

Public Broadcasting Corporation for Puerto Rico

Act No. 216 of September 12, 1996, as amended

(Contains amendments incorporated by:
Act No. 5 of February 14, 2008)

(Amendments non-incorporated:
Act No. 139 of September 21, 2010)

To create a new Public Broadcasting Corporation for Puerto Rico as an instrumentality of the Commonwealth of Puerto Rico; establish its powers and prerogatives and provide for its organization; establish the public policy of the Government of Puerto Rico on Public Broadcasting; and for other purposes.

STATEMENT OF MOTIVES

The development of communications in Puerto Rico began with the approval of Act No. 2 of May 6, 1974. Said legislation created the Puerto Rico Telephone Authority in order to provide an efficient communication service and to continue the economic and social development which shall continue to promote the welfare and tranquility of Puerto Ricans. Through this Act, a communication system, owned by the Puerto Rico Telephone Company, was transferred to the people, and an adequate supervision by the citizenry, and the improvements to meet the present day needs, were achieved.

Subsequently, on January 21, 1987, the Legislature of Puerto Rico approved Act No. 7, which created a public corporation as a subsidiary of the Telephone Authority, known as the Puerto Rico Public Broadcasting Corporation. This amendment was made in order to guarantee the technological improvement and development in the file of radio and television, providing the operating and financial capacity to offer these services for the benefit of the people of Puerto Rico.

However, even though this legislation managed to meet its short term objectives, the Corporation needs a series of faculties and powers at present that it does not possess as a subsidiary. This Legislature deems that the Public Broadcasting Corporation for Puerto Rico could operate more effectively, if it were independent from the Puerto Rico Telephone Authority, and operating as a public instrumentality of the Commonwealth.

Through the creation of a new Public Broadcasting Corporation for Puerto Rico, the Government shall guarantee excellent services in harmony with the social, technological and economic development of our society. For the past nine years, the Corporation has been subject to orders of a different nature, which have prevented the full development of the public broadcasting medium.

Transcendental changes are expected to occur in the world of radio and television, in a few years, that the Public Broadcasting Corporation for Puerto Rico shall only be able to face if it is an independent entity with its own power.

Therefore, the Legislature of Puerto Rico hereby creates a new Public Broadcasting Corporation for Puerto Rico as an instrumentality of the Commonwealth, independent and separate from any other agency, department or instrumentality of the Government.

Be it enacted by the Legislature of Puerto Rico :

Section 1. — Creation. — (27 L.P.R.A. § 501)

A public corporation is hereby created as an instrumentality of the Commonwealth of Puerto Rico, under the name of Public Broadcasting Corporation for Puerto Rico. The Corporation shall exist in perpetuity with a juridical personality that is independent and separate from any other entity, agency, department or instrumentality of the Government of Puerto Rico and shall be governed by a Board of Directors. June 30, 1996, is established as the date on which the Public Broadcasting Corporation for Puerto Rico shall cease to be a subsidiary of the Telephone Authority. Subsequently, the closing date for each fiscal year shall be June 30 of each year.

Section 2. — Legislative Purpose. — (27 L.P.R.A. § 502)

The Legislature of Puerto Rico, through the approval of this act, shall make the Public Broadcasting Corporation for Puerto Rico independent from the Puerto Rico Telephone Company to continue offering the services of excellence that have characterized it, in a more efficient and adequate manner. It shall have true operational and functional autonomy, which is a necessary element to develop its facilities and provide broadcasting pursuant to the established legal provisions and limitations, and thus render an optimum public service. Said facilities shall be used for educational and cultural purposes and to provide services to the people in general and not for particular purposes, nor for political-partisan or sectarian propaganda, with the exception of the provisions of Section 3.016 of Act No. 4 of December 20, 1977, as amended, part of the Electoral Law of Puerto Rico. The programs broadcast by the Public Broadcasting Corporation for Puerto Rico shall be governed by a policy of excellence, objectivity and balance in all that could be controversial in nature.

The programming shall reflect harmony between the teaching of knowledge and practical information. It shall also emphasize the broadest vision of knowledge, resting on the philosophy and perception of our social, economic and cultural reality as something bound to history, while being committed to a better future. The programming of the station shall contribute to the development of a critical awareness and shall exemplify respect to human dignity and values in the broadcasts.

Without impairment to the stated in the preceding provisions, it shall also be understood that the Corporation shall adopt those measures needed for it to become a production company for the local television industry, provided it does not undermine the educational function and the public mission it is called upon to perform.

Along this [line] of reasoning, it shall be the administrative policy of the Corporation to use its facilities, resources, and the personnel in the manner most efficient and harmonious with the goal of providing sources of employment to the artistic class and to the professionals of the audiovisual industry.

