

REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SUPREME COURT
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HENRY R. GIRON,
Petitioner,

G.R. NO. 226586

For: Petition to Nullify Republic Act Nos. 8524
and 9164 being violative of the Constitution
with Prohibition and Mandamus and Urgent
Motion for the Issuance of TRO and/or
Preliminary Injunction

-versus -

THE SENATE OF THE PHILIPPINES,
as represented by Senate President Aquilino Pimentel III,

THE HOUSE OF THE REPRESENTATIVES,
as represented by Speaker Pantaleon Alvarez,

ATTY. SALVADOR MEDIALDEA,
in his capacity as Executive Secretary,

THE COMMISSION ON ELECTIONS, and

HON. BENJAMIN E. DIOKNO
Secretary, Department of Budget and Management,
Respondents,

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WITH CD FILED

**PETITION FOR CERTIORARI, PROHIBITION, MANDAMUS
AND URGENT MOTION FOR ISSUANCE OF TRO AND/OR
PRELIMINARY INJUNCTION**

The Petitioner, HENRY R. GIRON, by himself, unto this Honorable Supreme
Court, most respectfully states:

PRELIMINARY STATEMENT

"Incoming President Rodrigo Duterte on Sunday said he does not favor the postponement of the barangay and Sangguniang Kabataan (SK) elections this October 2016. Duterte said postponing the barangay elections will leave officials acting in a holdover capacity. "I'm not in favor. The law says that when you end there, you end there," Duterte told reporters.¹ (*emphasis supplied*)

¹ Duterte nixes barangay polls postponement, by Dharel Placido, ABS-CBN News, Posted May 29 2016 12:32 PM

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"The Commission on Elections (Comelec) earlier said it is mulling the idea of moving for the postponement of the Barangay and SK elections, noting that it may cause **"election fatigue"** as the country had its national and local elections in May."² *(emphasis supplied)*

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"Tingin ko, considering marami pang kinakailangan na appointments na gagawin ang executive branch, *hindi pa sila natatapos sa screening process* nila, tingin naman natin na practical na ipagpaliban muna natin eleksyon," -- Speaker Pantaleon Alvarez ³ *(emphasis supplied)*

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"Because I am afraid that the **drug money** will seep into the electoral process. You will just be adding to our headache people, *na kung sino manalo ngayon*, [that whoever would win] those that are funded by drug money will win," the President warned."⁴ *(emphasis supplied)*

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"The Senate and the House of Representatives have agreed to reset the Barangay and Sangguniang Kabataan (SK) elections to 2017. **Both chambers agreed to move the Barangay and SK elections** from the scheduled October 31, 2016 to October 23, 2017."⁵ *(emphasis supplied)*

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"The term of office of barangay officials and members of the sangguniang kabataan shall be for three (3) years, which shall begin after the regular election of barangay officials on the second Monday of May 1994. – Section 43-c of Republic Act No. 7160." *emphasis supplied*

² Senate, House agree to postpone Barangay and SK polls to 2017, August 30, 2016 3:51pm By XIANNE ARCANGEL, GMA News

³ Alvarez backs postponing barangay, SK polls to avoid election ban, INQUIRER.net August 25, 2016

⁴ Duterte inclined to postpone barangay polls to avert narco-politics, CNN Philippines Staff Sat, August 27, 2016

⁵ Senate, House agree to postpone Barangay and SK polls to 2017, August 30, 2016 3:51pm By XIANNE ARCANGEL, GMA News

Three (3) major questions were raised in this petition: **1) Can Congress amend or change the term of office of Barangay Officials provided in Section 43 (c) of Local Government Code of 1991? 2) Are Republic Act Nos. 8524, 9164 and 9364 constitutional? and 3) Is hold over capacity for barangay officials whose mandated already ended legal? 4) Can Congress postpone the October 2016 Barangay and Sangguniang Kabataan Elections without violating the Constitution?**

Pursuant to local political autonomy and decentralization, Article X Section 3 and 8 of 1987 Constitution provides that the responsibility of determining the term of the barangay officials was passed to Congress thru the enactment of local government code.

In October 1991, under President Corazon Aquino, Congress passed RA 7160 or Local Government Code which finally fixed the term of barangay officials and members of the Sangguniang Kabataan into three (3) years⁶ same with the elected city, municipal and provincial officials. The term fixed is used to describe something that does not change.⁷

Since the enactment of the Code, two (2) barangay elections were successively held in May 1994 and May 1997 with three-year term mandates each.

In 1997 some members of Congress filed bills to extend the term of barangay officials from three (3) to five (5) years, thus, the phrase **“which shall be determined by law”** was put into question.

Fortunately, judicial interpretation on the phrase **“except barangay officials, which shall be determined by law”** was brought out already in the case of **David vs. Comelec**⁸ as herein reproduced, to read:

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⁶ **Section 43-c of Republic Act No. 7160** - The term of office of barangay officials and members of the sangguniang kabataan shall be for three (3) years, which shall begin after the regular election of barangay officials on the second Monday of May 1994.

⁷ Source: Merriam-Webster's Learner's Dictionary

⁸ G.R. No. 127116. April 8, 1997

“There is absolutely no doubt in our mind that Sec. 43-c of RA 7160 is constitutional. Sec. 8, Article X of the Constitution – limiting the term of all elective local officials to three years, except that of barangay officials which shall be determined by law – was an amendment proposed by Constitutional Commissioner (now Supreme Court Justice) Hilario G. Davide, Jr. According to Fr. Joaquin G. Bernas, S.J., the amendment was readily accepted without much discussion and formally approved. Indeed, a search into the Record of the Constitutional Commission yielded only a few pages of actual deliberations, the portions pertinent to the Constitutional Commissions intent being the following:

MR. NOLLEDO. One clarificatory question, Madam President. What will be the term of the office of barangay officials as provided for?

MR. DAVIDE. As may be determined by law.

MR. NOLLEDO. As provided for in the Local Government Code?

MR. DAVIDE. Yes.

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THE PRESIDENT. Is there any other comment? Is there any objection to this proposed new section as submitted by Commissioner Davide and accepted by the Committee?

MR. RODRIGO. Madam President, does this prohibition to serve for more than three consecutive terms apply to barangay officials?

MR. DAVIDE. Madam President, the voting that we had on the terms of office did not include the barangay officials because it was then the stand of the Chairman of the Committee on Local Governments that the term of barangay officials must be determined by law. So it is now for the law to determine whether the restriction on the number of reelections will be included in the Local Government Code.

MR. RODRIGO. So that is up to Congress to decide.

MR. DAVIDE. Yes.

MR. RODRIGO. I just wanted that clear in the record.”

However, in February 14, 1998 two months before 1998 Presidential Elections, Republic Act 8524⁹ sponsored by Senator Ernesto Maceda became a law under President Fidel V. Ramos changing the term of barangay officials from Three (3) to Five (5) years. Section 2 of the law has retroactive effect thus, benefited the incumbent barangay officials which Constitution prohibits – **No ex post facto law or bill of attainder shall be enacted**¹⁰ and the general rule is law must be applied prospectively except in criminal cases where it favors the accused. However, no one question its constitutionality.

