

(H. B. 3648)

(No. 283)

(Approved December 28, 2011)

AN ACT

To provide for the holding of a plebiscite on the Political Status of Puerto Rico to be conducted on November 6, 2012, along with the General Election; to determine its structure and operation; to appropriate funds; and for other related purposes.

STATEMENT OF MOTIVES

Since 1898, as a result of the Spanish American War, the United States exercises sovereignty over Puerto Rico as provided in the Treaty of Paris approved between President William McKinley and King Alfonso XIII of Spain (30 Stat 1755); and ratified by the Senate of the United States of America on April 11, 1899. Article 9 of said Treaty sets forth that “**the civil rights and political status of the native inhabitants of Puerto Rico shall be determined by Congress.**” [Emphasis supplied.]

Presently, the United States Congress continues to enforce the policy set forth in the Treaty of Paris pursuant to the Territory Clause of the Constitution of the United States (Art. 4 Section 3.2), which establishes that Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

In accordance with the Federal Law passed on March 2, 1917 (39 Stat. 951, Chapter 145), known as the Jones Act, the United States Congress provided for Puerto Rico a civil government of the colony or unincorporated territory, and declared by virtue of said Act, that the inhabitants of Puerto Rico shall be citizens of the United States of America with civil rights and the political status determined by the United States Congress, consistent with an unincorporated territory.

On July 3, 1950, President Harry S. Truman signed Federal Law No. 81-600, granting Puerto Ricans the right to draft their own constitution to govern internal affairs of the Government of Puerto Rico. A plebiscite was held on June 4, 1951, in connection with Act No. 81-600, whereby the People would accept or reject the terms of such Act. On that plebiscite, 34.91% of qualified voters abstained from participating and 387,016 voters ratified Act 81-600 (49.7% of qualified voters). Subsequently, an election to choose the delegates to the Constitutional Convention was held.

The election of delegates to the Constitutional Convention, in which 45.17% of qualified voters abstained from voting, was held on August 27, 1951. In said election of delegates, only the Popular Democratic Party (PDP), the Puerto Rico Statehood Party (PSP), and the Socialist Party participated; the Puerto Rico Independence Party abstained from participating and made a campaign to advocate for abstention in the election of the delegates to such Convention. Ninety-two delegates to the Convention were chosen, to wit: 70 from the PDP, 15 from the PSP, and 7 from the Socialist Party. The Constitutional Convention met from September 17, 1951, to February 6, 1952.

On March 3, 1952, a plebiscite was held to ratify the Constitution approved by the Constitutional Convention. At said plebiscite, 41.61% of qualified voters abstained from voting, according to Report 82-1832 of the United States House of Representatives.

On July 3, 1952, the United States Congress passed Joint Resolution 430, which ratified, with amendments, the Constitution of Puerto Rico. Among the amendments unilaterally made by Congress, was the elimination of Section 20 of the Bill of Rights. The Constitutional Convention accepted the congressional amendment without consulting the people for them to ratify or reject the Constitution as amended by Congress.

The Constitution of Puerto Rico establishes a structure of self-governance with regard to the internal affairs and administration of the local government, subject to the Constitution of the United States and the applicable Federal Laws. **However, Act No. 600 did not create a new political status for Puerto Rico. It simply authorized the people of Puerto Rico to draft their own Constitution, which was to become effective upon approval by the Congress.**

Section 3 of Act 600 of July 3, 1950, provides that: "...Upon approval by Congress, the Constitution shall become effective in accordance with its terms." This by no means implies that Congress has relinquished its plenary powers over Puerto Rico. It simply authorizes the people of Puerto Rico to organize their internal government, but did not alter the political relationship between Puerto Rico and the U.S.A.

Section 4 of Act 600 clearly provides that the Jones Act (passed on March 2, 1917) continues in effect under the name of "Federal Relations Act." Several sections related to the authority of the President of the United States of America to make appointments, which was transferred to the Governor of Puerto Rico, were repealed. Furthermore, the procedure whereby Congress reviewed the laws approved by the legislature, particularly on those occasions in which the Legislative Assembly of Puerto Rico approved a law overriding the Governor's veto, was also eliminated.

During the approval process of Act 600, it was emphasized that the political status of Puerto Rico did not change. On May 16, 1950, Resident Commissioner Fernós-Isern stated before the United State House Committee on Public Lands, the following:

H.R. 7674 would not change the status of the island of Puerto Rico relative to the United States...It would not alter the powers of sovereignty acquired by the United States over Puerto Rico under the terms of the Treaty of Paris. It would recognize, within the present fundamental relationships [sic] existing between Puerto Rico and the United States, **the right of the Puerto Rican community of American citizenry to organize itself for purposes of local government**, in accordance with its own determination¹. (Emphasis supplied).

The United States House of Representatives report attached to Senate Bill 3336 dated June 19, 1950, establishes "...It is important that the nature and general scope of S. 3336 be made absolutely clear. **The bill under consideration would not change Puerto Rico's fundamental political, social, and economic relationship to the United States...**"(House of Representatives Report No. 2275, Eighty-First Congress, second session, p. 1). The language is clear, with the approval of Act 600, there was no change in Puerto Rico's fundamental relationship to the United States.