Section 3. — Board of Directors. — (27 L.P.R.A. § 503)

The powers, faculties and duties of the Public Broadcasting Corporation for Puerto Rico shall be exercised and its operating and administrative policy shall be determined by a Board of Directors.

The Board shall be composed of the Secretary of Education, the President of the University of Puerto Rico, the Executive Director of the Institute of Puerto Rican Culture and eight (8) citizens from the private sector representing the public interest, who shall be appointed by the Governor with the advice and consent of the Senate, and of whom at least three (3) shall be persons [with] known interest, knowledge and experience in education, culture, arts, sciences or radio and television communications. The President of the new corporation shall be a member of the Board of Directors; however, he/she shall not be entitled to vote nor shall hold any position as an officer on said Board. The appointments of the members of the Board shall be for the following terms: two (2) members for six (6) years; two (2) members for five (5) years; two (2) members for four (4) years and two (2) members for three (3) years, and until their successors are appointed and take office. Once each term concludes, the same shall be fixed at six (6) years. In order to expedite and make the transition process of the new law viable, it is hereby provided that the individual term of each current member of the Board of Directors shall [take effect upon approval of said member. Any vacancy shall] be filled for the unexpired term of the person who caused it, by an appointment which shall be made within a term not greater than sixty (60) days from the date in which the vacancy occurs. Provided, That persons with direct and substantial economic interests in the commercial radio and television industry shall not be members of the Board of Directors of the Public Broadcasting Corporation for Puerto Rico. It is also Provided, That six (6) members of the Board of Directors shall constitute a quorum for the management of the affairs of the Corporation and all decision shall adopted by a majority. The functions of the members of the Board of Directors, as well as their attendance to the meetings cannot be delegated.

The Board of Directors shall meet, organize and elect from among its members, a President, a Vice-president, who shall substitute for the President in his/her absence, and a Secretary. The Board shall also appoint a President of the Public Broadcasting Corporation for Puerto Rico. Said official shall hold office at the will of the Board, which shall determine his/her functions, responsibilities and duties; and shall fix his/her remuneration and other benefits.

The members of the Board shall not receive any remuneration for the performance of their functions as such, however, those who are not public officials or employees shall be entitled to per diems of fifty dollars (\$50) for each meeting they attend.

The Board of Directors of the new Public Broadcasting Corporation for Puerto Rico shall be empowered to approve, amend, and repeal whichever regulations it deems are necessary and convenient to carry out its ends, purposes and activities. The Board of Directors shall determine the distribution and use of its capital improvements and operating budget in

harmony with its plans and needs and may delegate on the President or any of its officials, employees or agents, those powers and duties he/she deems pertinent, with the exception of the power to approve, amend and repeal regulations.

The President shall be in charge of the general administration of the Public Broadcasting Corporation for Puerto Rico, and shall answer to the Board of Directors for the execution of the policy established by the latter and of the general supervision of all the officials, employees and agents thereof. He/she may also delegate any function on the personnel or official of the Corporation that he/she may determine.

The members of the Board of Directors that are not ex-officio members shall only be removed for just cause.

Section 4. — General Powers of the Public Broadcasting Corporation for Puerto Rico.
— (27 L.P.R.A. § 504)

(a) *Public Broadcasting.* The Public Broadcasting Corporation for Puerto Rico shall broadcast and promote educational, sports, artistic, musical, cultural and public interest programs, all of which shall be subject to the limitations established in the franchises granted by the Federal Communications Commission of the United States of America.

The Public Broadcasting Corporation for Puerto Rico is hereby granted all the powers that are necessary and convenient to carry out and perform its purposes and functions, including, but without being limited to the following:

- (1) To exist in perpetuity as an independent public corporation, for nonprofit purposes.
- (2) Adopt, alter and use a corporate seal.
- (3) Adopt, amend and repeal regulations to govern its affairs and activities and to prescribe the rules, regulations and norms needed to comply with its functions and duties, pursuant to the provisions of Act No. 70 of August 11, 1988, as amended [3 L.P.R.A. §§ 2101 et seq.], known as the "Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico".
- (4) Keep an office in the place or places it determines.
- (5) To sue and be sued.
- (6) Receive, administer and comply with the legal conditions and requirements regarding any gift, grant or donation of any real or personal property, financial resources and others.
- (7) Make and execute agreements, leases, contracts and other instruments that are necessary or pertinent in the exercise of its powers and functions.
- (8) Acquire any property or interest therein through any legal means, including, but without being limited to the acquisition by purchase, lease, bequest, legacy or gift and possess, keep, use and operate such property or interest therein.
- (9) Acquire, build, rebuild, improve, extend, conserve and use to the maximum any broadcasting facilities.
- (10) Fix and charge reasonable rates, fees and charges and other terms and conditions of services for the use of its broadcasting facilities or for any equipment sold or leased, in accordance with applicable regulations and federal and local laws.
- (11) Appoint and contract those officials and employees and confer on them those powers and duties, and compensate them for their services according to the provisions of the

Board of Directors, and in accordance with the personnel regulations that are promulgated. The personnel of the Public Broadcasting Corporation for Puerto Rico shall be excluded from the provisions of Act No. 5 of October 14, 1975, known as the "Public Service Personnel Act of Puerto Rico". Notwithstanding the above, the Public Broadcasting Corporation for Puerto Rico shall honor the Merit Principle according to the provisions of Section 10.6 of said Act.

