

lished pursuant to subsection (a), any such excess funds shall be periodically remitted to the territorial government.

(Pub. L. 114-187, title I, §107, June 30, 2016, 130 Stat. 562.)

§ 2128. Autonomy of Oversight Board

(a) In general

Neither the Governor nor the Legislature may—

(1) exercise any control, supervision, oversight, or review over the Oversight Board or its activities; or

(2) enact, implement, or enforce any statute, resolution, policy, or rule that would impair or defeat the purposes of this chapter, as determined by the Oversight Board.

(b) Oversight Board legal representation

In any action brought by, on behalf of, or against the Oversight Board, the Oversight Board shall be represented by such counsel as it may hire or retain so long as the representation complies with the applicable professional rules of conduct governing conflicts of interests.

(Pub. L. 114-187, title I, §108, June 30, 2016, 130 Stat. 563.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(2), was in the original “this Act”, meaning Pub. L. 114-187, June 30, 2016, 130 Stat. 549, known as the Puerto Rico Oversight, Management, and Economic Stability Act and also as PROMESA, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of this title and Tables.

§ 2129. Ethics

(a) Conflict of interest

Notwithstanding any ethics provision governing employees of the covered territory, all members and staff of the Oversight Board shall be subject to the Federal conflict of interest requirements described in section 208 of title 18.

(b) Financial disclosure

Notwithstanding any ethics provision governing employees of the covered territory, all members of the Oversight Board and staff designated by the Oversight Board shall be subject to disclosure of their financial interests, the contents of which shall conform to the same requirements set forth in section 102 of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(Pub. L. 114-187, title I, §109, June 30, 2016, 130 Stat. 563.)

REFERENCES IN TEXT

Section 102 of the Ethics in Government Act of 1978, referred to in subsec. (b), is section 102 of Pub. L. 95-521, which is set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER II—RESPONSIBILITIES OF OVERSIGHT BOARD

§ 2141. Approval of Fiscal Plans

(a) In general

As soon as practicable after all of the members and the Chair have been appointed to the

Oversight Board in accordance with section 2121(e) of this title in the fiscal year in which the Oversight Board is established, and in each fiscal year thereafter during which the Oversight Board is in operation, the Oversight Board shall deliver a notice to the Governor providing a schedule for the process of development, submission, approval, and certification of Fiscal Plans. The notice may also set forth a schedule for revisions to any Fiscal Plan that has already been certified, which revisions must be subject to subsequent approval and certification by the Oversight Board. The Oversight Board shall consult with the Governor in establishing a schedule, but the Oversight Board shall retain sole discretion to set or, by delivery of a subsequent notice to the Governor, change the dates of such schedule as it deems appropriate and reasonably feasible.

(b) Requirements

(1) In general

A Fiscal Plan developed under this section shall, with respect to the territorial government or covered territorial instrumentality, provide a method to achieve fiscal responsibility and access to the capital markets, and—

(A) provide for estimates of revenues and expenditures in conformance with agreed accounting standards and be based on—

(i) applicable laws; or

(ii) specific bills that require enactment in order to reasonably achieve the projections of the Fiscal Plan;

(B) ensure the funding of essential public services;

(C) provide adequate funding for public pension systems;

(D) provide for the elimination of structural deficits;

(E) for fiscal years covered by a Fiscal Plan in which a stay under subchapters III or IV is not effective, provide for a debt burden that is sustainable;

(F) improve fiscal governance, accountability, and internal controls;

(G) enable the achievement of fiscal targets;

(H) create independent forecasts of revenue for the period covered by the Fiscal Plan;

(I) include a debt sustainability analysis;

(J) provide for capital expenditures and investments necessary to promote economic growth;

(K) adopt appropriate recommendations submitted by the Oversight Board under section 2145(a) of this title;

(L) include such additional information as the Oversight Board deems necessary;

(M) ensure that assets, funds, or resources of a territorial instrumentality are not loaned to, transferred to, or otherwise used for the benefit of a covered territory or another covered territorial instrumentality of a covered territory, unless permitted by the constitution of the territory, an approved plan of adjustment under subchapter III, or a Qualifying Modification approved under subchapter VI; and

(N) respect the relative lawful priorities or lawful liens, as may be applicable, in the

constitution, other laws, or agreements of a covered territory or covered territorial instrumentality in effect prior to June 30, 2016.

(2) Term

A Fiscal Plan developed under this section shall cover a period of fiscal years as determined by the Oversight Board in its sole discretion but in any case a period of not less than 5 fiscal years from the fiscal year in which it is certified by the Oversight Board.

