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LADB Staff

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## **Congress Approves Major Electoral Reform Legislation**

*by LADB Staff*

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In an unprecedented display of unity, the three major political parties reached consensus on legislation to enact major reforms to Mexico's electoral laws. The initiative, which includes eight constitutional amendments, was easily approved in both chambers of Congress. The measure contains two key reforms a ban on candidates, political parties, and their supporters buying political advertisements on radio and television; and a restructuring of the elections watchdog Instituto Federal Electoral (IFE).

The Partido Verde Ecologista Mexicano (PVEM), the Partido Convergencia por la Democracia (PCD), and others objected to some provisions of the legislation because it favored the three large parties at the expense of small parties.

In the end the legislation was approved by an overwhelming margin in both houses of Congress. In the Chamber of Deputies, it was approved 408 to 33, with nine abstentions. In the Senate, the vote was 110-11 in favor.

The easy approval of the legislation was a mild surprise, given the gridlock that had prevailed in Congress during the administrations of former Presidents Vicente Fox and Ernesto Zedillo. The impasse that often blocked legislation in Congress during the previous two administrations was partly a function of increased representation of other parties in the legislative body (see SourceMex, 1997-09-03, 2000-07-12 and 2003-07-09).

The gridlock turned to outright animosity late during the Fox administration, in part as a result of a failed attempt by the governing Partido Accion Nacional (PAN) and the opposition Partido Revolucionario Institucional (PRI) to strip immunity from then Mexico City mayor Andres Manuel Lopez Obrador for alleged violations of the Constitution (see SourceMex, 2005-04-13). The atmosphere became even more tense in the aftermath of the 2006 presidential election, which Calderon and the PAN won by an extremely narrow margin (2006-07-12 and 2006-08-30).

Claiming that the PAN stole the election from Lopez Obrador, the PRD and its allies in Congress disrupted Fox's final State of the Union address (2006-09-06) and Calderon's inauguration ceremony (2006-12-06) and forced a change in format in Calderon's first annual address (see SourceMex, 2007-09-05). Initiative incorporates PRD proposals One reason the election-reform legislation gained easy approval was because the initiative incorporated changes sought by the PRD after the 2006 election, in which it said the PAN had an unfair advantage.

Television and radio advertisements bought by the PAN were cited as one reason Lopez Obrador's standing in the polls declined in the months leading to the election. In the ads, the PAN called the center-left candidate "a danger to Mexico" (see SourceMex, 2006-05-03 and 2006-06-07). "The

reforms that were approved were a tacit recognition by the legislature that some of the PRD's criticisms of the 2006 election were justified," said the Los Angeles Times. PRD legislators agreed. "This is a day for celebration," said Javier Gonzalez, floor leader for the party. "With this reform, Mexican democracy will overcome flaws that put its viability at risk."

Beyond the question of whether the ads ultimately made a difference in changing the minds of the electorate, concern had already been growing about the large amounts of money that the three major parties were planning to spend on the 2006 campaign, even before the candidates were selected. A large share of this money went to buy airtime on television and radio (see SourceMex, 2005-09-28).

Apart from the spending on radio and television ads, the Congress moved to reduce total campaign spending significantly. Political parties will now be allowed to raise a maximum of only 40 million pesos (US\$3.6 million) from private sources for a presidential campaign, compared with 270 million pesos (US\$24.5 million) previously.

The Congress also reduced public financing for parties by about 5%, resulting in a savings of 200 million pesos (US\$18.1 million). "What is really significant about the reforms is not that the political actors were able to come together [on a difficult issue], but that they became convinced that the experience of 2006 should not be repeated," said Arnaldo Cordova, a columnist for the Mexico City daily newspaper La Jornada.

### *Candidates, parties prohibited from buying airtime*

The portion of the electoral reforms that deal with radio and television advertising go a long way toward addressing some of the inequities that Congress approved in the broadcast law (Ley Federal de Radio y Television, LEFERYT) in 2006. Critics said that law was skewed toward the major television networks, at the expense of community and local options (see SourceMex, 2006-04-05). Mexico's high court (Suprema Corte de Justicia de la Nacion, SCJN) ruled parts of that law unconstitutional and ordered the Congress to make revisions (see SourceMex, 2007-05-16 and 2007-06-20).

