



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

22 JUL 28 1983

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SENATE

S. B. NO. 927

Introduced by **SENATOR JOEL VILLANUEVA**

**AN ACT  
AMENDING PRESIDENTIAL DECREE NO. 972, AS AMENDED  
BY PRESIDENTIAL DECREE NO. 1174, OTHERWISE KNOWN  
AS THE "COAL MINING DEVELOPMENT ACT OF 1976"  
AND FOR OTHER PURPOSES**

**EXPLANATORY NOTE**

Over the decades, the Philippine coal mining industry has experienced considerable expansion. However, it is still unclear whether the industry has made significant economic and social benefits. 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 ninety percent (90%) of the gross proceeds of coal as operating 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. For example, oil and natural gas operators are only allowed to deduct up to seventy percent (70%) of total proceeds of their extractions as expenses.

Compounding this situation is the reality that 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 “are also chargeable as Operating Expenses”, as explicitly stated in the “Guidelines for Coal Operations in the Philippines.”<sup>1</sup>

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 to amend Presidential Decree No. 972, as amended by Presidential Decree No. 1174, to increase the public share from the coal proceeds, minimize the environmental impact of 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; and
- 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.

Thus, the immediate passage of this bill is earnestly sought.

  
**SENATOR JOEL VILLANUEVA**

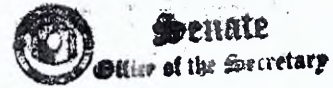
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<sup>1</sup> Department of Energy, Detailed Description of Certain Accounts, DOE BED Circular 81-11-10, Detailed Description of Certain Accounts, Item 5(s), accessible at [https://www.doe.gov.ph/sites/default/files/pdf/pecr5/coal\\_bed\\_circular\\_81\\_11\\_10.pdf](https://www.doe.gov.ph/sites/default/files/pdf/pecr5/coal_bed_circular_81_11_10.pdf) (date last accessed: July 26, 2022)

“(5) Operating Expenses.

x x x

(s) Cost ore expenses paid or incurred by the operator, which includes taxes and licenses such as privilege taxes of employees borne by the operator. Where the operator is not subject to pay a tax or duty but has such tax, the amount so paid shall not form part of the operating expenses. Income taxes of the operator are also chargeable as Operating Expenses.”



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S. B. NO. 927

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Introduced by **SENATOR JOEL VILLANUEVA**

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**AN ACT  
AMENDING PRESIDENTIAL DECREE NO. 972, AS AMENDED BY  
PRESIDENTIAL DECREE NO. 1174, OTHERWISE KNOWN AS THE  
"COAL MINING DEVELOPMENT ACT OF 1976"  
AND FOR OTHER PURPOSES**

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

1           **SECTION 1.** Section 9 of Presidential Decree No. 972 (PD 972), as  
2 amended by Presidential Decree No. 1174 (PD 1174), is hereby further  
3 amended to read as follows:

4  
5           *"SEC. 9. Obligations of Operator in a Coal Operating Contract.*

6  
7                                   "x x x

8  
9           "On the other hand, the [Energy Development Board]  
10 DEPARTMENT OF ENERGY shall:

- 11  
12           (a) On behalf of the Government, reimburse the operator for all  
13 operating expenses not exceeding SEVENTY PERCENT  
14 (70%) of the gross proceeds from production in any year;  
15 *Provided, That if in any year, the operating expenses exceed*  
16 *SEVENTY PERCENT (70%) of the gross proceeds from*  
17 *production, then the unrecovered expenses shall be*  
18 *recovered from the operation of succeeding years. Operating*  
19 *expenses means the total expenditures for coal operation*  
20 *incurred by the operator as provided in a coal operating*  
21 *contract. OPERATING EXPENSES TO BE DEDUCTED*  
22 *FROM THE GROSS PROCEEDS SHALL EXCLUDE TAXES,*  
23 *FEES, OR CHARGES, INCLUDING RELATED*

1 SURCHARGES, INTERESTS OR FINES, PAID TO THE  
2 NATIONAL AND LOCAL GOVERNMENT.”  
3

4 **SEC. 2.** Section 10 of PD 972, as amended by PD 1174, is hereby  
5 REPEALED and a new Section 10 is provided to read as follows:  
6

7 **“SEC. 10. SOCIAL DEVELOPMENT.** EACH CONTRACTOR  
8 SHALL ALLOT AT LEAST ONE AND A HALF PERCENT (1.5%)  
9 OF ITS OPERATING COST TO ASSIST IN THE  
10 DEVELOPMENT OF ITS HOST COMMUNITY, AS WELL AS  
11 NEARBY COMMUNITIES, AND IN THE PROMOTION OF THE  
12 GENERAL WELFARE OF ITS INHABITANTS.”  
13

14 **SEC. 3.** A new Section 10-A of PD 972, as amended by PD 1174, is  
15 hereby inserted to read as follow:  
16