The new law creates confusions particularly on the extended term of Barangay Captain for ABC representations in higher local sanggunians. Court suits followed. Because Republic Act 7160 was a built-in law designed and programmed to guide all local government units structures and operations politically and any amendments or alterations will significantly alter the meaning and intent of other provisions of the Code.

Now, all barangay officials benefited from this extension campaigned for administration candidate the then Speaker Jose De Venecia but lost to Vice President Joseph Estrada. However, his running mate Senator Gloria Macapagal-Arroyo¹¹ won the vice presidency against Senator Edgardo Angara, a running mate of Estrada.

When the new term of barangay officials will end in May 2002, Republic Act 9164¹² was signed into a law by President Arroyo providing for Synchronized Barangay and Sangguniang Kabataan Elections on July 2002 returning to three-year term but with hold-over capacity until August of the same year. Again, no one question the 'hold over' constitutionality despite the existence of jurisprudence found in G.R. No. 127116 that "elected leaders can legally and morally justify their reign only by obtaining the voluntary consent of the electorate." The law also states that the next election is set every three (3) years

⁹ An Act Changing the Term of Office of Barangay Officials and Members of Sangguniang Kabataan from Three (3) Years to Five (5) Years, amending for the purpose section 43 of Republic Act Numbered Seven Thousand One Hundred Sixty, Otherwise known as the Local Government Code of 1991.

¹⁰ Section 22, Article III Bill of Rights, 1987 Constitution

¹¹ In January 2001 the then Vice President Gloria Macapagal-Arroyo replaced President Estrada.

¹² Certified urgent by President Arroyo for immediate approval.

thereafter whose term of office shall commence at noon of November 30 following their elections, extending hold over capacity for second time.

During the campaign period for 2004 Presidential Elections, issue to extend the term of barangay officials to five years was again surfaced and because of this, most of the incumbent barangay officials supports PGMA campaign for 2004 Presidential Elections against Movie King Fernando Poe, Jr. and Senator Panfilo Lacson.

After winning the elections,¹³ on January 2005 the government of Arroyo reenacted the 2004 General Appropriations which automatically gave zero budget COMELEC to conduct the synchronized barangay and SK elections set before November of the that year. On September 22, 2005, two months before ending the term of office of barangay officials on November that year¹⁴, Republic Act 9340¹⁵ sponsored by Senator Richard Gordon became a law setting the synchronized barangay and SK elections to last Monday of October 2007 thereby extending again the term of barangay officials and SK officials to five (5) years. However, the amendment has a provision on returning to three-year the term of barangay and SK officials thereafter. Now, those elected in 1994,¹⁶ 1997¹⁷ and 2002¹⁸ barangay elections has now a total of 13 years, four years more than the three term elected provincial, city and municipal officials.

The 5-year term extension political strategy proved effective for the second time to solicit votes during Presidential campaigns.

However, the last election law RA 9340 was not amended before and after the 2016 Presidential Elections. The three-year term of barangay officials was exercised regularly thereafter in October 2010 and 2013 barangay elections under the administration of President Benigno Simeon Aquino III. Those elected in 2013 October barangay elections will end their term on October 2016.

¹³ Won by one million votes but tainted by hello garcia scandal.

¹⁴ By virtue of Section 4 Assumption of Office, RA 9164

¹⁵ Certified urgent by President Arroyo for immediate approval.

¹⁶ Three years, 1994-1997

¹⁷ Five years, 1997-2002

¹⁸ Five years, 2002-2007

5-year term political strategy was revived for the third time.

During a campaign rally of Liberal Party held at Quezon City Memorial Circle, on which the herein petitioner attended, LP senatorial candidates led by then Congresswoman Leni Robredo¹⁹ seeking VP post, enthusiastically announced that there is already an agreement to extend the term of the present barangay officials. Upon hearing this, *"tuwang tuwa, nagpapalakpakan at naglulundagan sa saya ang mga barangay officials"* and started chanting the names of the candidates standing in the stage. Mayor Rodrigo Duterte and Congresswoman Leni Robredo won the elections.

On 12 July 2016 Comelec issued Resolution No. 10151 for CALENDAR OF ACTIVITIES IN CONNECTION WITH THE OCTOBER 31, 2016 SYNCHRONIZED BARANGAY AND SANGGUNIANG KABATAAN (SK) ELECTIONS and on August 16, 2016 issued again Resolution No. 10162 16 on GUIDELINES ON THE FILING OF CERTIFICATES OF CANDIDACY IN CONNECTION WITH THE OCTOBER 31, 2016 BARANGAY AND SANGGUNIANG KABATAAN ELECTIONS. Thereafter, the Commission on Elections started suggesting the postponement of the Barangay and SK elections, noting that it may cause *"election fatigue"* as the country had its national and local elections in May.

In *Benito v. Comelec*,²⁰ the Court says that it is the Comelec *en banc*, which has the exclusive power to postpone an election. Where is the *en banc* resolution for *"election fatigue"* to serve as the basis of Congress?

The House Speaker also said *"Tingin ko, considering marami pang kinakailangan na appointments na gagawin ang executive branch, hindi pa sila natatapos sa screening process nila, tingin naman natin na practical na ipagpaliban muna natin eleksyon"*.²¹

Question is can we found *"practicality"* in Constitution to postpone barangay elections? Is inefficiency of transition team to complete co-terminus positions inherited from Aquino Administration can become legal basis to postpone barangay elections?

Moreso, President²² on August 27 revealed *"Because I am afraid that the drug money will seep into the electoral process. You will just be adding to our headache people, na kung sino manalo ngayon, [that whoever would win] those that are funded*

¹⁹ Her running mate Presidential Candidate Secretary Mar Roxas on various meetings with Liga ng mga Barangay stated otherwise on the issue of extension that what the law says must prevail.

²⁰ G.R. No. 134913, January 19, 2001

²¹ Alvarez backs postponing barangay, SK polls to avoid election ban, INQUIRER.net August 25, 2016

²² Previously against postponing the barangay elections on the issue of holdover capacity. Read, ABS-CBN News, Posted May 29 2016 12:32 PM by Dharel Placido.

by drug money will win," the President warned."²³ However, Senator Sotto said, the information regarding 100% drug-affected barangays that was brought up during the last hearing of the Committee on Justice and Human Rights pertains to Metro Manila only and that there were no figures for the rest of the country.²⁴ Further, the petitioner, based on his study, the thousands dead people scattered nowadays in the streets should not put the blame on barangay officials performance but rather the cause of the problem is the Anti-Drug Law itself Republic Act 9165 particularly Section 11 (Possession of Dangerous Drugs) which is pro-corruption and pro-drug lords! S

In further contrary, the issue on election fatigue and war on drugs was brought up during Senate Session on August 31, 2016 and the Journal, page 359 revealed during interpellations between Senator Angara, author of postponement and Senator Recto, to read:

"Senator Recto said that, in effect, all arguments pointed out with regard to the postponement of barangay elections are not really reasonable, for instance, election fatigue, as he pointed out that for three times in the past there was no fatigue to speak of. As regards the war on drugs, he believed that election is not a hindrance but an opportunity."

