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CONGRESS OF THE PHILIPPINES
SENATE
MANILA



SENATE BILL NO. 17

EXPLANATORY NOTE

In his book Megatrends, John Naisbitt describes the shift of American democratic process from one of representative to that of participatory. With the ethic of participation, citizens, workers, and consumers act as one in getting a greater voice in government, business and the marketplace. According to Naisbitt, the guiding principle behind participatory democracy is that "people whose lives are affected by a decision must be a part of the process arriving at that decision." In America, it has revolutionalized local politics with the unprecedented growth in the use of initiatives and referendums.

Historically, referendums as a means of making government decisions or giving legitimacy to them is as old as democracy itself. It had been however invoked sporadically, both by authoritarian regimes and democratic countries. Among democratic nations, only Switzerland has been making use of it continuously while in the United States, the State of California has popularized it. In the 1970's, interest in referendum and initiative became more pronounced.

Why are initiatives and referendums widely used only in Switzerland and a dozen states in the American union, Because only in these politiese was there a long experience of people's assembly, called Landsgemeinden in the Swiss cantons and town meetings in New England. The American frontier, because of its lack of governing bodies, resorted to assemblies.

In the Mid-Western States -- South Dakota, Utah, Oregon -- the approach to constitutional amendments was the initiative, both for constitutional amendments or ordinary legislation. In the localities, 39 states require or allow various units to hold referendums. And they make full use of their powers. The most frequent of these are on the issue of local bonds and the raising of local taxes to expand public facilities. Others include floridation and housing racial discrimination.

California is one of the leading states which has made widespread use of direct legislation, particularly the initiative -- the right of the people to petition to place constitutional amendments and statutes directly on the ballot without recourse to the legislature or the governor. Initiative and referendum came to California in 1911 when a 3 to 1 majority of 220,000 voters were involved. Today, it is part of its political culture.

The most popular exercise of initiative and referendum in California was on Proposition 13. This proposition which was voted on June 1978, was properly described as the Property Tax Limitation Initiative. It became popular primarily because it

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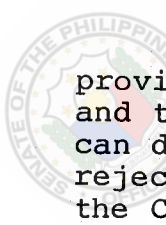
was hotly contested and the fact that there were more who voted on this issue than that of the simultaneously-held gubernatorial election. Because of its controversial nature, the campaign took on that of a regular political campaign. Voting intentions were clear.

Those voting "yes" focused on two main themes - "Taxes are too high" (51%) and "The time has come to cut government costs, waste and inefficiency" (46%). Comments by those voting "no" included - "Would mean too big a cutback for schools" (27%) and "Would put too many teachers, firemen, and policemen out of jobs" (19%). The proposal cut property taxes by 57%, to one per cent of the appraised value.

Aside from the tax limitation initiative, there were other controversial initiatives in California during the sixties and the seventies. These included the senate reapportionment, the agricultural labor relations initiative, the nuclear power initiative, the tax and expenditure limitation initiative, and the death penalty initiative.

But even in America, initiative has not been used on a national level. In 1977, Senator James Abourezek (Dem. SD) introduced a bill in the Senate which proposed an amendment to the U.S. Constitution under which legislation on most subjects could be set before the voters by a popular petition, to be signed by a number of votes equal to 3% of the ballots cast in the most presidential elections and signed by 3% of the voters in at least 10 different states. The bill however specifically exempted from action by initiative constitutional amendments, declaration of wars and calling up the militia. Any petition certified as valid by the Secretary of State would be put on the ballot at the first congressional election after the certification, and any proposal approved by a majority voting on it would become a law thirty days after election. For two years thereafter, such a law could be repealed only by a two-thirds votes of the full membership of both houses of Congress, though after that it could be repealed by an ordinary congressional majority. The Abourezek bill never reached second base.

The 1987 Constitution extends recognition to the processes of initiatives and referendums as "tools for the new democracy" in the Philippines. Section 32 of Article VI reads as follows:



"The Congress shall, as early as possible, provide for a system of initiative and referendum, and the exceptions therefrom, whereby the people can directly propose and enact laws or approve or reject any act or law or part thereof passed by the Congress or local legislative body after the registration of a petition therefore signed by at least ten per centum of the total number of registered voters, or which every legislative district must be represented by at least three per centum of the registered voters thereof."

The role and rights of people's organization have been engrained in our fundamental law as shown in the following provisions:

"The State shall respect the role of independent people's organizations to enable the people to pursue and protect, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means."

"People's organizations are bona fide associations of citizens with demonstrated capacity to promote the public interest and with identifiable leadership, membership, and structure." (Sec. 15, Art. XIII).

"The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged. The State shall, by law, facilitate the establishment of adequate consultation mechanisms." (Sec. 16, Art. XIII).

This bill is an implementation of the constitutional mandate for Congress, as early as possible, to provide for a system of initiative and referendum whereby the people can directly propose and enact ordinances and resolutions, approve or reject any ordinance or resolution, or parts thereof, passed by a local legislative body.

It is believed that we should start on the local level. As aforesaid, even in a highly advanced country as the United States, initiative and referendum have not been attempted on the national level. Moreover, they should be used sparingly, only when the local legislative body refuses to move.

Perhaps, like Proposition 13, what should be given initial importance is not really the substance but the process -- where initiative can be the first step towards Naishitt's "participatory democracy".


