



Republic of the Philippines
Department of Environment and Natural Resources
Visayas Avenue, Diliman, Quezon City
Tel Nos. (632) 929-66-26/28; 929-6635/929-3618/929-4028
IP Phone Trunkline No. 988-3367
Website: <http://www.denr.gov.ph/> E-mail: web@denrgov.ph



MEMORANDUM

FOR : **The Bureau Directors**
Mines and Geosciences Bureau
Forest Management Bureau
Land Management Bureau
Ecosystem Research Development Bureau

The Directors
Legal Affairs Service
Policy and Planning Service
Climate Change Service

FROM : **The Director**
Legislative Liaison Office

SUBJECT : **REQUEST FOR COMMENTS FROM THE COMMITTEE ON ENERGY OF THE HOUSE OF REPRESENTATIVES**

DATE : 21 November 2022

In reference to the electronic mail dated 19 November 2022 from the Committee on Energy of the House of Representatives, we are **requesting your comments/recommendations** on House Bill No. 5774 introduced by Rep. Villanueva, entitled "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 **on or before November 24, 2022, at 5 PM** via email at denrlegislative@yahoo.com for the drafting of the position paper requested by the Committee.

Attached herewith are the invitation letter and a copy of the house bill for your reference.

For information and action, please.

ROMIROSE B. PADIN

cc: Undersecretary for Legal, Administration, Human Resources, and Legislative Affairs
Undersecretary for Policy, Planning, and International Affairs
Assistant Secretary for Administration and Legislative Affairs

MEMO NO. 2022 - 824



COMMITTEE ON ENERGY

CTSS 1, Committee Affairs Department, 3rd Flr., RVM Building, House of Representatives, Constitution Hills, Quezon City
Tel. No. +63 2 8931-3593 or 8931-5001 local 7133; Fax No.: +63 2 8931-3593

November 20, 2022

MS. ANTONIA "TONI" YULO-LOYZAGA

Secretary

Department of Environment and Natural Resources

Dear Secretary Yulo-Loyzaga:

May we refer to you for comments the following measures:

May we refer to you for comments the attached **House Bill No. 5774**, introduced by Representative Eduardo "Eddie" Villanueva, entitled: "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".

We would appreciate receiving your comments within ten (10) working days from receipt hereof.

Thank you very much.

Very truly yours,

HON. LORD ALLAN Q. VELASCO

Chairperson

FOR THE CHAIRPERSON:

A handwritten signature in black ink, appearing to read "Añain".

MELANIE T. AÑAIN

Committee Secretary

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session



House Bill No. 5774

Introduced by CIBAC Party-List Representative
HON. EDUARDO 'BRO. EDDIE' C. 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 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.

A handwritten signature in black ink, appearing to read "E. C. Villanueva". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

HON. EDUARDO "BRO. EDDIE" C. VILLANUEVA

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

House Bill No. 5774

Introduced by CIBAC Party-List Representative
HON. EDUARDO 'BRO. EDDIE' C. 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

*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
13 all operating expenses not exceeding SEVENTY
14 PERCENT (70%) of the gross proceeds from production in
15 any year; *Provided*, That if in any year, the operating
16 expenses exceed SEVENTY PERCENT (70%) of the

1 gross proceeds from production, then the unrecovered
2 expenses shall be recovered from the operation of
3 succeeding years. Operating expenses means the total
4 expenditures for coal operation incurred by the operator as
5 provided in a coal operating contract. OPERATING
6 EXPENSES TO BE DEDUCTED FROM THE GROSS
7 PROCEEDS SHALL EXCLUDE TAXES, FEES, OR
8 CHARGES, INCLUDING RELATED SURCHARGES,
9 INTERESTS OR FINES, PAID TO THE NATIONAL AND
10 LOCAL GOVERNMENT.”

11
12 **SEC. 2.** Section 10 of PD 972, as amended by PD 1174, is hereby
13 REPEALED and a new Section 10 is provided to read as follows:

14
15 **“SEC. 10. SOCIAL DEVELOPMENT.** EACH CONTRACTOR
16 SHALL ALLOT AT LEAST ONE AND A HALF PERCENT
17 (1.5%) OF ITS OPERATING COST TO ASSIST IN THE
18 DEVELOPMENT OF ITS HOST COMMUNITY, AS WELL AS
19 NEARBY COMMUNITIES, AND IN THE PROMOTION OF
20 THE GENERAL WELFARE OF ITS INHABITANTS.”

