

(S. B. 362)

(No. 32-2018)

(Approved January 21, 2018)

AN ACT

To add new subsections (9) through (12) to Section 5.2 of Article 5; amend subsections (4)(10), (4)(11), and (4)(13) of Section 6.4 of Article 6; add paragraph (7) to subsection (2)(h) of Section 6.5 of Article 6; amend subparagraph (c) of the second paragraph of subsection 3 of Section 6.8 of Article 6; amend subsection (7) of Section 6.8 of Article 6; amend subsection (2) of Article 12; add a new Article 19 and renumber subsequent Articles of Act No. 8-2017, known as the “Government of Puerto Rico Human Resources Administration and Transformation Act,” in order to make technical amendments; add additional entities to the ones excluded in said Act; modify certain provisions regarding mobility; include the Women’s Advocate Office to the entities that benefit from IDEA trainings; add preparation of false documents to the list of crimes that render a person ineligible for employment in public service during a period of twenty (20) years; require semiannual reports from the Government of Puerto Rico Human Resources Administration and Transformation Office and the Office of Management and Budget in order to fulfill the purposes established in said Act; and for other related purposes.

STATEMENT OF MOTIVES

The Government of Puerto Rico became a Sole Employer by virtue of Act No. 8-2017, known as the “Government of Puerto Rico Human Resources Administration and Transformation Act.” This promise, set forth in the Plan for Puerto Rico and supported in the polls, constitutes one of the principal measures taken by this Administration to face the fiscal crisis that Puerto Rico has undergone for more than a decade. Although this historic piece of legislation addressed one of the main commitments of this Administration, we must make certain modifications in order to maximize its effectiveness in fulfilling its purposes.

Among the exclusions of said Act, we deem it necessary to add various entities that require a certain degree of autonomy in managing its human resources due to their particular functions, such as the Office of Election Comptroller and the Office of the Special Independent Prosecutor’s Panel. Moreover, we must exclude the Martín Peña Canal ENLACE Project Corporation as well as the Company for the Integral Development of the Cantera Peninsula from said Act in order to safeguard its community based nature.

For the purpose of evaluating the implementation and effectiveness of the “Government of Puerto Rico Human Resources Administration and Transformation Act,” the Government of Puerto Rico Human Resources Administration and Transformation Office and the Office of Management and Budget shall be required to file semiannual reports indicating the savings, employee mobilization, job retention, savings achieved, and any other information deemed useful for said purpose. These reports shall be filed with the Legislative Assembly not later than June 30 and December 31 of every year. The first report shall be filed on or before June 30, 2018, covering the first months after the effective date of the aforementioned Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Subsections (9) through (12) are hereby added to Section 5.2 of Article 5 of Act No. 8-2017, known as the “Government of Puerto Rico Human Resources Administration and Transformation Act,” to read as follows:

“Section 5.2.- Exclusions.

...

1. ...

...

9. Martín Peña Canal ENLACE Project Corporation.

10. Company for the Integral Development of the Cantera Peninsula

11. Office of the Election Comptroller.
12. Office of the Special Independent Prosecutor’s Panel.
- ...”

Section 2.- Subsections (4)(10), (4)(11), and (4)(13) of Section 6.4 of Article 6 of Act No. 8-2017, known as the “Government of Puerto Rico Human Resources Administration and Transformation Act,” are hereby amended to read as follows:

“Section 6.4.- Provisions on Promotions, Transfers, Demotions, and Mobility.

- ...
4. Mobility
- ...
1. ...

10. It is hereby provided that in every Participatory Public-Private Partnership (PPP+P) agreement, those Government employees who are transferred to a PPP+P through the mobility mechanism shall keep the salaries and fringe benefits they had at the time of their movement, and the PPP+P shall be responsible for assuming all the obligations relating to said personnel transaction; except as otherwise agreed by the employee and/or the labor union representing him at the time the movement is made. Unless otherwise agreed, the public employee shall become an employee of PPP+P for all legal purposes. Provided that, Act No. 4-2017, known as the ‘Labor Transformation and Flexibility Act,’ shall not be applicable to such employees if the employees entered into public service before the effective date of Act No. 4-2017.

11. Mobility shall be neither employed as a disciplinary action, nor a burden for the employee, nor made arbitrarily, nor carried out as an action directed at forcing a public employee to resign in a way that constitutes grounds for a constructive or wrongful discharge.

12. ...

13. The employee's mobility shall take effect within thirty (30) calendar days after the date on which written notice of such mobility was issued to the employee. Said notice shall inform the employee of the procedure to be followed in the case the employee disagrees with the decision, as well as the effective date of the decision. If the employee in disagreement is a union employee under the provisions of Act No. 45-1998, as amended, he shall file his claim with the Commission. If the decision is reverted, the employee shall return to his original place of work; provided, that the position has not been eliminated. If the position has been eliminated the employee may be assigned to an equal or a similar position in the original agency or in the successor government entity if there has been a consolidation thereof, with the guarantee of his previous salary before the mobility.