17 **“SEC. 10-A. ENVIRONMENTAL PROTECTION.** EACH  
18 CONTRACTOR SHALL UNDERTAKE AN ENVIRONMENTAL  
19 PROTECTION AND ENHANCEMENT PROGRAM COVERING  
20 THE PERIOD OF THE COAL OPERATING CONTRACT. SUCH  
21 ENVIRONMENTAL PROGRAM SHALL BE INCORPORATED IN  
22 BOTH THE EXPLORATION PROGRAM AND DEVELOPMENT  
23 AND PRODUCTION PROGRAM. THE ENVIRONMENTAL  
24 PROGRAM SHALL INCLUDE NOT ONLY PLANS RELATIVE  
25 TO EXPLORATION AND PRODUCTION OPERATIONS, BUT  
26 ALSO TO REHABILITATION, REGENERATION,  
27 REVEGETATION AND REFORESTATION OF COAL  
28 CONTRACT AREAS, SLOPE STABILIZATION OF THE  
29 COVERED AREAS, AQUACULTURE, WATERSHED  
30 DEVELOPMENT AND WATER CONSERVATION.”  
31

32 **SEC. 4.** A new Section 10-B of PD 972, as amended by PD 1174, is  
33 hereby inserted to read as follow:  
34

35 **“SEC. 10-B. ENVIRONMENTAL IMPACT ASSESSMENT.**  
36 EXCEPT DURING THE EXPLORATION PERIOD OF A COAL  
37 MINING CONTRACT, AN ENVIRONMENTAL CLEARANCE  
38 CERTIFICATE SHALL BE REQUIRED BASED ON AN  
39 ENVIRONMENTAL IMPACT ASSESSMENT AND  
40 PROCEDURES UNDER THE PHILIPPINE ENVIRONMENTAL  
41 IMPACT STATEMENT SYSTEM, AND SECTIONS 26 AND 27  
42 OF THE LOCAL GOVERNMENT CODE OF 1991, WHICH  
43 REQUIRE NATIONAL GOVERNMENT AGENCIES TO  
44 MAINTAIN ECOLOGICAL BALANCE, AND PRIOR  
45 CONSULTATION WITH THE LOCAL GOVERNMENT UNITS,  
46 NON-GOVERNMENTAL AND PEOPLE’S ORGANIZATIONS  
47 AND OTHER CONCERNED SECTORS OF THE COMMUNITY:  
48 *PROVIDED*, THAT A COMPLETED ECOLOGICAL PROFILE OF  
49 THE PROPOSED COAL CONTRACT AREA SHALL ALSO  
50 CONSTITUTE PART OF THE ENVIRONMENTAL IMPACT

1 ASSESSMENT. PEOPLE'S ORGANIZATIONS AND NON-  
2 GOVERNMENTAL ORGANIZATIONS SHALL BE ALLOWED  
3 AND ENCOURAGED TO PARTICIPATE IN ENSURING THAT  
4 CONTRACTORS SHALL OBSERVE ALL THE  
5 REQUIREMENTS OF ENVIRONMENTAL PROTECTION.  
6

7 **SEC. 5.** A new Section 10-C of PD 972, as amended by PD 1174, is  
8 hereby inserted to read as follow:  
9

10 **"SEC. 10-C. REHABILITATION.** CONTRACTORS SHALL  
11 TECHNICALLY AND BIOLOGICALLY REHABILITATE THE  
12 COAL CONTRACT AREAS TO THE CONDITION OF  
13 ENVIRONMENTAL SAFETY, AS MAY BE PROVIDED IN THE  
14 IMPLEMENTING RULES AND REGULATIONS OF THIS ACT. A  
15 MINE REHABILITATION FUND SHALL BE CREATED AND  
16 SHALL BE DEPOSITED AS A TRUST FUND IN A  
17 GOVERNMENT DEPOSITORY BANK AND SHALL BE USED  
18 FOR THE PHYSICAL AND SOCIAL REHABILITATION OF  
19 AREAS AND COMMUNITIES AFFECTED BY COAL MINING  
20 ACTIVITIES, AND FOR RESEARCH ON THE SOCIAL,  
21 TECHNICAL AND PREVENTIVE ASPECTS OF  
22 REHABILITATION. FAILURE TO FULFILL THE ABOVE  
23 OBLIGATION SHALL MEAN IMMEDIATE SUSPENSION OR  
24 CLOSURE OF THE COAL MINING ACTIVITIES OF THE  
25 CONTRACTOR CONCERNED."  
26

27 **SEC. 6.** Section 16 of PD 972, as amended by PD 1174, is hereby  
28 amended to read as follows:  
29

30 **"SEC. 16. Incentives to Operators.**  
31 (a) Exemption from all taxes except income tax, EXCISE  
32 TAXES, AND LOCAL TAXES, FEES, AND CHARGES  
33 IMPOSED BY LOCAL GOVERNMENT UNITS HOSTING THE  
34 COAL MINING OPERATION;  
35

36 **SEC. 7. Implementing Rules and Regulations.** – Within sixty (60) days  
37 from the effectivity of this Act, the Department of Energy (DOE), in consultation  
38 with the Department of Environmental and Natural Resources (DENR), Bureau  
39 of Internal Revenue (BIR) and other concerned stakeholders, shall promulgate  
40 the rules and regulations for the effective implementation of this Act.  
41

42 **SEC. 8. Separability Clause.** – If any provision of this Act is declared  
43 unconstitutional or invalid, other parts or provisions hereof not affected thereby  
44 shall continue to be in full force and effect.  
45

46 **SEC. 9. Repealing Clause.** – All laws, decrees, executive orders, rules  
47 and regulations or parts thereof which are contrary to or inconsistent with this  
48 Act are hereby repealed, amended or modified accordingly.  
49

1           **SEC. 10. *Effectivity.*** – This Act shall take effect fifteen (15) days after  
2 its publication in the Official Gazette or in two (2) newspapers of general  
3 circulation.

4  
5

Approved,