

(P. of C. 3648)

LAW NUM. 283

DECEMBER 28, 2012

To offer holding a consult about the Political Status of Puerto Rico that would take place on November 6, 2012, along with the general elections; to determine its structure and operation; assigned funds; and other related issues.

MOTIVES

Since 1898, as a consequence of the Spanish-American War, the United States exercises its sovereignty over Puerto Rico conforming to the Paris Treaty approved between President William McKinley and King Alfonso XIII of Spain (30 Stat. 1755); and ratified by the Senate of the United States of North America on April 11, 1899. Art. 9 of the treaty states **“the civil rights and the political condition of the habitants of Puerto Rico will be determined by Congress.”** [Emphasis added].

The president, Congress of the United States continue their established policy in the Paris Treaty conforming to the Territorial Clause of the Constitution of the United States (Art.4 Sec. 3.2) that establishes that Congress could provide or enact all the rules and regulations in relation to the Territory or any other property belonging to the United States.

According to Federal Law from March 2, 1917 (39 Stat. 951, chapter 145), also known as Jones Law, Congress of the United States established it for Puerto Rico a review of the civil administration of the colony or unincorporated territory and declared that, in virtue of the law, the habitants of Puerto Rico will be American citizens with the civil rights and political status by the Congress of the United States, consistent with an unincorporated territory.

On July 3, 1950, President Harry S. Truman signed Federal Law number 81-600, giving Puerto Ricans the right to draft their own constitution to govern the internal matters of the Government of Puerto Rico. With regards to law 81-600, a referendum was welcomed on June 4, 1951, in which the people would approve or reject the terms of this law. In that referendum 34.91% of the registered voters did not participate and 387,016 voters ratified law 81-600 (49.7% of the registered voters). Later, the election of the delegates was carried out to the constitutional convention.

The election of the delegates for the constitutional convention was carried out on August 27, 1951 with abstention of 45.17% of registered voters. In that election the delegates solely participated in the Popular Democratic Party (PPD), the Puerto Rican State Party (PEP) and the Socialist Party; the Independent Puerto Rican Party did not participate and created a campaign for the abstention of delegates in the election for the stated convention. 92 delegates were elected for the Convention: 70 from Popular Democratic Party, 15 from Puerto Rican State Party, and 7 from the Socialist Party. The constitutional convention met from September 17, 1951 to February 6, 1952.

On March 3, 1952, a referendum was carried out to ratify the Constitution approved by the constitutional convention. In the referendum there was an abstention of 41.61% of registered voters, according to report 82-1832 from the House of Representatives of the United States.

On July 3, 1952, the Congress of United States approved the Joint Resolution 430, where it was ratified with amendments, the Constitution of Puerto Rico. Between the amendments which unilaterally made Congress, section 20 from the Letter of Rights was eliminated. The Constitutional Convention accepted that congressional amendment with consulting the people of Puerto Rico in order to ratify or reject the Constitution without amendment by Congress.

The Constitution of Puerto Rico establishes a structure of Government in relation to the internal matters and administration of the local government, subject to the Constitution of the United States and applicable Federal Laws. However, law 600 did not create a new political status for Puerto Rico. It was simply to allow the people of Puerto Rico to draft its own Constitution, and said constitution had to be approved by Congress to take effect.

Article 3 of Law 600 from July 3, 1950, states: “...Once approved by Congress, the Constitution will take effect according to its terms.” That means that Congress did not waive its plenary powers over Puerto Rico. They simply allowed us to organize our internal government but there was no difference in the political relationship between Puerto Rico and the United States.

Article 4 of Law 600 clearly states that Jones Law (approved on March 2, 1917) continues in force, under the name “Law of Federal Relations.” They simply abolished several articles related with the authority of the President of the United States of North America for making appointments, that was passed to the Governor of Puerto Rico. Also eliminated was the review procedure by Congress from the approved laws of legislature, specifically those on occasion that the Legislature of Puerto Rico approved a law over the veto of the Governor.

During the approval process of Law 600, it was clear that the political status of Puerto Rico would not change. The Resident Commissioner Antonio Fernos-Isern, declared on May 16, 1950, before the commission of Public Property from the House of Representatives, 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 added]

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.

The report of the House of Representatives was accompanied by Senate Project 3336, dated June 19, 1950, states: "... It is important that the nature of the 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 law 600, it did not change any of the fundamental relationships between Puerto Rico and the United States.

