

'18 JUL 30 AIO :54

SENATE

S. NO. 1893

RECEIVED

---

Introduced by **SENATOR LEILA M. DE LIMA**

---

**AN ACT**  
**REDEFINING THE PROHIBITED ACT OF PREMATURE CAMPAIGNING,**  
**ACCORDINGLY AMENDING SECTIONS 79, 80, AND 81 OF BATAS**  
**PAMBANSA BILANG 881, OTHERWISE KNOWN AS THE**  
**“OMNIBUS ELECTION CODE OF THE PHILIPPINES”**

**EXPLANATORY NOTE**

The prohibited act of premature campaigning is defined under Section 80 of the Omnibus Election Code, to wit:

**SECTION 80.** *Election campaign or partisan political activity outside campaign period.* - It shall be unlawful for any person, whether or not a voter or candidate, or for any party, or association of persons, to engage in an election campaign or partisan political activity except during the campaign period: Provided, That political parties may hold political conventions or meetings to nominate their official candidates within thirty days before the commencement of the campaign period and forty-five days for Presidential and Vice-Presidential election.

The repercussion for the violation of Section 80 is spelled out in Section 60 of the same Code, which reads:

**SECTION. 68.** *Disqualifications.* - Any candidate who, in an action or protest in which he is a party is declared by final decision of a competent court guilty of, or found by the Commission of having xxx (e) violated any of Sections 80, 83, 85, 86 and 261,

paragraphs d, e, k, v, and cc, subparagraph 6, shall be disqualified from continuing as a candidate, or if he has been elected, from holding the office. Any person who is a permanent resident of or an immigrant to a foreign country shall not be qualified to run for any elective office under this Code, unless said person has waived his status as permanent resident or immigrant of a foreign country in accordance with the residence requirement provided for in the election laws.

In 2007, Republic Act No. 9369 (RA 9369) was enacted. Section 15, paragraph 3 of RA 9369 provided a new definition of “candidate” which as a result, premature campaigning may no longer be committed, to wit:

SEC.15. *Official Ballot.* -

xxx

For this purpose, the Commission shall set the deadline for the filing of certificate of candidacy/petition of registration/manifestation to participate in the election. **Any person who files his certificate of candidacy within this period shall only be considered as a candidate at the start of the campaign period for which he filed his certificate of candidacy: *Provided*, That, unlawful acts or omissions applicable to a candidate shall effect only upon that start of the aforesaid campaign period xxx. (Emphasis added)**

However, in *Penera v. Commission on Elections*<sup>1</sup>, the Supreme Court clarified that Section 15, paragraph 3 doesn't repeal Section 80 of the Omnibus Election Code, rather “it is possible to harmonize and reconcile these two provisions” since “premature campaigning may be committed even by a person who is not a candidate. xxx it is only at the start of the campaign period, when the person officially becomes a candidate, that the undue and iniquitous advantages of his/her prior acts, constituting premature campaigning, shall accrue to his/her benefit.”

---

<sup>1</sup> *Penera v. Commission on Elections*, G. R. No. 181613, September 11, 2009

It is important to note that Comelec Commissioner Rowena Guanzon was quoted by news reports saying that the Commission *En Banc* had decided that there's no law against premature campaigning whether for manual or automated elections.

This measure aims to reconcile the conflicting provisions of the Omnibus Election Code and RA 9369 by introducing a new person liable for the election offenses on premature campaign -- a prospective candidate. This bill defines a prospective candidate as any person aspiring for or seeking an elective public office, whether or not he/she has explicitly declared his/her intention to run as a candidate in the immediately preceding elections, who eventually files a Certificate of Candidacy. Prospective candidates may be held liable for premature campaigning within one (1) year before the start of the campaign period.

This is without prejudice to Comelec's constitutionally guaranteed power to "enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall". In an article written by Comelec Spokesperson James Jimenez, corrective legislative action may be enforced to enable the Comelec to prevent abuse, such as by "...mandating a sort of pre-filing period where individuals who intend to run for office are required to submit documentary proof of their eligibility."<sup>2</sup>

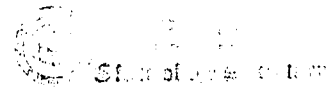
In the 15th and 16th Congresses, the late Senator Miriam Defensor-Santiago filed similar bills on the matter.

