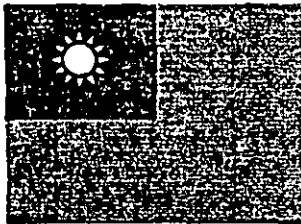


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The Public Officials Election and Recall Law

Republic of China

F Clifton White Resource Center
International Foundation for Election Systems

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The Public Officials Election and Recall Law

Promulgated by presidential decree (69) t'ai t'ung(1)yi No. 2660, on May 14, 1980

Amended and promulgated by presidential decree (72) t'ai' t'ung (1)yi No. 3742, on July 8, 1983

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* This is an English translation of the original Chinese text of the Law. In case of any discrepancy between the Chinese and English text, only the Chinese text shall govern.

Chapter One

General Provisions

Article 1

The election and recall of public officials shall be governed by the provisions of this law. For matters not provided in this Law shall be governed by other relevant and applicable laws and regulations.

Article 2

The public officials herein referred to mean the following personnel:

- 1) Central public officials: delegate of the National Assembly, member of the Legislative Yuan;
- 2) Local public officials: councilman of the Provincial Assembly and of the Municipal Council, councilman of *Hsien (**City) Council, representative of the Hsiang (Chen and Shih) Representative Conference, Provincial governors and Municipal mayor, magistrate and City mayor, *** Hsiang (Chen and Shih) chief, **** Ts'un and ***** Li leader.

*Hsien: a local administrative unit under the jurisdiction of Province.

**City: a local administrative unit of Hsien status, such as county, under the jurisdiction of Province.

***Hsiang, Chen, Shih: all are towns under the jurisdiction of Hsien.

****Ts'un: a small town such as village.

*****Li: an administrative unit under the jurisdiction of Ch'u.

Article 3

The election of public officials shall be conducted by universal, equal, direct, and secret suffrage and by single-member ballots.

The election of central public officials through nation-wide constituency, and of the overseas Chinese, shall be based on proportional representation among the political parties.

The recalls of public officials shall be decided by the electors of their respective constituencies with secret ballots.

Article 4

The calculation of the age and length of residence of the elector and candidate shall count up to the day immediately preceding the balloting day, and shall be according as those recorded on the household registration books.

The length of residence mentioned in the preceding paragraph shall begin and calculate from the date of submitting of an application for registration of moving in household.

Where reholding a balloting, the precedent original balloting day shall be the criterion day.

Article 5

The calculation of the various lengths stipulated by this law shall be in accordance with the provisions of the Civil Code, provided that the length shall not be lengthened where its last day is a holiday.

Chapter Two

Election and Recall Organs

Article 6

For the election of public officials, the Central, Provincial (Municipal), and Hsien (City) shall establish Election Commission, and shall conduct election affairs respectively.

Article 7

The Central Election Commission shall be in charge of the elections of the central public officials, councilmen of the Provincial Assembly and Municipal Council, Provincial governor and Municipal mayor. The Commission shall also direct, supervise various level of election commissions to conduct elections affairs.

The Provincial Election Commission shall be in charge of the elections of Hsien (City) councilmen, magistrate and City mayor. The Commission shall also direct, supervise the Hsien (City) Election Commissions to conduct elections affairs.

The Hsien Election Commission shall conduct the elections of the representatives and Hsiang (Chen and Shih) chief.

The Municipal Election Commission and Hsien (City) Election Commission shall conduct the elections of Ts'un and Li leaders respectively.

The elections stipulated in paragraph 2, 3, and 4 shall also be under the supervision of superior election commission thereof respectively.

During the election period, the Municipal and Hsien (City) Election Commission shall also establish offices of election affairs in Hsiang (Chen , Shih and * Ch'u).

* Ch'u: an administrative district of Municipality and each consist of several Lis.

Article 8

The Central Election Commission shall be under the jurisdiction of the Executive Yuan and shall consist of several commissioners. The commissioners shall be appointed by the President upon the recommendation of the Premier of the Executive Yuan. One of the appointee shall be designated as the chairman. The Organic Rules of the Commission shall be drafted by the Executive Yuan and shall be submitted to the President for approval.

The Provincial (Municipal) Election Commissions shall be under the jurisdiction of the Central Election Commission and shall consist of several commissioners, and shall be appointed by the Premier of the Executive Yuan upon the recommendation of the Central Election Commission, and one of the appointee shall be designated as the chairman.

The Hsien(City) Election Commissions shall be under the jurisdiction of the Provincial Election Commission and shall consist of several commissioners; they shall be appointed by the Central Election Commission upon the recommendation of the Provincial Election Commission, and one of the appointee shall be designated as the chairman.

The Organic Rules of Provincial (Municipal) Election Commission shall be prescribed by the Central Election Commission and shall be submitted to the Executive Yuan for approval.

There shall be non-partisan commissioners in each election commission. The number of the same partisan commissioner shall not exceed two-fifths of the total commissioner of the Central Election Commission and shall not exceed one-half in case of the Provincial (Municipal) Election Commission and Hsien (City) Election Commission respectively.

The election commissions at various level shall discharge their functions and duties impartially in accordance with the law and regulation.

Article 9

The recalls of public officials shall be conducted by the election commissions of various level, and the provision of Article 7 applied mutatis mutandis.

Article 10

During the period of conducting election or recall, the election commissions of various level may be competent to have the staff of any government agencies transferred to do election or recall business.

Article 11

The election commissions of various level shall be in charge of the following affairs:

- 1) The proclamation of elections and recalls.
- 2) The preparation of the procedures and plans for elections and recalls.
- 3) The screening of the qualification of candidate.
- 4) The planning for election publicity.
- 5) The inspection of election and recall activities.
- 6) The establishment and management of ballot casting and opening stations.
- 7) The examination of the results of election and recall.
- 8) The preparation and issuance of election certificate.
- 9) The enactment of the rules for the utilization of television and other forms of mass media by the political parties for campaigning and propaganda activities.
- 10) Other affairs pertaining to election and recall.

Article 12

The Central Election Commission shall select several impartial persons qualified to vote as inspectors-at large. They shall be appointed by the Premier of the Executive Yuan upon the recommendation of the Commission. One of the appointee shall be designated as convener. The Municipal, Hsien (City) Election Commissions shall each establish an inspectional panel with several inspectors. They shall be selected by the Commission thereof among impartial persons qualified to vote, and shall be recommended to the Central Election Commission or the Provincial Election Commission for appointment. One inspector of each panel shall be designated as its convener. Each inspectional section shall execute the following affairs:

- 1) To supervise if there is any violation of law and regulation pertaining to election and recall by candidate, campaign assistant, recall initiator or the official to be recalled.
- 2) To supervise if there is any violation of law and regulation regarding election and recall by elector or recall voter.

3) To supervise if there is any law violation by the persons executing election or recall business.

4) Other inspectional affairs pertaining to election and recall.

All inspectors in the preceding paragraph shall be honorary position without salary. The terms of office and the number of inspectors shall be prescribed in the Organic Rules and Regulations of the Central, Municipal and Hsien (City) Election Commission.

The Municipal, Hsien (City) Election Commission shall each select impartial persons qualified to vote as inspectors to work in the meetings of political views presentation.

The Guideline for Executive Inspectional Function and Duties shall be prescribed by the Central Election Commission.

Article 13

The budgets of the election commissions of various level shall be prepared by the Central, Provincial (Municipal) and Hsien (City) Government in accordance with the law.

Chapter Three

Elections

Section 1 Electors

Article 14

All citizens of the Republic of China who have attained the age of 20 and do not have any of the following circumstances shall be eligible to vote:

1) To have civil rights been deprived and have not been restituted.

2) To have been declared incompetent and the declaration has not been abrogated.

Where the sentence ruled in accordance with the Regulations Governing the Punishment of Seditious Elements during the period of enforcement of the Martial Law, the provisions in item 1 of the preceding paragraph shall not be applied.

Article 15

In an election of public officials, a person having the right to vote shall be an elector in that constituency where he has resided sequentially for more than four months.

The length of residence as provided for in preceding paragraph, shall be the length of his/her residence in the administrative district where he/she lives even when a new constituency created therein; however, that a person who moves into a new constituency after the election proclamation is made, shall have no right to vote in the election there of.

Article 16

In an election of public official representing aboriginal tribes, the electors shall be those possessing both aboriginal identification and the qualification set forth in the preceding Article .

Article 17

(deleted)

Article 18

(deleted)

Article 19

(deleted)

Article 20

Unless the law otherwise provided, an elector shall cast ballots at the polls in the place of his/her household registration.

The workers of the polls may cast their ballots either in the place of their household registration or in the place of work.

Article 21

An elector shall obtain his ballot in the polls on the presentation of his identification card.

