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Republic of the Philippines
COMMISSION ON ELECTIONS
Manila

BY: *Wmayer*
DATE: *6/29/09* TIME: *2:45pm*

ENFORCEMENT OF THE PROHIBITION AGAINST APPOINTMENT OR HIRING OF NEW EMPLOYEES; CREATION OR FILLING UP OF NEW POSITIONS; GIVING SALARY INCREASES; TRANSFER/ DETAIL OF CIVIL SERVICE EMPLOYEES; AND SUSPENSION OF ELECTIVE LOCAL OFFICIALS IN CONNECTION WITH THE JULY 30, 2009 PLEBISCITES TO RATIFY THE CREATION OF THE MUNICIPALITIES OF: (A) DATU HOFFER AMPATUAN, PURSUANT TO MUSLIM MINDANAO AUTONOMY ACT (MMAA) NO. 220; B) DATU SALIBO, PURSUANT TO MMAA NO. 222 AS AMENDED BY MMAA NO. 253 AND C) SHARIFF SAYDONA MUSTAPHA, PURSUANT TO MMAA NO. 225 AS AMENDED BY MMAA NO. 252, PROVINCE OF MAGUINDANAO.

MELO, JOSE A.R., Chairman
SARMIENTO, RENE V., Commissioner
FERRER, NICODEMO T., Commissioner
TAGLE, LUCENITO N., Commissioner
VELASCO, ARMANDO C., Commissioner

X-----x Promulgated : June 29, 2009

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RESOLUTION NO. 8632)

WHEREAS, Sec. 261 (g), (h) and (x) of the Omnibus Election Code of the Philippine provides that:

"The following shall be guilty of an election offense:

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"(g) Appointment of new employees, creation of new position, promotion, or giving salary increases. – During the period of forty five (45) days before regular election and thirty (30) days before a special election, (1) any head, official or appointing officer of a government office, agency or instrumentality, whether national or local, including government-owned or controlled corporations, who appoints or hires any new employee, whether provisional, temporary or casual, or creates and fills up any new positions, except upon prior authority of the Commission. The Commission shall not grant the authority sought unless, it is satisfied that the position to be filled up is essential to the proper functioning of the office or agency concerned, and that the position shall not be filled up in a manner that may influence the election.

"As an exception to the foregoing provisions, a new employee may be appointed in case of urgent need: Provided, however, that notice of the appointment shall be given to the Commission within three (3) days from

[Signature]

the date of the appointment. Any appointment or hiring in violation of this provision shall be null and void. "

"(2) Any government official who promotes, or gives any increase of salary or remuneration or privilege to any government official or employee, including those in government-owned or controlled corporations. "

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"(h) Transfer of officers and employees in the civil service. - Any public official who makes or causes any transfer or detail whatever of any officer or employee in the civil service including public school teachers, within the election period except upon approval of the Commission.

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"(x) Suspension of elective provincial, city, municipal or barangay officer. – The provisions of law to the contrary notwithstanding during the election period, any public official who suspends, without prior approval of the Commission, any elective provincial, city, municipal or barangay officer, unless said suspension will be for purposes of applying the Anti-Graft and Corrupt Practices Act in relation to the suspension and removal of elective officials; in which case the provision of this section shall be inapplicable."

WHEREAS, to enforce effectively the foregoing provisions, there is a need to promulgate the necessary rules for the guidance of all concerned.

NOW THEREFORE, the Commission on Elections, pursuant to the powers vested in it by the Constitution, the Omnibus Election Code, and other election laws, **RESOLVED** to promulgate, as it hereby **RESOLVES** to promulgate, the following rules to implement the provisions of Section 261, subsections (g), (h) and (x) of the Omnibus Election Code in the areas covered by the July 30, 2009 plebiscites in the Municipalities of Shariff Aguak, Datu Unsay, Datu Saudi Ampatuan, Datu Piang and Mamasapano, all in the province of Maguindanao.

SECTION 1. Prohibited acts. – (a) During the plebiscite period from June 30, 2009 until August 6, 2009, no public official in the areas covered by the plebiscites, shall, except upon prior written authority of the Commission,

1. Make or cause any transfer/detail whatsoever of any officer or employee in the civil service, including public school teachers.

"Transfer" as used in this provision shall be construed as any personnel movement from one government agency to another or from one

department, division, geographical unit or subdivision of a government agency to another with or without the issuance of an appointment.

2. Suspend any elective provincial, city, municipal or barangay officer, unless the suspension will be for purposes of applying the "Anti-Graft and Corrupt Practices Act" in relation to the suspension and removal of elective officials.

(b) Beginning June 30, 2009 until August 6, 2009,

1. No head, official or appointing officer of any national or local government office, agency or instrumentality, including government-owned or controlled corporations, shall, except upon prior authority of the Commission,
 - a. Appoint or hire any new employee, whether permanent, provisional, temporary, substitute or casual; or
 - b. Create and fill up any new position.
2. No government official shall promote or give any increase of salary or remuneration or privilege to any government official or employee, including those in government-owned or controlled corporations.

SEC. 2. Request for authority of the Commission; how to file. – (a)

Requests for authority to make or cause any transfer or detail of any officer or employee in the civil service shall be in writing and filed with the Law Department of the Commission.

Said request shall indicate: (1) the office and place to which the officer or employee is proposed to be transferred/detailed or otherwise moved; and (2) stating the reasons therefore.

The Law Department shall, within three (3) days from receipt of the request, evaluate and submit the corresponding recommendation to the Chairman for approval/disapproval.

(b) Requests for authority to create and fill up new positions shall be filed with the Law Department of the Commission and shall be evaluated and processed as provided in Item (a) hereof.

