

LEGISLATIVE BRIEF (HB. 966)

LONG TITLE: A Bill For An Act To Amend The Provisions Of The Electoral Act No.6, 2010 To Provide A Time Line For The Submission Of List Of Candidates, Criteria For Substitution Of Candidates, Disclosure Of Source Of Funds Contributed For Political Parties And To Empower The Commission To Uphold Party Primaries Where There Is A Change In The Result And For Related Matters

SHORT TITLE: Electoral Act (Amendment) Bill, 2017

SPONSOR: HON. AISHATU JIBRIL DUKKU

BACKGROUND

Mr. Speaker, Honourable Colleagues, permit me to lead the debate on A Bill for an Act to Amend the Provisions of the Electoral Act No.6, 2010. You would recall that the Bill was read the first time on Wednesday 15th March, 2017 in this hallowed chamber.

This Bill seeks to provide a time line for the submission of list of candidates, criteria for substitution of candidates, disclosure of source of funds contributed for political parties and to empower the Independent National Electoral Commission to uphold party primaries where there is a change in the result.

This amendment has become necessary because of the flaws observed in our electoral system. As we all know, elections are the major pillars of leadership selection and governance legitimization in liberal democracies, therefore, constant

and un-seizing effort for the reformation of the electoral laws and electoral process is imperative in all countries that are practicing democracy, especially in a country like Nigeria where there is a long history of poorly conducted elections; where many voters have become despondent and have virtually given up hope of their votes counting in choosing their elected executives or representatives in legislatures.

Without any doubt, every investigation or election contest brings to light glaring irregularities on the part of our electoral laws, misconduct of electoral officers, political parties or candidates, disregard for electoral laws or instructions, and fraud by the politicians and, or their agents. The last 2015 elections in the country, with its attendant petitions has certainly sparked debates about the need to reform our electoral laws and electoral system so that we can ensure in the very minimum, that declared election results reflect the true wishes of the Nigerian voters.

SYNOPSIS

The Bill seeks to amend Sections 8, 31, 33, 36, 38, 78, 87 and 90 of the Electoral Act 2010.

- Section 8 of the Principal Act is amended by inserting a new sub-section 5, thus:
"(5) A person, who being a member of a political party misrepresents himself as such in order to secure an appointment with the Commission in any capacity, commits an offence and shall be liable on conviction to imprisonment for a term not below five (5) years without an option of fine".

This amendment will discourage card carrying members of political parties of infiltrating the Independent National Electoral Commission, pursuing advancing and actualizing the interests of their political parties instead of helping the Commission to serve as an unbiased umpire in the electoral process. It will help to insulate the Commission from political partisanship and enhance the integrity of the electoral process. Five years imprisonment on conviction for any member of a political party who misrepresents himself as such and secures employment with the Commission will serve as deterrent to others.

- Section 31 of the Principal Act is amended by substituting new subsections (1), (6) and (8).

The new subsection (1) makes the period for parties submission of list of candidates for election to INEC to be not less than 120 days before the appointed date for election. This is unlike the provision of "not later than 60 days" in the principal Act. The new amendment allows all matters regarding list of candidates to be resolved long before the date of election. There will be enough time to resolve any legal matter on any party's candidate before election.

Subsection (6) of the Principal Act only empowers the court to disqualify from contesting elections candidates whose affidavit is found to contain false information. The new amendment makes additional provisions if the candidate is already elected. The court shall have the power to issue an order directing such elected person to vacate office while the next person with the highest number of votes cast and who meets the requirement of the Constitution shall be declared the winner. The amendment will encourage politicians to be truthful and discourage them from Machiavellian tendency of the end justifies the means. False information in affidavit proved in court before election should be punished.

The new subsection (8) seeks to punish the party that presents for election candidates that do not meet the qualification stipulated in the Constitution. This will ensure that parties are more painstaking and truthful in their documentation to the Commission. The amendment also prescribes a higher punishment for defaulters on conviction. It increases the fine for any political party which presents the name of a candidate who does not meet the qualification stipulated in this section from N500,000 to N1m. This amendment is necessary as it will put political parties on their toes and make them do the right thing.

- The Bill also seeks to amend Section 33 of the Principal Act which deals with political parties changing candidates. It seeks to insert a new subsection (2). According to Section 33 of the Principal Act, a political party shall not be allowed to change or substitute its candidate whose name has been submitted pursuant to Section 32 of the Act except in the case of death or withdrawal by the candidate.

