



## Legal Measures to Resolve Vote Buying in Election of Municipality Council Members and Mayor of the Municipality in Phatthalung Province Problems

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### Abstract

The objective of the research is to suggest and develop the law on Election of Members of Local Assemblies or Local Administrators Act B.E. 2562 (2019) in problems related to vote buying in the election of municipality council members and mayor of the municipality in Phatthalung province. The study included a study of documents and interviews (key informants). The authors found that 1) the Office of Election Commission of Thailand's lack of manpower availability causes ineffective prevention and suppression. 2) Reactive working is being used for the Office of Election Commission of Thailand causes in case of no one files petition, the vote buyer is free to punish in accordance with the law. 3) Determination of punishment for vote sellers causes people to dare to provide information or testify as eyewitnesses because they are afraid of their offense and punishment in accordance with the law. The authors suggest that amendments in election laws shall include changes related to the appointment of other state agencies to perform investigation, inquiry, and collect evidence works, election commission officers delegation to investigate, search for the clue, collect evidence and arrest election offenders without filing petition and determination of punishment for vote seller repeal to solve problems related to vote buying in the election of municipality council members and mayor of the municipality.

**Keywords:** *vote buying, election of municipality, Phatthalung*

### 1. Introduction

The objective of local administration in each country is as follows; 1) To respond to the needs and reduce conflict for people in the locality, 2) To provide speedy public service, 3) To provide effective public service to the needs and goals of the people in each locality, 4) To transfer the burden from central government to local administration organization, and 5) To make the local administration organization an institution to educate people on the democratic regime of government, which democratic regime is sovereign power to command in its own territory (Office of the Royal Society, 2011, n.d.). Constitution of the Kingdom of Thailand B.E. 2560 (2017) section 3 recognizes that sovereign power belongs to the Thai people or govern by people, but all people cannot govern the country at the same time. Election as a candidate to be elected by the people as their representative is necessary to perform the administrative duty at the national level. In addition, election as a candidate to be elected by the people as their representative, for example, municipality council members and mayor of the municipality is necessary to perform the administrative duty at the local level, for example, municipality, which is consistent with the democratic regime and has represented as their own needs to perform on the administration in local administrative organization responding to people's will. The election of municipality council members and mayor of the municipality should follow the principle of free election, in which persons entitled to vote must be free to vote for any candidate for election and free to support or oppose government without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector's will, (Thongkaow, 2019, n.d.) and the principle of secret voting. A fair election is one in which all political parties and political leaders have an equal right to contest the elections, and campaign for voter support and all elector have an equal opportunity to access the process of election and all votes are based on equality. In addition, election administration shall manage typically within the timeframe, for example, every four years in the case of a municipality, and a fair election shall reflect the elector's will (Nogsuan, 2018).

However, a vote is widespread purchased in the election of municipality council members and mayor of the municipality, for example, on March 29, 2021, a former member of parliament stated on a Facebook post to congratulate on being elected to the municipality council members and mayor of the

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municipality and please ask that in the election of 2472 municipalities, which municipality has no vote buying? because it can be believed that there is vote-buying in every municipality, but, the office of the election commission of Thailand cannot arrest corrupt vote buying. It shall be deemed a failure of the office of the election commission of Thailand (Thaipost, 2019). The vote buying problem is unfair in the election, which causes advantages and disadvantages between candidates with vote buying and without vote buying and would result in corruption after being elected. Although, vote buying is an election offense in accordance with Election of Members of Local Assemblies or Local Administrators Act B.E. 2562 (2019) section 65 (1), which offender shall be liable to imprisonment for a term of one year to ten years or a fine of twenty thousand to two hundred thousand Baht or both and the Court shall order revocation of such person's right to vote for a term of twenty years, currently, vote buying problem continuously becomes more serious. Hence, it is necessary to study legal measures and other measures to solve the problems related to vote buying in the election of municipality council members and mayor of the municipality

