES FAILURES. ANY SUCH FAILURES MUST BE DOCUMENTED BY ENTERING THE FAILURE IN THE AUDIT LOGS OF THE CONCERNED MACHINE (VOTING MACHINE OR CCS MACHINE) WITH ENOUGH DETAIL SO THAT SUCH AUDIT LOG ENTRIES CAN BE PRINTED OUT.

SECTION 10.2. RULES OF PROCEDURE TO ADDRESS AES FAILURE. THE OCCURRENCE OF SUCH FAILURES IS A GROUND FOR AN ELECTION PROTEST. THE COMMISSION IS MANDATED TO COME UP WITH A RULES OF PROCEDURE TO PROVIDE A PROCESS TO ADDRESS THE OCCURRENCE OF SUCH FAILURE, AND PROVIDE PROCEDURES FOR REDRESS OF GRIEVANCES AS A RESULT THEREOF, WITHIN NINETY (90) DAYS FROM THE ADOPTION OF THIS LAW.

SECTION 10.3. EFFECT OF AES FAILURE AND THE SERVICE PROVIDER. THE OCCURRENCE ANY FAILURE IN THE AES WILL DISQUALIFY THE AUTOMATION SERVICE PROVIDER FROM ANY FURTHER PARTICIPATION IN FUTURE AES, WITHOUT PREJUDICE TO ANY CIVIL, CRIMINAL OR ADMINISTRATIVE LIABILITY THAT MAY ARISE FROM SUCH FAILURE.

SECTION 3. *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 4. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two newspapers of general circulation.

Approved,