For the past decades, we the people of Puerto Rico have sought alternatives to define permanently our relationship with the United States of America to achieve a non-territorial or colonial status. Since 1952, when Congress authorized the creation of a local Constitution, whereby the name Commonwealth of Puerto Rico was adopted, the dissatisfaction of Puerto Ricans due to the lack of opportunities for social, political, and economic development that are inherent to our present juridical relation is becoming greater. The several plebiscites that have been held in Puerto Rico, authorized by local legislation, have shown that support to the present juridical relationship has decreased from 60.5% in 1967 to 48.6% in 1993. Moreover, in the 1998 plebiscite, most Puerto Ricans reasserted their discontent with the current political situation. In view of the fact that the term Commonwealth has been commonly used when referring to the present territorial

¹ Puerto Rico Constitution, Hearings before the Committee on Public Lands [of the] House of Representatives, Eighty-First Congress, on H.R. 7674 and S. 3336—To provide for the Organization of a Constitutional Government by the People of Puerto Rico, page 63

status of Puerto Rico, and with the sole interest of rendering the text of this statute simpler, it is used herein to identify such status.

After various attempts to reach an agreement on the most adequate manner to address the issue of the political status, in 2005, all political parties represented in the Legislative Assembly of Puerto Rico reached a historical agreement which led to the unanimous approval of a bill that would make a consultation to the People of Puerto Rico on its political future feasible. The Substitute Bill for House Bills 1014, 1054, and 1058 authorized the holding of a plebiscite whereby Puerto Ricans would have the opportunity to express whether or not they agreed to urge the President and the Congress of the United States to commit themselves to answer the claim of the People of Puerto Rico to resolve the political status issue from fully democratic non-territorial and non-colonial alternatives. Regardless of its unanimous approval in the Legislative Assembly, it was vetoed by the then Governor.

On December of that same year, the President's Task force on Puerto Rico's Status (Task Force) created by the White House by Executive Order signed by President William J. Clinton in 2000, which continued to operate during the administrations of Presidents George W. Bush and Barack Obama, submitted its first report in which it made various recommendations on how to resolve the political status issue of Puerto Rico. In such December 2005 report, the Task Force unequivocally stated that under the Commonwealth, Puerto Rico is subject to the plenary powers of Congress, under the Territory Clause of the United States Constitution. Likewise, the Task Force stated that the "New Commonwealth" supported by some sectors, was not constitutionally viable.

The main recommendation on that first report of the Task Force was that within a year, Congress should provide for a first plebiscite in which the people of Puerto Rico would be asked whether they wished to remain a U.S. territory subject

to the Territory Clause or to pursue a permanent non-territorial, non-colonial status. If, according to the report, the second option were to be selected, an additional plebiscite would be held to select between statehood and independence, which according to the Task Force's report, are the only two constitutionally viable options. It should be mentioned that the report itself recognizes that there is a variety of independence models, to wit, traditional independence, such as the case of the Philippines, or independence by means of a compact of free association, such as that between the United States and various Pacific islands. Should the people of Puerto Rico elect in the first plebiscite to remain as a territory, the report recommended that a plebiscite occur periodically to keep Congress informed of the people's wishes, until a result in favor of any of the non-territorial options is obtained.

The Task Force submitted a second report in December 2007, in which it reiterated its prior conclusions in the 2005 report. With respect to the constitutional viability of the "New Commonwealth," the Task Force stated: "The U.S. Constitution would not permit the 'New Commonwealth' proposal because land under the United States sovereignty must either be a State or a Territory." (See President's Task Force Report on Puerto Rico's Status of December 2007, page 6.) However, the report concludes that a form of independence such as free association may come close to the relationship that advocates for the "New Commonwealth" seemingly desire outside of the Territory Clause. In this case, the report indicates that such compact of free association may be unilaterally varied by any of the parties thereto. (See President's Task Force Report on Puerto Rico's Status of December 2007, page 8.) As to the manner of resolving the status issue, the Task Force reiterated its prior recommendations for the holding of two plebiscites as provided in its first report. The report reiterated that there are only three options available for the future political status of Puerto Rico: To continue as a territory,

statehood, and independence. As mentioned above, the report recognizes free association as a form of independence.

Since the beginning, the administration of President Obama has stated its commitment to allow the people of Puerto Rico to determine the political future of the Island and to resolve Puerto Rico's political status during the current administration. Pursuant to such commitment, on October 30, 2009, President Obama signed Executive Order Number 13517, to order the Task Force to seek advice and recommendations on policies that promote job creation, education, health care, clean energy, and economic development on the Island, while primarily focusing on the status issue. (See President's Task Force Report on Puerto Rico's Status of March 2011, page 3.)

