

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

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SENATE

S. No. 1753

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

"Productivity" is a management concept that is attributed to employees' high performance, work ethic or attitude or practices that yield positive performance results on the part of the industry. These work attitude or practices include, among others, employee involvement, self-managing work teams, empowerment, information sharing and access, and training and development. It embraces a management philosophy that recognizes the value of human resources or the people as the key element in the success of any collective endeavor.

In 1990, Republic Act No. 6971, otherwise known as the "Productivity Incentives Act" was enacted. It is one of the policy strategies adopted by the government to create an environment conducive to productivity improvement. Over the years, it has been widely ignored by several sectors because of its seemingly unrealistic provisions thereby negating its purpose to labor. Results of consultations with productivity experts from various organizations point towards the need for liberalizing certain provisions that tend to unduly limit or regulate the process of productivity improvement. This bill seeks to make RA 6971 more attuned with the present economic and political realities in the labor and industrial sectors by incorporating the gainsharing program in the productivity incentives program.

While the enactment of this bill may result in a temporary reduction in government revenue, its long-term macro-economic impact can outweigh its short-term effect. It is expected then that continuous improvement in business performance would result in the broadening of the tax base. Continuous improvement in business performance through productivity would necessarily mean an improved competitive edge of business enterprises in both domestic and global markets and greater capacity to expand business operations.

In view of the foregoing, approval of this bill is earnestly requested.


SERGIO OSMEÑA III
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC)
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S E N A T E

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AN ACT
ESTABLISHING A PRODUCTIVITY AND PERFORMANCE INCENTIVES AND
GAINSHARING PROGRAM, REPEALING FOR THE PURPOSE REPUBLIC
ACT NO. 6971, OTHERWISE KNOWN AS THE PRODUCTIVITY INCENTIVES
ACT OF 1990

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

1 SECTION 1. **Short Title.** – This Act shall be known as the “Productivity
2 and Performance Incentives and Gainsharing Act of 2004.”

3 SEC. 2. **Declaration of Policy.** – It is the declared policy of the State to
4 encourage higher levels of productivity, recognizing the complex challenges of
5 globalization, in order that Philippine products and services can meet global
6 competition, maintain industrial peace and harmony and promote the principles
7 of partnership and shared responsibility in the relations between workers and
8 employers so as to strengthen the cooperation between labor and capital, and
9 further recognizing the right of labor to its share in the fruits of production and the
10 right of business enterprises to reasonable returns on investment and to
11 expansion and growth, and accordingly to provide corresponding incentives to
12 both labor and capital for undertaking voluntary programs that ensure workers
13 with a just share in the fruits of their labor in relation to the profit yielded to the
14 employer as a result of increased productivity and, thus, enhance the quality of
15 life of the workers and employees.

1 SEC. 3. **Coverage.** – This Act shall apply to all business enterprises with
2 or without existing and duly recognized collective bargaining representatives,
3 including government-owned and controlled corporations performing proprietary
4 functions. It shall cover all employees and workers regardless of their position,
5 designation or status and irrespective of the manner and mode by which their
6 wages are paid.

7 SEC. 4. **Definition of Terms.** – As used in this Act:

8 (a) “Business enterprise” refer to industrial, agricultural or agro-
9 industrial establishments engaged in the production, manufacturing, processing,
10 repacking or assembly of goods, including service-oriented enterprises that are
11 *established and operated for profit or gain*

12 (b) “Labor-management committee” refers to a negotiating body in a
13 business enterprise composed of the representatives of labor and management
14 created to establish a productivity and performance incentives and gainsharing
15 program, and to settle disputes arising therefrom in accordance with Section 9
16 hereof.

