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SENATE

Senate Bill No. 80

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INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

The 1987 Constitution expressly states that:

"The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for - all." (Article 11, Sec. 9)

And:

"The State shall promote social justice in all phases of national development." (Article 11, Sec. 10);

And further:

"The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare." (Article 11, Sec. 18)

And finally:

"The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable return on investments, and to its expansion of its growth". (Par. 4, Section 3, Article XIII)

Pursuant to the above-quoted provisions of the 1987 Constitution, it is the apparent duty of the State to provide proper mechanisms that will put into practice these constitutional mandates.

Presently, labor and management relations are characterized as confrontational when discussing and settling basic and significant issues affecting wages, benefits as well as conditions of work. As a result, the productivity expected both from labor and management suffers thereby lessening their ability to compete and survive as one entity.

It is ideal as it is realistic that the success of any business enterprise largely depends on the atmosphere of cooperation and support of labor with management and vice versa.

This bill, granting "Productivity Incentive Bonuses" to laborers in the private sector, is a recognition for their indispensable contribution to the success of the business enterprise. It likewise seeks to promote and provide measures for the *mutual benefit and industrial harmony* between labor and management.

Through this legislative initiative, the worker's rights to uplift and improve their lives as well as the management's rights to a reasonable return on their investments are satisfied through their cooperative endeavors.

The granting of the Productivity Incentive Bonus for labor will not only serve as an additional income but will work as an incentive for greater productivity. This increased productivity will definitely benefit the business enterprise.

It is in this light that the approval of this measure is earnestly requested.



JINGGOY EJERCITO ESTRADA
Senator

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AN ACT
GRANTING AN ANNUAL PRODUCTIVITY INCENTIVE TO ALL WORKERS IN
THE PRIVATE SECTOR, ESTABLISHING MECHANISMS FOR ITS
IMPLEMENTATION, AND FOR OTHER PURPOSES

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

SECTION 1. Title. - This Act shall be known as the "**Workers Productivity Incentives Act of 2010.**"

SEC. 2. Statement of Policy. - It is hereby declared the policy of the State to continuously empower the Filipino workers in their continuing struggle to uplift and improve their lives through policies that effectively contribute to greater economic gains, protection of their rights and advancement of their welfare. The State shall, therefore, promote the rights of workers in their just and fair share in the profits from the production of goods and services in all endeavors where their labors and expertise are employed by virtue of a management-labor/employer-employee relation.

SEC. 3. Extent of Grant. -- All workers in the private sector regardless of their employment status and not excluded by this Act shall be granted an annual productivity incentive bonus which shall be equivalent to not less than ten percent (10%) of net profits before taxes gained by any company or business establishment for every fiscal year that engages their labor, skills and expertise for any period or duration, provided that they have worked for at least one month during the calendar year. If the employee worked for only a portion of the year, the productivity incentive bonus shall be computed pro rata.

SEC. 4. Rule Making Power - The Department of Labor and Employment, in consultation with the National Wages and Productivity Commission, Bureau of Internal Revenue, and representatives from the labor and employer sectors shall promulgate and issue within six (6) months from the effectivity of this Act such rules and regulations as are necessary to implement the provisions hereof.

SEC.5. Non-diminution of Benefits. - Nothing in this Act shall be construed to diminish or reduce any benefits and other privileges enjoyed by the workers under existing laws, decrees, executive orders, company policy or practice, or any agreement or contract between the employer and employees.

SEC. 6. *Unlawful interference' or restraint.* - It shall be unlawful for an employer or labor union or for any government official or employee and any other business enterprise or entity to interfere with, restrain or coerce employees in the right to receive this grant and to require as a condition of employment that the employee shall, not collect this grant in his favor.

SEC. 7. *Exemptions.* - The provisions of this Act shall not apply to government-owned and controlled corporations with original charters; managerial employees; house helpers; non-resident aliens; workers who are paid by results as determined by the Secretary of Labor in appropriate regulations; workers employed by retail service establishments employing not more than five (5) workers; employees or workers in companies or enterprises undergoing receivership/liquidation; and those employed in new business enterprises. Applications for exemption strictly in accordance with those exempted employers, enterprises or establishments herein stated shall be duly filed with the Office of the Regional Director of the Department of Labor and Employment (DOLE) whose decision can be appealed to the DOLE Secretary within ten (10) days from its promulgation.

SEC. 8. *Compliance Order.* - All Regional Directors of the DOLE shall issue an annual compliance order for the payment of the grant as provided for in this Act. The order shall, among other things, direct the employer or manager to pay the amount due each worker or employee, thirty (30) days after the end of every fiscal year and shall also include the computation on which the order was based:

SEC. 9. *Penalties.* - Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the herein prescribed grant in accordance with this Act shall be directly liable to the affected worker for thrice (3x) the accrued grant plus moral damages not exceeding thirty thousand pesos (P30, 000.00) for each affected worker and imprisonment of not less than one (1) year nor more than two (2) years and including the costs of litigation and attorney's fees.

If the violation is committed by a corporation, trust or firm, partnership, association or entity the penalty of imprisonment shall be imposed on the entity's responsible officers. If the violation is committed by a foreign individual, he/she shall be summarily deported under applicable laws after complete satisfaction of his adjudged liabilities.

SEC. 10. *Separability Clause.* - If any provision of this Act shall be declared unconstitutional, any other provision not affected thereby shall remain in full force and effect.

SEC. 11. *Repealing Clause.* - All laws, decrees, orders, rules and regulations, or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

SEC. 12. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,