

REPUBLIC ACT NO. 8046

AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS
TO CONDUCT A NATIONWIDE DEMONSTRATION OF A
COMPUTERIZED ELECTION SYSTEM AND PILOT-TEST
IT IN THE MARCH 1996 ELECTIONS IN THE
AUTONOMOUS REGION IN MUSLIM MINDANAO
(ARMM) 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, fair and credible elections, and ensure the secrecy and sanctity of the ballot in order that the citizenry shall be assured that the results of elections, plebiscites, referenda and other electoral exercises are truly reflective of their will.

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

a) *Counting Machine* - a machine that uses optical scanning/mark sense reading device or any similar advanced technology to count ballots;

b) *Memory Pack / Diskette* - a device used to store data;

c) *Memory Pack Receiver* - a dedicated machine that reads memory packs;

d) *Tape Printout* - an adding machine-like tape containing the names of all candidates and the corresponding votes obtained per precinct directly produced by the counting machine;

e) *Election Returns* - a document showing the date of the election, the municipality in which it is held, and other data, and containing the votes in words and in figures for each candidate in a precinct;

f) *Statement of Votes* - a document containing detailed entries of the votes obtained by each candidate in each of the precincts in a municipality or in each of the municipalities in a province;

g) *Municipal Certificate of Canvass of Votes* - a document containing the total votes in words and in figures obtained by each candidate in a municipality;

h) *Provincial Certificate of Canvass of Votes* - a document containing the total votes in words and in figures obtained by each candidate in a province;

i) *Computer Set* - a set of equipment containing regular components, i.e., monitor, CPU, keyboard and printer;

j) *Central Counting Center* - a public place designated by the Commission where counting of ballots and canvassing shall be conducted;

k) *Computerized Election System* - a system using electronic devices to count and canvass votes.

SEC. 3. *Authority to Pilot-Test a Computerized Election System.* – To carry out the above-stated policy, the Commission on Elections, hereafter referred to as "Commission," is hereby authorized to pilot-test a computerized system, hereafter referred to as "System," for the processes of voting, counting and canvassing of votes in the Autonomous Region in Muslim Mindanao (ARMM) Elections in March 1996.

SEC. 4. *Features of the System.* – The System shall utilize appropriate technological and electronic devices for voting, counting and canvassing of votes. For this purpose, the Commission shall acquire computer equipment, devices and

materials and adopt new forms and printing materials for official ballots, election returns, certificates of canvass and other election forms and paraphernalia: *Provided*, That the Commission shall notify the representatives of political parties and cause the publication in two (2) newspapers of general circulation of their adoption and actual use not later than sixty (60) days before election.

The System shall contain the following features: a) stand-alone machine with built-in printer which can generate immediate results, b) use of ballots, c) with provisions for audit trails, d) minimum human intervention, and e) adequate safeguards/ security measures.

SEC. 5. *Procurement of Equipment and Materials.* – Computer equipment, devices and materials needed to implement the latest in ballot printing, voting and automated vote counting under the System for pilot-testing in the 1996 ARMM Elections and nationwide demonstrations shall be procured by the Commission from local or foreign sources free from taxes and import duties and subject to accounting and auditing rules and regulations, such as public bidding, after the approval of this Act.

SEC. 6. *Public Demonstration of the System.* – The Commission shall conduct nationwide public demonstrations of the operation of the System and disseminate pertinent information materials all over the country, for the proper understanding of the System by the voters, the candidates, the political parties and the public.

SEC. 7. *Pilot-Test of the System.* – The Commission is hereby authorized for purposes of the Autonomous Region in Muslim Mindanao (ARMM) elections in 1996 to pilot-test the system. The Commission shall provide for a procedure whereby in the event of a system breakdown, it shall revert to the existing manual system of counting and canvassing using a specially-designed ballot to ascertain the will of the people.

SEC. 8. *Provisions Governing Elections Using the System.* – Except as herein provided, the provisions of the Omnibus Election Code and other related laws shall apply to elections where ballots are to be counted by computerized counting machines.

SEC. 9. *Examination and Testing of Counting Machines.* – Seven (7) working days before the election, the Commission shall, on a date and time it shall set and with proper notices to the political parties and candidates, allow them or their representatives to examine and test the machines to ascertain that the machines are operating properly and accurately. Sample ballots for testing purposes shall be provided by the Commission. In the preparation of the design of the official ballot, the representative of the majority party and dominant minority party shall be present.

After the examination and testing, the machines shall be locked and sealed by the Election Officer in the presence of the political parties and candidates or their representatives. The keys to the machine shall be placed in a sealed envelope and shall be kept by the Election Officer. The machines shall be kept locked and sealed and shall be opened again only at three o'clock in the afternoon of election day before the counting of votes begins.

The parties and candidates or their representatives may submit a written report to the Commission through the Election Officer, immediately after the examination and testing of the machines.

