

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 483



INTRODUCED BY HONORABLE CHERYL P. DELOSO-MONTALLA

EXPLANATORY NOTE

Suffrage is the right and obligation, though not mandatory, to vote of qualified citizens in the election of certain national and local officers of the government and in the decision of public questions submitted to the people¹. The right to vote has reference to a constitutional guarantee of the utmost significance. It is the right without which the principle of sovereignty residing in the people becomes nugatory². It is essential then to ensure that the voters shall exercise their right freely, "uninfluenced by threats, intimidation or corrupt motives" and to secure a fair and honest count of the ballots."³ To accomplish this, Congress is directed by the Constitution "to provide a system for securing the secrecy and sanctity of the ballot.

In 1997, Republic Act (R.A.) No. 8436 was enacted into law authorizing the Commission on Elections (COMELEC) to use an automated election system. Following this, R. A. 9369 was passed on January 2007 to finally enable the COMELEC to conduct automated election in 2010 and in the succeeding election exercise. The first automated election was a result of the desire to cleanse the election process of some 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.⁴

These landmark measures ushered in the 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.⁵

However, all these are now wishful thinking as the conduct of the last three "automated" national and local elections proved more disappointing than fulfilling. The failures and shortcomings of the system that was utilized were so grave that they cast serious doubts on its integrity and credibility. Section 2 of R.A. No. 9369 defines the automated election (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." Unfortunately, the 2010, 2013 and 2016 "automated" elections were both illegal and constitutionally infirm electoral processes due to the refusal or failure of COMELEC to comply with the provisions of R. A. 9369 for reasons known only to the COMELEC and its partner, SMARTMATIC.⁶

¹ de Leon, 2002. Textbook on the Philippine Constitution.

² Pungutan vs Abubakar, L-33541, Jan 20, 1972

³ Garner vs Romulo, 26 Phil. 521.

⁴ Explanatory Note of Hon. Gwendolyn Garcia on House Bill No. 313, 17th Congress

⁵ Ibid.

⁶ Ibid.

The Precinct Count Optical System (PCOS) used during the 2010 and 2013 national and local elections, and the Vote Counting Machine (VCM) used during the national, local and ARMM elections of 2016 and 2019, for example, were mere counting and transmission machines, as opposed to the voting machine prescribed by R.A 9369, precisely to serve the purpose of the law - automation from voting to canvassing. This essential requirement has been totally ignored to the point of ignominy. The voting was manual, i.e., the voter manually filled out the ballot by shading a small oval before the name of the candidate on the ballot, while the counting and transmission, however, are a different story.⁷

Moreover, while the concern about the lack of a voter-verified paper audit trail (VVPAT) in the PCOS machine was addressed by the VCM, the electronic display thereon did not comply with the specifications of Section 13 of R.A 9369, which provides:

“SEC. 13. Section 11 of Republic Act No. 8436 is hereby amended to read as follows:

“SEC 15. *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. xxx.”

Sadly, while the VCM was equipped with an electronic display, it merely displayed the voter's choices in a mere split-second, effectively depriving the voter of an opportunity to verify if his/her vote was indeed considered by the machine, or to review his/her ballot and make corrections thereto before approving its receipt by the VCM. Needless to state, this perfunctory compliance still leaves a lingering doubt in the minds of the voters of whether their votes were counted or *if* they were counted properly to reflect their true choices.⁸

His Excellency President Rodrigo Roa Duterte expressed his frustration over the conduct of the 2019 midterm election by the COMELEC with Smartmatic as its partner. A hearing done by the Joint Congressional Oversight Committee (JCOC) on Electoral Reforms after the May 2019 elections revealed that on top of the old issues of ballot pre-shading, malfunctioning VCMs and substandard SD cards was the massive vote-buying activities in the guise of payment of honoraria by politicians of their “outside” watchers and the so called “technical glitch” resulting allegedly from the queueing of data in one of the servers used by COMELEC for the transmission of election results. Ask by the members of the JCOC about the nature of this “technical glitch,” COMELEC was only mum and left it to the heavens for the members of the JCOC to figure it out. It is also alarming to know that during that time when the 2019 elections were being conducted, a high ranking official of COMELEC admitted that COMLEC is not the one who called the shots regarding the entire voting and transmission process but Smartmatic.

