

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Batasan Hills, Quezon City



SIXTEENTH CONGRESS

First Regular Session

House Bill No. 3251

Introduced by **REP. FRANCIS GERALD A. ABAYA**

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 for employers and employees to establish productivity incentives and gainsharing program and enabling the Commission to provide the necessary studies, technical information and assistance, and expert advice in order for the parties to conclude productivity agreements.

Despite the declaration in R.A. No. 6971, 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 has been observed that since its effectivity in November 1990, only eleven (11) companies have applied to avail of the benefits under the Act and only one (1) firm has met the requirements of the law because of the tight mandatory requirements on productivity measurement and sharing schemes. This contravenes the voluntary nature of the law.

The ability of the Philippines to compete in the world market hinges critically on the ability of its enterprises to produce quality goods and services in the most efficient and reliable way. To achieve this, it is necessary that firms become oriented towards increasing the overall productivity and competitiveness of managers and workers.

The proposed bill introduces an incentive based pay on productivity improvement and gainsharing in support of wage policies under Republic Act 6727 or the Wage Rationalization Act.

The incentive is a form of compensation, on top of the basic salaries and wages, given to workers based on improvements in productivity and performance of both the company and its workforce. It allows workers and management to develop their own productivity incentives program, determine the sharing scheme, frequency of distribution of bonus and the measurement of productivity gains.

The creation of a Productivity Committee in the workplace is mandated, but it also recognizes any labor-management mechanism composed of the representatives of labor and management created to establish a productivity incentives and gainsharing program. It also allows labor and management to decide on the terms and conditions of the productivity incentives and gainsharing program, and permits the same to be outside the ambit of collective bargaining agreement.

Further, it entitles business enterprise adopting productivity improvement and performance incentive program, 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.

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


HON. FRANCIS GERALD A. ABAYA
First District, Cavite

Republic of the Philippines
HOUSE OF REPRESENTATIVES

Quezon City
Sixteenth Congress

First Regular Session

HOUSE BILL NO. **3251**

Introduced by Representative FRANCIS GERALD A. ABAYA

AN ACT ESTABLISHING A PRODUCTIVITY AND PERFORMANCE INCENTIVES AND GAINSHARING PROGRAM, 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

SECTION 1. *Short Title.* - This Act shall be known as the "Productivity and Performance Incentives and Gainsharing Act of 2013."

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' 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 worker and employees.

SEC. 3 Coverage. - This Act shall apply to all 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 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 10 hereof.
- (c) **“Productivity Improvement Performance Incentive 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 incentives 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.

- (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 and employee stock option plan, among others.
- (e) **“NWPC”**, refers to the National Wages and Productivity Commission, an attached agency of the Department of Labor and Employment duly created and established by virtue of Republic Act No. 6727 or otherwise known as the “Wage Rationalization Act”.
- (f) **“RTWPBs”**, refers to the Regional Tripartite Wages and Productivity Boards, duly created and established by virtue of Republic Act No. 6727 or otherwise known as the “Wage Rationalization Act”.

SEC. 5. *Advisory on Productivity Incentive Schemes.* Enterprises may refer to the Advisory on Productivity Incentive Schemes that will be issued by the RTWPBs for specific industries. The Advisory contains an assessment of the industry's past performance, outlook or prospects for the next year and a recommendation on a range of productivity incentives that may be considered by enterprises in industries covered by the Advisory.

Upon request of enterprises, the RTWPBs shall provide capacity building on productivity improvement and technical assistance or advise on the design and implementation of productivity incentive schemes.

SEC. 6. *Labor-Management Mechanism.* - (a) A business enterprise or its employees, through their authorized representative, may initiate the formation of a labor-management mechanism such as labor-management committee that shall be composed of representatives from the management and from the rank-and-file employees which shall establish and implement an incentive pay based on productivity improvement and gainsharing 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 NWPC or the RTWPBs 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 management mechanism in the enterprise, such mechanism may suffice; *Provided*, That it includes as one of its objectives, the

development and implementation of an incentive pay based on productivity improvement and gainsharing.

(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. 7. Incentive Pay based on Productivity Improvement and Gainsharing -

(a) The incentive pay based on productivity improvement and gainsharing shall contain provisions for measuring productivity, performance and efficiency improvements, the gainsharing or reward system adopted in the sharing of productivity bonuses, coverage, percentage sharing, and forms of bonus payment in accordance with the terms and conditions that may be agreed upon by both 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. *Provided* further, that the amount to be received as productivity incentive may vary depending on the productivity performance of the establishment.

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

SEC. 8. *Benefits and Tax Incentives.* - (a) Subject to the provisions of Section 7 hereof, a business enterprise which adopts an incentive pay based on productivity improvement and gainsharing, duly and mutually agreed upon by parties to the labor-management committee or any labor-management mechanism, 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 incentive pay based on productivity improvement and gainsharing shall also entitle the business enterprise to a special deduction from gross income equivalent to fifty a (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 incentive pay based on productivity improvement and gainsharing shall be given to the employees in a manner determined by the parties from the start of such system over and above the 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. 9. *Notification.* - A business enterprise which adopts an incentive pay based on productivity improvement and gainsharing 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. 10. *Disputes and Grievances.* - Whenever disputes, grievances, or other matters arise from the interpretation or implementation of the incentive pay based on productivity improvement and gainsharing, 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 incentive pay based on productivity improvement and gainsharing shall include the name(s) of the voluntary arbitrator or panel of voluntary arbitrators previously chosen and agreed upon by the parties.

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 regulation 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 incentive pay based on productivity improvement and gainsharing.

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.