In view of the foregoing, approval of this measure is earnestly sought.

  
LILIA M. DE LIMA

---

<sup>2</sup> Jimenez, James. 21 June 2018. "A Stitch in Time". Business Mirror. Retrieved from <https://businessmirror.com.ph/a-stitch-in-time/>



'18 JUL 30 A10 :54

SENATE

S. NO. 1893

RECEIVED

---

Introduced by **SENATOR LEILA M. DE LIMA**

---

**AN ACT**  
**REDEFINING THE PROHIBITED ACT OF PREMATURE CAMPAIGNING,**  
**ACCORDINGLY AMENDING SECTIONS 79, 80, AND 81 OF BATAS**  
**PAMBANSA BILANG 881, OTHERWISE KNOWN AS THE**  
**“OMNIBUS ELECTION CODE OF THE PHILIPPINES”**

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

1           **SECTION 1. *Short Title.*** – This Act shall be known as the “Anti-Premature  
2 Campaigning Act of 2018”.

3           **Sec. 2.** Section 79 of Batas Pambansa Blg. 881, also known as the “Omnibus  
4 Election Code of the Philippines”, is hereby amended to read as follows:

5                   “Sec. 79. Definitions. – As used in this Code:

- 6                   a. The term “candidate” refers to any person aspiring for or  
7                   seeking an elective public office, who has filed a certificate  
8                   of candidacy by himself or through an accredited political  
9                   party, aggroupment, or coalition of parties;

10                   **ANY PERSON SHALL BE CONSIDERED AS A**  
11                   **CANDIDATE FROM THE MOMENT HE/SHE**  
12                   **FILED HIS/HER CERTIFICATE OF CANDIDACY.**  
13                   **ACTS           CONSTITUTING           PREMATURE**  
14                   **CAMPAIGNING ENUMERATED IN THIS CODE**  
15                   **SHALL APPLY TO CANDIDATES UPON THE**  
16                   **FILING OF THEIR CERTIFICATE OF**  
17                   **CANDIDACY.**

1           **THE TERM "PROSPECTIVE CANDIDATE"**  
2           **REFERS TO ANY PERSON ASPIRING FOR OR**  
3           **SEEKING AN ELECTIVE PUBLIC OFFICE,**  
4           **WHETHER OR NOT HE/SHE HAS EXPLICITLY**  
5           **DECLARED HIS/HER INTENTION TO RUN AS A**  
6           **CANDIDATE IN THE IMMEDIATELY**  
7           **PRECEDING ELECTIONS, WHO EVENTUALLY**  
8           **FILES A CERTIFICATE OF CANDIDACY;**

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

- 13           1. Forming organizations, associations, clubs, committees  
14           or other groups of persons for the purpose of soliciting  
15           votes and/or undertaking any campaign for or against a  
16           candidate;
- 17           2. Holding political caucuses, conferences, meetings,  
18           rallies, parades, or other similar assemblies, for the  
19           purpose of soliciting votes and/or undertaking any  
20           campaign or propaganda for or against a candidate;
- 21           3. Making speeches, announcements or commentaries, or  
22           holding interviews for or against the election of any  
23           candidate **OR PROSPECTIVE CANDIDATE** for  
24           public office, **PROVIDED, THAT NEWS**  
25           **COVERAGE AND INTERVIEW SHALL NOT BE**  
26           **CONSIDERED PARTISAN POLITICAL**  
27           **ACTIVITY.**
- 28           4. Publishing or distributing campaign literature or  
29           materials designed to support or oppose the election of  
30           any candidate **OR PROSPECTIVE CANDIDATE;** or
- 31           5. Directly or indirectly soliciting votes, pledges or  
32           support for or against a candidate **OR**  
33           **PROSPECTIVE CANDIDATE.**

1 THE TERM "INDIRECTLY SOLICITING  
2 VOTES, PLEDGES OR SUPPORT" INCLUDES  
3 THE FOLLOWING ACTS:

4 a. ENDORSING ANY PRODUCT OR  
5 SERVICE, WHETHER FOR A FEE OR NOT;

6 b. APPEARING IN ANY INFOMERCIAL;