(c) Development, review, approval, and certification of Fiscal Plans

(1) Timing requirement

The Governor may not submit to the Legislature a Territory Budget under section 2142 of this title for a fiscal year unless the Oversight Board has certified the Territory Fiscal Plan for that fiscal year in accordance with this subsection, unless the Oversight Board in its sole discretion waives this requirement.

(2) Fiscal Plan developed by Governor

The Governor shall submit to the Oversight Board any proposed Fiscal Plan required by the Oversight Board by the time specified in the notice delivered under subsection (a).

(3) Review by the Oversight Board

The Oversight Board shall review any proposed Fiscal Plan to determine whether it satisfies the requirements set forth in subsection (b) and, if the Oversight Board determines in its sole discretion that the proposed Fiscal Plan—

(A) satisfies such requirements, the Oversight Board shall approve the proposed Fiscal Plan; or

(B) does not satisfy such requirements, the Oversight Board shall provide to the Governor—

(i) a notice of violation that includes recommendations for revisions to the applicable Fiscal Plan; and

(ii) an opportunity to correct the violation in accordance with subsection (d)(1).

(d) Revised Fiscal Plan

(1) In general

If the Governor receives a notice of violation under subsection (c)(3), the Governor shall submit to the Oversight Board a revised proposed Fiscal Plan in accordance with subsection (b) by the time specified in the notice delivered under subsection (a). The Governor may submit as many revised Fiscal Plans to the Oversight Board as the schedule established in the notice delivered under subsection (a) permits.

(2) Development by Oversight Board

If the Governor fails to submit to the Oversight Board a Fiscal Plan that the Oversight Board determines in its sole discretion satisfies the requirements set forth in subsection (b) by the time specified in the notice delivered under subsection (a), the Oversight Board shall develop and submit to the Governor and the Legislature a Fiscal Plan that satisfies the requirements set forth in subsection (b).

(e) Approval and certification

(1) Approval of Fiscal Plan developed by Governor

If the Oversight Board approves a Fiscal Plan under subsection (c)(3), it shall deliver a compliance certification for such Fiscal Plan to the Governor and the Legislature.

(2) Deemed approval of Fiscal Plan developed by Oversight Board

If the Oversight Board develops a Fiscal Plan under subsection (d)(2), such Fiscal Plan shall be deemed approved by the Governor, and the Oversight Board shall issue a compliance certification for such Fiscal Plan to the Governor and the Legislature.

(f) Joint development of Fiscal Plan

Notwithstanding any other provision of this section, if the Governor and the Oversight Board jointly develop a Fiscal Plan for the fiscal year that meets the requirements under this section, and that the Governor and the Oversight Board certify that the fiscal plan¹ reflects a consensus between the Governor and the Oversight Board, then such Fiscal Plan shall serve as the Fiscal Plan for the territory or territorial instrumentality for that fiscal year.

(Pub. L. 114-187, title II, §201, June 30, 2016, 130 Stat. 563.)

REFERENCES IN TEXT

Subchapter IV, referred to in subsec. (b)(1)(E), was in the original a reference to title IV, meaning title IV of Pub. L. 114-187, June 30, 2016, 130 Stat. 585, which is classified principally to subchapter IV of this chapter. For complete classification of title IV to the Code, see Tables.

§ 2142. Approval of Budgets

(a) Reasonable schedule for development of Budgets

As soon as practicable after all of the members and the Chair have been appointed to the Oversight Board in the fiscal year in which the Oversight Board is established, and in each fiscal year thereafter during which the Oversight Board is in operation, the Oversight Board shall deliver a notice to the Governor and the Legislature providing a schedule for developing, submitting, approving, and certifying Budgets for a period of fiscal years as determined by the Oversight Board in its sole discretion but in any case a period of not less than one fiscal year following the fiscal year in which the notice is delivered. The notice may also set forth a schedule for revisions to Budgets that have already been certified, which revisions must be subject to subsequent approval and certification by the Oversight Board. The Oversight Board shall consult with the Governor and the Legislature in establishing a schedule, but the Oversight Board shall retain sole discretion to set or, by delivery of a subsequent notice to the Governor and the Legislature, change the dates of such schedule as it deems appropriate and reasonably feasible.

(b) Revenue forecast

The Oversight Board shall submit to the Governor and Legislature a forecast of revenues for

¹ So in original. Probably should be "Fiscal Plan".