

(S. B. 2401)

**(No. 228-2011)**

(Approved November 21, 2011)

## **AN ACT**

To add a new subsection (s) to Section 4 of Act No. 40 of May 1, 1945, as amended, to empower the Puerto Rico Aqueduct and Sewer Authority to create, acquire, hold, and dispose of, inside or outside of Puerto Rico affiliate or associate companies, partnerships, or subsidiary or special corporations, whether for profit or nonprofit, in accordance with the purposes established in this Act.

### **STATEMENT OF MOTIVES**

The Puerto Rico Aqueduct and Sewer Authority (hereinafter, “ASA”) is a public corporation established by virtue of Act No. 40 of May 1, 1945, as amended. ASA was created for the purpose of providing the people with adequate water and sanitary sewer services, as well as any other services or facility incidental or related thereto. ASA’s responsibility is to provide these services in the most efficient, economic and reliable manner without adversely affecting the environment, the health and the safety of the People of Puerto Rico. Consequently, ASA’s operations need to become more efficient and competitive.

ASA is a public corporation that operates as a private venture or business within the meaning of Section 18, Article II of the Constitution of the Commonwealth of Puerto Rico. Thus, ASA is not only responsible for carrying out its public function faithfully, but also, as a market participant, it has the obligation and the challenge of providing high quality, innovative, effective, efficient, and most of all competitive services. Countless public entities that provide water and/or sewer services world-wide have opted for developing

structures that will allow them to grow without compromising or jeopardizing their current services and operations. The foregoing has been carried out in response to the economic challenges that have significantly affected public finances.

Five (5) years ago, ASA assumed full fiscal responsibility and independence, after it stopped receiving a \$200 million state subsidy. In this new phase, ASA has undertaken the task of implementing measures to increase its revenues for the purpose of achieving the financial stability needed to provide a service of excellence to the People of Puerto Rico. This allowed ASA to participate once again in the bonds market in 2008, after an absence of almost twenty (20) years.

ASA has diligently discharged its new responsibilities. However, ASA's transformation has been hit by the financial challenges the world has been facing in the last years. These challenges have directly affected ASA's revenues, since they mostly consist of the payments made by its customers. Furthermore, the obligation to invest in capital improvements and infrastructure maintenance to comply with federal and state regulations in effect and to meet the highest standards of quality and services has encumbered a large portion of its reduced revenues, thus worsening ASA's fiscal situation. Moreover, ASA has assumed the challenge of planning for a variety of water and sewer assets and providing different maintenance, operations, and improvement services within one organization.

There is no doubt that ASA manages and maintains one of the world's most complex aqueduct and sewer systems. Its infrastructure consists of treatment systems that operate with different technologies, located on an uneven surface and within a highly regulated industry. The drinking water system consists of 128 water treatment plants that produce approximately 640 millions of gallons daily. The sewer system is composed of various water collection systems that are discharged to 58 wastewater treatment plants and treat, on average, 225 millions of

gallons daily. ASA's system also includes over 1,500 pumping stations, 7,700 miles of water supply pipelines, and over 4,000 miles of rainwater harvesting pipelines. The system's size is proof of its complexity as well as of the level of investment and expenses it requires for its adequate operations and development.

Due to financial, operational, and capital investment challenges, ASA would greatly benefit from expanding its horizons and tapping into different markets related to the development and implementation of new technology, financing, and the establishment of projects associated with infrastructure and associated services both in Puerto Rico and abroad. This will allow ASA to broaden its capacity, knowledge, and experience to optimize its water and sewer services, and generate additional resources that would, in turn, translate into better services for the People of Puerto Rico.

Thus, ASA needs to be expressly empowered under its Enabling Act to establish, develop, and acquire swift and flexible affiliate or associate, administrative structures inside or outside of Puerto Rico, whether for profit or nonprofit, that operate as private business and allow it to optimize and commercialize its resources as well as to expand to new economic horizons.

Lastly, it is worth noting that, the Legislative Assembly amended the Organic Act of the Puerto Electric Power Authority (PREPA) in 2003 to empower said corporation to create subsidiary corporations. By virtue of said authority, PREPA has been able to develop industrial and infrastructure projects directly related to the maximization of PREPA's infrastructure by investing the revenues it generates from its participation in subsidiaries. This undoubtedly results in benefits and savings for its customers. For such reason, with the approval of this Act, this Legislative Assembly seeks to grant to ASA powers similar to those of PREPA in order to guarantee the optimization of its infrastructure and provide economic benefits to the People of Puerto Rico.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

Section 1.- Subsection (s) is hereby added to Section 4 of Act No. 40 of May 1, 1945, as amended, to read as follows:

“Section 4.- Purposes and Powers.-

The Authority is created for the purpose of providing and helping to provide for the citizens an adequate drinking water, sanitary sewage service and any other service or facility proper or incidental thereto. The Authority shall have and may exercise all rights and powers necessary or convenient to carry out such purposes, including, but without limitation to, the following:

(a) ...

...

(s) Create inside or outside of Puerto Rico, affiliate or associate, companies, joint ventures, partnerships, subsidiary corporations, whether for profit or nonprofit, for purposes, among others, of developing, financing, building, and operating industrial projects and other infrastructure directly related to the maximization of the Authority’s infrastructure, and to acquire, hold, and dispose of securities and shares, contracts, bonds or other interests in other companies, entities, or corporations, and to exercise any and all powers and rights granted by such interest, provided, that, in the judgment of the Board of Directors, such action is necessary, appropriate, or convenient to achieve the purposes of the Authority, or to exercise its powers, and to sell, lease, assign, or otherwise convey any property of the Authority or to delegate or transfer any of its rights, powers, functions, or duties to any of said companies, entities, or corporations that are subject to its full or partial authority. The foregoing shall be carried out without impairing the current functions of other public corporations and/or agencies of the Government of Puerto Rico.”

Section 2.- This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 228-2011 (S. B. 2401)** of the **6<sup>th</sup> Regular Session** of the **16<sup>th</sup> Legislative Assembly of Puerto Rico**:

**AN ACT** to add a new subsection (s) to Section 4 of Act No. 40 of May 1, 1945, as amended, to empower the Puerto Rico Aqueduct and Sewer Authority to create, acquire, hold, and dispose of, inside or outside of Puerto Rico affiliate or associate companies, partnerships, or subsidiary or special corporations, whether for profit or nonprofit, in accordance with the purposes established in this Act.

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

In San Juan, Puerto Rico, on this 12<sup>th</sup> day of February, 2016.

Juan Luis Martínez Martínez  
Director