Article 22

All electors shall go to the polls to obtain and cast their ballots within the prescribed casting time. After the deadline no one shall be permitted to enter the polls; however, those who have entered timely but not yet cast their ballots may proceed to cast.

Section Two Electoral Registers

Article 23

The electoral register shall be compiled by the household office of Hsiang (Chen, Shih, Ch'u) based on the household registration books. All those who have duly registered on the day of twenty days before the balloting day and in accordance with the law have the right to vote, shall be included in the register. Those electors who have moved out from their registered residences within twenty days before the balloting day shall exercise their right to vote in the constituency where they are originally qualified to vote.

Article 24

(deleted)

Article 25

The electoral register of the aboriginal tribes shall be compiled by the household office in accordance with the provisions of Article 23. The identification of an aborigine shall be based on the record in the household registration books.

Article 26

When elections of more than two categories of public officials are held simultaneously, the electoral registers may, according to the actual need, be compiled either separately or jointly.

Article 27

(deleted)

Article 28

(deleted)

Article 29

Upon completion of the compilation of the electoral registers, the household offices shall submit to the Hsiang (Chen, Shih, Ch'u) office for transmittal to the Municipal, Hsien(City) Election Commission for reference. At the same time it shall send a copy to the respective Ts'un, Li office to be put on display, public reading, and promulgation in each * Lin office respectively for five days. Any citizen who finds a mistake or an omission on the copy, may apply for correction during the period thereof.

*Lin: the smallest administrative district unit under the jurisdiction of Li. A Li may consist of several Lins.

Article 30

At the expiration of public display, reading, and promulgation days, the Ts'un, Li leader shall immediately submit the electoral register together with a report on the applications for corrections, if any, to the Hsiang (Chen, Shih, Ch'u) office for transmittal to the household office for re-checking and re-correcting purposes.

The electoral registers shall be finally established and fixed after public promulgation and corrections, and the Municipal, Hsien (City) Election Commissions shall proclaim the numbers of electors.

Section Three Candidates

Article 31

An elector who has attained the age of 23 may register as a candidate for public official in the constituency where he may exercise the right to vote; however, that to be a candidate for Provincial governor or Municipal mayor, the age shall be 35, for Magistrate or City mayor the age shall be 30, and for Hsiang (Chen, Shih) chief the age shall be 26.

An elector who has attained the age of 23 may be registered by a legally established political party as a candidate for central public official of the nation-wide constituency.

A citizen of the Republic of China who has attained the age of 23 and has no household record or resided abroad sequentially not less than eight years may be registered by a legally established political party as a candidate for public official representing overseas Chinese.

The candidates registered by a political party in the nation-wide constituency and the candidates claiming to represent overseas Chinese shall be its party members with their written consent. The name list of candidates thereof shall be fixed in writing and sequence.

A person whose Chinese nationality has been restituted for not less than three years or has been procured by naturalization for not less than ten years, may be registered as a candidate in accordance with the provisions set forth in the preceding four paragraphs.

Article 32

A person registered as a candidate of Provincial governor or Municipal mayor, magistrate or City mayor, and Hsiang (Chen, Shih) chief shall be required to have the following education and experience background:

- 1) Candidate for Provincial governor and Municipal mayor: a graduate of college higher than the junior college or having passed examination of higher than the High Civil Service Examination together with experience in administrative position, or having taught as a lecture or higher teaching position at college higher than junior college, or having practiced profession with a qualification certified by the passing of High Civil Service Examination added up to more than three years; or having graduated from a school higher than senior high school, or passed examination higher than the Ordinary Civil Service Examination together with working as Provincial (Municipal) councilman or higher public service position or magistrate or City mayor or of higher public service position added up to more than three years.
- 2) Candidate for Magistrate and City mayor: a graduate of college higher than the junior college or having passed examination higher than the High Civil Service Examination together with experience in administrative position, or having taught as a lecture or higher teaching position at college higher than the junior college, or having practiced profession with a qualification certified by the passing of the High Civil Service Examination added up to more than three years; or having graduated from school higher than senior high school or passed examination higher than the Ordinary Civil Service Examination together with working as Hsien (City) councilman or higher public service position or Hsiang (Chen, Shih) chief or of higher public service position added up to more than three years.
- 3) Candidate for Hsiang (Chen, Shih) chief: a graduate of school higher than junior high school or having passed examination of higher than the Ordinary Civil Service Examination together with experience in administrative position added up to more than three years, or as a representative of Hsiang (Chen, Shih) or a higher public official position added up to more than three years.

The qualification set forth in preceding paragraph pertaining to education and experience background shall be determined by a screening process. The Rules of Screening Process Concerning the Public Officials Candidate shall be prescribed by the Examination Yuan.

The term of "administrative position" mentioned in paragraph 1, in case of a public officials, it means a position of recommended rank officer or a higher position of equal rank in item 1 and 2, of delegated rank officer or a higher position of equal rank in item 3.

A person who has been qualified by a screening process as a candidate for public official before the enforcement of this Law, shall be an eligible candidate for public officials thereof, and need no more the same screening process.

A person who has been qualified by screening process as a candidates for public officials specified in item 1 of paragraph 1, shall be an eligible candidate for public official in item 2 and 3; a person who has been qualified by a screening process as a candidate for public officials in item 2, shall be eligible for the candidate for public officials specified in item 3.

Article 33

When elections of two or more categories of public officials are held simultaneously, a person shall be permitted to register as candidate only for one of them. A person who has two or more qualifications of candidacy in the election of one category of public officials shall be permitted to register only one candidacy.

The registration of a person who has registered simultaneously as two or more different categories or candidates shall be null and void.

Article 34

A person who has any of the following circumstances shall not be registered as candidate:

- 1) To have committed offenses against the external security of the state, and interference with relations with other states and been convicted in accordance with Criminal Code after the termination of the Period of Mobilization for Suppressing of the Communist Rebellion.
- 2) To have committed the offense of bribe and been convicted.
- 3) To have committed any of the offenses set forth in Articles 142 and 144 of the Criminal Code and been convicted.
- 4) To have committed a crime other than the offenses set forth in the preceding three items and been convicted and sentenced to a fixed prison term which has not been or entirely been served; however, that those who have been adjudicated reprieve, this provision shall not be applied.
- 5) To have been confined under peace and safety preservation measures or have been ordered to receive reformatory education and have not served or finished the confinement or education.
- 6) To have been declared bankrupt and the rights there of have not been restored.
- 7) To have been suspended investiture or position in accordance with law and have not been expired.

- 8) To have been deprived of civil rights and have not been restored.
- 9) To have been declared unfit to dispose of property and have not been restored.

Article 35

The following person shall not be registered as candidates:

- 1) Military men or policemen in active service.
- 2) Students currently attending schools.
- 3) Persons handling election affairs.

The military men in active service as mentioned in item 1 of preceding paragraph, shall not apply to those who are in the reserves or militia men on call before they are ordered to enlist for active service, or when they are on educational service or muster duties.

The student currently attending school as mentioned in item 2 of preceding paragraph, shall not be applied to those who are incumbent public officials taking advanced courses.

An incumbent public functionary shall not be registered in the constituency where his/her main office is located as a candidate for delegate of the National Assembly.

Article 35 bis

All legally established political parties may recommend candidates to participate in the elections for public officials. The candidates thus recommended shall submit the party's letter of recommendation to the relevant election commission for registration.

Article 36

After the name list of candidates has been proclaimed, if any of the following circumstances is found before the proclamation or balloting day, the election commission concerned shall revoke candidacy registered. If such fact is found after the candidate being elected, the election commission concerned shall bring a lawsuit against him/her to invalidate the election in accordance with the provision set forth in Article 103 bis.

- 1) The qualifications of the candidate are not accordant to the requirements specified in Article 31, or the qualifications acquired through the screening process has been nullified.
- 2) There is any circumstance of Article 34 or Article 35 paragraphs 1 and 4.
- 3) Candidacy registration is forbidden by paragraph 1 of Article 85.

Article 36 bis

After the deadline of candidates' registration and before the balloting day, the number of candidate thereof, because of death of the candidate, become not exceed or less than that of the number to be elected of the concerned constituency, the election activities shall be proclaimed quit and fix another date for the election once more.

Article 37

A person who has registered as candidate may not withdraw the candidacy registration.

A political party which has recommended persons to register as candidates in the geographical constituencies or in the aboriginal tribe constituencies may withdraw its recommendation before the deadline of the registration period.

The name list registered by a political party of the candidates in the nation-wide constituency and of the candidates claiming to represent overseas Chinese may be withdrawn or changed by the same political party before the deadline of the registration period.