It should be remembered that Senate President Vicente C. Sotto III, in his Privilege Speech on March 6, 2018, revealed that in the 2016 elections, a “series of early transmissions of votes can be seen from the logs of the COMELEC servers. These transmissions happened on May 8, 2016 and in the very early morning of May 9, 2016, prior to the official start of the elections. The transmissions were done to different municipal and provincial board of canvassers in Luzon,

⁷ Ibid.

⁸ Ibid.

Visayas and Mindanao. There is no way that these are only testing transmissions for the reason that the testing period already ended on April 23, 2016.”

He further stated that based on the NAMFREL Report for the 2016 National and Local Elections, “the integrity of our Automated Election System was undermined. This was due to an intrusion of an unauthorized transparency queue server while the system is actively receiving data.” This is a *de javu* of sorts and Congress cannot be left powerless to ensure that the sovereign will have an unimpeded view of the real time input of their votes which can only be done through a manual system of voting and counting.

In addition, COMELEC also admitted that replacement for defective VCMs and SD cards during the said elections were not subjected to final testing and sealing, contrary to the provisions of the AES law. The liability of COMELEC, by fault or omission, extends beyond the ambit of election laws as COMELEC is also liable for its failure to do post-qualification examination of the VCMs that were delivered by Smartmatic which is also in direct violation of the Procurement Law.

On top of this, written complaints of voters regarding the disparity in the names of candidates whom they voted for certain positions and those reflected in the receipt issued by the VCMs to them were just left under the rug by COMELEC. It is for the simple reason that it cannot ascertain which ballot is being referred to by the complainant-voters should the ballot boxes be allowed to be opened for the identification of the ballot in issue. This absence of a distinguishing feature in the ballot is in compliance with the constitutional provision on the secrecy of the vote. However, there is an urgent need to address the issue of ballot tampering and the only way to ensure that it cannot be tampered is for the voter to affix his/her thumbmark both in the ballot and its corresponding receipt. In this way, we both comply with the constitutional requirement on secrecy while making sure that tampering avoided as no two thumbmarks are the same.

The last 4 elections were conducted in palpable disregard and contravention of applicable laws and the right of suffrage, 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 so-called system. The concept of automation and its noble intentions thus remain a figment of the imagination. COMELEC, as a constitutional body, lamentably brushes aside as trivial and negligible the many allegations of cheating and fraud under the AES, insisting on the integrity of the non-compliant system, boasting even of saving the government billions of pesos because the voting machine is more expensive than the counting machine that it has been using.⁹

In order to address the issues hounding COMELEC and its conduct of the automated elections, this representation is proposing a hybrid system of election where the voting and counting at the precinct level will be done manually while the transmission and canvassing are automated. In this way, we can be certain about the accuracy and transparency of the right to suffrage of the sovereign Filipino people.

It is in this light that this bill is being filed and immediate passage of this bill is earnestly sought.



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⁹ Ibid.

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INTRODUCED BY HONORABLE CHERYL P. DELOSO-MONTALLA

AN ACT
PROVIDING FOR THE CONDUCT OF HYBRID NATIONAL, LOCAL AND ARMM
ELECTIONS, THROUGH MANUAL VOTING AND COUNTING AT THE PRECINCT
LEVEL, AND AUTOMATED TRANSMISSION AND CANVASSING, AND FOR
OTHER PURPOSES

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

SECTION 1. Title. - This Act shall be known as the ***“The Hybrid Election Act”***.

SECTION 2. Coverage. - The coverage of the provisions of this Act shall be limited to the conduct of the election on May 2022 and every local, national or ARMM election thereafter.

SECTION 3. Filling 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 on Elections (COMELEC) specified hereunder not later than the day before the date legally fixed for the beginning of his/her campaign period, to wit:

1. For President, Vice-President, Senators and Party-list Representatives, 90 days before the day of elections; and

2. For Members of the House of Representatives, and Elective Provincial City, and Municipal Officials, 45 days before the day of the election.

(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 to city or municipal offices shall be filed with the city or municipal election officer 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.

SECTION 4. Official Ballot -

(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. taking into consideration environmental considerations with a reasonable minimum paper size and using security paper. They shall be printed in black ink with distinctive, clear and legible watermarks that will readily distinguish them from ordinary paper. Each ballot shall be in the shape of a strip with stub and detachable coupon containing the serial number and a space for the thumbmark both on the upper and lower detachable coupon of the ballot. 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 instruction in English: "Fill out this ballot secretly inside the voting booth by shading the oval opposite the name/s of the candidate/s of your choice. Do not put any distinct mark on any part of this ballot."

