

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City, Metro Manila

*Thirteenth Congress*  
First Regular Session

**HOUSE BILL NO. 350**

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Introduced by Representative Roseller L. Barinaga

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**EXPLANATORY NOTE**

This bill seeks to establish a Productivity and Performance Incentives and Gainsharing Program, repealing for the purpose Republic Act No. 6971, otherwise known as the "Productivity Incentives Act of 1990."

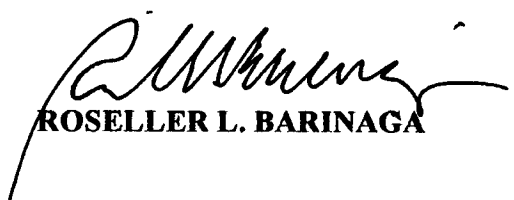
As stipulated in R.A. No. 6971, it is the policy of the State to encourage higher levels of productivity, maintain industrial peace, and promote the principle of shared responsibility in employee-employer relationship, among others. It provides fiscal incentives to establishments that voluntarily undertake productivity improvement programs and encourages sharing of workers in the gains of improved productivity performance.

This law is widely seen as a good piece of social legislation which can effectively contribute to the attainment of development for the country. However, it is widely ignored by target sectors because of its seemingly unrealistic provisions. It has been observed, for instance, that since its effectivity in November 1990, only a handful of business enterprises have manifested their interest to implement productivity improvement programs because of perceived policy and operational difficulties.

In view of this, between 1992 and 1993, the National Wages and Productivity Commission (NWPC) conducted a series of regional and sectoral evaluation of R.A. No. 6971 with the Regional Tripartite Wages and Productivity Boards, the Tripartite Peace Council and productivity experts to identify the policy and operational constraints of the Act. The consultations conclude that there is a need to liberalize the law to make it consistent with its voluntary nature, and therefore, to make it more attractive to its intended beneficiaries.

With the intention of legislating a more responsive productivity incentives program, this bill is being proposed to introduce a new law that will improve upon R.A. No. 6971 by eliminating the conditions that unduly limit or regulate the process of productivity improvement.

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

  
**ROSELLER L. BARINAGA**

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**AN ACT**  
**ESTABLISHING A PRODUCTIVITY AND PERFORMANCE INCENTIVES**  
**AND GAINSHARING PROGRAM, REPEALING 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:*

**SECTION 1. *Short Title.*** – This Act shall be known as the “Productivity and Performance Incentives and Gainsharing Act of 2004.”

**SEC 2. *Declaration of Policy.*** – It is the declared policy of the State to encourage higher levels of productivity, recognizing the complex challenges of globalization, in order that Philippine products and services can meet global competition, maintain industrial peace and harmony and promote the principles of partnership and shared responsibility in the relations between workers and employers so as to strengthen the cooperation between labor and capital, and further recognizing the right of labor to its share in the fruits of production and the right of business enterprises to reasonable returns on investment and to expansion and growth, and accordingly to provide corresponding

incentives to both labor and capital for undertaking voluntary programs that ensure workers with a just share 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 quality of life of the workers and employees.

**SEC. 3. *Coverage.*** – This Act shall apply to all business enterprises with or without existing and duly recognized collective bargaining representatives, including government-owned and controlled corporations performing proprietary functions. It shall cover all employees and workers regardless of their position, designation or status and irrespective of the manner and mode by which their wages are paid.

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

(a) “Business enterprise” refers to industrial, agricultural or agro-industrial establishments engaged in the production, manufacturing, processing, repacking or assembly of goods, including service-oriented enterprises that are established and operated for profit or gain.

(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 and performance incentives and gainsharing program, and to settle disputes arising therefrom in accordance with Section 9 hereof.

(c) “Productivity and Performance Incentives Program” refers to a formal agreement voluntarily established by a joint labor-management committee or any existing labor management mechanism containing a productivity and performance improvement program that will promote gainful employment, improve working conditions, attain and maintain industrial peace and result in increased productivity and efficiency, including cost savings, as well as a gainsharing program whereby the

employer and the workers share in the positive results of business operation brought about by improvement in productivity. The agreement shall be ratified by at least a majority of the employees who have rendered at least six (6) months of continuous service. In case the joint labor-management committee makes fundamental changes in the program, the employees shall likewise ratify such changes.

(d) "Gainsharing" refers to a reward system formulated to complement the productivity and performance incentives program designed to improve the productivity performance of the organization. The gainsharing system to be adopted by business enterprises may take the form of profit sharing or other forms of gainsharing mechanisms such as productivity bonus, performance bonus, production bonus, employee stock option plan, among others.

