

(S.B. 563)

**(No. 32)**

(Approved July 7, 1997)

**AN ACT**

To amend Section 2; subsections (g) and (i) and add subsection (l) to Section 3; amend the first paragraph of Section 5; subsection (e) of Section 7; the first paragraph of Section 15; and add a new Section 16-A to Act No. 44 of June 21, 1988 as amended, known as the "Puerto Rico Infrastructure Financing Authority", in order to increase the amount to be appropriated to the Puerto Rico Infrastructure Financing Authority; establishes the Commonwealth Potable Water Rotating Fund; and grant the Puerto Rico Infrastructure Financing Authority the power to help the Department of Health of Puerto Rico and the Environmental Quality Board to administer said Fund according to the provisions of the Federal Clean Water Act.

**STATEMENT OF MOTIVES**

The government's investment in infrastructure is a basic link for the promotion of Puerto Rico's economic development. This public investment in capital improvements not only generates, in itself, an immediate flow of economic activity, but is also indispensable for the influx of new private investment which use the facilities constructed by the public sector without which it would be difficult to attract private capital. Finally, it is necessary to underline that government investment in infrastructure is an indispensable element to provide basic services to the people of Puerto Rico. Classic examples of such investment in infrastructure are roads, dams, electric power systems, aqueduct and sewage treatment plants, telephone facilities and many others of a similar nature which result in the collective well being of the people of Puerto Rico.

The development of this infrastructure involves a substantial investment of resources. However, the corporations and public instrumentalities which are

responsible for the development and operation of the various elements of this infrastructure, are frequently subject to financial limitations which prevent them from carrying out their infrastructure development investment programs. A clear example of this situation is the Aqueduct and Sewer Authority. This public corporation projects a program of capital improvements of approximately two billion dollars (\$2,000,000,000) for the coming years. Historically, the Government of Puerto Rico has provided appropriations of funds for the Puerto Rico Aqueduct and Sewer Authority for the development of infrastructure facilities as well as to cover operating expenses. Besides, the Government Development Bank for Puerto Rico has provided substantial financing through letters of credit for the partial financing of their capital improvements program. At present, the regular line of credit for the development of capital improvements of the Aqueduct and Sewer Authority, authorized up to a maximum of \$464.8 million, has been practically used up. Said line of credit has to be repaid with the proceeds of bond issues.

The Aqueduct and Sewer Authority urgently needs to obtain additional financing to continue the projects that are in the process of construction, and initiate other projects that are needed to meet federal and local requirements. Nevertheless, for the Government Development Bank for Puerto Rico to continue giving additional financial support to the Aqueduct and Sewer Authority, it is imperative for the appropriations approved annually to the Puerto Rico Infrastructure Financing Authority to cover its outstanding obligations, to be increased at a level of sixty million dollars (\$60,000,000) for the 1997-98 fiscal year, and to seventy million dollars (\$70,000,000) for each subsequent year until the 2027-28 fiscal year. This increase will allow the Government Development Bank for Puerto Rico, as the Fiscal Agent and Financial Advisor of the Aqueduct and Sewer Authority to consider financing opportunities for the Puerto Rico Infrastructure Financing Authority in order to reduce the regular line of credit, or to implement any other financial mechanism to achieve said purpose.

On the other hand, with the purpose of receiving financial assistance under the Federal Clean Water Act to be invested in eligible projects under the provisions of said Act, a Commonwealth Potable Water Rotating Fund is hereby established, and it

provides for the participation of the Puerto Rico Infrastructure Financing Authority in the administration of said Fund.

***BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:***

Section 1.- Section 2 of Act No. 11 of July 21, 1988, as amended, is hereby amended to read as follows:

"Section 2.- Purpose.

