



HOUSE OF REPRESENTATIVES

H. No. 350

BY REPRESENTATIVES BARINAGA, AMIN, BADELLES AND GULLAS

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:

1 SECTION 1. *Short Title.* – This Act shall be known as the “Productivity
2 and Performance Incentives and Gainsharing Act of 2006”.

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

1 workers with a just share in the fruits of their labor in relation to the profit
2 yielded to the employer as a result of increased productivity and, thus, enhance
3 the quality of life of the workers and employees.

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

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

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

15 (b) “Labor-management committee” refers to a negotiating body in a
16 business enterprise composed of the representatives of labor and management
17 created to establish a productivity and performance incentives and gainsharing
18 program, and to settle disputes arising therefrom in accordance with Section 9
19 hereof.

20 (c) “Productivity and performance incentives program” refers to a
21 formal agreement voluntarily established by a joint labor-management
22 committee or any existing labor-management mechanism containing a
23 productivity and performance improvement program that will promote gainful
24 employment, improve working conditions, attain and maintain industrial peace
25 and result in increased productivity and efficiency, including cost savings, as
26 well as a gainsharing program whereby the employer and the workers share in
27 the positive results of business operation brought about by improvement in
28 productivity. The agreement shall be ratified by at least a majority of the

1 employees who have rendered at least six months of continuous service. In
2 case the joint labor-management committee makes fundamental changes in the
3 program, the employees shall likewise ratify such changes.

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

10 SEC. 5. *Labor-Management Committee.* – (a) A business enterprise or
11 its employees, through their authorized representative, may initiate the
12 formation of a labor-management committee or any labor-management
13 mechanism that shall be composed of representatives from the management
14 and from the rank-and-file employees which shall establish and implement a
15 productivity and performance incentives program and settle disputes arising
16 therefrom in accordance with Section 9 hereof: *Provided,* That both
17 management and labor shall have equal representation in said committee or
18 mechanism: *Provided, further,* That at the request of any party to the
19 negotiation, the National Wages and Productivity Commission and the
20 Regional Tripartite Wages and Productivity Boards of the Department of
21 Labor and Employment shall provide the necessary studies, technical
22 information and assistance and expert advice to enable the parties to conclude
23 productivity agreements. In case there is already an existing labor mechanism
24 in the enterprise, such mechanism may suffice: *Provided,* That it includes as
25 one of its objectives the development and implementation of a productivity and
26 performance incentives and gainsharing program.

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

4 (c) In business enterprises without duly recognized collective
5 bargaining representatives, the representatives of labor shall be elected by at
6 least a majority of all rank-and-file employees who have rendered at least six
7 *months of continuous service.*

8 SEC. 6. *Productivity and Performance Incentives and Gainsharing*
9 *Program.* – (a) The productivity and performance incentives and gainsharing
10 program shall contain provisions for measuring productivity, performance and
11 efficiency improvements, the gainsharing or reward system adopted in sharing
12 productivity bonuses, coverage, percentage sharing and forms of bonus
13 payment in accordance with the terms and conditions that may be agreed upon
14 by labor and management: *Provided,* That the productivity bonus shall be
15 distributed at least once a year or at such frequency as may be determined by
16 the parties.

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

20 SEC. 7. *Benefits and Tax Incentives.* – (a) Subject to the provisions of
21 Section 6 hereof, a business enterprise which adopts a productivity and
22 performance incentives and gainsharing program, duly and mutually agreed
23 upon by parties to the labor-management committee, shall be granted a special
24 deduction from the gross income equivalent to fifty percent (50%) of the total
25 productivity bonuses given to rank-and-file employees including employees
26 occupying supervisory positions, under the program over and above the total
27 allowable ordinary and necessary business' deductions for said bonuses under
28 the National Internal Revenue Code, as amended.

1 (b) Grants for manpower training and special studies given to rank-and-
2 file employees pursuant to a skills development program prepared by the labor-
3 management committee under the productivity and performance incentives
4 program shall also entitle the business enterprise to a special deduction from
5 gross income equivalent to fifty percent (50%) of the total grants over and
6 above the allowable ordinary and necessary business deduction for said grants
7 under the National Internal Revenue Code, as amended.