7 c. APPEARING IN ANY DOCUMENTARY OR  
8 MOVIE WHETHER FOR A FEE OR NOT;

9 d. APPEARING OR GUESTING IN ANY  
10 TELEVISION OR RADIO PROGRAM,  
11 EXCEPT FOR PURPOSES OF LEGITIMATE  
12 NEWS COVERAGE;

13 e. ACCEPTING ANY EMPLOYMENT IN ANY  
14 MEDIA OUTFIT AS A NEWS ANCHOR,  
15 WRITER, OR REGULAR TALENT; OR

16 f. BUYING ANY PRINT, RADIO,  
17 TELEVISION OR INTERNET SPACE TO  
18 ADVERTISE HIM/HER-SELF OR ANY  
19 PRODUCT OR SERVICE.

20 The foregoing enumerated acts if performed for the purpose  
21 of enhancing the chances of aspirants for nomination for  
22 candidacy to a public office by a political party, aggroupment,  
23 or coalition of parties shall not be considered as election  
24 campaign or partisan election activity.

25 Public expressions or opinions or discussions of probable  
26 issues in a forthcoming election or on attributes of or  
27 criticisms against probable candidates proposed to be  
28 nominated in a forthcoming political party convention shall  
29 not be construed as party of any election campaign or  
30 partisan political activity contemplated under this Article."

31  
32 Sec. 3. Section 80 of the Omnibus Election Code is hereby amended to read as  
33 follows:

1 "Sec. 80. Election campaign or partisan political activity  
2 outside campaign period. – It shall be unlawful for any  
3 person, whether a candidate **OR PROSPECTIVE**  
4 **CANDIDATE**, or for any party, or association of persons,  
5 to engage in an election campaign or partisan political  
6 activity except during the campaign period: Provided, that  
7 political parties may hold political conventions or  
8 meetings to nominate their official candidates within  
9 thirty days before the commencement of the campaign  
10 period and forty-five days for Presidential and Vice-  
11 Presidential election.

12 **ANY PERSON, WHETHER A CANDIDATE OR**  
13 **PROSPECTIVE CANDIDATE, MAY BE HELD**  
14 **LIABLE UNDER THIS SECTION FOR THE ACTS**  
15 **COMMITTED WITHIN ONE YEAR BEFORE THE**  
16 **START OF THE CAMPAIGN PERIOD; PROVIDED,**  
17 **HOWEVER, THE CANDIDATE SHOULD HAVE**  
18 **ACTUALLY CONTINUED WITH HIS/HER**  
19 **CANDIDACY; PROVIDED, FURTHER, THE**  
20 **PROSPECTIVE CANDIDATE WHO ENGAGED IN**  
21 **AN ELECTION CAMPAIGN OR PARTISAN**  
22 **POLITICAL ACTIVITY TO PROMOTE HIS/HER**  
23 **INTENDED CANDIDACY SHOULD HAVE**  
24 **SUBSEQUENTLY FILED HIS/HER CERTIFICATE**  
25 **OF CANDIDACY AND ACTUALLY CONTINUED**  
26 **WITH HIS/HER CANDIDACY."**

27 Sec. 4. Section 81 of the Omnibus Election code is hereby amended to read as  
28 follows:

29 Sec. 81. Intervention of foreigners. – It shall be unlawful  
30 for any foreigner, whether judicial or natural person, to aid  
31 any candidate **OR PROSPECTIVE CANDIDATE** or  
32 political party, directly or indirectly, or make any

1 expenditure in connection with any election campaign or  
2 partisan political activity.

3 **Sec. 5. *Implementing Rules and Regulations.*** – The Commission shall  
4 promulgate and issue the rules and regulations necessary to implement the provisions  
5 of this Act.

6 **Sec. 6. *Separability Clause.*** – If any provision of this Act shall be declared  
7 unconstitutional, any other provision not affected thereby shall remain in full force  
8 and effect.

9 **Sec. 7. *Repealing Clause.*** – All laws, decrees, orders, rules and regulations,  
10 or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

11 **Sec. 8. *Effectivity.*** – This Act shall take effect fifteen (15) day after its  
12 publication in at least two (2) newspapers of general circulation.

*Approved,*