Pursuant to the duties and responsibilities established by the abovementioned Executive Order, the Task Force convened in December 2009. As part of its work, it organized two public hearings in San Juan and Washington, D.C. (See President's Task Force Report on Puerto Rico's Status of March 2011, page 3.) During said hearings, a broad cross section of voices on the issues of status and economic development was heard. Furthermore, hundreds of citizens from Puerto Rico and the mainland offered input through regular and electronic mail. Members of the Task Force also met with congressional leaders, Puerto Rican elected officials and other interested parties. (See President's Task Force Report on Puerto Rico's Status of March 2011, page 3.)

After obtaining feedback from all interested parties, on March 16, 2011, the Task Force submitted a new report, which contained recommendations on the abovementioned areas. Even though such report addressed different areas, such as economic development, and the cleanup of Vieques, it was mainly focused on the status issue. (See President's Task Force Report on Puerto Rico's Status of March 2011, page 3.) The Task Force Report indicated that the public hearings and meetings held revealed that status remains an issue of overwhelming importance to the people of Puerto Rico. Therefore, it committed to taking a fresh look at issues related to status and to "moving resolution of the status issue forward in a meaningful way with the goal of resolving it on a short timetable" (See President's Task Force Report on Puerto Rico's Status of March 2011, page 25.)

Once again, the Task Force firmly stated that "[u]nder the Commonwealth option Puerto Rico would remain, as it is today, subject to the Territory Clause of the U.S. Constitution." (See President's Task Force Report on Puerto Rico's Status of March 2011, page 28.)

It is worth mentioning that this statement is sustained by the Constitution of the United States and of Puerto Rico, as well as by applicable law. In what pertains to this issue, the Constitution of the United States sets forth that: "Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States" Article IV, Section 3 of the United States Constitution.

Based on this constitutional provision, the United States Congress has regulated the jurisdiction of Puerto Rico pursuant to the Territory Clause. For example: Section 1 of the Puerto Rico Federal Relations Act provided, among other things, that:

The provisions of this Act shall apply to the Island of Puerto Rico and to the adjacent islands belonging to the United States and waters of those islands; and the name Puerto Rico as used in this Act shall be held to include not only the island of that name but all the adjacent islands as aforesaid. 1 L.P.R.A. Federal Relations Act.

Furthermore, the Constitution of Puerto Rico in its Article VII, Section 3, provides:

Any amendment or revision of this Constitution shall be consistent with the resolution enacted by the United States Congress approving this Constitution, with the applicable provisions of the Constitution of the United States, with the Puerto Rico Federal Relations Act and with Public Law 600, Eighty-First Congress, adopted in the nature of a compact.

Puerto Rico's subjection to the Territory Clause of the United States Constitution has been reaffirmed by the Congressional Research Service as recently as June 2011, by Opinions of the U.S. Department of Justice and the unequivocal ruling of the United States Supreme Court about the territorial nature of the relationship between the United States and Puerto Rico in *Harris v. Rosario*, 446 U.S. 651 (1980). In this case, the U.S. Supreme Court held that Congress has the authority to exercise its powers over Puerto Rico pursuant to the Territory Clause, and may treat Puerto Rico differently from states.

The Task Force was emphatic in establishing that the people of Puerto Rico should determine by themselves the future status of the Island. Moreover, the Task Force recommended that "the President and Congress support any fair, transparent and swift effort that is consistent with and reflects the will of the people of Puerto Rico." (See President's Task Force Report on Puerto Rico's Status of March 2011, page 26.) Based on the information gathered, the Task Force issued its recommendations on the permissible status options. On this matter, it concluded that there are four permissible status options: (1) Statehood, in which Puerto Rico would be entitled to full representation in Congress, would be permitted to participate in the Presidential Elections, and would be eligible to receive Federal

economic assistance identical to that granted to other States; (2) Independence, which would require Congress to pass specific legislation to provide for the transition of Puerto Rico to a fully sovereign country and a significant period to address issues such as U.S. citizenship, possible restrictions on travel to the mainland, immigration regulation, security arrangements, and any necessary economic aid; (3) Free Association, a type of independence followed by a compact of free association that would establish a mutual agreement that the United States and Puerto Rico are closely linked in specific ways as detailed in the compact and either nation can unilaterally alter or terminate the association; and, lastly, (4) the current Commonwealth, under which option Puerto Rico would remain, as it is today, subject to the Territory Clause of the U.S. Constitution. (See President’s Task Force Report on Puerto Rico’s Status of March 2011, pages 26-28.) Thus, the Task Force concluded that the options available to the people of Puerto Rico are: to keep their current political situation under the Commonwealth subject to the Territory Clause or to opt for any of the non-colonial formulas internationally recognized— statehood, independence, and free association.

On the matter of the definition of Commonwealth, the Task Force was clear by stating that the concept “enhanced” Commonwealth, based on the establishment of a relationship between Puerto Rico and the United States that can not be altered except by mutual consent, is not constitutionally viable because a future Congress could choose unilaterally to alter that relationship. (See President’s Task Force Report on Puerto Rico’s Status of March 2011, page 28.)