For the past decades, the Puerto Ricans have searched for other alternatives to define a permanent manner for their relationship with the United States of America and to have a status that's not territorial or colonial. Since 1952, when congress authorized the creation of a local constitution, so that the name of commonwealth could be adopted, the dissatisfaction of Puerto Ricans from the lack of opportunities of social development, political and economic related to this legal relationship has been increasing. Several plebiscites in Puerto Rico, authorized by local legislation, demonstrate that the support to the legal relationship has decreased by 60.5% in 1967 to 48.6% in 1993. Even the plebiscite of 1998, the majority of the Puerto Ricans reiterated their disagreement with the present political situation. Given that the designation of the commonwealth has been commonly used to refer to the actual political territory of Puerto Rico, and the only interest is to simplify the understanding of the text of this statute, here we use it to identify status.

After several attempts to come to an agreement about the most appropriate way to handle the issue of the political status, in 2005 all the political party representatives in the Legislative Assembly of Puerto Rico came to a historical unanimous agreement that allowed the approval of a project by law that would allow a viable consult for the people of Puerto Rico about the political future. The substitute for house bills 1014, 1054 and 1058 authorized the holding of a referendum in which the Puerto Ricans would have an opportunity to express their agreement or disagreement to urge the President and Congress of the United States to commit and respond to the claim of the people of Puerto Rico to resolve the problem of political status between alternatives fully democratic of nature not colonial or territorial. Despite its unanimous approval in the Legislative Assembly, the same was vetoed by the Governor.

In December of the same year, the working group of the President about the Status of Puerto Rico (Working group), created by the White House through executive order signed by President William J. Clinton in 2000, and continued to work during the administration of presidents George W. Bush and Barack Obama, yielded his first report in which he made several recommendations to solve the political status problem of Puerto Rico. In the referenced report from December 2005, the working group expressed in an unequivocal manner that under the commonwealth, Puerto Rico is subject to the plenary powers of Congress, under the Territorial Clause of the Constitution of the United States. In the same manner, the working group expressed in an unequivocal manner under the commonwealth, Puerto Rico is subject to the plenary powers of Congress, under the Territorial Clause of the Constitution of the United States. In the same way, the working group expressed the constitutional invalidity called "the improved commonwealth" or " New Commonwealth" in which some sectors have advocated.

The main recommendation of that first report from the working group was in terms of one year, Congress would legislate so that Puerto Ricans could vote in the first consult that

determined if they wanted to continue being a territory on the United States subject to the Territorial Clause or reaching a permanent status that's not territorial nor colonial. To win the second alternative, according to the report, a second consult should be held to determine between statehood and independence, according to the report of the working group, they are the only constitutionally viable alternatives. The report recognizes that independence can be in several ways; knowingly: traditional independence, just like in the Philippines, or independence by a agreement by a free association, like it exists in the United States and several islands of the Pacific. If in the first consult the Puerto Ricans opted for maintaining the actual territorial status, the report recommended regular holding of plebiscites to keep Congress informed about the preference of the Puerto Ricans until a result in favor of any of the non-territorial options.

The working group yielded a second report in December 2007 in which it reiterated the conclusions captured in the 2005 report. In relation to the constitutional viability of the "New Commonwealth" or "New Commonwealth", the working group expressed: "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 the working group report to the President about the status of Puerto Rico from December 2007, page 6). However, the report concludes that one way of independence as in free association resembles to what looks like to be the aspirations of those who propose the "New Commonwealth" or "Improved Commonwealth" out of the Territorial clause. In that case, according to the same report, the pact of free association could vary unilaterally for any of the parts. (See report of the working group of the President about the Status of Puerto Rico of December 2007, page 8). As how to solve the problem of status, the working group reiterated the same recommendation to hold both consults outlined in their first report. The report reiterated that only three alternatives are available for the political status of the future of Puerto Rico: maintain the actual territorial situation, statehood, and independence. As we mentioned, the report recognizes the free association as a way of independence.

Since the beginning, President Obama's administration has manifested their commitment of allowing Puerto Ricans to express themselves about the political future of the island and resolve the status problem of Puerto Rico during the present four years. Pursuant to the commitment, President Obama signed on October 30, 2009, executive order number 13517, which ordered the working group to request advice and recommendations about the measures to promote the working generation, education, healthcare, clean energy and economic development on the island without redirecting the main attention over the political status. (See working group report of the president about the status of Puerto Rico on March 2011, page 3).

The duties and responsibilities established by the aforementioned executive order, the working group convened in December 2009. As part of its job, they organized two sessions of public hearings in San Juan and Washington D.C. (See report of working group of the President about the status of Puerto Rico from March 2011, page 3). In the hearing, a great variety of voices were heard about status issues and economic development. Also, hundreds of residents of Puerto Rico and from the United States offered their comments by electronic means or letters. Members of the working group also met with leaders from Congress, elected officials of Puerto Rico and other interested parties. (See report of the working group of the President about status of Puerto Rico from March 2011, page 3).

