

SEVENTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

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SENATE

S.B. No. 1427

Introduced by Senator JOEL VILLANUEVA

**AN ACT
ENHANCING WORKPLACE PRODUCTIVITY THROUGH
PROMOTION OF PRODUCTIVITY INCENTIVES AND
GAINSHARING, AMENDING FOR THE PURPOSE REPUBLIC
ACT NO. 6971, OTHERWISE KNOWN AS 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.

Twenty-seven years after the passage of R.A. No. 6971, only a few enterprises, or 20,299 enterprises, as of 2013, have established productivity incentives program despite the fiscal incentives because of inflexible requirements on productivity measurement and sharing schemes.

The ability of the Philippines to compete in the world market depends on the ability of its enterprises, especially the MSMEs, which comprise 99% of the economy, to produce quality goods and services in the most efficient and reliable manner. The Philippines must address the productivity challenges that impede the growth of MSMEs, not only to realize its full potential but, more importantly, expand its production frontier to accelerate and deepen integration into local and global value chains, and accordingly, create more employment opportunities for Filipino workers as well as improve workers' income. The productivity incentive is a form of compensation, on top of the basic salaries and wages, given to workers based on improvements in productivity and performance.

The bill encourages the development and implementation of productivity and/or performance incentive scheme by: (1) easing the requirements for enterprise's productivity improvement and performance incentive programs to qualify for the fiscal incentive (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); (2) providing government services and technical assistance; (3) allowing workers and management to develop their own productivity incentive program, including parameters for measuring productivity improvement, determining savings and profits arising from productivity improvement and sharing productivity gains; and (4) tasking the National Wages and Productivity Commission (NWPC) as the lead agency in providing technical and consulting assistance especially to MSMEs in implementing productivity improvement programs.

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


SENATOR JOEL VILLANUEVA

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AN ACT
ENHANCING WORKPLACE PRODUCTIVITY THROUGH
PROMOTION OF PRODUCTIVITY INCENTIVES AND GAINSHARING,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 6971,
OTHERWISE KNOWN AS THE "PRODUCTIVITY INCENTIVES ACT
OF 1990"

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

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

3 Section 2. Declaration of Policy. It is the declared policy of the State to: [
4 encourage higher levels of productivity, maintain industrial peace and
5 harmony and promote the principle of shared responsibility in the relations
6 between workers and employers, recognizing the right of labor to its just
7 share in the fruits of production and the right of business enterprises to
8 reasonable returns of investments and to expansion and growth, and the
9 accordingly to provide corresponding incentives to both labor and capital for
10 undertaking voluntary programs to ensure greater sharing by the workers in
11 the fruits of their labor.]

- 12 a) ENCOURAGE HIGHER LEVELS OF PRODUCTIVITY IN ALL
13 INDUSTRIES SO THAT PHILIPPINE PRODUCTS AND SERVICES
14 CAN COMPETE IN THE GLOBAL ECONOMY;
15 b) MAINTAIN INDUSTRIAL PEACE AND HARMONY AND PROMOTE
16 THE PRINCIPLE OF PARTNERSHIP AND SHARED
17 RESPONSIBILITY IN THE RELATIONS BETWEEN WORKERS AND

1 EMPLOYERS, RECOGNIZING THE RIGHT OF LABOR TO ITS JUST
2 SHARE IN THE FRUITS OF PRODUCTION AND THE RIGHT OF
3 BUSINESS ENTERPRISES TO REASONABLE RETURNS ON
4 INVESTMENTS FOR EXPANSION AND GROWTH; AND

- 5 c) PROVIDE INCENTIVES TO BOTH LABOR AND CAPITAL FOR
6 UNDERTAKING PRODUCTIVITY IMPROVEMENT PROGRAMS AND
7 GAINSHARING.

9 **SEC. 2.** Section 3 of Republic Act No. 6971, otherwise known as the "Productivity
10 Incentives Act of 1990" is hereby **AMENDED** to read as follows:

11 Section 3. Coverage. This Act shall apply to all business enterprises with or
12 without existing and duly recognized [or certified labor organizations, including
13 government own and controlled corporations performing proprietary functions.
14] collective bargaining representatives. It shall cover all PRIVATE SECTOR
15 employees and workers [including casual, regular, supervisory and
16 managerial employees] REGARDLESS OF THEIR POSITION,
17 DESIGNATION OR STATUS AND IRRESPECTIVE OF THE MANNER BY
18 WHICH WAGES ARE PAID.