The Task Force also issued recommendations with regard to the methods that might be used to resolve the political status issue. With regard to the eligibility to participate in the process, the Task Force was emphatic in that only residents of Puerto Rico should be eligible to vote. (See President's Task Force Report on Puerto Rico's Status of March 2011, pages 28-29.) The Task Force's report summarized some of the methods that might be used to resolve the political status issue. These alternatives are mere recommendations and shall not be construed as a limitation to the People of Puerto Rico's right to self-determination. This was reaffirmed by President Barack Obama himself during his visit to Puerto Rico on June 14, 2011.

In the section of the report that addresses this matter, the various voting methods or plebiscites that may be used are discussed. The Task Force specifically discussed the positives and negatives of holding a single plebiscite as opposed to holding two plebiscites on different dates.

On the one hand, the greatest benefits of holding a single plebiscite, as the report states, are simplicity, lower cost, and quicker outcome. However, it recognizes that the process may result in a fractured vote that would not provide a clear and accurate outcome, as it has happened in the past with this kind of single plebiscite. (See President's Task Force Report on Puerto Rico's Status of March 2011, page 29.) On the other hand, the Task Force mentions several plebiscite methods, which in its judgment may reach a fair and legitimate outcome. In all methods mentioned in the report, the first plebiscite would narrow the options and the second would make a final decision.

Among the options discussed, the report mentions the plebiscite system provided in H.R. 2499. Said bill proposed the holding of two plebiscites. In the first plebiscite, the people of Puerto Rico would choose between the current political status and a different political status outside of the Territory Clause. In the second plebiscite, assuming that the other political status option wins, the people of Puerto Rico would vote on three options: statehood, independence, and free association. Even though the Bill was amended to include the current political status in the second plebiscite, due to objections to the bill by certain sectors, the report did not dismiss this option outright, but rather, this option was kept among the possible alternatives available to the People of Puerto Rico to exercise their right to self-determination. (See President's Task Force Report on Puerto Rico's Status of March 2011, page 30.) In fact, H.R. 2499, as amended, was passed by the Federal House, but did not pass in the United States Senate. Furthermore, it would be contradictory and futile to include in the second plebiscite provided in H.R. 2499, which contains non-colonial, non-territorial options, an option that is subject to the United States Territory Clause that has been rejected in the first plebiscite.

Another option suggested by the report would be to change the order of plebiscites. Likewise, having a plebiscite that requires the people of Puerto Rico to choose whether or not they wish to be part of the United States has "certain appeal" as stated by the Task Force. According to the report, a process like this would address the "core question" of whether or not the people of Puerto Rico would prefer to remain part of the United States. (See President's Task Force Report on Puerto Rico's Status of March 2011, page 30.) The report, however, is not clear as to the meaning or the legal or political consequences of the concept or phrase "to be part of the United States."

It should be mentioned that the report recognizes that there are various methods to reach a fair and legitimate outcome and that its recommendations are not the sole method for reaching such outcome. (See President's Task Force Report on Puerto Rico's Status of March 2011, page 26.) In fact, the report explicitly mentions several of these other options. Moreover, the President emphasized that what is important is that the people of Puerto Rico make a clear decision. The President held that such decision may be made through any of the methods mentioned in the report, which, according to the President, may be modified, or through any other method that may lead to reach a fair and legitimate outcome.

This Legislative Assembly is committed to make a self-determination process feasible, which enables the People of Puerto Rico to decide freely on their political future and their relationship with the United States of America. Pursuant to this, we deem it necessary to pass legislation in order to begin a decolonization process whereby the will of our people is ascertained and to urge the President and the Congress of the United States to honor and make their will feasible. The process to be used should be encompassing and comprehensive. For such reason and with the firm purpose of resolving the status issue through a fair and equitable process, acceptable to all parties having a genuine interest in addressing the status issue, this Legislative Assembly shall enact a measure after listening directly to the People of Puerto Rico, through an ample public hearing process to be held in various areas of the Island in order to ensure the highest level of citizen participation. When drafting such legislation, we should follow various guiding principles that we consider to be fundamental and that are also included, to a great extent, in the three reports issued by the White House Task Force.

Firstly, we believe that the process should be comprehensive, so as to allow the fullest participation of Puerto Ricans, regardless of their status of preference. Secondly, the process shall be simple and make a clear expression of our people

feasible. Furthermore, it is convenient to take into account past experiences and learn from the success and failure of previous plebiscites on status at both the Federal and the local levels. In this manner, and recognizing the value of the reports rendered by the President's Task Force on Puerto Rico's Status, we should take the recommendations included in said reports as starting point. Certainly, as stated by President Obama during his recent visit to Puerto Rico, the recommendations included in said reports are guidelines that may be modified and improved. After all, what is important is to make the clear expression of our People feasible through a fair and legitimate outcome.

Pursuant to the above, this Legislative Assembly hereby proposes to combine some of the options proposed by the Task Force, so that the strengths of each one of them may be maximized and the expected consensus achieved. Thus, we deem it convenient to adopt the alternative proposed by the Task Force regarding a two-question plebiscite, so that, instead of holding two plebiscites on different dates, a single plebiscite consisting of two questions be held on the same date.