Furthermore, the Senate and the House of Representatives have agreed to reset the Barangay and Sangguniang Kabataan (SK) elections to 2017.²⁵ Finally the Commission on Elections (Comelec) has temporarily suspended the printing of ballots for the barangay and Sangguniang Kabataan (SK) elections.²⁶ Comelec Chairman Juan Andres Bautista said the decision to stop printing was made in anticipation of a possible postponement by Congress of the twin polls.²⁷ Where is the *en banc* resolution?

When two of three branches of our government, the EXECUTIVE and LEGISLATIVE assisted by Commission on Elections, a Constitutional Commission tasked to handle elections were joining hands trying to circumvent the law to

²³ Duterte Inclined to postpone barangay polls to avert narco-politicsy, CNN Philippines Staff Sat, August 27, 2016

²⁴ Journal of the Senate, August 30, 2016 page 337

²⁵ Senate, House agree to postpone Barangay and SK polls to 2017, August 30, 2016 3:51pm By XIANNE ARCANGEL, GMA News

²⁶ Comelec stops printing of ballots, BY THE MANILA TIMES, AUGUST 29, 2016

²⁷ *ibid*

postpone the barangay elections, any aggrieved party or individual must run immediately to the highest court to seek relief or extraordinary remedy.

Because of the essence of time in an extraordinary situation, to wait for the formal effect of law postponing barangay and SK elections to October 2017 is absolutely fatal. Records shown that Senate Bill 1112 postponing the barangay and SK elections to October 2017 and House Bill 3504, same purpose, was already approved on second reading last September 6, 2016 and under the rule considered approved. To wait for third reading and transmission to Office of the President for approval and the 15 days publication requirement -- makes the petition useless for the election is already set on October 31, 2017.

Congress is now highjacking the Six Billion (P6,000,000,000.00) fund intended for holding of elections for 42,000 villages and suppressing the right of suffrage of the people to choose leaders to govern their destiny, their life, their hopes. Thus, Supreme Court intervention is imperative.

Constitutionally guaranteed elections are freedom of expression through the ballots and right of suffrage is sacred and should not be tainted with bad faith and politics. Political interest and unsubstantiated arguments should not triumph over postponement because it is a non-partisan election and only through this exercises people produced and developed new leaders need by our country.

As what happening at the moment, minute by minute, a bullet train-like Congress is running unstoppable to postpone the barangay and SK elections and petitioner together with millions of voters and youths around the country are helpless. On behalf of voters, the petitioner is praying and seeking a Divine intervention and that faith is now in the hands of the Honorable Justices of the Supreme Court.

The Philippines is the first republic in Asia, elections are lifeblood of democracy, otherwise we are what?

A. NATURE OF PETITION

1. This is a special civil action under Rule 65 of the Rule of Court, an extraordinary legal remedy filed against the respondents for grave abuse of discretion/grave abuse of authority, and the petitioner being a registered voter and taxpayer has no remedy by appeal nor any other plain, speedy and adequate remedy in the ordinary course of law;
2. The petition is also seeking the intervention of the Honorable Court on the following:
 - I. WHETHER OR NOT CONGRESS CAN CHANGE THE THREE-YEAR TERM OF BARANGAY OFFICIALS AS PROVIDED BY SECTION 43 (C) OF REPUBLIC ACT 7160 ALSO KNOWN AS LOCAL GOVERNMENT CODE OF 1991?
 - II. WHETHER OR NOT REPUBLIC ACT NOS. 8524, 9164 and 9340 ARE CONSTITUTIONAL?
 - III. IS HOLD OVER CAPACITY GRANTED TO INCUMBENT BARANGAY OFFICIALS WHOSE MANDATES ALREADY ENDED LEGAL?
 - III. WHETHER OR NOT CONGRESS CAN POSTPONE THE 2016 OCTOBER BARANGAY AND SANGGUNIANG KABATAN ELECTIONS WITHOUT VIOLATING THE CONSTITUTION?
3. The petition is further seeking Prohibition and Mandamus and Urgent Motion for the Issuance of TRO and/or Preliminary Injunction with prayer for Oral Argument.

B. CAUSE OF ACTION

4. That two of three branches of our government, the EXECUTIVE and LEGISLATIVE (Senate and House of the Representatives) are unitedly making another law to postpone the budgeted Barangay and Sangguniang Kabataan Elections scheduled on October 31, 2016 in violations of the Constitution and Republic Act 9340;

5. That the COMELEC, a Constitutional Commission which should be independent,²⁸ abruptly stopped the printing of ballots without a legal basis;
6. That the sudden announcement of postponement discouraged most of the aspirants who already spending and campaigning around the country which resulted not only to loss of trust to the government but most importantly denied equal access of opportunities to public service guaranteed by the Constitution;
7. That On October 31, 2016 elections there will be 42,028 vacant positions for punong barangays, 294,196 positions for barangay kagawads, 42,028 positions for SK Chairmen and 294,196 for SK Councilors for a total of 672,448 government positions and people are deprived of equal access to opportunities for public service if postponed;
8. That after October 31 elections, there will be mandatory appointees such as: 42,028 positions for barangay secretaries, 42,028 positions for barangay treasurers, 42,028 positions for SK secretaries, 42,028 SK treasurers and 588,392 Lupon Tagapamayapa Members for a total of 588,392 mandatory appointees not included barangay tanods, clerks, health workers;
9. That postponement already affected small entrepreneurs who invested their hard-earned capital and loaned-money in the printing of t-shirts, tarps, stickers and other campaign materials, can Senators and Congressmen return their loaned-capital?

²⁸ 1987 Constitution Article IX Section 1. The Constitutional Commissions, which shall be independent, are the Civil Service Commission, the Commission on Elections, and the Commission on Audit.

10. That Senator Sotto said that to set the record straight, the information regarding 100% drug-affected barangays that was brought up during the last hearing of the Committee on Justice and Human Rights pertains to Metro Manila only and that there were no figures for the rest of the country;²⁹
11. That the blame on the thousands dead people scattered nowadays in the streets was putting in barangay officials performance but as a matter of fact, the cause of the problem is the Anti-Drug Law itself Republic Act 9165³⁰ particularly Section 11 (Possession of Dangerous Drugs) which is pro-corruption and pro-drug lords;
12. That the postponement will deny the petitioner's right of suffrage and freedom of expression thru the ballots, to vote and to be voted;
13. That despite the strong opposition of Liga ng Barangay to postpone the barangay elections as presented during Senate committee deliberations,³¹ the Senate still push it.
14. That postponing barangay elections is a bill of local application, thus, shall deliberate first in the House of the Representatives and Senate may propose or concur amendments BUT as per records Senate Committee Report No. 1 recommending approval of S.B. 1112³² was submitted on August 30, 2016 while the House of the Representatives submitted its Committee Report on HB 3504³³ only on September 6,

²⁹ Journal of the Senate, August 30, 2016 page 337

³⁰ AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES

³¹ Second paragraph, page 360, JOURNAL of the Senate, dated August 31, 2016

³² AN ACT POSTPONING THE OCTOBER 2016 BARANGAY AND SANGGUNIANG KABATAAN ELECTIONS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9164, AS AMENDED BY REPUBLIC ACT NO. 9340 AND REPUBLIC ACT NO. 10656, AND FOR OTHER PURPOSES

