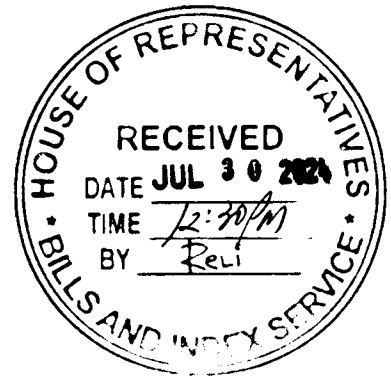




Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila



Nineteenth Congress
Third Regular Session

HOUSE BILL NO. 10683

Introduced by **Representative MA. VICTORIA CO-PILAR**

EXPLANATORY NOTE

The exercise of suffrage is a cornerstone of democratic integrity, embodying the spirit and progress of our nation. Ensuring the sanctity of this constitutional right is a paramount duty that demands continuous innovation and legislative oversight. Elections are complex processes that are shaped as time progresses, it becomes a social process defined by contexts and previous electoral processes that augmented the right to suffrage and complemented democracy in action.

The current Automated Election System (AES) Law, Republic Act No. 9369, classifies and determines pre-conditions on the AES system that the Commission on Election shall approve and authorize for use. However, the current provision on its demonstrated capability requirement to have been successfully used in a prior electoral exercise "here or abroad," mitigates the chances of competition and participation for AES and AES System providers. Amending the law would enable potential providers, who meet all technical requirements and conditions set forth under the law, to have the equal opportunity to be considered by COMELEC.

Therefore, this bill proposes amendments to the law to modernize and enhance the integrity of the electoral process in response to technological advancements and identified vulnerabilities in the current system. The proposed amendments not only aim to ensure that the AES used in national and local elections is robust, reliable, and capable, but inclusive and transparent, hence reflecting the will of the electorate. Notably, this bill seeks to level the playing field by promoting equal opportunities for domestically developed election technologies to participate in the AES procurement process.

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



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AN ACT

AMENDING REPUBLIC ACT NO. 9369, ENTITLED "AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM (AES) IN THE NATIONAL OR LOCAL ELECTIONS AND IN SUBSEQUENT NATIONAL AND LOCAL ELECTORAL EXERCISES, TO ENCOURAGE TRANSPARENCY, CREDIBILITY, FAIRNESS AND ACCURACY OF ELECTIONS, AMENDING FOR THE PURPOSE BATAS PAMBANSA BLG. 881, AS AMENDED, REPUBLIC ACT NO. 7166 AND OTHER RELATED ELECTION LAWS, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES," AS AMENDED

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

1 **SECTION 1.** Section 2 of Republic Act No. 9369, as amended, is hereby further amended to read
2 as follows:

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

4
5 1. *Automated election system*, hereinafter referred to as AES - a system using
6 appropriate technology [~~which has been demonstrated in the voting, counting,~~
7 ~~consolidating, canvassing, and transmission of election results,~~] **WITH PROVEN**
8 **CAPABILITY TO PERFORM THE COUNTING OF VOTES** and other electoral
9 processes, **INCLUDING SYSTEMS DEVELOPED LOCALLY OR ABROAD.**

10
11 **12. DIGITAL OR OTHER RESOURCES - REFER TO ANY ELECTRONIC OR**
12 **DIGITAL TOOLS AND MATERIALS USED AS MEANS TO SUPPLEMENT**
13 **THE ELECTION PROCESS.**

14
15 **SEC 2.** Section 7 of Republic Act No. 9369, as amended, is hereby further amended to read as
16 follows:

17 *"Sec. 6. Minimum System Capabilities. -* "The automated election system must at least
18 have the following functional capabilities:

19
20 (l) Provide for the safekeeping, storing and archiving of physical [or] paper,
21 **DIGITAL OR OTHER** resourceS used in the election process;

22
23 xxx
24

1 "In the procurement of this system, the Commission shall develop and adopt an
2 evaluation system to ascertain that the above minimum system capabilities are
3 met. This evaluation system shall be developed with the assistance and discretion
4 of what the advisory council may deem fit."
5

6 SEC 3. Section 9 of Republic Act No. 9369, as amended, is hereby further amended to read as
7 follows:

8 "New section 8,9, 10 and 11 are hereby provided to read as follows:

9
10 "SEC. 8. *The Advisory Council*, xxx

11
12 "(a) The ~~{Chairman of the Commission on}~~ **SECRETARY OF THE**
13 **DEPARTMENT OF Information and Communications Technology (DICT)** who
14 shall act as the chairman of the council;

15
16 "SEC. 10. *The Technical Evaluation Committee*. - The Commission, in collaboration
17 with the chairman of the Advisory Council, shall establish an independent
18 technical evaluation committee, herein known as the Committee, composed of [a]
19 **ONE** representative each from the ~~{Commission, the Commission on Information~~
20 ~~and Communications Technology}~~ and the Department of Science and Technology
21 who shall act as chairman of the Committee, **THE DICT, FROM THE ACADEME,**
22 **INFORMATION AND INDUSTRY COUNCIL GROUP, OR THE CITIZEN'S**
23 **ARM. THE COMMISSION SHALL PROVIDE FULL SUPPORT NEEDED BY**
24 **THE COMMITTEE IN FULFILLING ITS ACTIVITIES**

25
26 "SEC. 11. *Functions of the Technical Evaluation Committee*. - The Committee shall
27 certify, through ~~{an established international}~~ **A QUALIFIED** certification entity
28 to be chosen by the Commission from the recommendations of the Advisory
29 Council, not later than three months before the date of the electoral exercises,
30 categorically stating that the AES, including its hardware and software
31 components, is operating properly, securely, and accurately, in accordance with
32 the provisions of this Act based, among others, on the following documented
33 results:

34
35 SEC 4. Section 10 of Republic Act No. 9369, as amended, is hereby further amended to read as
36 follows:

37 "SEC. 12. *Procurement of Equipment and Materials*. - To achieve the purpose of this
38 Act, the Commission is authorized to procure, in accordance with existing laws,
39 by purchase, lease, rent or other forms of acquisition, supplies, equipment,
40 materials, software, facilities and other services, from local or foreign sources free
41 from taxes and import duties, subject to accounting and auditing rules and
42 regulations. ~~{With respect to the May 10, 2010 elections and succeeding electoral~~
43 ~~exercises, the}~~ **THE** system procured must have ~~{demonstrated}~~ **PROVEN**
44 capability ~~{and been successfully used in a prior electoral exercise here or abroad.~~
45 ~~Participation in the 2007 pilot exercise shall not be conclusive of the system's~~
46 ~~fitness}~~, **WITH SPECIFICATIONS TO BE DETERMINED BY THE**
47 **COMMISSION, FOLLOWING THE GENERAL REQUISITES BELOW, AS IT**
48 **DEEMS APPROPRIATE AND PRACTICAL FOR THE PROCESS OF VOTING,**
49 **COUNTING OF VOTES, CANVASSING OR CONSOLIDATION, AND**
50 **TRANSMITTAL OF RESULTS OF ELECTORAL EXERCISES.**

THE GENERAL REQUISITES SPECIFYING "PROVEN" CAPABILITY ARE AS FOLLOWS:

1. SECURITY, TRANSPARENCY, AND CREDIBILITY ASSURANCE.
2. INCLUSIVE PREFERENCE ON SYSTEM PROCUREMENT.
3. COST-EFFECTIVENESS.
4. INTEROPERABILITY.
5. RELIABILITY.
6. ACCESSIBILITY AND USER FRIENDLINESS.
7. FEASIBLE PILOT-TESTING.
8. RELIABLE TECHNICAL MAINTENANCE AND SUPPORT.

xxx

SEC 5. Section 12 of Republic Act No. 9369, as amended, is hereby further amended to read as follows:

"SEC. 14. *Examination and Testing of Equipment or Device of the AES and Opening of the Source Code for Review.* — xxx

xxx

xxx

"Once an AES technology is selected for implementation, the Commission shall ~~[promptly]~~, **WITHIN THIRTY (30) CALENDAR DAYS FROM THE SIGNING OF THE CONTRACT**, make the source code of that technology available and open to any interested political party or groups which may conduct their own review thereof."

SEC 6. *Implementing Rules and Regulations* - Within sixty (60) days from the effectivity of this Act, the Commission shall promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC 7. *Separability Clause* - If any provision or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SEC 8. *Repealing Clause* - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provision of this Act is hereby repealed, modified, or amended accordingly.

SEC 9. *Effectivity Clause* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,