

**[ REPUBLIC ACT NO. 8436, December 22, 1997 ]**

**AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE  
AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998  
NATIONAL OR LOCAL ELECTIONS AND IN SUBSEQUENT  
NATIONAL AND LOCAL ELECTORAL EXERCISES, PROVIDING  
FUNDS THEREFOR AND FOR OTHER PURPOSES**

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

SECTION 1. *Declaration of Policy.* – It is the policy of the State to ensure free, orderly, honest, peaceful and credible elections, and assure the secrecy and sanctity of the ballot in order that the results of elections, plebiscites, referenda, and other electoral exercises shall be fast, accurate and reflective of the genuine will of the people.

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

1. Automated election system - a system using appropriate technology for voting and electronic devices to count votes and canvass/consolidate results;
2. Counting machine - a machine that uses an optical scanning/mark-sense reading device or any similar advanced technology to count ballots;
3. Data storage device - a device used to electronically store counting and canvassing results, such as a memory pack or diskette;
4. Computer set - a set of equipment containing regular components, i.e., monitor, central processing unit or CPU, keyboard and printer;
5. National Ballot - refers to the ballot to be used in the automated election system for the purpose of the May 11, 1998 elections. This shall contain the names of the candidates for president, vice president, senators and parties, organizations or coalitions participating under the party-list system. This ballot shall be counted by the counting machine;
6. Local Ballot - refers to the ballot on which the voter will manually write the names of the candidates of his/her choice for member of the House of Representatives, governor, vice governor, members of the provincial board, mayor, vice mayor, and members of the city/municipal council. For the purpose of the May 11, 1998 elections, this ballot will be counted manually;
7. Board of Election Inspectors - there shall be a Board of Election Inspectors in every precinct composed of three (3) regular members who shall conduct the voting, counting and recording of votes in the polling place.

For the purpose of the May 11, 1998 elections, there shall be special members composed of a fourth member in each precinct and a COMELEC representative who is authorized to operate the counting machine. Both shall conduct the counting and recording of votes of the national ballots in the designated counting centers;

1. Election returns - a machine-generated document showing the date of the election, the province, municipality and the precinct in which it is held and the votes in figures for each candidate in a precinct directly produced by the counting machine;
2. Statement of votes - a machine-generated document containing the votes obtained by candidates in each precinct in a city/municipality;
3. City/municipal/district/provincial certificate of canvass of votes - a machine-generated document containing the total votes in figures obtained by each candidate in a city/municipality/district/province as the case may be; and
4. Counting center - a public place designated by the Commission where counting of votes and canvassing/consolidation of results shall be conducted.

*SEC. 3. Qualifications, Rights and Limitations of the Special Members of the Board of Election Inspectors.* – No person shall be appointed as a special member of the Board of Election Inspectors unless he/she is of good moral character and irreproachable reputation, a registered voter, has never been convicted of any election offense or of any crime punishable by more than six (6) months imprisonment or if he/she has pending against him/her an information for any election offense or if he/she is related within the fourth civil degree of consanguinity or affinity to any member of the Board of Election Inspectors or any special member of the same Board of Election Inspectors or to any candidate for a national position or to a nominee as a party list representative or his/her spouse. The special members of the board shall enjoy the same rights and be bound by the same limitations and liabilities of a regular member of the board of election inspectors but shall not vote during the proceedings of the Board of Election Inspectors except on matters pertaining to the national ballot. *SEC. 4. Duties and Functions of the Special Members of the Board of Election Inspectors.* –

1. During the conduct of the voting in the polling place, the fourth member shall:
  - a. accomplish the minutes of voting for the automated election system in the precinct; and
  - b. ensure that the national ballots are placed inside the appropriate ballot box;
2. On the close of the polls, the fourth member shall bring the ballot box containing the national ballots to the designated counting center;
3. Before the counting of votes, the fourth member shall verify if the number of national ballots tallies with the data in the minutes of the voting;
4. During the counting of votes, the fourth member and the COMELEC authorized representative shall jointly accomplish the minutes of counting for the automated election system in the precinct;
5. After the counting of votes, the fourth member and the COMELEC authorized representative shall jointly:
  - a. certify the results of the counting of national ballots from the precinct; and
  - b. bring the ballot box containing the counted national ballots together with the minutes of voting and counting, and other election documents and paraphernalia to the city or municipal treasurer for safekeeping.