³³ AN ACT POSTPONING THE OCTOBER 2016 BARANGAY AND SANGGUNIANG KABATAAN ELECTIONS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9164, AS AMENDED BY REPUBLIC ACT NO. 9340 AND REPUBLIC ACT NO. 10656, PRESCRIBING ADDITIONAL RULES GOVERNING THE CONDUCT OF BARANGAY AND SANGGUNIANG KABATAAN ELECTIONS AND FOR OTHER PURPOSES

2016 in violations of Section 24, Article VI of the Constitution. As the records shown, Senator Angara disclosed that, according to Representative Farinas, the House of Representatives would adopt Senate Bill No. 1112 if it would pass ahead of the House bill.”³⁴

C. THE PARTIES

The petitioner is a registered voter and taxpayer of Barangay Capri, Novaliches, Quezon City, a former barangay kagawad elected in 1989, 1997, 2002 barangay elections AND postponing barangay elections will deny his and other voters the right of suffrage and the equal access of opportunities to public service guaranteed by the Constitution. Notices and other processes of the Honorable Court can be served at Blk 22 Area 5 Barangay Capri, Novaliches, Quezon City with contact number 0939-509-3172. Also attached certified copy of petitioner’s Drug Test with NEGATIVE RESULTS issued by East Avenue Medical Center on July 2016.

The respondents are:

- a. The Senate of the Philippines being the first chamber who approved on second reading S.B. 1112 an act postponing barangay and SK elections, as represented by Senate President Aquilino Pimentel III, whose notice and other processes can be served at Senate Secretary, 6th Floor, Philippine Senate, GSIS Building, Financial Center, Roxas Blvd, Pasay City, Metro Manila.
- b. The House of the Representative by approving on second reading HB 3504 an act postponing barangay and SK elections as represented by the Honorable Speaker Pantaleon Alvarez, whose notice and other processes can be served at Secretary General, House of the Representatives, Batasang Pambansa Complex, Batasan Hills, Quezon City, Metro Manila.

³⁴ page 331, JOURNAL of the Senate, dated August 31, 2016

- c. ATTY. SALVADOR MEDIALDEA, in his capacity as Executive Secretary, Office of the President where after the passing of Congress Resolution Postponing Barangay and SK Elections will be forward to the President of the Republic for signature. Notice and other processes of the Honorable Court can be served at Office of the Executive Secretary Malacañang Palace Compound. J. P. Laurel St., San Miguel, Manila.
- d. The Commission on Elections whose notice and other processes of the Honorable Court can be served at Palacio del Gobernador at the corner of General Luna St. and Andres Soriano Jr. Avenue in Intramuros, Manila.
- e. Secretary Benjamin Diokno, in his capacity as Secretary of Department of Budget and Management whose notice and other processes of the Honorable Court can be served at General Solano Street, San Miguel, Manila City, Metro Manila,

D. FACTS OF THE CASE

As reproduced from the case *David versus Comelec*³⁵:

“Brief Historical Background of Barangay Elections

For a clear understanding of the issues, it is necessary to delve briefly into the history of barangay elections.

As a unit of government, the barangay antedated the Spanish conquest of the Philippines. The word barangay is derived from the Malay balangay, a boat which transported them (the Malays) to these shores. Quoting from Juan de Plasencia, a Franciscan missionary in 1577, Historian Conrado Benitez wrote that the barangay was ruled by a *dato* who exercised absolute powers of government. While the Spaniards kept the barangay as the basic structure of government, they stripped the *dato* or *rajah* of his powers. Instead, power was centralized nationally in the governor general and locally in the *encomendero* and later, in the *alcalde mayor* and the *gobernadorcillo*. The *dato* or *rajah* was much later renamed *cabeza de barangay*, who was elected by the local citizens possessing property. The position

³⁵ G.R. No. 127116. April 8, 1997

degenerated from a title of honor to that of a mere government employee. Only the poor who needed a salary, no matter how low, accepted the post.

After the Americans colonized the Philippines, the barangays became known as barrios. For some time, the laws governing barrio governments were found in the Revised Administrative Code of 1916 and later in the Revised Administrative Code of 1917. Barrios were granted autonomy by the original Barrio Charter, RA 2370, and formally recognized as quasi-municipal corporations by the Revised Barrio Charter, RA 3590. During the martial law regime, barrios were declared or renamed barangays – a reversion really to their pre-Spanish names -- by PD. No. 86 and PD No. 557. Their basic organization and functions under RA 3590, which was expressly adopted as the Barangay Charter, were retained. However, the titles of the officials were changed to barangay captain, barangay councilman, barangay secretary and barangay treasurer.

Pursuant to Sec. 6 of Batas Pambansa Blg. 222, a Punong Barangay (Barangay Captain) and six Kagawads ng Sangguniang Barangay (Barangay Councilmen), who shall constitute the presiding officer and members of the Sangguniang Barangay (Barangay Council) respectively were first elected on May 17, 1982. They had a term of six years which began on June 7, 1982.

The Local Government Code of 1983 also fixed the term of office of local elective officials at six years. Under this Code, the chief officials of the barangay were the punong barangay, six elective sangguniang barangay members, the kabataang barangay chairman, a barangay secretary and a barangay treasurer.

B.P. Blg. 881, the Omnibus Election Code, reiterated that barangay officials shall hold office for six years, and stated that their election was to be held on the second Monday of May nineteen hundred and eighty eight and on the same day every six years thereafter

This election scheduled by B.P. Blg. 881 on the second Monday of May 1988 was reset to the second Monday of November 1988 and every five years thereafter by RA 6653. Under this law, the term of office of the barangay officials was cut to five years and the punong barangay was to be chosen from among themselves by seven kagawads, who in turn were to be elected at large by the barangay electorate.

But the election date set by RA 6653 on the second Monday of November 1988 was again postponed and reset to March 28, 1989 by RA 6679, and the term of office of barangay officials was to begin on May 1, 1989 and to end on May 31, 1994. RA 6679 further provided that there shall be held a regular election of barangay officials on the second Monday of May 1994 and on the same day every five (5) years thereafter. Their term shall be for five years x x x. Significantly, the manner of election of the punong barangay was changed. Sec. 5 of said law ordained that while the seven kagawads were to be elected by the registered voters of the barangay, (t)he candidate who obtains the highest number of votes shall be the punong barangay and in the event of a tie, there shall be a drawing of lots under the supervision of the Commission on Elections.

Under the Local Government Code of 1991, RA 7160 several provisions concerning barangay officials were introduced:

(1) The term of office was reduced to three years, as follows:

SEC. 43. Term of Office. --

X X X X X X X X

(c) The term of office of barangay officials and members of the sangguniang kabataan shall be for three (3) years, which shall begin after the regular election of barangay officials on the second Monday of May, 1994 (Underscoring supplied.)

(2) The composition of the Sangguniang Barangay and the manner of electing its officials were altered, inter alia, the barangay chairman was to be elected directly by the electorate, as follows:

SEC. 387. *Chief Officials and Offices.* -- (a) There shall be in each barangay a punong barangay, seven (7) sanggunian barangay members, the sanggunian kabataan chairman, a barangay secretary and a barangay treasurer.

X X X X X X X X

SEC. 390. *Composition.* -- The Sangguniang barangay, the legislative body of the barangay, shall be composed of the punong barangay as presiding officer, and the seven (7) regular sangguniang barangay members elected at large and the sangguniang kabataan chairman as members.

