

SEVENTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
First Regular Session )



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SENATE

RECEIVED BY: 

S.B. No. 1223

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Introduced by Senator JOEL VILLANUEVA

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**AN ACT**  
**AMENDING PD 972 (AS AMENDED BY PD 1174) ALSO KNOWN AS**  
**THE "COAL MINING DEVELOPMENT ACT OF 1976"**

**EXPLANATORY NOTE**

Over the decades, the Philippine coal mining industry has displayed a considerable expansion. Nevertheless, whether the industry has made significant economic and social benefits remains a question. Currently, coal mining contributes a measly share to the public sector. Under existing sharing scheme of the coal revenues, a coal mining company can deduct as much as 90% of the gross proceeds of coal as expenses. While such deductions are commonly allowed among government contracts with extractive industries, the proportion of recoverable cost for coal operators is among the highest; oil and natural gas operators, for example, are only allowed to deduct up to 70% of total proceeds of their extractions as expenses.

From the remaining 10% of gross proceeds, the company receives a share equal to 7%. This is tantamount to the sum of the company's "basic fees" and "special allowances." Thus, the state – the inherent owner of these extracted resources – is left with a measly share of 3% of the gross proceeds from coal.

As part of its incentives, coal mining operators are also exempted from payment of all national taxes, except income tax. However, a company's income tax expense may be included in the total amount of expenditure to be deducted from the total sale of coal, as explicitly stated in the "Guidelines for Coal Operations in the Philippines."

Moreover, the governing law on coal mining operation – last amended in 1977 – needs to be strengthened to minimize the unwanted environmental impact of coal

mining operations. Lastly, like other mineral mining companies, coal operators need to directly contribute to the sustainable development of their host communities. This is to ensure that significant benefits from the use of the country's finite resources are enjoyed by the current and future generations.

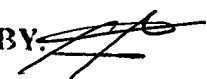
In consideration of these factors, this bill seeks the to amend Presidential Decree 972 to increase the public share from the coal proceeds, minimize the environmental impact of the coal mining operations, and strengthen the role of coal operators to the development of communities:

- a) Lower the proportion of allowable deduction from 90% to 70% of gross proceeds, and exclude taxes and fees from the items included in the operating expense to be deducted from the gross proceeds;
- b) Repeal the 30% special allowance thus leave the share of operators to 40% of net proceeds;
- c) Exclude excise taxes on coal, and local taxes, fees, and charges from the incentives granted to operators;
- d) Require operators to incorporate an Environmental Protection and Enhancement Program in the operators' exploration and production programs;
- e) Create a Mine Rehabilitation Fund to be used for physical and social rehabilitation of areas and communities affected by coal mining activities, among others;
- f) Require coal mining operators to allocate 1.5% of their operating expense for programs and projects designed to improve the well-being of host communities.

The immediate passage of this important measure is earnestly sought.

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

1 **SEC. 1.** Section 9 of PD 972, as amended by PD 1174, is hereby amended further  
2 to read as follows:

3 "SEC. 9. *Obligations of Operator in a Coal Operating Contract.*

4 "x x x

5 "On the other hand, the Energy Development Board shall:

6 (a) On behalf of the Government, reimburse the operator for all operating  
7 expenses not exceeding SEVENTY PERCENT (70%) of the gross  
8 proceeds from production in any year; Provided, that if in any year, the  
9 operating expenses exceed SEVENTY PERCENT (70%) of the gross  
10 proceeds from production, then the unrecovered expenses shall be  
11 recovered from the operating of succeeding years. Operating expenses  
12 means the total expenditures for coal operating incurred by the operator as  
13 provided in a coal operating contract. OPERATING EXPENSES TO BE  
14 DEDUCTED FROM THE GROSS PROCEEDS SHALL EXCLUDE  
15 TAXES, FEES, OR CHARGES, INCLUDING RELATED SURCHARGES,  
16 INTERESTS OR FINES, PAID TO THE NATIONAL AND LOCAL  
17 GOVERNMENT.

18 "x x x."

19  
20 **SEC. 2.** Section 10 of PD 972, as amended by PD 1174, is hereby REPEALED and  
21 a new Section 10 is provided to read as follow:

1 "SEC. 10. SOCIAL DEVELOPMENT. EACH CONTRACTOR SHALL ALLOT AT  
2 LEAST ONE AND A HALF PERCENT (1.5%) OF ITS OPERATING COST TO  
3 ASSIST IN THE DEVELOPMENT OF ITS HOST COMMUNITY, AND IN THE  
4 PROMOTION OF THE GENERAL WELFARE OF ITS INHABITANTS."  
5

6 **SEC. 3.** A new Section 10-A of PD 972, as amended by PD 1174, is hereby  
7 amended to read as follow:

8 "SEC. 10-A. ENVIRONMENTAL PROTECTION. EACH CONTRACTOR SHALL  
9 UNDERTAKE AN ENVIRONMENTAL PROTECTION AND ENHANCEMENT  
10 PROGRAM COVERING THE PERIOD OF THE COAL OPERATING CONTRACT.  
11 SUCH ENVIRONMENTAL PROGRAM SHALL BE INCORPORATED IN BOTH  
12 THE EXPLORATION PROGRAM AND DEVELOPMENT AND PRODUCTION  
13 PROGRAM. THE ENVIRONMENTAL PROGRAM SHALL INCLUDE NOT ONLY  
14 PLANS RELATIVE TO EXPLORATION AND PRODUCTION OPERATIONS BUT  
15 ALSO TO REHABILITATION, REGENERATION, REVEGETATION AND  
16 REFORESTATION OF COAL CONTRACT AREAS, SLOPE STABILIZATION OF  
17 THE COVERED AREAS, AQUACULTURE, WATERSHED DEVELOPMENT AND  
18 WATER CONSERVATION."  
19

20 **SEC. 4.** A new Section 10-B of PD 972, as amended by PD 1174, is hereby inserted  
21 to read as follow:

22 "SEC. 10-B. ENVIRONMENTAL IMPACT ASSESSMENT. EXCEPT DURING  
23 THE EXPLORATION PERIOD OF A COAL MINING CONTRACT, AN  
24 ENVIRONMENTAL CLEARANCE CERTIFICATE SHALL BE REQUIRED BASED  
25 ON AN ENVIRONMENTAL IMPACT ASSESSMENT AND PROCEDURES  
26 UNDER THE PHILIPPINE ENVIRONMENTAL IMPACT ASSESSMENT SYSTEM  
27 INCLUDING SECTIONS 26 AND 27 OF THE LOCAL GOVERNMENT CODE OF  
28 1991 WHICH REQUIRE NATIONAL GOVERNMENT AGENCIES TO MAINTAIN  
29 ECOLOGICAL BALANCE, AND PRIOR CONSULTATION WITH THE LOCAL  
30 GOVERNMENT UNITS, NON-GOVERNMENTAL AND PEOPLE'S  
31 ORGANIZATIONS AND OTHER CONCERNED SECTORS OF THE  
32 COMMUNITY: PROVIDED, THAT A COMPLETED ECOLOGICAL PROFILE OF  
33 THE PROPOSED COAL CONTRACT AREA SHALL ALSO CONSTITUTE PART  
34 OF THE ENVIRONMENTAL IMPACT ASSESSMENT. PEOPLE'S  
35 ORGANIZATIONS AND NON-GOVERNMENTAL ORGANIZATIONS SHALL BE  
36 ALLOWED AND ENCOURAGED TO PARTICIPATE IN ENSURING THAT  
37 CONTRACTORS SHALL OBSERVE ALL THE REQUIREMENTS OF  
38 ENVIRONMENTAL PROTECTION.  
39

40 **SEC. 5.** A new Section 10-C of PD 972, as amended by PD 1174, is hereby inserted  
41 to read as follow:

42 "SEC. 10-C. REHABILITATION. CONTRACTORS SHALL TECHNICALLY AND  
43 BIOLOGICALLY REHABILITATE THE COAL CONTRACT AREAS TO THE  
44 CONDITION OF ENVIRONMENTAL SAFETY, AS MAY BE PROVIDED IN THE  
45 IMPLEMENTING RULES AND REGULATIONS OF THIS ACT. A MINE  
46 REHABILITATION FUND SHALL BE CREATED AND SHALL BE DEPOSITED

1 AS A TRUST FUND IN A GOVERNMENT DEPOSITORY BANK AND USED  
2 FOR PHYSICAL AND SOCIAL REHABILITATION OF AREAS AND  
3 COMMUNITIES AFFECTED BY COAL MINING ACTIVITIES AND FOR  
4 RESEARCH ON THE SOCIAL, TECHNICAL AND PREVENTIVE ASPECTS OF  
5 REHABILITATION. FAILURE TO FULFILL THE ABOVE OBLIGATION SHALL  
6 MEAN IMMEDIATE SUSPENSION OR CLOSURE OF THE COAL MINING  
7 ACTIVITIES OF THE CONTRACTOR CONCERNED.”

8  
9 **SEC. 6.** Section 16 of PD 972, as amended by PD 1174, is hereby amended to read  
10 as follows:

11 “SEC. 16. Incentives to Operators.

12 (a) Exemption from all taxes except income tax, EXCISE TAXES, AND  
13 LOCAL TAXES, FEES, AND CHARGES IMPOSED BY LOCAL  
14 GOVERNMENT UNITS HOSTING THE COAL MINING OPERATION;

15 “x x x.”

16  
17 **SEC. 7. *Separability Clause.*** – If any provision of this Act is declared  
18 unconstitutional or invalid, other parts or provisions hereof not affected thereby shall  
19 continue to be in full force and effect.

20  
21 **SEC. 8. *Repealing Clause.*** – All laws, decrees, executive orders, rules and  
22 regulations or parts thereof which are contrary to or inconsistent with this Act are  
23 hereby repealed, amended or modified accordingly.

24  
25 **SEC. 9. *Effectivity.*** – This Act shall take effect fifteen (15) days after its publication  
26 in this Official Gazette or in any two newspapers of general circulation.

27  
28 Approved.