

# House Subcommittee on Indian, Insular and Alaska Native Affairs

Don Young, Chairman

## Hearing Memo

June 22, 2015

To: Natural Resources Committee Members

From: Majority Staff, Subcommittee on Indian, Insular and Alaska Native Affairs

Hearing: Oversight hearing on “*Examining procedures regarding Puerto Rico’s political status and economic outlook*”

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The Subcommittee will hold an oversight hearing on **Wednesday, June 24, 2015 at 2:00p.m. in room 1324 Longworth** titled: “*Examining procedures regarding Puerto Rico’s political status and economic outlook.*” The purpose of this oversight hearing is to discuss the relationship between the current economic crisis gripping the island and the unresolved issue of political status.

### **Policy Overview**

- The subcommittee will examine the link between the current economic conditions of the island and the unresolved issue of its political status. One area of specific interest is whether economic conditions would improve, decline further, or show no effect with a change in Puerto Rico’s political status.
- While the decision of a change in political status must ultimately be made by the citizens of Puerto Rico, Congress has an obligation to monitor the development of any change in status preference and act with reasonable diligence on behalf of the populace, should future action be required.

### **Invited Witnesses** – *Order of the Witnesses Subject to Revision*

#### **Panel I:**

*The Honorable Pedro R. Pierluisi*, Resident Commissioner of Puerto Rico  
President of New Progressive Party (PNP)  
Washington, D.C.

*The Honorable César A. Miranda Rodríguez*, Attorney General of Puerto Rico  
Testifying on behalf of Governor Alejandro García Padilla  
San Juan, PR

*The Honorable Rubén Berríos*

Former Senator in the Puerto Rican Senate  
President of the Puerto Rico Independence Party (PIP)  
San Juan, PR

**Panel II:**

*The Honorable Luis G. Fortuño*

Former Governor of Puerto Rico, 2009-2011 (PNP)  
Washington, D.C.

*The Honorable Carlos Romero Barceló*

Former Governor of Puerto Rico, 1977-1985 (PNP)  
San Juan, PR

*The Honorable Aníbal Acevedo Vilá*

Former Governor of Puerto Rico, 2005-2009 (PPD)  
San Juan, PR

*The Honorable Carmen Yulín Cruz Soto*

Mayor of San Juan, 2013-Present (PPD)  
San Juan, PR

*Ms. Miriam J. Ramirez MD*

Former Puerto Rico State Senator, 2001-2004 (PNP)  
Founder, Puerto Ricans in Civic Action  
Orlando, FL

**Background**

The island of Puerto Rico was acquired by the United States in 1898 with the signing of the Treaty of Paris at the conclusion of the Spanish-American War. For the past 117 years, Puerto Rico has remained a territory with close economic and social ties to the United States. Puerto Ricans are United States citizens at birth, have served in all branches of the U.S. military since 1917<sup>1</sup>, do not pay Federal income taxes, are not allowed to vote for the President of the United States<sup>2</sup>, and have no voting representation in the United States Senate or the House of Representatives.

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<sup>1</sup>Passage of the Jones Act in 1917 granting US citizenship, establishing a Puerto Rican Bill of Rights and an overall strengthening of the civil government.

<sup>2</sup> Puerto Rican residents are allowed to vote in party primaries.

## Last Major Action on Political Status

On November 6, 2012, a referendum concerning the political status of Puerto Rico was held on the island.<sup>3</sup> This was the fourth time a vote on the political status of the island had been held and the first time the result had been in favor of changing political status. The voters were asked to answer two questions:

- 1) Whether they wished to maintain Puerto Rico's current political status;
- 2) Regardless of the choice in the first question, whether they preferred statehood, independence, or to be a "sovereign free associated state."

The results of the vote according to the Puerto Rico State Elections Commission (CEE, as it's known by its Spanish acronym) were that approximately 54.0% voted "no" for the first question, with 46% voting "yes"; and approximately 61.2% chose the "statehood" option in the second question, with independence receiving 5.49% and sovereign free association 33.34%.