After receiving input from all of the interested parties, on March 16, 2001, the working group yielded another report, which contained recommendations in the areas mentioned before. Also, the report discusses different areas like the economic development and the cleanup of the island of Vieques, their main focus fell in the topic of status. (See report from the working group of the president about the status of Puerto Rico from March 2011, page 3). The report from the working group established that the public hearings and meetings held revealed that the status continues to have great importance for the people of Puerto Rico. Therefore, the working group committed to examine from a new perspective the issues of status and established that it was committed to “advance with the resolution of the issue of status in a significant way with the objective of resolving it in a short period [of time]” (See report from the working group of the president about the status of Puerto Rico from March 2011, page. 25).

One more time, the working group was blunt in signing that “with the option of the commonwealth, Puerto Rico will continue to be governed like it is now by the Territorial Clause of the Constitution of the United States.” (See report of the working group of the president about the status of Puerto Rico from March 2011, page 28).

It is noteworthy that this assertion is reaffirmed by the Constitution of the United States and by that of Puerto Rico, as by the applicable legislation. The Constitution of the United States, in relevant part provides that “Congress could provide or promulgate all of the rules and regulations necessary in relation to the territory or any property belonging to the United States” Art. IV, Sec. 3 of the Constitution of the United States.

Based on this constitutional provision, Congress of the United States has regulated the jurisdiction of Puerto Rico under the territorial clause. For example, the law of Federal Relations with Puerto Rico in its Section 1 states among other things that:

The provisions of this law will be applied to the island of Puerto Rico and adjacent islands belonging to the United States, and that waters of these islands, and the name of Puerto Rico, used in this law, will be understood to include not only the island with this name but also all the islands adjacent, as stated. 1 L.P.R.A. Law of Federal Relations.

Also, the Constitution of Puerto Rico in Article VII, Section 3, in relevant part, states that:

Any amendment or revision of this Constitution should be compatible with the enacted resolution by Congress of the United States approving this Constitution with the applicable provisions of the Constitution of the United States with the law of Federal Relations with Puerto Rico and with Public Law 600 of the first eightieth congress, adopted with the character of an agreement.

The subjection of Puerto Rico to the Territorial Clause of the Constitution of the United States has been reaffirmed by the Congressional Research Service as recently as in June 2011, by the Opinions of the Department of Federal Justice and by the most categorical decision of the Federal Supreme Court over the territorial character of the relationship between the United States and Puerto Rico in the case of Harris v. Rosario, 446 U.S. 651 (1980). In this case, the Federal

Supreme Court resolved that the Congress of the United States has the authority to exercise its powers over Puerto Rico under the Territorial Clause and treat it differently in relation to the states.

The working group was emphatic in establishing that the Puerto Ricans should determine by themselves the future status of the island. Even more, the working group recommended that “the President and Congress support any fair effort, transparent and prompt to reflect and agrees with the will of the people of Puerto Rico.” (See report of the working group of the President about the status of Puerto Rico of March 2011, page 26). Based on the information collected, the working group emitted their recommendations about the permissible options of status. On this particular matter, it was concluded that there exist 4 permissible alternatives of status: (1) Statehood, which would mean to the Puerto Ricans full representation in Congress, participation in the presidential elections and the right to receive assistance from the federal government identical to what other states receive; (2) Independence, which would require congressional legislation to present the transition of Puerto Rico to a fully sovereign country and a sufficient period so that matters can be handled like American citizenship, possible restriction on traveling to the United States, regulations on immigration, security agreements and the necessary economic help; (3) free association, a type of independence followed by a pact that would establish that the United States and Puerto have agreed specific relationships that are in detail in the pact, which can be altered or unilaterally terminated by either party; and lastly, (4) the actual commonwealth, in which Puerto Rico will remain as is today, subject to the Territorial Clause of the Federal Constitution. (See the working group of the president about the Status in Puerto Rico from March 2011, page 26-28). Specifically, the working group concluded that the available options to the Puerto Ricans is to maintain the actual political situation under the commonwealth subject to the Territorial Clause or opt for one of recognized formulas for internationally decolonizing: statehood, independence, and free association.

In addressing the definition of commonwealth, the working group was clear in the concept of “improved” commonwealth based on an agreement between Puerto Rico and the United States that cannot be altered unless there is a mutual consent, it is not constitutionally viable because a future Congress could unilaterally modify the relationship. (See report from the working group of the president about status in Puerto Rico from March 2011, page 28).

