

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

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SENATE
S.B. No. 933

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Introduced by Senator Loren Legarda

EXPLANATORY NOTE

This bill seeks to expand the coverage of the productivity incentives program, to include all branches, agencies and instrumentalities of the government and broaden its concept to include a productivity gainsharing program whereby employers and employees share in the fruits of improvement in productivity.

Republic Act No. 6971 or the Productivity Incentives Act of 1990 was enacted to provide incentives to both labor and capital for undertaking voluntary programs to ensure greater sharing by the workers in the fruits of their labor.

Under the said Act, productivity incentives program refers to a formal agreement established by the labor-management committee containing a process that will promote gainful employment, improve working conditions and result in increased productivity, including cost savings, whereby the employees are granted salary, bonuses proportionate to increases in current productivity over the average for the preceding three (3) consecutive years. A business enterprise which adopts a productivity incentives program shall be granted a special deduction from gross income equivalent to fifty percent (50%) of the total productivity bonuses given to employees under the program over and above the total allowable ordinary and necessary

More than ten years into the implementation of the law, only a handful of business enterprises have adopted the program due to certain restrictive provisions of the law that make it hard to implement.

This bill addresses such concerns by introducing amendments aimed at making the law more responsive to the situations prevailing in labor and employment.

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


LOREN LEGARDA
Senator

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AN ACT
AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NO. 6971 OTHERWISE
KNOWN AS "THE PRODUCTIVITY INCENTIVES ACT OF 2007" 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 productivity IN ORDER THAT PHILIPPINE PRODUCTS 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 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 TO YIELDED TO THE EMPLOYER AS A RESULT OF INCREASED PRODUCTIVITY AND THUS, ENCHANCE 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 REPRESENTATIVE [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, agriculture, or agro-industrial establishments engaged in the production, manufacturing, 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 representative of labor and management created to establish a productivity incentives programs, 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 RESULT 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 EXITING LABOR MECHANISM IN THE ENTERPRISE, SUCH MECHANISM MAY BE USED, PROVIDED THAT IT INCLUDES AS ONE ITS OBJECTIVES THE DEVELOPMENT AND IMPLEMETATION 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 BAORDS 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 enterprise without duly recognized COLLECTIVE BARGAINING REPRESENTATIVES, [or certified labor organizations,] the representatives of labor shall be elected by at least 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 PROVISION 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 enterprise].
- b. Productivity agreement 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 provision of section 6 hereof, a business enterprise 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 deduction for said bonuses under the National Internal 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 enterprise 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 TRIPARITE 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 TP HELP THE INVOLVED PARTIES TO ADOPT A FINAL RESULOTION [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 be required to reimburse the productivity bonuses already 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 (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 deduction 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 bonuses enterprises which adopts a productivity incentives program shall submit copies of the same to the APPROPRIATE REGIONAL TRIPARTITES WAGES AND PRODUCTIVITY BOARD (RTWPB) OF THE NATIONAL WAGES AND PRODUCTIVITY COMMISION (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] - Where DISAGREEMENT [disputes, grievance,] or other matters arise from the interpretation or implementation of the productivity incentives program, the [labor-management] committee CREATED TO ESTABLISH THE PRODUTIVITY 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 AFINAL 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 BUGET AND MANAGEMAENT, CIVIL SRVICE COMMISION AND THE NTIONAL WAGES AND PRODUCTIVITY COMMISION, [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 provision 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 provision 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) newspaper of general circulation in the Philippines.

Approved,