

Judge orders FOMB's pension lawsuit to proceed

Headline Story

HUD to appoint Federal Financial Monitor to Oversee Puerto Rico Disaster Recovery Funds while members of Congress question the decision

FEMA to reinstate Manual Drawdown Process for Puerto Rico

New Governor Wanda Vázquez meets with leaders of the local dairy industry

Volume 2, Issue 21



Global▷eyes

An exclusive publication by Globalize

Judge Swain denies Government's motion to dismiss pension lawsuit

Puerto Rico Oversight Management and Economic Stability Act's ("PROMESA") U.S. District Court Judge Laura Taylor Swain rejected arguments made by the Government of Puerto Rico that the lawsuit cites faulty claims based on PROMESA and denied the Government's motion to dismiss in a lawsuit or adversary proceeding filed by Puerto Rico's Financial Oversight Management Board ("FOMB") over a new pension and healthcare funding law, Law 29, that would transfer hundreds of millions of dollars in municipal pension and healthcare costs to the Government of Puerto Rico.

On July 3, 2019, the FOMB filed suit against the Puerto Rico Government and fiscal agency seeking to invalidate the law because it did not comply with its certified fiscal plan that calls for municipalities to continue to cover those costs and because it violates PROMESA. The FOMB expressed that Law 29 undermines the government's ability to pay pensions to all retirees whenever the local government faces fiscal distress and added that exempting municipalities and putting that burden on the territory's government sets a terrible precedent that other employees may try to use in the future. In the lawsuit, the FOMB also argued that the local government is not complying with sending all the laws approved by the local government with its fiscal impact analysis, as required by Section 204 of PROMESA

According to the lawsuit, Law 29, which was enacted in May of this year by former Governor Ricardo Rosselló, would add \$311 million in additional government spending in fiscal year 2020 and \$1.7 billion

through fiscal year 2024. The local government's approved fiscal budget for 2020 includes funding for local pensions and healthcare insurance costs to aid the municipalities. Nevertheless, the FOMB later imposed its own budget on the territory's government, excluding those costs.

In her decision denying the Government's motion to dismiss, Judge Swain emphasized that this is the second time in which she has to intervene to recognize the powers of the FOMB to limit the actions of the local government in fiscal matters and further added that the administration of former Governor Ricardo Rosselló was trying to not comply with PROMESA. Following a meeting between the new Governor, Wanda Vázquez, and a group of mayors, the new Governor had vowed to continue to defend Law 29's validity.

By ordering the adversary proceeding to proceed, the Judge stated that Congress, through PROMESA, gave the FOMB the power to annul any actions made by the executive and legislative branches of the territory's government that were not compatible with the certified fiscal plans and budgets, as well as to review any new laws and initiate bankruptcy proceedings in the Federal District Court on behalf of the Government of Puerto Rico and its instrumentalities.



GlobalEyes
An exclusive publication from Globalize

HUD to appoint Federal Financial Monitor to Oversee Puerto Rico's Disaster Funds

The U.S. Department of Housing and Urban Development ("HUD") announced on August 2, 2019 its plan to appoint a Federal Financial Monitor to oversee the disbursement of disaster recovery funds to the territory of Puerto Rico. HUD Secretary, Ben Carson, mentioned that a Federal Financial Monitor will be appointed to oversee the disbursement of all HUD disaster recovery funds due to Puerto Rico government's alleged fiscal irregularities and mismanagement.

According to HUD, the Federal Financial Monitor will have extensive legal, accounting, construction management and audit oversight experience and be tasked with ensuring the efficient, effective, and accountable use of funds by leading a special post-disaster team in San Juan, Puerto Rico, with the oversight of all Puerto Rico disaster recovery funds previously awarded and to be awarded in the future by HUD, by taking immediate action to prevent, detect and stop any waste, fraud and abuse, by implementing real-time monitoring to federal flow-of-funds and financial controls, and by ensuring that taxpayer dollars designated for recovery help people in need and are not wasted through corruption or mismanagement.

On August 22, 2019, U.S. Senator Bob Menendez (D-N.J.) and Rep. Darren Soto (D-FL), led a bicameral group of members of Congress in sending a letter to Secretary Carson requesting the publication of a Federal Register Notice detailing the requirements for the disbursement of disaster recovery funds appropriated for Puerto Rico and the USVI to mitigate the impact of future hurricanes, under the Community Development Block Grants for Disaster Recovery ("CDBG-DR") Program and stating that given HUD's decision to appoint a Federal Financial Monitor, there is no reason to further delay the immediate publication of a Federal Register Notice to begin the process towards the disbursement of the aid.

