

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila
TWENTIETH CONGRESS
First Regular Session
House Bill No. **5261**



Introduced by Representative
BRIAN POE, PhD, MNSA

AN ACT
AMENDING SECTIONS 14 AND 39 OF REPUBLIC ACT NO. 7166, ENTITLED “AN
ACT PROVIDING FOR SYNCHRONIZED NATIONAL AND LOCAL ELECTIONS
AND FOR ELECTORAL REFORMS, AUTHORIZING APPROPRIATIONS
THEREFOR, AND FOR OTHER PURPOSES”

EXPLANATORY NOTE

In 1991, Republic Act (RA) No. 7166 repealed Section 107 of Batas Pambansa Bilang 881, otherwise known as the Omnibus Election Code (OEC), which no longer considered criminal but mere administrative infraction the non-filing of Statement of Contributions and Expenditures (SOCE). It only imposed administrative fine in lieu of imprisonment pursuant to Section 14 of RA No. 7166.

Likewise, Section 100 of the OEC, limiting the expenses of candidates, was amended by Section 13 of RA 7166 to increase authorized expenses of candidates and political parties. However, it did not decriminalized “election overspending”, as under Section 39 of RA 7166, only Sections 105 to 112 of the OEC were expressly deleted from the list of election offenses. Therefore, the violation of Section 100 of the OEC, now Sec. 13 of RA 7166, is still remained in the enumeration of election offenses penalized under Sections 262 and 264 of the OEC.

This led to an absurd circumstance wherein those who did not file their SOCE were only meted a fine of P1,000 to P30,000 for the first offense or P2,000 to P60,000 for subsequent offenses, while those who were able to file their SOCE but who, intentionally or unintentionally, declared an amount over and above what is allowed by law, however small the difference is, are still penalized under Section 264 of the OEC and punished with imprisonment of not less than 1 year but not more than 6 years, without probation, and are disqualified to hold public office and are deprived of the right of suffrage.

This particularly happened in the case of Fernando O. Cumigad v. People of the Philippines, G.R. No. 245238, dated August 27, 2020. The Supreme Court indicted Cumigad for violation of Sections 100 and 262 of the OEC, in relation to Section 13 of RA 7166, when he was found to have unlawfully spent for his mayoralty election in 2007 a total of P116,884.11 as declared in his SOCE beyond what is allowed of him to spend, which is P47,961 considering the number of registered voters and the allowable expense for each. For this, although already giving consideration that he was already a senior citizen, he was penalized by the Supreme Court to suffer imprisonment with an indeterminate sentence of 1 year as minimum to 2 years as maximum, without the benefit of probation. In addition, he was sentenced to suffer disqualification to hold public office and deprivation of his right to suffrage.

This inequitableness calls for an amendment of the law. Non-filing of the required SOCE should be reinstituted in the list of election offenses so as to be penalized the same way as election overspending. Otherwise, it is better not to file one's SOCE than filing one and subsequently be imprisoned for declaring an amount more than the allowable expense.

Thus, the passage of this measure is earnestly sought.


HON. BRIAN POE, PhD, MNSA
Representative
FPJ Panday Bayanihan Party-List

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

SECTION 1. Section 14 of Republic Act No. 7166, as amended, is hereby amended to read as follows:

“Section 14. *Statement of Contributions and Expenditures: Effect of Failure to File Statement.* — Every candidate and treasurer of the political party shall, within thirty (30) days after the day of the election, file in duplicate with the offices of the Commission the full, true and itemized statement of all contributions and expenditures in connection with the election.

No person elected to any public office shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required.

The same prohibition shall apply if the political party which nominated the winning candidate falls to file the statement required herein within the period prescribed by this Act.

~~{Except candidates for elective barangay office, failure to file the statements or reports in connection with electoral contributions and~~

~~expenditures as required herein shall constitute an administrative offense for which the offenders shall be liable to pay an administrative fine ranging from One thousand pesos (P1,000.00) to Thirty thousand pesos (P30,000.00), in the discretion of the Commission.~~

~~The fine shall be paid within thirty (30) days from receipt of notice of such failure; otherwise, it shall be enforceable by a writ of execution issued by the Commission against the properties of the offender.~~

It shall be the duty of every city or municipal election registrar to advise in writing, by personal delivery or registered mail, within five (5) days from the date of election all candidates residing in his jurisdiction to comply with their obligation to file their statements of contributions and expenditures.

~~{For the commission of a second or subsequent offense under this section, the administrative fine shall be from Two thousand pesos (P2,000.00) to Sixty thousand pesos (P60,000.00), in the discretion of the Commission. In addition, the offender shall be subject to perpetual disqualification to hold public office.}~~

IN ADDITION, FAILURE TO FILE THE STATEMENTS OR REPORTS IN CONNECTION WITH ELECTORAL CONTRIBUTIONS AND EXPENDITURES AS REQUIRED HEREIN SHALL CONSTITUTE AN ELECTION OFFENSE UNDER SECTION 262 OF THE OMNIBUS ELECTION CODE.

SEC. 2. Section 39 of Republic Act No. 7166, as amended, is hereby amended to read as follows:

“Section 39. *Amending and Repealing Clause.* – Section 107, 108 and 245 of the Omnibus Election Code are hereby repealed. Likewise, the inclusion in Section 262 of the Omnibus Election Code of the violations of Sections 105, 106, 107, 108, 109, 110[~~111~~] and 112 as among election offenses is also hereby repealed. This repeal shall have retroactive effect.”

SEC. 3. *Separability Clause.* – If any portion or provision of this Act is declared void or unconstitutional, the remaining portions or provisions of this Act shall not be affected by such declaration.

SEC. 4. *Repealing Clause.* – All laws, decrees, orders, rules and regulations, other issuances, or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 5. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

Approved,


HON. BRIAN POE, PhD, MNSA
Representative
FPJ Panday Bayanihan Party-List