

**FINANCIAL OVERSIGHT AND MANAGEMENT BOARD  
FOR PUERTO RICO**



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**BY ELECTRONIC MAIL**

June 25, 2020

The Honorable Wanda Vázquez Garced  
Governor of Puerto Rico

The Honorable Thomas Rivera Schatz  
President of the Senate of Puerto Rico

The Honorable Carlos J. Méndez Núñez  
Speaker of the House of Representatives of Puerto Rico

Dear Governor Vázquez Garced, President Rivera Schatz, Speaker Méndez Núñez:

The Oversight Board has become aware of House Bill 2572 (“HB 2572”), which proposes, among other things, to (i) maintain the University of Puerto Rico’s (the “UPR”) Retirement System as a defined benefit plan, (ii) permanently establish specific pension benefits, and (iii) replace the Retirement System’s current governance structure with a new one where the UPR Retirement Board would replace the UPR Governing Board and become the trustee of the plan.

The UPR faces significant economic and structural challenges. As outlined in the UPR Fiscal Plan, the UPR’s historical decisions to contribute insufficient amounts to the Retirement System pension fund have resulted in 57% of unfunded liabilities, as presented in the actuarial valuation study draft from February 2020. If the UPR makes no changes to its funding policy, the Retirement System risks insolvency by about 2031. Prospectively managing and perpetuating an underfunded defined benefit pension plan creates a higher risk of insolvency for the Retirement System and is unsustainable in light of the Oversight Board actuarial analyses. Accordingly, the UPR should not and cannot incur the higher costs of maintaining a defined benefit plan as proposed in HB 2572, considering the present fiscal circumstances of the Retirement System and UPR.

HB 2572 is also significantly inconsistent with the UPR Fiscal Plan’s expenditure and revenue forecasts and would increase the UPR’s operating deficit even further. Additionally, HB 2572 purports to replace the UPR Governing Board with a new Retirement Board that will act as trustee and with authority to administer the plan and set forth UPR’s employer contributions, without employing or enabling the implementation of a path towards a defined contribution plan. The

Honorable Wanda Vázquez Garced  
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June 25, 2020  
Page 2 of 2

Oversight Board believes a defined contribution plan is the approach best calculated to meet the UPR's financial objectives while avoiding future underfunding liabilities.

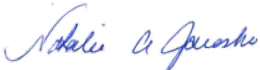
Finally, HB 2572 contains a severability clause stating that if the law is deemed unconstitutional under the U.S. Constitution or invalid under PROMESA, the unconstitutional or invalid portions of the law would be "temporarily suspended" until the Oversight Board ceases under Section 209 of PROMESA. The severability clause is problematical and counterproductive for many reasons. First, it serves as a warning to the Oversight Board that the Commonwealth intends to readopt bad fiscal policy as soon as the Oversight Board terminates. This would, of course, cause the Oversight Board to impose other measures and savings designed to offset the impact of the severability clause. Second, such a provision is completely inconsistent and contrary to the long-term goals and continuance of the results achieved under PROMESA. Third, it is a warning to Congress that it should not let the Oversight Board expire.

In sum, HB 2572 is significantly inconsistent with the pension forecasts and reforms set forth in the UPR Fiscal Plan, as certified on June 12, 2020.

Moreover, contrary to Section 108(a)(2), HB 2572 (i) creates and perpetuates unaffordable pension liabilities and thereby jeopardizing UPR, (ii) creates a pension system different from the defined contribution plan the Commonwealth imposed for other public employees, (iii) consumes resources required for other growth initiatives needed to benefit UPR and the Commonwealth, (iv) creates a need to raise tuitions or reduce resources of UPR, and (v) endangers the sustainability of UPR, which is one of the Commonwealth's crown jewels and is one of its primary drivers to overcome the Commonwealth's economic deterioration. Accordingly, the Oversight Board will take any actions necessary to enjoin the enactment and implementation of HB 2572 should it be enacted by the Governor and Legislature, consistent with Sections 104(k) and 108(a).

We look forward to continuing to work together for the benefit of the people of Puerto Rico.

Sincerely,

  
Natalie A. Jaresko

CC: Mr. Omar Marrero Díaz