SEC. 10. *Official Ballots.* – The Commission shall prescribe the size and form of the official ballots. The ballot shall contain the titles of positions to be filled and under each position, the names of candidates arranged alphabetically by their surnames. The names of the candidates shall be uniformly printed using the same type size for all names and appropriate spaces shall be provided for substitution of candidates. Opposite the name of each candidate, there shall be a space provided for the voter to indicate his vote. Where necessary, both sides of the ballot may be used.

The ballot shall contain watermarks, unique serial numbers and/or corresponding codes and such other security marks as the Commission may deem appropriate.

The official ballots and other accountable election forms shall be printed exclusively by the National Printing Office and/or the Bangko Sentral ng Pilipinas under proper security measures which the Commission shall provide. Accredited political parties and deputized citizens arms of the Commission may assign watchers in committees in charge of the printing, storage and distribution of official ballots.

The official ballots shall be printed and distributed to each municipality at the rate of one ballot for every registered voter.

SEC. 11. *Ballot Box.* – The Commission shall provide each Board of Election Inspectors with a special ballot box with safety features similar to the present ballot box of such size as to accommodate the official ballots without folding them. It shall be locked with padlocks and self-locking metal seals or any other safety devices that the Commission may prescribe.

SEC. 12. *Manner of Preparing the Ballots.* – Before a voter is given a ballot for voting, the Board shall instruct him on how to accomplish the ballot.

Upon receipt of the ballot from the Chairman of the Board, the voter shall go to a vacant voting booth to vote for the candidates of his choice.

If the voter commits a mistake in filling the ballot, he should not try to correct it, or erase or cross out the name of the candidate already chosen. Instead, he shall return the ballot to the Board and ask for replacement. The Board shall mark the returned ballot as "spoiled." A voter may replace his ballot only once.

After the voter has voted, he shall personally drop his ballot into the ballot box. He shall affix his thumbmark on the corresponding space in the voting record and the Chairman shall apply indelible ink on the right forefingernail of the voter.

The Commission shall adopt measures necessary to ensure that the contents of the ballot are not exposed when the voter drops it inside the ballot box.

SEC. 13. *Closing the Polls.* – After the close of the voting, the Board of Election Inspectors shall close the ballot box; lock and seal it and enter in the minutes the serial number of the metal seal used to seal the ballot box. The Chairman shall publicly announce that the votes will be counted at a designated central counting center where the counting machines are located and that the ballot box containing the ballots and the other election documents and paraphernalia shall be brought there for the counting of the votes. These facts shall be entered in the minutes of the Board.

The members of the Board shall transport the ballot box and retain custody thereof. They shall remain at the central counting center until the official ballots from the precinct are counted.

SEC. 14. *Designation of Central Counting Centers.* – The Commission shall designate a central counting center which shall be a public place within the municipality or within the province where the official ballots cast in various precincts of the municipality shall be counted and shall give notice thereof by posting prominently, for at least fifteen (15) days prior to election day, the notice in the Office of the Election Officer, the bulletin boards at the municipal hall and in three (3) other conspicuous places in the municipality.

SEC. 15. *Counting Procedure.* – a) The counting of votes shall be conducted in the central counting center within each municipality or province as designated by the Commission.

b) The ballots shall be counted by precinct in the order of their arrival at the central counting center. The Election Officer shall log the sequence of arrival of the ballot boxes and indicate their condition. Thereafter, the Board shall, in the presence of the watchers, open the ballot box, count the number of ballots and verify if it tallies with the number of voters who voted as recorded in the List of Voters with Voting Records. If there are excess ballots, the Board shall proceed in the manner provided in Section 207 of the Omnibus Election Code.

c) The Chairman of the Board of Election Inspectors or any authorized member thereof shall then retrieve the valid ballots from the ballot box. Under the supervision of the Election Officer of the municipality, the Chairman of the Board or any authorized member thereof shall feed the ballots one at a time into the machine without interruption until all the votes are counted. All proceedings shall be public; however, only the Election Officer authorized to operate the machine and the members of the Board of Election Inspectors of the precinct the ballots of which are being counted may physically touch the ballots.

d) After the ballots of the precincts have been counted, the Chairman of the Board of Election Inspectors or any member thereof shall, in the presence of the watchers, publicly read and announce the total number of votes obtained by each candidate based on the tape printout. The Election Officer shall print four (4) copies of the results all of which shall be authenticated by him and the members of the Board of Election Inspectors. The tape printout shall be distributed as follows:

- 1) The first copy to the Election Officer;
- 2) The second copy to the authorized representative of the majority party;
- 3) The third copy to the authorized representative of the dominant minority party; and
- 4) The fourth copy to be deposited inside the ballot box.

e) The ballots shall then be returned to the ballot box, which shall be locked, sealed and delivered to the municipal treasurer for safekeeping. The treasurer shall immediately provide the Election Officer and the Commission with a record of the serial numbers of the ballot boxes and the corresponding metal seals.

SEC. 16. *Custody and Accountability of Ballots.* – The Election Officer and the Treasurer of the municipality or province as deputy of the Commission shall have joint custody and accountability of the official ballots, accountable forms and other

election documents as well as ballot boxes containing the official ballots cast. The ballot boxes shall not be opened for three (3) months unless the Commission orders otherwise.