20 **SEC. 3.** Section 4 of Republic Act No. 6971, otherwise known as the "Productivity
21 Incentives Act of 1990" is hereby **AMENDED** to read as follows:

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

- 23 a) "Business Enterprise" refers to a PRIVATE industrial, SERVICE,
24 agricultural, or agro-industrial establishment engaged in production,
25 manufacturing, processing, repacking, or assembly of goods[,—including
26 service-oriented enterprises, duly certified as such by appropriate
27 government agencies].
- 28 b) ["Labor-Management Committee"] "PRODUCTIVITY INCENTIVE
29 COMMITTEE" refers to a [negotiating] body in a business enterprise
30 composed of representatives of labor and management created to
31 establish a productivity incentives program, and to settle disputes
32 ISSUES arising [therefrom in accordance with Section 9 hereof] FROM
33 INTERPRETATION OR IMPLEMENTATION OF THE PROGRAM.
- 34 c) "Productivity Incentive Program" refers to a formal agreement
35 established by the labor-management committee A PRODUCTIVITY
36 INCENTIVE COMMITTEE OR ANY EXISTING LABOR
37 MANAGEMENT MECHANISM containing a process that will promote
38 gainful employment, improve working conditions and result in
39 increased productivity, including cost savings , whereby the employees
40 are granted salary, bonuses proportionate to increases in current
41 productivity over the average for the preceding three (3) consecutive
42 years AND/OR HIGHER PROFITS._The agreement shall be ratified by
43 at least a majority of the employees who have rendered at least six (6)
44 months of continuous service.

1 d) "GAINSHARING" REFERS TO A PRODUCTIVITY-BASED
2 INCENTIVE PAY FORMULATED TO COMPLEMENT THE
3 PRODUCTIVITY INCENTIVE PROGRAM WHERE EMPLOYERS AND
4 WORKERS SHARE IN THE POSITIVE RESULTS OF BUSINESS
5 OPERATIONS BROUGHT ABOUT BY PRODUCTIVITY AND/OR
6 PERFORMANCE IMPROVEMENT. THE GAINSHARING SYSTEM
7 MAY TAKE THE FORM OF PROFIT SHARING OR OTHER FORMS
8 SUCH AS, BUT NOT LIMITED TO, PRODUCTIVITY BONUS,
9 PERFORMANCE BONUS, AND PRODUCTION BONUS.

10

11 **SEC. 4.** Section 5 of Republic Act No. 6971, otherwise known as the "Productivity
12 Incentives Act of 1990" is hereby **AMENDED** to read as follows:

13 Section 5. Labor-Management PRODUCTIVITY INCENTIVE
14 COMMITTEE. [a] A business enterprise or its employees, through their
15 authorized representatives, may initiate the formation of a [labor-
16 management] PRODUCTIVITY INCENTIVE COMMITTEE that shall be
17 composed of an equal number of representatives from the management
18 and from the [rank-and-file] employees [: Provided, That]. Both management
19 and [labor] employees shall have equal voting rights in the committee.[:
20 ~~Provided, further, That at the request of any party to the negotiation, the~~
21 ~~National Wages and Productivity Commission of the Department of Labor and~~
22 ~~Employment shall provide the necessary studies, technical information and~~
23 ~~assistance, and expert advice to enable the parties by conclude productivity~~
24 ~~agreements.]~~

25 IN CASE THERE IS AN EXISTING LABOR MANAGEMENT MECHANISM IN
26 THE ENTERPRISE SIMILAR TO A PRODUCTIVITY INCENTIVE
27 COMMITTEE, SUCH MECHANISM MAY SUFFICE: PROVIDED, THAT ITS
28 COMPOSITION, VOTING RIGHTS, AND THE MANNER BY WHICH THE
29 LABOR-MANAGEMENT MECHANISM IS CREATED IS IN ACCORDANCE
30 WITH THE PROVISIONS OF THIS SECTION. THE PRODUCTIVITY
31 INCENTIVE COMMITTEE SHALL ESTABLISH AND IMPLEMENT A
32 PRODUCTIVITY INCENTIVE PROGRAM AND SETTLE ISSUES ARISING
33 FROM IT IN ACCORDANCE WITH SECTION 9.