The construction, rehabilitation, acquisition, repair, preservation and replacement of the infrastructure of the Commonwealth, or any part thereof, is essential to the general welfare. It is a fact that it is occasionally necessary for the Commonwealth to give financial, administrative, or other assistance to public corporations and instrumentalities of the Commonwealth, to allow them to fulfill their public purpose to provide, preserve, operate, maintain, repair, replace, and improve parts of the infrastructure of Puerto Rico. It is hereby stated that the people of Puerto Rico shall benefit by providing an alternate method of financing our infrastructure needs. It is necessary to immediately establish a Water Pollution Control Revolving Fund and a Commonwealth Potable Water Revolving Fund, and the special standards and provisions that are essential for their administration, so that the Commonwealth may benefit from the Federal Capital Grants program established under Title VI of the Federal Clean Water Act, as amended, and Title I of the Federal Clean Water Act, as amended, or any other similar or related Federal legislation or regulations. It is the firm intent of the Legislature of Puerto Rico to adopt whatever measures are necessary and convenient to fulfill the abovementioned needs and purposes, and to do so, it hereby creates the Puerto Rico Infrastructure Financing Authority, as a public corporation and instrumentality of the Commonwealth, which is an independent body corporate and politic, and establishes the Water Pollution Control Revolving Fund and the Commonwealth Potable Water Revolving Fund.

Section 2.- Subsections (g) and (i) are hereby amended and subsection (e) is added to Section 3, of Act No. 44 of June 21, 1988, as amended, to read as follows:

"Section 3.- Definitions.

The following words and terms when used or referred to in this Act, shall have the meaning indicated below unless it is otherwise clearly construed from the context:

(a) .....

(g) 'Revolving Fund' shall mean collectively, the Puerto Rico Water Pollution Control Fund and the Commonwealth Potable Water Revolving Fund, each of which shall be constituted independent and separate from any other Commonwealth fund, and in accordance with the provisions and purposes of Title VI of the Clean Water Act and Title I of the Federal Clean Water Act, respectively, or any other similar or related Federal legislation or regulations.

(h) .....

(i) 'Infrastructure' shall mean those capital works and facilities of a substantial public interest, such as a water supply systems, waste water treatment and disposal systems, improvements financed under the provisions of Title VI of the Clean Water Act and Title I of the Federal Clean Water Act, or any other similar or related Federal legislation or regulations, solid and hazardous waste disposal systems, resource recovery systems, electric power systems, expressways, highways, airports, bridges, maritime ports, tunnels, transportation systems including mass transit systems, communication systems including telephones, industrial facilities, land and natural resources, and tourist infrastructure facilities.

(j) .....

(l) 'Clean Water Act' shall mean the 1944 Clean Water Act, as amended, and regulations promulgated thereunder."

Section 3.- The first paragraph of Section 5 of Act No. 44 of June 21, 1988, as amended, is hereby amended to read as follows:

"Section 5.- Authorization to grant assistance.

The Authority may grant assistance to any public corporation or government instrumentality empowered to provide infrastructure facilities related to water supply, treatment and distribution systems, waste water treatment and disposal systems, and improvements which are financed under the provisions of Title VI of the Federal Clean Water Act and Title I of the Federal Clean Water Act, or any other similar or related Federal legislation or regulations."

Section 4.- Subsection (e) of Section 7 of Act No. 44 of June 21, 1988, as amended, is hereby amended to read as follows:

"Section 7.- General Powers.

The Authority shall have all of the powers that are necessary and convenient to carry out and accomplish the purposes and provisions of this Act including, but without being limited to the following:

(a) .....

(e) Receive and administrate any gift, grant, loan or donation of any property or money, including, without being limited, to those made by the Commonwealth and the Federal government, or any agency or instrumentality thereof, and lend or expend the proceeds thereof for any of its corporate purposes, and comply with all such conditions and requirements with respect thereto, including those for the administration of the Revolving Funds under Title VI of the Clean Water Act, created in Section 16 hereof, and under Title I of the Federal Clean Water Act, created in Section 16A of this Act, and to take all such steps to meet such conditions, and otherwise exercise such powers that may be needed to obtain the benefits of the programs established pursuant to said law for the Commonwealth under the Federal Clean Water Act and the Federal Clean Water Act, or any other similar or related Federal legislation or regulations.

(f) ....."

Section 5.- The first paragraph of Section 15 of Act No. 44 of June 21, 1988, as amended, is hereby amended to read as follows:

"Section 15.- Special Deposit for the Benefit of the Authority.

