



Introduced by Honorable Ma. Alana Samantha Taliño Santos

AN ACT AMENDING SECTION 240, ON ELECTIONS RESULTING IN TIE, OF BATAS PAMBANSA BLG. 881, AS AMENDED ALSO KNOWN AS THE OMNIBUS ELECTION CODE OF 1985

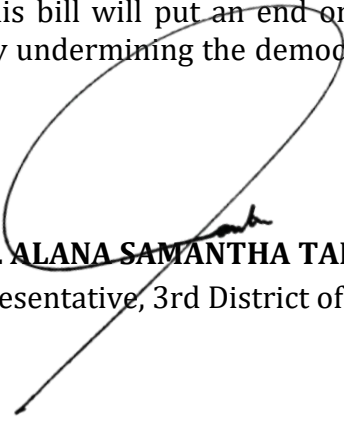
EXPLANATORY NOTE

During the recent conduct of the 2023 Barangay Sanggunian Kabataan Elections, several candidates and election canvassers experienced and witnessed “toss coin” as a way of resolving a tie.¹ In the same manner, two mayoral candidates in Western Palawan settled a rare tie via toss coin during the 2019 elections.²

As peculiar as it may seem, coin tossing has been relied upon even by the very Constitution of the Philippines. The Constitution provided for tie-breakers in cases of presidential and vice presidential elections while Batas Pambansa Blg. 881, as amended provided for tie-breakers in the other election cases. However, as provided in Section 240 of the Omnibus Election Code, whenever it shall appear from the canvass that two or more candidates have received an equal and highest number of votes, or in cases where two or more candidates are to be elected for the same position and two or more candidates received the same number of votes for the last place in the number to be elected, the board of canvassers shall proceed to the drawing of lots of the candidates who have tied and shall proclaim as elected the candidates who may be favored by luck.³

It must be reiterated that elections are meant to be a fair and democratic process where the will of the people is reflected in the results. Using a coin toss in case of a tie during elections can be seen as an arbitrary and random way of deciding the outcome. A coin toss does not take into account the preferences or opinions of the voters, potentially leading to an unfair outcome. This

Given that another regular election will be held on 2025, a rational way of breaking a tie must be institutionalized. The passage of this bill will put an end on the lack of fairness brought by the tossing of coin that is actually undermining the democratic process and the principle of majority rule.


HON. MA. ALANA SAMANTHA TALIÑO SANTOS
Representative, 3rd District of Cotabato

¹ <http://www.cnnphilippines.com/news/2023/10/31/barangay-sk-election-toss-coin.html>

² <https://apnews.com/coin-toss-settles-rare-philippine-election-tie-d6c00510600643eba8e0ad17a4e64ef7>

³ Section 240, Batas Pambansa Blg. 881 also known as the Omnibus Election Code of the Philippines

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

NINETEENTH CONGRESS
Second Regular Session

House Bill No. 9796

Introduced by Honorable Ma. Alana Samantha Taliño Santos

AN ACT AMENDING SECTION 240, ON ELECTIONS RESULTING IN TIE, OF BATAS PAMBANSA BLG. 881, AS AMENDED ALSO KNOWN AS THE OMNIBUS ELECTION CODE OF 1985

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

Section 1. Section 240 of Batas Pambansa Blg. 881, also known as the Omnibus Election Code of 1985, as amended is hereby further amended to read as follows:

Sec. 240. Election resulting in tie. -Whenever it shall appear from the canvass that two or more candidates have received an equal and highest number of votes, or in cases where two or more candidates are to be elected for the same position and two or more candidates received the same number of votes for the last place in the number to be elected, the board of canvassers, after recording this fact in its minutes, shall by resolution, upon five days notice to all the tied candidates, **TRANSMIT THE FINAL RESULTS TO THE SANGGUNIAN CONCERNED. THE SANGGUNIAN SHALL hold a special SESSION THREE DAYS AFTER RECEIVING THE TRANSMITTAL FROM THE BOARD OF CANVASSERS** at which the **SANGGUNIAN** shall **BREAK THE TIE BY A MAJORITY VOTE** and shall proclaim as elected the candidate who **WILL** be **CHOSEN BY THE VOTE OF A MAJORITY OF ALL THE MEMBERS OF THE SANGGUNIAN**, and the candidate so proclaimed shall have the right to assume office in the same manner as if he had been elected by plurality of vote.

The **SANGGUNIAN** shall forthwith make a certificate stating the name of the candidate who **WAS CHOSEN BY THE MAJORITY VOTE OF THE SANGGUNIAN** and his proclamation on the basis thereof. **PROVIDED**

HOWEVER, THAT IN CASE WHERE THE POSITION TO BE FILLED IS FOR DISTRICT REPRESENTATIVE OR DISTRICT SANGGUNIAN MEMBER, ONLY THE MEMBERS OF THE SANGGUNIAN OF THAT DISTRICT WILL BE ALLOWED TO VOTE.

IN CASES OF SENATORS, THE DULY ELECTED 23 SENATORS WILL VOTE AMONG THEMSELVES ON WHO WILL BE THE LAST SENATOR WHO WILL COMPLETE THEIR ROSTER.

Nothing in this section shall be construed as depriving a candidate of his right to contest the election.

Section 2. **Repealing Clause.** -Any law, presidential decree or issuance, executive order, letter of instruction, rule or regulation inconsistent or contrary to the provision of this Act is hereby repealed or modified accordingly.

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Section 3. ***Effectivity Clause.*** – This Act shall take effect after fifteen (15) days following its publication in the Official Gazette or a newspaper of general circulation.

Approved