SEC. 41. *Manner of Election.* -- (a) The x x x punong barangay shall be elected at large x x x by the qualified voters in the barangay. (Underscoring supplied.)

Pursuant to the foregoing mandates of the Local Autonomy Code, the qualified barangay voters *actually voted* for one punong barangay and seven (7) kagawads during the barangay elections held on May 9, 1994. In other words, the punong barangay was elected directly and separately by the electorate, and not by the seven (7) kagawads from among themselves.³⁶

X X X

In October 1991, under President Corazon Aquino, Congress passed RA 7160 or Local Government Code which finally fixed the term of barangay officials and members of the Sangguniang Kabataan into three (3) years same with the elected city, municipal and provincial officials. Since the enactment of the Code, two (2) barangay elections were successively held in May 1994 and May 1997 with three-year term mandates each.

However, in February 14, 1998 two months before 1998 Presidential Elections, Republic Act 8524 sponsored by Senator Ernesto Maceda became a law under President Fidel V. Ramos changing the term of barangay officials from Three (3) to Five (5) years.

³⁶David vs Comelec, G.R. No. 127116. April 8, 1997

However, in February 14, 1998 two months before 1998 Presidential Elections, Republic Act 8524 sponsored by Senator Ernesto Maceda became a law under President Fidel V. Ramos changing the term of barangay officials from Three (3) to Five (5) years.

When the new term of barangay officials will end in May 2002, Republic Act 9164 was signed into a law by President Arroyo providing for Synchronized Barangay and Sangguniang Kabataan Elections on July 2002 returning to three-year term but with hold-over capacity until August of the same year.

On January 2005 the government of Arroyo reenacted the 2004 General Appropriations which automatically gave zero budget COMELEC to conduct the synchronized barangay and SK elections set before November of the that year. On September 22, 2005, two months before ending the term of office of barangay officials on November that year, Republic Act 9340 synchronized barangay and SK elections to last Monday of October 2007 thereby extending again the term of barangay officials and SK officials to five (5) years. However, the amendment has a provision on returning to three-year the term of barangay and SK officials thereafter. Now, those elected in 1994, 1997 and 2002 barangay elections has now a total of 13 years, four years more than the three term elected provincial, city and municipal officials.

Months after May 2016 elections, the Commission on Elections started suggesting the postponement of the Barangay and SK elections, noting that it may cause "election fatigue" as the country had its national and local elections in May. The House Speaker also said "Tingin ko, considering marami pang kinakailangan na appointments na gagawin ang executive branch, hindi pa sila natatapos sa screening process nila, tingin naman natin na practical na ipagpaliban muna natin eleksyon". Moreso, President on August 27 revealed "Because I am afraid that the drug money will seep into the electoral process. You will just be adding to our headache people, na kung sino manalo ngayon, [that whoever would win] those that are funded by drug money will win," the President warned."

Furthermore, the Senate and the House of Representatives have agreed to reset the Barangay and Sangguniang Kabataan (SK) elections to 2017. Finally the Commission on Elections (Comelec) has temporarily suspended the printing of ballots for the barangay and Sangguniang Kabataan (SK) elections. Comelec Chairman Juan Andres Bautista said the decision to stop printing was made in anticipation of a possible postponement by Congress of the twin polls.

Records shown that Senate Bill 1112 postponing the barangay and SK elections to October 2017 and House Bill 3504, same purpose, was already approved on second reading last September 6, 2016.

E. ISSUES

I. WHETHER OR NOT CONGRESS CAN CHANGE THE THREE-YEAR TERM OF BARANGAY OFFICIALS AS PROVIDED BY SECTION 43 (C) OF REPUBLIC ACT 7160 ALSO KNOWN AS LOCAL GOVERNMENT CODE OF 1991?

II. WHETHER OR NOT REPUBLIC ACT NOS. 8524, 9164 and 9340 ARE CONSTITUTIONAL?

III. IS HOLD OVER CAPACITY GRANTED TO INCUMBENT BARANGAY OFFICIALS WHOSE MANDATES ALREADY ENDED LEGAL?

III. WHETHER OR NOT CONGRESS CAN POSTPONE THE 2016 OCTOBER BARANGAY AND SANGGUNIANG KABATAN ELECTIONS WITHOUT VIOLATING THE CONSTITUTION?

F. DISCUSSIONS

A. No. The present Congress cannot amend or change the term of barangay officials fixed by Congress itself in 1991 thru Local Government Code UNLESS it will also amend other provisions it will be affected. Be in mind that RA 7160 was a built-in law designed and programmed to guide all local government units structures and operations politically and economically and not only to fix the term of barangay officials. And any amendments or alterations will significantly alter the meaning and intent of other provisions of the Code.

The changing of term should also amend clearly the manner of representations of Liga ng mga Barangay or ABC Representations in the higher local sanggunians (cities, municipalities and provinces) considering they have now different term as what happened in RA 8524. They should also amend the system of harmonization of the barangay development plans to higher local development plans as required by Section 106-114 of LGC to attain local autonomy. Further, changing the term of barangay officials regularly only promotes instability not sustainability. The term amendment should also cover other provision of the mother law such as the NGOs and Congressman's representations to Barangay Development Council (Sec. 107-a). The amendment should also consider its effect to the limitations of recall to be filed against erring barangay officials:

x x x

“SEC. 74. Limitations on Recall. - (a) Any elective local official may be the subject of a recall election only once during his term of office for loss of confidence.

(b) No recall shall take place within one (1) year from the date of the official's assumption to office or one (1) year immediately preceding a regular local election.”

If the barangay election was postponed, the people still cannot exercise the recall process because the law states that no recall shall take place one (1) year immediately preceding a regular local election.

The purpose of amendment is to perfect the law. However, after several amendments to Section 43-c of LGC made by Congress, it only makes the perfect law imperfect.

B. Republic Act No. 8524 is unconstitutional for it is retroactive. Republic Act No. 9164 is unconstitutional for it granted a hold over capacity for a period of five (5) months.³⁷ Finally, Republic Act 9340 corrected all

³⁷ Supposed to end after May Elections by extended five Months from July, August, September, October and November of 2007.

infirmities and returned to synchronization of barangay and SK elections with three-year term mandate and continuously implemented in 2007, 2010 and 2013 barangay elections. Elections law expert Atty. Macalintal said that legislation has done its job through Republic Act 9340 which amends resetting the barangay and Sangguniang Kabatan elections.³⁸

Hereto attached certified copies of Republic Act Nos. 8524 and 9164 as **ANNEX “D”** and **ANNEX “E”**, respectively.

C. Granting hold over capacity to elective barangay officials is illegal. In the case of *David vs Comelec*,³⁹ the Court said:

x x x

“Epilogue

It is obvious that these two petitions must fail. The Constitution and the laws do not support them. Extant jurisprudence militates against them. Reason and common sense reject them. Equity and morality abhor them. They are subtle but nonetheless self-serving propositions to lengthen governance without a mandate from the governed. In a democracy, elected leaders can legally and morally justify their reign only by obtaining the voluntary consent of the electorate. In this case however, petitioners propose to extend their terms not by seeking the peoples vote but by faulty legal argumentation. This Court cannot and will not grant its imprimatur to such untenable proposition. If they want to continue serving, they must get a new mandate in the elections scheduled on May 12, 1997.”