The request shall not be granted unless the position to be filled up is essential to the proper functioning of the office or agency concerned; and that the filling up of such position shall not in any manner influence the result of the elections.



(c) Requests for authority to appoint or hire new employees shall be filed with the Office of the Regional Election Director of the ARMM, stating all the necessary data and reasons for the same.

The Regional Director of ARMM shall, within three (3) days from receipt, evaluate the request and approve/disapprove the same. Within three (3) days from his approval/disapproval of the request, the Regional Election Director of ARMM shall furnish the Law Department and the Chairman with copies thereof.

The request shall not be granted unless the position to be filled up is essential to the proper functioning of the office or agency concerned; and that the filling up of such position shall not in any manner influence the result of the elections.

(d) Renewal of appointments of temporary, casual, substitute and contractual personnel are not covered by this prohibition and therefore will no longer need prior authority of the Commission. However, the appointing authority shall furnish the Commission, through the Regional Election Director of the ARMM, a complete list of employees whose appointments were renewed indicating their position, item number, salary grade and station.

(e) Requests for authority to suspend an elective provincial, city, municipal or barangay officer shall be filed with the Law Department together with a copy of the formal complaint against the official sought to be suspended, executed under oath and containing the specific charges therefore or a copy of the final decision imposing the penalty of suspension against the official sought to be suspended.

The Law Department shall, within three (3) days from receipt of the request, evaluate the same and submit its recommendation to the Commission for approval or disapproval.

SEC. 3. Urgent need to appoint new employees. – Where there is urgent need to appoint or hire new employees, the same may be allowed without the need for a prior request for authority from the Commission provided that within three (3) days from the date of the appointment or hiring, the Commission through the Regional Election Director of the ARMM, shall be notified in writing, stating therein the exact date when the position sought to be filled up became vacant, the cause of vacancy, reason/s for said appointment or hiring and all the necessary data or information regarding the same.

The appointment or hiring of new employees shall be valid unless the same is found by the Commission: (1) to have been made to influence in any manner the results of the election; (2) to have been issued without the required notice; and (3) that there is no urgent need for the appointment.

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The need to fill up a vacant position by a new employee may be considered "urgent" if the position to be filled up is essential to the proper functioning of the office or agency concerned and that the position sought to be filled up has been vacated either by the death, retirement, resignation, promotion or transfer of the regular incumbent; provided, that the appointment is issued within sixty (60) days from occurrence of the vacancy, and that the same cannot be filled up by promotion or transfer of insiders within the same period; and provided further, that the position shall not be filled up in a manner that may influence the election.

Appointment to a position which has been vacant for more than sixty (60) days before the issuance of appointment shall not be considered urgent and must, therefore, require prior written authority from the Commission.

SEC. 4. Total ban on promotion, salary increases, granting privileges. – Promotion or giving any increase of salary, remuneration, or privilege to any government official or employee including those in government-owned or controlled corporations, is strictly prohibited without exception whatsoever.

"Promotion" as used in this provision shall mean the advancement of an employee from one position to another with an increase in duties and responsibilities as authorized by law, and usually accompanied by increase in salary. Promotion may be from one department or agency to another or from one organizational unit to another within the same department or agency."

SEC. 5. Injunction. – The Civil Service Commission (CSC) is hereby enjoined not to approve the appointment of new employees where no prior written approval of the Commission is presented by the appointing authority concerned or proof that the required notice within the 3-day reglementary period as provided in Section 3 hereof has been complied with.

The Department of the Budget and Management (DBM) and the Commission on Audit (COA shall not release or authorize the release of any appropriation or pass in audit, payments or expenditures of public funds that may be directly or indirectly used in violation of the foregoing prohibitions.

The CSC is directed to submit immediately to the Commission a written report of any violation of the prohibition on transfer, promotion, appointment or hiring or grant of remuneration or salary increase or privilege.

SEC. 6. Penalty. – Any violation of the provisions of this Resolution shall constitute an election offense and shall be punishable by imprisonment of not



less than one (1) year but not more than six (6) years, among other penalties provided by law.

SEC. 7. Effectivity. – This Resolution shall take effect on the seventh (7th) day after its publication in two (2) daily newspapers of general circulation.

SEC. 8. Dissemination. – The Education and Information Department shall cause the publication of this Resolution in two (2) daily newspapers of general circulation, and shall furnish copies thereof to Regional Election Director of the ARMM; the Provincial Election Supervisor of Maguindanao; the Election Officers of Municipalities of Shariff Aguak, Datu Unsay, Datu Saudi Ampatuan, Datu Piang and Mamasapano, all in the province of Maguindanao; the Secretary of the Department of the Interior and Local Government; the Secretary of the Department of Education; the Regional Governor of ARMM; the Provincial Governor of Maguindanao; the DepEd ARMM and the Municipal Mayors, Municipal Treasurers and the DepEd Supervisors of Municipalities of Shariff Aguak, Datu Unsay, Datu Saudi Ampatuan, Datu Piang and Mamasapano, all in the province of Maguindanao, with a copy of this Resolution.

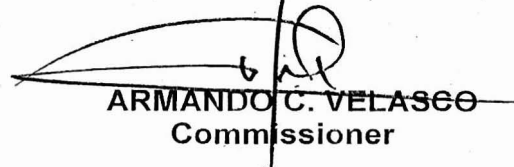
SO ORDERED.


JOSE A. R. MELO
Chairman


RENE V. SARMIENTO
Commissioner


NICODEMO T. FERRER
Commissioner


LUCENITO N. TAGLE
Commissioner


ARMANDO C. VELASCO
Commissioner

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