The candidacy of a registered candidate who has moved away from his current constituency or who has disenrolled his household registration shall not be affected, and he/she may still be able to exercise his /her right to vote therein.

Article 38

At the time of registering his candidacy, a candidate shall make a security deposit, the amount of which shall be duly announced in advance by the election commission; however, that the candidate for Ts'un or Li leader shall be exempted from making.

The security deposit of the candidates in the nation-wide constituency and of the candidates claiming to represent overseas Chinese shall be paid by the political party which register them in accordance with the proclaimed amount and the number of the candidates it has registered.

The security deposit referred to in the preceding two paragraphs shall be refunded within ten days after the announcement of the name list of the elected; however, that no refund shall be made in any of the following circumstances:

- 1) The candidates of the nation-wide constituency and of the candidates claiming to represent overseas Chinese failed to be elected.
- 2) The candidates of any election who has failed to receive ten per cent of the quotient resulting from dividing the total number of eligible electors in the candidate's constituency by the number to be elected therein.

Section Four Constituencies

Article 39

For the election of public officials, the constituencies shall be prescribed as following:

- 1) For delegate of the National Assembly to be elected by Municipality and Hsien (City): the administrative areas which they belong, shall be their respective constituencies, and the administrative area may also be demarcated several constituencies therein.
- 2) For member of the Legislative Yuan to be elected by Province (Municipality): the administrative areas which they belong, shall be their respective constituencies, and the administrative area may also be demarcated several constituencies therein.
- 3) For the councilman of the Provincial Assembly to be elected by Hsien (City): the administrative areas which they belong, shall be their respective constituencies; for councilmen of the Municipality, the administrative areas which they belong, shall be their respective constituencies, and the administrative area may also be demarcated several constituencies therein.
- 4) For Hsien (City) councilman and Hsiang (Chen, Shih) representative: the administrative areas which they belong, shall be their respective constituencies, and the administrative area may also be demarcated several constituencies therein.
- 5) For Provincial governor and Municipal mayor, magistrate and City mayor, Hsiang (Chen, Shih) chief and Ts'un and Li leader: the administrative areas which they belong, shall be their respective constituencies.

Article 40

(deleted)

Article 41

For delegate of the National Assembly, member of the Legislative Yuan, Provincial (Municipal) councilman, Hsien (City) councilman, Hsiang (Chen, Shih) representative to be elected by aboriginal tribes, the constituencies shall be fixed in accordance with the following provisions:

- 1) For delegate of the National Assembly and member of the Legislative Yuan to be elected by aborigine, all the aboriginal tribes shall constitute a constituency, and it may also be demarcated constituencies between the plain-aborigine and the mountainous-aborigine.

- 2) For Provincial (Municipal) councilman, Hsien (City) councilman, Hsiang (Chen, Shih) representative to be elected by aboriginal tribes, the constituencies shall be the administrative areas of Province (Municipality), Hsien (City), and Hsiang (Chen, Shih) and they may also be demarcated constituencies in conformity with plain-aborigine and mountainous-aborigine or within the administrative areas thereof.

Article 42

The constituencies provided for in Item 1 to 3 of Article 39 and Item 1 and 2 of Article 41 for the election of Provincial(Municipal) councilman shall be demarcated by the Central Election Commission; the constituencies set forth in Item 4 of Article 39 and Item 2 of Article 41 for the election of Hsien (City) councilman shall be demarcated by the Provincial Election Commission; the constituencies set forth in Item 4 of Article 39 and Item 2 of Article 41 for the election of Hsiang (Chen, Shih) representative shall be demarcated by the Hsien Election Commission; the constituency demarcation shall also be proclaimed simultaneously together with the election proclamation. Where there is a change in constituency demarcation, the proclamation shall be made one year before the expiration of the terms of office of the public official concerned, or before a prescribed date.

In making the constituency demarcation as prescribed in the preceding paragraph, administrative districts, population distribution, geographical environment, transportation situation and the number of public officials to be elected shall all be taken into account.

Section Five Election Proclamations

Article 43

The election commission shall issue various proclamations in accordance with the following provisions:

- 1) An election proclamation shall set forth the category of election, the number of public officials to be elected, the demarcation of constituencies, the election date and the beginning and ending time of balloting. The proclamation shall be issued forty days before the expiration of terms of office of the public official concerned or before the prescribed dates; however, that where reholding an election or a reballoting, and or supplementary election, the forty days stipulation shall not apply.
- 2) Days for candidates registration shall be proclaimed twenty days before the balloting day. The duration of registration shall not be less than five days; however, that the election of Hsiang (Chen, Shih) representative or chief, Ts'un or Li leader, the duration shall not be less than three days.
- 3) The name list of the election shall be proclaimed fifteen days before the balloting day, and the duration thereof shall not be less than five days.

- 4) The name list of registered candidate shall be proclaimed one day before the beginning of campaign activities.
- 5) The number of elector shall be proclaimed three days before the balloting day.
- 6) The name list of the elected persons shall be proclaimed within seven days after the balloting day.

Where no candidate is registered in a constituency during the duration as prescribed in preceding paragraph item 2, a second proclamation for candidate registration shall be issued, and the duration of registration shall not be less than two days.

Article 44

The elections and ballotings of public officials shall be completed ten days before the expiration of their respective terms of office or the prescribed dates; however, that this provision shall not apply in case of reholding an election, and of a reballoting or of a supplementary election.

Section Six Election Activities

Article 45

The duration of campaign activities of the candidates for public officials shall be in accordance with the following provisions:

- 1) Twenty-five days for the candidate of Provincial governor.
- 2) Fifteen days for the candidate of Municipal mayor.
- 3) Ten days for the candidate of delegate of the National Assembly, member of the Legislative Yuan, Provincial (Municipal) councilman, Hsien (City) councilman, magistrate and City mayor, and of Hsiang (Chen, Shih) chief.
- 4) Five days for the candidate of Hsiang (Chen, Shih) representative, and for Ts'un, Li leader.

The duration of campaign activities referred to in the preceding paragraph shall be counted backward from the day before the balloting day, and the beginning and ending time of each campaign day shall be prescribed by the election commission.

Article 45 bis

The maximum amounts of campaign expenditures of various public officials shall be calculated according to provisions by the election commission and be announced simultaneously together with the election proclamation.

The maximum amounts of campaign expenditures mentioned in the preceding paragraph shall be calculated in accordance with the following provisions:

- 1) For the election of delegate of the National Assembly, member of the Legislative Yuan, Provincial (Municipal) and Hsien(City) councilmen, Hsiang (Chen, Shih) representative, the amount shall be the sum of the resulting from the number of elected persons dividing by seventy percent of the total population of the constituency concerned, and then multiplying the basic amount of 15 New Taiwan Dollars, and then adding a fixed amount.
- 2) For the election of Provincial governor or Municipal mayor, magistrate or City mayor, Hsiang (Chen, Shih) chief, or Ts'un, Li leader, the amount shall be the sum of resulting from seventy percent of the total population of the constituency concerned multiplying the basic amount of 8 New Taiwan Dollars, and then adding a fixed amount.

The fixed amount as prescribed in the preceding paragraph shall be 10 million New Taiwan Dollars for Provincial governor or Municipal mayor each; 6 million New Taiwan Dollars for delegate of the National Assembly, member of the Legislative Yuan, magistrate or City mayor each; 4 million New Taiwan Dollars for Provincial (Municipal) councilman each; 2 million New Taiwan Dollars for Hsien (City) councilman or Hsiang (Chen, Shih) chief each; 5 hundred thousand New Taiwan Dollars for Hsiang (Chen, Shih) representative; and 80 thousand New Taiwan Dollars for Ts'un or Li leader each.

the calculation of the maximum amounts of campaign expenditures where the odd sum less than one thousand New Taiwan Dollars shall still be count as one thousand New Taiwan Dollars.

*Any violator shall be punished according to Article 95 bis of this Law.

Article 45 ter

No political party and no candidate may receive contribution of campaign expenditures from the following sources:

- 1) Foreign group or juridical person or individual, or group, juridical persons whose main membership is composed of aliens.
- 2) Other political party or candidate of the same category of election.
- 3) Government enterprise or a juridical person of an association which receives contribution(s) from the government.

*Any violator shall be punished according to Article 88 of this Law.

Article 45 quater

The candidate shall prepare an account book of campaign expenditures. The candidate him/herself or a designated person shall be responsible for accounting and ready for inspection and reference.

Within thirty days after the balloting day, the candidate mentioned in the preceding paragraph shall submit a settlement of pay-receive accounts of campaign expenditures to the election commission for final settlement of accounts of campaign expenditures. The submitted proof of expense or evidence shall be signed and bore responsibility by the candidate him/herself or a designated accountant.