As Records shown that Senate Bill 1112 and House Bill 3504 postponing barangay and SK elections to October 2017 was already approved on second reading last September 6, 2016, the sudden announcement of postponement discouraged most of the aspirants who already spending and campaigning around the country resulted not only to loss of trust to the government but most importantly denied equal access of opportunities to public service guaranteed by the Constitution.⁴⁰

³⁸ *Macalintal: House bid to delay barangay, SK polls unconstitutional*, Inquirer.net August 30, 2016

³⁹ G.R. No. 127116. April 8, 1997

⁴⁰ Section 26, ART. II of the Constitution.

That if the elections push through, there will be 42,028 vacant positions for punong barangays, 294,196 positions for barangay kagawads, 42,028 positions for SK Chairmen and 294,196 for SK Councilors for a total of **672,448 government positions**.⁴¹ There are more.

That after October 31 elections, there will be mandatory barangay appointees as mandated by RA 7160 such as: 42,028 positions for barangay secretaries, 42,028 positions for barangay treasurers, 42,028 positions for SK secretaries, 42,028 SK treasurers and 588,392 Lupon Tagapamayapa Members for a total of **588,392 mandatory appointees** not included barangay tanods, clerks, health workers that will reach another million government positions. Access to these opportunities to serve the people was cut if barangay elections will postpone.

D. Congress cannot make another law to postpone the scheduled and budgeted Barangay and SK elections in October 31, 2016 for it violates the following:

1. Constitutional prohibition that No ex post facto law or bill of attainder shall be enacted.⁴² The postponement to October 2017 extended the term of incumbent barangay officials to four (4) years thus, a retroactive.
2. A four-year term is a violation of RA 9340 and Section 43-c both law fixed the three-year term of barangay officials.
3. Violations of Section 26, Article II of the Constitution providing that the State shall guarantee equal access to opportunities for public service. Access to 672,448 barangay government positions and 588,392 mandatory appointees was cut, if elections will not push through.

⁴¹ 42,028 total barangays in the Philippines

⁴² SECTION 22, Article III Bil of Rights

4. Violations of G.R. No. 127116, a jurisprudence which formed part of the law of the land stating that if they want to continue serving, they must get a new mandate in the elections scheduled on October 31, 2017.
5. Suppression of Right of Suffrage.
6. Although the petitioner cannot vote in the Sanggunian Kabataan elections, as taxpayer has right to question acts pertaining to the use of public funds, in this case, SB 1112 and HB 3504 has no clear explanation how the P84 billion⁴³ (2016) and P97 billion⁴⁴ (2017) SK allocations, excluding the barangay budget, will spent if elections will postpone. In Quezon City, the budgets for SK in the last three years were used for Christmas bonus of barangay employees.

PRAYER

Wherefore, premises considered, petitioner respectfully prays that this Honorable Court:

1. To declare Republic Acts Nos. 8524 and 9164 unconstitutional;
2. Urgent motion for the issuance of TRO and/or Preliminary Injunction against members of Senate and House of Representatives restraining/prohibiting them to make another law postponing the October 2016 barangay and SK elections for abuse of discretion and abuse of authority;
3. Urgent motion for the issuance of TRO and/or Preliminary Injunction to the Office of the President not to sign any legislative measure from Congress postponing the October 2016 barangay and SK elections;

⁴³ Represent automatic 10% of IRA allocations

⁴⁴ *ibid*

4. To issue writ of mandamus compelling the Commission on Elections to continue the printing of ballots
5. To issue writ of mandamus compelling the Department of Budget of Management through Secretary Benjamin Diokno to give priority in the releasing of budget for the printing of ballots and other expenses in the conduct of October 2016 barangay and SK elections;
6. To grant prayer for Oral Argument and with due respect to kindly invite friends of the court, election law experts and the author of Local government Code, Former Senate President Aquilino Pimentel, Jr. to help enlighten the case at bar, if necessary;
7. Other just remedies, just and equitable under the premises are likewise prayed for.

Quezon City, Metro Manila, September 13, 2017.


HENRY R. GIRON

Copy furnished:

The SENATE OF THE PHILIPPINES,
Office of the Senate Secretary, 6th Floor,
Philippine Senate, GSIS Building, Financial Center,
Roxas Blvd, Pasay City, Metro Manila.

The HOUSE OF THE REPRESENTATIVES,
Office of the Secretary General, House of the Representatives,
Batasang Pambansa Complex, Batasan Hills, Quezon City.

ATTY. SALVADOR MEDIALDEA,
Office of the Executive Secretary, Malacañang
J. P. Laurel St., San Miguel, Manila.

The COMMISSION ON ELECTIONS
Palacio del Gobernador, Intramuros, Manila.

HON. BENJAMIN E. DIOKNO

**Secretary, Department of Budget and Management,
General Solano Street, San Miguel, Manila City, Metro Manila**

Solicitor General Jose C. Calida

**OSG Building, 134 Amorsolo St., Legaspi Village,
Makati City, Metro Manila**

EXPLANATION

The foregoing petition is being served by registered mail on respondents due to lack of time and personnel to effect personal service.


HENRY R. GIRON,

VERIFICATION AND CERTIFICATION OF NON- FORUM SHOPING

I, HENRY R. GIRON, of legal age, Filipino and presently residing at Block 22 Area 5 Barangay Capri, Novaliches, Quezon City, after having been duly sworn to in accordance with law, hereby depose and state that:

1. I am the petitioner in the case entitled “ Henry Giron versus Senate of the Philippines et al.”;
2. I have caused the preparation and have read the foregoing petition;
3. I have read and understood the contents thereof and the same are true of my own personal knowledge or based on authentic records;
4. I have not commenced any action or proceeding involving the same issues and the same parties in any court, tribunal, or quasi-judicial agency;

5. Should I hereafter learn that a similar action or proceeding has been filed or is pending before the Honorable Court, the Court of Appeals, or different divisions thereof, or any other tribunal or quasi-judicial agency, I undertake to promptly inform the Court of fact within five (5) days therefrom, as well as of the status thereof.

IN WITNESS WHEREOF, I have set my hand and affixed my signature this 13th day of September, 2016 in Quezon City, Philippines.

HENRY R. GIRON

QC Government

1-D. NO. CT-0014508

SUBSCRIBED AND SWORN TO
BEFORE ME ON THIS SEP 13 2016
OF _____ AT C.C. M.M. PHILIPPINES

DOC. NO. 271
PAGE NO. 5
BOOK NO. VI
SERIES OF 20 10

MICHAEL DARWIN M. BAYOTAS

Notary Public
Commission No. NP-201 (2015-2016)
Expires on December 31, 2016
Unit 204, Tony Galvez Centrum 124,
9th Avenue Araneta Cubao, Quezon City
IBP Lifetime No. 011221 / Pasig City / Nov. 07, 2012
PTR No. 1282506 / Quezon City / Jan. 07, 2016
MCLE Compliance No. V-0012059 / Nov. 24, 2016
Attorney's Roll No. 56180

AFFIDAVIT OF SERVICE

I, Henry R. Giron, of legal age, and a resident of Blk 22 Area 5 Barangay Capri, Novaliches, Quezon City, Philippines, after having been duly sworn in accordance with law, hereby depose and say:

That I am the petitioner in the above case, and I had personally served a copy of the Main Petition in the case entitled "Henry Giron vs Senate of the Philippine et al," docketed as _____ by registered mail with return card under Registry Receipt Nos.