Section 3.- A paragraph (7) is hereby added to subsection (2)(h) of Section 6.5 of Article 6 of Act No. 8-2017, known as the "Government of Puerto Rico Human Resources Administration and Transformation Act," to read as follows:

"Section 6.5.- Provisions on Training.

...

2. Duties

...

a. ...

...

h. ...

1. ...

...

7. Collaborate with and assist the Women’s Advocate Office in training, sensitization, orientation, and education campaigns offered by said Office to public employees on matters related to the ministerial duties of said Office.”

Section 4.- Subparagraph (c) of the second paragraph of subsection (3) of Section 6.8 of Article 6 of Act No. 8-2017, known as the “Government of Puerto Rico Human Resources Administration and Transformation Act,” is hereby amended to read as follows:

“Section 6.8.- Habilitation in the Public Service.

...

1. ...

...

3. ...

a. ...

...

v. ...

When the conviction results from the commission of any of the crimes listed below, the prohibition provided for in this Act shall be for a period of twenty (20) years, counting from the date of conviction:

a. ...

...

c. Alteration or mutilation of property;

...

o. Possession of forgery tools.

p. Preparation of false documents.

...”

Section 5.- Subsection (7) of Section 6.8 of Article 6 of Ley No. 8-2017, known as the “Government of Puerto Rico Human Resources Administration and Transformation Act,” is hereby amended to read as follows:

“Section 6.8.- Habilitation in the Public Service.

...

1. ...

...

7. Any official or employee who knowingly authorizes an appointment in contravention of the provisions of this Section shall be liable for any amount of money unduly paid to the person thus appointed and said appointment shall be null.

Section 6.- Subsection (2) of Article 12 of Act No. 8-2017, known as the “Government of Puerto Rico Human Resources Administration and Transformation Act,” is hereby amended to read as follows:

“Article 12.- Employee Status as of the Effective Date of this Act.-

1. ...

2. Employees who as of the effective date of this Act are rendering services in agencies that constitute Individual Administrators holding career positions or positions of trust, in accordance with the provisions of Act No. 184-2004, as amended, or of special laws, shall keep all their vested rights, including fringe benefits, pursuant to the laws, rules, and regulations applicable thereto; provided, that said rights are compatible with the provisions of this Act and Act No. 26-2017, known as the ‘Fiscal Plan Compliance Act.’ In addition, such employees shall be subject to the same duties and prohibitions.”

Section 7.- A new Article 19 is hereby added to Act No. 8-2017, known as the “Government of Puerto Rico Human Resources Administration and Transformation Act,” and subsequent Articles are hereby renumbered to read as follows:

“Article 19.- Semiannual Reports to the Legislative Assembly.

The Office and the Office of Management and Budget shall be required to file semiannual reports with the Legislative Assembly, on or before June 30 and on or before December 31 of every year, indicating the savings, employee mobilization, job retention, savings achieved, and any other information of said period, that enables the evaluation of the implementation of this Act in order to fulfill the purposes established herein. Provided that, the first report shall be filed on or before June 30, 2018.”

Section 8.- Severability Clause.

If any clause, paragraph, article, or part of this Act were held to be unconstitutional by a Court with jurisdiction and competence, said holding shall not affect or invalidate the remaining provisions of this Act. The effect of said holding or declaration of unconstitutionality shall be limited to the clause, paragraph, article, subsection, or part of this Act thus held to be unconstitutional.

Section 9.- Effectiveness.

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 32-2018 (S. B. 362)** of the **2nd Regular Session** of the **18th Legislative Assembly of Puerto Rico**:

AN ACT to add new subsections (9) through (12) to Section 5.2 of Article 5; amend subsections (4)(10), (4)(11), and (4)(13) of Section 6.4 of Article 6; add paragraph (7) to subsection (2)(h) of Section 6.5 of Article 6; amend subparagraph (c) of the second paragraph of subsection 3 of Section 6.8 of Article 6; amend subsection (7) of Section 6.8 of Article 6; amend subsection (2) of Article 12; add a new Article 19 and renumber subsequent Articles of Act No. 8-2017, known as the “Government of Puerto Rico Human Resources Administration and Transformation Act,” in order to make technical amendments; add additional entities to the ones excluded in said Act; modify certain provisions regarding mobility; include the Women’s Advocate Office to the entities that benefit from IDEA trainings; [...]

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 15th day of September, 2020.

Orlando Pagán-Ramírez
Director