The election commission, in view of the facts on hand, found that the settlement mentioned in the preceding paragraph to be untrue, may require the candidate to file proof of expense or evidence for inspection and review.

The proof of expense, evidence etc. shall be kept on file for six months after the submitting; however, in the event of a lawsuit involved, the filing shall be kept for three months from the time of final judgment.

The Rules of Inspection and Reviewing of Campaign Expenditures shall be prescribed by the Central Election Commission.

*Any violator shall be punished according to Article 97 of this Law.

Article 45 quinquies

From the day of election proclamation to the day after thirty days of balloting day, the candidate's payable campaign expenditures pertaining to campaign activities is within the maximum amount as prescribed by Article 45 bis, minus the portion of contribution, the rest may be entered in the income tax report of the current year for claiming the amount of tax reduction.

An individual's contribution of campaign expenditures to candidate may not exceed 20 thousand New Taiwan Dollars. A profit-seeking enterprise's contribution may not exceed 300 thousand New Taiwan Dollars. The sum of contributions received by a candidate may not exceed the maximum amount as prescribed by Article 45 bis.

An individual's contribution to a legally established political party may not exceed 20 percent of his/her annual total income and the sum of 200 thousand New Taiwan Dollars. A profit-seeking enterprise's contribution may not exceed 10 percent of its annual total income and the sum of 3 million New Taiwan Dollars.

The contributions mentioned in the preceding two paragraphs, in case of an individual may be entered in the income tax report of the current year for tax reduction purpose, of a profit-seeking enterprise may be entered in as expenses or losses of the current year; however, the contribution is made to a political party may not be so entered, if the candidate

so recommended failed to obtain an average of 5 percent of the ballots cast in an election of public officials or of higher than the Provincial (Municipal) level. In a non-election year the average of the last election shall be taken as the average. For a newly established political party the average shall be the average in the year of the next election.

A profit-seeking enterprise which has lost money for three or more consecutive years may not donate any campaign contribution.

Article 45 sexies

The candidates other than those in the nation-wide constituency, and those claiming to represent overseas Chinese, shall be subsidized 30 New Taiwan Dollars for each ballot exceeding one third of the ballot sufficient to win a seat in respective constituency concerned; one half of the ballots sufficient to win more than two seat in respective constituency concerned; however, the sum so subsidized may not exceed the maximum amount prescribed campaign expenditures in the candidate's constituency.

The political party's campaign expenditures of the nation-wide constituency, and of claiming to be represented overseas Chinese, shall be subsidized 5 New Taiwan Dollars for each ballot exceeding five percent of the rate of obtained ballots.

The number of ballots sufficient to win a seat mentioned in paragraph 1, where there are two or more seat to be filled, the minimum one shall be the number of ballots sufficient to win a seat. If the minimum number is the one obtained by an elected woman candidate guaranteed by law, the number immediately above this minimum shall be the required minimum number of ballots sufficient to be elected.

The expense for subsidy set forth in paragraph 1 and 2 shall be prepared in the budget in accordance with the provisions of Article 13.

Article 46

Each candidate during the period of campaign activities may set up in his/her constituency campaign headquarters and employ campaign assistants.

Regulations pertaining to campaign headquarters and to the employment of campaign assistants shall be prescribed by the Central Election Commission.

Article 47

The following persons shall not be qualified for campaign assistants:

- 1) Registered candidate other than those in the nation-wide constituency and those claiming to represent overseas Chinese.

2) Public functionaries.

3) Those who have any of the disqualifications set forth in Article 34 and those who have any of the circumstances in Paragraph 1 of Article 35.

Article 48

(deleted)

Article 49

The elections of public official other than those of election having a nation-wide constituency and having candidates claiming to represent overseas Chinese, all commission-sponsored meetings shall be held during the period of campaign activities, and all candidates shall personally present their political views therein ; however, with the consent of the whole candidates of the constituency concerned unanimously, it may not be held. In an election of Hsiang (Chen, Shih) representatives and Ts'un, Li leaders, it may be decided whether or not to hold such meeting by factual circumstances.

The Municipal, Hsien (City) Election Commissions shall announce in advance the position of the places, within their precincts, suitable for campaign activities, after consulting and obtained the consent for rent from the managing agencies, managers, and or property owners.

Article 50

The election commission shall compile data pertaining to the candidates' political views, serial numbers, photographs, names, ages, sexes, domiciles of origin, birthplaces, party affiliations, educational backgrounds, experiences, occupations, addresses, election balloting etc. and print all these data in a election bulletin.

The compilation and printing of the candidates' political views, serial numbers, photographs and domiciles of origin set forth in the preceding paragraph, shall not apply in an election having a nation-wide constituency and having candidates claiming to represent overseas Chinese.

The data of candidates and political parties set forth in paragraphs 1 and 2 shall be handed in to the election commission in charge during their candidacy registration.

The content of a candidate's political views violating the provision of Article 54 shall be revised after being informed of the violation by the election commission in charge. If it is not duly and timely revised or still with the violation after revision, the violating views shall not be printed in the bulletin.

The candidates and the political parties shall be responsible for their own data respectively. When the election commission by dint of its duties knows or after checking

finds that those data are not true, it shall not print them. The candidates recommended by political parties shall be so printed. The candidates' party affiliation shall not be printed if they are not recommended by any party or a party's formal recommendation has been withdrawn.

The election bulletins shall be distributed to all households of the constituencies and be posted on the proper places, two days before the balloting day; however, that the bulletins in an election having a nation-wide constituency and having candidates claiming to represent overseas Chinese may be published in the newspapers instead by the Central Election Commission.

The election commissions may, to meet the actual needs, make use of television and other means of mass media to conduct election affairs and for the campaign activities of the political parties in the election of public officials of certain categories; the Regulations thereof shall be prescribed by the Central Election Commission.

Article 50 bis

With regard to the election of the central public officials of nation-wide constituency, and of Provincial governors and Municipal mayors, the election commission in charge shall appropriate public funds for candidates and political parties thereof, and conduct not less than two times of political views presentation meetings through national wireless television channels. The television broadcasting period shall not be shorter than one hour each time. The designated television station may not refuse the designation.

The radio station, wireless television station or cable system shall be just and fair in handling news pertaining to candidates and their affiliated political parties.

Political parties, candidates or other persons themselves, except prescribed by paragraph 1, may not engage in campaign activities or make publicities and advertisements through radio or television broadcasting.

Article 51

Campaign propaganda materials with word or picture to be printed and distributed shall be personally signed by the candidates concerned. It shall not, except those places on campaign headquarters and vehicles, be posted.

Candidate hanged and erected slogans, billboards, pennants, banners, cloth or other advertising items, shall not obstruct public safety or traffic order and be eliminated within seven days after the balloting day. The violator shall be handling in accordance with relevant laws and regulations.

*Any violator shall be punished according to Article 97 of this Law.

Article 51 bis

During the period of campaign activities, political parties may print and distribute campaign propaganda materials with word and picture, and hang or erect slogans, billboards, pennants, banners, cloth or other advertising items for the candidates they have recommended.

The propaganda materials printed and distributed by the political parties shall bear clearly the responsible party's name. It shall not, except the parties' offices and campaign vehicles, be posted.

The hanging and erecting of slogans, billboards, pennants, banners, cloth or other advertising items by political parties shall mutatis mutandis be regulated by the provisions of the preceding Article Paragraph 2.

* Any violator shall be punished according to Article 97 of this Law.

Article 52

The political parties and the candidates may use campaign vehicles and loudspeakers during the period of campaign activities.

For campaign activities a candidate shall use campaign vehicles and the number for each candidate shall not exceed twenty campaign vehicles; however, a candidate whose constituency is Municipality or Hsien(City), shall not exceed ten, a candidate whose constituency is Hsiang (Chen, Shih) shall not exceed three, a candidate whose constituency is Ts'un or Li shall not exceed one campaign vehicle.

The campaign vehicles used by the political parties and by the candidates shall fly the pennants prepared and issued by the election commissions.

The loudspeakers used by the political parties and candidates thereof for campaign activities shall be installed on the campaign vehicles and campaign offices only, and shall be used in such a proper way as not to intervene with the presentation of political views by other political parties and candidates.

*Any violator shall be punished according to Article 97 of this Law.

Article 53

(deleted)

Article 54

The utterances of a political party and candidate and/or his campaign assistant shall not have any of the following circumstances:

1) Incites another to commit offenses against the internal or external security of the state.

2) Incites another to undermine social order with riot.

3) Committes other offenses set forth in the Criminal Code.

*Any violator shall be punished according to Article 86 of this Law.

Article 55

The political party and candidate or assistants thereof shall not conduct campaign activities publicly beyond the prescribed hours of each day's beginning and ending time of the prescribed days.

