

'14 APR 30 P 3:59

SENATE

Senate Bill No. 2193

RECEIVED BY: 

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

**AN ACT
STRENGTHENING THE PRODUCTIVITY INCENTIVES ACT OF 1990**

EXPLANATORY NOTE

This bill aims to strengthen the promotion of productivity incentives and gainsharing program in the Philippines, thereby amending for the purpose Republic Act No. 6971, otherwise known as the "Productivity Incentives Act of 1990" by liberalizing specific provisions, providing for other incentives to employers and employees to establish productivity incentives program.

Despite the declaration in R.A. No. 6971 that it is the policy of the State to encourage higher levels of productivity, maintain industrial peace, and promote the principle of shared responsibility between employees and employers, it has been observed that since its effectivity in November 1990, only eleven (11) companies have tried to avail of the benefits under the Act but only two (2) firms has met the requirements of the law because of its tight mandatory requirements on productivity measurement and sharing schemes. This contravenes the voluntary nature of the law.

The ability of the Philippines to compete in the world market hinges critically on the ability of its enterprises to produce quality goods and services in the most efficient and reliable way. To achieve this, it is necessary that firms become oriented towards increasing the overall productivity and competitiveness of enterprises and workers.

The proposed bill introduces an incentives based pay on productivity improvement and gainsharing in support of wage policies under Republic Act No. 6727 or the Wage Rationalization Act.

The incentive is a form of compensation, on top of the basic salaries and wages, given to workers based on improvements in productivity and performance. It allows workers and management to develop their own productivity incentives program, determine the sharing scheme, frequency of distribution of bonus and the measurement of productivity gains.

Further, it entitles business enterprise adopting productivity improvement and performance incentive program, special deductions from the gross income up to fifty percent (50%) of the total productivity bonuses given to employees under the

program over and above the total allowable ordinary and necessary business deductions for said grants under the National Internal Revenue Code, as amended.

This measure is a priority of the Department of Labor and Employment (DOLE) for the 16th Congress and was in fact presented and thoroughly discussed in the DOLE's Tripartite Industrial Peace Council (TIPC).

In light of the foregoing, approval of this bill is earnestly sought.



JINGGOY EJERCITO ESTRADA
Senator



SENATE

Senate Bill No. 2193

RECEIVED
ji

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

AN ACT
STRENGTHENING THE PRODUCTIVITY INCENTIVES ACT OF 1990

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

1 **SECTION 1. Declaration of Policy.** – It is hereby declared the policy of the
2 State to:

- 3
- 4 a) Encourage higher levels of productivity in all industries so that Philippine
- 5 products and services can compete in the global economy; and,
- 6
- 7 b) Maintain industrial peace and harmony and promote the principles of
- 8 partnership and shared responsibility in the relations between workers and
- 9 employers, recognizing the right of labor to its just share in the fruits of
- 10 production and the right of business enterprises to reasonable returns on
- 11 investments for expansion and growth, and to provide corresponding
- 12 incentives to both labor and capital for undertaking voluntary programs to
- 13 improve productivity.
- 14
- 15

16 **SEC. 2. Coverage.** – This Act shall apply to all business enterprises with or
17 without existing and duly recognized collective bargaining representatives. It
18 shall cover all private sector employees and workers regardless of their position,
19 designation or status and irrespective of the manner by which wages are paid.

