

(S. B. 925)

(No. 125-2018)

(Approved July 10, 2018)

AN ACT

To amend Section 10 of Act No. 80-1991, as amended, known as the “Municipal Revenues Collection Center Act”; add a subsection (13) to Section 5.2 of Article 5 of Act No. 8-2017, as amended, known as the “Government of Puerto Rico Human Resources Administration and Transformation Act”; amend Section 2.02 of Act No. 26-2017, as amended, known as the “Fiscal Plan Compliance Act”; amend subsection (e) of Section 3, and Section 4 of Act No. 15-2017, as amended, known as the “Inspector General of Puerto Rico Act,” in order to exclude the Municipal Revenues Collection Center from the applicability thereof; and for other related purposes.

STATEMENT OF MOTIVES

Act No. 80-1991, as amended, known as the “Municipal Revenues Collection Center Act,” created the Municipal Revenues Collection Center (CRIM, Spanish acronym) as a municipal entity, independent and separate from any other agency or instrumentality of the Government of Puerto Rico. For such purposes, CRIM was empowered to establish its own administrative structure, as well as to control and administer its operating funds, decide the nature and need of all its expenditures, and the manner in which they shall be incurred, among others.

Regarding CRIM’s personnel, said Act provided that CRIM would be an “individual administrator,” as such term was initially defined in Act No. 5 of October 15, 1975, as amended, known as the “Public Service Personnel Act,” which was repealed and substituted by Act No. 184-2004, known as the “Public Service Human Resources Administration Act of the Commonwealth of Puerto Rico.” Subsequently, Act No. 184-2004 was repealed by Act No. 8-2017, as

amended, known as the “Government of Puerto Rico Human Resources Administration and Transformation Act,” and eliminated the “individual administrator” concept referred to in Section 10 of Act No. 80-1991, among other things.

The Government of Puerto Rico became a “Sole Employer” upon the approval of Act No. 8-2017, as amended, which incorporated the mobility mechanism whereby government employees became employees of the Government rather than employees of the different entities thereof. This mobility concept entails the possible placement or transfer of employees to render services in other government jurisdiction where such services are a priority or where such distribution would be more efficient.

Likewise, Act No. 26-2017, as amended, known as the “Fiscal Plan Compliance Act,” amended Act No. 8-2017, and had an impact on CRIM’s administrative and service structure. The standardization of fringe benefits provided for in Act No. 8-2017 and Act No. 26-2017 is inconsistent with the nature, scope, and responsibility of CRIM’s Governing Board, and the broad powers and authorities conferred upon it to enforce its fiscal, administrative, and operating autonomy, in accordance with the organic act of the Center.

In fact, CRIM’s Governing Board is required by law to establish the public policy, approve the internal organization, the annual budget of income and expenditures, the transfers between items, the accounting, personnel, procurement and supply systems of the Center, as well as all rules and regulations for its operation, including all administrative, operating, and fiscal aspects and to adopt a classification and pay plan for the officials, agents, and employees as are necessary to properly comply with the provisions of Act No. 80-1991, among other duties.¹

¹ Sec. 7 of Act No. 80-1991, as amended.

Moreover, Section 22 of Act No. 80-1991 provides that the funds for the organization and operations of CRIM shall be allocated from up to five percent (5%) of the total annual revenues collected on account of the municipal property tax in the immediately preceding year. Hence, the General Fund of the Government of Puerto Rico is not affected in any manner whatsoever as a result of CRIM's operations and functioning. However, the transfer of CRIM's personnel or operating funds to the Central Government would be detrimental to the municipal treasury and the operations thereof.

It should be noted that CRIM is a public municipal entity with a staff of approximately four hundred ninety-five (495) employees of which three hundred and twelve (312), or sixty-three percent (63%), discharge technical duties, are experts in the fields of property assessment and valuation, real estate, cartography, adjustments and corrections, real and personal property tax, or hold occupations related to the investigation and evaluation of real and personal property tax cases. All taxpayer services are performed by specialized and trained personnel with technical knowledge to streamline the collection of municipal revenues. Disrupting this service structure and centralizing the administration of human resources without consulting the Governing Board or the Executive Director of CRIM impairs the rendering of services, the continuous adaptation and adjustments of the entity, and the efficient distribution of CRIM's human resources.

In accordance with the foregoing, CRIM's services and operations are directly related to revenues collection and, therefore, to the duties of the municipalities. Given the *sui generis* nature of CRIM, which answers to the municipalities, the operating structure and administration thereof must be to some extent compatible with the municipalities.

Therefore, this Legislative Assembly deems it necessary to clarify the legislative intent, avoid any loopholes, and assert the provisions of CRIM's enabling act, which establish that the Center shall remain as a municipal entity, independent and separate from any other agency or instrumentality of the Government of Puerto Rico. This without prejudice to the basic principles that govern the administration of human resources in the Government and that are compatible with the municipal public service. For such purposes, Act No. 80-1991 is hereby amended to provide that CRIM may adopt its own personnel system consistent and in harmony with the principles applicable to the municipal personnel under Act No. 81-1991, as amended. Furthermore, it is hereby provided that CRIM shall be excluded from the application of Act No. 8-2017, as amended, and Act No. 26-2017, as amended, known as the "Fiscal Plan Compliance Act." Likewise, Act No. 15-2017, as amended, known as the "Inspector General of Puerto Rico Act," is hereby amended in order to exclude CRIM from the application thereof, thus maintaining the independence of said instrumentality.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Section 10 of Act No. 80-1991, as amended, known as the "Municipal Revenues Collection Center Act," is hereby amended to read as follows:

"Section 10.- Personnel of the Center.

