

(S. B. 2079)

(No. 73-2011)

(Approved May 17, 2011)

AN ACT

To amend Section 40 of Act No. 7 of March 9, 2009, as amended, known as: “Special Act to Declare a State of Fiscal Emergency and to Establish a Fiscal Stabilization Plan to Salvage the Credit of Puerto Rico,” in order to extend the effective term of the non-financial clauses of the collective bargaining agreements that expired as of the effective date of Act No. 7, *supra*, or while said Act was in effect, for two (2) additional years, starting on March 9, 2011; and for other related purposes.

STATEMENT OF MOTIVES

Act No. 7 of March 9, 2009, as amended, known as the “Special Act to Declare a State of Fiscal Emergency and to Establish a Fiscal Stabilization Plan to Salvage the Credit of Puerto Rico,” was approved in order to protect the credit of Puerto Rico, provide for a fiscal stabilization plan, eliminate the structural deficit, and restore the fiscal health of the Government. The basis for the Government to boost economic development in Puerto Rico is established by this legislation.

To achieve the aforementioned purposes, Chapter III, Section 38.08 of Act No. 7, *supra*, provides a Temporary Suspension Plan for every clause, precept, and/or provision contained in any law, collective bargaining agreement, contract, employment manual, and circular letter, among others, applicable to public employees subject to said legislation and related to issues pertaining to working conditions. The Temporary Suspension Plan was established for a two (2)- year term as of the effective date of Act No. 7, *supra*. On the other hand, Section 40 of Act No. 7, *supra*, provides that any agreement that expires during the effective term of such Act or at the time it took effect shall be extended to March 9, 2011.

It is well-known that Act No. 45 of February 25, 1998, as amended, known as the “Puerto Rico Public Service Labor Relations Act,” was approved to grant public employees in traditional agencies of the Central Government to whom Act No. 130 of May 8, 1945, as amended, known as the “Puerto Rico Labor Relations Act,” does not apply the right to organize in unions and to bargain collectively in accordance with the parameters therein established. This Legislative Assembly does recognize the importance of preserving the aforementioned right as a measure of social justice and an effective tool to reach agreements favorable to all parties.

As a matter of fact, during his 2010 Administration Address on January 10 of this year, the President of the Senate, the honorable Thomas Rivera-Schatz, noted the importance of passing legislation to “... *guarantee that, once the collective bargaining agreements’ freeze period established under Act No. 7-2009 elapses, the effectiveness of all collective bargaining agreements must be recognized without any excuse or delay, except for the financial clauses that shall be negotiated based on the fiscal health of the public corporations or agencies.*”

Thus, this Act provides that the non-financial clauses of the collective bargaining agreements that expired as of the effective date of Act No. 7, *supra*, or while said Act was in effect, shall be extended for two (2) additional years, starting on March 9, 2011. Likewise, those agencies that were negotiating modifications to their collective bargaining agreements or initiating a collective bargaining agreement at the time of the approval of Act No. 7-2009 shall be bound to resume such negotiations and may also renegotiate any clause that was previously agreed upon if the exclusive representative of the public employees so requests.

This Act establishes an appropriate equilibrium between the acknowledgment of the rights of the Central Government employees to negotiate their working conditions under Act No. 45 and the need of the Government to

preserve its fiscal health, comply with the constitutional mandate of having a balanced budget, and strike a balance between recurring revenues and expenses for the wellbeing of Puerto Rico.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Section 40 of Act No. 7 of March 9, 2009, as amended, is hereby amended to read as follows:

“Section 40.- Negotiation of Expired Bargaining Agreements

The collective bargaining agreements that have expired as of the effective date of this Act, or that expire during the effectiveness thereof, shall be extended to March 9, 2011. Such extension shall preclude any request or holding of representation elections.

Provided, that in the aforementioned cases, the non-financial clauses of collective bargaining agreements shall be extended for two (2) additional years as of March 9, 2011. Such extension shall preclude any request or holding of representation elections.

Likewise, if, within sixty (60) days following the approval of this Act, the exclusive representative requests to negotiate financial and non-financial clauses, the agencies shall be bound to negotiate the same taking into account the economic and fiscal situation of the agency and the Government, and guaranteeing the services offered to the people.

Regarding these negotiations, the Office of Management and Budget shall evaluate both the current and projected fiscal and budget situation of the agency and the Government. It shall then issue in advance a certification of available resources, if any, for each negotiation. The certification of the Office of Management and Budget shall be an essential requirement to negotiate financial clauses.

The agencies shall be bound to negotiate if an initial Collective Bargaining Agreement had already been under negotiation before March 9, 2009, or at the beginning of a new negotiation process. In such cases, the negotiation of clauses that have an economic impact shall be subject to the same requirements contained in the fourth paragraph of this Section.

In all cases, the agencies' negotiation committees shall conduct negotiations during at least four (4) hours a week.

If any party believes that the provisions of this Section have been violated, such party may request an interim order under Act No. 45 of February 25, 1998, as amended, before the Public Service Appeals Commission.”

Section 2.- In cases that so warrant, the Public Service Appeals Commission shall, within sixty (60) days, issue standards, rules, and regulations as necessary to achieve the purposes of this Act.

Section 3.- This Act shall be deemed to be a special law, and Act No. 45 of February 25, 1998, shall apply in a supplemental manner to matters not covered herein. This Act shall take effect immediately after its approval; however, its provisions shall be retroactive to March 9, 2011.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 73-2011 (S. B. 2079)** of the **5th Session of the 16th Legislature** of Puerto Rico:

AN ACT to amend Section 40 of Act No. 7 of March 9, 2009, as amended, known as: “Special Act to Declare a State of Fiscal Emergency and to Establish a Fiscal Stabilization Plan to Salvage the Credit of Puerto Rico,” in order to extend the effective term of the non-financial clauses of the collective bargaining agreements that expired as of the effective date of Act No. 7, *supra*, or while said Act was in effect, for two (2) additional years, starting on March 9, 2011; 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 14th day of February, 2014.

Juan Luis Martínez Martínez
Acting Director