20
21
22 **SEC. 3. Definition of Terms.** – As used in the Act:

- 23
- 24 (a) “*Business Enterprise*” refers to industrial, agricultural, or agro-industrial
- 25 private establishments engaged in production, manufacturing, processing,
- 26 repacking, or assembly of goods, including service-oriented enterprises;
- 27
- 28 (b) “*Labor-Management Committee*” refers to a negotiating body in a
- 29 business enterprise composed of representatives of labor and
- 30 management created to establish a productivity incentive program, and to
- 31 settle issues arising therefrom in accordance with Section 9 hereof;
- 32
- 33 (c) “*Productivity Incentives Program*” refers to a formal agreement voluntarily
- 34 established by a joint labor-management committee or any existing labor
- 35 management mechanism containing a productivity incentives program that

1 will promote gainful employment, improve working relations and
2 conditions, and result in increased productivity and efficiency, including
3 cost savings, as well as a gainsharing program. The agreement shall be
4 ratified by employees in accordance with the guidelines that may be
5 issued for the purpose;

6
7 (d) "Gainsharing" refers to a productivity based incentives pay formulated to
8 complement the productivity incentives program where employers and
9 workers share in the positive results of business operations brought about
10 by productivity improvements. The gainsharing system may take the form
11 of profit sharing or other forms of gainsharing mechanisms such as
12 productivity bonus, performance bonus, production bonus and other
13 similar schemes;

14
15 (e) "NWPC" refers to the National Wages and Productivity Commission, an
16 attached agency of the Department of Labor and Employment duly
17 created and established by virtue of Republic Act No. 6727 or otherwise
18 known as the "Wage Rationalization Act";

19
20 (f) "RTWPBs" refers to the Regional Tripartite Wages and Productivity
21 Boards, duly created and established by virtue of Republic Act No. 6727
22 or otherwise known as the "Wage Rationalization Act".

23
24
25 **SEC. 4. Advisory on Productivity Incentive Schemes.** – The RTWPBs shall
26 issue an advisory on productivity incentive schemes based on the guidelines
27 issued by the NWPC.

28
29
30 **SEC. 5. Labor-Management Committee.** –

31
32 (a) A business enterprise or its employees, through their authorized
33 representatives, may initiate the formation of a labor-management
34 mechanism such as labor-management committee that shall be composed
35 of an equal number of representatives from the management and from the
36 employees and shall have equal voting rights which shall establish and
37 implement a productivity incentives program and settle issues arising
38 therefrom in accordance with Section 9 hereof.

39
40 *Provided*, That at the request of any party to the negotiation, the NWPC or
41 the RTWPBs may provide the necessary studies, technical information
42 and assistance, and expert advice to enable the parties to conclude
43 productivity agreements in case there is an existing labor management
44 mechanism in the enterprise, such mechanism may suffice; *Provided*
45 *further*, That its composition, voting rights, and the manner by which the
46 labor-management mechanism is created is in accordance with the
47 provisions of this Section.

48
49 (b) In business enterprises with duly recognized collective bargaining
50 representatives, the representatives of labor shall be those designated by
51 the collective bargaining agent(s) of the bargaining unit(s).

52
53 (c) In business enterprises without duly recognized or certified labor
54 organizations, the representatives of labor shall be elected by at least a
55 majority of all rank-and-file employees who have rendered at least six (6)
56 months of continuous service.

57

1 **SEC. 6. Productivity Incentives Program. –**
2

- 3 (a) The productivity incentives program shall contain among others
4 provisions for measuring productivity, efficiency improvements,
5 sharing of productivity bonuses, coverage, percentage sharing,
6 forms of bonus payment, and manner and frequency of distribution,
7 in accordance with the terms and conditions that may be agreed
8 upon by both labor and management.
9
- 10 (b) Productivity agreements voluntarily reached by the parties as
11 provided in this Act are without prejudice to any company policy,
12 contract, and/or Collective Bargaining Agreement (CBA) providing
13 higher productivity incentives.
14