34 AT THE REQUEST OF ANY PARTY, THE NATIONAL WAGES AND
35 PRODUCTIVITY COMMISSION (NWPC) OR THE REGIONAL TRIPARTITE
36 WAGES AND PRODUCTIVITY BOARDS (RTWPBS) MAY PROVIDE THE
37 NECESSARY STUDIES, TECHNICAL INFORMATION AND ASSISTANCE,
38 AND EXPERT ADVICE TO ENABLE THE PARTIES TO DEVELOP ITS
39 PRODUCTIVITY INCENTIVE PROGRAM.

40 [b] In business enterprises with duly recognized COLLECTIVE
41 BARGAINING REPRESENTATIVES, [or certified labor organizations], the
42 representatives of labor shall be those designated by the collective
43 bargaining agent(s) of the bargaining unit(s).

44 [c] In business enterprises without duly recognized COLLECTIVE
45 BARGAINING REPRESENTATIVES [or certified labor organizations], the
46 representatives of labor shall be elected by at least a majority of all rank-

1 and-file employees who have rendered at least six (6) months of continuous
2 service.

3

4 **SEC. 5.** Section 6 of Republic Act No. 6971, otherwise known as the "Productivity
5 Incentives Act of 1990" is hereby **AMENDED** to read as follows:

6 Section 6. Productivity Incentives Program. [a)] The productivity
7 incentives program, DULY RATIFIED BY THE EMPLOYEES, shall [contain
8 provisions for the manner of sharing and the factors in determining
9 productivity bonuses: Provided, That the productivity bonuses granted to
10 labor under this program shall not be less than half of the percentage
11 increase in the productivity of the business enterprise.] INDICATE AMONG
12 OTHERS, COVERAGE OF THE PROGRAM; MEASURES TO IMPROVE
13 PRODUCTIVITY; PERFORMANCE INDICATORS AND TARGETS;
14 PRODUCTIVITY MEASUREMENT; FORM, AMOUNT AND FREQUENCY
15 OF PAYMENT OF PRODUCTIVITY INCENTIVE/S, IN ACCORDANCE WITH
16 THE TERMS AND CONDITIONS THAT MAY BE AGREED UPON BY BOTH
17 LABOR AND MANAGEMENT.

18 [b)] Productivity agreements reached by the parties as provided in this Act
19 ARE WITHOUT PREJUDICE TO ANY EXISTING COMPANY POLICY,
20 PROGRAM, CONTRACT, AND/OR [shall supplement existing] collective
21 bargaining agreement[s] (CBA) PROVIDING HIGHER PRODUCTIVITY
22 INCENTIVES.

23 [e)] If, during the existence of the productivity incentives program or
24 agreement, the employees will join or form a union, such program or
25 agreement may, in addition to the terms and conditions agreed upon by labor
26 and management, be integrated in the collective bargaining agreement that
27 may be entered into between them.]

28

29 **SEC. 6.** Section 7 of Republic Act No. 6971, otherwise known as the "Productivity
30 Incentives Act of 1990" is hereby **AMENDED** to read as follows:

31 Section 7. Benefits and Tax INCENTIVES.

32 a) Subject to the provisions of Section 6 [hereof], a business enterprise
33 which adopts a productivity incentives program, duly and mutually
34 agreed upon by parties to the [labor-management] Productivity
35 Incentive Committee OR ANY LABOR MANAGEMENT MECHANISM,
36 shall be granted a special deduction from gross income equivalent to
37 fifty percent (50%) of the total productivity bonuses given to employees
38 under the program over and above the total allowable ordinary and
39 necessary business deductions for said bonuses under the National
40 Internal Revenue Code, as amended.

41 b) Grants for [manpower] training and special studies given to rank-and-
42 file employees pursuant to a program prepared by the [labor-by-the
43 labor-management] PRODUCTIVITY INCENTIVE Committee UNDER
44 THE PRODUCTIVITY INCENTIVE PROGRAM [for the development of
45 skills identified as necessary by the appropriate government agencies]

1 shall also entitle the business enterprise to a special deduction from
2 gross income equivalent to fifty percent (50%) of the total grants over
3 and above the allowable ordinary and necessary business
4 deductions for said grants under the National Internal Revenue
5 Code, as amended.