(b) The official ballot shall be serially numbered and shall be delivered to and correspond to specific precincts or cluster or precincts, as the case may be, which shall have corresponding and exclusive ballot identification numbers separate from the serial number of the individual ballots. For purposes of transparency, the ballot ID and the serial number of the ballots corresponding to each precinct or cluster or precincts, as the case may be, shall be available for viewing by interested parties on the Commission's Official Website at least five (5) days before election day.

(c) A digital image of a sample official ballot shall be available for viewing and downloading from the Commission's website, minus the security features and actual bar codes for authentication.

(d) The official ballot shall also contain the names of all the offices to be voted upon in the election. Immediately below the name of the office to be voted shall be an oval opposite the name of each of the official candidates for the position which shall be arranged in alphabetical order. *Provided*, that, in the case of Party-List, the Commission shall device a mechanism which will allow the Party-List to have an equal footing in the selection of the voter of his/her Party-list of choice. *Provided, further*, that: any defacement, vandalism, marking or writing on said list inside the ballot secrecy folder, which shall in anyway suggest to the voter the candidate or candidates to be voted upon, or shall deprive said voter of his right to vote the candidates that he/she chooses to vote, shall constitute an election offense, as provided in this Act.

(e) There shall not be anything printed or written on the back of the ballot.

(f) 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.

(g) The foregoing provisions notwithstanding, the Commission is hereby authorized to prescribe a different form of official ballot on the same watermarked security paper to facilitate voting by illiterate and specially abled voters only and to use or adopt the latest technological and electronic devices in connection therewith, as will enable such illiterate or

specially abled voter to confirm that the accompanying person truly adhered to the former's choice of candidates, as provided under Section 52 (i) of the Omnibus Election Code.

SECTION 5. *Printing of Official Ballots.* - The printing of official ballots shall be exclusively done by the National Printing Office and may not be contracted out or outsourced to any private or public person, entity, or agency, despite claims of better or higher capacity to do so, not even under a valid accreditation pursuant to any law, rules or regulation.

A violation of this Section shall constitute a *prima facie* evidence of electoral sabotage and a conspiracy to commit massive electoral fraud.

SECTION 6. *Authentication of Ballot and 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 (BEIs) (BEIs), in the presence of the poll watchers and the voter, shall scan the ballot under an official bar code scanner to authenticate the same and thereafter the Chairman and the watchers for the dominant majority party and dominant minority party shall affix their signatures at the back thereof. Failure to authenticate shall be noted in the minutes of the Board of Election Inspectors (BEIs) and shall constitute an election offense punishable under Section 263 and 264 of the Omnibus Election Code. The same manner of authentication of the ballots under the bar code scanner shall likewise be observed before reading the ballot for counting the votes after the closing of the polls.

SECTION 7. *Manner of Counting of Votes.* - In addition to the requirement in the fourth paragraph of Section 12 of the Republic Act No. 6646 and Section 21 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. Before the start of the counting, the chairman shall first ascertain whether the back of every ballot contains the signatures of the chairman and watchers. Any ballot without such signatures shall be rejected.

a. The chairman shall first read the votes for national positions and party list choices, and the necessary election returns shall be filled out for such positions only, thereby reducing the time for counting, as well as the size of the paper to be utilized for the election returns. Thereafter, the members of the Board shall terminate the counting and prepare the election returns as they await distribution to the authorized watchers, as provided under Section 8 hereof.

b. After the reading of the votes for the national positions and the party list, the Chairman shall then proceed with the reading of the votes for the local positions and the corresponding election return shall be filled out and prepared and distributed as provided in Section 8 hereof.

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

SECTION 8. *Counting of Votes to be Public.* - As soon as the voting is finished, the BEI 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 vote 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 BEIs 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 BEIs to count the votes and to accomplish the election return and other forms prescribed under this Act and other election laws 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 been recommended in writing by the BEIs 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 any of its pertinent portions, shall constitute an election offense and shall be penalized in accordance with Batas Pambansa 881.