(12) Perform all acts that are necessary and convenient to exercise the powers conferred by this Act or any other act.

(13) Accept, promote and stimulate the citizenry to make gifts of any sort, provided the acceptance thereof does not entail the obligation of transmitting information or material in conflict with the norms that regulate its transmissions.

Likewise, any gift made to the Public Broadcasting Corporation for Puerto Rico may be wholly claimed as a deduction from the individual gross income or from the gross income of corporations or associations, as applicable and without being subject to the provisions of Subsection (M) of paragraph (2) of clause (aa) of Section 1023 of Act No. 120 of October 31, 1994, as amended, known as the "Internal Revenues Code of Puerto Rico of 1994". .

(14) Enter into agreements, pacts or contracts with television production companies or private independent producers whose objective is the co-production of television programs of any nature, compatible with the public purpose of the Corporation's function or for the future transmission of television programs, provided it is in accordance with the provisions of this Act, the state or federal norms applicable to the Corporation.

Section 5. — Annual Reports. — (27 L.P.R.A. § 505)

Reports. Within one hundred and twenty (120) days after the close of each fiscal year, the Public Broadcasting Corporation for Puerto Rico shall render reports on its activities to the Legislature and the Governor, including the following:

(1) A summary of the work carried out during the fiscal year in compliance with the purposes set forth in this Act, and a workplan, including specific projects and activities for the following year.

(2) Audited financial statements prepared in accordance with generally-accepted accounting principles for government bodies.

(3) Statistical tables which adequately reflect the operational phases of the Corporation in a comparative and reliable manner.

(4) A list of capital investments.

Section 6. — Prohibition to operate by Private Company. — (27 L.P.R.A. § 506)

The Public Broadcasting Corporation for Puerto Rico shall not sell, transfer, rent, encumber, alienate or conduct any other transaction that has as its purpose that said Corporation and the services operated by it, be administered or operated by a private company, even with the prior authorization of the Federal Communications Commission.

The radio and television stations operated through the new Public Broadcasting Corporation for Puerto Rico, are of an educational and cultural nature, and the patrimony of

the people of Puerto Rico, and they shall be kept as a public forum for freedom of expression.

Section 7. — Autonomy. — (27 L.P.R.A. § 507)

It is prohibited for any person to exercise pressure or undue influence on the representatives of said corporate entity. It is provided that the Board of Directors shall protect the credibility of the Public Broadcasting Corporation for Puerto Rico and shall prevent inappropriate interventions in order to preserve the complete responsibility for the autonomy of the functions of the institution.

In order to preserve the programmatic autonomy of the Public Broadcasting Corporation for Puerto Rico, it shall submit to the Governor each year a list of the total disbursements to be made for its activities and operations. It shall also indicate the capital improvements plan and the acquisition of assets such as properties which are necessary to comply with the purposes of this Act.

Section 8. — Construction and Purchase Contract. — (27 L.P.R.A. § 508)

All purchases and contracts for supplies or services, with the exception of personal services, executed by the Corporation, including contracts for the construction of works, shall be made through a notice of bids, made with sufficient time prior to the opening of the sealed bidding of proposals so that the Corporation may guarantee an adequate knowledge and opportunity to appear; Provided, That when the estimated sum for the acquisition or work does not exceed twenty-five thousand dollars (\$25,000), the same may be conducted without a notice for bids. Likewise, notice for bids shall not be necessary when:

- (1) Due to an emergency the immediate delivery of materials, supplies and equipment, or the performance of services is required;
- (2) replacement parts, accessories, equipment or supplementary or compatible services are needed for supplies or services previously furnished or contracted;
- (3) professional or expert services or work are required and the Corporation deems that for a sound administration, said services or work should be contracted without said notices, or
- (4) prices are not subject to competition, because there is only one source of supply, or because they are regulated by law.

Provided, That in such cases, the purchase of materials, supplies and equipment, or the obtaining of said services shall be done in the open market as usually practiced in business.

When comparing proposals and making adjudications, in addition to considering if the bidder has met the specifications, due consideration shall be given to factors such as the capacity of the bidder to carry out construction works of the nature involved in the contract under consideration, the quality and relative adaptability of the materials, supplies or services, the financial accountability of the bidder and his/her expertise, experience, reputation of business integrity an ability to provide repair and conservation services; time of delivery, or performance offered, and if the place where the materials, supplies and equipment are manufactured is located in Puerto Rico.

