

Republic of the Philippines
HOUSE OF THE REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

HOUSE BILL No. 7863



Introduced by HON. MANUEL F. ZUBIRI

EXPLANATORY NOTE

Section 24 of Article II of the 1987 Constitution recognizes the role of communication and information in nation-building. Likewise, Section 7 of the Bill of Rights recognizes the right of the people to information on matters of public concern. With the influx and advancement of technology, never has information been as vital and important in our daily lives, affecting social and political activity, as well as the right to suffrage.

Given the recent study by media scholars Jason Cabanes and Jonathan Ong revealing the use of digital media as an elections tool¹, it may do well to update the provisions of the Fair Elections Act and the Omnibus Election Code to reflect the changes in the electoral landscape and to recognize the internet as a media platform where electioneering can be conducted. As a form of media, the internet can be utilized – or worse, weaponized – for or against a particular candidate or a political party².

As of writing, the Omnibus Election Code and the Fair Election Act do not have any provisions governing campaign and election practices carried out through the internet. By making the necessary amendments to adapt to the nuances in using digital media for communication and electioneering, we level the playing field and increase the scope of police power not only to print and radio but to digital forms of media as well. The bill allows the public to scrutinize election spending to scrutinize and decipher for themselves worthy candidates for public office.

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

MANUEL F. ZUBIRI

¹ Cabanes, Jason and Ong, Jonathan, "Architects of Networked Disinformation: Behind the Scenes of Troll Accounts and Fake News Production in the Philippines", <http://newtontechfordev.com/wp-content/uploads/2018/02/ARCHITECTS-OF-NETWORKED-DISINFORMATION-FULL-REPORT.pdf>, The Newton Tech4Dev Network, Accessed 22 May 2018

² Cuevas, Keb, "In fighting disinformation and trolls, silence cannot be an option", <https://www.rappler.com/move-ph/196031-disinformation-democracy-forum-fight-back-silence>, Rappler.com, Accessed 22 May 2018

Introduced by Representative **MANUEL F. ZUBIRI**

AN ACT AMENDING SECTIONS 79, 82, 84, 85, AND 86 OF BATAS PAMBANSA BLG. 881, OTHERWISE KNOWN AS THE OMNIBUS ELECTION CODE

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

1 SECTION 1. Section 79 of the Omnibus Election Code is hereby amended to read
2 as follows:

3
4 "Section 79. Definitions. - As used in this Code:

5 (a) The term "candidate" refers to any person aspiring for or seeking
6 an elective public office, who has filed a certificate of candidacy by himself or
7 through an accredited political party, aggroupment, or coalition of parties;

8 (b) The term "election campaign" or "partisan political activity" refers
9 to an act designed to promote the election or defeat of a particular candidate
10 or candidates to a public office which shall include:

11 (1) Forming organizations, associations, clubs, committees or
12 other groups of persons for the purpose of soliciting votes and/or
13 undertaking any campaign for or against a candidate;

14 (2) Holding political caucuses, conferences, meetings, rallies,
15 parades, or other similar assemblies, for the purpose of soliciting
16 votes and/or undertaking any campaign or propaganda for or against
17 a candidate;

18 (3) Making speeches, announcements or commentaries, or
19 holding interviews for or against the election of any candidate for
20 public office;

21 (4) Publishing, **DISTRIBUTING, OR SHARING THROUGH**
22 **THE INTERNET OR DIGITAL PLATFORM, ANY** campaign literature
23 or materials designed to support or oppose the election of any
24 candidate; or

25 (5) Directly or indirectly soliciting votes, pledges or support for
26 or against a candidate.

27
28 The foregoing enumerated acts if performed for the purpose of enhancing
29 the chances of aspirants for nomination for candidacy to a public office by a
30 political party, aggroupment, or coalition of parties shall not be considered as
31 election campaign or partisan election activity.

32 Public expressions or opinions or discussions of probable issues in a
33 forthcoming election or on attributes of or criticisms against probable
34 candidates proposed to be nominated in a forthcoming political party

1 convention shall not be construed as part of any election campaign or
2 partisan political activity contemplated under this Article."