In the first question the People shall answer, yes or no, to whether or not Puerto Rico should continue to have its present form of political status subject to the Territory Clause of the United States Constitution. In the second question, voters shall select from permanent, non-colonial, non-territorial options. In this manner, we address the claim for an inclusive process without excluding any significant sector. The process herein proposed shall allow the People to choose between whether or not they wish to continue to have their current Commonwealth status, subject to the Territory Clause, and which of the non-territorial, non-colonial options they prefer.

The manner in which votes are ordered is certainly a delicate subject that could be subject to criticism by some sectors, regardless of the chosen order. In fact, the vote order, which, according to the Task Force, has a “certain appeal,” could leave an option with significant support out of the second plebiscite. That is, under this method, in the first plebiscite the Statehood option and some sectors advocating for the current Commonwealth would be competing against the Independence and the Free Association options. In theory, an option that could have a significant support, even greater than that of any of the options available in the second plebiscite could be left out from the second plebiscite, should they be presented in an individual, rather than in a grouped manner. Therefore, we conclude that presenting all options in the plebiscite shall guarantee a fair process, with opportunities for all sectors. This process would be comprehensive and equitable. The voting order chosen for this process only answers to what this Legislative Assembly believes to be the core question; for such reason that will be the first question to be answered by the People of Puerto Rico. That is to say, whether or not Puerto Rico should continue to have its present form of status under the Territory Clause. Any process geared toward resolving the political future of Puerto Rico predicates on the premise that the current situation has no longer the support of the majority of our people; therefore, the President and Congress must act upon our claim to change it. The fundamental issue is to ascertain whether the people of Puerto Rico are unsatisfied with the territorial, Commonwealth status, and, if, as a result, they wish to choose from other options.

In accordance with the foregoing, the holding of a plebiscite is hereby directed, in order for the People of Puerto Rico to express their will in a single election event, so as to ascertain, firstly, whether they wish to continue to have their present political status, under the Territory Clause of the United States Constitution. Secondly, voters shall answer which of the options they prefer from

among Statehood, Independence, or Free Associated Sovereign State outside of the Territory Clause of the United States Constitution, as defined by the Popular Democratic Party in its Government Program in effect, and approved by the official bodies of such party.

In the judgment of this Legislative Assembly, the process provided for herein is within the parameters outlined by the Task Force in its reports and shall make a fair and legitimate result feasible, with a clear expression of the People of Puerto Rico, just as the President has requested. The selected process combines some important elements from the alternatives proposed by the Task Force, addresses the concerns stated by its members about each one of such alternatives, and maximizes their strengths. On the one hand, by including two questions in the same plebiscite on the same date and in one single ballot, a simpler, less costly process is guaranteed. It also guarantees the possibility of obtaining quicker results, without overwhelming the people by conducting additional and unnecessary processes. On the other hand, the manner in which the questions are to be made will result in fairer and clearer answers. By holding a single plebiscite, we will know clearly, firstly, if our people wish to keep their present territorial status, and secondly, which of the options to provide the People of Puerto Rico with a non-territorial, non-colonial status has the support of the majority of the People.

Including the current territorial status in the first question gives those who wish to advocate for such political status the opportunity to vote for such option and to ascertain the support of our People for such option. The claim not to exclude any of the options from the ballot is thus addressed.

The process herein provided seeks to be equitable, comprehensive, and fair. It addresses the concerns stated by the Task Force in its most recent report, which indicates that in any plebiscite conducted, the people of Puerto Rico should have the opportunity to choose to keep their present Commonwealth status.

Furthermore, in order to be as inclusive as possible and not to exclude any significant sector from the process, voters shall have the opportunity to vote for a status entitled Free Associated Sovereign State, outside of the Territory Clause of the United States Constitution, as consigned in the Government Program of the Popular Democratic Party in effect and reaffirmed in its official document entitled “Pacto de Futuro: Contrato Social para la Transformación de Puerto Rico”. [Compact of the Future: Social Contract for Puerto Rico’s Transformation, translation supplied]. Said alternative has been framed in Resolutions of the United Nations Organization (UNO), which recognize statehood or integration, independence, or any other arrangement, by mutual agreement between sovereign nations. This option shall comply with the International Law norms on sovereign equality.

Lastly, it is hereby provided that the plebiscite on status for the people of Puerto Rico shall be held on November 6, 2012, along with the general election.

The holding of a plebiscite along with the general election has several advantages. First, it promotes greater participation by the people of Puerto Rico, since, normally, voter participation in the general election in Puerto Rico is considerably higher than in processes held on other dates. Second, it is less costly for the People of Puerto Rico, since the same resources employed by the Commonwealth Election Commission for the general election may be used. It will simply add an additional ballot and make a few minor adjustments that do not entail significant costs. Furthermore, this process prevents the People from being overwhelmed by electoral processes. The date November 2012 would provide sufficient time to orient the people about the plebiscite. Finally, with this Act, we fulfill our commitment to the People of holding a plebiscite whereby they shall express their status of preference during the present government administration. Officials elected in November 2012 shall also receive a clear mandate by the

People to resolve the status issue pursuant to this plebiscite and take the necessary steps toward achieving such resolution from the first day they hold their new office. Likewise, an official notice of the results shall be remitted to the members of Congress elected on November 2012 and the new President in order for them to act in accordance with the expressed will of the People of Puerto Rico.

