

(H. B. 2689)

(No. 273)

(Approved December 21, 2006)

AN ACT

To establish a Voluntary Early Retirement Program for the employees of the Puerto Rico Tourism Company; to provide the minimum age and years of service requirements in order to qualify for this Program; to fix the minimum percentage of the compensation to be used to calculate the pension; to provide for the payment of the actuarial cost for said Program to be paid by the Company; to fix the length of time given to employees for exercising his/her decision to avail himself/herself of the Retirement Program; to provide the special incentives to be granted to those who avail themselves of this Program, and for other purposes.

STATEMENT OF MOTIVES

At the onset of and throughout the 90s, a new management team in charge of the Puerto Rico Tourism Company transformed the vision and activities of the entity to create an institution that would respond to the economic trends of the industry. Thus, under the slogan “Puerto Rico does it better,” the Tourism Company revolutionized its processes and services to present the Island as a tourist destination. Act No. 78 of September 10, 1993, known as the “Puerto Rico Tourism Development Act of 1993,” which laid the foundations for the establishment of numerous hotels and an unprecedented economic development of the industry, was approved as part of this effort.

With the change of administration in 2000, the philosophy of economic development based on the service industries was abandoned, and the

Tourism Company and the tourism industry, as well as other industries, lost the priority that the Government was giving them. At this time, a new management team in charge of the Tourism Company is ready to implement a new process of deep transformation of the operational and promotional structure of the Company to become able once again to respond quickly and effectively to changes the industry and the needs of Puerto Rico as a tourism destination.

Based on the success that some early retirement programs have had in the past in the reduction of some government entities, we propose to adopt a Voluntary Early Retirement Program for the employees of the Puerto Rico Tourism Company, through which the work of employees with twenty (20) years or more of service in the Government of the Commonwealth is recognized. The implementation of the Program shall be done in strict compliance with all labor laws and the collective bargaining agreements in effect, and with due respect to the Principle of Merit, to the legal provisions that prohibit political discrimination, and the vested rights of the public employees working in the Puerto Rico Tourism Company.

The Puerto Rico Tourism Company has approximately one hundred fourteen (114) employees that qualify for this benefit, who may retire in a dignified manner and enjoy between sixty percent (60%) and seventy-five percent (75%) of their pension. These employees shall also enjoy the full liquidation of sick leave and annual vacation leave accrued, and health plan coverage for one (1) year to two (2) years after the date of their retirement, depending on the number of years accrued in the public service.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.— The Puerto Rico Tourism Company, as a public corporation, shall implement a Voluntary Early Retirement Program that shall include all of the employees holding positions in said Company who by September 30, 2006, meet the minimum of twenty (20) years of service accredited as participants of the Employees Retirement System Administration of the Government of Puerto Rico and its instrumentalities voluntarily, with prior certification from the Company.

Section 2.— All employees who comply with the provisions set forth in Section 1 of this Act and who have completed twenty (20) years or more of accredited services, regardless of their age, shall be entitled to receive a pension of sixty percent (60%) of their average compensation. All employees who comply with the provisions set forth in Section 1 of this Act and who have completed twenty-four (24) years or more of accredited services, regardless of their age, shall be entitled to receive a pension of seventy-five percent (75%) of their average compensation. It is hereby provided that up to one hundred percent (100%) of the period of military service rendered in the United States Armed Forces shall be accredited, if the employee obtained an honorable discharge from said military service. For military service to be accredited, the employee shall pay to the Retirement System the corresponding contribution based on the salary received during the years of service in the Armed Forces.

It is hereby provided that the provisions set forth herein do not curtail the power and authority of the Board of Directors of the Puerto Rico Tourism Company to establish the special criteria and parameters for the granting of any additional benefit it decides to grant as part of the Voluntary Early Retirement Program. It is further provided, that the positions of the

employees that avail themselves of the retirement shall be eliminated, insofar as they are not essential to the operations of the Puerto Rico Tourism Company. It shall be understood that indispensable positions are those whose duties are of a highly specialized nature, indispensable and essential for the most effective operation of the Corporation, for the achievement of the public policy set forth in the enabling Act of the Tourism Company as a public corporate entity of the Commonwealth of Puerto Rico, such as, for example, the Casino Collector positions. To fill such indispensable positions, career personnel from the Puerto Rico Tourism Company who are willing to relocate into said position shall be considered preferentially. The Puerto Rico Tourism Company shall take steps for an administrative and operational reorganization that allows the elimination of any non-essential vacant position resulting from said reorganization. Provided, that any reorganization or operational measures taken, including the implementation of voluntary separation plans, shall be done in strict compliance with all labor laws and the collective bargaining agreements in effect, and subject to the Principle of Merit, the legal provisions that prohibit political discrimination, and the vested rights of the public employees working in the Puerto Rico Tourism Company.

Under no circumstances shall it be intended for an employee of the Puerto Rico Tourism Company to compete to fill a position or office of a similar nature to the one he/she currently holds, even when it is a newly created position or office.

Section 3.— It is hereby set forth that the Puerto Rico Tourism Company shall not impose conditions on the opportunity of the eligible employees to avail themselves of the Voluntary Early Retirement Program to waive legal

or administrative claims against the Puerto Rico Tourism Company pending of adjudication. Due process of the same shall continue.

