

(H. B. 2094)

**(No. 113)**

(Approved June 6, 2006)

## **AN ACT**

To add subsection (c) to Section 2; to add a last paragraph to Section 6; to add a new subsection (b) and redesignate subsections (b), (c), (d), (e), (f), (g), (h) and (i) as subsections (c), (d), (e), (f), (g), (h), (i) and (j) respectively, in Section 7; and to add a new subsection (10), renumber subsections (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21) and (22) as subsections (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22) and (23) of Section 10 of Act No. 151 of June 22, 2004, known as the “Electronic Government Act,” to direct all agencies and instrumentalities of the Commonwealth of Puerto Rico to publish on the Internet all public documents related to the procedures for bids, works, contracting, management and reports on the status of public projects; and for other related purposes.

### **STATEMENT OF MOTIVES**

To inform the citizens is one of the nondelegable duties of the Government under a democratic system. Communications media such as the Internet promote the diffusion of information almost instantaneously.

On the other hand, it has been acknowledged that the right of every citizen to have access to government information, with limited exceptions, is of an implicit constitutional nature and that it derives from the right to free expression guaranteed by the First Amendment of the Constitution of the United States of America and Article II, Section 4 of the Constitution of the Commonwealth of Puerto Rico. The foundation thereof is that if the people are not duly informed, their freedom of expression is restricted.

Therefore, the public policy of this Legislature must be to constantly provide the citizens with more access to government information. The best and most advanced technology available to us should be a first-rate tool for the achievement of such purposes, and the Internet is certainly one of them.

Without a doubt, the Internet largely increases the possibilities for the diffusion and publication of information, which in turn offers to the citizenry another means to access and supervise government information more efficiently. Just as an example, the publishing of bids on the Internet promotes more participation and competition among the bidders.

This measure seeks to provide an additional tool to the citizens that shall allow them to learn about all the public documents pertaining to bids, works, contracting, management and reports on the status of public projects in the agencies and instrumentalities of the Government in such a manner that knowledge, rather than ignorance, of such government activities prevails.

After all, the Government, represented by all the public agencies and instrumentalities, has the responsibility to act with transparency in order to avoid secrecy and the concealment of information for purposes of having true freedom of expression and information prevail in Puerto Rico, thereby preventing the undermining of citizens' rights.

Act No. 151 of June 22, 2004, known as the "Electronic Government Act," sets forth the obligation to provide for electronic government transactions. Therein was established that the public policy to govern said matter is the incorporation of information technologies into government procedures, the rendering of services and the diffusion of information. To attain these purposes, the referred Act No. 151, *supra*, provides that the duties of the agencies shall be to:

1. Display an electronic page that contains the information necessary for citizens to be able to know their mission, the services they offer, the

geographical location of their offices, their working hours and phone numbers;

2. Develop the necessary activities and efforts directed to the active incorporation of the use of information and telecommunications technologies in government operations, with special attention to the following areas: services to citizens, procurement and bids, orientation and disclosure of subjects of social, cultural and economic interest to citizens through the Government portal; and
3. Support, in respect to the Electronic Government, the efforts to develop, maintain and promote government services and information, as well as to focus its efforts and resources to comply with the work plans for the conversion of transactions into electronic media.

However, although it provides for the obtainment of certain information about government transactions, Act No. 151, *supra*, does not order the publication of specific information about public works bids and the acquisition of goods and services, which we amend herein to provide that the public agencies and instrumentalities shall publish the following on their Internet web pages:

all documents pertaining to the processes for publication, holding and awarding of all public works bids, as well as those for the acquisition of goods and services;

all agency contracts that entail the disbursement of public funds, provided that all provisions concerning the protection of privacy, information security and policies of information availability are safeguarded;

all documents concerning managerial transactions, except for confidential documents concerning personnel matters; and all information that concerns the status of public works projects, including, but not limited to, change orders and time extensions, among others.

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

Section 1.- Subsection (c) is hereby added to Section 2 of Act No. 151 of June 22, 2004, to read as follows:

“Section 2.- Definitions

The following terms and phrases contained in this Act shall have the meaning stated below:

(a) ...

(c) ‘Document’ means any letter, writing, form, application, contract, report, photograph, recording, official record, book, map, memorandum, microfiche, paper, electronic register and any other document, regardless of its physical form or particular characteristics, that has been prepared, utilized, received or which has been in the possession or under the custody of an agency and which is related to the matters, information or documents that this Act seeks to make available to the citizenry over the Internet.”

Section 2.- A last paragraph is hereby added to Section 6 of Act No. 151 of June 22, 2004, to read as follows:

“Section 6.- Powers

The Office of Management and Budget, pursuant to the present Act, shall have the following powers:

(a) ...

(l) ...

Notwithstanding what is herein provided, the Office of Management and Budget shall oversee and supervise that the agencies dully comply with the provisions of this Act, and that the documents and information of which the electronic publication on the Internet is hereby ordered be made available for the inspection and supervision of the general public, including the press and any person who may be interested in the bids and contracting processes of the government agencies.”

