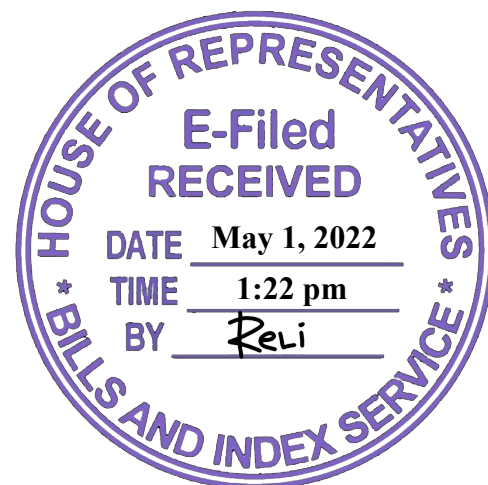


Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
Third Regular Session

House Bill No. 10835



INTRODUCED BY
REP. ALFRED VARGAS

AN ACT
FURTHER PROTECTING THE INTEGRITY OF THE RIGHT TO SUFFRAGE
BY AMENDING SECTION 261 OF BATAS PAMBANSA BLG. 881, s. 1985,
OTHERWISE KNOWN AS THE “OMNIBUS ELECTION CODE,” AS
AMENDED, DEFINING THE CRIMES OF SYNDICATED VOTE-BUYING,
CYBER-VOTE-BUYING, AND PROVIDING PENALTIES THEREOF

EXPLANATORY NOTE

The right to vote is sacred. Through the exercise of the sacrosanct right to suffrage, the Filipino people reinforce our nation’s constitutional foundations that “[t]he Philippines is a democratic and republican State”¹ and that “Sovereignty resides in the people and all government authority emanates from them.”¹

The right to vote must, therefore, be zealously safeguarded.

Any insult to the right to suffrage is an insult to democracy. Any attack to the integrity of the electorate’s free and unimpeded choice is an attack to the very freedoms that build and maintain our “Government that [...] embod[ies] our ideals and aspirations.”² For, in the words of the Honorable Supreme Court,

[E]ach time the enfranchised citizen goes to the polls to assert this sovereign will, *that abiding credo of republicanism is translated into living reality*. If that will must remain undefiled at the starting level of

¹ CONST., art. II, sec. 1.

² CONST., preamble. (“We, the sovereign Filipino people, imploring the aid of Almighty God, in order to build a just and humane society, and establish a Government that shall embody our ideals and aspirations, promote the common good, conserve and develop our patrimony, and secure to ourselves and our posterity, the blessings of independence and democracy under the rule of law and a regime of truth, justice, freedom, love, equality, and peace, do ordain and promulgate this Constitution.”)

its expression and application, every assumption must be indulged in and every guarantee adopted to assure the unmolested exercise of the citizen's free choice. For to impede, without authority valid in law, the free and orderly exercise of the right of suffrage is to inflict the ultimate indignity on the democratic process.³

The right to vote must be undefiled.

It is for this reason that the law has defined and punished the crime of vote-buying and conspiracy to bribe voters under Section 261(a)(1) and Section 261(b), respectively, of Batas Pambansa Blg. 881, s. 1985, or the Omnibus Election Code, as amended. The law reads in part:

SECTION 261. Prohibited Acts. – The following shall be guilty of an election offense:

(a) Vote-buying and vote-selling. – (1) Any person who gives, offers or promises money or anything of value, gives or promises any office or employment, franchise or grant, public or private, or makes or offers to make an expenditure, directly or indirectly, or cause an expenditure to be made to any person, association, corporation, entity, or community in order to induce anyone or the public in general to vote for or against any candidate or withhold his vote in the election, or to vote for or against any aspirant for the nomination or choice of a candidate in a convention or similar selection process of a political party.

x x x

(b) Conspiracy to bribe voters. – Two or more persons, whether candidates or not, who come to an agreement concerning the commission of any violation of paragraph (a) of this section and decide to commit it.

The penalty for such a crime is only one (1) to six (6) years of imprisonment⁴—a punishment that does not reflect the importance of the right to suffrage, nor ascribe full value to our democratic ideals grounded on the electorate's free and informed choice.