15
16 **SEC. 7. Incentives. –**
17

- 18 (a) Subject to the provisions of Section 6 hereof, a business enterprise
19 which adopts a productivity incentives program, duly and mutually
20 agreed upon by parties to the labor-management committee or any
21 labor-management mechanism, shall be granted a special
22 deduction from gross income equivalent to fifty percent (50%) of the
23 total productivity bonuses given to employees under the program
24 over and above the total allowable ordinary and necessary
25 business deductions for said bonuses under the National Internal
26 Revenue Code, as amended.
27
- 28 (b) Grants for manpower training and special studies given to
29 employees, pursuant to the skills development program prepared
30 by the labor-management committee under the productivity
31 incentives program, shall also entitle the business enterprise to a
32 special deduction from gross income equivalent to fifty percent
33 (50%) of the total grants over and above the allowable ordinary and
34 necessary business deductions under the National Internal
35 Revenue Code, as amended.
36
- 37 (c) The special deductions from gross income provided herein shall be
38 made retroactive to the fiscal year that the program was
39 implemented after the effectivity of this Act.
40
- 41 (d) Priority training programs and services from DOLE and other
42 government partner agencies shall be given to business
43 establishments adopting productivity incentives programs.
44
45

46 **SEC. 8. Notification. –** A business enterprise which adopts a productivity
47 incentives program shall submit copies of the same to the appropriate Regional
48 Tripartite Wages and Productivity Board and to the Bureau of Internal Revenue
49 for their information and record.
50

51
52 **SEC. 9. Issues and Grievances. –** Whenever issues, grievances, or other
53 matters arise from the interpretation or implementation of the productivity
54 incentives program, the labor-management committee shall meet to resolve the
55 issue within fifteen (15) days. The parties shall agree on whether to suspend the
56 implementation of the productivity incentives program pending the resolution of
57 the issue; *Provided*, That the business enterprise shall not be deemed to have

1 forfeited any tax incentives accrued prior to the date of occurrence of such issue
2 or grievance, and the workers shall not be required to reimburse the productivity
3 bonuses already granted to them under the incentives program. Likewise,
4 bonuses that have already accrued before the issue or grievance shall be paid to
5 the workers within six (6) months from their accrual. Any issue which remains
6 unresolved within thirty (30) days from the time of its submission to the labor-
7 management committee shall be submitted for voluntary arbitration in line with
8 the pertinent provisions of the Labor Code, as amended.

9
10 The productivity incentives program may include the name(s) of the voluntary
11 arbitrator or panel of voluntary arbitrators previously chosen and agreed upon by
12 the parties.

13
14
15 **SEC. 10. *Non-Diminution of Benefits.*** – Nothing in this Act shall be construed
16 to diminish or reduce any benefit and other privileges enjoyed by the workers
17 under existing laws, decrees, executive orders, company policy or practice, or
18 any agreement or contract between the employer and employees.

19
20
21 **SEC. 11. *Rule Making Power.*** – The Secretary of Labor and Employment and
22 the Secretary of Finance, in consultation with the National Wages and
23 Productivity Commission, National Conciliation and Mediation Board, Bureau of
24 Internal Revenue, Center for Industrial Competitiveness, Technical Education
25 and Skills Development Authority and labor and employer organizations shall
26 jointly promulgate and issue within six (6) months from the effectivity of this Act
27 such rules and regulations as are necessary to carry out the provisions hereof.

28
29 The Department of Labor and Employment, the Department of Trade and
30 Industry and the designated National Productivity Organization in the Philippines
31 shall conduct an extensive public information campaign to promote the adoption
32 of productivity incentives programs at the workplace.

33
34
35 **SEC. 12. *Separability Clause.*** – If any provision of this Act is declared
36 unconstitutional, the same shall not affect the validity and effectivity of the other
37 provisions thereof.

38
39
40 **SEC. 13. *Repealing Clause.*** – Republic Act No. 6971, otherwise known as the
41 Productivity Incentives Act of 1990, and pertinent provisions under the National
42 Internal Revenue Code are hereby amended. All laws, executive orders,
43 presidential proclamations, rules and regulations or parts thereof inconsistent
44 with the provisions of this Act are hereby repealed or modified accordingly.

45
46
47 **SEC. 14. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days after
48 its publication in the Official Gazette or in at least two (2) national newspapers of
49 general circulation.

50
51
52
53
54
55 *Approved,*