

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH (15th) CONGRESS

House Bill No. 5181

Introduced by Representative Arnel U. Ty

EXPLANATORY NOTE

This bill seeks to amend sec. 261, (w) of Batas Pambansa Bilang 881 otherwise known as the Omnibus Election Code. Section 261 covers *election offenses*. It enumerates what are election offenses, it defines how they are committed and who are liable for their commission. Some provisions are new, while some had been lifted from previous election laws. According to the Omnibus Election Code, Par. (w) of Sec. 261 is a lift from Par. (d), Sec. 64 of Batas Pambansa Bilang 697 entitled An Act to Govern the Election of Members of the Batasang Pambansa on May 14, 1984 and the Selection of Sectoral Representatives Thereafter, Appropriating Funds Therefor and For Other Purposes.

Sec. 261 (w) of the Omnibus Election Code reads:

"(w) Prohibition against construction of public works, delivery of materials for public works and issuance of treasury warrants and similar devices.—During the period of forty five (45) days preceding a regular election and thirty (30) days before a special election, any person who (a) undertakes the construction of any public works, except for projects or works exempted in the preceding paragraph; or (b) issues, uses or avails of treasury warrants or any device undertaking future delivery of money, goods or other things of value chargeable against public funds."
(Underscoring Supplied)

Sec. 64 (d) Batas Pambansa Bilang 697 (BP 697 for brevity) reads:

"Sec. 64. Prohibited Acts.—In addition to the prohibited acts provided in the 1978 Election Code, or declared unlawful or as an election offense in the preceding articles of this Act, the following shall be guilty of an election offense:

x x x

(d) Prohibition against construction of public works, delivery of material for public works and issuance of treasury warrants and similar devices.—During the period of forty five (45) days preceding the election on May 14, 1984, any person who

(a) Undertakes the construction of any public works, except for projects or works exempted in the preceding section; or (b) issues, uses or avails of treasury warrants or any device undertaking future delivery of money, goods or other things of value chargeable against public funds or (c) who thereafter receives any payment for the prohibited construction."

It must be stated that the titles of the two provisions are identical. They present the three acts covered by the provision:

1. the act of undertaking the prohibited construction
2. the act of issuing treasury warrants or similar devices to finance the prohibited construction and
3. the act of receiving payment for the prohibited construction.

These identical titles suggest that the legislative intent that animated Sec. 64 (d) of BP 697 is the same legislative intent that animated Sec. 261 (w) of BP 881—to prohibit the construction of public works, delivery of materials for public works and the issuance of treasury warrants or any similar device for the prohibited construction. It suggests, further, that the legislative intent is to relate the three acts to public works. Of the three acts, the third—that of receiving the payment for the prohibited construction logically connects to the second act because it speaks of issuing treasury warrants or similar device to finance the prohibited construction. Thus, the conclusion that all three acts cannot be divorced from public works is inescapable.

The three (3) offenders under Sec. 64 (d) are :

1. the person who undertakes the construction of public works
2. the person who issues, uses or avails of treasury warrants or similar device in payment of the public works and
3. the person who receives any payment for the prohibited construction.

When BP 881 was passed, Sec. 64 , (d) was lifted and became its Sec. 261 (w). As will be noted, while letter (c) of Sec. 64 (d) remained in the title of Sec. 261 (w) of BP 881 but it was deleted from the body of Sec. 261 (w). Its deletion was not to change the legislative intent but for a very good purpose—to avoid sideswiping those not intended by the provision. To penalize persons who received payment for the prohibited construction will include poor, lowly paid workers and laborers whose interests is never on the whys of the construction but only on the daily wage that it promises at the end of the day. The deletion, therefore, was only to exclude those who innocently received pay in exchange for their labor but never to change the legislative intent alluded to above.

In the records of the legislative proceedings on Election Offenses under BP 881, nothing hints that the deletion carries the legislative intent to open up the floodgates as to consider criminal offenders all those who issue, use or avail of treasury warrants or similar device for innocent official

transactions during the election period. Neither did it imply coverage for issuances of treasury warrants or similar device for a any legal, lawful and valid purpose that has nothing to do with any prohibited construction.

The desired amendment is to make clear the legislative intent to thwart any misimpression. In fact, such misimpression has already happened. To avoid a repeat, this bill deserves a good look from the honorable members of this House to ensure passage of this bill into a law.


ARNEL U. TY
LPG/MA PARTY LIST

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS

First Regular Session

House Bill No. 5181

Introduced by Honorable Amel U. Ty

AN ACT
AMENDING PROVISION Sec. 261 (w) OF THE OMNIBUS ELECTION
CODE (Batas Pambansa Bilang 881)

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

Section. 1. Sec. 261, Paragraph (w) on Prohibited Acts under the Omnibus Election Code, otherwise known as Batas Pambansa Bilang 881, is hereby amended to read as follows:-

Sec. 261. Prohibited Acts.—The following shall be guilty of an election offense:

(a) xxx

(b) xxx

X X X

(w) Prohibition against construction of public works, delivery of materials for public works and issuance of treasury warrants and similar devices.—During the period of forty-five(45) days preceding a regular election and thirty days before a special election, any person who (a) undertakes the construction of any public works, except for the projects or works exempted in the preceding paragraph; or (b) IN PAYMENT THEREOF, issues, uses or avails of treasury warrants or any device undertaking any future delivery of money, goods or other things of value chargeable against public funds;

Sec. 2. This act shall take effect after fifteen (15) days following its publication in at least two newspapers of general circulation.