The working group also emitted its recommendations regarding the possible process to resolve the status problem. In the eligibility to participate in the process, the working group was emphatic in that only residents of Puerto Rico could vote. (See report from the working group of the president about the status of Puerto Rico from March 2011, page. 28-89). The report from the working group summarized some of the methods that could be used to resolve the political status problem of Puerto Rico. These alternatives are recommendations and do not constitute a limitation on the exercise of the people of Puerto Rico of their right for self-determination. This was reaffirmed by the President himself, Barack Obama, in his visit to Puerto Rico on June 14, 2011.

The leading part of the discussion from the report about the particular is based on the diverse modalities of consults or plebiscites that could be held. In particular, the working group discussed the advantages and disadvantages about having only one consult instead of a process with two consults or plebiscites held on different dates.

As to the possibility of holding only one plebiscite, the report holds the majority of the advantages of this alternative which is the simplified part of the process, the cost and the speed in which the results could be obtained. However, it is aware that it could cause a fragmented voting, with unclear and unreliable results, just like it has happened in the past with this type of unique consult. (See report of the working group of the president about the Status of Puerto Rico from March 2011, page 29). On the other side, the working group mentions several possible ways to have one process with more than one consult that in their view could affect fair and legitimate results. In all of the modalities mentioned in the report, the first consult would restrict the options and the second to reach a final decision.

Among the options discussed, the report mentions the system of arranged plebiscites in H.R. 2499. The project proposed having two consults. In the first consult, the Puerto Ricans would express themselves if they wanted to maintain the actual status or if they prefer a different status outside of the Territorial Clause. In the second consult, assuming the first consult would result be victorious the alternative of changing the status, the Puerto Ricans would choose between statehood, independence, and free association. Even though the project was amended to include again in the second consult the current political status, due to the criticism of certain sectors, the report did not dismiss this option, and on the contrary, it was held between the possible alternatives available to the People of Puerto Rico to exercise their right to self-determination. (See report of the working group of the president from March 2011, page 30). In fact, H.R. 2499, according to the amendment and approval by the federal chamber, it was never approved by the Senate of the United States. Moreover, it would be contradictory and exercise in futility, include in the second consult set out in H.R. 2499, which contains alternatives that are not colonial nor territorial, one option subject to the Territorial Clause of the United States has been rejected in the first consult.

Another alternative that report suggested was to invert the order of the consults. Either way, the working group expressed that it would have “certain appeal” a process in which would first consult the Puerto Ricans if they wanted to be part of the United States or if they wanted to separate. According to the report, a process like this would address the “fundamental question” if Puerto Ricans want to be part of the United States or not. (See report from the working group of the President about the status of Puerto Rico from March 2011, page 30). The report, however, is not clear as to the meaning or legal consequence or policy of the concept or phrase “to be part of the United States.”

It is necessary to emphasize that the report recognizes that there are various methods that could achieve fair results and legitimate and that their recommendation are not extensive. (See report from the working group of the President about the status of Puerto from March 2011, page 26). In fact, the report explicitly mentions a few of those other options. Moreover, the president emphasized what is important is that the Puerto Ricans make a clear expression. The President said that such expression can occur through some of the previously mentioned methods in the report, according to the president, they can be modified or through another method can achieve a fair and legitimate result.

This Legislative Assembly is committed to a viable process of self-determination that would allow the people of Puerto Rico express themselves freely about their political future and their relationship with the United States of America. In agreement with this, we understand that

it is necessary to legislate to start the decolonization process that would allow to understand the will of our people and urge the President and Congress of the United States to respect and make possible that will. The process should be broad and inclusive. That is why with the firm purpose of solving the status problem through a fair and equitable process, that is acceptable to all parties having a genuine interest in addressing the status issue, this Legislative Assembly will approve a measure after directly listening to the people of Puerto Rico, through a wide process of public hearings that will be held in different parts of the island, to ensure greater citizen participation possible. In legislating the process, we must guide ourselves by various principles which are fundamental and in great measure are recognized in the reports emitted by the working group of the White House.

In first place, we understand that the process should be inclusive that would allow the greatest participation of the Puerto Ricans, independently preference of status. In second place, the process should be simple and that shows a feasible expression of our people. Also, it is convenient to take into account the past experiences and learn from the accomplishments and failures of the past status processes, so much as local and federal level. Similarly and recognizing the value of the reports given the working group of the President about the status of Puerto Rico, we should take the recommendations as a starting point in the reference reports. Certainly, as expressed by President Obama in his recent visit to Puerto Rico, the recommendations made in the reference reports are guides that can be modified or improved. In the end, it is important to have a clear expression by our people through a fair and legitimate result.

