

EIGHTEENTH CONGRESS OF THE  
REPUBLIC OF THE PHILIPPINES  
First Regular Session

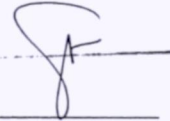


SENATE

S. B. NO. 613

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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**

**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."

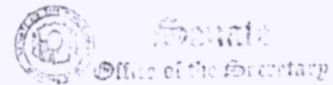
Moreover, the governing law on coal mining operation – last amended in 1977 – needs to be strengthened to minimize the unwanted environmental impact of coal mining operations. Lastly, like other mineral mining companies, coal operators need to directly contribute to the sustainable development of their 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 to amend Presidential Decree No. 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; 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.

The immediate passage of this bill is earnestly sought.

  
SENATOR JOEL VILLANUEVA



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**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 amended  
2 by Presidential Decree No. 1174 (PD 1174), is hereby further amended to  
3 read as follows:

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

5 "x x x

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

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

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

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

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

“SEC. 10-A. *ENVIRONMENTAL PROTECTION.* EACH CONTRACTOR SHALL UNDERTAKE AN ENVIRONMENTAL PROTECTION AND ENHANCEMENT PROGRAM COVERING THE PERIOD OF THE COAL OPERATING CONTRACT. SUCH ENVIRONMENTAL PROGRAM SHALL BE INCORPORATED IN BOTH THE EXPLORATION PROGRAM AND DEVELOPMENT AND PRODUCTION PROGRAM. THE ENVIRONMENTAL PROGRAM SHALL INCLUDE NOT ONLY PLANS RELATIVE TO EXPLORATION AND PRODUCTION OPERATIONS BUT ALSO TO REHABILITATION, REGENERATION, REVEGETATION AND REFORESTATION OF COAL CONTRACT AREAS, SLOPE STABILIZATION OF THE COVERED AREAS, AQUACULTURE, WATERSHED DEVELOPMENT AND WATER CONSERVATION.”

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

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

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

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

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

19 "SEC. 16. Incentives to Operators.

20 (a) Exemption from all taxes except income tax, EXCISE TAXES, AND  
21 LOCAL TAXES, FEES, AND CHARGES IMPOSED BY LOCAL  
22 GOVERNMENT UNITS HOSTING THE COAL MINING  
23 OPERATION;

24

"x x x

25 **SEC. 7. Implementing Rules and Regulations.** – Within sixty (60) days from  
26 the effectivity of this Act, the Department of Energy, in consultation with the  
27 Department of Environmental and Natural Resources, Bureau of Internal  
28 Revenue and other concerned stakeholders, shall promulgate the rules and  
29 regulations for the effective implementation of this Act.

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

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

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

42 **Approved,**