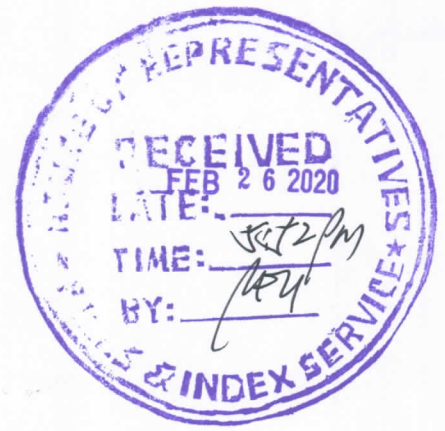


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Eighteenth Congress

First Regular Session

HOUSE BILL NO. 6406



Introduced by Honorable Mark O. Go

EXPLANATORY NOTE

This bill seeks to affirm and further fortify the intentions of Republic Act No. 6971, otherwise known as the "Productivity Incentives Act of 1990", through promoting an inclusive and sustainable work productivity programs.

The abovementioned mandate is an initiative to promote a working environment with increased level of productivity, maintain industrial harmony, and propel shared commitment and responsibility among employers and employees. As a policy of the State, the preservation of balance in the workplace is necessary to recognize both the rights of the workers and their employers: the former, to their right to a fair and just share of labor; and the latter, to their right to reasonable returns of investment vital for growth and expansion.

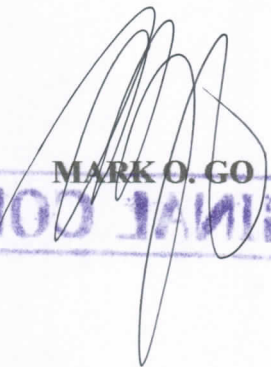
One important indicator of our country's economic development is labor productivity. The average labor productivity growth from 1985 to 2018 is measly 2.77% although the year 2017 recorded a higher growth rate of 8.43%. This productivity trend, despite the implementation of RA 6971, remains a growing concern.

The ability of enterprises to compete globally is dependent on the capacity of these enterprises to produce and offer goods and services at the most effective and efficient way. Accordingly, it is imperative that enterprises must address this productivity challenge so as not only to meet this concern but to explore more

business opportunities.

This proposed measure seeks to reinforce labor productivity through: 1.) the establishment of a Productivity Incentives Committee (PIC); 2.) the adoption of productivity incentive programs; 3.) granting productivity incentives to employees; and 4.) providing tax incentive to business establishments for granting incentives to employees.

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


MARK O. GO
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Republic of the Philippines
HOUSE OF REPRESENTATIVES
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House Bill No. 6406

Introduced by Hon. Mark O. Go

AN ACT
PROMOTING INCLUSIVE AND SUSTAINABLE PRODUCTIVITY
GROWTH, 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. Section 2 of Republic Act No. 6971, otherwise known as the Productivity Incentives Act of 1990, is hereby amended to read as follows:

“Section 2. Declaration of Policy. - It is the declared policy of the State to:

- (a) Encourage higher levels of productivity **IN ALL INDUSTRIES TO ENABLE ENTERPRISES TO COMPETE GLOBALLY;**
- (b) Maintain industrial peace and harmony and promote the principle of **PARTNERSHIP AND** shared responsibility in the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of business enterprises to reasonable returns on investments and [to] **FOR** expansion and growth [, and accordingly to]; **AND**
- (c) Provide corresponding incentives to both labor and capital for undertaking [voluntary programs to ensure greater sharing by the workers in the fruits of their labor] **PRODUCTIVITY IMPROVEMENT PROGRAMS AND GAINSHARING.”**

SEC. 2. Section 3 of Republic Act No. 6971 is hereby amended to read as follows:

"Section 3. Coverage. - This Act shall apply to all business enterprises with or without existing and duly recognized COLLECTIVE NEGOTIATION AND BARGAINING REPRESENTATIVES. [or certified labor organizations, including government-owned and controlled corporations performing proprietary functions.] It shall cover all employees and workers [including casual, regular, supervisory and managerial employees] REGARDLESS OF THEIR POSITION, DESIGNATION, OR STATUS, AND THE MANNER BY WHICH THEIR SALARIES/WAGES ARE PAID."