The SENATE OF THE PHILIPPINES,
Office of the Senate Secretary, 6th Floor,
Philippine Senate, GSIS Building, Financial Center,
Roxas Blvd, Pasay City, Metro Manila.

The HOUSE OF THE REPRESENTATIVES,
Office of the Secretary General, House of the Represent
Batasang Pambansa Complex, Batasan Hills, Quezon City

RD 641 799 428 22

Post Office: _____
Letter/Package No. of Asia Post Office: _____
Posted on: 13 SE 20
Preserve this receipt for reference in case of inquiry

No. _____ Postmaster/Teller: _____

RD 641 799 414 22

Post Office: _____
Letter/Package No. of Asia Post Office: _____
Posted on: 13 SE 20
Preserve this receipt for reference in case of inquiry

No. _____ Postmaster/Teller: _____

IN WITNESS WHEREOF, I have set my hand and
September, 2016 in Quezon City, Philippines.

RD 641 799 405 ZZ
 Post Office _____
 Letter/Package No. _____
 Registered Mail
 RD 641 799 381 ZZ
 Post Office _____
 Letter/Package No. _____
 Posted on _____
 RD 641 799 388 ZZ
 Post Office _____
 Letter/Package No. _____
 20
 RD 641 799 374 ZZ
 Post Office _____
 Letter/Package No. _____
 Posted on _____
 3 SEP 2016
 Preserve this receipt for reference in case of inquiry

HENRY R. GIRON

VERIFIED DECLARATION

The foregoing petition is being served by registered mail on respondents due to lack of time and personnel to effect personal service.


HENRY R. GIRON

IN WITNESS WHEREOF, I have set my hand and affixed my signature this 13th day of September, 2016 in Quezon City, Philippines.

HENRY R. GIRON
O.C. Government
I.D. NO. CT-0014508.

SUBSCRIBED AND SWORN TO ³~~2~~²⁰¹⁶
BEFORE ME ON THIS SEP - DAY
OF _____ AT C.C. M.M. PHILIPPINES

DOC. NO. 280
PAGE NO. 57
BOOK NO. VI
SERIES OF 20 he

MICHAEL DARWIN M. BAYOTAS
Notary Public
Commission No. NP 201 (2015-2018)
Expires on December 31, 2018
Unit 204, Tony Galvez Centrum 124,
9th Avenue Araneta Cubao, Quezon City
IBP Lifetime No. 011221 / Pasig City / Nov. 07, 2012/
PTR No. 1282506 / Quezon City / Jan. 07, 2016/
MCLE Compliance No. V-0012059 / Nov. 24, 2015
Attorney's Roll No. 56180

Duterte urged to veto bill postponing barangay, SK polls

Veto the bill seeking to postpone the barangay and Sangguniang Kabataan polls scheduled on Oct. 31.

Election lawyer Romulo Macalintal made the proposal yesterday to President Duterte on grounds that any postponement is unconstitutional and an encroachment on the power of the Commission on Elections.

He said it is also unconstitutional for Comelec to stop all preparations for the barangay polls on mere anticipation of the law postponing it.

"Comelec is practically implementing a non-existing law when the Constitution empowers it to implement only existing laws," he said.

"The existing law mandates Comelec to prepare for the Oct. 31 barangay elections and there is still no law stopping it from such preparations.

"While there were previous laws passed by Congress that postponed previous barangay elections, these laws have not been challenged as unconstitutional."

As a lawyer, Duterte must review the constitutional issue and veto the bill upon determination of its illegality, he added.

Macalintal said the decision of Congress to defer the October polls is tantamount to encroachment on the Comelec's exclusive power to postpone elections.

"The reasons cited by Congress such as the government's massive campaign against illegal drugs and Comelec's alleged election fatigue are not any of the grounds provided under the law that would justify a postponement of elections," he said.

Macalintal said the proposal that the incumbent barangay officials shall be holdovers in case of postponement of the election is also unconstitutional because "holdover" constitutes "appointment."

"These holdover officials are 'appointed' by the legislators in violation of the constitutional provision that barangay officials shall be elected

by their constituents," he said.

Macalintal said the holdover provision deprives voters the right to choose their leaders and violates their right to due process.

Congress imposes upon the "appointed" barangay officials without notice or hearing, when they are supposed to be elected and not appointed, he added.

Macalintal said the Constitution gives Congress the power to fix the term of barangay officials, but not the power to extend their term of office, under the guise of postponing their scheduled election.

In 2011, the Supreme Court ruled that extension of term through holdover is unconstitutional, he added.

Meanwhile, the National Citizens' Movement for Free Elections urged the Comelec to ensure safeguards in their system once voters' registration is resumed.

Namfrel secretary general Eric Alvira said the Comelec should effectively take out potential multiple registrants and flying voters.

Democracy Watch Philippines secretary general Claudette Guevara said the Comelec must also monitor some candidates' practice of "hakot" or bringing voters to local poll offices during the registration period.

Comelec is now preparing for the resumption of voter registration next month until April 2017.

— Mayen Jaymalin


Mirabeo S. Neteja

March 11

Bill & Lobby Service

CONGRESS OF THE PHILIPPINES
SEVENTEENTH CONGRESS
First Regular Session

}

HOUSE OF REPRESENTATIVES

H. No. 3504

BY REPRESENTATIVES ALVAREZ (P.), FARÍÑAS, SUAREZ, TUGNA, ACHARON, ABU, ALVAREZ (M.), CASTRO (F.H.), CAYETANO, GARCIA (G.), GARCIA-ALBANO, GARIN (S.), HERNANDEZ, MACAPAGAL-ARROYO, QUMBO, SEMA, SINGSON, ERICE, CORTES, PADUANO, CALDEON, CAMINERO, FERRIOL-PASCUAL, BELMONTE (J.), PANCHO, BILONES, YAP (M.), COJANGCO, TELADA, MANALO, MANGUDADATU (S.), BATOCABE, VELASCO-CATERA, SARMIENTO (E.), ANTONIO, CATAMCO, FERRER (J.), PALMA, CERILLES, YU, PICHAY, LOBREGAT, DALIPE, GARIN (O.), TEVES, TREÑAS, GORRICEA, TUPAS, ACOSTA-ALBA, ROCAMORA, MARCOLETA, BAGAO, CERAFICA, BELARO, PINEDA, MENDING, PAPANDAYAN, CARL, TURABIN-HATAMAN, DEL ROSARIO, GO (A.), BELMONTE (R.), HOFER, FLORES, RODRIGUEZ (M.), AMATONG, PACQUIAO, GARCIA (J.), RAMIREZ-SATO, MATUGAS, CORTUNA, MALAPITAN, ALEJANO, ONG (E.), NIETO, TANOCO, CHRECO, MARTINEZ, LOPEZ (M.), BORDADO, CAMPOS, ANDAYA, DUAVIT, BONDOG, GONZALES (A.D.), MERCADO, ALONTE-NAQUIAT, ARCILLAS, ENVERGA, VERGARA, PANOTES, HERRERA-DY, CHAVEZ, VILLAFUERTE, NÚÑEZ-MALANYAON, JALOSIOS, BAGATISING, GULLAS, VILLARAZA-SUAREZ, LAOGAN, VELOSO, ALMONTE, LABADLABAD, GONZALES (A.P.), VIOLAGO, SAHALI, SILVERIO, DELOSO-MONTALLA, LEE, BERTIZ, UY (J.), BRAVO (A.), MELLANA, PLAZA, BAUTISTA-BANDIGAN, ERIGUEL, ROMAN, SAvELLANO, COLANTES, NAVA, RADAZA, ROBES, ANGARA-CASTILLO, AGGABAO, DEENSOR, ADVINCULA, MADRONA, FERRER (L.), RODRIGUEZ (I.), TOLENTINO, AGARAO, ABAYA, LANETE, RELAMPAGOS, JAVIER, VILLANIEVA, AUMENTADO, CUEVA, TING, GO (M.), DALOG, LACSON, GONZAGA, SARMIENTO (C.), NOGRALES (J.), OAMINAL, SIAO, ZUBRI, DE VERA, UNGAB, NOLASCO, LOPEZ (B.), ORTEGA (P.), ROMUALDO, UY (R.),