- 6 c) [Any strike or lockout arising from any violation of the
7 productivity incentives program shall suspend the effectivity thereof
8 pending settlement of such strike or lockout: Provided, That the
9 business enterprise shall not be deemed to have forfeited tax
10 incentives accrued prior to the date of occurrence of such strike or
11 lockout, and the workers shall not be required to reimburse the
12 productivity bonuses already granted to them under the incentive
13 program. Likewise, bonuses which have already accrued before the
14 strike or lockout shall be paid the workers within six (6) months from
15 their accrual.] THE SPECIAL DEDUCTIONS FROM GROSS INCOME
16 PROVIDED FOR HEREIN SHALL BE ALLOWED STARTING THE
17 NEXT TAXABLE YEAR AFTER THE EFFECTIVITY OF THIS ACT.
- 18 d) [Bonuses provided for under the productivity incentives program shall
19 be given to the employees not later than every six (6) months from the
20 start of such program over, and above existing bonuses granted by the
21 business enterprise and by law. Provided, That the said bonuses shall
22 not be deemed as salary increases due the employees and workers.
23] PRIORITY TRAINING PROGRAMS AND SERVICES FROM DOLE
24 AND OTHER GOVERNMENT AGENCIES SHALL BE GIVEN TO
25 BUSINESS ESTABLISHMENTS ADOPTING PRODUCTIVITY
26 INCENTIVE PROGRAMS.
- 27 e) The special deductions from gross income provided for herein
28 shall be allowed starting the next taxable year after the effectivity of
29 this Act. MICRO, SMALL AND MEDIUM ENTERPRISES
30 IMPLEMENTING PRODUCTIVITY INCENTIVES PROGRAM ARE
31 ELIGIBLE TO JOIN THE PRODUCTIVITY OLYMPICS
32 COMPETITION, WHERE REGIONAL AND NATIONAL WINNERS
33 SHALL BE AWARDED CASH AND NON-CASH INCENTIVES,
34 PURSUANT TO THE MECHANICS OF THE PRODUCTIVITY
35 OLYMPICS OF THE NATIONAL WAGES AND PRODUCTIVITY
36 COMMISSION.

37
38 **SEC. 7.** Section 8 of Republic Act No. 6971, otherwise known as the "Productivity
39 Incentives Act of 1990" is hereby **AMENDED** to read as follows:

40 Section 8. Notification. A business enterprise which adopts a productivity
41 incentive program shall submit copies of the same to the National Wages and
42 Productivity Commission APPROPRIATE REGIONAL TRIPARTITE WAGES
43 AND PRODUCTIVITY BOARD (RTWPB) and to the Bureau of Internal
44 Revenue for their information and records.

1 **SEC. 8.** Section 9 of Republic Act No. 6971, otherwise known as the "Productivity
2 Incentives Act of 1990" is hereby **AMENDED** to read as follows:

3 Section 9. Disputes ISSUES and Grievances. Whenever disputes ISSUES,
4 grievances, or other matters arise from the interpretation or implementation
5 of the productivity incentives program, the [labor—management]
6 PRODUCTIVITY INCENTIVE COMMITTEE shall meet to resolve the
7 dispute, ISSUE within fifteen (15) days from receipt of a formal complaint.
8 [and may seek the assistance of the National Conciliation and Mediation
9 Board of the Department of Labor and Employment for such purpose. Any
10 dispute which remains unresolved within twenty (20) days from the time of
11 its submission to the labor-management committee shall be submitted for
12 voluntary arbitration in line with the pertinent provisions of the Labor Code,
13 as amended.] THE PARTIES SHALL AGREE ON WHETHER OR NOT TO
14 SUSPEND THE IMPLEMENTATION OF THE PRODUCTIVITY INCENTIVE
15 PROGRAM PENDING THE RESOLUTION OF THE ISSUE. PROVIDED,
16 THAT THE BUSINESS ENTERPRISE SHALL NOT BE DEEMED TO HAVE
17 FORFEITED ANY TAX INCENTIVES ACCRUED PRIOR TO THE DATE OF
18 OCCURRENCE OF SUCH ISSUE OR GRIEVANCE, AND THE WORKERS
19 SHALL NOT BE REQUIRED TO REIMBURSE THE PRODUCTIVITY
20 INCENTIVES ALREADY GRANTED TO THEM UNDER THE INCENTIVE
21 PROGRAM. LIKEWISE, BONUSES THAT HAVE ALREADY ACCRUED
22 BEFORE THE ISSUE OR GRIEVANCE OCCURRED SHALL BE PAID TO
23 THE WORKERS WITHIN SIX (6) MONTHS FROM THEIR ACCRUAL. ANY
24 ISSUE WHICH REMAINS UNRESOLVED WITHIN THIRTY (30) DAYS
25 FROM THE TIME OF ITS SUBMISSION TO THE PRODUCTIVITY
26 INCENTIVE COMMITTEE SHALL BE SUBMITTED FOR VOLUNTARY
27 ARBITRATION PURSUANT TO THE PERTINENT PROVISIONS OF THE
28 LABOR CODE OF THE PHILIPPINES, AS AMENDED.

