


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

7 SEP 4

SENATE

RECEIVED BY 

SB No. 1531

Introduced by Senator Loren Legarda

EXPLANATORY NOTE

This bill seeks to close areas declared by local government units (LGUs) as No-Mining Zones from mining applications and operations, amending for the purpose the Philippine Mining Act of 1995.

The Philippines has rich reserves of gold, copper, nickel and chromite. In terms of endowment (minerals resources per unit area), the country ranks third in the world for gold, fourth for copper, fifth for nickel, and sixth for chromite.

In 1995, Congress enacted Republic Act No. 7942 otherwise known as the Philippine Mining Act of 1995 which shall govern the exploration, development, utilization and processing of all mineral resources in the country. This Act opened all mineral resources in public and private lands, including timber or forest lands, to mineral agreements or financial or technical assistance agreement applications.

Latest data from the Mines and Geosciences Bureau of the Department of Environment and Natural Resources reveal a considerable amount of gross production value in mining: from P35.2 billion in 2002 to P40.7 billion in 2006. The contribution of mining to gross domestic product (GDP) growth continues to improve, from 1.1% in 2002 to 1.2% in 2006. The mining's contribution to total employment in the country continues to grow, from 101,000 workers in 2002 to 134,000 workers in 2006. Moreover, there is an increasing number of operating metallic mines in the country. From nine (9) contractors in 2002, there are 18 contractors in 2006. Finally, the number of mineral agreements approved and registered dramatically increased, from 283 agreements in 2002 to 391 mineral agreements in 2006.

Section 19 of the Mining Act declared the following areas closed to mining applications: 1.) military and other government reservations, except upon prior written clearance by the government agency concerned; 2.) near or under public or private buildings, cemeteries, archaeological and historic sites, bridges, highways, waterways, railroads, reservoirs, dams or other infrastructure projects, public or private works including plantations or valuable crops, except upon written consent of the government agency or private entity concerned; 3.) in areas covered by valid and existing mining rights; 4.) in areas expressly prohibited by law; 5.) in areas covered by small-scale miners, unless with prior consent of the small-scale miners; 6.) old growth or virgin forests, proclaimed watershed forest reserves, wilderness areas, mangrove forests, mossy forests, national parks, provincial/municipal forests, parks, greenbelts, game

refuge and bird sanctuaries, and in areas expressly prohibited under the National Integrated Protected Areas System (NIPAS).

Also, Section 69 of the same Act provides that every contractor shall undertake an environmental protection and enhancement program covering the period of the mineral agreement or permit which shall be incorporated in the work program which the contractor or permittee shall submit as an accompanying document to the application for a mineral agreement or permit. The work program shall include not only plans relative to mining operations but also to rehabilitation, regeneration, revegetation and reforestation of mineralized areas, slope stabilization of mined-out and tailings covered areas, aquaculture, watershed development and water conservation, and socio-economic development.

Furthermore, Section 71 of the same law requires contractors and permittees to technically and biologically rehabilitate the excavated, mined-out, tailings covered and disturbed areas to the condition of environmental safety. A mine rehabilitation fund is also created based on the contractor's approved work program, and shall be deposited as a trust fund in a government depositary bank and used for physical and social rehabilitation of areas and communities affected by mining activities and for research on the social, technical and preventive aspects of rehabilitation.

Despite these safeguards, the national government lacks the manpower and resources to ensure the use of mining practices that would protect the environment and rehabilitate mined-out areas. This is the look out of local government units.

While the economic benefits to be reaped from a thriving mining industry will mean more self-reliant communities away from urban centers, there is a need to respect the prerogative of local government units to declare areas under their jurisdiction as non-mining zones. In a case decided by the Supreme Court (*Tano vs. Socrates* G.R. No. 110249 August 21, 1997) where the Supreme Court sustained the local ordinance passed by Puerto Princesa City which banned the export of live fish from Puerto Princesa to curtail the practice of cyanide fishing, the High Tribunal held that-

The Local Government Code provisions invoked by private respondents (Puerto Princesa City) merely seek to give flesh and blood to the right of the people to a balanced and healthful ecology. In fact, the General Welfare Clause expressly mentions this right:

SEC. 16. *General Welfare.*-- Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants. (underscoring supplied).

