

(S.B. 2060)
(Conference)

(No. 188)

(Approved December 12, 2007)

AN ACT

To establish a Voluntary Early Retirement Program for the Employees of the Government Development Bank for Puerto Rico and its affiliate, the Puerto Rico Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority; provide the age and years of service minimum requirements for qualifying for said Program; fix the minimum percentage of the compensation to be used for computing the pension; provide for the payment of the actuarial cost of said Retirement Program; fix the length of time given to employees for availing themselves of the Retirement Program; provide the special incentives to be granted to those who avail themselves of said Program; and for other purposes related to the Program.

STATEMENT OF MOTIVES

In the last few years, the Government of the Commonwealth of Puerto Rico has suffered a series of fiscal and economic problems. At present, the excessive volume of the government expenses not only affects the operational efficiency of our Government but is also one of the factors that limit the economic growth and development of Puerto Rico. This situation has serious repercussions on competitiveness since it affects the flow of external investments and leads to low economic productivity. In view of this situation, the Government and the Legislature together have developed certain measures for effectively dealing with fiscal problems and controlling the excessive increase in public expenditures. Early retirement programs can

be effective measures to contribute to reducing government gigantism and thus public expenditures, while fostering efficiency, public savings and economic productivity. As regards its impact on society, early retirement constitutes an effective instrument to allow those employees who retire to serve the community in diverse ways such as: community work, participation in civic and in the so-called third sector organizations, explore new opportunities for professional and human development and advisory and business development, among others.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- The Government Development Bank (the Bank) and its affiliate, the Puerto Rico Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority, in their capacity as public corporations, shall implement a staggered Voluntary Early Retirement Program for all employees who meet the requirements established in this Act. These employees shall constitute the following group:

(a) The First Group shall be constituted by those persons who have been employees of the Government Development Bank and its affiliate, the Puerto Rico Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority, for at least one year prior to the date of their retirement and who by December 31, 2007, have completed twenty-four (24) years or more of credited services in the Retirement System.

(b) The Second Group shall be constituted by those persons who have been employees of the Government Development Bank and its affiliate, the Puerto Rico Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority, for at least one year prior to the

date of their retirement and who by March 31, 2008, have completed twenty-four (24) years or more of credited services in the Retirement System.

Implementation of the Voluntary Early Retirement Program for the employees of the Government Development Bank and its affiliate, the Puerto Rico Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority, herein authorized, shall be done in strict compliance with all labor laws, the collective bargaining agreements in effect and with due respect to the Merit Principle, to the legal provisions that prohibit political discrimination and to the vested rights of the public servants employed in said entity.

Section 2.- After choosing Early Retirement, all employees who have not received the reimbursement of their accrued contributions or who having received said reimbursement have returned or deposited the same with the Retirement System not later than thirty (30) days as of the date of availing themselves of the Early Retirement System Program authorized by this Act and who comply with the provisions of Section 1 of this Act, have completed twenty-four (24) years of credited services regardless of their age and who voluntarily avail themselves of the Program authorized in this Act, shall be entitled to receive a pension of seventy-five (75) percent of the average compensation. This average compensation shall be determined according to the employee's date of entry into the Retirement System, as established in Act No. 447 of May 15, 1951, as amended.

Those employees who by March 31, 2008, have had twenty-four (24) or more years accredited to the Retirement System and who in order to qualify for said Program need to have uncredited services accredited by the Government Employees Retirement System, must submit their application to the Government Development Bank and its affiliate, the Puerto Rico

Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority, not later than thirty (30) days as of the effective date of this Act and before the date of separation from service. So that these employees may complete the months they may lack to credit their uncredited services and thus meet the retirement requirements provided by this Act so as to be able to avail themselves of said early retirement, these employees shall be allowed, as an exception to Section 1-107 of Act No. 447, *supra*, to use their accrued vacation and sick leave. To those effects, every twenty (20) days accrued shall equal one (1) month of work. The Government Development Bank and its affiliate, the Puerto Rico Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority, shall certify to the Retirement System that the application for uncredited services was submitted while the employee was still in active service and that it meets all other requirements of this Act.

For purposes of this Early Retirement Program, the Retirement System is authorized to include among its creditable services that period during which employees have rendered services in agencies, divisions, instrumentalities, public corporations or municipalities of the Commonwealth of Puerto Rico as employees recruited through temporary service agencies, provided they are employees of the Bank and its affiliate, the Puerto Rico Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority and participants in the Government of Puerto Rico Employees Retirement System at the time they applied for accreditation for services, have been members of the Retirement System on or before December 31, 1999, have not withdrawn their contributions when applying for the accreditation or if having received the same, have returned or deposited them with the Retirement System not later

than thirty (30) days as of the date of availing themselves of the Early Retirement System authorized by this Act and pay to the System the corresponding individual and employer contributions on the basis of the salaries received while rendering said services plus the interest as determined by the System.