SECTION 9. Election Returns. - The BEIs shall prepare the election returns simultaneously with the counting of votes in the polling places as prescribed in Section 210 of BP 881. The recording of vote shall be made as prescribed in said section. The entry of votes in words and figures for each candidate shall be closed with the signature and the clear imprint of the thumbmark 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 which 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 BEIs shall certify that the contents are correct. The returns for national positions and party-list 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 BEIs.

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.

SECTION 10. Digital Election Returns. - Simultaneous to the counting of the votes and the filling out of the election returns, there shall be an independent technician who shall enter the votes, as they are counted, into a digital spread sheet, which shall serve as the Digital Election Return, in a laptop provided for the purpose, which spread sheet shall also be projected on a screen while the entries are recorded in real time for the watchers to validate and the public to see.

The Digital Election Return shall be equipped with such encryption and programs to ensure that the technician, or any person cannot make alterations in any of the entries therein, or the results of the counting, except in case of discrepancy with the manual election return as provided in this Act. Likewise, the laptop shall be configured to confine its operation only for this purpose and to transmit the results of the counting to a secure server as hereinafter prescribed.

Immediately upon the accomplishment of the manual election returns for national positions, the poll clerk shall announce the posting of the second copy of the election returns 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/canvassing center. Without delay and, when

feasible, he shall secure an image of the election returns 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 manual election return.

Likewise, the independent technician, without turning off the projected results on the screen, shall print out one copy of the digital election return as filled out, and the members of the board and the poll watchers shall be asked to authenticate the same by comparing the results as printed in the second copy of the manual election return as posted and announced. Should the results of the digital election return be found to be the same as that of the manual, the members of the board and the poll watchers shall affix their signatures and thumb prints in the spaces provided and the same shall be placed in the compartment for valid ballots in the ballot box.

Should there be any discrepancy between the digital and the manual election returns, the results in the manual election return shall prevail. However, for purposes of electronic transmission, the Chairman, the poll clerk and the third member shall encode their digital signatures into the laptop to allow the necessary corrections in the digital election return to conform with the results as reflected in the manual election return. The erroneous digital return shall be torn by half lengthwise and placed inside the compartment for spoiled ballots inside the ballot box.

Thereafter, the technician shall print another copy of the digital election return and shall allow the board and the poll watchers to scrutinize and authenticate the same as prescribed above. When there is no more discrepancy in the results, the board and the poll watchers shall affix their signatures and thumb prints, and the correct digital election return shall be placed in the compartment for valid ballots inside the ballot box.

Finally, the board shall again enter their respective digital signatures to write-protect the memory card containing the digital election return and the image of the manual election return, and authorize the electronic transmission of the results to the various secure servers as prescribed herein.

Once the printouts for the image of the manual election return have been generated, 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 printed copy 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 printed copies may receive their copies at the polling place or counting center.

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

The digital election return shall be printed out and authenticated as prescribed above for the national positions.

The other copies of election return 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 a particular polling place shall not be canvassed and shall be declared as spurious and fake and shall be a ground for a pre-proclamation controversy. 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 thumbmarks of the members of the Board of Election Inspectors (BEIs) 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 BEI 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 Big. 881.

SECTION 11. *Number of Copies of Election Returns and their Distribution.* - The BEIs 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 (BEIs) 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 digital election return shall be electronically transmitted to the secure servers and the first copy of the manual election return, as digitally captured and printed, shall be delivered to the city or municipal Board of Canvassers immediately after the closing of the polls;

(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;

(b) In the election of local officials;

(1) The digital election return shall be electronically transmitted to the secure servers and the first copy of the manual election return, as digitally-captured and printed, shall be delivered to city or municipal Board of Canvassers immediately after the closing of the polls;

(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 (BEIs) 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 or 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 (BEIs) 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 (BEIs), who shall produce them when requested by the recipient or when ordered by a competent authority.

SECTION 12. *The Use of a Tally Board Not Allowed.* - The use of a tally board, commonly used by Boards of Election Inspectors at the precinct level is no longer allowed and shall be replaced by the projected real-time input of results in the digital election return, as provided above.

SECTION 13. *Canvassing by Provincial, City, District and Municipal Board of Canvassers.* -

(a) The city or municipal Board of Canvassers shall canvass the electronically transmitted election return for President, Vice president, Senator, Party-list Representatives 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 districts shall canvass the electronically transmitted election returns for President, Vice-President, Senator, Party-List Representatives, Members of the House of Representatives and elective city officials: *Provided,* That the returns for national positions shall be canvassed first. Upon completion of the canvass, the board shall prepare the certificate of canvass, of President, Vice-President, Senators and Party-List Representative, announce the results of the election for national positions in the city and, thereafter, proclaim the elected Members of the House of Representatives and city officials.