3
4 SECTION 2. Section 82 of the Omnibus Election Code is hereby amended to read
5 as follows:

6
7 "Section 82. Lawful election propaganda. - Lawful election propaganda shall
8 include:

9 (a) Pamphlets, leaflets, cards, decals, stickers or other written or
10 printed materials of a size not more than eight and one-half
11 inches in width and fourteen inches in length;

12
13 (b) Handwritten or printed letters urging voters to vote for or against
14 any particular candidate;

15
16 (c) Cloth, paper or cardboard posters, whether framed or posted,
17 with an area exceeding two feet by three feet, except that, at the
18 site and on the occasion of a public meeting or rally, or in
19 announcing the holding of said meeting or rally, streamers not
20 exceeding three feet by eight feet in size, shall be allowed:
21 Provided, That said streamers may not be displayed except one
22 week before the date of the meeting or rally and that it shall be
23 removed within seventy-two hours after said meeting or rally;

24
25 **(d) PICTURES, VIDEO CLIPS, SHORT FILMS, INFOGRAPHICS,**
26 **SPONSORED BLOG POSTS, SPONSORED TWEETS, AND**
27 **OTHER CONTENT AND MATERIALS PUBLISHED ONLINE**
28 **URGING TO VOTE FOR OR AGAINST ANY PARTICULAR**
29 **CANDIDATE, SHALL BE ALLOWED: PROVIDED, THAT SAID**
30 **ONLINE CONTENT AND MATERIALS SHALL INDICATE**
31 **THEY ARE SPONSORED BY OR FOR A PARTICULAR**
32 **CANDIDATE, PARTY-LIST OR POLITICAL PARTY; AND**

33
34 (e) All other forms of election propaganda not prohibited by this
35 Code as the Commission may authorize after due notice to all
36 interested parties and hearing where all the interested parties
37 were given an equal opportunity to be heard: Provided, That the
38 Commission's authorization shall be published in two
39 newspapers of general circulation throughout the nation for at
40 least twice within one week after the authorization has been
41 granted."

42
43 SECTION 4. Section 84 of the Omnibus Election Code is hereby amended to read
44 as follows:

45
46 "Section 84. Requirements for published or printed election propaganda. -
47 Any newspaper, newsletter, newsweekly, gazette or magazine advertising, posters,
48 pamphlets, circulars, handbills, bumper stickers, streamers, simple list of
49 candidates, **BLOG POST, VIDEO CLIP, SHORT FILM**, any published or printed

1 political matter, **OR ANY PAID ONLINE CONTENT ON ANY DIGITAL PLATFORM**
2 for or against a candidate or group of candidates to any public office shall bear and
3 be identified by the words "paid for by" followed by the true and correct name and
4 address of the payor and by the words "printed by" followed by the true and correct
5 name and address of the printer OR DIGITAL PLATFORM."

6
7 SECTION 5. Section 85 of the Omnibus Election Code is hereby amended to read
8 as follows:

- 9
10 "Section 85. Prohibited forms of election propaganda. - It shall be unlawful:
- 11
- 12 (a) To print, publish, post or distribute any poster, pamphlet, circular,
13 handbill, or printed matter urging voters to vote for or against any
14 candidate unless they bear the names and addresses of the printer
15 and payor as required in Section 84 hereof;
- 16 (b) To erect, put up, make use of, attach, float or display any
17 billboard, tinplate-poster, balloons and the like, of whatever size,
18 shape, form or kind, advertising for or against any candidate or
19 political party;
- 20 (c) To purchase, manufacture, request, distribute or accept electoral
21 propaganda gadgets, such as pens, lighters, fans of whatever nature,
22 flashlights, athletic goods or materials, wallets, shirts, hats,
23 bandanas, matches, cigarettes and the like, except that campaign
24 supporters accompanying a candidate shall be allowed to wear hats
25 and/or shirts or T-shirts advertising a candidate;
- 26 (d) To show or display publicly any advertisement or propaganda for
27 or against any candidate by means of cinematography, audio-visual
28 units or other screen projections except telecasts which may be
29 allowed as hereinafter provided;
- 30 (e) For any radio broadcasting or television station to sell or give free
31 of charge air time for campaign and other political purposes except
32 as authorized in this Code under the rules and regulations
33 promulgated by the Commission pursuant thereto; **AND**
- 34 **(f) FOR INTERNET AND ONLINE CONTENT, TO PUBLISH ANY**
35 **MATERIAL OR POLITICAL ADVERTISEMENTS WITHOUT ANY**
36 **VISIBLE DISCLAIMER AND INDICATION THAT SAID CONTENT**
37 **OR MATERIAL WAS PAID FOR AND PUBLISHED FOR A**
38 **PARTICULAR CANDIDATE OR PARTYLIST;**

39
40 Any prohibited election propaganda gadget or advertisement shall be
41 stopped, confiscated torn down by the representative of the Commission
42 upon specific authority of the Commission."

