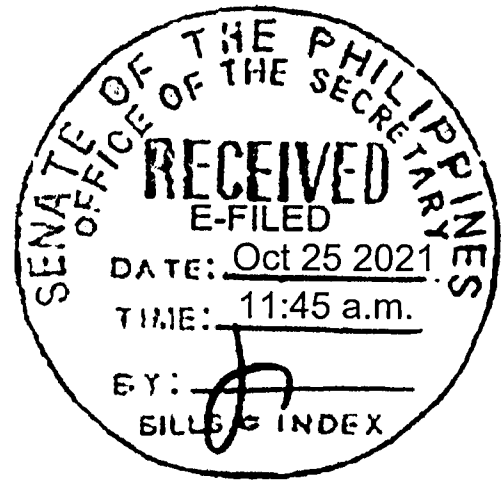


EIGHTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
Third Regular Session

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SENATE

S.B. No. 2439



Introduced by
SEN. WIN GATCHALIAN, SEN. JUAN MIGUEL F. ZUBIRI,
SEN. MARIA LOURDES "NANCY" BINAY, SEN. GRACE POE,
AND SEN. JOEL VILLANUEVA

AN ACT
MODIFYING THE GROUNDS FOR SUBSTITUTION OF CANDIDATES,
AMENDING FOR THIS PURPOSE SECTION 77 OF BATAS PAMBANSA
BILANG 881, S. 1985, OTHERWISE KNOWN AS
THE OMNIBUS ELECTION CODE

EXPLANATORY NOTE

Section 77 of the Omnibus Election Code bestows to a political party the privilege of allowing the substitution of a party candidate who either (1) dies, (2) is disqualified for any cause, or (3) has withdrawn his or her candidacy. The first two grounds for substitution are involuntary in nature, while the third is a voluntary act.

Unfortunately, the act of withdrawing one's candidacy as a ground for substitution has been abused over the years, where vigilance and compliance over deadlines have been disregarded as the option of substitution has always been available. This unfortunate practice of just fielding anyone to be a party's candidate for the sake of complying with the COMELEC deadline is observed by some as a mockery of the process of filing certificates of candidacies.

Accordingly, this bill seeks to modify the grounds for substitution by removing the option of substitution in a case where an aspirant or official candidate of a political party voluntarily withdraws his candidacy, and adding incapacity as a ground for substitution of candidates. The rationale for this policy limitation is to further support the strengthening and institutionalization of the political party system in the Philippines and to level off the playing field among candidates.

Political parties assess and determine the qualifications of their members and nominate them to qualify as their party's standard bearers for local and national positions through a party selection and nomination process. Thus, there is vetting process prior to the official filing of certificates of candidacy, including the willingness, sincerity and commitment of a member to be the representative of their party for the contended elective position, a controllable requirement. The schedule for selection must already be an institutional and integral part of the political party process. Considering that the country has an election cycle of three years for local positions, and six years for national positions, political parties have sufficient time to nominate and select their respective candidates.

Thus, it would be anathema to the concept of organized and institutionalized party procedures if the parties will still be given the option to substitute candidates who have voluntarily withdrawn their candidacies. Strengthening political parties mean that their selection process must conform to only one COMELEC deadline in terms of filing of certificates of candidacy.

Moreover, substitution by withdrawal is only allowed when the candidate is a member of a political party. This gives an unreasonable advantage to political parties at the expense of independent candidates. Political party candidates must be placed on a higher pedestal than the candidates without party affiliations. The party's supposed candidate's

commitment to holster the party's banner should have been secured by the time the original filing of candidacies deadline had been set.

With all these considerations to further level off the election playing field, and to attain stronger and more institutionalized political party system, the passage of this bill is thus earnestly sought


WIN GATCHALIAN


JUAN MIGUEL F. ZUBIRI

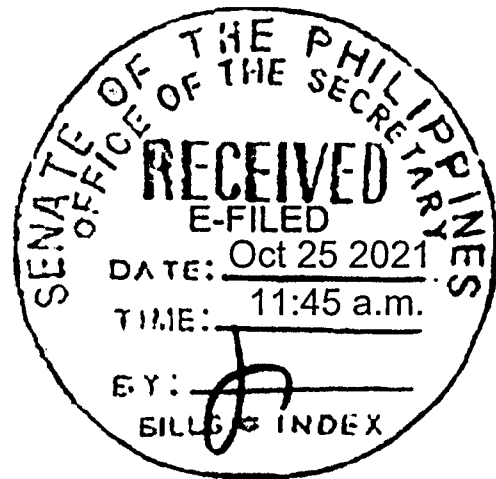

MARIA LOURDES NANCY BINAY


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

1 SECTION 1. Section 77 of Batas Pambansa Blg. 881, s. 1985, otherwise
2 known as the "Omnibus Election Code," is hereby amended to read as follows:

3 "SECTION 77. Candidates in case of death, **INCAPACITY OR**
4 disqualification [~~or withdrawal~~] of another. – If after the last
5 day for the filing of certificates of candidacy, an official
6 candidate of a registered or accredited political party dies,
7 **BECOMES INCAPACITATED** [~~withdraws~~] or is disqualified
8 for any cause, only a person belonging to, and certified by,
9 the same political party may file a certificate of candidacy to
10 replace the candidate who died, **BECOMES**
11 **INCAPACITATED** [~~withdrew~~] or was disqualified. The
12 substitute candidate nominated by the political party
13 concerned may file his certificate of candidacy for the office

1 affected in accordance with the preceding sections not later
2 than mid-day of the day of the election. If the death,
3 **INCAPACITY [withdrawal]** or disqualification should occur
4 between the day before the election and mid-day of election
5 day, said certificate may be filed with any board of election
6 inspectors in the political subdivision where he is a
7 candidate, or, in the case of candidates to be voted for by the
8 entire electorate of the country, with the Commission.

9
10 SEC. 2. Separability Clause. – If any part, section or provision of this
11 Act is declared invalid or unconstitutional, the other parts thereof not affected
12 thereby shall remain in full force and effect.

13
14 SEC. 3. Repealing Clause. – All laws, acts, presidential decrees,
15 executive orders, administrative orders, rules and regulations, or parts
16 thereof inconsistent with or contrary to the provisions of this Act are hereby
17 modified, amended, or repealed accordingly.

18
19 SEC. 4. Effectivity Clause. – This Act shall take effect fifteen (15) days
20 following its publication in the Official Gazette or in a newspaper of general
21 circulation.

Approved,