(c) (1) In the Metro Manila Area such municipality comprising a legislative district shall have a district Board of Canvassers which shall canvass the electronically transmitted election return for President, Vice-Presidents, Senator, Party-List Representatives, Members of the House of Representatives and elective municipal officials: *Provided*, That the return 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 Party-List Representatives, 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 electronically transmitted election returns for President, Vice-President, Senators, Party-List Representatives, 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 Presidents, Vice-President, Senators, Party-List Representatives 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 the Metro Manila area shall canvass the certificate of canvass for President, Vice-Presidents, Senator, Party-List Representatives 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, Senator, and Party-List Representative, 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 electronically transmitted certificate of canvass for President, Vice-President, Senators, Party-List Representatives, 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 certificates of canvass for national positions shall be canvassed first. Upon completion of the canvass, it shall prepare the certificate of canvass for President, Vice-President, Senators, Party-List Representatives and 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 present 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 and affix their thumbprints in the boxes provided therefor.

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

The Chairman of the Board of Canvassers shall transmit the digital files with digital encryptions for security reasons 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 offense and shall be penalized in accordance with Batas Pambansa 881.

SECTION 14. *Number of Copies of Certificate of Canvass and their Distribution.* – (a) the certificate of canvass for President, Vice-President, Senators, Party-List Representatives and Member 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 election results for President, Vice-President, Senators, Party-List Representatives 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;

(5) The fifth copy shall be given to the citizens' arm designated by the Commission to conduct a media-based unofficial count, and

(6) 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 the canvass on the basis of the criteria provided in Section 26 of Batas Pambansa 881. The parties receiving the certificate shall have 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 and Party-List Representatives shall be prepared in seven (7) copies by the city Boards 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;

(5) The fifth copy shall be given to the citizens' arm designated by the Commission to conduct a media-based unofficial count; and

(6) 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 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 certificate 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 requested by the recipient or when ordered by a competent authority.

The thirty (30) certified printed 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 (3) 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 the 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 for the purpose 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 for the purpose 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 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 (BEIs) 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 print 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 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 Big. 881.

SECTION 15. 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 electronically transmitted certificates of canvass 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, Vice-President and Senator, as the case may be, and their corresponding votes in words and their corresponding votes in figures; (3) there exists no discrepancy in the other authentic copies of the document such as statement of votes or any of its supporting documents 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 exists 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 certificate of canvass including the other duly certified printed copies thereof or supporting statement of votes by city/district/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 require the Board of Canvassers concerned to transmit by personal delivery, the election returns for the sole purpose of verifying the actual the votes as they appear in the copies if the election returns submitted to it.

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 shall be penalized in accordance with Batas Pambansa Big. 881.

SECTION 16. Communication Channels for Electronic Transmissions. - Electronic transmission which is defined under R.A. 9369 as conveying data in electronic form from one location to another shall be guided by the following: all electronic transmissions of the election returns, certificates of canvass and other related documents shall utilize secure transmission channels as recommended by the Department of Information and Communications Technology (DICT), the Department of Science and Technology (DOST) and the National Telecommunications Commission (NTC) to ensure the 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 of votes in order to effectively implement the provisions of this Act: *Provided*, that the Commission shall observe, in the process of procurement of the necessary equipment, facilities and services shall the pertinent provisions of R.A. 9184.

Electronic transmission of the election returns and other such supporting documents thereof at the precinct level shall be forwarded to the Commission office and to the national broadcast or print media entities as may be equitably be determined by the Commission.

SECTION 17. *Pre-proclamation controversy.* - 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.

SECTION 18. *Official Watchers.* -

(a) Every registered political party, coalition of political parties and every candidate shall each be entitled to watchers in every polling place as provided in Section 12 of R.A. 6646 and Section 178 of Batas Pambansa 881: *Provided*, that only 1 official watcher per registered political party, coalition of political parties and every candidate shall be allowed inside the polling place and an additional 2 substitute watchers outside of the precinct. No watcher shall be allowed.