Section 3.- The special incentives that the Government Development Bank and its affiliate, the Puerto Rico Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority shall grant to those employees who comply with the parameters consigned in Section 1, are the following:

a. A lump sum for voluntary retirement equal to 50% of the annual salary of the employee who avails him/herself of the program authorized by this Act.

b. Continuation of the Life and Cancer Insurance benefit provided by the Bank to employees, without age limit, fixed according to the coverage and conditions in effect to December 31, 2007.

c. The Medical Plan until the insured (the employee) reaches the age of sixty-four (64) years. The coverage shall be fixed according to those in effect December 31, 2007, while the Bank, and its affiliate, the Puerto Rico Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority, retains the power to amend the coverage of the Medical Plan applicable to those employees who belong to the Plan as well as to change its administrator when deemed convenient, as is presently occurring, and under equal conditions with the medical plan provided for the employees of the Bank and its affiliate, the Puerto Rico Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority. There may not be any changes in the status of the beneficiaries

except to cancel their membership. A pensioner who becomes a member of the Plan and subsequently goes to work in a position which makes him/her eligible for a medical plan shall lose his/her right to continue participating of these benefits. The Bank and its affiliate, the Puerto Rico Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority, may require that once a year all employees who wish to continue under this coverage submit to the Department of Human Resources and Labor Relations of the Bank a sworn statement about their eligibility.

d. As an alternative, in lieu of the Medical Plan described above, an employee may choose to receive an amount of money to be offered, which shall fluctuate between \$5,000 and \$55,000 according to the years remaining to the employee before reaching the age of 64. Choosing this alternative in lieu of the medical plan shall be done on the date in which the employee gives notice of his/her intention of joining the Plan.

e. Grant a Christmas Bonus of 8.75%, for up to a maximum of \$5,250, on the income received from the date of the last bonus to the date on which the Early Retirement of the employee is effective.

Section 4.- Those employees who meet the requirements established in Sections 1(a) and 2 of this Act shall have to exercise their decision to join the Early Retirement Program on or before January 31, 2008, and the date for the payment of the pension shall be May 1, 2008.

Any decision of an employee about joining the Voluntary Early Retirement Program herein provided shall be deemed final, firm and irrevocable for all legal purposes.

Section 5.- It is hereby provided that the opportunity for eligible employees to join the Voluntary Early Retirement Program shall not be conditioned by their having to waive any present or pending judicial

adjudication or administrative claims against the Government Development Bank and its affiliate, the Puerto Rico Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority.

Section 6.- It is hereby provided that with the implementation of this Early Retirement Program the Government Development Bank and its affiliate, the Puerto Rico Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority, shall eliminate a number of positions equal to those left vacant as a product of the same, except for those of the Supervision and Compliance Director and the Compensation and Classification Director in the case of the Bank, of the General Accounting Manager in the case of the Puerto Rico Infrastructure Financing Authority, and of the Projects Administration Director, the Projects Administration Manager, the General and Administrative Services Director (Administration Director, Deputy Director of Legal Services, Legal Counsel, Accounting and Investments Official (Mortgage Insurance Manager) and the Financing Development Director in the case of the Puerto Rico Housing Financing Authority. It shall be understood that indispensable positions are those whose functions are of a highly specialized nature and fundamental and essential for the Government Development Bank and its affiliate, the Puerto Rico Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority, to most effectively function so as to be able to achieve the public purpose for which it was created as a public corporation of the Commonwealth of Puerto Rico. To fill these indispensable positions the career personnel of the Government Development Bank and its affiliate, the Puerto Rico Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority, who express their willingness to being relocated to such a position shall be

preferably considered and thus internal job opening announcements shall be posted for such a purpose.

It is further provided, that no subcontracting shall be employed to perform the tasks that would have been undertaken by employees enjoying their retirement, provided these are not indispensable for the operations of the Government Development Bank and its affiliate, the Puerto Rico Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority.

Indispensable positions shall be identified and notified to those employees who by December 31, 2007, hold the same, not later than thirty (30) days after the effective date of this Act.

In case any position identified as indispensable must be reopened or personnel subcontracted to occupy positions already identified as indispensable, the employees of the Government Development Bank and its affiliate, the Puerto Rico Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority, in each dependency as the case may be, shall have priority for occupying said positions. Each instrumentality must train those employees who ask to occupy a position already identified as indispensable so that they may meet the requirements of said position provided this is not too onerous for the Bank. When calculating how onerous it would be to train an employee to occupy a position identified as indispensable, the following factors, although not limited thereto, must be taken into consideration: the number of positions to be filled versus the personnel available and the length of time said training requires and its cost, all this to prevent the external recruitment of new career employees. Each instrumentality shall take the administrative

and operational reorganization measures needed to permit the elimination of those positions rendered vacant.