SEC. 17. *Election Returns and Results.* – The Election Officer shall personally print out the election returns of each precinct from the data derived from the counting machine. The printed election returns shall be signed and thumbmarked by the members of the Board of Election Inspectors and attested to by the Election Officer and sealed in the presence of watchers of the majority party and dominant minority party. The seven (7) copies of the election returns shall be placed in the proper envelopes and distributed in accordance with law.

The Election Officer shall consolidate the election returns containing the votes obtained by candidates and print out the Municipal Certificate of Canvass of Votes. The Municipal Certificate of Canvass, which shall be supported by the Statement of Votes by Precinct shall be prepared in seven (7) copies to be distributed in accordance with law.

SEC. 18. *Certificate of Canvass; Proclamation of Elected Candidates.* – a) After the votes cast in all municipalities have been electronically canvassed, the Provincial Board of Canvassers shall print out a Certificate of Canvass of the votes cast for candidates for regional offices. A Certificate of Canvass and Proclamation of the duly elected regional assemblymen in the legislative districts in the province shall also be prepared. The Certificate of Canvass and Proclamation shall be signed and thumbmarked by the corresponding Provincial Board of Canvassers and, whenever available, by the watchers of the majority party and dominant minority party.

b) Each Provincial Board of Canvassers shall prepare a diskette copy of the Certificate of Canvass of Votes cast for Regional Governor and Regional Vice-Governor.

The Regional Board of Canvassers shall canvass the Provincial Certificates of Canvass of Votes supported by the Statement of Votes by municipality prepared by the Provincial

Board of Canvassers and on the basis thereof proclaim the winning candidates for Regional Governor and Regional Vice-Governor.

SEC. 19. *Discrepancy of Figures.* – In case of discrepancy of figures contained in the election returns and in the tape printout, the tape printout shall prevail; if the certificate of canvass is in conflict with the election returns, the latter shall prevail. The tape printout and data diskette shall be preserved in the custody of the Election Officer.

SEC. 20. *Supervision and Control.* – The System shall be under the exclusive supervision and control of the Commission.

The Commission shall take such steps as may be necessary for the acquisition, installation, administration, implementation and maintenance of equipment and devices used to implement the System and promulgate the necessary rules and regulations for the effective implementation of this Act.

After the completion of the nationwide demonstration and pilot-testing in the ARMM Elections, the Commission shall submit a report to the Senate and the House of Representatives, who may thereafter authorize the Commission to take such steps as may be necessary for the acquisition, installation and use of such equipment, devices and systems in the election in such places in the country as Congress may authorize.

SEC. 21. *Oversight Committee.* – An Oversight Committee is hereby created composed of three (3) representatives each from the Senate and the House of Representatives and three (3) from the Commission on Elections to monitor and evaluate the implementation of this Act. A report to the Senate and the House of Representatives shall be submitted within ninety (90) days from the date of election.

SEC. 22. *General Registration of Voters.* – For purposes of pilot-testing in the 1996 ARMM Elections, a general registration of voters shall be conducted on such dates to be fixed by the Commission. The voter registration records and list of voters used in the 1995 elections and prior thereto are hereby nullified. The

final list of voters prepared during the general registration under this Act shall be computerized and completed sixty (60) days before election.

SEC. 23. *Election Offenses.* – In addition to those enumerated in Section 261 of Batas Pambansa Blg. 881, the following acts shall be penalized as election offenses, whether or not said acts affect the electoral process or results:

a) Utilizing without authorization, tampering with, destroying or stealing -

1) official ballots, election returns, statements of votes and certificates of canvass of votes used in the System; and

2) electronic devices or their components, peripherals or supplies used in the System, such as: counting machine, memory pack/diskette, memory pack receiver, tape printout, and computer set.

b) Interfering with, impeding, absconding for purposes of gain or preventing the installation or use of computer counting devices and the processing, storage, generation and transmission of election results, data or information; and

c) Gaining or causing access to, using, altering, destroying, or disclosing any computer data, program, system software, network, or any computer-related devices, facilities, hardware or equipment, whether classified or declassified.

SEC. 24. *Election Protests.* – The pertinent provisions of Batas Pambansa Blg. 881 and other election laws shall, whenever applicable, govern matters involving election contests/protests.

SEC. 25. *Funding.* – The amount necessary for the implementation of this Act shall be charged against the current appropriations of the Commission and thereafter included in the General Appropriations Act. In case of deficiency in the funding requirements herein provided, such amount as may be necessary

shall be augmented from the contingent fund in the General Appropriations Act.

SEC. 26. *Separability Clause.* – If for any reason any section or provision of this Act, or any part thereof, or the application of such section, provision, portion is declared invalid or unconstitutional, the remainder thereof shall not be affected by such declaration.

SEC. 27. *Repealing Clause.* – All laws, presidential decrees, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 28. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Approved, June 7, 1995.