21
22 **SEC. 3.** A new Section 10-A of PD 972, as amended by PD 1174,
23 is hereby inserted to read as follow:

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

40
41 **SEC. 4.** A new Section 10-B of PD 972, as amended by PD 1174,
42 is hereby inserted to read as follow:

1 **“SEC. 10-B. ENVIRONMENTAL IMPACT ASSESSMENT.**
2 EXCEPT DURING THE EXPLORATION PERIOD OF A
3 COAL MINING CONTRACT, AN ENVIRONMENTAL
4 CLEARANCE CERTIFICATE SHALL BE REQUIRED BASED
5 ON AN ENVIRONMENTAL IMPACT ASSESSMENT AND
6 PROCEDURES UNDER THE PHILIPPINE
7 ENVIRONMENTAL IMPACT STATEMENT SYSTEM, AND
8 SECTIONS 26 AND 27 OF THE LOCAL GOVERNMENT
9 CODE OF 1991, WHICH REQUIRE NATIONAL
10 GOVERNMENT AGENCIES TO MAINTAIN ECOLOGICAL
11 BALANCE, AND PRIOR CONSULTATION WITH THE
12 LOCAL GOVERNMENT UNITS, NON-GOVERNMENTAL
13 AND PEOPLE’S ORGANIZATIONS AND OTHER
14 CONCERNED SECTORS OF THE COMMUNITY:
15 *PROVIDED*, THAT A COMPLETED ECOLOGICAL PROFILE
16 OF THE PROPOSED COAL CONTRACT AREA SHALL
17 ALSO CONSTITUTE PART OF THE ENVIRONMENTAL
18 IMPACT ASSESSMENT. PEOPLE’S ORGANIZATIONS
19 AND NON-GOVERNMENTAL ORGANIZATIONS SHALL BE
20 ALLOWED AND ENCOURAGED TO PARTICIPATE IN
21 ENSURING THAT CONTRACTORS SHALL OBSERVE ALL
22 THE REQUIREMENTS OF ENVIRONMENTAL
23 PROTECTION.

24
25 **SEC. 5.** A new Section 10-C of PD 972, as amended by PD 1174,
26 is hereby inserted to read as follow:

27
28 **“SEC. 10-C. REHABILITATION.** CONTRACTORS SHALL
29 TECHNICALLY AND BIOLOGICALLY REHABILITATE THE
30 COAL CONTRACT AREAS TO THE CONDITION OF
31 ENVIRONMENTAL SAFETY, AS MAY BE PROVIDED IN
32 THE IMPLEMENTING RULES AND REGULATIONS OF
33 THIS ACT. A MINE REHABILITATION FUND SHALL BE
34 CREATED AND SHALL BE DEPOSITED AS A TRUST FUND
35 IN A GOVERNMENT DEPOSITORY BANK AND SHALL BE
36 USED FOR THE PHYSICAL AND SOCIAL
37 REHABILITATION OF AREAS AND COMMUNITIES
38 AFFECTED BY COAL MINING ACTIVITIES, AND FOR
39 RESEARCH ON THE SOCIAL, TECHNICAL AND
40 PREVENTIVE ASPECTS OF REHABILITATION. FAILURE
41 TO FULFILL THE ABOVE OBLIGATION SHALL MEAN
42 IMMEDIATE SUSPENSION OR CLOSURE OF THE COAL

1 MINING ACTIVITIES OF THE CONTRACTOR
2 CONCERNED.”
3

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

7 “SEC. 16. Incentives to Operators.

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

13 **SEC. 7. *Implementing Rules and Regulations.*** – Within sixty (60)
14 days from the effectivity of this Act, the Department of Energy (DOE), in
15 consultation with the Department of Environmental and Natural
16 Resources (DENR), Bureau of Internal Revenue (BIR) and other
17 concerned stakeholders, shall promulgate the rules and regulations for
18 the effective implementation of this Act.
19

20 **SEC. 8. *Separability Clause.*** – If any provision of this Act is
21 declared unconstitutional or invalid, other parts or provisions hereof not
22 affected thereby shall continue to be in full force and effect.
23

24 **SEC. 9. *Repealing Clause.*** – All laws, decrees, executive orders,
25 rules and regulations or parts thereof which are contrary to or inconsistent
26 with this Act are hereby repealed, amended or modified accordingly.
27

28 **SEC. 10. *Effectivity.*** – This Act shall take effect fifteen (15) days
29 after its publication in the Official Gazette or in two (2) newspapers of
30 general circulation.
31

32 ***Approved,***