*Any violator shall be punished according to Article 97 of this Law.

Article 55 bis

(deleted)

Article 56

(deleted)

Article 56 bis

No political party and no individual shall be permitted to conduct any campaign activity on the balloting day.

*Any violator shall be punished according to Article 97 of this Law.

Article 56 ter

In an election having a nation-wide constituency and having candidates claiming to represent overseas Chinese, no partisan candidate registered by a political party may accept campaign expenditures contribution. The campaign activities of such a candidate shall be limited to those set forth in Article 51 bis.

Section Seven Casting and Opening of Ballots

Article 57

In an election of public officials, polls shall be established in the office bulidings, schools, public places and other appropriate places in keeping with the size of the constituency and the geographical distribution of the electors.

Upon completion of casting, the polls shall be turned into a ballot-opening station, and the ballots shall be orally counted in the presence of spectators. After all ballots are opened and counted, the chief administrator and the chief inspector of the ballot-opening station shall proclaim the results of the opening of the casting together with a writing statement of ballots opening. The statement shall be posted on the gate of the station, and a copy of the same content be signed and handed over to the candidates' political parties or to the persons designated by non-partisan candidates.

Where the results of the opening of the casting happened to be different from the writing statement of ballots opening the later shall govern.

Article 58

Each polls and each ballot-opening station shall have one chief administrator and several administrators appointed by the election commission to take charge of ballot casting and opening affairs.

Article 59

Each polls and each ballot-opening station shall have one chief inspector and several inspectors to inspect the casting and opening of ballots.

The inspectors mentioned in the preceding paragraph shall be recommended by the candidates according to the average number of persons actual needed and submitted to the election commission in charge for screening and appointment; however, this recommending right of a party recommended candidate shall be exercised only by that political party. The candidate or the political party may assign the inspectors so recommended to the designated polls and ballot-opening stations to inspect the casting and opening of ballots. If the assigned inspectors are more than the prescribed number for a polls or ballot opening station, the choices shall be determined by drawing lots. However, it must not be that all the inspectors at a polls or ballot-opening station are members of the same political party.

The chief inspectors and the recommended inspectors that are less than the number needed the election commission in charge shall opt and appoint inspectors from among the following personnel:

- 1) Local impartial individual.
- 2) Personnel of government office, private organization and school.
- 3) Adult student of the college and university.

The Rules governing the recommendation of inspectors and their service shall be decided by the Central Election Commission.

Article 60

The ballots shall be printed and distributed by the election commission, taking into account the different constituencies. The ballot shall bear the serial numbers, names and photographs of all candidates. However, in an election of central public officials, the ballots shall also bear the candidates' party affiliation from which the candidates was recommended.

The ballots mentioned in the preceding paragraph shall be delivered to the chief administrators of the polls one day before the balloting day. Each chief administrator shall count the ballot together with the chief inspector in the presence of spectators.

Article 61

The casting of ballot in an election, an elector shall vote for a single candidate with a marking tool prepared by the election commission. The mark shall be put on the marking column of the ballot.

After marking, the elector shall not show the marked ballot to anyone.

*Any violator shall be punished according to Article 93 of this Law.

Article 62

A ballot shall be invalid in any of the following circumstances:

- 1) It is not prepared and distributed by the election commission in charge.
- 2) It is marked for two or more candidates.
- 3) The mark is put in such a place that the elector's choice cannot be ascertained.
- 4) The ballot is altered after marking.
- 5) The ballot bears a signature, name chop, fingerprint, words or any other writing sign.
- 6) The ballot is torn so as to cause imperfect.

- 7) The ballot is so stained that the elector's choice cannot be ascertained.
- 8) The ballot is completely blank without marking.
- 9) The ballot is not marked with the tool prepared by the election commission in charge.

The invalid ballot as prescribed in the preceding paragraph shall be determined by the chief administrator together with the chief inspector of the ballot-opening station. If there is a disagreement between them, it shall be voted upon and decided by all inspectors. In the event of a tie, the ballot shall be declared valid.

Article 63

The chief administrator together with the chief inspector shall order a person to leave the polls or the ballot-opening station if any of the following events exists:

- 1) The person has made a din or has interfered with or persuaded others to vote or not to vote, in defiance of interdiction.
- 2) The person carries a weapon or dangerous articles into the polls.
- 3) The person has other improper acts and has defied interdiction.

If any of the above-mentioned circumstances happens to an elector and is ordered to leave, the ballot at his/ her hand shall be taken back and the incident shall be recorded under his/her name in the electoral register. If the case is serious, a specific report shall be made to the election commission.

*Any violator shall be punished according to Article 93 of this Law.

Article 64

If the casting or opening of ballots is prevented by a natural calamity or by reasons of force majeure the chief administrator of the polls or ballot-opening station shall report the situation to the Municipal, Hsien (City) Election Commission, and shall ask for approval to change the date or place for casting or opening the ballots. If it is an election of central public official, Provincial (Municipal) councilman, Provincial governor or Municipal mayor, Hsien (City) councilman, magistrate or City mayor, the case shall also be reported and transmitted to the Central or Provincial Election Commission respectively for reference.

Section Eight Election Results

Article 65

Unless otherwise provided, in an election of public official, the number of persons to be elected in each constituency shall be those candidates who receive majorities of the ballot cast. When two or more of them receive equal numbers of ballot, the way to determine the winner shall be by drawing lots.

When there is a woman quota in an election of public official and when the number of the elected women are less than the quota, the ballots received by the female candidates shall be counted separately, the one who receive a plurality of these ballots shall be elected.

The quota of apportionment in an election having a nation-wide constituency and having candidates claiming to represent overseas Chinese shall be prescribed as folloing:

- 1) All the ballots received by all candidates recommened by a political party for delegate of the National Assembly and the members of the Legislative Yuan in the geographical and aboriginal tribe constituencies shall be the number of ballots received by that political party. The quotient of this number divided by the total number resulting from adding the numbers of ballots received by all polictical parties shall be the ratio of that political party for apportionment of delegates in the National Assembly and of members in the Legislative Yuan.
- 2) The round number of an acumulation resulting from multiplying a political party's ratio mentioned in the preceding item prescribed seat number shall be the number of seats to be apportioned to that political party. The candidates of that political party within this number of seats shall be elected one after one according to the sequence fixed on that party's name list.
- 3) If after an apportionment in accordance with the preceding item one or more seats are left unfilled, it (they) shall be apportioned to the political parties based on the remainder of ballots according to numerical precedence. When there are equal remainders of ballots, the seat apportionment shall be determined by drawing lots.
- 4) When the elected women are less than the woman quota the respective political parties shall give precedence to their female candidates so as to fill all prescribed number of seats for women.
- 5) When the name list of candidates registered by a political party are less than the number of seats that political party is entitled to win, or when the female candidates are less than the prescribe number of seats guaranteed for them, all the vacancies shall be regarded as unfilled.
- 6) A political party which has failed to receive five percent of the ballots cast whall not be entitled to seat apportionment, the number of ballots received thereof shall not be

entered in the counting as provided in item 1.

- 7) The ballots received by non-partisan candidates and by the candidates not recommended by any political party shall not be entered in the counting as provided in item 1 and 6.
- 8) The decimal fractions set forth in item 1, 2, 3, and 6 shall be counted till the fourth digit below zero, the fifth digit shall be rounded off.

Article 66

When the number of candidates does not exceed or is less than the seats to be elected in a constituency, only the candidates who have received the following prescribed number of ballots shall be declared elected; in elections of Ts'un or Li leader, however, this provision shall not apply:

- 1) In elections of delegate of the National Assembly or member of the Legislative Yuan, Provincial (Municipal) councilman, Hsien (City) councilman, or Hsiang (Chen, Shih) representative: 10 percent of the quotient resulting from dividing the total number of the electors in the constituency by the number of seats to be elected in the same constituency.
- 2) In elections of Provincial governor or Municipal mayor, magistrate or City mayor or Hsiang (Chen, Shih) chief, 20 percent of the total number of the electors in the constituency.

The election results mentioned in the preceding paragraph, where no one is elected or the number of persons to be elected does not reach the number of seats to be filled, and where this is related to Provincial governor, Municipal mayor, magistrate, City mayor, or Hsiang (Chen, Shih) chief, another election shall be proclaimed and held within a fixed period after the balloting day. Where this is related to the delegate of the National Assembly or member of the Legislative Yuan, Provincial (Municipal) councilman, and Hsiang (Chen, Shih) representative, their vacancies shall be regarded as unfilled. When the vacancies reach one-half of the total number of the seats to be elected in the same constituency, a date shall be fixed for a by-election.

