

(H.B. 1027)  
(Reconsidered)  
(Conference)

(No. 27)

(Approved January 23, 2006)

## **AN ACT**

To add a paragraph to subsection (d) of Section 11 of Article VI of Act No. 72 of September 7, 1993, as amended, in order to establish a maximum limit to the financial contribution of the municipalities to the Health Reform taking as basis the contribution for Fiscal Year 2004-2005 and in the case of the Municipality of San Juan, the contribution shall be determined taking as basis its budget for Fiscal Year 2004-2005.

### **STATEMENT OF MOTIVES**

The implementation of the Health Reform introduced with the approval of Act No. 72 of September 7, 1993, had the effect of radically transforming the whole system for rendering health services to the medically indigent. The implementation of said Act has generated serious concerns regarding the impoverishment in the quality of the health services received by the people who visited the public health system facilities before the Reform such as preventive care, health education, care of catastrophic disease and mental health services.

In general terms it has been acknowledged that the attention given to the health problems of our population has been adversely affected. The Health Reform of 1993 places physicians as service providers while at the

same time giving them the task of making decisions for referring patients who require specialized services and treatment. This decision making task creates an ethical and economic conflict since their compensation depends on the total number of insured patients in their charge and is reduced due to the cost of specialized health services incurred as part of the treatment given to said insured patients. Furthermore, the absence of planning before the implementation of the Health Reform has brought about a cost increase for the Central Government, belated access, the rationing of the health services for clients and putting at risk the continuity of the medical education on the Island.

Primary physician organizations also criticize the severe restrictions the Reform imposes on the selection of the insurance company it works with since only one company is contracted per region. Other health services providers have brought serious critical claims against the system because they believe the system unreasonably shuns them and limits their participation in detriment to a broader offer for the insured. Providers also complain as to the belated reimbursements or payments by the insurers and these have questioned the insufficiency of the premium.

In conclusion, the Health Reform did not produce the results expected by those who created it in 1993. With the approval of Act No. 29 of July 1, 1997, the Central Government imposed a progressive tax on the regular funds of the municipalities to cover an insufficiency of seventy-eight million (78,000,000) dollars in the fiscal resources available to the Central Government to finance the Reform.

The implementation of Act No. 29 had the effect of creating an acute economic crisis in the municipal finances that has affected the fiscal capacity of the municipalities for providing the essential services which the

Autonomous Municipalities Act demands they provide for their residents. The adverse impact of Act No. 29 on the municipal governments is of such a magnitude that even those municipal executives who initially supported the Health Reform have publicly demanded that the municipalities be exempted from their obligatory economic contribution to the Health Reform to prevent the increase of the budgetary deficit almost all municipalities face and their eventual fiscal collapse.

The Central Government is also making efforts to finance the public health system through a plan for responsibly financing the same which would free the municipalities from the onerous burden imposed on them by the implementation of the Health Reform. According to the program of the incoming Administration we might surmise that the contribution made by the municipalities to the health card is to be totally eliminated.

In consonance with this and while the various strategies the present Administration shall put into effect to institute the Health Reform and to free the municipalities from such a disproportionate economic burden, this Act shall fix a limit to the economic contribution of the municipalities to the Health Reform taking as maximum amount the contribution of the municipalities as established in Section 11 of Act No. 72 of 1997 for Fiscal Year 2004-2005 or the present budget, whichever is less. In the case of the Municipality of San Juan the resulting contribution according to its budget for Fiscal Year 2004-2005 or to its present budget, whichever is less, shall be used.

A constant concern of the municipalities has been their fiscal situation or health. There are several reasons for this: the erosion of its tax base and of other sources of recurrent revenues and the increase in their operating

expenses as a result of the greater demand for services and salary increases and their attendant fringe benefits, among other considerations.

The Budget of the General Fund of the Municipalities increased an average of six point four (6.4) percent on Fiscal Years 1997 and 2001. According to data from the Office of the Commissioner of Municipal Affairs (OCAM, Spanish acronym) for Fiscal Year 2001, the total budgets for the municipalities increased to one thousand four hundred forty-four point four (1,444.4) million dollars as compared with one thousand one hundred and twenty-six point eight (1,126.8) million dollars for Fiscal Year 1997. This increase does not necessarily mean that the total revenues had the same increase since certain municipalities had an increase in their revenues of more than what had been budgeted, while, the revenues of other municipalities were lower than what had been budgeted.