43
44 SECTION 6. Section 86 of the Omnibus Election Code is hereby amended to read
45 as follows:

46
47 "Section 86. Regulation of election propaganda through mass media. -

1 (a) The Commission shall promulgate rules and regulations regarding
2 the sale of air time for partisan political purposes during the
3 campaign period to insure the equal time as to duration and quality in
4 available to all candidates for the same office or political parties at
5 the same rates or given free of charge; that such rates are
6 reasonable and not higher than those charged other buyers or users
7 of air time for non-political purposes; that the provisions of this Code
8 regarding the limitation of expenditures by candidates and political
9 parties and contributions by private persons, entities and institutions
10 are effectively enforced; and to ensure that said radio broadcasting
11 and television stations shall not unduly allow the scheduling of any
12 program or permit any sponsor to manifestly favor or oppose any
13 candidate or political party by unduly or repeatedly referring to or
14 including said candidate and/or political party in such program
15 respecting, however, in all instances the right of said stations to
16 broadcast accounts of significant or newsworthy events and views on
17 matters of public interest.

18 (b) All **ADVERTISING CONTRACTS, WHETHER PRINT OR**
19 **ONLINE**, or any form of publication promoting or opposing the
20 candidacy of any person for public office shall, before its
21 implementation, be registered by said **ADVERTISER AND**
22 **PUBLISHER** with the Commission. In every case, it shall be signed
23 by the candidate concerned or by the duly authorized representative
24 of the political party.

25 (c) No franchise or permit to operate a radio or television station shall
26 be granted or issued, suspended or cancelled during the election
27 period.

28 Any radio or television stations, including that owned or controlled by the
29 Government, shall give free of charge equal time and prominence to an
30 accredited political party or its candidates if it gives free of charge air time to
31 an accredited political party or its candidates for political purposes.

32 **ALL DIGITAL OR ONLINE PLATFORMS SHALL MAINTAIN RECORDS**
33 **OF REQUESTS FROM ADVERTISERS, A DIGITAL COPY OF THE**
34 **ADVERTISEMENT, A DESCRIPTION OF THE TARGET AUDIENCE, AND**
35 **THE CONTACT INFORMATION OF THE TRUE PURCHASER OR**
36 **ADVERTISER FROM 12 MONTHS BEFORE THE START OF THE**
37 **ELECTION PERIOD UNTIL 12 MONTHS AFTER THE LAST DAY OF THE**
38 **ELECTION PERIOD. THIS RECORD MUST BE AVAILABLE FOR ONLINE**
39 **PUBLIC INSPECTION IN A READABLE FORMAT IN SAID DIGITAL OR**
40 **ONLINE PLATFORM.**

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42
43 In all instances, the Commission shall supervise the use and employment of
44 press, radio and television, DIGITAL, AND ONLINE facilities so as to give
45 candidates equal opportunities under equal circumstances to make known
46 their qualifications and their stand on public issues within the limits set forth
47 in this Code on election spending.
48

1 Rules and regulations promulgated by the Commission under and by
2 authority of this section shall take effect on the seventh day after their
3 publication in at least two daily newspapers of general circulation. Prior to
4 the effectivity of said rules and regulations, no political advertisement or
5 propaganda for or against any candidate or political party shall be published
6 or broadcast through the mass media.

7
8 Violation of the rules and regulations of the Commission issued to implement
9 this section shall be an election offense punishable under Section 264
10 hereof."

11
12 **SECTION 6. Implementing Rules and Regulations.** – The Commission on
13 Elections, in consultation with the Department of Information and Communications
14 Technology, shall issue the necessary rules and regulations to implement this Act.

15
16 **SECTION 7. Repealing Clause.** – All laws, presidential decrees, executive orders,
17 memoranda, rules and regulations contrary or inconsistent with the provisions of this
18 Act are hereby repealed, amended, or modified accordingly.

19
20 **SECTION 8. Separability Clause.** – If any portion or provision of this Act is declared
21 unconstitutional, the same shall not affect the validity and effectivity of the other provisions
22 not affected thereby.

23
24 **SECTION 9. Repealing Clause.** – All laws, parts of laws, decrees, presidential
25 issuances, proclamations, orders, ordinances, and administrative regulations in conflict with
26 the provisions of this Act are hereby amended, modified or repealed accordingly.

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28 **SECTION 10. Effectivity.** – This Act shall take effect fifteen (15) days after its
29 publication in the Official Gazette or in at least two (2) newspapers of general circulation.

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32 *Approved,*

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