The provisions set forth in the preceding two paragraphs shall not apply to an election having a nation-wide constituency and having candidates claiming to represent overseas Chinese.

Article 67

When an elected person dies or to be declared null and void by judgment, before taking office, the case shall be handled in accordance with the following provisions:

- 1) In case of Provincial governor or Municipal mayor, of magistrate or City mayor, and

of Hsiang (Chen, Shih) chief or Ts'un or Li leader, a by-election shall be held within a fixed period.

- 2) In case of delegate of the National Assembly, of the member of Legislative Yuan, of Provincial (Municipal) councilman, of Hsien (City) councilman, and of Hsiang (Chen, Shih) representative, it shall be regarded as vacancies left unfilled. If the unfilled vacancies reach one-half of the total number of seats to be elected in the same constituency, a by-election shall be held within a fixed period; however, it shall not apply to the delegate of the National Assembly, member of the Legislative Yuan who have been elected in an election having a nation-wide constituency and having candidates claiming to represent overseas Chinese.

When an candidate who have been elected in an election having a nation-wide constituency or have been claiming to represent overseas Chinese, and who is deprived of party affiliation before taking office, shall lose the qualification for being elected. The vacancy shall be filled according to the sequence fixed on that political party's name list of registered candidates. It shall be regarded as left unfilled, where there were no such candidate on the name list.

The deprivation of party affiliation mentioned in the preceding paragraph, shall report to the Central Election Commission together with a certificate of deprivation for reference.

Article 67 bis

Any person who has a foreign nationality and has been elected shall relinquish his foreign nationality before assuming public office. If he/she fails to do so timely, his/her election shall be deemed as null and void. The vacancy shall be handled in pursuance with the provision set forth in the preceding Article.

Article 68

The persons duly elected in an election shall take office at a stipulated date. Any person elected in a by-election or after a reballoting in an election and thus cannot take office at the stipulated date, the terms of office shall still begin from the original stipulated date.

Article 68 bis

After assuming, a vacancy of the central public official created by death, resignation, or other causes, the case shall be handled in accordance with the following provisions:

- 1) He is elected by geographical or aboriginal tribe constituency: when the vacancies reach one-half of the number of the seats to be elected at the same constituency, the Central Election Commission shall fix a date to hold a by-election; however, the terms of office left unserved is shorter than one year, there shall be no vacancy-filling by-election.

- 2) He is elected by an election having a nation-wide constituency or having candidates claiming to represent overseas Chinese: the vacancies shall be filled according to the sequence fixed on that political party's name list of registered candidates, it shall be regarded as left unfilled where there were no such candidate on the name list.

The central public official who is elected by an election having a nation-wide constituency or having candidates claiming to represent overseas Chinese, and who is deprived party affiliation after assuming position, shall be deprived the qualification as a central public official thereof. The Central Election Commission shall transmit the National Assembly or the Legislative Yuan for cancelation. The vacancies thereof shall be filled according to the sequence fixed on that political party ' name list of registered candidates, it shall be regarded as left unfilled where there were no such candidate on the name list.

The deprivation of party affiliation mentioned in the preceding paragraph shall report to the Central Election Commission together with a certificate of deprivation for reference.

The provisions of vacancy filling set forth in item 2 paragraph 1, and paragraph 2, shall apply to the 2nd term of delegates of the National Assembly and the 2nd term of members of the Legislative Yuan.

Chapter Four

Recall

Section One Initiation of a Recall Case

Article 69

The recall of a public official may be initiated by an elector of the official's constituency. It shall be brought to the election commission concerned. However, an elected official who has not yet served one full year after taking office, shall not be subject to recall process.

The recall provisions shall not apply to the person elected in an election having a nation-wide constituency and having candidates claiming to represent overseas Chinese.

Article 70

A recall paper shall be accompanied with a statement of reason(s), and the initiators shall be the electors of the official's constituency. The number of initiator shall be 2 percent of more of the total number of the electors in the official's constituency.

The above-mentioned recall case, no more than one person shall be listed in one proposal; however, where there are two cases of recall proposal, they may be vote on simultaneously.

Article 71

No military man in active service, police man or public functionary can serve as an initiator of a recall proposal.

Article 72

A recall proposal may be withdrawn from the election commission with a written application with the concurrence of two-thirds of the initiators before cosigner is solicited.

Section Two Establishment of a Recall Case

Article 73

After having received a recall proposal, the election commission shall examine the initiators of the proposal within fifteen days. If they are found in conformity with the provisions concerned, the commission shall notify the leading initiator to take a book or books of cosigners from the commission within ten days and a fixed period for solicit cosigners.

If any of the initiators is found not in conformity with the provisions, the name shall be canceled and the election commission shall notify the leading initiator to make up the number of initiators within five days. Any making-up beyond the time limit shall be inadmissible.

Article 74

In cosigning a recall proposal, the cosigners shall be the electors of the constituency of the official to be recalled, and the number of the cosigners shall be 13 per cent or more of the total number of the electors in the official's constituency.

Article 75

The total number of electors referred to in Articles 70 and 74 above means the total number of electors of the constituency of the official to be recalled at the time he/she was elected. The criterion day for determining both the ages and the periods of residence of the electors referred to above shall be the day when the case of recall is initiated.

Article 76

After having found that the cosigning for the case of recall conforms with provisions the election commission shall proclaim the case of recall established. If the case of recall is found inconsistent with provisions and is proclaimed that it is not established, the original initiator shall not initiate another recall proposal against the same person within one year beginning from the day when the case of recall is proclaimed not established.

Article 77

After a case of recall has been proclaimed and established, a copy of the statement of reason(s) shall be sent to the official to be recalled and he/she shall submit a statement of reply within ten days.

Article 78

The election commission shall proclaim the following items within five days after the official to be recalled has submitted a statement of reply:

- 1) The date and the beginning and ending time of balloting on the case of recall.
- 2) The statement of reason(s) for recall.
- 3) The statement of reply; however, the statement of reply shall not be proclaimed if it is not submitted by the official to be recalled within the stipulated time.

Article 79

The initiators of the recall proposal may, while soliciting cosigners, set up a recall headquarters and employ a staff.

Except for the necessity of doing the soliciting of cosigners, there shall be no propagandistic activities favoring or opposing the recall during the proceedings.

Regulations regarding the establishment of the recall headquarters, the employment of staff and the soliciting of cosigners shall be prescribed by the Central Election Commission.

*Any violator shall be punished according to Article 97 of this Law.

Section Three Balloting on a Recall Case

Article 80

The balloting on a recall case shall be held within thirty days after the establishment of

the case has been proclaimed; however, it shall not be held simultaneously with the election balloting of any other category.

Article 81

A recall ballot shall have two printed columns bearing the wording "agree to recall" and "disagree to recall" to be marked by the electors with tools prepared by the election commission in charge.

The elector shall not show his/her marked ballot to any one.

*Any violator shall be punished according to Article 93 of this Law.

Article 82

The provisions of this Law regarding the ballot casters, ballot casting, and ballot opening shall apply mutadis mutantis on the ballot casters, ballot casting, and ballot opening in the case of balloting on a recall case.

Article 83

In a recall case, the number of electors are not reaching or less than one-half of the total number of the electors of the official's constituency, or the number of ballots agreeing to recall do not outnumber one-half of the number of valid ballots, any of the case of recall shall be reject.

Article 84

Within seven days beginning from the balloting day, the election commission shall proclaim the results of balloting on the recall case. Where the case is carried, the recalled person shall be relieved of his/her official duty on the day of proclamation.

Article 85

After the case of recall is carried, the recalled person shall not be permitted to be a candidate for the same public office in four years beginning from the day of the deprivation of official duty. This provision shall also be applied to a person who has resigned in consequence of the establishment of a case of recalling him/her.

Where the case of recall is rejected, no more recall proposal against the same official shall be permitted during his/her terms of office.

Chapter Five

Punishment of Offenses against

Election and Recall

Article 86

Violators of the provisions of Item 1 of Article 54 shall be punished with imprisonment for not less than seven years; violators of Item 2 shall be punished with imprisonment for not less than five years. The penalty for a violation of Item 3 of Article 54 shall be decided in accordance with each of the relevant laws governing punishment.

Article 87

Any person who during campaigning or assisting in a campaign openly assembles a crowd and incites a riot to disturb social order shall be punished with imprisonment for not less than seven years. The ringleader shall be punished with imprisonment for life or with imprisonment for not less than ten years.

An attempt to commit an offense specified in preceding paragraph is punishable.

Article 87 bis

During the period of election or recall, any person who intends to obstruct election or recall and commits acts of violence or duress against a public functionary executing official duties, shall be punished with imprisonment for not more than five years.