On Fiscal Year 2000, forty-seven (47) percent of the total number of municipalities had a relatively high deficit. Thirty-seven (37) municipalities had a deficit while forty-one (41) reported a surplus. Even though some smaller municipalities like Morovis, Naranjito, Salinas and Las Marías, among others, have reported a surplus, the great majority of the municipalities with a deficit are small, except for the municipality of Arecibo. For those municipalities with a deficit, this deficit represents close to forty-eight (48) percent of their total revenues. This ratio which is relatively high at the same time shows the great limitations of the municipalities to assume new expenses.

On January 3, 2003, this Legislature approved Act No. 3 which allows the Health Insurance Administration (ASES, Spanish acronym) to return any contribution paid by the municipalities when the latter provides direct and indirect health services to the municipality. Two (2) years after the approval

of this measure the entities bound by this Act have not modified the balance to be returned to the municipalities as part of their contribution. Pursuant to the preceding, the Municipal Revenues Collection Center is authorized by this Act to withhold the payment to ASES made by the municipality until this institution agrees to return the corresponding contribution of those municipalities that provide direct and indirect health services. This legislation does justice to those municipalities of Puerto Rico that render direct or indirect health services by forcing ASES to reimburse, from the totally or partially received contribution, any expenses incurred for said services without any restriction whatsoever or without being subject to any restriction imposed by law that limits the same.

This legislation shall immediately free the municipalities from the progressive tax imposed, thus allowing them to slowly recover from the prejudicial economic effects caused by the Health Reform during these years, while at the same time freeing indispensable resources for giving continuity to other essential services provided for their residents.

**BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:**

Section 1.-The last paragraph is hereby eliminated and a paragraph added to subsection (d) of Section 11 of Article VI of Act No. 72 of September 7, 1993, as amended, to read as follows:

“Section 11.-Financing of the Administration and of the health insurance plan; other revenues.-

The Health Insurance plan, established in this Act and the operating expenses of the Administration shall be defrayed as follows:

(a) ....

....

(d) The budgetary appropriation of the municipal governments for direct health services in areas covered by health insurance plans shall be based on the percentages set forth in the following Table of Regular Funds Budgets of the municipalities, excluding the Special Surtax (CAE, Spanish acronym) and federal funds, using as base the regular funds budget of the previous fiscal year as of July 1, 1997.

0	-	10,000,000 = 5%
10,000,001	-	29,000,000 = 6%
29,000,001	-	39,000,000 = 7%
39,000,001	-	49,000,000 = 8%
49,000,001	-	59,000,000 = 9%
59,000,001	-	79,000,000 = 10%
79,000,001	-	89,000,000 = 12%
89,000,001	-	100,000,000 = 15%
100,000,001	-	henceforth = 17%

The Municipal Revenues Collection Center, henceforth CRIM, shall prorate between the monthly payments a sufficient amount to satisfy the contribution corresponding to each municipality according to the percentage established and shall remit the same on or before the tenth day of each month to the Insurance Health Administration.

While the schedule of the municipal contribution to the cost of the Health Reform for Fiscal year 2005-2006 and for subsequent years is revised, the municipalities shall contribute an amount equal to the percentage established for Fiscal Year 2004-2005 or the present one, whichever is less, as provided in their budget. In the case of the Municipality of San Juan, it shall contribute the amount resulting from the application of

the Table to the budget for Fiscal Year 2004-2005, or the present one, whichever is less. For those municipalities that render direct or indirect preventive health services, CRIM shall withhold the payment to ASES until this institution agrees to return the corresponding contribution of those municipalities, as required by Section 14 of Act No. 3 of January 1, 2003. ASES shall totally or partially reimburse to the municipalities any expenses incurred for direct or indirect health services rendered by the municipalities without any restriction whatsoever.

Section 2.-This Act shall take effect immediately after its approval and its provisions shall apply on and after July 1, 2005.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 27 (H.B. 1027) (Reconsidered) (Conference) of the 3<sup>rd</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to add a paragraph to subsection (d) of Section 11 of Article VI of Act No. 72 of September 7, 1993, as amended, in order to establish a maximum limit to the financial contribution of the municipalities to the Health Reform taking as basis the contribution for Fiscal Year 2004-2005 and in the case of the Municipality of San Juan, the contribution shall be determined taking as basis its budget for Fiscal Year 2004-2005,

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

In San Juan, Puerto Rico, today 11<sup>th</sup> of July of 2006.

Francisco J. Domenech  
Director