This Legislative Assembly is fully convinced that this Act is an important step forward to resolve once and for all the century-old issue of Puerto Rico's political status. This measure establishes a process that includes and combines the most important elements of the President's Task Force Reports on Puerto Rico's Status and other proposals of the major political parties in Puerto Rico. In addition, it is the result of the dialogues promoted by the Governor of Puerto Rico among major political parties, in order to reach consensus on this subject matter. This process shall provide the people of Puerto Rico with a unique opportunity to convey a clear message to the United States President and the Congress on how we wish to resolve the status issue and define our relationship with the United States.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- In order to establish an effective process that allows the People of Puerto Rico to express their will with respect to the issue of Puerto Rico's status in a fair, transparent, and swift manner, a plebiscite shall be held on November 6, 2012, along with the general election. The process shall consist of two questions on the same ballot. Both questions are listed below:

- (a) First Question: The People shall vote on the question of whether or not Puerto Rico should continue to have its present form of political status. The first question shall read as follows:
“Instructions: Mark your option of preference. Those ballots with more than one (1) mark in this Section shall not be tallied.

Do you agree that Puerto Rico should continue to have its present form of territorial status?

Yes _____ No _____.”

(b) Second Question: The People shall vote to choose from among the non-territorial options: Statehood, Independence, or Free Associated Sovereign State. The second question shall read as follows: “Instructions: Regardless of your selection in the first question, please mark which of the following non-territorial options would you prefer. Those ballots with more than one (1) mark in this Section shall not be tallied.

(i) Statehood: Puerto Rico should be admitted as a state of the United States of America with rights, benefits, and responsibilities equal to those enjoyed by all other states of the Union, and be entitled to full representation in Congress and to participate in the Presidential elections, and the United States Congress would be required to pass any necessary legislation to begin the transition into Statehood. If you agree, mark here_____.

(ii) Independence: Puerto Rico should become a sovereign nation, fully independent from the United States and the United States Congress would be required to pass any necessary legislation to begin the transition into the independent nation of Puerto Rico. If you agree, mark here_____.

(iii) Free Associated Sovereign State: Puerto Rico should adopt a status outside of the Territory Clause of the Constitution of the United States that recognizes the sovereignty of the People of Puerto Rico. The Free Associated Sovereign State would be

based on a free and voluntary political association, the specific terms of which shall be agreed upon between the United States and Puerto Rico as sovereign nations. Such agreement would provide the scope of the jurisdictional powers that the People of Puerto Rico agree to confer to the United States and retain all other jurisdictional powers and authorities. If you agree, mark here _____.”

Section 2.- The Commonwealth Election Commission shall design and print the ballot to be used, which shall be of a uniform size, in English and Spanish, printed black ink on heavy paper, so that what is printed thereon does not show through to the back, so that it can be tallied electronically by the electronic canvass system to be used in the general election of November 6, 2012. The ballot shall bear the following full-width heading at the top:

“Plebiscite on the Political Status of Puerto Rico”

Below, and on the upper half of the ballot, a space for the first question shall be provided. The question, as provided in Section 1 of this Act, shall be printed thereon, with a space for the voter’s mark below.

On the lower half of the ballot, from top to bottom, a space shall be provided for the second question. There shall be printed three (3) side-by-side columns, in bold, for each one of the permanent status options, along with the definition of each one of them, pursuant to Section 1 of this Act, and the symbol or logo selected by the certified representative of the option, which shall be selected pursuant to the procedure to be established by the Commonwealth Election Commission. Below a space shall be provided for the voter to make his/her mark. The order of each one of the options shall be established by a draw administered by the Commonwealth Election Commission, as provided in Section 3 of this Act.

Section 3.- A draw, to be administered by the Commonwealth Election Commission to determine the order in which the options of the second question shall appear, shall be conducted not before the first of May nor later than the twentieth of May 2012. Such draw shall be conducted in the presence of the representatives of each one of the status options, if, as of said time, they have been certified as provided in this Act.

Section 4.- The Commonwealth Election Commission shall announce the plebiscite through a proclamation, which shall be published not less than sixty (60) days before the holding thereof, in three (3) newspapers of general circulation in Puerto Rico.

Section 5.- Eligibility to vote: All residents of Puerto Rico duly qualified as voters, in accordance with Act 78 - 2011, known as the “Election Code for the 21st Century” (hereinafter the “Election Code”), shall be entitled to vote in the plebiscite.

Section 6.- Voters that according to the Election Code are entitled to absentee or early voting, shall have the right to do so pursuant to the procedures adopted by the Commonwealth Election Commission for the 2012 General Election.