SEC. 3. Section 4 of Republic Act No. 6971 is hereby amended to read as follows:

"Section 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, duly certified as such by appropriate government agencies.] AN ENTITY DULY INCORPORATED, ORGANIZED, OR REGISTERED PURSUANT TO THE PREVAILING APPLICABLE LAWS, RULES AND REGULATIONS;
- (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 incentives program, and to settle disputes arising therefrom in accordance with Section 9 hereof.] "PRODUCTIVITY IMPROVEMENT PROGRAM" REFERS TO A SET OF ACTIONS IDENTIFYING AND ADDRESSING PRODUCTIVITY PROBLEM AREAS USING EITHER A PRINCIPLE, TOOL, TECHNIQUE, METHOD, PRACTICE, GUIDELINE, MODEL, OR APPROACH. IT MAY INCLUDE REALIZATION OF PRODUCTIVITY IMPROVEMENT IN PEOPLE, INPUTS/TECHNOLOGIES, PRODUCT/SERVICE, POLICY, AND PROCESS.
- (c) "PRODUCTIVITY INCENTIVES COMMITTEE" REFERS TO A BODY IN A BUSINESS ENTERPRISE COMPOSED OF REPRESENTATIVES OF MANAGEMENT/EMPLOYERS AND EMPLOYEES CREATED TO FORMULATE AND IMPLEMENT PRODUCTIVITY INCENTIVES PROGRAM, AND TO SETTLE ISSUES ARISING FROM THE INTERPRETATION OR IMPLEMENTATION OF THE SAID PROGRAM;
- (d) "*Productivity Incentives Program*" refers to a formal agreement [established] FORMULATED by the [labor-management] PRODUCTIVITY INCENTIVES committee containing [a process that will promote] POLICIES AND PROCEDURES PURSUING gainful employment, AND improved working RELATIONS AND conditions THAT WILL [and] result [in] TO increased productivity, BASED ON WHICH, A PRODUCTIVITY-BASED INCENTIVE SCHEME SHALL

BE IMPLEMENTED [, including cost savings, whereby the employees are granted salary bonuses proportionate to increases in current productivity over the average for the preceding three (3) consecutive years. The agreement shall be ratified by at least a majority of the employees who have rendered at least six (6) months of continuous service.]; AND

(D) PRODUCTIVITY-BASED INCENTIVE SCHEME REFERS TO AN INCENTIVE PLAN WHERE MANAGEMENT/EMPLOYERS AND EMPLOYEES RECEIVE MONETARY AND/OR NON-MONETARY BENEFITS ACCRUING FROM THE GAINS AND/OR SAVINGS RESULTING FROM THE IMPLEMENTATION OF A PRODUCTIVITY IMPROVEMENT PROGRAM.”

SEC. 4. Section 5 of Republic Act No. 6971 is hereby amended to read as follows:

“Section 5. [*Labor-Management Committee*]. [a] A business enterprise or its employees, through their authorized representatives, may initiate the formation of a labor-management committee that shall be composed of an equal number of representatives from the management and from the rank-and-file employees: Provided, That both management and labor shall have equal voting rights: Provided, further, That at the request of any party to the negotiation, the National Wages and Productivity Commission 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.

b) In business enterprises with duly recognized or certified labor organizations, 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 or certified labor organizations, 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.]

PRODUCTIVITY INCENTIVES COMMITTEE. – BUSINESS ENTERPRISES SHALL ESTABLISH A PRODUCTIVITY INCENTIVES COMMITTEE, HEREINAFTER REFERED TO AS PIC, COMPOSED OF REPRESENTATIVES FROM MANAGEMENT/ EMPLOYERS AND EMPLOYEES.”

SEC. 5. Section 6 of Republic Act No. 6971 is hereby amended to read as follows:

“Section 6. Productivity Incentives Program.

[a] The productivity incentives program shall contain provisions for the manner of sharing and the factors in determining productivity bonuses: Provided, That the productivity bonuses granted to labor under this program shall not be less than half of the percentage increase in the productivity of the business enterprise.

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

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

THE PRODUCTIVITY INCENTIVES PROGRAM DULY CONCURRED BY MANAGEMENT/ EMPLOYERS AND EMPLOYEES OF THE BUSINESS ENTERPRISE SHALL CONTAIN, AMONG OTHERS, PROVISIONS FOR BENCHMARKS AND MEASURING PRODUCTIVITY, EFFICIENCY IMPROVEMENTS, SHARING OF INCENTIVES, COVERAGE, PERCENTAGE OF SHARING, AND FORMS, MANNER AND FREQUENCY OF PAYMENT OF SUCH INCENTIVES IN ACCORDANCE WITH THE TERMS AND CONDITIONS APPROVED BY THE PIC.