According to the above, this Legislative Assembly proposes to combine several of the options of the working group in a way that we can maximize the strengths of each these and achieve the expected consensus. That way, we understand to conveniently adopt the alternative by the working group as soon as we have a consistent process with two consults, in a way that both consults can be held on different dates, lets conduct one consult consisting of two questions, on the same date.

In the first question people should answer, with a yes or no, if they want to maintain the present political condition subject to the Territorial Clause of the United States Constitution. In the second question the voters should select between permanent alternatives, not colonial nor territorial. This way, we serve the claim that the process is not inclusive and that no significant sector is excluded. The proposed process will allow to consult with people if they would like to maintain the actual commonwealth, subject to the Territorial Clause, and which alternative they prefer not colonial nor territorial.

Certainly, as recognized by the working group, the order of the consults is a delicate issue that could be subject to criticism by certain sectors, without caring for the order selected. In fact, the order of the queries that the work group references like "has something attractive" that could be left out of the second consult a significant supportive alternative. This is under the mode, we would face in the first consultation to statehood and a couple of other sectors that defend the actual commonwealth towards independence and the free association. In theory, the second consult could be left out an alternative which could have significant support, even above some which go to the second consult, they would be seen individually and not grouped. Therefore, we believe that presenting all of the alternatives in the same electoral event guarantees a fair process

with opportunities for all the sectors. This process would be inclusive and equitable. The order of the selected questions for this process respond only to what this Legislative Assembly understands which is the fundamental question, and therefore the first should be observed by the people of Puerto Rico. This is, if we want to maintain the status actually under the Territorial Clause or not. All of the processes are in a path to solve the political future of Puerto Rico, part of the premise that the actual situation no longer has the majority of support of our people, and so the President and Congress should respond to a claim to change it. The fundamental issue is to determine whether Puerto Ricans are not satisfied with territorial commonwealth and therefore we would like to choose other options.

In accordance with the above, a consultation should be ordered for the people of Puerto Rico so that, in one electoral event express, first, if they want to continue if they wish to continue with the political condition subject to the Territorial Clause of the Constitution of the United States. Second, the electorate should be able to answer which alternative between Statehood, Independence or the sovereign commonwealth out of the Territorial Clause of the United States Constitution, as defined by the Popular Democratic Party in the current government program and was approved by the agencies of the political community.

An opinion of the Legislative Assembly, the process is ready and is in the outlined parameters by the working group in their reports and is feasible to a fair and legitimate result, with a clear expression of the people of Puerto Rico, as claimed by the President. The selected process combines important elements between the proposed alternatives by the working group, addresses the concerns expressed by members about each one and maximizes its strengths. In part, the inclusion of the two questions in one consult, same date and one ballot guarantees a more simple process, minus the cost and the possibility in obtaining the results quickly, without overwhelming the people with more electoral processes than what they need. Moreover, the way they have decided to formulate the questions will result in clear and fair answers. In one event we will know with clarity, first, if our people wish to maintain the actual territorial political status, and second, we will know which alternative will provide the people of Puerto Rico with a status that isn't territorial nor colonial and that has greatest support of the Puerto Ricans.

The inclusion of the territorial condition in the first question provides those who wish to defend the political condition with the opportunity to vote for this option and show the support that our people have. With this we serve the claim that none of the options be excluded from the ballot.

The process set forth in this law aims to be impartial, inclusive, and fair. This serves the concerns expressed by the working group in their most recent report, to the effect that any consultation to the Puerto Ricans should give the opportunity to opt to keep the territorial commonwealth as is. In addition, for the sake of being as inclusive as possible, and that is that no other significant sector be excluded in the process, the voters will have the opportunity to vote for a status called sovereign commonwealth out of the territorial clause from the federal constitution cosigned in the current program of the Government from the popular democratic party and reaffirmed in their official document entitled Pact of Future Social Contracts for the Transformation of Puerto Rico. This alternative is listed in the Organization of Resolutions from the United Nations, that recognize statehood or integration of independence or another mutual

agreement between sovereign countries. This option would have to comply with the norms of international law regarding sovereign equality.

Lastly, the consultation of status of the Puerto Ricans should be held on November 6, 2012, along with the general elections.

