

(H. B. 2685)
(Conference)

(No. 117-2010)

(Approved July 30, 2010)

AN ACT

To add a new paragraph (13) to subsection (a) of Section 9 of Act No. 416 of September 22, 2004, as amended, known as the “Environmental Public Policy Act,” in order to exclude the Environmental Quality Board from the jurisdiction of the General Services Administration.

STATEMENT OF MOTIVES

The Environmental Quality Board (EQB or Board) is governed by Act No. 164 of July 23, 1974, as amended, known as the “General Services Administration Act.” This Act empowers the General Services Administrator to evaluate and oversee the rules and procedures of the General Services Administration (GSA or Administration). Said entity provides services to nearly sixty-nine (69) government agencies and most municipalities.

In the established procurement procedures, any acquisition of equipment and materials whose total exceeds \$3,999.99 requires that a formal bid be conducted, which must be reported to the GSA to be processed by its procurement officers. At the same time, they bill \$500.00 for each request processed—to the Board, in this case. In the particular case of the EQB, the only purchase orders not processed by the GSA through a formal bid are those expressly delegated to the agency, such as: supplies and equipment for the Puerto Rico Environmental Laboratory and the Water Quality and Air Quality Sampling Areas. This is so because such equipment must conform to particular specifications and are highly sophisticated.

On the other hand, when the EQB needs supplies such as cleaning materials and office supplies, these must be purchased through the Central Procurement Warehouse of the GSA. The EQB, as an agency governed by Act No. 164 of 1974, must acquire these items at the aforementioned warehouse. However, outside of said establishment, the EQB obtains quotes with more economical prices, faster delivery, and products that meet better quality specifications. Likewise, the Board must pay \$45.00 for the delivery of each purchase order, which raises the cost of these products and the disbursement of funds from the treasury. For instance, if the Board buys a box of pencils in one order and a box of paper in another, it would be charged \$90.00, even if the orders arrived on the same day and consisted of one product each.

In addition, when this agency buys from only one supplier, be it because it is an exclusive dealer and/or supplier of a specific material or equipment, or be it because it is not under the GSA's contract, such dealer or supplier must be sent to the Administration to be approved as "The Only Available or Noncontract Bidder." When this happens, until such approval is not signed and ratified in said agency, the purchase order cannot be handed to the supplier, which brings the purchase process to a halt, thus delaying it. This process is connected to the duties of the EQB, given that this agency must be ready for a quick response.

On the other hand, the Administration has multiple contracts that are selected by the EQB, according to its purchase and/or service needs. In most cases, when the Board compares costs outside of GSA's contracts, the Administration's contracts prove to be more costly than noncontract pricing. Furthermore, the Board has agreements with the Environmental Protection Agency (EPA) that require compliance with limited timeframes in terms of purchase processes in order to ensure a full and effective refund of Federal funds to the EQB.

In essence, this measure seeks to establish a new procurement procedure in the Board, in order to streamline and expedite such processes. This would improve the administrative, fiscal, and functional operations of this agency. For all of the foregoing, this Legislative Assembly deems it necessary to exclude the EQB from GSA jurisdiction, so as to streamline the EQB's operations, enable it to comply with the brief timeframes established by EPA to purchase supplies and materials, and to immediately address any emergencies that may arise.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.—A new paragraph (13) is hereby added to subsection (a) of Section 9 of Act No. 416 of September 22, 2004, as amended, to read as follows:

“Section 9.—Powers and Duties.—

A. The Environmental Quality Board, under the authority conferred onto its Executive Director, shall have the following duties, powers, and functions:

1. ...

13. Integration of Administrative Functions.—The Executive Director of the Environmental Quality Board is hereby empowered to conduct its procurement processes independently through its Procurement Division. Therefore, it is excluded from the provisions of Act No. 164 of July 23, 1974, as amended, known as the ‘General Services Administration Act.’ The Board shall establish its own procurement and ancillary services system and adopt regulations as necessary to govern this function within sound administration and economy principles. To such ends, the Board shall coordinate with and draw on the expertise of the Internal Audit Office and the current Procurement Division of the agency. Furthermore, the regulations to be adopted shall provide for a streamlined and efficient procurement system. Such regulations must be approved within sixty (60) days

after the effective date of this Act; provided, that until such regulations are approved, the Board and its administrative and operational components shall continue to operate under the laws and regulations in effect.

...”

Section 2.—Effectiveness.—

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 117-2010 (H. B. 2685) (Conference)** of the **3rd Session of the 16th Legislature** of Puerto Rico:

AN ACT to add a new paragraph (13) to subsection (a) of Section 9 of Act No. 416 of September 22, 2004, as amended, known as the “Environmental Public Policy Act,” in order to exclude the Environmental Quality Board from the jurisdiction of the General Services Administration.

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

In San Juan, Puerto Rico, on the 3rd day of December, 2012.

María del Mar Ortiz Rivera