

Law on Electoral Systems

Omnibus Election Code

Sec. 195. Manner of Preparing the Ballot. — The voter, upon receiving his folded ballot, shall forthwith proceed to one of the empty voting booths and shall there fill his ballot by writing in the proper space for each office the name of the individual candidate for whom he desires to vote. xxx

Sec. 206. Counting to be Public and Without Interruption. — As soon as the voting is finished, the board of election inspectors shall publicly count in the polling place the votes cast and ascertain the results. The board of election inspectors shall not adjourn or postpone or delay the count until it has been fully completed, unless otherwise ordered by the Commission. xxx

Sec. 211. Rules for the Appreciation of Ballots. — In the reading and appreciation of ballots, every ballot shall be presumed to be valid unless there is clear and good reason to justify its rejection. The board of election inspectors shall observe the following rules, bearing in mind that the object of the election is to obtain the expression of the voter's will: xxx

Sec. 212. Election Returns. — The board of election inspectors shall prepare the election returns simultaneously with the counting of the votes in the polling place as prescribed in Section 210 hereof. The return shall be prepared in sextuplicate. The recording of votes shall be made as prescribed in said section. The entry of votes in words and figures for each candidate shall be closed with the signature and the clear imprint of the thumbmark of the right hand of all the members, likewise to be affixed in full view of the public, immediately after the last vote recorded or immediately after the name of the candidate who did not receive any vote. xxx

Automated Election Law

SEC. 1. Section 1 of Republic act No.8436 is hereby amended to read as follows:

SEC. 1.*Declaration of Policy.* - It is policy of the State to ensure free, orderly, honest, peaceful, credible and informed elections, plebiscites, referenda, recall and other similar electoral exercises by improving on the election process and adopting systems, which shall involve the use of an automated election system that will ensure the secrecy and sanctity of the ballot and all election, consolidation and transmission documents on order that the process shall be transparent and credible and that the results shall be fast, accurate and reflective of the genuine will of the people.

The State recognizes the mandate and authority of the Commission to prescribe adoption and use of the most suitable technology of demonstrated capability taking into account the situation prevailing in the area and the funds available for the purpose.

SEC. 6. Section 6 of Republic Act No. 8436 is hereby amended to read as follows:

SEC. 5 *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 or systems in the same election in different provinces, whether paper-based or a direct recording electronic election system as it may deem appropriate and practical for the process of voting, counting of votes and canvassing/consolidation and transmittal of results of electoral exercises: *Provided*, that for the regular national and local election, which shall be held immediately after effectivity of this Act, the AES shall be used in at least two highly urbanized cities and two provinces each in Luzon, Visayas and Mindanao, to be chosen by the Commission: *Provided, further*, That local government units whose officials have been the subject of administrative charges within sixteen (16) month prior to the May 14, 2007 election shall not be chosen: *Provided, finally*, That no area shall be chosen without the consent of the Sanggunian of the local government unit concerned. The term local government unit as used in this provision shall refer to a highly urbanized city or province. In succeeding regular national or local elections, the AES shall be implemented nationwide.

SEC. 2. Section 2 of Republic Act No. 8436 is hereby amended to read as follows:

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

1. Automated election system, hereinafter to as AES - a system using appropriate technology which has been demonstrated in the voting, counting, consolidating, canvassing, and transmission of election result, and other electoral process; xxx

7. *Paper-based election system* - a type of automated election system that use paper ballots, records and counts votes, tabulates, consolidates/canvasses and transmits electronically the results of the vote count;"

8. *Direct recording electronic election system* - a type or automated election system that uses electronic ballots, records, votes by means of a ballot display provided with mechanical or electro-optical component that can be activated by the voter, processes data by means of a computer programs, record voting data and ballot images, and transmits voting results electronically; xxx

Supreme Court Case

In choosing to disregard the procedures prescribed by the Government Procurement Reform Act (GPRA) and its IRR and disqualifying Smartmatic before it had submitted any bid, without any reference to the applicable eligibility requirements and non-discretionary pass/fail criteria prescribed by the Special Bids and Awards Committee (SBAC), the COMELEC En Banc implemented a discretionary pre-qualification regime antithetical to the very essence of the GPRA—a grave abuse of discretion amounting to lack or excess of jurisdiction. Due to considerations of equity, justice, and practicality, however, as well as the doctrine of operative fact, the finding of grave abuse of discretion on the part of the COMELEC En Banc shall not be deemed sufficient basis to nullify the public bidding conducted by the SBAC, or the

COMELEC's award of the contract for the 2025 Automated Election System to Miru Systems. To require the COMELEC to conduct another round of public bidding would seriously disrupt its preparations for the 2025 National and Local Elections (NLE) and potentially jeopardize the very conduct of the NLE. Hence, the Decision will be prospective in application (*Smartmatic TIM Corporation, et al. v. COMELEC*, G.R. No. 270564, April 16, 2024).

<https://sc.judiciary.gov.ph/270564-smartmatic-tim-corporation-and-smartmatic-philippines-inc-vs-commission-on-elections-en-banc-eliseo-mijares-rio-jr-augusto-cadelina-lagman-franklin-fayloga-ysaac-and-leonardo-olivero-od/>

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