Section 7.- Parties, Major Parties, and parties by petition that pursuant to the Election Code are duly registered and certified by the Commonwealth Election Commission as of the effective date of this Act, may participate in the plebiscite in official representation of one option or combination thereof, provided that their central governing entities report their intent in writing to the Commonwealth Election Commission on or before February 15, 2012. Failure to notify such intent within such term shall result in the loss of the preferential right to support the option in question. If the central governing body of any party, major party or party by petition fails to notify the Commonwealth Election Commission as provided in

this Act in representation of one of the options, or after doing so, withdraws from the process or agrees to advocate for or exercise abstention in the plebiscite, the Commonwealth Election Commission shall receive and process petitions and issue certifications crediting any citizen group or political action committee, as defined in the Election Code, to advocate for one of the options rejected or abandoned by any of the parties, major parties, or parties by petition. The citizen group or political action committee shall be certified by the Commonwealth Election Commission for the purpose of becoming the official representative of one status option and receiving appropriations from the fund provided in this Act, if it also meets the following requirements:

- (a) Petition to be certified as the official representative of one of the options or combination thereof within forty-five (45) days counted as of February 15, 2012, or as of the time one of the parties withdraws from the process or agrees to advocates for or exercise abstention in the plebiscite.
- (b) The citizen group or political action committee is duly registered, as required in Act 222 - 2011, known as the “Puerto Rico Political Campaign Funding Oversight Act.”
- (c) At the time of the petition to the Commonwealth Election Commission:
 - (i) such citizen group or political action committee existed and had a public and track record of advocating for the status in question; (ii) it was composed of the its central governing body in part by people affiliated to one or more groups, organizations or entities existing before the submitting the petition and has a public and track record of advocating for the status promoted by the current citizen group or political action committee; or (iii) even if it did not existed as of the effective date of this Act, a substantial number of the members of its

central governing body belonged to any party that has a public and track record of advocating for the status option that they intend to represent during the plebiscite.

- (d) That such citizen group or political action committee wishes to actively participate in the proposed plebiscite, to support the available status formula, and that its central governing body has, in fact, decided to participate in such plebiscite.
- (e) That the citizen group or political action committee representing the available status option notifies to the Commonwealth Election Commission in its written petition the names and addresses of the members that constitute the governing body of said group. The names of the members of the governing body shall appear on the certification issued by the Commonwealth Election Commission, should the petition be approved.
- (f) The petition for the certification of a citizen group or political action committee shall include a list containing a number of endorsements, which shall not be less than one thousand (1,000) qualified voters. Such petition may only be signed by voters entitled to vote and registered with the Commonwealth Election Commission. The Commonwealth Election Commission shall prepare the endorsement petition forms and make them available sufficiently in advance, so that the citizen group or political action committee may be able to comply with the endorsement filing requirement provided herein in a timely manner.
- (g) In the event that more than one citizen group or political action committee complies with the requirements to be duly certified to represent the same available status option, the certification shall be granted to that citizen group or political action committee that first

meets all the requirements herein provided. Provided, however, that no party, major party, party by petition, citizen group or political action committee shall represent, for purposes of this Act, more than one status option as established in the second question.

- (h) The Commonwealth Election Commission shall adopt the norms that shall govern the special form and procedures that shall be observed to implement the provisions of this Section.
- (i) Citizen groups or political action committees may submit their petitions pursuant to this Section, at any time after the approval of this Act. However, said petition shall be considered if the option that the citizen group or political action committee wishes to represent is made available by the parties, major parties, and parties by petition, upon expiration of the term provided in this Act to exercise their preferred right to support one of the options, or if any party, major party, or party by petition, after accepting such option, decides to abandon the process or agrees to advocate for or exercise abstention in the Plebiscite, within more than thirty (30) before the holding thereof.

Section 8.- The Commonwealth Election Commission shall have the responsibility to organize, direct, implement, and oversee the plebiscite provided in this Act, as well as any other function conferred by virtue of this Act or that is necessary to comply with its purposes.

Section 9.- The Commonwealth Election Commission shall adopt the rules that shall govern the plebiscite at least sixty (60) days before the holding thereof. The adoption and amendments to such Regulations shall be made pursuant to the Election Code.

Section 10.-The Commonwealth Election Commission shall organize an orientation and information campaign on the plebiscite to be held, exhorting voters to register and participate; the manner in which voters shall mark the ballot to cast their votes; and the definitions of each one of the options. For such campaign, the Commonwealth Election Commission shall employ all communications media and any available public broadcasting techniques, including electronic media. The campaign shall begin at least sixty (60) days before the date on which the plebiscite is to be held. As part of its information and orientation phase, the campaign shall reproduce verbatim in the media, the definitions of the options, exposing each option equally.

Section 11.- The Chair of the Commonwealth Election Commission shall send a certification of the results of the Plebiscite to the Governor of Puerto Rico, the Legislative Assembly, and the Secretary of State, not later than forty-eight (48) hours after the canvass is completed. The Governor, in turn, shall certify the results of each question separately to the President and to the Congress of the United States. The certification of the Governor shall read: “The People of Puerto Rico have expressed their will, freely and democratically, with regard to the political status of Puerto Rico as follows:_____ (the results of each one of the options given for each one of the two questions of the Plebiscite shall be stated) and the United States Congress and the President are hereby urged to effectively answer to the claim of the People of Puerto Rico to enforce their will.”