17 (c) “Productivity and Performance Incentives Program” refers to a
18 formal agreement voluntarily established by a joint labor-management committee
19 or any existing labor management mechanism containing a productivity and
20 performance improvement program that will promote gainful employment,
21 *improve working conditions, attain and maintain industrial peace and result in*
22 *increased productivity and efficiency, including cost savings, as well as a*
23 *gainsharing program whereby the employer and the workers share in the positive*
24 *results of business operation brought about by improvement in productivity. The*
25 *agreement shall be ratified by at least a majority of the employees who have*
26 *rendered at least six (6) months of continuous service. In the case the joint labor-*
27 *management committee makes fundamental changes in the program, the*
28 *employees shall likewise ratify such changes.*

1 (d) "Gainsharing" refers to a reward system formulated to complement
2 the productivity and performance incentives program designed to improve the
3 productivity performance of the organization. The gainsharing system to be
4 adopted by business enterprises may take the form of profit sharing or other
5 forms of gainsharing mechanisms such as productivity bonus, performance
6 bonus, production bonus, employee stock option plan, among others.

7 **SEC. 5. Labor-Management Committee.** – (a) A business enterprises or
8 its employees, through their authorized representative, may initiate the formation
9 of a labor-management committee or any labor-management mechanism that
10 shall be composed of representatives from the management and from the rank-
11 and-file employees which shall establish and implement a productivity and
12 performance incentives program and settle disputes arising therefrom in
13 accordance with Section 9 hereof: *Provided*, That both management and labor
14 shall have equal representation in said committee or mechanism; *Provided*,
15 *further*, That at the request of any part to the negotiation, the National Wages
16 and Productivity Commission and the Regional Tripartite Wages and Productivity
17 Boards of the Department of Labor and Employment shall provide the necessary
18 studies, technical information and assistance, and expert advice to enable the
19 parties to conclude productivity agreements. In case there is already an existing
20 labor mechanism in the enterprise, such mechanism may suffice; *Provided*, That
21 it includes as on of its objectives the development and implementation of a
22 productivity and performance incentives and gainsharing program.

23 (b) In business enterprises with duly recognized collective bargaining
24 representatives, the representatives of labor shall be those designated by the
25 collective bargaining agent(s) of the bargaining units(s).

26 (c) In business enterprises without duly recognized collective bargaining
27 representatives, the representatives of labor shall be elected by at least a
28 majority of all rank-and-file employees who have rendered at least six (6) months
29 of continuous service.

1 SEC. 6. **Productivity and Performance Incentives and Gainsharing**

2 **Program.** – (a) The productivity and performance incentives program shall
3 contain provisions for measuring productivity, performance and efficiency
4 improvements, the gainsharing or reward system adopted in sharing productivity
5 bonuses, coverage, percentage sharing, and forms of bonus payment in
6 accordance with the terms and conditions that may be agreed upon by the labor
7 and management. *Provided*, That the productivity bonus shall be distributed at
8 least once a year, or at such frequency as may be determined by the parties.

9 (b) Productivity agreements voluntarily reached by the parties as provided
10 in this Act may supplement existing collective bargaining agreements.

11 SEC. 7. **Benefits and Tax Incentives.** – (a) Subject to the provisions of
12 Section 6 hereof, a business enterprise which adopts a productivity and
13 performance incentives and gainsharing program, duly and mutually agreed upon
14 by parties to the labor-management committee, shall be granted a special
15 deduction from the income equivalent to fifty percent (50%) of the total
16 productivity bonuses given to employees under the program over and above the
17 total allowable ordinary and necessary business deductions for said bonuses
18 under the National Internal Revenue Code, as amended.

19 (b) Grants for manpower training and special studies given to rank-and-file
20 employees pursuant to a skills development, program prepared by the labor-
21 management committee under the productivity and performance incentives
22 program shall also entitle the business enterprise to a special deduction from
23 gross income equivalent to fifty (50%) of the total grants over and above the
24 allowable ordinary and necessary business deduction for said grants under the
25 National Internal Revenue Code, as amended.

26 (c) Bonuses provided for under the productivity and performance
27 incentives and gainsharing program shall be given to the employees in a manner
28 determined by the parties from the start of such program over and above existing
29 bonuses granted by the business enterprise and by law: *Provided*, That the said

1 bonuses shall not be deemed as salary increases due the employees and
2 workers.

3 (d) The special deductions from the gross income provided for herein
4 shall be allowed starting the next taxable year after the effectivity of this Act.