PRODUCTIVITY INCENTIVES PROGRAM AS PROVIDED IN THIS ACT SHALL BE BASED ON THE IMPLEMENTED PRODUCTIVITY IMPROVEMENT PROGRAM, AND WITHOUT PREJUDICE TO ANY COMPANY POLICY AND PROGRAM, CONTRACT OR COLLECTIVE BARGAINING AGREEMENT PROVIDING FOR HIGHER PRODUCTIVITY INCENTIVES.”

SEC. 6. Section 7 of Republic Act No. 6971 is hereby amended to read as follows:

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

c) Any strike or lockout arising from any violation of the productivity incentives program shall suspend the effectivity thereof pending settlement of such strike or lockout: Provided, That the business enterprise shall not be deemed to have forfeited any tax incentives accrued prior to the date of occurrence of such strike or lockout, and the workers shall not be required to reimburse the productivity bonuses already granted to them under the productivity incentives program. Likewise, bonuses which have already accrued before the strike or lockout shall be paid the workers within six (6) months from their accrual.

d) Bonuses provided for under the productivity incentives program shall be given to the employees not later than every six (6) months 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.

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

PRIVATE ESTABLISHMENTS MAY AVAIL OF THE FOLLOWING TAX INCENTIVES:

(A) SUBJECT TO THE PROVISIONS OF SECTION 6, A BUSINESS ENTERPRISE WHICH ADOPTS A PRODUCTIVITY INCENTIVES PROGRAM DULY AND MUTUALLY AGREED UPON BY THE PRODUCTIVITY INCENTIVE COMMITTEE SHALL BE GRANTED A SPECIAL DEDUCTION FROM GROSS INCOME EQUIVALENT TO FIFTY PERCENT (50%) OF THE TOTAL PRODUCTIVITY INCENTIVES GIVEN TO EMPLOYEES UNDER THE PRODUCTIVITY INCENTIVES PROGRAM OVER AND ABOVE THE TOTAL ALLOWABLE ORDINARY AND NECESSARY BUSINESS DEDUCTIONS FOR SAID INCENTIVES UNDER PREVAILING RULES AND REGULATIONS;

(B) A BUSINESS ENTERPRISE SHALL BE GRANTED A SPECIAL DEDUCTION FROM GROSS INCOME EQUIVALENT TO FIFTY PERCENT (50%) OF THE TOTAL GRANTS FOR TRAINING AND SPECIAL STUDIES GIVEN TO EMPLOYEES PURSUANT TO THE PRODUCTIVITY INCENTIVES PROGRAM PREPARED BY THE PRODUCTIVITY INCENTIVE COMMITTEE OVER AND ABOVE THE TOTAL ALLOWABLE ORDINARY AND NECESSARY BUSINESS DEDUCTIONS FOR SAID INCENTIVES UNDER PREVAILING RULES AND REGULATIONS;

BUSINESS ENTERPRISES SHALL SUBMIT A COPY OF ITS PRODUCTIVITY INCENTIVES PROGRAM AND OTHER REQUIRED DOCUMENTS TO THE CONCERNED REVENUE DISTRICT OFFICE OF THE BUREAU OF INTERNAL REVENUE TO AVAIL OF THE CORRESPONDING BENEFITS AND TAX INCENTIVES PROVIDED IN THIS ACT;

THE BUSINESS ENTERPRISE SHALL BE ENTITLED TO THE AFOREMENTIONED TAX INCENTIVES STARTING THE NEXT TAXABLE YEAR AFTER THE EFFECTIVITY OF THIS ACT; AND

THE BUREAU OF INTERNAL REVENUE SHALL MAINTAIN AND FURNISH NWPC AN ANNUAL RECORD OF BUSINESS ENTERPRISES THAT AVAILED OF TAX INCENTIVES UNDER THIS ACT FOR PROGRAM MONITORING.”

SEC. 7. Section 8 of Republic Act No. 6971 is hereby amended to read as follows:

“Section 8. *[Notification]* PRODUCTIVITY ADVISORIES. - [A business enterprise which adopts a productivity incentives program shall submit copies of the same to the National Wages and Productivity Commission and to the Bureau of Internal Revenue for their information and record] THE REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARDS (RTWPB) SHALL ISSUE ADVISORIES ON PRODUCTIVITY IMPROVEMENT PROGRAMS AND PRODUCTIVITY INCENTIVE SCHEMES, AND RELATIVE THERETO, SHALL PROVIDE TRAINING AND TECHNICAL ASSISTANCE TO ENTERPRISES.”