The celebration of the consultation of status along with the general elections has many advantages. First, it promotes greater participation of Puerto Ricans, usually participation in the general elections in Puerto Rico is considerably higher than other events that are celebrated on other dates. Second, it represents a minor cost for the people of Puerto Rico, since it can use the same resources that the state elections committee will use for the general elections. It would simply include an additional ballot and other minor adjustments that do not represent a significant cost. Also, it provides a process that avoids overwhelming the people with the electoral processes. The date of November 2012 will allow enough time to orient the Puerto Ricans about the consult. Finally, with this law we faithfully fulfilled the commitment we contracted with our people of consulting them regarding their preference of status in the present four year time frame. In November 2012, the elected officials will have a clear mandate of the people to resolve the status problem under the consultation and make arrangements conducive to a solution from the first day of this new mandate. An official notice will be given with the results to the newly elected congress in November 2012 and to the new president, so that this will act in accordance with the will of the people of Puerto Rico.

This legislative assembly is fully convinced that this law represents a step forward of great importance to finally resolve and permanently solve the centennial issue of the political status of Puerto Rico. This measure establishes a process that picks up and combines the most important elements of the working group reports from the President about the status of Puerto Rico and several other proposals from the principal political parties in Puerto Rico. Also, it is the result of the dialogues fostered by the governor of Puerto Rico between the principal political parties, to reach consensus on the matter. This process will give a unique opportunity to Puerto Ricans to send a clear message to the President and Congress of the United States regarding how we want to resolve the status problem and how we want to define our relationship with the United States.

DECREE BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Article 1.- With the objective that it can be an effective process, that will allow the Puerto Rican people to express themselves fairly, transparently and expeditiously on the topic of the status of Puerto Rico in a consult on November 6, 2012, along with the general elections. The process will consist of two questions on the same ballot. Both questions are in detail below:

- (a) First Question: The people will be asked if they agree with maintaining the political territorial condition of Puerto Rico. The first question will read as follows:
“Instructions: Check the option of your choice. A ballot that has more than (1) checked option will not be counted. Do you agree with maintaining the political territorial condition as is? Yes ____ No ____.”

(b) Second Question: People will be asked to choose between the non-territorial options: Statehood, Independence or sovereign commonwealth. The second question will read as follows: “Instructions: Regardless of your response to the first question, answer which of the following non territorial options you prefer. A ballot that has more than (1) checked option in this section will not be counted.

- (i) Statehood: I prefer Puerto Rico be a State of the United States of North America with equal rights, benefits and responsibilities as the rest of the states of the union including the right to full representation in Congress, participation in the presidential elections, and require federal congress to enact the necessary legislation to initiate the transition to statehood. If you agree check here ____.
- (ii) Independence: I prefer Puerto Rico to be a sovereign nation and completely independent from the United States and require federal congress to enact the necessary legislation to initiate the transition towards the independent nation of Puerto Rico. If you agree check here ____.
- (iii) Sovereign Commonwealth: I prefer Puerto Rico to adopt a status outside of the territorial clause from the United States Constitution, and identify sovereignty to the people of Puerto Rico. The sovereign commonwealth would be based on a free and voluntary political association, whose specific terms would be made between the United State and Puerto Rico as sovereign nations. The agreement will have the scope of the judicial powers that the people of Puerto Rico authorize in the hands of the United States and would retain the remaining powers or judicial authorities. If you agree check here ____.

Article 2. – The election commission will design and print the ballot that will be used, it should be uniform size, printed in both English and Spanish, black ink, thick paper so what is printed on the back is not transparent, and in a way that it can be counted electronically by the electronic system that will be used in the general elections on November 6, 2012. The below will appear on the top of the ballot, and will be the same width:

“Consultation on the Political Status of Puerto Rico”

Below and under the first half of the ballot, from top to bottom, there will be space for the first question. The question will appear in the same space, according to the what is established in Article 1 of this law, and under this space will be a space for the voters choice.

In the second half of the ballot, from top to bottom, there will be space for the second question. Three (3) columns will appear next to each other with black text for each of the permanent status options, along with the definition for each, under Article 1 of this law, and the symbol or emblem selected by each certified representative of each option, which should be selected conforming to the procedure that will be established by the election commission. Below there will be a space for the voters choice. The order of

the options will be drawn by the administration of the election commission, which is established in Article 3 of this law.

Article 3. – The draw will be administered by the election commission to determine the order in which the choices of the second question will appear and will be held not before May 1st and no later than May 20th, 2012. This draw will be held with the presence of the representatives of each of the options of status, if they have been certified in accordance of this law.

Article 4.- The election commission will announce the consultation by proclamation, and will be published no less than sixty (60) days prior to its celebration in three (3) daily newspapers in Puerto Rico.

Article 5.- Eligibility to vote: The residents of Puerto Rico will have the right to vote in the consult, duly qualified as voters according to the law 78-2011, known as “Electoral Code for the XXI Century: (hereinafter “Electoral Code”).

