

5-10-2-1103

SENATE
S.B. No. 1865

RECOMMENDED

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INTRODUCED BY SENATOR MAGSAYSAY, JR.

EXPLANATORY NOTE

Republic Act No. 6971, known as the "Productivity Incentives Act of 1990", was enacted to create an environment conducive to productivity improvement.

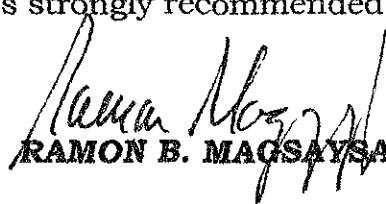
The statute has for its main objective the achievement of higher levels of productivity, the maintenance of industrial peace and harmony and the promotion of the principle of shared responsibility in employee - employer relationship, among others. It provides fiscal incentives to establishments or organizations which voluntarily adopt Productivity Incentives Programs (PIP) to improve respective productivity and in the process share with their workers productivity bonuses.

Indeed, appropriate productivity improvement policies and programs could create additional non-wage benefits to workers and confer competitive advantage to our products in both domestic and international markets.

However, since the effectivity of the law in November 1990, only a handful of business enterprises have considered adopting productivity improvement programs and fewer still have actually embraced the policy, due to operational difficulties arising from hard-to-implement provisions of the law.

The amendments to R.A. 6971 embodies in this bill pertain to provisions which tend to unduly limit or regulate the process of productivity improvement. These amendments were recommended by the National Wages and Productivity Commission, the tripartite consultations on productivity Boards (RTWPBs), the National Tripartite Conference and the other productivity experts including Philippine Quality Productivity Movement, UP-SOLAIR, DTI-CLARA, and Productivity Development Center, as well as the National Conciliation and Mediation Board, National Manpower and Youth Council and Bureau of Internal Revenue, the Tripartite Industrial Peace Council (TIPC), and the Networking Committee on Productivity under the Export Development Council.

Approval of the attached bill is strongly recommended.


RAMON B. MAGSAYSAY, JR.
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SENATE
S.B. No. 1865

RECEIVED BY: _____

INTRODUCED BY SENATOR MAGSAYSAY, JR.

AN ACT
AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NO. 6971
OTHERWISE KNOWN AS "THE PRODUCTIVITY INCENTIVES ACT OF
1990" AND FOR OTHER PURPOSES

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

SECTION 1. Section 2 of Republic Act No. 6971, otherwise known as the "Productivity Incentives of 1990", is hereby amended to read, as follows:

"SEC. 2. Declaration of Policy - It is declared policy of the State to encourage higher levels of productivity IN ORDER THAT PHILIPPINE PRODUCTS AND SERVICES CAN MEET GLOBAL COMPETITION, maintain industrial peace and harmony and promote the principle of shared responsibility in the relations between workers and employers SO AS TO STRENGTHEN THE COOPERATION BETWEEN LABOR AND CAPITAL, recognizing the right of labor to its just share in the fruits of production and the right of business the right business enterprises to reasonable returns on investments and to expansion and growth, and accordingly to provide corresponding incentives to both labor and capital for undertaking voluntarily programs to ensure JUST SHARE BY THE WORKERS IN THE FRUITS OF THEIR LABOR IN RELATION TO THE PROFIT YIELDED TO THE EMPLOYER AS A RESULT OF INCREASED PRODUCTIVITY AND THUS, ENHANCE THE IMPROVEMENT OF THE QUALITY OF LIFE OF THE EMPLOYEES [greater sharing by the workers in the fruits of their labor.]"

SEC. 2. Section 3 of R.A. 6971 is hereby amended to read, as follows:

"SEC. 3. Coverage - This Act shall apply to all business enterprises with or without existing and duly recognized COLLECTIVE BARGAINING REPRESENTATIVES [or certified labor organizations] including ALL government [owned and controlled corporations performing proprietary functions] INSTRUMENTALITIES AND SUBDIVISIONS THEREOF [INCLUDING] AND SECOND GENERATION GOVERNMENT CORPORATION OR ENTITIES. It shall cover

all employees, and workers REGARDLESS OF THEIR STATUS AND THE MANNER THEY ARE PAID THEIR SALARIES AND WAGES [including casual, regular, supervisory and managerial employees]"

SEC. 3. Section 4 of R.A. 6971 is hereby amended to read as follows:

SEC. 4. Definition of Terms - As used in this Act:

- a. "Business Enterprises" refer to industrial, agricultural, or agro-industrial establishments engaged in the production, manufacturing, processing, repacking, or assembly of goods, including service-oriented enterprises [, duly certified as such by appropriate government agencies].
- b. ["Labor-Management Committee" refers to a negotiating body in a business enterprise composed of the representatives of labor and management created to establish a productivity incentives program, and to settle disputes arising therefrom in accordance with Section 9 hereof.
- c.] "Productivity Incentives Program" refers to a formal agreement VOLUNTARILY established by a [the] JOINT Labor-Management Committee OR ANY EXISTING LABOR MANAGEMENT MECHANISM containing a PRODUCTIVITY IMPROVEMENT PROGRAM (PIP)[process] that will promote gainful employment, improve working conditions, MAINTAIN INDUSTRIAL PEACE, [and] result in increased productivity [including cost savings] AND YIELD PROFITS TO THE EMPLOYER, AS WELL AS PRODUCTIVITY GAINSHARING PROGRAM whereby the EMPLOYERS AND THE WORKERS SHARE IN THE RESULTS OF IMPROVEMENT IN PRODUCTIVITY [whereby the employees are granted salary bonuses proportionate to increase in current productivity over the average for the preceding three (3) consecutive years. The agreement shall be ratified by at least a majority of the employees who have rendered at least six (6) months of continuous service]."

SEC. 4. Section 5 of R.A. 6971 is hereby amended to read as follows:

"SEC. 5. Labor-Management Committee -

- a. A business enterprise and/or its employees, through their authorized representatives, may initiate the formation of a labor-management committee OR ANY LABOR-MANAGEMENT MECHANISM that shall be composed of [an equal number of] representatives from the management and from the rank-and-file employees.[:] IN CASE THERE IS ALREADY AN EXISTING LABOR MECHANISM IN THE ENTERPRISE, SUCH MECHANISM MAY BE USED, PROVIDED THAT IT INCLUDES AS ONE OF ITS OBJECTIVES THE DEVELOPMENT AND IMPLEMENTATION OF

PRODUCTIVITY INCENTIVES PROGRAM: Provided, [That both management and labor shall have equal voting rights: Provided, further,] That at the request of any party to the negotiation, the National Wages and Productivity Commission AND THE REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARDS of the Department of Labor and Employment shall provide the necessary studies, technical information and assistance, and expert advice to enable the parties to conclude productivity agreements.

- b. In business enterprises without duly recognized COLLECTIVE BARGAINING REPRESENTATIVES, [or certified labor organizations,] the representatives of labor shall be elected by at least a majority of all rank-and-file employees who have rendered at least six (6) months of continuous service."

SEC. 5. Section 6 of R.A. 6971 is hereby amended to read as follows:

"SEC. 6. Productivity Incentives Program. –

- a. The productivity incentives program shall contain FLEXIBLE PROVISIONS for MEASURING PRODUCTIVITY CHANGES [the manner of sharing] and the factors in determining productivity bonuses AS WELL AS THE COVERAGE AND MANNER OF SHARING BONUSES [: Provided, That the productivity bonuses granted to labor under this program shall not be less than half of the percentage increase in the productivity of the business enterprises].
- b. Productivity agreements reached by the parties as provided in this Act MAY [shall] supplement existing collective bargaining agreements.
- c. If during the existence of the productivity incentives program or agreement, the employees will join or form a union, such program or agreement may, in addition to the terms and conditions agreed upon by labor and management, be integrated in the collective bargaining agreement that may be entered into between them.

SEC. 6. Section 7 of R.A. 6971 is hereby amended to read as follows:

- a. Subject to the provisions of Section 6 hereof, a business enterprises which adopts a productivity incentives program, duly and mutually agreed upon by parties to the labor-management committee, shall be granted a special deduction from gross income equivalent to fifty percent (50%) of the total productivity bonuses given to employees under the PRODUCTIVITY INCENTIVES program over and above the total allowable ordinary and necessary business deductions for said bonuses under the National Internal Revenue Code, as amended.
- b. Grants for manpower training and special studies given to rank-and-file employees pursuant to SKILLS

DEVELOPMENT ACTIVITIES UNDER THE PRODUCTIVITY INCENTIVE [a] program [prepared by the labor-management committee for the development of skills identified as necessary by the appropriate government agencies] shall also entitle the business enterprises to a special deduction from gross income equivalent to fifty percent (50%) of the total grants over and above the allowable ordinary and necessary business deductions for said grants under the National Internal Revenue Code, as amended.