SEC. 8. Section 9 of Republic Act No. 6971 is hereby amended to read as follows:

Section 9. *[Disputes]* ISSUES and Grievances. - Whenever [disputes] ISSUES, grievances, or other matters arise from the interpretation or implementation of the [p]Productivity [i]Incentives [p]Program, the [labor-management committee] PIC shall meet to resolve the [dispute] SAME[, and may seek the assistance of the National Conciliation and Mediation Board of the Department of Labor and Employment for such purpose. Any dispute which remains unresolved] within [twenty] FIFTEEN ([20]15) days from [the time of its submission to the labor-management committee shall be submitted for voluntary arbitration in line with the pertinent of the Labor Code, as amended] RECEIPT OF A FORMAL COMPLAINT FROM ANY AGRIEVED PARTY, SUBJECT TO THE FOLLOWING CONDITIONS:

- (A) PARTIES MAY AGREE ON WHETHER OR NOT TO SUSPEND THE IMPLEMENTATION OF THE PRODUCTIVITY INCENTIVES PROGRAM PENDING THE RESOLUTION OF THE COMPLAINT;
- (B) BUSINESS ENTERPRISES SHALL NOT BE DEEMED TO HAVE FORFEITED ANY TAX INCENTIVES ACCRUED PRIOR TO THE SAID COMPLAINT AND THE EMPLOYEES AND WORKERS SHALL NOT BE REQUIRED TO REIMBURSE THE PRODUCTIVITY INCENTIVES ALREADY GRANTED;
- (C) LIKEWISE, PRODUCTIVITY INCENTIVES THAT HAVE ALREADY ACCRUED PRIOR TO THE SAID COMPLAINT SHALL BE PAID TO THE ENTITLED EMPLOYEES AND WORKERS WITHIN SIX (6) MONTHS FROM THE DATE OF ACCRUAL OF THE SAME; AND
- (D) ANY COMPLAINT WHICH REMAINED UNRESOLVED WITHIN THIRTY (30) DAYS FROM THE TIME OF RECEIPT OF COMPLAINT SHALL BE REFERRED BY THE PIC TO VOLUNTARY ARBITRATION PURSUANT TO PREVAILING LAWS, RULES, AND REGULATIONS ON THE MATTER.

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

SEC. 9. Section 10 of Republic Act No. 6971 is hereby deleted.

SEC. 10. A new section is hereby inserted to read as follows:

“Sec. 10. LOAN AVAILMENT. - ALL BANKING INSTITUTIONS SHALL PROVIDE MSMEs THAT WILL IMPLEMENT A PRODUCTIVITY IMPROVEMENT PROGRAM A LOAN OR CREDIT WINDOW AT AN INTEREST RATE LOWER THAN THE PREVAILING MARKET RATE.”

SEC. 11. A new section is hereby inserted to read as follows:

“Sec. 11. SUBMISSION OF PRODUCTIVITY INCENTIVES PROGRAM. - A BUSINESS ENTERPRISE WHICH ADOPTS A PRODUCTIVITY INCENTIVES PROGRAM SHALL SUBMIT A COPY OF THE SAME TO THE REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARDS FOR ITS INFORMATION AND APPROPRIATE TECHNICAL ASSISTANCE, WHEN NEEDED.”

SEC. 12. Section 11 of Republic Act No. 6971 is hereby renumbered and amended to read as follows:

“Section [11] 13. 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] TWENTY thousand pesos ([P2,000.00] P20,000.00) but not more than [six] FIFTY thousand pesos ([P6,000.00] P50,000.00), 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 thereof.”

SEC. 13. *Implementing Rules and Regulations.* – Within one hundred eighty days (180) from the effectivity of this Act, the National Wages and Productivity Council and the DOLE, in consultation with other government agencies and concerned stakeholders, shall issue the rules and regulations necessary to effectively implement the provisions of this Act.

SEC. 14. *Separability Clause.* – Should any provision of this Act be declared unconstitutional, the remainder thereof not otherwise affected shall remain in full force and effect.

SEC. 15. *Repealing Clause.* – All laws, presidential decrees, executive orders, proclamations or administrative regulations that are inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SEC. 16. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,