The 2012 plebiscite results are often the source of heated debate by the political parties on the island, particularly surrounding the interpretation of the ballots cast for the second question. The CEE listed 498,604 "blank votes" to the second question but calculated the percentages out of the 1,363,854 votes cast for one of the three options presented in the second question.

The Puerto Rican Legislative Assembly passed a concurrent resolution, endorsed by Governor García Padilla, in which the results of the second question are recalculated and the percentages adjusted to account for the "blank votes" cast. The adjustment notes that the "blank votes" received 26.5% of the votes cast while statehood received 44.4%, Independence received 4% and Free Association received 24.3%. The results certified by the CEE present statehood as the clear preference of the voters in question two. If results are interpreted as the Legislative Assembly and the Governor expressed, then none of the options presented in the second question received a clear majority of voter support.

On August 1, 2013, the U.S. Senate Committee on Energy and Natural Resources held a hearing on the political status of Puerto Rico, where the results of the 2012 plebiscite were discussed. The witnesses that testified at the hearing included Governor García Padilla, Resident Commission Pierluisi, and Senator Berríos. Both Chairman Ron Wyden and Ranking Member Murkowski expressed the opinion that the results of the plebiscite demonstrated that a majority of Puerto Ricans do not favor the current political status.

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<sup>3</sup> The plebiscite was authorized by the Puerto Rican Legislative Assembly in 2011.

Prior to the 2012 plebiscite, Puerto Rico has voted on some form<sup>4</sup> of the question of political status a total of four times: 1967, 1991, 1993, and in 1998. In the four previous instances, voters did not choose any option that would lead to a change in the Commonwealth status of the island.<sup>5</sup>

### Legislation to Address Political Status

It may be of interest to note that the last time the U.S. House Committee on Natural Resources held a hearing pertaining to Puerto Rico's political status was six years ago during the 111<sup>th</sup> Congress. A legislative hearing was held on June 24, 2009 where testimony on H.R. 2499 (Pierluisi) *Democracy Act of 2010* was heard. The bill called for a federally authorized plebiscite to be held in Puerto Rico. The bill was eventually marked up and sent to the full House where it passed by a roll call vote of 223-169, with 1 voting present.<sup>6</sup>

Prior to the passage of H.R. 2499 during the 111<sup>th</sup> Congress, the last bill to pass the House was H.R. 856 *United States-Puerto Rico Political Status Act*, introduced by Congressman Don Young of Alaska in the 105<sup>th</sup> Congress. The Young bill also essentially called for a federally authorized plebiscite to be held to resolve the status issue.

Currently in the 114<sup>th</sup> Congress, the Resident Commissioner has introduced H.R. 727 *Puerto Rico Statehood Admission Process Act*, which has been referred to the Committee on Natural Resources, Subcommittee on Indian, Insular and Alaska Native Affairs. The bill has acquired 108 cosponsors, consisting of 94 Democrats and 14 Republicans, but has not been considered in a hearing. The Obama Administration has not stated any clear position on the bill and has not voiced any recommendations to Congress. However, the Administration did include \$2.5 million in the FY2015 Omnibus appropriations measure (P.L. 113-76) for a plebiscite on Puerto Rican status. The Governor of Puerto Rico has indicated that he intends to use the funds to hold another plebiscite before the end of his first term in 2016.<sup>7</sup>

### Puerto Rican Political Parties in Brief

Puerto Rico has an established republican form of government, following the models of the U.S. Federal government and the 50 states of the Union, subject to Congressional authority under the Territorial Clause of the U.S. Constitution, Art. IV, Sec. 3, cl. 2. With the passage of the Federal Relations Act in 1950 and the ratification of the Puerto Rican Constitution in 1952,

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<sup>4</sup> Previous plebiscites vary in exact wording from each other, but essentially all seek to ask the question of status in some way.