Article 6.- The voters according to the electoral code have the right to vote absentee or voting early, they will have this right in accordance with the processes adopted by the electoral commission of the elections for the general elections of 2012.

Article 7.- The parties, principal parties, and parties by petition that are in accordance with the electoral code, are registered and certified by the electoral commission supervising this law, they can participate in the consult, officially representing an option or combination of these, provided that their central management notify the electoral commission in writing of the intention on or before February 15, 2012. If no notice is received by that date, they will lose the preferential right to support the option in question. If management from any party, principal party or party by petition fails to notify as mentioned in this law to the state election commission as representing one of the options or having do so, then leaves the process or recommend or practice the of electoral abstention in the consultation, the election commission will process and review applications and issue certificates crediting any group of citizens or political committee, according to those defined by the electoral code, to defend one of the rejected or abandoned options by one of the parties, principal parties or parties by petition. The group of citizens or political committee will be certified by the election commission for the purpose of being the official representative of an alternative status and to fund allocation provisions in this law, also with the following requirements:

- (a) Request to be certified as an official representative of one of the options or combination of these within forty five (45) days starting on February 15, 2012 or when a party abandons the process or remembers to recommend or practice electoral abstention in the consultation.
- (b) The group of citizens or political committee actions is duly registered, according to law 222-2011, also known as “Proper Control Law for Financing Political Campaigns in Puerto Rico.”

- (c) The date of the application to the State Election Commission: (i) the grouping of citizens or political action committee existed and had proven track record and public defense of the option of status in question; (ii) was integrated in the organization as central director by people who are affiliated in one or more groups, organizations or entities that existed and had an audience prior to the celebration of the application or were historically recognized for the defense of the formula of status that promotes the actual group of citizens or committee of political action; or (iii) did not exist till the effective date of this law, a substantial part of the members of the central management committee had belonged to a party with the public and recognized the historical defense of the option of status that is being represented in the consultation.
- (d) The grouping of citizens or committee of political action has interest in actively participating in the proposed consultation, in support of the formula of vacancy status and in effect their central management committee has made the decision to participate in the consultation.
- (e) The grouping of citizens or political action committee that will represent the option of vacancy status notify the elections commission in their written application the names and addresses of the members that constitute the central management committee of the group. The names of the members of the committee should appear on the certification emitted by the elections commission as the application if necessary.
- (f) This application for certification of a group of citizens or political action committee should be accompanied by a list that contains a number of endorsements of no less than one thousand (1,000) eligible voters to vote. Such requests may be subscribed by voters that have the right to vote and are registered with the elections commission. The elections commission will prepare the endorsement forms and will make them available well in advance, so that the grouping of citizens or political action committee can timely comply with the presentation requirement of endorsements which is available.
- (g) In the case during the consultation there exists more than one group of citizens or political action committee that complies with the requisites to be duly certified as a representative of the same vacant option of status, the certification will be granted to the first of these that meets all of the requirements set forth herein. Provided, however, that no party, principal party, party by petition, group of citizens or political action committee could represent, for purposes of this law, to more than one of the status options according those established in the second question.
- (h) The election commission will adopt these norms governing relative to the application, the special form and the procedures that should be observed to implement the provisions of this article.
- (i) The group of citizens and political action committees can present the application under this article in any moment after being approved by this law. However, the application will be considered if the option of grouping citizens or political action committee requests representation is left vacant by the parties, majority party and

parties by petition, for having term expired provisions in this law to exercise their right to support one of the options or if any of these, after accepting the option, abandons the process and remembers to recommend or practice the electoral abstention in the consult, missing more than thirty (30) days for the same celebration.

Article 8.- The state commission on elections will have the responsibility of organizing, directing, implementing, and supervising the consult provided in this law, just like any other function that in virtue of this law will be conferred or be necessary to comply with the purposes of the same.

Article 9.- The state commission on elections will adopt the rules that will govern the consult with at least sixty (60) days of prior to the celebration. The adoption and amendments to the regulations shall be made in accordance with the electoral code.

Article 10.- The state commission on elections will implement a campaign of information and orientation about the consult, urging the electorate to register and participate in the same; about the way in which the elector should check the ballot to co-sign their vote; and the definitions of each of the options. For the campaign, the state commission of election will use all the means of communication and diffusion techniques within their reach, including electronic media. The same should begin no less than sixty (60) days prior to the date in which the consult will be held. As part of the information phase and orientation, these campaigns will textually reproduce within the means of communication the definition of the options, offering equal exposure to each option.