Section 12.- The Commonwealth Election Commission shall preserve all the ballots and the poll certificates corresponding to the Plebiscite for a term of not less than ninety (90) days from the date of the certification of the results. Once said term elapses, all ballots may be destroyed, unless a judicial or administrative proceeding is pending, in which case they shall be conserved until the proceeding concludes or the court ruling becomes final and binding.

Section 13.- The sum of two million, five hundred thousand dollars (\$2,500,000) is hereby appropriated to the Commonwealth Election Commission from the General Fund to defray the expenses of holding the plebiscite provided in this Act, to be distributed as follows:

- (a) The sum of two hundred and fifty thousand dollars (\$250,000) for organization and operating expenses related to the holding of the plebiscite.
- (b) The sum of seven hundred and fifty thousand dollars (\$750,000) for expenses related to the orientation and information campaign, as provided in this Act.
- (c) For expenses incurred by parties, major parties, and parties by petition that participate in the process in accordance with Section 7 of this Act and by any citizen group or political action committee duly certified to represent one of the status options, as provided in Section 7 of this Act, the sum of one million, five hundred thousand dollars (\$1,500,000) shall be appropriated, which shall be allotted equally among all duly certified official representatives participating in the plebiscite, regardless of the option or combination of options supported.

Each party, major party, party by petition, citizen group or political action committee duly certified to participate in the second question may represent only one (1) alternative. With regard to the first question, more than one party, major party, party by petition, citizen group or political action committee may represent the same alternative, subject to the provisions of Section 7 of this Act. However, as provided in Section 7 of this Act, only the certified official representative may avail itself of the Fund established in this Section.

Section 14.- Duly certified official representatives may receive private contributions for this plebiscite campaign, provided that the total amount thereof does not exceed the amount received from the Fund created under Section 13 of this Act. The limits herein provided shall be independent from any limits applicable to political parties and their candidates in the general election.

The Department of the Treasury shall create separate accounts to administer the funds received by and campaign expenditures of duly certified official representatives. Duly certified official representatives shall deposit any contribution received in connection with this plebiscite campaign in said account.

Even though duly certified official representatives may begin raising funds for this campaign on a previous date, the resources of the Fund established in Section 13 of this Act shall be available as of the first of July 2012. From said date, the Secretary of the Treasury shall deposit from the Fund herein established the amount corresponding to each official representative and make any necessary disbursements against this Fund, not later than the fifth (5th) working day after the fund request has been submitted together with the necessary documents for the processing thereof.

Section 15.- Any party, major party, party by petition, citizen group or political action committee certified to represent one of the options, as provided in Section 7 of this Act, that has availed itself of the public funding provided in Section 13 of this Act, later withdraws from participating in the plebiscite, or that party, major party, party by petition, citizen group or political action committee that, after accepting the option, decides to abandon the process or agrees to support or exercise abstention in the plebiscite, shall be bound to refund to the Secretary of the Treasury the total amount received plus legal interest. Furthermore, the amounts received and not used for the purposes provided in this Act shall be

returned to the Secretary of the Treasury. The items allotted in this Act shall not be used for elective office or other campaigns or purposes other than those set forth in this Act.

Section 16.- The provisions of the Puerto Rico Political Campaign Funding Oversight Act shall apply to expenditures made and contributions received by political parties, citizen groups or political action committees.

Section 17.- The prohibitions and crimes related to the holding of this plebiscite shall be governed by the provisions of the Election Code and the Puerto Rico Political Campaign Funding Oversight Act, as applicable.

Section 18.- Any judicial review proceeding in connection with the holding of this plebiscite shall be governed by the provisions of the Election Code and the Puerto Rico Political Campaign Funding Oversight Act, as applicable.

Section 19.- The Election Code and the regulations approved by virtue thereof shall be deemed to be supplemental to this Act and its provisions shall apply to all procedures related to the holding of this plebiscite, except when they are incompatible with the provisions established herein. The Commonwealth Election Commission is hereby empowered to adopt any necessary regulations or resolutions to comply with the purposes of this Act fairly and effectively.

Section 20.- If any clause, paragraph, section, or part of this Act were ruled unconstitutional by a competent court, the ruling issued to such effect shall not affect or invalidate any other provisions of this Act. The effect of such ruling shall be limited to the clause, paragraph, section, or part ruled unconstitutional.

Section 21.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 283 (H. B. 3648)** of the **2nd Session of the 16th Legislature** of Puerto Rico:

AN ACT to provide for the holding of a plebiscite on the Political Status of Puerto Rico to be conducted on November 6, 2012, along with the General Election; to determine its structure and operation; to appropriate funds; and for other related purposes.

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

In San Juan, Puerto Rico, on the 7th day of September, 2012.

María del Mar Ortiz Rivera, Esq.
Director