**SEC. 5. Labor-Management Committee.** – (a) A business enterprise or its employees, through their authorized representative, may initiate the formation of a labor-management committee or any labor-management mechanism that shall be composed of representatives from the management and from the rank-and-file employees which shall establish and implement a productivity and performance incentives program and settle disputes arising therefrom in accordance with Section 9 hereof: *Provided*, That both management and labor shall have equal representation in said committee or mechanism; *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. In case there is already an existing labor mechanism in the enterprise, such mechanism may suffice; *Provided*, That it includes as one of its

objectives the development and implementation of a productivity and performance incentives and gainsharing program.

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

(c) In business enterprises without duly recognized collective bargaining representatives, 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. 6. *Productivity and Performance Incentives and Gainsharing Program.* –**

(a) The productivity and performance incentives program shall contain provisions for measuring productivity, performance and efficiency improvements, the gainsharing or reward system adopted in sharing productivity bonuses, coverage, percentage sharing, and forms of bonus payment in accordance with the terms and conditions that may be agreed upon by labor and management: *Provided*, That the productivity bonus shall be distributed at least once a year, or at such frequency as may be determined by the parties.

(b) Productivity agreements voluntarily reached by the parties as provided in this Act may supplement existing collective bargaining agreements.

**SEC. 7. *Benefits and Tax Incentives.* –** (a) Subject to the provisions of Section 6 hereof, a business enterprise which adopts a productivity and performance incentives and gainsharing program, duly and mutually agreed upon by parties to the labor-management committee, shall be granted a special deduction from the 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 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 a skills development program prepared by the labor-management committee under the productivity and performance incentives program shall also entitle the business enterprise to a special deduction from gross income equivalent to fifty (50%) of the total grants over and above the allowable ordinary and necessary business deduction for said grants under the National Internal Revenue Code, as amended.

(c) Bonuses provided for under the productivity and performance incentives and gainsharing program shall be given to the employees in a manner determined by the parties from the start of such program over and above existing bonuses 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.

(d) The special deductions from the gross income provided for herein shall be allowed starting the next taxable year after the effectivity of this Act.

**SEC. 8. Notification.** – A business enterprise which adopts a productivity and performance incentives and gainsharing program shall submit copies of the same to the appropriate Regional Tripartite Wages and Productivity Board for evaluation and certification. The Board shall then forward the certifiable productivity incentives program(s) of business enterprises to the Bureau of Internal Revenue for record purposes.

**SEC. 9. Disputes and Grievances.** – Whenever disputes, grievances, or other matters arise from the interpretation or implementation of the productivity and performance incentives program, the labor-management committee shall meet to resolve the dispute within fifteen (15) days and shall suspend the effectivity of the program pending settlement of such dispute or grievance: *Provided, however*, That if within the period the dispute remains unresolved, the committee may seek the assistance of a third

party such as the National Conciliation and Mediation Board of the Department of Labor and Employment, the Regional Tripartite Wages and Productivity Boards or a facilitator acceptable to both parties in resolving the conflict. The third party shall act only in an advisory capacity for purposes of rendering interpretation and clarification to facilitate the adoption of a final resolution by the parties: *Provided, further,* That the business enterprise shall not be deemed to have forfeited any tax incentives accrued prior to the date of occurrence of such dispute or grievance, and the workers shall not be required to reimburse the productivity bonuses already granted to them under the incentives program. Likewise, bonuses that have already accrued before the dispute or grievance shall be paid the workers within six (6) months from their accrual. Any dispute which remains unresolved within thirty (30) 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 and performance incentives and gainsharing program shall include the name(s) of the voluntary arbitrator or panel of voluntary arbitrators previously chosen and agreed upon by the parties.

**SEC. 10. *Penalty.*** – Any person who shall make any fraudulent claim under this Act, regardless of whether or not a tax benefit has been granted, shall upon conviction be punished with imprisonment of not less than six (6) months but not more than one (1) year or a fine of not less than two thousand pesos (P2,000.00) but not more than six thousand pesos (P6,000.00), or both, at the discretion of the Court, without prejudice to prosecution for any other acts punishable under existing laws.

In case of partnerships or corporations, the penalty shall be imposed upon the officer(s) or employee(s) who knowingly approved, authorized or ratified the filing of the fraudulent claim, and other persons responsible therefor.

**SEC. 11. *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. 12. *Rule Making Power.*** - The Secretary of Labor and Employment and the Secretary of Finance, in consultation with the National Wages and Productivity Commission, Bureau of Internal Revenue, Government Corporate Monitoring and Coordinating Committee, Technical Education and Skills Development Authority, and labor and employer sectors shall jointly promulgate and issue within six (6) months from the effectivity of this Act such rules and regulations as are necessary to carry out the provisions hereof.

As part of its labor education program, the Department of Labor and Employment shall conduct an extensive public information campaign to promote the productivity and performance incentives and gainsharing program.

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

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

**SEC. 15. *Effectivity.*** - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) newspapers of national circulation.

Approved,