

(H. B. 1956)

**(No. 183)**

(Approved September 1, 2006)

## **AN ACT**

To add a second and third paragraphs to subsection (p) of Section 2.001 of Act No. 81 of August 30, 1991, as amended, known as the “Autonomous Municipalities Act of the Commonwealth of Puerto Rico,” in order to establish the obligation of the Inter-municipal Consortiums of approving a Classification and Compensation Plan for the administration of their human resources.

### **STATEMENT OF MOTIVES**

Section 2.001 (p) of Act No. 81 of August 30, 1991, as amended, known as the “Autonomous Municipalities Act of the Commonwealth of Puerto Rico,” establishes the power of the municipalities to create inter-municipal bodies known as Consortiums. These are created by two or more municipalities that, after identifying common problems, jointly develop alternatives and services in favor of their constituents.

After approval by the corresponding Municipal Legislatures, the Consortium is created as a separate entity with juridical personality independent from the municipalities comprising the same. Since these Consortiums administer public funds, they are audited by the Office of the Comptroller of Puerto Rico and are under the jurisdiction of the Office of Government Ethics. Furthermore, the employees who so want and who are members of the Employees Association of the Commonwealth of Puerto

Rico (AEELA, Spanish acronym) upon being contracted by a Consortium, shall be able to continue their membership in the Association.

The great majority of the Consortiums on the Island were created for the purpose of administering and operating training and employment funds provided by the “Job Training Partnership Act” (JTPA) substituted by the “Workforce Investment Act” (WIA) of 1998. The federal funds are appropriated and monitored by the United States Department of Labor and the Occupational and Human Resources Development Council, an agency attached to the Department of Labor of Puerto Rico, which delegates them to the Consortiums by a statutory formula.

Federal Law WIA (20 C.F.R. 652 et al) provides on the programs administrated by the Consortiums for the inherence of the State and its powers, the services allowed to be offered to the participants of the program, among other matters. Neither WIA nor its regulations provide specific directions as to the internal administration of the Consortiums, for example, the administration of human resources. This is so because in the United States, the implementation of this Act is carried out by the private sector. Therefore, since in Puerto Rico the local governments carry out this task, every Consortium decides how to internally administer its matters through regulations. The power to administer the Consortiums is delegated onto an Executive Director by its governing body, the Board of Mayors.

This juridical reality causes that the Consortiums be categorized as municipal public entities for some matters. We must also understand that not all Consortiums are of equal composition. Some are composed of only one municipality (as in the case of Carolina, San Juan and Ponce), which excludes them from the definition of “Consortium” of Section 2.001(p), and makes it similar to a municipal entity; others are inter-municipal

Consortiums [for example, the Southeast Consortium (10 municipalities); the Northeast Consortium (9 municipalities); Guaynabo-Toa Baja Consortium (4 municipalities) and the Mountain Consortium (5 municipalities)].

The employees of the Consortiums, although having regular functions while these Consortiums last, are frequently classified as transitory employees. They are considered transitory employees for the sole fact that their salaries are 100% defrayed with WIA federal funds, which have been consistently appropriated for more than thirty years. Their contracts are constantly renewed and their fringe benefits are similar to those of the municipal employees. This problem that is the lack of proprietary rights over their positions, is faced by the employees of the Inter-municipal Consortiums, since the employees of the Consortiums composed of one municipality are deemed to be regular employees of the corresponding municipality.

To prevent this unfair situation for such an important work sector of the Island, it is necessary that the Consortiums adopt an autonomous system for the administration of their human resources, thus promoting excellent public service on the basis of equity, justice, efficiency and productivity. The Consortiums shall draft regulations for the administration of the human resources that contain an Employment Classification and Compensation Plan for regular and confidential services; a recruitment and selection system and regulations on the training and on the retention, lay off, and corrective and disciplinary measures. We deem that July 1, 2007, is a reasonable time limit for the implementation of the plans of all Consortiums of Puerto Rico.

The Office of the Comptroller of Puerto Rico has identified the need to regulate employee recruitment and selection and to maintain a continuous

evaluation system of the same. This has been one of the most common points concerning the audits of the Consortiums considered in the past decade and an item taken into account when evaluating the Administrative Excellence Criteria established by said Office. Likewise, an evaluation is conducted as to compliance with a personnel training plan as well as to having a functional Government Ethics Committee.

Pursuant to the above, and aware that the composition and structure of the human resources of the Consortiums should be governed by the merit principle, which is analogous to that of the municipal employees, this Legislature hereby amends the Autonomous Municipalities Act in order to establish the obligation of the Consortiums for approving and implementing a Classification and Compensation Plan for their employees.

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

Section 1.- A second and third paragraphs are hereby added to subsection (p) of Section 2.001 of Act No. 81 of August 30, 1991, as amended, to read as follows:

“Powers

The municipality shall have the necessary and suitable powers for exercising all the authorities corresponding to a local government and for achieving its purposes and functions. In addition to what is provided in this subtitle or in any other law, the municipalities shall have the following powers:

(a) ...

(p) Create inter-municipal bodies...

Each Inter-municipal Consortium shall establish an autonomous system for the administration of its personnel. Said system shall be governed by the merit principle so that it promotes a public service of

excellence on the basis of equality, justice, efficiency, and productivity. Therefore, the Consortiums shall adopt uniform regulations for the administration of human resources that contain a Uniform Employment Classification and Compensation Plan, duly updated for regular and confidential personnel; a recruitment, selection and regulation system; an official and employee training and evaluation system; and a system on the matter of retention and lay offs. This plan shall be evaluated and shall require the approval of the Board of Mayors.

The implementation of the compensation, as part of this Plan, shall be subject to the availability of federal funds appropriated to each Consortium or local area. No municipality, Consortium, or local area shall be compelled to absorb or retain the employees that have been laid off due to the lack of funds, whether by the reduction or elimination of budget appropriations by the Federal Government.

Section 2.- All Consortiums or local areas of Puerto Rico shall have their Personnel Regulations approved and implemented, together with the plans and personnel systems described in the previous Section, on or before July 1, 2007.

Section 3.- This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 183 (H.B. 1956) of the 4<sup>th</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to add a second and third paragraphs to subsection (p) of Section 2.001 of Act No. 81 of August 30, 1991, as amended, known as the “Autonomous Municipalities Act of the Commonwealth of Puerto Rico,” in order to establish the obligation of the Inter-municipal Consortiums of approving a Classification and Compensation Plan for the administration of their human resources,

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

In San Juan, Puerto Rico, today 15<sup>th</sup> of December of 2006.

Francisco J. Domenech  
Director