In cases whereby it is required to retrain personnel and/or to finish a certain project, task or function by any employee who has joined the Voluntary Early Retirement Program herein authorized, it may be possible to recruit those employees who held those positions or who perform said project, task or function and who availed themselves of early retirement through contracts which shall not exceed a term of six (6) months, without being subject to the provisions of Section 3.7(e) of Act No. 12 of July 24, 1985, as amended, known as the Ethics in Government Act of the Commonwealth of Puerto Rico nor to the contractual restrictions of the Employees Retirement System of the Judiciary and the Government of the Commonwealth of Puerto Rico Act.

Section 7.- The actuarial cost of the pensions provided in this Act, as determined by the Administrator of the Retirement System of the Employees of the Government and the Judiciary, shall be paid in advance by the Government Development Bank and its affiliate, the Puerto Rico Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority, to the Retirement Systems Administration of the Employees of the Government and the Judiciary according to the payment schedule established by the Administrator of the Retirement Systems. Said actuarial cost shall consist of the difference between the present value of the accelerated pension provided in this Act and the present value of a pension for years of service under the provisions of Act No. 447 of May, 15, 1951, as amended, and according to the provisions of the present legislation. It is further provided that the GDB and its affiliate, the IFA and its subsidiary, the HFA shall annually compensate the Retirement Systems

Administration of the Employees of the Government and the Judiciary for the costs incurred for the implementation and administration of the Voluntary Early Retirement Program authorized by this Act and for all actuarial studies requested or to be requested by the Bank, its affiliate and its subsidiary from the Retirement System. The funds for paying for the Voluntary Early Retirement Program shall proceed from the GDB and its affiliate, the IFA and its subsidiary, the HFA, and therefore the resources of the General Fund of the Commonwealth of Puerto Rico shall not be encumbered.

In case the payment made by the GDB and its affiliate, the IFA and its subsidiary, the HFA, is greater than the actuarial cost, the Retirement Systems Administration of the Employees of the Government and the Judiciary shall reimburse to the GDB and its affiliate, the IFA and its subsidiary, the HFA, as the case may be, the excess of the amount paid within a period of not more than thirty (30) days as of the effective date of the Program. If on the contrary, the payment made by the GDB and its affiliate, the IFA and its subsidiary, the HFA, were inefficient, these shall issue a payment for the additional cost certified by the corresponding Retirement Systems Administration, within a period of not more than thirty (30) days as of the effective date of the Program.

Section 7.- The GDB and its affiliate, the IFA and its subsidiary, the HFA, shall be liable for the payment of any other new benefit granted by law to the pensioners who have availed themselves of this Early Retirement Program.

Section 8.- The provisions of this Act shall also be extensive to those employees who by the effective date of the same are enjoying some type of leave pursuant to the Regulations of the GDB and its affiliate, the IFA and

its subsidiary, the HFA, or collective bargaining agreements or applicable statutes.

Section 9.- The GDB and its affiliate, the IFA and its subsidiary, the HFA, in coordination with the Retirement Systems Administration of the Employees of the Government and the Judiciary, shall provide all their employees who qualify for the Voluntary Early Retirement Program, with an orientation concerning the benefits and criteria of the latter.

Section 10.- All provisions of Act No. 447 not in conflict with this Act shall be applicable to the advance Retirement Plan herein established.

Section 11.- This Act shall take effect immediately after its approval. However, the effectiveness of this Act is conditioned to whether the Government Development Bank and its affiliate, the Puerto Rico Infrastructure Financing Authority, are able to:

(a.) Defray, from their own funds, the annual compensation to the Retirement Systems Administration of the Employees of the Government and the Judiciary for the expenses incurred for the implementation and administration of the Voluntary Early Retirement Program authorized by this Act, without encumbering the resources of the General Fund of the Commonwealth of Puerto Rico; and

(b.) without having to issue a debt for the payment of the Voluntary Early Retirement Program herein approved.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 188 (S.B. 2060) (Conference) of the 6th Session of the 15th Legislature of Puerto Rico:

AN ACT to establish a Voluntary Early Retirement Program for the Employees of the Government Development Bank for Puerto Rico and its affiliate, the Puerto Rico Infrastructure Financing Authority and its subsidiary, the Puerto Rico Housing Financing Authority; provide the age and years of service minimum requirements for qualifying for said Program; fix the minimum percentage of the compensation to be used for computing the pension; provide for the payment of the actuarial cost of said Retirement Program; fix the length of time given to employees for availing themselves of the Retirement Program; etc.,

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

In San Juan, Puerto Rico, today 31st of March of 2008.

Francisco J. Domenech
Director