Section 3.- A new subsection (b) is hereby added and subsections (b), (c), (d), (e), (f), (g), (h) and (i) are redesignated as subsections (c), (d), (e), (f), (g), (h), (i) and (j), respectively, in Section 7 of Act No. 151 of June 22, 2004, to read as follows:

“Section 7.- Duties of the Agencies

With respect to the attainment of the purposes of this Act, the heads of agencies and instrumentalities shall have the following duties:

- (a) Display an electronic page that contains the information necessary for citizens to be able to know their mission, the services they offer, the geographical location of their offices, their working hours and phone numbers, which page shall be connected to the main portal, [www.gobierno.pr](http://www.gobierno.pr).
- (b) To publish the following on their Internet web page, as a mechanism to provide transparency to government transactions, and above all, to expedite further the access to the information held by the government for its inspection by the citizens:
  - 1) all documents pertaining to the processes for publication, holding and awarding of all public works bids;
  - 2) all agency contracts that entail the disbursement of public funds;

- 3) all documents concerning managerial transactions, except for confidential documents concerning personnel matters; and
- 4) any information concerning the status of public works projects, including, but not limited to, change orders and time extensions, among others.

- (c) ...
- (d) ...
- (e) ...
- (f) ...
- (g) ...
- (h) ...
- (i) ...
- (j) ...”

Section 4.- A new subsection (10) is hereby added and subsections (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21) and (22) are redesignated as subsections (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22) and (23), of Section 10 of Act No. 151 of June 22, 2004, to read as follows:

“Section 10.- Rights of Citizens

Under the public policy established in Section 3, the citizens of the Commonwealth of Puerto Rico shall be entitled to have government information available through the Internet and to receive Government services by means of electronic media, including but not limited to:

- (1) Applications for marriage and birth certificates;
- (2) ...
- (3) presentation of corporate documents and reports and trademark registrations;
- (4) ...

- (5) ...
- (6) ...
- (7) ...
- (8) ...
- (9) inclusion in the registers of eligible bidders to participate in the bids of every agency or instrumentality;
- (10) all documents pertaining to the processes for publication, holding and awarding of all public works bids; all agency contracts that entail the disbursement of public funds; all documents concerning managerial transactions, except for confidential documents concerning personnel matters; and any information concerning the status of public works projects, including, but not limited to, change orders and time extensions, among others.
- (11) electronic access to all the texts of all measures introduced before the Office of the Secretary of the Senate and the Office of the Clerk of the House of Representatives, as well as the reports pertaining thereto, voting records, texts approved in final vote and enrolled bills;
- (12) ...
- (13) the submittal of applications for labor consulting or human resources management; of nominations to participate in the trainings and applications for contracting professional services in the preparation of classification and compensation plans for employees, to administer examinations, hiring standards, evaluation systems and personnel regulations;
- (14) the filing of tax returns required by Law, including, but not limited to, income tax, withholdings and excise tax returns;
- (15) ...

- (16) ...
- (17) ...
- (18) ...
- (19) ...
- (20) ...
- (21) ...
- (22) ...
- (23) ...

Such services shall be rendered provided that, they are practicable and the are nit unreasonable, and that there is no legal impediment for doing so. Provided, that the agencies shall publish on the Internet all documents pertaining to the processes for the publication, holding and awarding of bids for all public works; all agency contracts that entail the disbursement of public funds; all documents pertaining to management transactions concerning the document object of the publication, except for confidential documents concerning personnel matters; and all information concerning the status of public works projects including, but not limited to, change orders and time extensions, among others.

To determine whether that right has been violated, the reasonable efforts and steps taken by the Government in order to offer such services electronically shall be taken into account, acknowledging that this is a program in constant progress.

Moreover, the citizens of the Commonwealth of Puerto Rico shall be entitled to receive government services offered by electronic media in a manner that is in accordance with the applicable provisions relative to the protection of privacy, information security, availability of information policies and access guarantees for persons with disabilities.”

### Section 5.- Transitory Provision

This Act in no manner undermines any other non-government communications media that is in effect through which the following are obtained:

- (a) documents related to the publication, holding and awarding of all public works bids;
- (b) information about the contracts of agencies that entail public funds disbursements;
- (c) documents about the managerial transactions of the Government of Puerto Rico; or
- (d) information pertaining to the status of public works projects, including change orders and time extensions, among others.

Section 6.- This Act shall take effect immediately after its approval and the publicity and public access requirements herein provided shall take effect one hundred eighty (180) days after its approval.

**CERTIFICATION**

I hereby certify to the Secretary of State that the following Act No. 113 (H.B. 2094) of the 3<sup>rd</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to add subsection (c) to Section 2; to add a last paragraph to Section 6; to add a new subsection (b) and redesignate subsections (b), (c), (d), (e), (f), (g), (h) and (i) as subsections (c), (d), (e), (f), (g), (h), (i) and (j) respectively, in Section 7; and to add a new subsection (10), renumber subsections (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21) and (22) as subsections (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22) and (23) of Section 10 of Act No. 151 of June 22, 2004, known as the “Electronic Government Act,” to direct all agencies and instrumentalities of the Commonwealth of Puerto Rico to publish on the Internet all public documents related to the procedures for bids, works, contracting, management and reports on the status of public projects; and for other related purposes,

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

In San Juan, Puerto Rico, today 30<sup>th</sup> of November of 2007.

Francisco J. Domenech  
Director