

(S. B. 244)

(No. 16)

(Approved February 17, 2010)

AN ACT

To amend subsection 4 of Section 2.1 of Article 2; subsection 4 of Section 2.2 of Article 2; subsections 2 and 39 of Article 3; subsection 1 of Section 5.4 of Article 5; and subsections 10 and 16 of Section 6.2 of Article 6 of Act No. 184 of August 3, 2004, as amended, known as the “Public Service Human Resources Administration Act of the Commonwealth of Puerto Rico,” so that, before any Individual Administrator adopts any regulations or job classification or appraisal plan, the appraisal and approval of the Office of Human Resources of the Commonwealth is required.

STATEMENT OF MOTIVES

Act No. 184 of August 3, 2004, as amended, known as the “Public Service Human Resources Administration Act of the Commonwealth of Puerto Rico,” redefines the functions conferred to the Office of Human Resources of the Commonwealth, hereinafter ORHELA (Spanish acronym), and strengthens its function as overseer, in order to observe and ensure strict compliance with said Act by Individual Administrators.

The preceding Legislative Assembly deprived Appointing Authorities from years’ worth of information related to the application of essential areas of the Merit Principle when they sought to implement job classification, appraisal plans, or mandatory regulations as dictated under this Act without the expert evaluation and assessment of ORHELA. Consequently, the uniformity that should prevail throughout public service was adversely affected, and the rights of public employees were curtailed. An example of this can be found in the design and

implementation of the Job Classification and Compensation Plan of the Department of Transportation and Public Works, which was under investigation by mandate of Senate Resolution No. 192 of February 16, 2005. By virtue of said investigation, serious deficiencies and irregularities were detected and corrected as a result of the analysis conducted by ORHELA, the entity that has the appropriate expertise on the matter of the Merit Principle.

With the enactment of this measure, this Legislative Assembly shall correct such deficiencies and irregularities by placing ORHELA's experience and expertise in the administration of human resources in public service at the disposal of Individual Administrators.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.—Subsection 4 of Section 2.1 of Article 2 of Act No. 184 of August 3, 2004, as amended, is hereby amended to read as follows:

“Section 2.1.—CONTENTS.—

The public policy of the Commonwealth of Puerto Rico concerning the Human Resources Administration of the agencies covered under this Act is that stated below:

1. (...)
2. (...)
3. (...)

a. To reform the Public Service Human Resources Administration System in order for it to be compatible with the unionization of employees and collective bargaining.

(...)”

Section 2.—Subsection 4 of Section 2.2 of Article 2 of Act No. 184 of August 3, 2004, as amended, is hereby amended to read as follows:

“Section 2.2.—OBJECTIVES.—

The application of the public policy thus stated, seeks to achieve as a goal the highest levels of excellence, efficiency, and productivity in public service, by means of the following objectives:

1. Achieving a human resources management guided by criteria such as uniformity and equity.

(...)”

Section 3.—Subsections 2 and 39 of Article 3 of Act No. 184 of August 3, 2004, as amended, is hereby amended to read as follows:

“Article 3.—DEFINITIONS.—

For all purposes, the words and phrases listed herein shall have the meaning stated below:

1. (...)

2. Individual Administrator.—Means the agency or entity comprised within the Human Resources Administration System, the personnel of which is governed by the merit principle and is administered with the advice, follow-up, and technical assistance of the Office.

(...)

39. Compensation Plans.—Shall mean the systems adopted by Individual Administrators through regulation, as provided in this Act, whereby the compensation for career and trust services are fixed and administered pursuant to the provisions of this Act, regulations, and the agreements reached.

(...)”

Section 4.—Subsection 1 of Section 5.4 of Article 5 of Act No. 184 of August 3, 2004, as amended, is hereby amended to read as follows:

Section 5.4.—RELATIONSHIP BETWEEN THE OFFICE AND INDIVIDUAL ADMINISTRATORS.—

The provisions concerning the relationship between the Office and individual administrators are contained within the text of this Act. The following guidelines shall also govern such a relationship:

1. All Individual Administrators, whether covered or not under Act No. 45 of February 25, 1998, shall adopt for themselves a set of regulations in connection with those areas that are essential to the merit principle, and shall conform to the provisions of this Act. Furthermore, in what concerns personnel excluded from unionization, the regulations shall include all those areas regarding personnel which, even if not essential to the merit principle, are necessary to ensure that the Human Resources Administration System created by virtue of this Act is a modern and fair system that facilitates the application of the principle merit.

Individual Administrators shall submit a set of regulations for the Office's approval, as required in the preceding paragraph. The Office shall have a term of ninety (90) calendar days to issue its approval once the regulations have been received from the Appointing Authority.

(...)"

Section 5.—Subsections 10 and 16 of Section 6.2 of Article 6 of Act No. 184 of August 3, 2004, as amended, is hereby amended to read as follows:

“Section 6.2.—PROVISIONS ON JOB CLASSIFICATION.—

As an effective instrument to attain the implementation of Government programs, each Appointing Authority shall be responsible for establishing and maintaining a rational structure of functions that leads to the greatest uniformity

possible and which serves as a basis for actions concerning personnel. To achieve this purpose, the agencies may use the work analysis and appraisal methods most suitable to their operational functions and organizational reality. When classifying or appraising jobs, the agencies shall comply with the following provisions:

1. (...)

(...)

10. It shall be the responsibility of each Appointing Authority to determine the relative hierarchy among the different job classes or their equivalent in other appraisal plans. These actions shall respond to an internal logic pattern, based on the organization of the agency and the nature and complexity of its functions. The Office shall show deference to the Appointing Authority concerning this element of the Job Classification Plan.

(...)

16. Agencies shall send a copy of all job classification or appraisal plans, as well as the amendments and modifications or actions for maintaining the plan, for evaluation and approval within a term not to exceed ninety (90) calendar days and for its subsequent registration by the Office.”

Section 6.—This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 16 (S. B. 244)** of the **3rd Session of the 16th Legislature** of Puerto Rico:

AN ACT to amend subsection 4 of Section 2.1 of Article 2; subsection 4 of Section 2.2 of Article 2; subsections 2 and 39 of Article 3; subsection 1 of Section 5.4 of Article 5; and subsections 10 and 16 of Section 6.2 of Article 6 of Act No. 184 of August 3, 2004, as amended, known as the “Public Service Human Resources Administration Act of the Commonwealth of Puerto Rico,” so that, before any Individual Administrator adopts any regulations or job classification or appraisal plan, the appraisal and approval of the Office of Human Resources of the Commonwealth is required.

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

In San Juan, Puerto Rico, on the 29th day of June, 2011.

María del Mar Ortiz Rivera, Esq.
Director