In the letter, the members of Congress further added that with the appointment of the Federal Financial Monitor to oversee billions of dollars in CDBG-DR funding to potentially hundreds of contractors and subcontractors could slow even more the already slow pace at which HUD is providing aid to Puerto Rico.



The Congressmen also requested the policy justifications for the appointment of a the Federal Financial Monitor and questioned if HUD has ever appointed a Federal Financial Monitor to any other U.S. jurisdiction receiving funding from the Agency. HUD was also questioned about the qualifications that it is requiring for the appointment and if the Federal Financial Monitor will be a direct HUD hire or an external contractor.

FEMA to reinstate Manual Drawdown Process for Puerto Rico

On July 25, 2019, the Federal Emergency Management Agency ("FEMA") announced its decision to reinstate the manual drawdown process for the territory of Puerto Rico as an additional step to protect the federal investment in the recovery process of the island, requiring approval from FEMA to drawdown all grant funds for hurricanes Irma and María, further restricting Puerto Rico's access to federal recovery funds.

The federal agency stated that given the ongoing leadership changes within the territory's government, combined with the concern over Puerto Rico's alleged history of fiscal irregularities and mismanagement, FEMA decided to reinstate the manual drawdown process.

As recently as on April of this year, the territory's agency in charge of recovery, the Central Office of Recovery, Reconstruction and Resiliency ("COR3"), announced that it was going to take over the responsibility of reviewing and reimbursing approval of federal recovery funds from FEMA. With the agreement by FEMA and COR3 to assume control of the reimbursement process, the territory was going to be able to expedite the funding to all sub-recipients across the island and accelerate the recovery process.

FEMA emphasized that even though these additional controls reinstated last month are necessary and prudent, the federal agency also remains committed to working with Puerto Rico to ensure long-term recovery efforts underway continue to progress forward.

More than \$5 billion of FEMA Public Assistance Grant Program has been obligated toward response and disaster recovery efforts in Puerto Rico.



globalize
An exclusive publication from Globalize

FEMA's new Consolidated Resource Center Atlantic established in Puerto Rico

On August 22, 2019, Governor Wanda Vázquez met with leaders of the local dairy industry to listen to claims in favor of the manager of the Dairy Industry Regulation Office in Puerto Rico ("ORIL" by its Spanish acronym), Jorge Campos, after his dismissal by the Secretary of Agriculture of Puerto Rico, Carlos Flores due to alleged differences about public policy on how to proceed with the overproduction of milk in the island. The dismissal process of the Manager of ORIL, which by law requires the consent of the Governor, was paralyzed by the Governor.

The group that met with the Governor, which included dairy farmers and representatives of the milk producers industry, defended Campos's tenure at ORIL saying that in many years the industry has not had such a capable and responsible ORIL administrator such as Campos.

The president of the Puerto Rico Milk Producers Cooperative ("COOPLE" by its Spanish acronym), Juan Carlos Rivera, said that he believes that the Secretary of Agriculture's decision to dismiss Campos as ORIL's manager is related to ORIL's decision to take out of the local market Suiza Dairy's imported evaporated milk because the product label did not comply with local regulations.

In the past, milk producers have complained that the Secretary of Agriculture has promoted milk carton imports when local dairy farmers were going through difficult times and have asked support for the industry due to the amount of importation licenses approved by the Secretary of Agriculture. Representatives of the milk producers industry have mentioned that the industry creates about 20,000 jobs but that those jobs could be in peril due to the amount of importation licenses approved by the Secretary Carlos Flores.

In March of this year, the House of Representatives introduced a measure in support of the dairy industry to adopt a public policy that pursues to strengthen Puerto Rico's local agriculture industry. The Speaker of the House said back then that the dairy industry has served the island very well for decades and therefore, the government should give them a hand during these times where milk consumption in Puerto Rico is reduced.



In 2016, the Puerto Rico dairy industry sold more than 240 million of pints, a number that has decreased substantially to about 190 million of pints, as of July of 2018, according to Puerto Rico's Farmers Association data. There are three major milk processing plants operating in Puerto Rico that are sourced by 257 dairy farms with some 45,500 cows.

The dairy industry is the main agricultural sector in Puerto Rico.