5 SEC. 8. **Notification.** – A business enterprise which adopts a productivity
6 and performance incentives and gainsharing program shall submit copies of the
7 same to the appropriate Regional Tripartite Wages and Productivity Board for
8 evaluation and certification. The Board shall then forward, the certifiable
9 productivity incentives program(s) of business enterprises to the Bureau of
10 Internal Revenue for record purposes.

11 SEC. 9. **Disputes and Grievances.** – Whenever disputes, grievances, or
12 other matters arise from the interpretation or implementation of the productivity
13 and performance incentives program, the labor-management committee shall
14 meet to resolve the dispute within fifteen (15) days and shall suspend the
15 effectivity of the program pending settlement of such dispute or grievance.
16 *Provided, however,* That if within the period the dispute remains unresolved, the
17 committee may seek the assistance of a third party such as the National
18 Conciliation and Mediation Board of the Department of Labor and Employment,
19 the Regional Tripartite Wages and Productivity Boards or a facilitator acceptable
20 to both parties in resolving the conflict. The third party shall act only in an
21 advisory capacity for purposes of rendering interpretation and clarification to
22 facilitate the adoption of a final resolution by the parties: *Provided, further,* That
23 the business enterprise shall not be deemed to have forfeited any tax incentives
24 accrued prior to the date of occurrence of such dispute or grievance, and the
25 workers shall not be required to reimburse the productivity bonuses already
26 granted to them under the incentives program. Likewise, bonuses that have
27 already accrued before the dispute or grievance shall be paid the workers within
28 six (6) months from their accrual. Any dispute which remains unresolved within
29 thirty (30) days from the time of its submission to the labor-management

1 committee shall be submitted for voluntary arbitration in line with the pertinent
2 provisions of the Labor Code, as amended.

3 The productivity and performance incentives and gainsharing program
4 shall include the name(s) of the voluntary arbitrator or panel of voluntary
5 arbitrators previously chosen and agreed upon by the parties.

6 **SEC. 10. *Penalty.*** – Any person who shall make any fraudulent claim
7 under this Act, regardless of whether or not a tax benefit has been granted, shall
8 upon conviction be punished with imprisonment of not less than six (6) months
9 but not more than one (1) year or a fine of not less than two thousand pesos
10 (P2,000.00) but not more than six thousand pesos (P6,000.00), or both, at the
11 discretion of the Court, without prejudice to prosecution for any other punishable
12 under existing laws.

13 In case of partnerships or corporations, the penalty shall be imposed upon
14 the officer(s) or employee(s) who knowingly approved, authorized or ratified the
15 filing of the fraudulent claim, and other persons responsible therefor.

16 **SEC. 11. *Non-Diminution of Benefits.*** - Nothing in this Act shall be
17 construed to diminish or reduce any benefits and other privileges enjoyed by the
18 workers under existing laws, decrees, executive orders, company policy or
19 practice, or any agreement or contract between the employer and employees.

20 **SEC. 12. *Rule Making Power.*** – The Secretary of Labor and Employment
21 and the Secretary of Finance, in consultation with the National Wages and
22 Productivity Commission, Bureau of Internal Revenue, Government Corporate
23 Monitoring and Coordinating Committee, Technical Education and Skills
24 Development Authority, and labor and employer sectors shall jointly promulgate
25 and issue within six (6) months from the effectivity of this Act such rules and
26 regulations as are necessary to carry out the provisions hereof.

27 As part of its labor education program, the Department of Labor and
28 Employment shall conduct an extensive public information campaign to promote
29 the productivity and performance incentives and gainsharing program.

1 SEC. 13. **Separability Clause.** – If any provision of this Act is declared
2 unconstitutional, the same shall not affect the validity and effectivity of the other
3 provisions thereof.

4 SEC. 14. **Repealing Clause.** – Republic Act No. 6971, otherwise known
5 as the Productivity Incentives Act of 1990, is hereby repealed. All laws, executive
6 orders, presidential decrees, presidential proclamations, rules and regulations or
7 parts thereof inconsistent with the provisions of this Act are hereby repealed or
8 modified accordingly.

9 SEC. 15. **Effectivity.** – This Act shall take effect fifteen (15) days after its
10 publication in the *Official Gazette* or in at least two (2) newspapers of national
11 circulation.

Approved,

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