(b) The poll watchers shall render service on a voluntary basis. Honoraria may be given by the registered political party, coalition of political parties or candidate to watchers at the former's discretion but such honoraria shall be given only after the latter has rendered service. Food and transportation allowance of watchers shall be given to them by representative of registered political party, coalition of political parties or candidates three (3) days before the election and in the presence of the Commission or its duly authorized representative.

(c) Violation of the provisions of this section shall be a *prima facie* evidence for the cancellation of the certificate of candidacy of the candidate who circumvents the provisions of this section in addition to other penalties imposed under Batas Pambansa 881 for vote buying.

SECTION 19. *Reshuffling of Election Officers and Officials, Members of the PNP, the Armed Forces and DepEd.* - In order to ensure that the sanctity of the ballot is protected and to provide a clean, honest and credible election with the voter free from any undue influence on his choice of candidates and to the outcome of elections, election officers and officials from the Regional Director to Municipal Election Officers shall be reshuffled forty-five (45) days before the election. The reshuffling shall be done such that election officers in a province shall be reassigned to another.

Members of the police force from the Regional Director, Provincial Director and Chief of Police of every municipality shall also be reshuffled in such a way that those assigned in a specific province shall be temporarily reassigned to another until the end of the election ban. Police officers assigned to a municipality shall be reassigned to another municipality within the province. In the case of cities, temporary reassignments shall be made to another city within the region. The reassignment shall be made in a manner that nobody may influence the outcome of the individual PNP member's temporary transfer. The mode of determination of the new area of assignment of the members of the PNP shall approved by the Commission and the manner of its determination shall be done in the presence of COMELEC.

Members of the armed forces shall also be reshuffled in a manner and mode similar to that of the member of the PNP as provided in this Act.

For the members of the Department of Education, Regional Directors, Superintendents and Principals shall be reshuffled thirty (30) days before the election. The mode and manner of

determination of the new area of assignment of regional directors, superintendents and principals shall be similar to that of the members of the PNP as provided in this Act.

Non-compliance with the provisions of this section shall constitute as an election offense punishable under Batas Pambansa 881 and other related laws on the part of those involved in the effective reshuffling of the members of the PNP, armed forces, DepEd and COMELEC.

SECTION 20. *Election Offenses Under this Act.* - In addition to the violations of the pertinent provisions of this Act, the following shall also constitute election offenses punishable under Batas Pambansa 881 and other election laws:

- (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 (BEIs) 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 (BEIs) who signs or authenticates a printed of the election return outside of the polling place;
- (f) 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;
- (g) Any person who simulates an actual certificate of canvass or statement of votes, or a print or digital copy thereof;
- (h) Any person who simulates the certification of a certificate of canvass or statement of votes;
- (i) 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;
- (j) 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
- (k) The chairman or any member of the Board of Canvassers who signs or authenticates a print which bears an image different from the certificate of canvass or statement of votes produced after counting and posted on the wall.

SECTION 21. *Implementing Rules and Regulations and Bidding.* - Immediately upon the approval of this Act, the Commission shall formulate such rules and regulations that will effectively implement the provisions of this Act for purposes of the 2022 national, local and ARMM elections. In addition, the Commission shall prescribe the technical specifications for the electronic devices and computer programs to be used for implementing of this Act, with an aim to ensure fair, honest, and orderly elections and prompt determination of the true results thereof.

SECTION 22. *Appropriations.* - The amount necessary for the implementation of this Act shall be charged against the budget of the Commission on Elections under the General Appropriations Act. Thereafter, such sum as may be necessary for its effective implementation shall be included in the subsequent General Appropriations Act.

SECTION 23. *Repealing Clause and Applicability of Other Existing Laws.* - The provisions of Republic Act No. 8436, as amended by RA 9369, in so far as they are inconsistent with the provisions of this Act are hereby expressly repealed. In addition, the provisions of Batas Pambansa Big. 881, as amended, R.A. 7166, and other election laws not inconsistent with this Act shall remain of full force and effect. All other laws, decrees, executive orders and issuances, resolutions, revenue regulations, ordinances or circulars inconsistent with the provisions of this Act are hereby repealed or modified accordingly or declared null and void and inoperative.

SECTION 24. *Separability Clause.* - If any section, provision or part of this Act shall be declared unconstitutional, the remaining portion thereof shall remain valid and in full force and effect.

SECTION 24. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette*.

Approved,