During the next forty (40) fiscal years, commencing with the 1988-89 fiscal year, notwithstanding the provisions of Section 29A of Act No. 143 of June 30, 1969, as amended, the first proceeds of the Federal excise taxes remitted to the Department of the Treasury of Puerto Rico in each one of said fiscal years, pursuant to Section 7652(a)(3) of the United States Internal Revenue Code of 1986, as amended, and up to a maximum amount of thirty million dollars (\$30,000,000), in the case of the 1988-89 fiscal year, and of forty million dollars (\$40,000,000), in case of fiscal years 1989-90 to 1996-97, and of sixty million dollars (\$60,000,000) in the case of fiscal year 1997-98 and seventy million dollars (\$70,000,000) in the case of the subsequent fiscal years up to fiscal year 2027-28, shall be transferred upon receipt by the Department of Treasury of Puerto Rico, into a Special Fund to be maintained by or on behalf of the Authority, to

be designated as the "Puerto Rico Infrastructure Fund", and to be used by the Authority for its corporate purposes. In case the proceeds of said federal excise taxes are insufficient to cover the amounts appropriated herein, the Secretary of the Treasury is authorized to cover said deficiency from any available funds, and the Director of the Office of Management and Budget by request of the Authority, shall include in the recommended budget for the corresponding fiscal year, the appropriations needed to cover such deficiencies.

....."

Section 6.- Section 16-A is hereby added to Act No. 44 of June 21, 1988, as amended, to read as follows:

"Section 16-A.- Puerto Rico Potable Water Revolving Fund.

A rotating fund which shall be known as the 'Puerto Rico Potable Water Rotating Fund' is hereby created which shall be constituted independently and separately from any other fund or resource of the Commonwealth, or the Puerto Rico Infrastructure Financing Authority, according to the provisions of, and for the exclusive purposes established by Title I of the Federal Clean Water Act. The Authority is authorized to assist the Department of Health of Puerto Rico and the Environmental Quality Board in administering the Commonwealth Potable Water Rotating Fund, pursuant to Title I of the Federal Clean Water Act, and for that, without it being construed as a limitation, it shall have the power to receive from the Department of Health of Puerto Rico or from the Environmental Quality Board, capital grants under said Act, and matching funds from the Commonwealth required under Title I of the Clean Water Act, deposit said grants and matching funds in the Commonwealth Potable Water Rotating Fund; execute loan contracts and lend the moneys deposited in the Commonwealth Potable Water Rotating Fund to qualified borrowers under Title I of the Federal Clean Water Act, or use said monies in any other way permitted by said Act; structure any financing program and issue bonds for said programs; supervise the repayment by the recipients of the Commonwealth Potable Water Rotating Fund monies, and perform any other things required by the Federal Clean Water Act, with regard to the administration of the Commonwealth Potable Water Rotating Fund, as provided in any agreement signed by the Puerto Rico Infrastructure Financing Authority, the Department of Health and the

Environmental Quality Board, regarding the administration of the Commonwealth Potable Water Rotating Fund."

Section 7.- Any provision or portion of any Act that contravenes what is provided herein, is hereby repealed.

Section 8.- This Act shall take effect immediately after its approval.

August 11, 1997

José A. Figueroa-Lugo, Director of the Office of Legislative Services of the Legislature of Puerto Rico, hereby certifies to the Secretary of State that he has duly compared the English and Spanish texts of Act No. 32 (S.B. 563) of the 1st Session of the 13th Legislature of Puerto Rico, entitled:

**AN ACT** to amend Section 2; subsections (g) and (i) and add subsection (l) to Section 3; amend the first paragraph of Section 5; subsection (e) of Section 7; the first paragraph of Section 15; and add a new Section 16-A to Act No. 44 of June 21, 1988 as amended, known as the "Puerto Rico Infrastructure Financing Authority", in order to increase the amount to be appropriated to the Puerto Rico Infrastructure Financing Authority; establishes the Commonwealth Potable Water Rotating Fund; and grant the Puerto Rico Infrastructure Financing Authority the power to help the Department of Health of Puerto Rico and the Environmental Quality Board to administer said Fund according to the provisions of the Federal Clean Water Act.,

and finds the same are complete, true and correct versions of each other.

José A. Figueroa-Lugo