The only criticisms of the broadcast portions of the electoral law came from the radio and television industry, which not only will lose revenue from political advertisements but will be required to offer free airtime to candidates. According to Reuters, Televisa's sales from all advertising in 2006 surpassed US\$3.5 billion, while TV Azteca's sales last year approached US\$900 million. Roughly 2% to 3% of revenues for the two networks came from political advertisements, said analyst Martin Lara at Vector Casa de Bolsa in Mexico City.

The legislation could affect the revenues of the broadcast networks in another way. The television and radio networks will be required to offer two to three minutes of free airtime every hour to political parties during prime broadcasting periods during the campaign. This would reduce the amount of time that networks would have to sell other types of advertisements during those periods by about 15%. "[The networks] will have to grant free airtime during more profitable spots," said analyst Raul Ochoa with Scotia Inverlat.

Officials from the Camara de la Industria de la Radio y Television (CIRT) and the major media outlets charged that the Congress forged ahead with the legislation without scheduling any forums to obtain public input. "Televisa salutes the decision to eliminate money as the driving force of the electoral processes and, therefore, the initiative to provide public and private financing for campaigns and to eliminate the purchase of political ads," the station said in a statement. "However, we are concerned about the lack of opportunity for all interested parties to be heard on this issue."

### *Legislators agree to restructure electoral institute*

The other major element of the electoral reform, restructuring the IFE, was a little more controversial. Even though the three major parties in the end supported a change to the IFE, the final version of the reorganization came after very difficult negotiations. The PRD sought to overhaul the IFE entirely, charging that the institute favored the PAN during the election. Among other things, the PRD said the IFE failed to halt the barrage of negative advertisements against Lopez Obrador and blocked any efforts to conduct a full recount of all the votes cast in the presidential election.

Some critics believe the electoral court (Tribunal Electoral del Poder Judicial de la Federacion, TEPJF) might have ruled in favor of a full recount if the IFE had supported such a move. Instead, the TEPJF approved recounts only in certain precincts that were under dispute (see SourceMex, 2006-08-30). One PRD proposal would have immediately replaced all IFE commissioners, but the other parties argued that a wholesale change would weaken the institute. In the end, the three parties agreed to a mechanism by which the commissioners would be replaced in phases.

The PRD also succeeded in convincing the two other parties that IFE president Luis Carlos Ugalde had to be replaced. The party had held Ugalde responsible for the IFE's performance during the election. "The approval of these reforms, especially the removal of the IFE council, is a victory for the PRD," said Benito Nacif, a columnist for the Mexico City daily newspaper Excelsior. "This, in a way, recognizes that the PAN victory in the recent presidential election was not just."

Others said that the change could well defuse tensions between the PRD members in Congress and Calderon. "There are a lot of political advantages in terms of stability," said political analyst Jose Antonio Crespo of the Centro de Investigacion y Docencia Economica (CIDE). "The left is getting rid of an IFE that it never agreed with. They are getting rid of someone who was directly or indirectly responsible for last year's election results Ugalde. Mexican politics is going to be much calmer thanks to this electoral reform."

The other important factor in the easy approval of the legislation, said some analysts, was Calderon's political skill in developing a compromise that would satisfy all parties. The president and members of the PAN in Congress bent over backwards to accommodate the PRD's election-reform demands, in exchange for the PRD's pledge not to block tax-reform legislation promoted by Calderon. The PRD voted against Calderon's tax package but did not block debate in the lower house, despite pressure from Lopez Obrador to prevent discussion of the initiative (see other article in this issue of SourceMex).

After the reforms were approved, Calderon went out of his way to praise "the responsibility and high-mindedness" of the Senate and the Chamber of Deputies. Many political observers sharply criticized the Congress for caving in to the PRD's moves to weaken the IFE, an independent agency credited with helping Mexico make the transition from a de-facto one-party rule under the PRI to a multiparty democracy.

Several analysts criticized the decision of Congress to impose more control over the IFE, primarily by exerting more direct supervision of its budget. The Congress set up a special office to conduct audits of the IFE's expenditures. "The creation of a comptroller general, to be named by the Chamber of Deputies, in effect would establish an inquisitor, who would be at the service of the political parties and whose role would be to put pressure on the IFE commissioners," said Excelsior's Nacif.

Similar criticisms came from Denise Dresser, a political analyst at the Instituto Tecnológico Autónomo de México (ITAM). "The IFE must remain an institution that truly belongs to the citizens," Dresser said in a column published in the Mexico City daily newspaper Reforma. Nationally syndicated columnist Sergio Sarmiento also criticized the congressional move that could pressure members of the electoral institute. "The IFE commissioners would be obligated to remain on good terms with the politicians to keep their jobs," said Sarmiento.