*SEC. 5. Board of Canvassers.* – For purposes of the May 11, 1998 elections, each province, city or municipality shall have two (2) board of canvassers, one for the manual election system under the existing law, and the other, for the automated system. For the automated election system, the chairman of the board shall be appointed by the Commission from among its personnel/ deputies and the members

from the officials enumerated in Section 21 of Republic Act No. 6646.

SEC. 6. *Authority to Use an Automated Election System.* – To carry out the above-stated policy, the Commission on Elections, herein referred to as the Commission, is hereby authorized to use an automated election system, herein referred to as the System, for the process of voting, counting of votes and canvassing/consolidation of results of the national and local elections: Provided, however, That for the May 11, 1998 elections, the System shall be applicable in all areas within the country only for the positions of president, vice-president, senators and parties, organizations or coalitions participating under the party-list system. To achieve the purpose of this Act, the Commission is authorized to procure by purchase, lease or otherwise any supplies, equipment, materials and services needed for the holding of the elections by an expedited process of public bidding of vendors, suppliers or lessors: Provided, That the accredited political parties are duly notified of and allowed to observe but not to participate in the bidding. If, in spite of its diligent efforts to implement this mandate in the exercise of this authority, it becomes evident by February 9, 1998 that the Commission cannot fully implement the automated election system for national positions in the May 11, 1998 elections, the elections for both national and local positions shall be done manually except in the Autonomous Region in Muslim Mindanao (ARMM) where the automated election system shall be used for all positions.

SEC. 7. *Features of the System.* – The System shall utilize appropriate technology for voting, and electronic devices for counting of votes and canvassing of results. For this purpose, the Commission shall acquire automated counting machines, computer equipment, devices and materials and adopt new forms and printing materials. The System shall contain the following features: (a) use of appropriate ballots, (b) stand-alone machine which can count votes and an automated system which can consolidate the results immediately, (c) with provisions for audit trails, (d) minimum human intervention, and (e) adequate safeguard/security measures. In addition, the System shall as far as practicable have the following features:

1. It must be user-friendly and need not require computer-literate operators;
2. The machine security must be built-in and multi-layer existent on hardware and software with minimum human intervention using latest technology like encrypted coding system;
3. The security key control must be embedded inside the machine sealed against human intervention;
4. The Optical Mark Reader (OMR) must have a built-in printer for numbering the counted ballots and also for printing the individual precinct number on the counted ballots;
5. The ballot paper for the OMR counting machine must be of the quality that passed the international standard like ISO-1831, JIS-X-9004 or its equivalent for optical character recognition;
6. The ballot feeder must be automatic;
7. The machine must be able to count from 100 to 150 ballots per minute;
8. The counting machine must be able to detect fake or counterfeit ballots and must have a ballot rejector;
9. The counting machine must be able to detect and reject previously counted ballots to prevent duplication;
10. The counting machine must have the capability to recognize the ballot's individual precinct and city or municipality before counting or consolidating the

votes;

11. The System must have a printer that has the capacity to print in one stroke or operation seven (7) copies (original plus six (6) copies) of the consolidated reports on carbonless paper;
12. The printer must have at least 128 kilobytes of Random Access Memory (RAM) to facilitate the expeditious processing of the printing of the consolidated reports;
13. The machine must have a built-in floppy disk drive in order to save the processed data on a diskette;
14. The machine must also have a built-in hard disk to store the counted and consolidated data for future printout and verification;
15. The machine must be temperature-resistant and rust-proof;
16. The optical lens of the OMR must have a self-cleaning device;
17. The machine must not be capable of being connected to external computer peripherals for the process of vote consolidation;
18. The machine must have an Uninterrupted Power Supply (UPS);
19. The machine must be accompanied with operating manuals that will guide the personnel of the Commission the proper use and maintenance of the machine;
20. It must be so designed and built that add-ons may immediately be incorporated into the System at minimum expense;
21. It must provide the shortest time needed to complete the counting of votes and canvassing of the results of the election;
22. The machine must be able to generate consolidated reports like the election return, statement of votes and certificate of canvass at different levels; and
23. The accuracy of the count must be guaranteed the margin of error must be disclosed and backed by warranty under such terms and conditions as may be determined by the Commission.

