

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Fifteenth Congress
First Regular Session

HOUSE BILL No. 2766

Introduced by **DIWA Party-List Representative Emmeline Y. Aglipay**

EXPLANATORY NOTE

This bill seeks to establish a Productivity Improvement Program, repealing for the purpose Republic Act (R.A.) No. 6971, otherwise known as the "Productivity Incentives Act of 1990."

Article XIII, Section 3. (Social Justice and Human Rights) of the Constitution provides that 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 expansion and growth.

R.A. No. 6971, in turn, states that 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. It provides fiscal incentives to establishments that voluntarily undertake productivity improvement programs, and encourages sharing the gains of improved productivity performance with workers.

While R.A. No. 6971 is seen as a good piece of social legislation which can effectively contribute to the attainment of economic development for the country, it is widely ignored by target sectors because of its seemingly unattractive provisions. It has been observed, for instance, that since its effectivity in November 1990, only a handful of business enterprises have adopted and implemented productivity improvement programs because of perceived policy and operational difficulties.

The National Wages and Productivity Commission (NWPC) regularly conducts regional and sectoral consultations and evaluations on wages and productivity. The result

of the consultations shows the need to liberalize the law to make it more attractive to its intended beneficiaries and to attain its intended purpose.

Adoption of productivity programs will result not only in increased incomes for both the workers and the establishments, but also in making the Filipino workforce more competitive in international trade; thereby contributing to poverty reduction through job generation.

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


EMMELINE Y. AGLIPAY
DIWA Party-list Representative

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**AN ACT
ESTABLISHING A PRODUCTIVITY IMPROVEMENT 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 Improvement and Incentives Act of 2010."

SEC. 2. *Declaration of Policy.* - It is the declared policy of the State:

- (1) 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, and
- (2) To provide corresponding incentives to both labor and capital for undertaking 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, in recognition of 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.

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) "Productivity Committee" refers to a committee in a business enterprise composed of an equal number of representatives from the management and the rank-and-file employees, created to (1) establish a productivity and performance incentives and gainsharing program, and (2) settle disputes arising therefrom in accordance with Section 10. The members shall have equal voting rights.

(c) "Productivity Improvement Program" refers to a formal agreement voluntarily established by the Productivity Committee or any existing labor-management mechanism, containing a productivity 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 productivity committee makes fundamental changes in the program, the employees shall likewise ratify such changes.

(d) "Productivity Incentives/Gainsharing" refers to a reward system resulting from the adoption of a productivity improvement program. The incentives system to be adopted by the business enterprises may take the form of profit-sharing or other forms of gainsharing mechanisms such as productivity bonus, performance bonus, production bonus, and employee stock option plan, among others.

SEC. 5. *Productivity Committee.* - (a) For purposes of creating a Productivity Committee, the classification of business establishments into micro, small, medium and large enterprises shall be based on employment size criteria of the Department of Labor and Employment, *i.e.*, large establishments – 200 or more workers, medium

establishments – 100-199 workers, small establishments – 10-99 workers, and micro establishments – 1-9 workers.

(b) It shall be mandatory for all establishments, except micro establishments, to create a Productivity Committee composed of representatives from management and rank-and-file employees. This committee shall develop and/or implement a productivity improvement program, monitor and evaluate outcome of the program on the workplace, settle disputes arising therefrom in accordance with Section 10, and submit to the appropriate Regional Tripartite Wages and Productivity Board (RTWPB) the documents required under Section 9: *Provided*, That both management and labor shall have equal representation in said committee or mechanism; *Provided, further*, That at the request of the productivity committee, the National Wages and Productivity Commission (NWPC) and/or the appropriate RTWPB 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-management mechanism in the enterprise, such mechanism may suffice; *Provided*, That it includes as one of its objectives the development and implementation of a productivity improvement program.

(c) All establishments, except micro establishments shall be given two (2) years from the effectivity of this Act, within which to create a Productivity Committee, to develop and implement a productivity improvement program, and/or register the same under Section 8 of this Act.

(d) Micro establishments are not required to create a productivity committee but they are encouraged to avail of the technical assistance provided by the NWPC and/or the appropriate RTWPBs.

SEC. 6. *Productivity Improvement Program.* - (a) The productivity improvement program in accordance with the terms and conditions that may be agreed upon by labor and management 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, *Provided*, That the productivity bonus shall be distributed at such frequency as may be determined by the parties which in no case shall be less than once a year.

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

SEC. 7. *Benefits and Tax Incentives.* - (a) Subject to the provision of Section 9 hereof, a business enterprise adopting a productivity improvement program, duly and mutually agreed upon by parties to the productivity committee, shall be granted a special deduction from gross income equivalent to one hundred percent (100%) 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 productivity committee under the productivity and performance incentives program shall also entitle the business enterprise to a special deduction from gross income equivalent to one hundred percent (100%) 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) The special deductions from the gross income provided for herein shall be allowed starting the taxable year after the effectivity of this Act.

(d) Workers' incentives/bonuses derived from the programs shall be exempt from income taxation.

(e) Bonuses provided for under the productivity improvement program shall be given to the employees in a manner determined by the parties at the start of such program. These shall be 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.

SEC. 8. *Certification by the RTWPBs.* - A business enterprise which adopts a productivity improvement program shall submit copies of the same to the appropriate RTWPB for evaluation and certification. The submission shall include the type of program, the objectives, design and outcomes. The benefits under this Act shall not accrue until the Productivity Incentives Program has been certified by the RTWPB. Thereafter, the enterprise shall forward the certified program to the BIR solely for record purposes.

Any business enterprise that fails to adopt a productivity improvement program or fails to submit copies of the same to the appropriate RTWPB shall pay an annual fine in

an amount to be determined by the DOLE until such time that it has complied with Section 5 and 8 of this Act.

SEC.9. *Disputes and Grievances.* - Whenever disputes, grievances, or other matters arise from the interpretation or implementation of the productivity improvement program, the productivity 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. If there is no productivity committee created due to the existing labor-management committee, such committee shall resolve the dispute within the same period. If within the period, the dispute remains unresolved, the committee may seek the assistance of a third party such as appropriate RTWPB of the Department of Labor and Employment, or a facilitator acceptable to both parties, in resolving the conflict. The third party shall act only in an advisory capacity, for purposes of interpretation and clarification, to facilitate the adoption of a final resolution by the parties: *Provided,* 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 productivity committee shall be submitted for voluntary arbitration in line with the pertinent provisions of the Labor Code, as amended.

The productivity improvement 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 two (2) years but not more than four (4) years or a fine of not less than fifty thousand pesos (P50,000.00) but not more than One hundred Thousand Pesos (P100,000.00), 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. 12. *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. 13. *Implementing Rules.* - The Secretary of Labor and Employment, Secretary of Finance, the Secretary of Education, the Chairman of CHED and the Director General of TESDA, in consultation with the National Wages and Productivity Commission, Bureau of Internal Revenue, and the labor and employers' 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 NWPC and the RTWPBs shall conduct an extensive public information campaign to promote the productivity and performance incentives and gainsharing program.

SEC. 14. *Technical Guidelines.* - The NWPC, pursuant to Art. 121 (b), Labor Code, as amended by Republic Act No. 6727, shall formulate policies and guidelines on the technical side of the productivity improvement program such as the design, formulae and other related matter.

SEC. 15. *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. 16. *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 this Act are hereby repealed or modified accordingly.

SEC. 17. *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.