In the event of the death of a public functionary is resulted from the violating of the preceding paragraph the offender shall be punished with imprisonment for life or not less than seven years. Where the public functionary is severely injured, the offender shall be punished with imprisonment for not less than three years but not more than ten years.

Article 87 ter

To openly assemble a crowd to commit the offenses provided in the preceding Article, the participants shall be punished with imprisonment for not more than three years, detention, or a fine of not more than 300 thousand New Taiwan Dollars; a ringleader and a person who actually commits violence or employs threats shall be punished with imprisonment for not less than three years but not more than ten years.

Of those who commit the offenses provided in the preceding paragraph, the ringleader and a person who actually commits violence or employs threats putting a public functionary to death shall be punished with imprisonment for life or for not less than seven years; and those who severely injure a public functionary shall be punished with imprisonment for not less than five years but not more than twelve years.

Article 88

A candidate violating the provisions governing contribution acceptance set forth in Item 1 of Article 45 shall be punished with imprisonment for not more than five years; in Item 2 and 3 of the same Article shall be punished with imprisonment for not more than one year, detention, or a fine of not more than 100 thousand New Taiwan Dollars.

The responsible person, representative of a political party, the political party or the agent, employee of its candidate commits the offense set forth in the preceding paragraph shall be punished in accordance with the provisions thereof; where the offenses pertain to the first part of the preceding paragraph the political party or its candidate may, in addition thereto, be imposed with a fine of not less than 100 but not more than 500 thousand New Taiwan Dollars; if the offenses pertain to the last part of the preceding paragraph, the fine imposed shall be less than 100 thousand New Taiwan Dollars.

The property accepted as contributions by those who commit the offenses listed in the preceding two paragraphs shall be confiscated. If the whole or a part of the property in question cannot be confiscated, a fine shall be ordered to make up the difference.

Article 89

A person who offers, agrees to pay or pays a bribe or offers other improper benefits to a candidate or a person possessing candidacy to make him/her withdraw from the election or to engage in particular campaign activities shall be punished with imprisonment for not more than five years and may, in addition thereto, be imposed a fine of not less than 600 thousand but not more than 6 million New Taiwan Dollars.

The above provisions shall also apply to a candidate and a person possessing candidacy, who demands, agrees to accept or accepts a bribe or other improper benefits in exchange for his/her promise to withdraw from the election or to engage in particular campaign activities.

The offers, agree to pay or bribe the person has accepted and thus has committed offense set forth in paragraph 1, shall be confiscated whether or not it belong to the offender; committed offense set forth in paragraph 2, the accepted bribe shall be confiscated. If the whole or a part thereof cannot be confiscated, a fine shall be ordered to make up the difference.

Article 90

A person who has committed one of the following offenses through violence, duress or other illegal means shall be punished with imprisonment for not more than five years:

- 1) Interfering with other's campaign or forcing others to withdraw from the campaign.
- 2) Obstructing others to initiate or cosign a case of recall or to force others to initiate or cosign a case of recall.

An attempt to commit an offence specified in the preceding paragraph shall be punishable.

Article 90 bis

A person who promises, offers, or gives a bribe or other improper benefit to a qualified voter for refraining from exercising his/her right to vote or for exercising such right in a particular manner shall be punished with imprisonment for not more than five years; in addition thereto, a fine of not less than 400 thousand but not more than 4 million New Taiwan Dollars.

A person who prepares to commit an offense specified in the preceding paragraph shall be punished with imprisonment for not more than one year.

The preparations, or offering, and or bribe shall be confiscated whether or not it belong to the offenders.

To commit an offense specified in paragraph 1 or 2, the offender surrenders him/herself for trial within six months after committing, his/her punishment may be reduced or remitted; where a candidate is found to be a joint offender through his/her surrender, the punishment shall be remitted.

To commit an offense specified in paragraph 1 or 2, the offender confesses during investigation, his/her punishment may be reduced; where a candidate is found to be a joint offender by such confession, his/her punishment may be reduced or remitted.

Article 91

A person who has committed any of the following offenses shall be punished with imprisonment for not more than five years and may, in addition thereto, be imposed a fine of not less than 500 thousand but less than 5 million New Taiwan Dollars:

- 1) To offer, to pay or agree to pay money and material thing or other improper benefits to an organization or office in the constituency under the pretext of donation in order to induce the members of the organization or office not to exercise their right to vote or to exercise it in a particular manner.

- 2) To offer, to pay or agree to pay money and material thing or other improper benefits to an initiator or cosigner of a case of recall in order to induce him/her to refrain from initiating or cosigning the case or to proceed to initiate or cosign in a particular manner.

A person who prepares to commit an offense specified in the preceding paragraph shall be punished with imprisonment for not more than one year.

The preparations, or offering, and or bribe shall be confiscated whether or not it belong to the offenders.

Article 91 bis

A person who with intention for a benefits to monopolize the affairs specified in Paragraph 1 and 2 of Article 89, Paragraph 1 of Article 90 bis, and or all of the Items of Paragraph 1 Article 91, shall be punished with imprisonment for more than one year but less than seven years, and may, in addition thereto, be imposed a fine of more than 500 thousand but less than 5 million New Taiwan Dollars.

An attempt to commit an offence specified in the preceding paragraph shall be punishable.

Article 92

With an intention to influence the candidate in an election to be elected or not, anyone employing writing word, picture, audio-tape, audio-video tape, speech or other methods to circulate trumped-up stories sufficient to damage the public or other person(s) shall be punished with imprisonment for not more than five years.

Article 93

A person who has committed any of the offenses set forth in Paragraph 2 of Article 61, Paragraph 2 of Article 81 or Paragraph 1 of Article 63 and has refused to leave the place after having been ordered to do so shall be punished with imprisonment for not more than two years, detention, or a fine of not more than 200 thousand New Taiwan Dollars.

Article 94

During the recall process, a person who has committed any of the following offenses, the participant shall be punished with imprisonment for not more than one year, detention, or a fine of not more than 100 thousand New Taiwan Dollars; the ringleader and perpetrators of any of these offenses shall be punished with imprisonment for not more than five years:

- 1). To assemble a crowd to besiege the person involved in the recall, the initiators or cosigners of recall, or of the organization, headquarters, domiciles or residences of the staff thereof.
- 2) To employ violence, duress or other illegal means to obstruct the person involved in the recall to perform duty, or the initiator, cosigners, and of their staff members to progress the recall process.

Article 94 bis

A person who takes an election or recall ballot away from the polling place, shall be punished with imprisonment for not more than one year, detention, or a fine of not more than 15 thousand New Taiwan Dollars.

Article 95

A person who, with an intention to hinder or disrupt ballot casting and opening by withholding, destroying, concealing, exchanging or seizing a ballot box, an election ballot, a recall ballot, and electoral register, a ballot-casting report, a ballot-opening statistics sheet or a ballot-marking tool shall be punished with imprisonment for not more than five years.

Article 95 bis

A person whose campaign expenditures exceeds the maximum amount set forth by the election commission in charge in accordance with the provisions of Paragraph 1 of Article 45 bis shall be imposed with a fine of not less than 100 thousand but not more than 500 thousand New Taiwan Dollars.

Article 96

(deleted)

Article 96 bis

(deleted)

Article 97

A violator of the provisions set forth in Paragraphs 1, 2, and 4 of Article 45 quater, Paragraphs 1 of Article 51, Paragraph 2 of Article 51 bis, or in accordance with the Rules provided in Paragraph 5 of Article 45 quater, shall be imposed with a fine of not less than 10 thousand but not more than 100 thousand New Taiwan Dollars.

A violator of the provisions set forth in Paragraph 2, 3, 4 and 5 of Article 52, Article 55, Article 56 bis, Paragraph 2 of Article 79, or in accordance with the provisions of the Regulations set forth in either Paragraph 2 of Article 46 or Paragraph 3 of Article 79, in case they do not obey inspector's attempt to curb the offending behavior, shall be imposed with the same punishment stated in the preceding paragraph.

A person who puts any thing other than an election ballot or a recall ballot into a ballot box, or deliberately tears up an election or recall ballot, shall be imposed with a fine of not less than 5 thousand but not more than 50 thousand New Taiwan Dollars.

Article 97 bis

(deleted)

Article 97 ter

A person who has committed the crime described in Paragraph 2 of Article 89 or Paragraph 1 of Article 143 of the Criminal Law, but who surrenders within three months after committing the criminal act shall be remitted the punishment. Where the person surrenders exceeded three months after the the criminal act, the punishment may be reduced or remitted. Where the person confessed of the crime during the investigation of trial, the punishment may be reduced.

A person who surrenders as described in the preceding paragraph but fabricates stories with an intent to have someone else punished shall be punished in accordance with the Criminal Law provisions regarding false accusation.