Despite the strong criticisms about the IFE restructuring, Jose Woldenberg, a former head of the institute and a respected voice on election issues here, said the reform would be a step forward. "The democratic life of the country is the winner, because there will be better campaigns and less campaign spending," said Woldenberg, who served as the IFE's first president when it was created in 1990.

### *Small parties say legislation inequitable*

Other minor controversies surfaced during the debate on the electoral-reform legislation. Prominent among these was the discontent among five smaller parties about the decision to allocate a larger percentage of free media spots during the political campaigns to the PAN, PRI, and PRD. Under the formula, the three major parties would get about 70% of the spots, compared with only 30% for the smaller parties. The smaller parties which include the PVEM, PCD, Partido Nueva Alianza (PANAL), Partido del Trabajo (PT), and Partido Alternativa Social y Campesina (PASC) had proposed that they get 50% of the spots.

The small parties expressed their discontent by attempting a maneuver to prevent a vote. In the end, they were overruled by the majority parties. "Whom are you trying to fool?" asked Deputy Alejandro Chanona, coordinator of the PCD delegation in the lower house. "[This law] violates the principles of equity and equality when it comes to access to the free media spots." Similar comments came from the PVEM. "[The three major parties] are protecting themselves against competition from the growing parties and the new parties," said PVEM Deputy Veronica Velasco.

The small parties also objected to several provisions that would weaken their positions, including a measure that would base public financing on the number of voters registered as members of a particular party and tighter restrictions on coalitions. After expressing their discontent with these

provisions, the small parties ended up supporting the electoral-reform package as a whole. State legislatures must approve reforms

The legislation faces another step before it can become law. Because changes to the Mexican Constitution are involved, the eight amendments in the initiative must be ratified by 17 of Mexico's 31 state legislatures.

At least two governors, both members of the PRI, have said they have reservations about the legislation. Coahuila Gov. Humberto Moreira Valdez argued that the electoral law, as written, would violate the principle of state sovereignty. "The states are not like minors who cannot make their own decisions," said Moreira. "They didn't take us into account. No one called me to ask me whether I supported this legislation." The Coahuila governor also criticized the restrictions on media advertising, which he said were a move to quell freedom of expression.

Another powerful PRI governor who objects to the legislation is Enrique Pena Nieto of Mexico state. Pena's objections prompted Deputy Emilio Ulloa Perez to write a letter to members of the Mexico state legislature, where the PRI has a plurality, to reject pressures from Pena Nieto. The Mexico state governor did not deny that he opposed the measure, but refuted allegations that he was leading an organized effort to convince states to reject the initiative.

Other PRI governors, including Silverio Cavazos of Colima and Andres Granier of Tabasco, have openly endorsed the electoral reform. There was some concern that the broadcast networks would attempt to derail the electoral reform by lobbying state legislatures to defeat the initiative. "They weren't able to intimidate or scare federal legislators, but now they are going to put pressure on governors and state legislatures," said ex-PAN Sen. Javier Corral, one of two legislators who led the unsuccessful effort to defeat the LEFERYT in 2006.

One area where election reform seems to have made no changes is curbing the traditional practice of incumbent governors using their position to support candidates from their party. This includes the practice of bribing voters with building supplies or food, using public resources for publicity, and threatening would-be voters if they do not support the official candidate. A case in point was the recent election in Veracruz, which occurred just a couple of weeks before the vote on electoral reform was to take place.

Opposition parties accused PRI Gov. Fidel Herrera of placing the PRI campaign label on supplies distributed in the aftermath of Hurricane Dean (see SourceMex, 2007-08-29). As it turns out, the PRI won the Sept. 2 election by a wide margin, taking 155 of the 212 mayoral elections in the state, along with 28 of the 30 seats up for election in the state legislature. The PRI regained control of some municipalities that had been governed by the PAN, including Veracruz City.

While the PRI is the party most associated with these practices, similar allegations have surfaced in states governed by other parties. This was the case in the Baja California and Aguascalientes elections in July (see SourceMex, 2007-08-08), both of which are governed by the PAN. The PRD faced similar accusations in the election in Baja California Sur in 2004 (see SourceMex, 2004-11-17).

[Note: Peso-dollar conversions in this article are based on the Interbank rate in effect on Sept. 19, reported at 10.99 pesos per US\$1.00.]

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