

(H. B. 2736)

(No. 177)

(Approved August 31, 2006)

AN ACT

To amend the second paragraph of Section 2 of Act No. 56 of June 19, 1958, as amended by Section 3 of Act No. 97 of May 16, 2006, to reiterate that the cleaning or janitorial work of the public schools owned by the Public Buildings Authority shall be carried out by Department of Education personnel.

STATEMENT OF MOTIVES

Act No. 97 of May 16, 2006, was recently approved by the Legislature of Puerto Rico in order “to allow the [Public Buildings] Authority to benefit from all the alternatives for development and financing available in the dynamic economy of 21st Century Puerto Rico.” Section 3 of the referred Act amended Section 2 of Act No. 56 of June 19, 1958, as amended, and imposed new duties upon the Authority in order to make its investment, development and financing methods more flexible, thus strengthening the economic independence of the Authority. As a part of the amendments set forth in Section 3, it is established that when the Secretary of Education so requests it the Authority shall repair and make improvement to the structures and provide maintenance of the common areas, restrooms and mechanical equipment of the schools.

To reiterate that the cleaning or maintenance work of the public schools owned by the Public Buildings Authority shall continue to be carried out by the personnel of the Department of Education, it was established in the Act

that “said maintenance does not include cleaning or janitorial work in the schools already existing at the time this Act is signed.” [Emphasis ours.] The last phrase, “existing at the time this Act is signed,” could be construed as apply to the covenants, agreements, contracts or schools existing at the time the Act is signed, however, any interpretation in that sense is against the spirit of the law. Such an interpretation would affect the vested rights of maintenance employees under Act No. 45 of February 25, 1998, as amended. It would also create two classifications of cleaning or janitorial employees with different rights and benefits. On the one hand, janitors who are P. B. A. employees would be covered by a collective bargaining agreement with specific benefits pursuant to the provisions of Act No. 130 of 1945 and the janitors who are employees of the Department of Education would be covered by a different collective bargaining agreement and by the provisions of Act No. 45 of February 25, 1998.

According to a study prepared by the McKinsey consultant firm (2001), the costs of maintenance services offered by the Public Buildings Authority are five times higher than the costs of maintenance services provided by the Department of Education. According to the legislative history of Act No. 97 of 2006, the Acting Executive Director of the P. B. A., Leyla Hernández, Esq., stated that the cleaning or janitorial work in all the schools is carried out by the Department of Education, whether the same are owned by the P. B. A. or the DE, and further indicated that she did not have the necessary employees to carry out such work. Attorney Hernández’s opinion was that the cleaning or janitorial work should not be the responsibility of the Authority.

In the Senate of Puerto Rico Positive Joint Report on House Bill 2171, which became Act No. 97 of 2006, it is established that cleaning or janitorial

work is not included in the definition of “maintenance.” Thus, the concern of the Department of Education with respect to keeping the services of its own janitors to carry out the daily cleaning of its school structures was addressed.

This Legislature, deems in order to ensure that the cleaning and janitorial personnel of the Department of Education shall continue to provide cleaning services, and that under no interpretation shall said unit be disturbed, hereby clarifies that under Act No. 97 of 2006, the cleaning and janitorial services shall continue to be carried out by Department of Education personnel, regardless of whether it is an already existing school, or a school to be built in the future.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- The second paragraph of Section 2 of Act No. 56 of June 19, 1958, as amended by Section 3 of Act No. 97 of May 16, 2006, known as the “Public Buildings Authority Act,” is hereby amended to read as follows:

“Section 2.- Duties

The Authority shall make or cause to be prepared ...

...

Upon request of the Secretary of Education, the Authority shall further make or cause to be prepared plans and designs of school buildings and accessory facilities, and shall construct such buildings and facilities using the funds that the Secretary of Education may transfer to it from the funds appropriated for such purposes. The same shall be used by the Department of Education for educational purposes. Provided, that in those schools that are owned by the Public Buildings Authority, the structural repairs and improvements and the maintenance of the common areas, restrooms and

mechanical equipment shall be carried by the Authority. Said maintenance does not include cleaning or janitorial work in the schools.

The plans and designs for ...

...”

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. 177 (H.B. 2736) of the 4th Session of the 15th Legislature of Puerto Rico:

AN ACT to amend the second paragraph of Section 2 of Act No. 56 of June 19, 1958, as amended by Section 3 of Act No. 97 of May 16, 2006, to reiterate that the cleaning or janitorial work of the public schools owned by the Public Buildings Authority shall be carried out by Department of Education personnel,

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

In San Juan, Puerto Rico, today 30th of March of 2007.

Francisco J. Domenech
Director