Section 9. — Transfers. — (27 L.P.R.A. § 509)

Once the necessary approvals and authorizations are obtained, including the approval of the Federal Communications Commission, the Puerto Rico Telephone Authority shall transfer to the Public Broadcasting Corporation for Puerto Rico all the licenses to operate the radio and television services of the People of Puerto Rico, as well as all the installations, properties, funds of any nature, records and equipment that are being used or that have been assigned to be used by it or by any other government entity with regard to the operation of public broadcasting facilities.

Section 10. — Personnel. — (27 L.P.R.A. § 510)

Upon the effectiveness of this act, all the employees of the Public Broadcasting Corporation for Puerto Rico, attached to the Puerto Rico Telephone Authority, shall retain all the duties and vested under the rights and laws and regulations in effect; Provided, That they shall be covered by Act No. 130 of May 8, 1945, as amended [29 L.P.R.A. §§ 61 et seq.], known as the "Labor Relations Law of Puerto Rico". The President of the Corporation shall establish the positions to be created in the new Corporation, the qualifications and requirements to hold the same, as well as the criteria to evaluate and select personnel.

Section 11. — Transition Committee. — (27 L.P.R.A. § 511)

The Governor of Puerto Rico is hereby authorized to appoint a Transition Committee to adopt those transitory measures and make those decisions deemed necessary so that the transfers directed by this Act take place without interrupting the administrative processes, rendering of services, and the operation of the services transferred. This Committee shall carry out its duties taking into account the provisions of this Act and all the regulations of the Federal Communications Commission applicable in this case.

This Committee shall cease its functions when the Board of Directors of the Public Broadcasting Corporation for Puerto Rico thus determines.

Section 12. — Pending Procedures. — (27 L.P.R.A. § 512)

Any complaint or procedure pending before the Public Broadcasting Corporation for Puerto Rico, attached to the Puerto Rico Telephone Authority, or before any agency or court of law, on the date of approval of this act, and that has been filed pursuant to the provisions of the laws that govern the services transferred through this Act, shall continue to be carried out by said Corporation until a final determination is made pursuant to the laws and regulations in effect on the date that said complaints or procedures have been submitted or filed. After a firm and final determination has been made regarding the same, the Executive Director of the Puerto Rico Telephone Authority shall transfer all the files, documents and records related to said complaints and procedures to the new Public Broadcasting Corporation for Puerto Rico.

Section 13. — Prohibition of Free Services. — (27 L.P.R.A. § 513)

No person or entity shall use the Corporation's facilities free of charge.

At the same time, the Board of Directors of the Public Broadcasting Corporation for Puerto Rico and its President are hereby directed and authorized to grant preferred and special treatment to the needs and requirements of the Department of Education, the Institute of Puerto Rican Culture and the University of Puerto Rico with regard to time, hours and price, among others, in harmony with a sound programming policy, when establishing the plans for the programming and use of the broadcasting facilities.

Section 14. — Appropriation of Funds. — (27 L.P.R.A. § 501 note)

It is the public policy and the commitment of the Government of the Commonwealth of Puerto Rico to continue contributing, as to the present, the financial resources for the operating and functioning expenses of the public broadcasting facilities owned by the People of Puerto Rico. For the first year, the Government of Puerto Rico shall provide through an Executive Order the distribution of funds needed to support the Public Broadcasting Corporation for Puerto Rico. In subsequent years, the Legislature shall appropriate funds to defray the budget of operating and functioning expenses of the new Corporation in the Joint Resolution of the General Budget of Expenses of the Government of Puerto Rico.

The Corporation shall submit to the Legislature each year the total income it expects to receive from appropriations of general or special funds of the Government of Puerto Rico, contributions from the Federal Government and those to be properly generated within the power of this Act.

With this framework, provisions shall be made for the global transfer or authorization, of all additional fiscal resources that are needed to carry out the annual plan of work presented by the Public Broadcasting Corporation for Puerto Rico.

Section 15. — Effectiveness. — (27 L.P.R.A. § 501 note)

This Act shall take effect immediately after its approval to the sole effect that the Puerto Rico Telephone Authority and the new Public Broadcasting Corporation for Puerto Rico initiate the proper steps and procedures to obtain the authorization for the transfer of franchises, and to create the Transition Committee provided in Section 11 of this Act. Its remaining provisions shall take effect immediately after said transfer authorization is granted.

Note. This compilation was prepared by the Puerto Rico OMB staff who have striven to ensure it is complete and accurate. However, this is not an official compilation and may not be completely free of error. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text. Compiled by the Office of Management and Budget Library.