LAZATIN, SALO, FORTINO, ABUEG, SACDALAN, EVARDONE, KHO, BATACIL, MARQUEZ, GASATAYA, ACOR, SAGARBARRIA, CASTELO, ADONG, LAGMAN, ZAMORA (M.), NOEL, MACEDA, CRISOLOGO, VELARDE, DE VENECIA, ERMITA-BUHAIN, PIMENTEL, ORTEGA (V.), FORTUN, TY, ROMERO, BIAZON, ROA-PINO, SY-ALVARADO, CUARESMA, BARBERS, DY, UYBARRETA, ABAYON, GARBIN, CO, VELASCO, TAMBUNTING, ATIENZA, YAP (V.), GONZALEZ, SAMBAR, EUSEBIO AND REVILLA, PER COMMITTEE REPORT NO. 1

AN ACT POSTPONING THE OCTOBER 2016 BARANGAY AND SANGGUNIANG KABATAAN ELECTIONS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9164, AS AMENDED BY REPUBLIC ACT NO. 9340 AND REPUBLIC ACT NO. 10656, PRESCRIBING ADDITIONAL RULES GOVERNING THE CONDUCT OF BARANGAY AND SANGGUNIANG KABATAAN ELECTIONS AND FOR OTHER PURPOSES

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

1 SECTION 1. Section 1 of Republic Act No. 9164, as amended by
2 Republic Act No. 9340 and Republic Act No. 10656, is hereby further
3 amended to read as follows:

4 "SECTION 1. *Date of Election.* - There shall be
5 synchronized barangay and sangguniang kabataan elections,
6 which shall be held on July 15, 2002. Subsequent synchronized
7 barangay and sangguniang kabataan elections shall be held
8 on the last Monday of October 2007 and every three (3)
9 years thereafter: *Provided, That the BARANGAY AND*
10 *SANGGUNIANG KABATAAN ELECTIONS ON OCTOBER 31, 2016*
11 *SHALL BE POSTPONED TO THE FOURTH MONDAY OF*
12 *OCTOBER 2017. SUBSEQUENT SYNCHRONIZED BARANGAY*
13 *AND SANGGUNIANG KABATAAN ELECTIONS SHALL BE HELD ON*

THE SECOND MONDAY OF MAY 2020 AND EVERY THREE (3) YEARS THEREAFTER."

SEC. 2. Section 4 of Republic Act No. 9164, as amended by Republic Act No. 9340, is hereby amended to read as follows:

"SEC. 4. *Assumption of Office.* - The term of office of the barangay and sangguniang kabataan officials elected under this Act shall commence at noon of November 30 next following their election: *PROVIDED, HOWEVER, THAT THE TERM OF OFFICE OF THE BARANGAY AND SANGGUNIANG KABATAAN OFFICIALS ELECTED IN THE MAY 2020 ELECTIONS AND SUBSEQUENTLY THEREAFTER, SHALL COMMENCE AT NOON OF JUNE 30 NEXT FOLLOWING THEIR ELECTION.*"

SEC. 3. *Hold-over.* - Until their successors shall have been duly elected and qualified, all incumbent barangay officials shall remain in office, unless sooner removed or suspended for cause.

SEC. 4. Section 3 of Republic Act No. 6679 is hereby amended to read as follows:

"SEC. 3. *BAN ON GOVERNMENT PROJECTS.* - The construction or maintenance of [provincial, city, municipal and] barangay-funded roads and bridges shall be prohibited for a period of ten (10) days immediately preceding the date of election, the provisions of Section 261, paragraphs (v) and (w), of the Omnibus Election Code to the contrary notwithstanding."

SEC. 5. *Prohibition on Appointments of Government Officials and Employees.* - The appointment or hiring of new employees, creation of new position, promotion, or giving of salary increases, remuneration or privileges in the barangay shall be prohibited for a period of ten (10) days immediately

preceding the election, the provisions of Section 261, paragraph (g), of the Omnibus Election Code to the contrary notwithstanding.

SEC. 6. *Use of Appropriations.* - The following appropriations for the Commission on Elections (COMELEC) shall be considered as continuing appropriations and shall be used exclusively for the conduct of the barangay and sangguniang kabataan registration and elections:

(a) The amount of Nine hundred thirty-six million one hundred twenty-nine thousand pesos (P936,129,000) appropriated for the sangguniang kabataan elections and One hundred fifty-five million one hundred sixty-seven thousand pesos (P155,167,000) appropriated for the sangguniang kabataan registration under Republic Act No. 10651, otherwise known as "The 2015 General Appropriations Act", and

(b) The amount of Five billion nine hundred ninety-four million two hundred forty-three thousand pesos (P5,994,243,000) for the sangguniang kabataan and barangay elections and Five hundred six million two hundred seventy-four thousand pesos (P506,274,000) appropriated for the sangguniang kabataan and barangay elections under Republic Act No. 10717, otherwise known as "The 2016 General Appropriations Act".

SEC. 7. *Use of Sangguniang Kabataan Fund.* - Until the new sangguniang kabataan officials shall have been duly elected and qualified, the sangguniang barangay shall not use the sangguniang kabataan fund except for youth development and empowerment programs as provided in Republic Act No. 10742, otherwise known as "The Sangguniang Kabataan Reform Act of 2015".

SEC. 8. *Implementing Rules and Regulations.* - The COMELEC shall, within ninety (90) days after the effectivity of this Act, promulgate such rules and regulations necessary to implement this Act.

1 SEC. 9. *Separability Clause.* – If any provision or part hereof is
2 declared unconstitutional, the remainder of this Act or any provisions not
3 affected shall remain in full force and effect.

4 SEC. 10. *Repealing Clause.* – All laws, presidential decrees, executive
5 orders, rules and regulations or parts thereof inconsistent with the provisions
6 of this Act are hereby repealed, amended or modified accordingly.

7 SEC. 11. *Effectivity.* – This Act shall take effect immediately after its
8 publication in the *Official Gazette* or in two (2) newspapers of general
9 circulation.

Approved,

O