8 (c) Bonuses provided for under the productivity and performance
9 incentives and gainsharing program shall be given to the employees in a
10 manner determined by the parties from the start of such program over and
11 above existing bonuses granted by the business enterprise and by law:
12 *Provided*, That the said bonuses shall not be deemed as salary increases due
13 the employees and workers.

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

16 SEC. 8. *Limitations on the Availment of Tax Incentives/Benefits.* – A
17 business enterprise that is currently availing of the same tax incentives and
18 benefits provided under any law other than this Act shall have the option to
19 choose which incentives/benefits to avail of: *Provided*, That the business
20 enterprise shall be allowed to avail of the incentives/benefits only under one
21 law.

22 SEC. 9. *Notification.* – A business enterprise which adopts a
23 productivity and performance incentives and gainsharing program shall submit
24 copies of the same to the appropriate Regional Tripartite Wages and
25 Productivity Board for evaluation and certification. The Board shall then
26 forward the certifiable productivity incentives program/s of business
27 enterprises to the Bureau of Internal Revenue for record purposes.

1 SEC. 10. *Disputes and Grievances.* – Whenever disputes, grievances or
2 other matters arise from the interpretation or implementation of the
3 productivity and performance incentives program, the labor-management
4 committee shall meet to resolve the dispute within fifteen (15) days and shall
5 suspend the effectivity of the program pending settlement of such dispute or
6 grievance: *Provided, however,* That if within the period the dispute remains
7 unresolved, the committee may seek the assistance of a third party such as the
8 National Conciliation and Mediation Board of the Department of Labor and
9 Employment, the Regional Tripartite Wages and Productivity Boards or a
10 facilitator acceptable to both parties in resolving the conflict. The third party
11 shall act only in an advisory capacity for purposes of rendering interpretation
12 and clarification to facilitate the adoption of a final resolution by the parties:
13 *Provided, further,* That the business enterprise shall not be deemed to have
14 forfeited any tax incentives accrued prior to the date of occurrence of such
15 dispute or grievance, and the workers shall not be required to reimburse the
16 productivity bonuses already granted to them under the incentives program.
17 Likewise, bonuses that have already accrued before the dispute or grievance
18 shall be paid the workers within six months from their accrual. Any dispute
19 which remains unresolved within thirty (30) days from the time of its
20 submission to the labor-management committee shall be submitted for
21 voluntary arbitration in line with the pertinent provisions of the Labor Code, as
22 amended.

23 The productivity and performance incentives and gainsharing program
24 shall include the name/s of the voluntary arbitrator or panel of voluntary
25 arbitrators previously chosen and agreed upon by the parties.

26 SEC. 11. *Penalty.* – Any person who shall make any fraudulent claim
27 under this Act, regardless of whether or not a tax benefit has been granted,
28 shall upon conviction be punished with imprisonment of not less than six

1 months but not more than one year or a fine of not less than Two thousand
2 pesos (P2,000.00) but not more than Six thousand pesos (P6,000.00), or both,
3 at the discretion of the court, without prejudice to prosecution for any other
4 acts punishable under existing laws.

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

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

13 SEC. 13. *Rule Making Power.* – The Secretary of Labor and
14 Employment and the Secretary of Finance, in consultation with the National
15 Wages and Productivity Commission, the Bureau of Internal Revenue, the
16 Government Corporate Monitoring and Coordinating Committee, the
17 Technical Education and Skills Development Authority, and labor and
18 employer sectors shall jointly promulgate and issue within six months from the
19 effectivity of this Act such rules and regulations as are necessary to carry out
20 the provisions hereof.

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

24 SEC. 14. *Separability Clause.* – If any provision of this Act is declared
25 unconstitutional, the same shall not affect the validity and effectivity of the
26 other provisions hereof.

27 SEC. 15. *Repealing Clause.* – Republic Act No. 6971, otherwise known
28 as the “Productivity Incentives Act of 1990” is hereby repealed. All laws,

1 executive orders, presidential decrees, presidential proclamations, rules and
2 regulations or parts thereof inconsistent with the provisions of this Act are
3 hereby repealed or modified accordingly.

4 SEC. 16. *Effectivity.* – This Act shall take effect fifteen (15) days after
5 its publication in the *Official Gazette* or in at least two newspapers of national
6 circulation.

Approved,

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