



LEGISLATURE OF PUERTO RICO

Office of Legislative Services

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 181 (H.B. 2037) of the 5th Session of the 14th Legislature of Puerto Rico:

AN ACT to amend Act No. 447 of May 15, 1951, as amended, known as the "Commonwealth Personnel Retirement Act," with the purpose of including a Section 7 to make retirement mandatory for members of the Puerto Rico Police Corps and the Firemen Corps, at fifty-five (55) years of age and thirty (30) years of service accredited to the Retirement System. In the case of the Police Corps, the Superintendent may authorize a member of the institution to perform an additional term and up to a maximum of twenty-four (24) months in the Police Reserve,

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

In San Juan, Puerto Rico, today 28th of June of 2004.

Elba Rosa Rodríguez-Fuentes
Director

(H. B. 2037)

(No. 181)

(Approved August 15, 2003)

AN ACT

To amend Act No. 447 of May 15, 1951, as amended, known as the "Commonwealth Personnel Retirement Act," with the purpose of including a Section 7 to make retirement mandatory for members of the Puerto Rico Police Corps and the Firemen Corps, at fifty-five (55) years of age and thirty (30) years of service accredited to the Retirement System. In the case of the Police Corps, the Superintendent may authorize a member of the institution to perform an additional term and up to a maximum of twenty-four (24) months in the Police Reserve.

STATEMENT OF MOTIVES

With the start of a new millennium, the safety and work conditions demands make it necessary to re-evaluate the Puerto Rico Police and the Firefighter Corps to grant better safety to the citizenry. The updating objectives, philosophy and methods, and the use of innovative work strategies are necessary. This change encompasses and includes the need for new safety and protection systems open to new commanding officers and different people who complement and make the need for innovation a reality.

To achieve this renovation, one must start opening space for new people who can contribute with their knowledge and eventually, can direct these security institutions. A good option to promote this urgent innovation is to establish maximum years of service for policemen and firefighters

while keeping a periodic renovation in these groups, which shall allow satisfaction of current needs while at the same time providing for such worthy employees the opportunity-mandate to retire and to enjoy the rest of their lives along with their loved ones.

This Bill is not discriminating against members of the Police Corps or Firefighters by reason of age. Likewise, this initiative complies with Public Law 90-202 of December 15, 1967, as amended, known as the "Age Discrimination in Employment Act" (ADEA), since this legislation does not force an employee to resign exclusively because of age. Establishing an age requirement for a policeman or a firefighter is reasonably linked to specific tasks of the work or function they perform. It is necessary to mention that the Legislature has the responsibility to guarantee that police or firefighters adequately perform their duties for their own safety, and for the safety of the society they protect.

The United States Supreme Court, in the cases of *Pokins vs. Zage*; *E.E.O.C.*, and in *Missouri State Highway Patrol vs. Borough of Manheim* specifically validated the mandatory retirement system for policemen. Furthermore, it was stated that age has a bearing on a fundamental task to be performed by officers, such as patrolling. Also, it was established in *Pokins vs. Zage* the fact that the officer challenging the statute was performing desk duties at the time when he/she required to retire, does not affect the general holding, since all those affected by the rule would be requested to perform the same desk duties. No member performs only administrative functions and at any moment all have to go back to the functions of their post.

The Legislature modifies the concept of mandatory retirement in the Police Corps and the Firefighters Corps addressing the demanding needs that call for dynamism in the Puerto Rico Police and in the Firefighters Corps. In

order to comply with the public policy of the state of granting better security to the citizenry and of protecting the safety of the members of such honorable bodies (sic).

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Act No. 447 of May 15, 1951, as amended, known as the "Commonwealth Personnel Retirement Act," is hereby amended for the purpose of adding a new Section 7, to read as follows:

"Section 7.- Retirement shall be mandatory for members of the Puerto Rico Police Corps and the Firefighters Corps after reaching fifty-five (55) years of age and thirty (30) years of accredited service to the retirement system. In the case of the Police Corps, the Commissioner may authorize a member of the institution to perform an additional term up to a maximum of twenty-four (24) months in the Police Reserve. Such request for an additional term must be made no later than ninety (90) days prior to the retirement deadline."

Section 2.- This Act shall take effect July 1, 2003.