Section 4.— The Puerto Rico Tourism Company shall grant to employees who meet the parameters the special incentives set forth in Sections 1 and 2, to wit:

- a. Total liquidation of sick leave and annual vacation leave accrued, in the case of employees with twenty (20) years or more.
- b. One (1) year health plan as of the date of effectiveness of their retirement in the case of employees with twenty (20) years up to twenty-three point seventy-five (23.75) years of service, and two (2) year health plan in the case of employees with twenty-four (24) years or more.

Section 5.— Employees who meet the requirements of the Program pursuant to Sections 1 and 2 of this Act shall decide whether or not to avail themselves of the Voluntary Early Retirement Program on or before January 31, 2007. In the cases in which training of the new personnel by employees that have availed themselves of the Early Retirement Plan is required, the latter may be hired by contracts not to exceed 3 months, without being subject to Section 3.7(e) of Act No. 12 of July 24, 1985, as amended, known as the “Ethics in Government Act of the Commonwealth of Puerto Rico.” Once the decision to avail himself/herself of the Voluntary Early Retirement Program is made, it shall be considered as final, definite and irrevocable for all legal purposes.

Section 6.— In cases in which the employee, in order to complete twenty (20) years, needs to accredit services that have not been accredited in the Employees Retirement System Administration of the Government of Puerto

Rico, he/she shall present his/her request to the Retirement Affairs Coordinator of the Puerto Rico Tourism Company before the date of separation from the service. It is further provided, that the employees may use the accrued sick leave and vacation leave to calculate the months that they might need to complete the retirement requirements provided by this Act in order to avail themselves of said window, provided that it is requested on or before the date of separation from the service. To such effects, every twenty (20) days accrued shall equal one month of work.

The Retirement Affairs Coordinator of the Puerto Rico Tourism Company shall certify to the Retirement System that the non-certified services have been presented while the employee is still in active service.

The Administrator of the Retirement System shall accept payment for non-certified services made by the employee, even when said employee is not in active service, provided that he/she receives the Certification of the Coordinator. The effective date of the pension shall be the day following the separation from the service, even if the employee has not finished paying the non-certified services.

Section 7.— The actuarial cost of the pensions provided in this Act determined by the Administrator of the Retirement System Administration of the Government of Puerto Rico shall be totally paid by the Puerto Rico Tourism Company to the Retirement System Administration prior to the implementation of the Voluntary Early Retirement Program. Said actuarial cost shall consist of the difference between the present value of the accelerated pension provided in this Act and the present value of a pension for years of service under the provisions of Act No. 447 of May 15, 1951, as amended, and in accordance with the provisions set forth herein. It is further provided, that the Puerto Rico Tourism Company shall annually compensate

the Retirement System Administration for expenses incurred for the administration of the Voluntary Early Retirement Program authorized by this Act. The funds for the payment of the Voluntary Early Retirement Program shall originate from the Puerto Rico Tourism Company, therefore the resources of the General Fund of the Commonwealth of Puerto Rico shall not be encumbered. Nor may a debt be issued for the payment of the Retirement Program authorized herein.

Section 8.— If the payment made by the Tourism Company de Puerto Rico, in accordance with Section 7, is greater than the actuarial cost, the Retirement System Administration shall reimburse the excess of the amount paid to the Puerto Rico Tourism Company within a period of not more than thirty (30) days as of the date of effectiveness of the Program. If, to the contrary, the payment made by the Puerto Rico Tourism Company were insufficient, the same shall issue a payment for the additional cost certified by the Retirement System Administration within a period of not more than thirty (30) days as of the date of effectiveness of the Program.

Section 9.— All of the provisions of Act No. 447 of May 15, 1951, as amended, not in conflict with this Act shall apply to the Voluntary Early Retirement Program authorized herein.

Section 10.— The Puerto Rico Tourism Company shall be responsible for the payment of any new benefit granted by law to the pensioners who have avail themselves of this Early Retirement Plan.

Section 11.— The provisions of this Act shall also be extensive to those employees who, at the date of effectiveness of the same, have availed themselves of any type of leave, pursuant to the Regulations of the Puerto Rico Tourism Company, collective bargaining agreements, or statutes that may apply.

Section 12.— The Puerto Rico Tourism Company, in coordination with the Retirement System Administration, shall provide to all its employees who qualify for the Voluntary Early Retirement Program an orientation about the benefits and criteria thereof.

Section 13.— At the end of this process, the Puerto Rico Tourism Company shall send to the Legislature a copy of the transactions conducted by it pursuant to this Act or of the administrative activities of the Corporation.

Section 14.— This Act shall take effect on January 31, 2007. Nevertheless, the effectiveness of this Act is hereby conditioned to whether the Puerto Rico Tourism Company has procured and paid from its own budget the contracting of an independent firm to conduct an actuarial study and whether the same shows that:

- (a) The Company is able to defray, from its own funds, the annual compensation to the Retirement System Administration the expenses incurred in the implementation of the Voluntary Early Retirement Program authorized by this Act, without encumbering the resources of the General Fund of the Commonwealth of Puerto Rico; and
- (b) without having to issue a debt for the payment of the Retirement Program authorized herein.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 273 (H.B. 2689) of the 4th Session of the 15th Legislature of Puerto Rico:

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

In San Juan, Puerto Rico, today 31st of October of 2007.

Francisco J. Domenech
Director