## 2. Objectives

- 1) To examine concepts, theories related to local administrative organization, representative democracy, and election
- 2) To examine and analyze legal problems related to the Election of Members of Local Assemblies or Local Administrators Act B.E. 2562 (2019) and related laws causing vote buying in the election of municipality council members and mayor of the municipality in Phatthalung
- 3) To develop a law related to resolving vote buying in the election of municipality council members and mayor of the municipality in Phatthalung

## 3. Research Methodology

This research is based on a qualitative study and analysis from documents and interviews as follows:

- 1) The study included a study of documents, concepts, and theories as a basis for research. For example, concepts and theories related to local administrative organization, representative democracy, and election were studied from books, textbooks, research reports, and theses using the library and library databases.
- 2) An informal interview was conducted. The key informants are 5 election commission officers 5 police officers and including 20 subdistrict headmen, village headmen, and community leaders.

## 4. Results and Discussion

From the study, the author found as follows:

### 4.1 Lacks of Manpower Availability

The amount of Office of Election Commission of Thailand manpower in Phatthalung is available 16 positions and 4 positions, are merely for the performance of investigation and inquiry work and are responsible to manage and control elections nationwide at national and local levels, which causes too much investigation workload. However, Regulation on Election Commission for Investigation Inquisition and Ruling B.E. 2561 (2018) grants power to the election commission to appoint state agencies to perform investigation, inquiry, and collect evidence works, related to the assured and unfair election. However, in practice, there is a small number of other state agency, who appointed by the election commission to perform investigation, and inquiry work (Provincial Electoral Officer, 15 December 2021).

### 4.2 Reactive work

Although, Regulation on Election Commission for Investigation Inquisition and Ruling B.E. 2561 (2018) grant power to the election commission to investigate, inquiry and analyze vote buyers whether in case of one file petition or case no one file petition because of doubt or it can be seen that one committed an offense regarding to election law and election commission know that. However, in practice, the election commission will only proceed to investigate and inquire in case of one file petition. This cause in case



of vote buying incurs and candidate or voter does not file petition and election commission announces election result within 30 days from election date without investigation and inquiry, which makes vote buyer is free to punish in accordance with law (Provincial Electoral Officer, 15 December 2021).

#### 4.3 Determination of punishment for vote seller

There are several reasons why voters agree to accept money, for example, economic. Some voter has the opinion that voter shall select a candidate, who give money to vote because benefit from the money, and there is no difference between candidate. It is consistent with the research by Somjit Rattanaudomchoke, which found that voters agree to sell their vote because voter lacks people's consciousness (Rattanaudomchoke, 2008). Election of Members of Local Assemblies or Local Administrators Act B.E. 2562 (2019) Section 92 and 126 provided that the person entitled to vote, who demands, accepts, or agrees to accept money, property, or any other benefit for himself or any other person in return for casting a vote for or against any candidate or refraining from casting a vote for any candidate, shall be liable to imprisonment for a term of one year to ten years or a fine of twenty thousand to two hundred thousand Baht or both and the Court shall order revocation of such person's right to vote for a term of twenty years, which, people dare to provide information or testify as eyewitness because he or she is afraid of his or her offense and punishment under the law (Village Headman in Phatthalung, 16 December 2021).

## 5. Conclusion

From the study of relevant concepts, theories, and documents concerning to Election of Members of Local Assemblies or Local Administrators Act B.E. 2562 (2019), the authors found as follows:

#### 5.1 Appointment of other state agency for investigation work

In accordance with Regulation on Election Commission for Investigation Inquisition and Ruling B.E. 2561 (2018) election commission shall appoint other state agencies to perform investigation, inquiry, and collect evidence works, related to corruption and unfairness in the election.

#### 5.2 Proactive Work

Regulation on Election Commission for Investigation Inquisition and Ruling B.E. 2561 (2018) grants power to the election commission to investigate vote buyers, who committed an offense regarding election law by filing a petition. Then, the election commission shall delegate election commission officers to investigate, search for the clue, collect evidence, and arrest election offenders.

#### 5.3 Repeal determination of punishment for vote seller

Regulation related to the determination of punishment for vote sellers shall be repealed and people, will then, dare to give a clue or provide information to the election commission.

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