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

32
33 **SEC. 9.** Section 10 of Republic Act No. 6971, otherwise known as the "Productivity
34 Incentives Act of 1990" is hereby **REPEALED**.

35 **SEC. 10. Rule Making Power.** The Secretary of Labor and Employment
36 and the Secretary of Finance, after due notice and hearing, shall jointly
37 promulgate and issue within six (6) months from the effectiveness of this Act such
38 rules and regulations as are necessary to carry out the provisions hereof.

39
40 **SEC. 10.** A new Section 10 of Republic Act No. 6971, otherwise known as the
41 "Productivity Incentives Act of 1990" is hereby **PROVIDED** to read as follows:

42 Section 10. **ROLE OF NWPC.** - THE NWPC SHALL BE THE LEAD
43 GOVERNMENT AGENCY RESPONSIBLE FOR PROVIDING TECHNICAL
44 AND CONSULTING ASSISTANCE ESPECIALLY TO MICRO, SMALL AND
45 MEDIUM ENTERPRISES (MSMEs) IN IMPLEMENTING PRODUCTIVITY
46 IMPROVEMENT PROGRAMS. THE NWPC SHALL DEVELOP AND

1 ADMINISTER AN ACCREDITATION PROGRAM TO TAP AND ORGANIZE A
2 POOL OF LOCAL PRODUCTIVITY AND QUALITY PRACTITIONERS AND
3 EXPERTS, WHO CAN ASSIST IN PROMOTING PRODUCTIVITY
4 IMPROVEMENT AND GAINSHARING AMONG ESTABLISHMENTS IN THE
5 PRIVATE SECTOR.

6

7 **SEC. 11. Implementing Rules and Regulations.** - The Secretary of Labor and
8 Employment and the Secretary of Finance, in consultation with the NWPC, National
9 Conciliation and Mediation Board (NCMB), Bureau of Internal Revenue (BIR), Center
10 for Industrial Competitiveness (CIC), Technical Education and Skills Development
11 Authority (TESDA) labor organizations and employer organizations shall jointly
12 promulgate and issue within six (6) months from the effectivity of this Act such rules
13 and regulations as are necessary to carry out the provisions of this Act.

14

15 **SEC. 12. Non-Diminution of Benefits.** - Nothing in this Act shall be construed to
16 diminish or reduce any benefit and other privileges enjoyed by the workers under
17 existing laws, decrees, executive orders, company policy or practice, or any
18 agreement or contract between the employer and employees.

19

20 **SEC. 13. Separability Clause.** - If any provision of this Act is declared
21 unconstitutional, the same shall not affect the validity and effectivity of the other
22 provisions thereof.

23

24 **SEC. 14. Repealing Clause.** – Republic Act No. 6971, otherwise known as the
25 Productivity Incentives Act of 1990, is hereby amended. All laws, decrees, executive
26 orders, issuances, rules and regulations or parts thereof inconsistent with the
27 provisions of this Act are hereby repealed or modified accordingly.

28

29 **SEC. 15. Effectivity.** - This Act shall take effect fifteen (15) days after its publication
30 in the Official Gazette or in a newspaper of general circulation.

31

32 **Approved,**