Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 6009

Introduced by CIBAC Party-List Representatives
Eduardo “Bro. Eddie” C. Villanueva and Domingo C. Rivera

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
cal 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.

HON. EDUARDO “BRO. EDDIE” C. VILLANUEVA

HON. DOMINGO C. RIVERA
AN ACT
AMENDING PRESIDENTIAL DECREE NO. 972, AS AMENDED BY
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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

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


  "x x x

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

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

"x x x"

SECTION 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:

"SECTION 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."

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

"SECTION 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."

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

SECTION 5. A new Section 10-C of PD 972, as amended by PD 1174, is hereby inserted to read as follows:

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

SECTION 6. Section 16 of PD 972, as amended by PD 1174, is hereby amended to read as follows:

"SECTION 16. Incentives to Operators.

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

"x x x"

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

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

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

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

Approved,