NEPALI A. GONZALES

Senator



CONGRESS OF THE PHILIPPINES

SENATE

MANILA

FIRST SESSION

SENATE BILL NO. 17

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Introduced by Senator Neptali A. Gonzales

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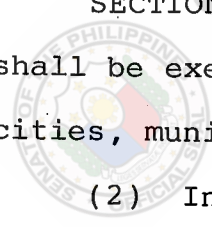
AN ACT PROVIDING FOR A SYSTEM OF INITIATIVE AND REFERENDUM, AND THE EXCEPTIONS THEREFROM, WHEREBY THE PEOPLE IN LOCAL GOVERNMENT UNITS CAN DIRECTLY PROPOSE AND ENACT RESOLUTIONS AND ORDINANCES OR APPROVE OR REJECT ANY ORDINANCE OR RESOLUTION PASSED BY THE LOCAL LEGISLATIVE BODY.

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

SECTION 1. The power of the people to directly propose and enact resolutions and ordinances or approve or reject, in whole or in part, any ordinance or resolution passed by any local legislative body upon compliance with the requirements of this Act is hereby affirmed, recognized and guaranteed.

SECTION 2. (1) The power of initiative and referendum shall be exercised by the registered voters of provinces, cities, municipalities, and barangays or barrios.

(2) Initiative and referendum shall be validly initiated only upon petition therefor signed by at least ten per centum (10%) of the total number of registered voters of a local government unit, of which every legislative district, in case of provinces or cities with more than one legislative district, must be represented by at least three per centum (3%) of the registered voters thereof.



SECTION 3. (1) A group of registered voters, not less than five hundred (500) in case of provinces and cities, one hundred (100) in case of municipalities, and fifty (50) in case of barangays or barrios, may file a petition with a local legislative body proposing the adoption or enactment, amendment or repeal, of any ordinance or resolution.

(2) If no favorable action thereon is made by the local legislative body within thirty (30) days from its presentation, the proponents may invoke the people's power of initiative and referendum giving notice thereof to the local legislative body concerned.

(3) Such proposal shall be called "PROPOSITION" numbered serially starting from number one. The Secretary of Local Government or his designated representative shall extend assistance in the formulation of the proposition.

(4) Proponents are given ninety (90) days in case of provinces and cities, sixty (60) days in case of municipalities, and thirty (30) days in case of barangays or barrios from notice mentioned in paragraph (2) hereof to collect the required signatures. The proposition shall be in writing and every page to be signed by the voters shall contain an abstract or summary of the proposition in not more than one hundred (100) words legibly written or printed at the top thereof.

(5) The proposition shall be signed before the election registrar or his representative, and in the presence of a representative of the proponents and a representative of the local legislative body concerned, and in a public place in the province, city, municipality or barangay or barrio, as the case may be. Signature stations may be established in as many places as may be warranted.

(6) The election registrar shall verify the signatures on the basis of the registry lists of voters used in the election

immediately preceding the referendum.

(7) Upon the lapse of the period herein provided, the Commission on Elections, through its office in the local government unit concerned shall certify as to whether or not the required number of signatures has been obtained. Failure to obtain the required number is a defeat of the proposition.

(8) If the required number of signatures is obtained, the Commission on Elections shall then set the date for the referendum at which the proposition shall be submitted to the registered voters in the local government unit concerned for their approval or disapproval within forty-five (45) days in case of provinces and cities and thirty (30) days in case of barangays or barrios from the date of certification. The referendum shall then be held on the date set, after which the results thereof shall be certified and proclaimed by the Commission on Elections.

(9) The provisions of the election code and applicable laws shall apply to initiatives and referendums in a supplementary character.

(10) If the proposition is approved by a majority of the votes cast in the referendum, it shall take effect fifteen (15) days after certification as if action thereon had been made by the local legislative body concerned. If it fails to obtain said number of votes, the proposition is considered defeated.

(11) If at anytime before the referendum is held, the local legislative body shall adopt en toto the proposition made, the referendum shall be cancelled. However, those against said action may, if they so desire, apply for initiative and referendum in the manner herein provided.

(12) Two or more propositions may be submitted in the same referendum.

(13) The power of initiative and referendum shall not be exercised oftener than once every year.

SECTION 4. Any local legislative body may submit to the registered voters of a province, city, municipality, or barangay or barrio, for approval or rejection any ordinance or resolution duly enacted by it. Said referendum shall be held under the control and direction of the Commission on Elections within ninety (90) days in case of provinces and cities, sixty (60) days for municipalities, and thirty (30) days for barangays or barrios. The Commission on Elections shall certify and proclaim the results of the said referendum.

SECTION 5. Any proposition adopted and approved through the process of initiative or referendum as herein provided shall not be repealed, modified, or in any manner changed by the local legislative body concerned within three (3) years from its approval except by a vote of two-thirds of all of its members.

SECTION 6. The Commission on Elections and the Secretary of Local Government shall jointly adopt and promulgate rules and regulations to carry out the purposes of this Act.

SECTION 7. Nothing in this Act shall prevent or preclude the proper courts from declaring null and void any proposition approved pursuant to this Act for violation of the Constitution or want of capacity of the local legislative body concerned to enact the said measure.

SECTION 8. It shall be the ministerial duty of the local legislative body concerned to appropriate the necessary funds for the conduct of the initiative and referendum. The National Government shall extend financial assistance to the local government units in meritorious cases so that the people's power of initiative and referendum may be exercised.

SECTION 9. This Act shall take effect upon its approval.

APPROVED.