

(H. B. 1294)

(No. 102)

(Approved August 26, 2005)

AN ACT

To prohibit the participation of the Secretaries of the Constitutional Cabinet, the Heads of Agencies and other government dependencies from presiding or being members of the Bidding Boards of the Department or Agency they direct and to amend Act No. 81 of August 30, 1991, as amended, and to clarify that mayors shall not preside or be members of the Bidding Board of their municipality.

STATEMENT OF MOTIVES

The Secretaries who direct government departments and the Heads of Agencies and the mayors need to refrain from any type of participation in public bidding procedures in order to avoid even the mere appearance of potential conflict of interest. In this manner, speculations regarding the reasons for which bids are awarded to any given contractor or bidder are avoided. In addition to upholding greater transparency in the bidding procedures, this also prevents that the presence of a Head of a dependency or municipality could pressure the members of a Bidding Board into giving preference to any bidders. This premise is attuned with the Recommendations to Fight Corruption and Promote Sound Public Administration Practices published on December 15, 1999, by the Office of the Comptroller of Puerto Rico, and its subsequent publication in December 2003.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.-The Secretaries of the Constitutional Cabinet, the Heads of Agencies and other government dependencies, are hereby prohibited from presiding or being members of the Bidding Boards of the Department or Agency, that he/she manages.

Section 2.-Section 10.04 of Act No. 81 of August 30, 1991, as amended, is hereby amended to read as follows:

“Section 10.04- Constitution of the Bidding Board

Every municipality shall constitute and have a Bidding Board of which the mayor shall not be its president or a member. The Bidding Board shall be composed of five (5) members...

...”

Section 3.-Any Secretary of a Department, Head of Agency or Mayor who participates as president or member of the Bidding Board of the Department, Agency or Municipality that he/she directs shall incur a misdemeanor that shall be punished by imprisonment for a term not to exceed six (6) months or a fine that shall not exceed five thousand (5,000) dollars.

Section 4.-This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 102 (H.B. 1294) of the 1st Session of the 15th Legislature of Puerto Rico:

AN ACT to prohibit the participation of the Secretaries of the Constitutional Cabinet, the Heads of Agencies and other government dependencies from presiding or being members of the Bidding Boards of the Department or Agency they direct and to amend Act No. 81 of August 30, 1991, as amended, and to clarify that mayors shall not preside or be members of the Bidding Board of their municipality,

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

In San Juan, Puerto Rico, today 28th of August of 2006.

Francisco J. Domenech
Director