However, the new subsection (2) provides that in the event of the death or withdrawal of the nominated candidate, his party shall forward the name of the aspirant who scored the second highest number of votes as the substitute. This provision is appropriate based on the same argument proffered with regard to the amendment the Bill seeks to make to Section 36 of the Principal Act by inserting a new subsection (3). It ensures a simple, sensible and rancour-free change of candidates.

- Section 36 of the Principal Act is amended by inserting a new subsection (3). Section 36 of the Principal Act deals with death of a candidate after the time for the delivery of nomination paper and before the commencement of the poll. The section empowers the Chief National Electoral Commissioner or Resident Electoral Commissioner, after being satisfied of the fact of the death, to countermand the poll in which the deceased was to participate and the Commission to appoint some other convenient time for the election within 14 days.

However, the new amendment deals with the emergence of a new candidate by the political party of the deceased candidate. It provides that the next person from the political party of the deceased candidate with the highest number of legal votes in the primary election shall be submitted to the Commission to replace the deceased and the Commission shall accept such replacement as if the deceased is alive. This provision fills the lacuna in the current Act. It will also save time and money of the affected political parties that would be expended in holding series of meetings, consultations and conducting fresh primaries.

- Section 38 of the Principal Act is amended by inserting a new subsection (2). Section 38 of the Principal Act provides that where at the close of nomination there is no candidate validly nominated for an election, the Commission shall extend the time for nomination and fix a new date for election.

But the new subsection (2) being inserted deals with another scenario where only one party makes nomination at the close of nomination. It provides that election should go on with one candidate nominated by one political party. This is justifiable. INEC cannot force political parties to nominate candidates for

elections; political parties have a right not to nominate a candidate for any election or to boycott election as the scenario seems to suggest otherwise why should it be only one party among the many parties registered that nominates candidate for an election? So there should be no reason for extension of time for nomination and a new election date announced on the basis of this. The political party ready for election should not suffer any delay or disadvantage because of other political parties that are not ready or interested in participation. It will be unfair to do otherwise.

- Section 78 (5) of the Principal Act is amended by providing a fine for the association and jail term for the executives of the association which through the submission of false or misleading information procures a certificate of registration. The Principal Act only provides that the association shall have such certificate canceled.

The amendment which provides a fine of N1m for the association and a jail term of not exceeding two months for the executives of the association upon conviction is justifiable. It will not serve the course of justice to just cancel the certificate procured with false or misleading information; the persons behind such fraud should be punished. This is what this amendment seeks to achieve. Why should a political association that wants to serve the people fabricate information just to procure a certificate of registration? We must restore integrity and other lost values to our nation; politics should not be synonymous with dishonesty. Dishonest executives of political associations will do worse things in future if there is no serious punishment for the Commission of this crime to serve as deterrent to others.

- This Bill equally seeks to amend Section 87(9) of the Principal Act by inserting a new subsection (9A) to address a worrisome practice where a powerful clique within a party changes and alters the result of party primaries duly attended by INEC and result certified by the Commission. The amendment provides that INEC shall have the power to overrule any alteration made by any political party and uphold the result of the primaries.

This amendment will discourage imposition of candidates after party members have already indicated their preferences. It will also reduce to the barest minimum pre-election matters in court over disputes relating to determination of authentic candidates of political parties. Alteration of party primaries result is political corruption and should be discouraged.

- The Bill seeks to substitute for Section 90(1) of the Principal Act, a new section 90. The amendment strengthens the provision of the Principal Act by empowering INEC to "demand such information on the amount donated and source of funds".

This provision will allow INEC to bark and bite and not just be a toothless bulldog with regard to contribution to political parties. It will facilitate the promotion of openness and transparency in funding of political parties. This amendment will assist in discouraging money bags who use their enormous donations to hijack and control the party structures to satisfy their selfish interests and shutting out well meaning Nigerians.

CONCLUSION

Mr. Speaker, Honourable Colleagues, the need for electoral laws reform in the country becomes absolute necessity against the backdrop of election malpractice, well spread rejection of declared results by the people as well as loss of lives and property that usually go along with such electoral flaws. More importantly, our electoral laws appear to be outdated and ill-equipped to adequately address these concerns that the very foundation of our democracy calls for. I hereby urge you to support this Bill so as to further strengthen our electoral laws and our electoral system for the development of our democracy and our wellbeing.

Thank you.