*Paragraph 1 Article 143 of the Criminal Law provided that:

A qualified voter who demands, agree to accept, or accepts a bribe or other improper benefit for refraining from exercising his right to vote or for exercising such right in a particular manner shall be punished with imprisonment for not more than three years; in addition thereto, a fine of not more than 5000 yusn may be imposed.

Article 98

Where other laws provide for more severe penalties for offenses listed in this Chapter, their provisions shall govern.

Any election or recall official who makes use of his/her official power, opportunity or means of duty to commit the crimes listed in this Chapter shall receive a penalty(ies) one and a half times more severe than that (those) herein prescribed.

A person sentenced to a prison term for an offense listed in this Chapter or offenses of interference with voting contrary to the special provisions of Chapter 6 of the Criminal Law shall be deprived of civil rights.

- * The special provisions of Chapter 6 of the Criminal Law pertaining to interference with voting are as following:

Article 142 A person who by threat, violence, or other illegal means interferes with another in the free exercise of his right to vote at a political election duly authorized by law or in the free exercise of his other voting rights shall be punished with imprisonment for not more than five years.

An attempt to commit an offence specified in the preceding paragraph is punishable.

Article 143 A qualified voter who demands, agree to accept, or accepts a bribe or other improper benefit for refraining from exercising his right to vote or for exercising such right in a particular manner shall be punished with imprisonment for not more than three years; in addition thereto, a fine of not more than 5000 yuan may be imposed.

A benefit received through the commission of an offence specified in the preceding paragraph shall be confiscated; if the whole or part of such benefit cannot be confiscated, the value thereof shall be collected from the offender.

Article 144 A person who promised, offers, or gives a bribe or other improper benefit to a qualified voter for refraining from exercising his right to vote or for exercising such right in a particular manner shall be punished with imprisonment for not more than five years; in addition thereto, a fine of not more than 7000 yuan may be imposed.

Article 145 A person who induces a qualified voter to refrain from exercising his right to vote or to exercise such right in a particular manner by offering an economic advantage or by threatening an economic disadvantage shall be punished with imprisonment for not more than three years.

Article 146 A person who by fraud or other illegal means procures an incorrect result from voting or alters election results shall be punished with imprisonment for not more than five years.

An attempt to commit an offence specified in the preceding paragraph is punishable.

Article 147 A person who interferes with or creates a disturbance at an election shall be punished with imprisonment for not more than one year, detention, or a fine of not more than 500 yuan.

Article 148 A person who endeavors to learn the content of a secret ballot shall be punished with a fine of not more than 300 yuan.

Article 99

An incumbent functionary who has registered as a candidate and has any of the following events and has been proved to be true by election commission, the commission shall first notify the competent office of the offending functionary to suspend his/her duties and at the same time to handle the case in accordance with the law:

- 1) Rejecting without justifiable reason the election commission's request for assisting in certain matters or for assigning its staff members.
- 2) Interfering in the personnel or operations of the election commission.
- 3) Using or embezzling public fund to pay campaign expenses under a pretext.
- 4) Demanding an organization and its responsible person subordinate to or under command or supervision to him/her to support his/her campaign.
- 5) Abusing his/her power to make campaign personnel arrangements by transferring persons without due reason.

Article 100

In the election of central public officials, the chief prosecutor of the Supreme Court shall head the prosecutors of all levels, and in the election of local public officials, the chief prosecutors of the competent courts shall head the subordinate prosecutors. Their duties shall be to monitor and to prosecute on their own initiatives the criminal cases regarding interference in an election or a recall, and meanwhile to dispose of the accusation, complaint or surrender to justice brought by an office, organization or individual. Each prosecutor shall make prompt investigations and take necessary measures.

In conducting the above-mentioned investigations, a prosecutor may command the judicial police in accordance with the provisions of the Code of Criminal Procedure and the Statute for Transferring and Directing the Judicial Police.

Article 100 bis

A case pertaining to the offense listed in this Chapter or offenses of interference with voting contrary to the special provisions stipulated in Chapter 6 of the Criminal Law shall make final judgment by each competent court within six months.

Chapter Six

Election and Recall Suits

Article 101

When an election commission has violated the law so as to affect the results of an election or a recall, a prosecutor, a candidate, the person under recall process and the initiator of a recall case may, within fifteen days after the proclamation of the name list of the elected persons or the proclamation of the result of a recall is made, bring a suit against that election commission before a competent court to request nullifying the election or recall.

Article 102

In a suit of nullifying the result of an election or a recall balloting, when the court has adjudicated and declared the invalidity of the election or recall, the election or recall shall be null and void. A period of time then shall be set in which a by-election or recall be held. Where the law violation involves only a part of the election or the recall process, the part of the election or the recall process involved shall be null and void, and a reballoting on the nullified part shall be held within a fixed period; however, this shall not apply to a situation in which the nullified part obviously has not affected the result of the election or recall.

Article 103

When an elected official has one of the following deeds, the election commission, the prosecutor or the candidate(s) of the same constituency may, within fifteen days after the proclamation of the list of the elected officials, sue for the nullification of the election in a court with competent jurisdiction:

- 1) The number of ballots won by the elected official is so inaccurate as to have affected the election results.
- 2) A person who employs threat, violence, or other illegal means, obstructs candidate to engage campaign, qualified voter to exercise casting right freely, or staff of election affairs to execute duties.
- 3) A person has acts which specified in Article 89, or in Item 1 of Article 91, and or in Paragraph 1 Article 146 of the Criminal Code.
- 4) A person has acts specified in Paragraph 1 Article 90 bis, so sufficient as to affect the election results.

The deeds specified in the preceding paragraph shall not, when the court has adjudicated and declared the invalidity of the elected official, be affected by the part of absolution of the criminal judgment in the same case.

Article 103 bis

An election commission, a prosecutor and a candidate of the constituency of the elected official may each, within the terms of office thereof or a prescribed date, bring a suit against the elected official before a competent court to request nullifying his/her qualification as an elected official under any of the disqualifying facts set forth in Article 36.

Article 104

The election of a person shall be null and void after the court has adjudicated the suit for nullifying his/her being elected and has declared his/her election invalid.

Article 105

A judgment on the invalidity of an election or of a candidate being elected shall not affect official duties undertaken as an elected official during the period of his/her taking office.

Article 106

After the approval or rejection of a recall case, where the number of ballots is found inaccurate that sufficient to affect the balloting result, the election commission, the prosecutor, the recalled person and the initiator of the recall case each may, within fifteen days after the proclamation of the balloting results, bring a suit against the initiator of the recall case or the recalled person before a competent court to apply for nullifying the approval or rejection of the recall case.

After the court has adjudicated and declared that the approval or rejection of the recall case is null and void, the approval or rejection of the recall case shall be null and void, and a period of time shall be set in which a re-balloting shall be held.

After the nullification of the approval of a recall case, the official duties of the recalled person shall be restored.

Article 107

When an elector discerns a fact that may invalidate an election, the elected person, the recall of an official or the approval or rejection of a recall case, he/she may, within seven days after the proclamation of the name list of the elected persons or the balloting result on a recall case, file an accusation with a prosecutor or an election commission together with the support of evidence.

Article 108

The following courts possess jurisdiction over election and recall suits:

- 1) The district court and its branch courts located in the constituency where the election or recall suit arises have jurisdiction over its first trial. When the act(s) or situation(s) straddle(s) two or more constituencies, all the district courts and their branch courts shall each have jurisdiction over the suit.
- 2) In election and recall suits where one party refuses to accept the verdict of a district court or a branch district court and lodges an appeal, then the respective high courts and branch high courts superior to the above said courts shall each have jurisdiction over the appeal of election and recall suits.

Article 109

In an election or recall suit, the trying court shall establish a provisional chamber and try the case in joint consultation. The court shall try such cases before handling any suits of other kinds. Election and recall suits shall be finally adjudicated in the court of second instance and be no more de novo trial. Each competent court shall make final judgment within six months.

Article 110

In addition to the provisions regarding procedures for election and recall suits set forth in this Law, those in the Code of Civil Procedure shall apply *mutatis mutandis*; however, those provisions relating to the effect of abandonment, acceptance of liabilities and admission of undisputed facts that do not apply to the actions shall not apply.

Chapter Seven

Supplementary Provisions

Article 111

The fines stipulated in this Law shall be ruled by the election commission. When a fine is not paid in time after notification, the case shall be referred to a law court for compulsory execution.

Article 112

The Enforcement Rules for this Law shall be prescribed by the Ministry of the Interior and be submitted to the Executive Yuan for approval.

Article 113

This Law shall come into force on the day of its promulgation.