- c. Any AGREEMENT [strike or lockout] arising from any violation of the productivity incentives program shall BE RESOLVED BY PARTIES INVOLVED. HOWEVER, IN CASES WHERE A THIRD PARTY IS NEEDED, THE COMMITTEE MAY SEEK THE ASSISTANCE OF THE TRIPARTITE WAGES AND PRODUCTIVITY BOARD (TWPB) WHICH WILL MEDIATE BETWEEN INVOLVED PARTIES TO ARRIVE AT AN AGREEMENT. THE TWPB WILL ACT ONLY AS AN ADVISORY BODY RENDERING INTERPRETATION AND CLARIFICATION TO HELP THE INVOLVED PARTIES TO ADOPT A FINAL RESOLUTION [suspend the effectivity thereof pending settlement of such strike or lockout]: Provided, That the business enterprise shall not be deemed to have forfeited tax incentives accrued prior to the date of occurrence of such DISAGREEMENT [strike or lockout,] and the workers shall not be required to reimburse the productivity bonuses already granted to them under the incentives program. Likewise, bonuses which have already accrued before the DISAGREEMENT [strike or lockout] shall be paid the workers within THE PERIOD OF six (6) months from their accrual.
- d. THE FREQUENCY OF PAYMENT OF PRODUCTIVITY BONUS SHALL BE THE RESULT OF THE STUDY MADE BY PARTIES CONCERNED [Bonuses provided for under the productivity incentives program shall be given to the employees not later than every six (6) months from the starts of such program over and above existing bonus granted by the business enterprise and by law]: Provided, That the said bonuses shall not be deemed as salary increases due the employees and workers.
- e. SUCH BONUSES PROVIDED TO THE EMPLOYEES SHALL BE TAX FREE [The special deductions from gross income provided for herein shall be allowed starting the next taxable year after the effectivity of this Act].”

SEC. 7. Section 8 of R.A. 6971 is hereby amended to read as follows:

“SEC. 8. Notification - A business enterprise which adopts a productivity incentives program shall submit copies of the same to the APPROPRIATE REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD (RTWPB) OF THE National Wages and Productivity Commission (NWPC) and [to] the Bureau of Internal Revenue for their information and record.’

SEC. 8. Section 9 of R.A. 6971 is hereby amended to read as follows:

“SEC. 9. Disagreement - [Disputes and Grievances] - Whenever DISAGREEMENT [disputes, grievances,] or other matters arise from the interpretation or implementation of the productivity incentives program, the [labor-management] committee CREATED TO ESTABLISH THE PRODUCTIVITY INCENTIVES PROGRAM shall meet to resolve the DISAGREEMENT [dispute, and]. THE COMMITTEE may REFER THE DISAGREEMENT OR DIFFERENCES TO THE REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD (TWPB) WHICH WILL MEDIATE BETWEEN INVOLVED PARTIES TO ARRIVE AT AN AGREEMENT. THE TWPB WILL ACT ONLY AS AN ADVISORY BODY RENDERING INTERPELATION AND CLARIFICATION TO HELP THE INVOLVED PARTIES TO ADOPT A FINAL RESOLUTION [seek assistance of the National Conciliation and Mediation Board of the Department of Labor and Employment for such purpose. Any dispute which remains unresolved within twenty (20) days from the time of its submission to the labor-management committee shall be submitted for voluntary arbitration in line with the pertinent provisions of the Labor Code, as amended.

The productivity incentives program shall include the name(s) of the voluntary arbitrator or panel voluntary arbitrators previously chosen and agreed upon by the labor-management committee].”

SEC. 9. Section 10 of R.A. 6971 is hereby amended to read, as follows:

“SEC. 10. Rule Making Power - The Secretary of Labor and Employment and the Secretary of Finance, IN CONSULTATION WITH THE DEPARTMENT OF BUDGET AND MANAGEMENT, CIVIL SERVICE COMMISSION AND THE NATIONAL WAGES AND PRODUCTIVITY COMMISSION, [after due notice and hearing], shall jointly promulgate and issue [within six (6) months from the effectivity of this Act] such rules and regulations as necessary to carry out the provisions OF THE ACT [hereof].”

SEC. 10. Section 2 to 9 of R.A. 6971 and all references thereto in said law are hereby repealed or modified accordingly. All other laws, rules, and regulations and/or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 11. The Department of Labor and Employment is hereby directed to make the necessary amendments to the Implementing Rules and Regulations of R.A. 6971 in order to reflect the changes embodied in this Act.

SEC. 12. If any part or section of this Act is declared unconstitutional for any reason whatsoever, such declaration shall not in any way affect the other parts or sections of this Act.

SEC. 13. This Act shall take effect fifteen (15) days after publication in two (2) newspapers of general circulation in the Philippines.

Approved,