

(H. B. 1923)

(No. 79-2014)

(Approved July 1, 2014)

AN ACT

To amend Section 6 of Act No. 147 of June 18, 1980, as amended, known as the “Management and Budget Office Organic Act,” and Section 10 of Act No. 103-2006, as amended, known as the “Commonwealth of Puerto Rico Government Fiscal Reform Act of 2006,” to provide that the resources in the Budget Fund may be used to address unforeseen situations that disrupt public services, which affect the needs of, and the public services offered to citizens; amend subsection (d) of Section 8 of Act No. 230 of July 23, 1974, as amended, known as the “Puerto Rico Government Accounting Act,” to provide for the transfer of unencumbered balances of appropriations with a fiscal year determination to the Budget Fund at the close of the fiscal year; and for other related purposes.

STATEMENT OF MOTIVES

This Administration has been proactive in controlling spending and reducing the structural deficit. The appropriate spending controls established through Joint Resolution 11-2014 and Act No. 33-2014, allowed us to reduce the budget approved by one hundred and seventy million dollars (\$170,000,000).

We have continued to take aggressive measures to control government spending in order to pave the way for our fiscal recovery. The measures we must take include presenting a balanced budget, which does not depend on borrowing. The foregoing poses serious challenges, since we must also eliminate the \$650-million structural deficit and meet our commitment to repay the public debt.

To achieve this goal, we must make aggressive cuts throughout the government apparatus. However, the lack of economic resources resulting from these cuts may give rise to situations that may not be addressed, thereby affecting

essential and direct services provided to the people. It must be noted that, in spite of all the efforts made during this process, unforeseen events may occur. Also, given the need to present a budget without financing, we made cuts that might limit the corrective actions that could be taken if essential services are suspended, thus making it necessary to have a mechanism in place that allows us to handle such situations. It is important to mention that the foregoing is limited to situations that affect the services rendered to our citizens and that are justified by the head of agency, which limits the scope of action of these cases to situations that so warrant.

It must be noted that this mechanism is similar to those existing in other jurisdictions. To prevent this situation, many United States jurisdictions, as well as Puerto Rico, have decided to keep special funds to address unforeseen situations that may affect the priorities set during the analysis and approval of the budget. This is so, because governments need to maintain minimum liquid reserves in order to provide stability to public administration.

In Puerto Rico, the Budget Fund was created as a reserve fund to protect the payment of the public debt and to prevent the public services provided to the people from being affected by unforeseen situations. See, the Report on S. B. 509 prepared by the Committee on Budget and Appropriations on April 24, 2007. This type of fund, known as “rainy day fund,” is well regarded by bond rating agencies, which view it as fairly positive when evaluating different credits. *Id.*

However, over the past years, the Budget Fund has not been capitalized. Moreover, the use thereof has been substantially restricted to cover previously approved appropriations, thus becoming a useless tool for public management. Note that we need an adequate mechanism to address situations that affect the people, as well as budget-related issues that may affect public finances, among others.

In view of the foregoing, we deem it necessary to allow the use of the Budget Fund as a tool to provide resources to agencies that encounter situations that affect the rendering of public services, and to provide, in turn, that any disbursement for such purposes must be authorized by Executive Order of the Governor. Having this tool is critical, mainly at times such as these, where our fiscal situation calls for significant budget cuts. Therefore, it is necessary to have a tool that allows us to face this challenge, which may affect the services that our people receive.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Section 6 of Act No. 147 of June 18, 1980, as amended, known as the “Management and Budget Office Organic Act,” is hereby amended to read as follows:

“Section 6.- Creation of the Budget Fund.

(a) ...

(b) Beginning fiscal year 95-96, the ‘Budget Fund’ shall be capitalized annually by an amount not less than one third of one percent (1/3 of 1%) of the total Joint Budget Resolution. As of fiscal year 1999-2000, said contribution shall be not less than one percent (1%) of the total net revenues for the previous fiscal year. Furthermore, it is hereby directed that, as of fiscal year 1999-2000, any income that does not constitute net revenues to the General Fund that are not allocated by law for a specific purpose, shall be deposited in the Budget Fund. The Governor of Puerto Rico and the Director of the Office, by delegation of the former, may direct that any amount in excess of the amount herein fixed from any source of income be deposited in the Fund, when deemed convenient. Likewise, an appropriation to the Fund may be included as part of the budget for each fiscal year. As an exception, during Fiscal Year 2014-2015, the resources provided for its capitalization originally from the application of the percentage of the total net revenues for the previous fiscal year and income that does not constitute net revenues shall not be deposited in the

Budget Fund. The foregoing shall not be construed as a limitation to the authority of the Legislative Assembly to provide for or authorize other mechanisms to fund the Budget Fund. The maximum balance of said fund shall not exceed six percent (6%) of the total funds appropriated under Joint Budget Resolution for the year in which such resources are directed to be deposited in the Budget Fund.