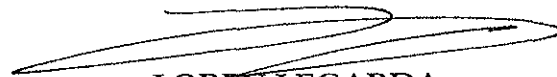
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Under the general welfare clause of the LGC, local government units have the power, *inter alia*, to enact ordinances to enhance the right of the people to a balanced ecology. It likewise specifically vests municipalities with the power to grant fishery privileges in municipal waters, and impose rentals, fees or charges therefor; to penalize, by appropriate ordinances, the use of explosives, noxious or poisonous substances, electricity, *muro-ami*, and other deleterious methods of fishing; and to prosecute other methods of fishing; and to prosecute any violation of the provisions of applicable fishing laws. Finally, it imposes upon the sangguniang bayan, the sangguniang panlungsod, and the sangguniang panlalawigan the duty to enact ordinances to “[p]rotect the environment and impose appropriate penalties for acts which endanger the environment such as dynamite fishing and other forms of destructive fishing... and such other activities which result in pollution, acceleration of eutrophication of rivers and lakes or of ecological imbalance.”

Mining, being an extractive industry, pose great threats to our fragile environment. Local government units must be given the right to chart the destiny of their environment.

This bill seeks to do that by including among the areas closed for mining applications areas declared by local government units as no-mining zones.

In view of the foregoing, immediate passage of this bill is earnestly sought.

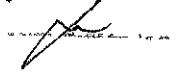


LOREN LEGARDA
Senator

FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
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SB No. 1531

Introduced by Senator Loren Legarda

AN ACT
INCLUDING AMONG THE AREAS CLOSED TO MINING APPLICATIONS
THOSE DECLARED BY LOCAL GOVERNMENT UNITS AS NO MINING ZONES,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7942 OTHERWISE
KNOWN AS THE PHILIPPINE MINING ACT OF 1995, AND FOR OTHER
PURPOSES

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

Section 1. Declaration of Policy- It is hereby a declared policy of the State to ensure that the power of local government units, consistent with its mandate under the general welfare clause of the Local Government Code, to enact ordinances to enhance the right of the people to a balanced ecology, is upheld at all times.

Pursuant to this, the right of local government units to exempt areas under their jurisdiction from mining applications is likewise sustained.

Section 2. Section 19, Chapter III of Republic Act No. 7942 otherwise known as the Philippine Mining Act of 1995 is hereby amended to read as follows:

"SEC. 19. Areas Closed to Mining Applications. --Mineral agreement or financial technical assistance agreement applications shall not be allowed:

- a.) In military and other government reservations, except upon prior written clearance by the government agency concerned;
- b.) Near or under public or private buildings, cemeteries, archeological and historic sites, bridges, highways, waterways, railroads, reservoirs, dams or other infrastructure projects, public or private works including plantations or valuable crops, except upon written consent of the government agency or private entity concerned;
- c.) In areas covered by valid and existing mining rights;

d.) In areas expressly prohibited by law;

E.) IN AREAS DECLARED BY LOCAL GOVERNMENT UNITS AS NO-MINING ZONES

[e]F.) In areas covered by small-scale miners as defined by law unless with prior consent of the small-scale miners, in which case a royalty payment upon the utilization of minerals shall be agreed upon by the parties, said royalty forming a trust fund for the socioeconomic development of the community concerned; and

[f]G.) Old growth or virgin forests proclaimed watershed forest reserves, wilderness areas, mangrove forests, mossy forests, national parks, provincial/municipal forests, parks, greenbelts, game refuge and bird sanctuaries as defined by law in areas expressly prohibited under the National Integrated Protected Areas System (NIPAS) under Republic Act No. 7586. Department Administrative Order No. 25, series of 1992 and other laws.

Section 3. *Separability Clause.* - If any provision of this Act is held invalid or unconstitutional, the remainder of the Act or the provision not otherwise affected shall remain valid and subsisting.

Section 4. *Repealing Clause.* - Any law, presidential decree or issuance, executive order, letter of instruction, administrative rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

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

APPROVED,