Indeed, 37 years have passed and the law on vote-buying remains static; unchanged, despite the dynamism of the electoral process that has since evolved from manual counting to electronic and automated elections.

³ *People v. San Juan*, G.R. No. L-22944, February 10, 1968. (Emphasis supplied.)

⁴ “Any person found guilty of any election offense under this Code shall be punished with imprisonment of not less than one year but not more than six years and shall not be subject to probation. In addition, the guilty party shall be sentenced to suffer disqualification to hold public office and deprivation of the right of suffrage. If he is a foreigner, he shall be sentenced to deportation which shall be enforced after the prison term has been served. Any political party found guilty shall be sentenced to pay a fine of not less than ten thousand pesos, which shall be imposed upon such party after criminal action has been instituted in which their corresponding officials have been found guilty.” Omnibus Election Code, sec. 264.

The campaign in the May 9, 2022 National and Local Elections has seen the proliferation of vote-buying in the country, which tarnishes the integrity of the electoral process.⁵

It should be emphasized that *vote-buying is an exploitation of the poor, the vulnerable, and the marginalized*. Vote-buying is a sabotage of sovereign will. This exploitation and sabotage is especially repugnant now, considering that it abuses the Filipino people who have been left desperate by the socioeconomic shocks of the COVID-19 pandemic.

In months since the outbreak in China, the COVID-19 pandemic “has rapidly transformed into an unprecedented global economic and [labor] market crisis, with severe impact on the world of work in the Philippines.”⁶ The negative labor market impact has been “more pronounced among vulnerable and part-time workers, young people, overseas Filipino workers, women, and healthcare and medical workers,”⁴ considering substantial production disruptions as a result of forced business closures and the inability of workers to get to work.

This disruption of the pandemic came at a time when the Philippines was experiencing its longest ever economic and job expansion—unfortunately “revers[ing] some of these gains, wiping out 1.7 million wage and salary jobs in the 12 months to January 2021.”⁷

This Representation has seen firsthand the unprecedented levels and magnitudes of vote-buying in the Fifth District of Quezon City, committed by a personality involved in one of the biggest corruption scandals that rocked the country at the height of the COVID-19 pandemic.

⁵ “Vote buying and selling is illegal but remains rampant because of poverty, Maria Ela L. Atienza, a political science professor from the University of the Philippines, said in an e-mailed reply to questions. ‘This makes it easier for politicians to exploit the poverty and misery of people and continue the practice of patronage politics and negative aspects of *utang na loob* (debt of gratitude).’ This is especially true for Filipinos who are no stranger to natural disasters, not to mention a coronavirus pandemic that has been running for two years now, Ms. Atienza said.” Alyssa Nicole O. Tan, ‘Filipinos start taking the money as campaign period begins amid a pandemic,’ *BusinessWorld* (February 14, 2022).

⁶ International Labour Organisation. *COVID-19 labour market impact in the Philippines: Assessment and national policy responses* (2020).

⁷ “Prior to the COVID-19 pandemic, the Philippines was experiencing its longest ever economic and job expansion. There was remarkable growth in wage and salary employment (a measure of modern employment), growing at an average of 4.6% annually from 2015 to 2019. [...] Unfortunately, the pandemic reversed some of these gains, wiping out 1.7 million wage and salary jobs in the 12 months to January 2021. In contrast, employment in the informal sector rose by about 435,000. The pandemic could create long lasting effects on employment. Put simply, this temporary large shock to the economy might produce a persistently lower employment rate even after the economy has started to grow again. This phenomenon is known as hysteresis in employment.” Kelly Bird, Cristina Lozano & Teresa Mendoza, ‘Philippines’ COVID-19 Employment Challenge: Labor Market Programs to the Rescue’, *ADB Development Blog* (June 4, 2021).

Reports of death, injuries, and hospitalizations in these massive vote-buying operations have been documented.

These flagrant vote-buying operations are consummated through the conspiracy of various individuals, not just the candidate but even *barangay* officials and people hired as coordinators, among many accomplices and accessories.

According to ground reports, voluminous video and photograph records, and sworn statements, these vote-buying operations utilize warehouses and many vote-buying centers—often residences of allied former and incumbent *barangay* officials.