In the procurement of this system, the Commission shall adopt an equitable system of deductions or demerits for deviations or deficiencies in meeting all the above stated features and standards. For this purpose, the Commission shall create an Advisory Council to be composed of technical experts from the Department of Science and Technology (DOST), the Information Technology Foundation of the Philippines (ITFP), the University of the Philippines (UP), and two (2) representatives from the private sector recommended by the Philippine Computer Society (PCS). The Council may avail itself of the expertise and services of resource persons of known competence and probity. The Commission in collaboration with the DOST shall establish an independent Technical Ad Hoc Evaluation Committee, herein known as the Committee, composed of a representative each from the Senate, House of Representatives, DOST and COMELEC. The Committee shall certify that the System is operating properly and accurately and that the machines have a demonstrable capacity to distinguish between genuine and spurious ballots. The Committee shall ensure that the testing procedure shall be unbiased and effective in checking the worthiness of the System. Toward this end, the Committee shall design and implement a reliability test procedure or a system stress test.

SEC. 8. *Procurement of Equipment and Materials.* – The Commission shall procure the automated counting machines, computer equipment, devices and materials needed for ballot printing and devices for voting, counting and canvassing from local or foreign sources free from taxes and import duties, subject to accounting and auditing rules and regulations.

SEC. 9. *Systems Breakdown in the Counting Center.* – In the event of a systems breakdown of all assigned machines in the counting center, the Commission shall use any available machine or any component thereof from another city/municipality upon the approval of the Commission en banc or any of its divisions. The transfer of such machines or any component thereof shall be undertaken in the presence of representatives of political parties and citizens' arm of the Commission who shall be notified by the election officer of such transfer. There is a systems breakdown in the counting center when the machine fails to read the ballots or fails to store/save results or fails to print the results after it has read the ballots; or when the computer fails to consolidate election results/reports or fails to print election results/reports after consolidation.

SEC. 10. *Examination and Testing of Counting Machines.* – The Commission shall, on the date and time it shall set and with proper notices, allow the political parties and candidates or their representatives, citizens' arm or their representatives to examine and test the machines to ascertain that the system is operating properly and accurately. Test ballots and test forms shall be provided by the Commission. After the examination and testing, the machines shall be locked and sealed by the election officer or any authorized representative of the Commission in the presence of the political parties and candidates or their representatives, and accredited citizens' arms. The machines shall be kept locked and sealed and shall be opened again on Election Day before the counting of votes begins. Immediately after the examination and testing of the machines, the parties and candidates or their representatives, citizens' arms or their representatives, may submit a written report to the election officer who shall immediately transmit it to the Commission for appropriate action.

SEC. 11. *Official Ballot.* – The Commission shall prescribe the size and form of the official ballot which shall contain the titles of the positions to be filled and/or the propositions to be voted upon in an initiative, referendum or plebiscite. Under each position, the names of candidates shall be arranged alphabetically by surname and uniformly printed using the same type size. A fixed space where the chairman of the Board of Election Inspectors shall affix his/her signature to authenticate the official ballot shall be provided. Both sides of the ballots may be used when necessary. For this purpose, the deadline for the filing of certificate of candidacy/petition for registration/manifestation to participate in the election shall not be later than one hundred twenty (120) days before the elections: Provided, That, any elective official, whether national or local, running for any office other than the one which he/she is holding in a permanent capacity, except for president and vice-president, shall be deemed resigned only upon the start of the campaign period corresponding to the position for which he/she is running: Provided, further, That, unlawful acts or omissions applicable to a candidate shall take effect upon the start of the aforesaid campaign period: Provided, finally, That, for purposes of the May 11, 1998 elections, the deadline for filing of the certificate of candidacy for the positions of President, Vice-President, Senators and candidates under the party-list system as well as petitions for registration and/or manifestation to participate in the party-list system shall be on February 9, 1998 while the deadline for the filing of certificate of candidacy for other positions shall be on March 27, 1998. The official ballots shall be printed by the National Printing Office and/or the Bangko Sentral ng Pilipinas at the price comparable with that of private printers under proper security measures which the Commission shall adopt. The Commission may contract the services of private printers upon certification by the National Printing Office/Bangko Sentral ng Pilipinas