

“Bill of Rights of Employee Members of Labor Organizations”

Act No. 333 of September 16, 2004, as amended

(Amendments non-incorporated:
Reorganization Plan No. 2 of July 26, 2010)

To create the Bill of Rights of Employee Members of Labor Organizations.

STATEMENT OF MOTIVES

It is the unavoidable duty of the Government of Puerto Rico to protect our constitutional Labor Laws system contained in Sections 16, 17 and 18 of the Bill of Rights of the Constitution of the Commonwealth of Puerto Rico, which acknowledges the basic rights of our workers.

Historically, the Government of Puerto Rico has maintained an outstanding history of protecting and defending labor-protecting legislation. The question concerning the defense and protection of the rights of public and private workers to assemble in organizations that seek their welfare and the negotiations of employment and labor terms and conditions through representatives chosen and selected freely by the employees and workers themselves has been particularly protected with great institutional zeal.

As a matter of fact, by means of the Labor Relations Act, Act No. 130 of May 8, 1945, as amended, and the aforementioned constitutional precepts, the Government of Puerto Rico has declared collective bargaining agreements and negotiations as instruments of government public policy of high public interest.

Recently, situations whereby the healthy administration of finances of some labor organizations by some of their leaders have been publicly exposed, including the filing of complaints and criminal processing against several leaders of a bona fide employee organization that represents members of the police force.

Indeed, such exposure and complaints have been about isolated actions and behavior that is not at all representative of the general Puerto Rican labor movement, which is usually led by serious and responsible persons who are committed to the labor movement.

The public discussions generated by these complaints and the exposure of the administration of funds by certain labor organizations has brought to the public attention the real and unacceptable fact that within our body of labor laws there is no Bill of Rights for public employees who are members of labor organizations. Such Bill of Rights must protect public workers and employees and guarantee the establishment of a legal framework to promote a high level of excellence in responsibility and ethical conduct in the administration of matters concerning their respective labor organizations, while offering and fostering solid fiduciary relations of trust between the employees and their labor leaders that makes possible labor union democracy and full transparency in the procedures and administration of matters pertaining to labor organizations.

It is urgent and necessary to fill this void in our labor laws. To create this necessary legal device in favor of all public employees who are members of labor organizations, the Legislature believes that it is in the public interest to establish a Bill of Rights which is executable by the corresponding quasi-judicial agencies that oversee and implement policy regarding employee-employer relations and the Courts of Justice in the necessary and appropriate cases.

For said purposes, it is hereby declared as public policy of the Commonwealth of Puerto Rico that the rights of employees who are members of labor organizations shall prevail over the rights and prerogatives of labor organizations.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1. — [Title] (29 L.P.R.A. § 100 note)

This Act shall be known as the Bill of Rights of Employee Members of Labor Organizations.

Section 2. — **Definitions:** (29 L.P.R.A. § 100)

The following words and phrases shall have the following meanings:

- (a) “Labor Organization” shall mean any organization that represents or intends to represent employees or any group of employees acting in concert or a group in which employees participate and which exists for that purpose, in whole or in part, to deal with an employer regarding the protection of rights or to promote the wellbeing of employees with respect to complaints and grievances, employment classifications, and work schedules and/or conditions not covered by Federal Law 86-25 of September 14, 1959, as amended, and better known as the Landrum Griffin Law, including labor organizations that operate under Act No. 45 of February 25, 1998, Act No. 130 of May 8, 1945 and the bona fide public employee organizations and associations that operate under Act No. 134 of July 19, 1960, Act No. 139 of June 30, 1961, and those organizations that represent public employees, among other things, ensuring the wellbeing and improvements in the working conditions of the public employees by virtue of any special law.
- (b) “Board” shall mean the Labor Relations Board created by Act No. 130 of 1945, as amended.
- (c) “Commission” shall mean the Public Service Labor Relations Commission created by Act No. 45 of 1998.
- (d) “Employee” shall mean an employee who is an accredited member of a labor organization, as this term is defined herein.

Section 3. — **The Bill of Rights of Employee Members of Labor Organizations:** (29 L.P.R.A. § 100a)

To guarantee free association and participation for all persons within a labor organization, the following are hereby declared to be protected rights and prerogatives of high public interest for all labor organization members:

1. The right to elect by direct, individual and secret vote the directors of the labor organization on all levels provided by the pertinent charter and/or bylaws as subject to election by the members of the organization.
2. The right to nominate candidates to directing offices and positions and to aspire to any elective office or position in the organization, if in compliance with the requirements established by regulations pursuant to law to run for and aspire to a candidacy.
3. The right to effective participation in the affairs and activities of the organization and to the free expression of ideas, arguments and opinions on any matters concerning the labor organization.
4. The right to be consulted with respect to the establishment, increase or modification of membership dues and/or the deduction of contributions, donations and/or special or extraordinary apportionments for fixed or provisional terms through direct, individual and secret vote in assemblies and/or special referendums convened for such purposes and duly supervised by the Department of Labor.
5. The right to have the disciplinary procedures of the organization in compliance with the due process of law including, among other rights, the notification of specific charges in writing; the opportunity to a defense, per se or by a representative, and the opportunity to present witnesses or documents for their defense in a hearing.
6. The right to be exempted from or protected against sanctions, penalties or acts of undue pressure, coercion, persecution, reprisals or disciplinary measures for establishing or filing any grievances or legal procedures against the labor organization or any of its representatives, directors or employees before any administrative, judicial or legislative forum, for matters, conduct or activities liable to prosecution, hearing, settlement and/or investigation for it being understood in good faith that they have been carried out against the applicable laws, norms or regulations of the organization, or for appearing as a witness in any proceeding held in any of the aforementioned forums to which the member has been duly summoned to appear.
7. The right to receive a copy of the Charter and Bylaws of the Labor Organization and of the collective bargaining agreements, letters or contract agreements negotiated and executed with the employer and if so requested, a copy of any special agreement or stipulation granted as a consequence of any negotiation with the employer other than the Collective Bargaining Agreement negotiation, or the letter or contract agreement.
8. The right to receive a financial report of the economic and financial activities and operations of the organization signed by the treasurer of the organization on or before August 20 of each year, including a report certified by a certified Public Accountant on the financial status of the organization from the beginning to the end of the fiscal year, which begins July 1 and ends June 30 of each year. These reports shall be accompanied by a separate list of all expenses, disbursements or investments over \$2,000.00, describing the purpose of the expense, disbursement or investment and the salary, per diems, travel expenses or special compensations received by the directors, employees, advisors or consultants of the organization.
9. The right to examine the books, accounts, money orders, checks, documents and reports pertaining to the economic and financial operations of the organization at a reasonable time and place with prior notification and agreement on the time and place, and the right to obtain a copy of any document of interest, after payment of a modest and reasonable amount to cover the duplication costs for the requested copies. The labor organization shall maintain all the economic and financial documents of its operations for a minimum of six (6) years.

10. The right to claim that the secrecy and confidentiality of the identity of any member of an organization who provides information which contains data that leads or may lead to a legal, administrative or judicial investigation for violations of this Act be maintained and protected for as long as the investigation continues.

Section 4. — [Jurisdiction] (29 L.P.R.A. § 100b)

Jurisdiction is hereby conferred to hear and resolve grievances or violations of the Bill of Rights of Employee Members of Labor Organizations to the Labor Relations Board in the case of public sector employees and labor organizations under its jurisdiction, pursuant to the provisions in Act No. 130 of 1945, as amended, and to the Public Service Labor Relations Commission in the case of employees and labor organizations under its jurisdiction, pursuant to Act No. 45 of February 25, 1998, as amended, and those labor organizations or associations called “bona fide,” created pursuant to Act No. 134 of July 19, 1960 and Act No. 139 of June 30, 1961, and those labor organizations that are not covered by the aforementioned Act No. 130 of 1945.

The grievances of employees for violations of this Act shall be filed within thirty (30) days of the occurrence of the violation of any of the rights conferred by this Act, or of the employee becoming aware of the violation, and shall be heard and considered by the aforementioned entities, pursuant to the procedures established for hearing and dilucidating illegal work practices by the labor organizations provided in the aforementioned laws that govern the functions and prerogatives of such quasi-judicial entities.

Section 5. — [Fines] (29 L.P.R.A. § 100c)

In addition to any other remedy provided in the organic laws of the Board or the Commission for cases of illegal work practices to be imposed upon labor organizations, including the loss of the certification of the labor organization, if it is found as a proven and well founded fact that the labor organization incurred in a sustained pattern of violations of the Bill of Rights provided herein, the Board or the Commission, as the case may be, may impose fines of \$500.00 up to \$5,000.00 for each violation incurred, without prejudice to the right of any employee to claim through a judicial venue indemnization for any damages incurred as a consequence of the violation of his/her rights, acknowledged by this Act, pursuant to the civil body of laws.

Section 6. — [Document] (29 L.P.R.A. § 100d)

Within forty-five (45) days after the approval of this Act, all labor organizations subject to its provisions shall notify the Board or the Commission, as the case may be, through a document containing the following information:

1. Name of the organization.
2. Address and telephone number of the Main Offices, branches and/or local or regional subsidiaries.
3. Name and titles of the main directors, pursuant to its regulatory administrative structure.
4. A copy of the Collective Bargaining Agreement in effect and of the Charter and Bylaws of the organization.

5. Number of affiliated employees and the agency or public corporation in which its members are employed.

6. Membership dues.

7. Copy of the latest financial statement prepared by the organization, a responsibility to be met annually by each organization, covering the Fiscal Year from July 1 to June 30 of each year, beginning fiscal year 2004-2005.

The Department of Labor shall publish a public notice directed to labor organizations on compliance with this obligation twice (2) in at least two (2) newspapers of general circulation within the first twenty (20) days after this Act takes effect.

Section 7. — [Financial reports] (29 L.P.R.A. § 100e)

None of the provisions set forth shall hinder the Board or the Commission from demanding that the labor organizations or its directors render financial reports or statements of the labor organization or its directors when deemed necessary to comply with the duties established in this Act.

If the labor organization is duly acknowledged and certified by Act No. 45 of February 25, 1998, and in compliance with said Act renders the reports and documents required herein, it shall not have to comply with the provisions in this Act concerning said information and documents.

Section 8. — This Act shall take effect immediately after its approval.

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