<sup>5</sup> Garrett, R. Sam. "Puerto Rico's Political Status and the 2012 Plebiscite: Background and Key Questions." Congressional Research Service (2015): 9. crs.gov. Web. 18 June 2015. <http://www.crs.gov/pdfloader/R42765>

<sup>6</sup> Roll no. 242 <http://clerk.house.gov/evs/2010/roll242.xml>

<sup>7</sup> "PR Governor Says Status Vote by 2016." Caribbean Business. 16 July 2014. Web. 19 June 2015. <http://www.caribbeanbusiness.pr/news/pr-governor-says-status-vote-by-2016-98782.html>

Congress has recognized the island's authority to govern internally.<sup>8</sup> The capital city of San Juan on the north-east coast of the island is home to all three branches of the Puerto Rican government. The main political parties to note on the island are as follows:

**PPD:** Partido Popular Democrático – Popular Democratic Party – Pro Commonwealth/ Pro-Status

**PNP:** Partido Nuevo Progresista- New Progressive Party – Pro Statehood

**PIP:** Partido Independentista Puertorriqueño – Puerto Rican Independence Party – Pro Independence

Currently, the PPD holds the Majority in both the Puerto Rican Senate and House. The Governor is also the President of the PPD, while the Resident Commissioner is the President of the PNP. The PIP has one lone serving Senator and no elected officials represented in the House.

Within the PPD, there is a faction of members who support a change in the current status of commonwealth to a form of free association with the United States, often referred to as an “enhanced commonwealth” option. While the actual definition of this enhanced commonwealth option is in itself the subject of much debate, proponents have hinted that the option would allow Puerto Rico to operate in a sort of gray area, where it is granted sovereignty but not full independence, has the same rights as a State, but is not a State, and is not subject to the Territorial Clause of the U.S. Constitution.

The enhanced commonwealth option has been repeatedly rejected as a possible option for resolving the status issue by not only the Presidential Task Force on Puerto Rico's Status under the Obama Administration, but also by a similar Presidential report issued by the Bush Administration, primarily being cited as un-constitutional. There are no such factions within the PNP or the PIP on the issue of status.

### Current Economic Issues

Recently, the island's significant economic challenges have garnered attention from the mainland. The economic recession that rocked the United States mainland from 2007-2009<sup>9</sup> actually began a year earlier and has lasted longer for Puerto Rico. In 2006, many long standing corporate tax breaks were eliminated on the island, leading to a corporate exodus to neighboring countries like Mexico and causing shutdowns in the notable pharmaceutical, medical devices, and electronics plants prevalent throughout the island. Manufacturing makes up the largest section of the private sector, with tourism being the next major contributor of jobs and

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<sup>8</sup> Garrett, R. Sam. “Puerto Rico: Political Status and Background.” Congressional Research Service (2015): 2. crs.gov. Web. 19 June 2015. <http://www.crs.gov/products/if/pdf/IF10241.pdf>

<sup>9</sup> According to the U.S. National Bureau of Economic Research (the official arbiter of U.S. recessions) the US recession began in December 2007 and ended June 2009.

agriculture, historically the largest sector of the Puerto Rican economy<sup>10</sup>, now playing a minor role in the economy.

Also beginning in 2006 the island began experiencing an uptick in public and private sector layoffs and many cite the recession and the end to corporate tax breaks as contributing significantly to this loss of jobs in the island's economy. These events have contributed towards the decline of the island's most valuable resource, a highly educated skilled labor force.

From 2010 to 2013, the average number of Puerto Ricans migrating to the mainland each year reached a stunning 48,000.<sup>11</sup> When considering the fact that the average annual migration from the island to the U.S. was only 11,000 from 1990 to 2000, it is clear that the health of the economy is having a detrimental effect on the future of the commonwealth. This type of surge in migration of Puerto Rico's skilled labor force to the U.S. mainland hasn't been seen at such levels since the Great Migration experienced post-World War II, with lack of employment cited as the primary reason for leaving above all others.<sup>12</sup> With Puerto Ricans making their way to States that hold more job opportunities such as Florida, New York, Texas and Colorado, the island's government is facing a shrinking tax base.