(c) The Budget Fund shall be used to cover appropriations approved for any fiscal year in which the revenues available for said year are not sufficient to cover the same, and to honor the payment of the public debt. Provided, that this Fund may be used to address situations that affect the rendering of public services to citizens, for which a justification signed by the head of the agency in question shall be provided explaining in detail the need and the actions taken to address the same with their own budget.

(d) ...

(e) ...”

Section 2.- Section 10 of Act No. 103-2006, as amended, known as the “Commonwealth of Puerto Rico Government Fiscal Reform Act of 2006,” is hereby amended to read as follows:

“Section 10.- Use of the Budget Fund and of the Emergency Fund.

The Budget Fund created by virtue of Act No. 89 of August 18, 1994, as amended, which amends Act No. 230 of July 23, 1974, as amended, better known as the ‘Government of Puerto Rico Accounting Act,’ may be used to cover appropriations for duly approved expenses, pursuant to this Act, in any fiscal year in which the revenues available are not sufficient. Pursuant to this Act, the appropriation of funds from the Budget Fund to cover the expenses of any agency of the Government of the Commonwealth of Puerto Rico in excess of what has been appropriated in the General Budget of Expenses is hereby prohibited, except for addressing situations that affect the rendering of public services to the citizens.

The Emergency Fund, created by virtue of Act No. 91 of June 21, 1966, as amended, shall not be used to cover recurring operating expenses, except as provided for by Joint Resolution.”

Section 3.- Subsection (d) of Section 8 of Act No. 230 of July 23, 1974, as amended, known as the “Government of Puerto Rico Accounting Act,” is hereby amended to read as follows:

“Section 8.- Public Fund Appropriations.

(a) ...

(b) ...

(c) ...

(d) The portion of the appropriations and funds authorized for a specific fiscal year, which has been encumbered on or before June 30 of the fiscal year to which said appropriations and funds correspond, shall be kept on the books for one year after the fiscal year for which these were authorized has elapsed, and thereafter no amount shall be drawn against said portion under any circumstance.

Immediately after the one-year period has elapsed, the encumbered balances shall be closed, except when the entity has been authorized by the Office of Management and Budget to keep said amounts in the entity’s books, in accordance with the provisions of subsection (c) of this Section. If the Office of Management and Budget fails to grant an authorization under subsection (c) of this Section, or if the term of authorization granted has elapsed, the balance shall be deposited in the Budget Fund to cover appropriations approved for any fiscal year in which the revenues available for said year are not sufficient to cover said appropriations, to pay the public debt, to pay lawsuits, to match federal funds, and to address unforeseen situations that affect the needs and the public services that are offered to the citizens entitled to. The Legislative Branch, the Judicial Branch, and the University of Puerto Rico are hereby exempt from this provision. Likewise,

unencumbered balances at the close of every fiscal year shall be deposited in the Budget Fund to be used as provided therein. The Legislative Branch, the Judicial Branch, and the University of Puerto Rico are hereby exempt from this provision.

- (e) ...
- (f) ...
- (g) ...
- (h) ...
- (i) ...
- (j) ...
- (k) ...
- (l) ...
- (m) ...”

Section 4.- Severability Clause.

If any clause, paragraph, subparagraph, article, provision, section, subsection, or part of this Act were held to be unconstitutional by a competent court, said holding shall not affect, impair, or invalidate the remaining provisions of this Act. The effect of said holding shall be limited to the clause, paragraph, subparagraph, article, provision, section, subsection, or part thereof thus held to be unconstitutional.

Section 5.- Effectiveness.

This Act shall take effect on July 1, 2014.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 79-2014 (H. B. 1923)** of the **3rd Regular Session** of the **17th Legislative Assembly of Puerto Rico**:

AN ACT to. amend Section 6 of Act No. 147 of June 18, 1980, as amended, known as the "Management and Budget Office Organic Act," and Section 10 of Act No. 103-2006, as amended, known as the "Commonwealth of Puerto Rico Government Fiscal Reform Act of 2006," to provide that the resources in the Budget Fund may be used to address unforeseen situations that disrupt public services, which affect the needs of, and the public services offered to citizens; amend subsection (d) of Section 8 of Act No. 230 of July 23, 1974, as amended, known as the "Puerto Rico Government Accounting Act," to provide for the transfer of unencumbered balances of appropriations with a fiscal year determination to the Budget Fund at the close of the fiscal year; and for other related purposes.

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

In San Juan, Puerto Rico, on this 13th day of May, 2021.

Mónica Freire-Florit, Esq.
Director