Article 11.- The president of the state commission of the election should send a certification of the results of the consult to the governor of Puerto Rico, legislative assembly and the secretary of state, no later than forty eight (48) hours after analysis. The governor will certify the result of both questions separately to the president and congress of the United States. The certificate of the governor should read as follows: "The people of Puerto Rico has expressed itself, freely and democratically, around the political status of Puerto Rico in the following way: _____ (provide the results for each of the options provided for each of the two questions of the consult) and it requires congress of the United States and the President to respond effectively to the claims of the people of Puerto Rico in order to fulfill their will."

Article 12.- The state commission of elections will preserve all the ballots and the corresponding tally sheets for a term of no less than ninety (90) days, starting from the day of certification of the results. After the term, they can be destroyed, unless a judicial or administrative review was pending, in which case they will be preserved until the process is finalized or until the court makes a final decision.

Article 13.- A total of two million five hundred thousand dollars (\$2,500,000) will be assigned to the state commission of elections from the general fund to cover the expenses of the consult provided by this law, and will be distributed in the following way:

- (a) The amount of two hundred fifty thousand dollars (\$250,000) for organizational expenses and operations related to the consult.

- (b) The amount of seven hundred fifty thousand dollars (\$750,000) for expenses related to orientation campaign or information, according to what is established in this law.
- (c) For the expenses of the parties, majority of parties and parties by petition that participate in the process conforming with Article 7 of this law, and any group of citizens or committee of political action duly certified to represent one of the status options, subject to the provisions of Article 7 of this law, an amount of one million five hundred thousand dollars (\$1,500,000) will be assigned and divided equally among all of the official representatives who are duly certified and that participate in the consult, independently from the option or combination of options that they support.

Each party, principal party, party by petition, group of citizens or political action committee duly certified to participate in the second question could represent only one (1) alternative. In the first question there could be more than one party, principal party, party by petition, group of citizens or political action committee representing the same alternative, subject to the provisions in Article 7 of this law. However, according to the provisions in Article 7 of this law, only the official certified representative may participate in the fund established by this article.

Article 14.- The duly certified official representatives can receive private donations for the campaign of this consult provided that the total amount does not exceed the amount received by the fund created in Article 13 of this law. The limits here will be independent from the applicable limits to political parties and their candidates in the general election.

The finance department will create separate accounts to manage the received funds and campaign expenses from the duly certified official representatives. The duly certified official representatives will deposit all of donations for the campaign for this consult in the account.

Although, duly certified official representatives can raise money for this campaign on prior dates, the resources of the fund established in Article 13 of this law will be available starting from July first 2012. On that date, the secretary of finance will deposit the corresponding amount to each representative of the fund and submit the disbursements that corresponds to an expense to this fund, no later than the fifth business day from having submitting the requirement of funds with the necessary documents for processing.

Article 15.- Any party, principal party, party by petition, group of citizens or political action committee certified to represent one of the options, according the provisions in Article 7 of this law, has accepted public financing from provisions in Article 13 of this law and then withdraws from participating in the consult, or after accepting the option, abandons the process or recommends or practices electoral abstention in the consult, will be obligated to return to the secretary of finance the amount received plus the legal interest. Also, the amounts received and not used for the purposes in these provisions in this law will be returned to the secretary of

finance. The parties assigned in this law will not be used for campaigns in elective posts or other campaigns for the purposes of this act.

Article 16.- The incurred expenses and contributions from political parties, group of citizens or political action committee will apply the provisions established in the law for the control of funding for political campaigns in Puerto Rico.

Article 17.-The prohibitions and offenses related to the celebration of these consults will be governed by the provisions established in the electoral code and by the law of the funding of political campaigns in Puerto Rico, unless they are incompatible with this law.

Article 18.- Any type of judicial review related with the celebration of the consult shall be governed by the provisions established in the electoral code and by the law of the funding of political campaigns in Puerto Rico, if applies.

Article 19.-The electoral code and the approved regulations in virtue of under the same shall be considered supplementary to the present law and its provisions shall be applied in all the related procedures with the celebration of the consult, unless they are incompatible with the provisions herein. The state commission of elections is authorized to adopt the regulations or resolutions that are necessary so that the purposes of this law are abided by in an effective and impartial way.

Article 20.- If any clause, paragraph, article or part of this law be declared unconstitutional by a competent tribunal, the judgment will not affect nor invalidate the rest of the provisions of this law. The effect of the judgment will be limited to the clause, paragraph, article or part of the law that would have been declared unconstitutional.

Article 21.- This law will go in effect immediately after its approval.

President of the Senate

President of the Chamber