The Puerto Rican government is currently \$73 billion in debt, with the threat of a default looming. Of the public corporations, PREPA, the Puerto Rican Electric Power Authority, holds the highest portion of the debt at \$8.3 billion, with the Highway and Transportation Authority (HTA) holding the second highest portion of debt at \$7.1 billion. PREPA is scheduled to make a \$400 million debt payment on July 1, 2015, an obligation many fear the utility does not have funding to make.<sup>13</sup> Meanwhile, residents on the island have been subject to skyrocketing energy prices as the rising cost of petroleum, Puerto Rico's primary source of energy fuel, has driven electricity prices to more than double the U.S. mainland average.<sup>14</sup>

Recently, the issue of extending Puerto Rico's public corporations eligibility for protection under Chapter 9 of the U.S. bankruptcy code has been a topic of debate for legislators on Capitol Hill trying to consider how best to help Puerto Rico recover from their dire circumstances in regards to public debt.

Resident Commissioner Pierluisi has introduced H.R. 870, a bill which would amend Title 11 of the U.S. code to define Puerto Rico as a "state" for purposes of Chapter 9. The bill

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<sup>10</sup> Up until the mid-20<sup>th</sup> century, agriculture dominated Puerto Rico's economy, with sugar cane being the primary export.

<sup>11</sup> Gillespie, Patrick. "Puerto Rico's Terrible Economy Is Causing a Population Exodus." *CNNMoney*. Cable News Network, 15 June 2015. Web. 19 June 2015. <http://money.cnn.com/2015/06/15/news/economy/puerto-rico-debt/>

<sup>12</sup> According to the U.S. Bureau of Labor Statistics, the current unemployment rate for the island is 12.2 percent.

<sup>13</sup> Kaske, Michelle. "Puerto Rico Utility May Default on July Payment, Moody's Says." *Bloomberg.com*. Bloomberg, 16 Mar. 2015. <<http://www.bloomberg.com/news/articles/2015-03-16/puerto-rico-utility-may-default-on-july-payment-moody-s-says>>

<sup>14</sup> U.S. Energy Information Administration. "Puerto Rico: Territory Profile and Energy Estimates." EIA.gov. 16 Apr. 2015. <<http://www.eia.gov/state/analysis.cfm?sid=RQ>>

has been referred to the House Judiciary Committee's Subcommittee on Regulatory Reform, Commercial and Antitrust Law. Opponents of the bill have argued that extending eligibility to Chapter 9 is not the proper solution and would unfairly shortchange bond holders, while ignoring the underlying problems with the business models and management of the state run utilities.

Due in large part to the Federal government giving Puerto Rico a nationwide tax exemption on its debt, an exemption afforded to none of the 50 States, the island has become the third largest issuer of municipal bonds in the United States. Extending eligibility to Chapter 9, a Federal mechanism, would allow Puerto Rico to operate in a gray area and could perpetuate more mismanagement of public trust in the future, according to the opponents of the bill. In May of 2014, the three major rating agencies<sup>15</sup> downgraded Puerto Rico's debt to junk status.<sup>16</sup>

This past spring, Governor Padilla unveiled a \$9.64 billion budget which aims to pay down \$775 million dollars in debt while drawing no new loans. The budget includes a \$200 million cut in education funding to University of Puerto Rico. This proposed cut lead to protests at the capital in San Juan by students and educators, with some cases of police clashing violently with protesters, further demonstrating the social strain the economic downturn is having on the island's populace.

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<sup>15</sup> Moody's, Standard and Poor's, Fitch Group.

<sup>16</sup> Cohn, D'Vera, Eileen Patten, and Mark Hugo Lopez. "Puerto Rico Population Declines on Island, Grows on U.S. Mainland." *Pew Research Centers Hispanic Trends Project RSS*, Pew Research Center, 11 Aug. 2014. Web. 19 June 2015. <http://www.pewhispanic.org/2014/08/11/puerto-rican-population-declines-on-island-grows-on-u-s-mainland/>