In matters pertaining to Personnel, the Center shall be governed by the provisions of Chapter 11 of Act No. 81-1991, as amended, known as the 'Puerto Rico Autonomous Municipalities Act,' and shall adopt rules and regulations as are necessary in accordance therewith. The Center shall be excluded from the application of Act No. 8-2017, as amended, known as the 'Government of Puerto Rico Human Resources Administration and Transformation Act,' and Act No. 26-2017, as amended, known as the 'Fiscal Plan Compliance Act.'

No person who has tax debt or other debts with a municipality may hold any office in the Center, unless a payment plan has been agreed upon to settle such debt, and he is up to date in the installments thereof. The officials and employees of the Center shall be subject to Act No. 1-2012, as amended, known as the ‘Puerto Rico Government Ethics Act of 2011.’ The officials and employees of the Center shall be entitled to the benefits of Act No. 447 of May 15, 1951, as amended, known as the ‘Employees Retirement System Act of the Government of Puerto Rico and its Instrumentalities.’

Every official, employee, and examiner of the Center shall pledge faithful compliance with the functions of his office and shall not disclose any of the information obtained in the course of his official duties.

The Director of the Internal Audit Office of the Center and the employees directly designated to said Office shall answer directly to the Board. The Director of the Internal Audit Office shall prepare an annual work plan, to be approved by the Board, that is consistent with the evaluation of the application of laws and regulations applicable to the Center, as well as the internal control systems that ensure the appropriate application thereof, and the timely intervention and development of corrective action plans. Upon request to the Board, the Executive Director may refer to the Internal Audit Office petitions for intervention of matters brought to his attention. This position shall be classified as a position of trust in the Classification and Pay Plan; therefore, the Director shall serve at the will of the Board.”

Section 2.- Subsection (13) is hereby added to Section 5.2 of Article 5 of Act No. 8-2017, as amended, known as the “Government of Puerto Rico Human Resources Administration and Transformation Act,” in order to read as follows:

“Section 5.2.- Exclusions.

...

1. ...

...

13. Municipal Revenues Collection Center.

...”

Section 3.- Section 2.02 of Act No. 26-2017, as amended, known as the “Fiscal Plan Compliance Act,” is hereby amended to read as follows:

“Section 2.02.- Municipalities.

The municipalities and the Municipal Revenues Collection Center shall be exempt from the application of this Chapter. However, they are hereby empowered to avail themselves of these provisions upon previous approval of a Municipal Ordinance to such effects or a Resolution of the Governing Board, as the case may be.”

Section 4.- Subsection (e) of Section 3 of Act No. 15-2017, as amended, known as the “Inspector General of Puerto Rico Act,” is hereby amended to read as follows:

“Section 3.- Definitions.

For purposes of this Act, the following terms shall have the meaning stated hereinbelow:

a) ...

...

e) Government Entities - means the agencies, departments, and offices of the Executive Branch, except for the municipalities, the Municipal Revenues Collection Center, the Office of Management and Budget, the Office of Government Ethics, the Caño Martín Peña ENLACE Project Corporation, and the Cantera Peninsula Integral Development Company.

f) ...

...”

Section 5.- Section 4 of Act No. 15-2017, as amended, known as the “Inspector General of Puerto Rico Act,” is hereby amended to read as follows:

“Section 4.- Creation of the Office of the Inspector General of Puerto Rico.

The Office of the Inspector General of Puerto Rico, hereinafter, ‘OIG,’ is hereby created for the purpose of strengthening the prevention, oversight, investigation, and auditing mechanisms in connection with public administration; conducting audits and provide government entities with direction on achieving optimum levels of economy, efficiency, and effectiveness in their administrative systems, risk management and control; obtaining reliable information as securely as possible; and promoting compliance with the applicable laws, regulations, and standards.

OIG shall have access to information and documents related to the budget of all government entities, as defined in this Act. OIG shall not have jurisdiction over the Legislative and the Judicial Branches. OIG shall not intervene with the municipalities, the Office of Management and Budget, the Office of Government Ethics, the Municipal Revenues Collection Center, the Caño Martín Peña ENLACE Project Corporation, and the Cantera Peninsula Integral Development Company.”

Section 6.- Severability.

If any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the ruling, holding, or judgment to such effect shall not affect, impair, or invalidate the remainder of this Act. The effect of said holding shall be limited to the clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act thus held to be null or unconstitutional. If the application to a person or a circumstance of any clause, paragraph,

subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be void or unconstitutional, the ruling, holding, or judgment to such effect shall not affect or invalidate the application of the remainder of this Act to such persons or circumstances where it may be validly applied. It is the express and unequivocal will of this Legislative Assembly that the courts enforce the provisions and application thereof to the greatest extent possible, even if it renders ineffective, nullifies, invalidates, impairs, or holds to be unconstitutional any part thereof, or even if it renders ineffective, invalidates, or holds to be unconstitutional the application thereof to any person or circumstance. This Legislative Assembly would have approved this Act regardless of any determination of severability that the Court may make.

Section 7.- Effectiveness.

This Act shall take effect immediately after its approval.