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Legislature Expected to Fast-Track Governor's Emergency Bills

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Relevant Documents:

Law to Address Emergencies and Disasters
New Government Law

The Puerto Rico Legislature is expected to fast-track government restructuring and emergency response bills filed by the administration of Gov. Ricardo Rosselló as lawmakers get back into session this afternoon for the first time since Hurricane Maria struck nearly a month ago.

Among other things, the administration bills include measures that would allow the Treasury secretary to take a range of emergency tax measures and empower the governor to consolidate or eliminate executive branch agencies via executive order. Both administration bills were filed this morning after discussions with the leadership of the Senate and the House of Representatives.

Law to Address Emergencies and Disasters

The first bill, the proposed Law to Address Emergencies and Disasters, aims to create a legal framework to respond to critical situations and establishes a range of executive branch and municipal government actions, La Fortaleza said in a press release issued in conjunction with the filing of the bills. The legislation would group the government's emergency powers under a single code including authorities to freeze prices on essential goods and impose curfews.

Among other things, the bill would amend Article 6080.12 of the 2011 internal revenue code to add the following language: "In addition to the authority conferred in this section, the secretary can also: Ease, reduce, modify, extend or suspend, during the period that the emergency lasts, the collection of any charge, tariff, rate, tax, excise, interest, penalty, late fee, term or any other charge or process that the Treasury secretary has in favor of a taxpayer. To those ends, the secretary would emit an administrative decision in conformity with this article. This administrative decision would be valid during the period that the emergency lasts."

Also added to the code would be language that empowers the Treasury secretary "to coordinate tax policy during the emergency and exercise those functions established in the Law to Address Emergencies and Disasters."

While the legislation does not explicitly mention the sales-and-use tax, the La Fortaleza press release says the Treasury secretary would be empowered "to take emergency tax measures such as eliminating or reducing the sales-and-use tax. ..."

Treasury Secretary Raul Maldonado previously told Reorg Research that replacing the sales-and-use tax with a general excise tax at the ports is under consideration, given that Hurricane Maria knocked out power and point-of-sales systems across the island. The Treasury chief said last week that the commonwealth will lose \$900 million this month in tax revenue that it has been unable to collect in the wake of Hurricane Maria.

La Fortaleza Public Affairs and Public Policy Secretary Ramón Rosario said in a morning press briefing in San Juan that the legislation drew on reviews of similar measures implemented after hurricanes Andrew, Katrina and Sandy.

Among the other measures in the proposed Law to Address Emergencies and Disasters, La Fortaleza highlighted that the legislation:

- Clarifies that the Public Safety Department can forcefully evacuate residents from risk zones;
- Allows for the creation of volunteer corps;
- Addresses personnel and equipment needed to attend to emergencies by: allowing for the ordering of gas stations for emergency response personnel such as health workers, firefighters, police, and others; providing immunity to government officials and volunteers during emergency work; allowing reciprocity on licenses and permits for personnel and equipment from outside of Puerto Rico; and allowing security personnel from outside Puerto Rico to provide services with the necessary equipment including firearms;
- Establishes a group of Treasury Department auditors to monitor the management of aid to agencies and municipalities;
- Requires emergency protocols at hospitals and elderly homes;
- Allows telecom firms and other essential service providers to access private property to re-establish services;
- Eases contracting norms during emergency periods;
- Allows for the suspension of toll road charges;
- Allows the governor, in relation to public employees, to: suspend collective bargaining agreements during emergency periods; grant additional pay to employees working on response and recovery efforts; grant public employees up to an additional six months to use vacation days without losing them; and recognize military leave for activated public employees;
- Allows the Treasury secretary to take emergency tax measures including eliminating or reducing the sales and use tax;
- Eliminates penalties for withdrawing from retirement plans if moneys used to repair damages; and
- Allows the governor to extend the terms of administrative, judicial or other applicable claims related to public or private insurance.

New Government Law

The second bill, the proposed New Government Law, would give the governor the authority to consolidate or eliminate agencies via executive order, provided that the steps do not entail public-sector layoffs or jeopardize federal funds. The legislation directs the governor to evaluate the entire function and organization of the executive branch. The bill allows for the outsourcing of services to nonprofits and

municipal governments, among other entities.

Rosario said 21 U.S. states have delegated to their governor such powers to consolidate or restructure executive branch agencies and corporations including California, Florida, Illinois, New Jersey and Alaska.

La Fortaleza noted in the press release that the fiscal plan as certified by the PROMESA oversight board in mid-March established nearly \$2.8 billion in savings through government restructuring over 10 years. The New Government Law measures would account for \$1.7 billion of that. The administration said it expects to save \$440 million during the current fiscal year by enacting plans to pare the number of executive branch agencies from 131 to between 35 and 40.

The proposed legislation would shield agencies created by constitutional mandate: State, Justice, Treasury, Education, Labor, Transportation and Public Works, Economic Development, Innovation and Commerce, Health and Agriculture.

It would also exempt public corporations with their own fiscal plans certified by the PROMESA oversight board, including the University of Puerto Rico, which is still crafting a fiscal plan as required by the board.

Also exempt would be those agencies that are dedicated to oversight: the Special Independent Prosecutor's Office, Comptroller, Government Ethics Office, Office of the Inspector General, Electoral Comptroller's Office and the State Elections Commission.

Senate Minority Leader Eduardo Bhatia, in a morning radio interview, criticized the La Fortaleza bill as "tragic and dangerous for Puerto Rico."

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