These operations work through a “pyramiding system” where there is an active recruitment of networks of vote-buying accomplices. Various mechanisms are used for these district-wide vote-buying operations, including the use of identification cards (with QR codes), stubs, and tickets. Various fronts and guises are also employed, including *ayuda*, “scholarships” (disbursed to parents who must be registered voters), and fuel cards, all meant to induce and corrupt voters into choosing a candidate. Cash, however, remains to be the predominant mode of vote-buying, with PHP 500.00 bills given inside brown envelopes to voters in the candidate’s operation centers—which are guarded by armed security.

Vote-buying is, therefore, conducted *as a syndicate*, making the crime even more aggravated—as scores of our fellow Filipinos are bribed to sell their votes and, themselves, become criminals.⁸ Vote-buying is, thus, exceptionally objectionable because the crime makes victims—those who are already exploited—criminals as well.

Moreover, this Representation has also received reports that vote-buying efforts have innovated to cover new technologies, including money remittance applications and online banking. Hence, there is a need for the law to catch up and cover these crimes and amendments are critical in view of the limitations of the Cybercrime Prevention Act of 2012.⁹ The law must respond to these criminal developments and the aggravated use of information and communication technology and exploitative use of computer devices and software against public policy must be punished.

⁸ See, e.g., Presidential Decree No. 1689 (on the definition of a syndicate, “a syndicate consisting of five or more persons formed with the intention of carrying out the unlawful or illegal act, transaction, enterprise or scheme, and the defraudation”).

⁹ See, Rep. Act. 10175, sec. 6 (“SEC. 6. All crimes defined and penalized by the Revised Penal Code, as amended, and special laws, if committed by, through and with the use of information and communications technologies shall be covered by the relevant provisions of this Act: *Provided*, That the penalty to be imposed shall be one (1) degree higher than that provided for by the Revised Penal Code, as amended, and special laws, as the case may be.”).

This proposed law addresses the gaps between the lofty ideals of a strong democracy hinged on the electorate's full power of suffrage and the punishment against forces that aim to degrade and debase the People's Sovereignty. It defines two new offenses, syndicated vote-buying and cyber-vote-buying, and punishes them with a penalty commensurate to the gravity of these crimes.

Hence, immediate passage of this measure is earnestly sought.



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

SECTION 1. *Short Title.* – This Act shall be known as the “Integrity of Suffrage Act of 2022”.

SECTION 2. *Vote-Buying Through a Syndicate* – Section 261(b) of Batas Pambansa Blg. 881, s. 1985, is amended as follows:

(b) Conspiracy to bribe voters and vote-buying through a syndicate. – Two or more persons, whether candidates or not, who come to an agreement concerning the commission of any violation of paragraph (a) of this section and decide to commit it; provided that, any person or persons who shall commit vote-buying shall be punished by not less than five (5) years to not more than ten (10) years of imprisonment and shall not be subject to probation if the vote-buying is committed by a syndicate consisting of five (5) or more persons formed with the intention of carrying out the unlawful or illegal act.

SECTION 3. *Cyber-Vote-Buying.* – Section 261(a)(1) of Batas Pambansa Blg. 881, s. 1985, is amended as follows:

(a) Vote-buying and vote-selling. – (1) Any person who gives, offers or promises money or anything of value, gives or promises any office or employment, franchise or grant, public or private, or makes or offers to make an expenditure, directly or

indirectly, or cause an expenditure to be made to any person, association, corporation, entity, or community in order to induce anyone or the public in general to vote for or against any candidate or withhold his vote in the election, or to vote for or against any aspirant for the nomination or choice of a candidate in a convention or similar selection process of a political party.

When the vote-buying is committed by, through and with the use of information and communications technologies, including but not exclusive to websites, software, and applications for online banking and money remittances, the penalty to be imposed shall be imprisonment of not less than five (5) years but not more than ten (10) years and shall not be subject to probation.

SECTION 4. *Separability Clause.* – If any provision is held invalid or unconstitutional, the remainder of the law or provision not otherwise affected shall remain valid and subsisting.

SECTION 5. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule, or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified, or amended accordingly.

SECTION 6. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspaper of general circulation.

Approved,