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GOVERNMENT WATCH

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SENATE PASSES BILL ESTABLISHING THE USE OF PUBLIC-PRIVATE PARTNERSHIPS

On Monday, the Puerto Rico Senate approved Senate Bill 469 establishing the use of Public-Private Partnerships as an alternative to finance and develop infrastructure projects, operate and manage public assets and offer certain services to the public. The bill creates the Public-Private Partnerships Authority, which is responsible for determining which infrastructure projects are viable and must receive priority. For every Partnership that is approved, the Authority must create a Partnership Committee that will evaluate proposals submitted by private entities and subsequently select the entity that will enter a contractual agreement with the government. The Authority is responsible for establishing the terms for such a contract, which must then be approved by the Authority's Board, the Secretary of the participating government entity and the Governor.

The Senate Economic Development and Treasury Committees recommended the following amendments to the original Bill. First, the assets of a Public-Private Partnership cannot be transferred to any person or private entity. Thus, any operation developed as a result of a Partnership must be transferred to the State at the end of the term indicated in the contract. The terms must have a duration of at least 50 years, with the option of renewing the contract for another 25 years with the Legislature's approval. The amendments also include stipulations regarding the taxation to the private entities involved in the Partnership including, for example, that they will be subject to income taxes at a fixed rate of ten percent. Finally, a Joint Commission of the Legislative Assembly is created to, among other things, evaluate the necessity of this law and report their findings to the Assembly and Governor. The measure now goes to the House where a hearing is expected to be held before its approval.

When negotiating Public-Private Partnership or P3 agreements, both the private and public sectors will need the advice of financial consultants and lawyers to make the correct assessments. Our Firm has been a pioneer in negotiating P3 agreements both representing the public sector and private entities. The Firm has negotiated P3 agreements since the 1970s in connection with infrastructure projects, transportation systems and energy co-generation. If you have any questions regarding P3s or would like to know more of our Firm's experience in this area please call us. If you know anyone that would like to receive the FGR Government Watch, please feel free to forward this newsletter or reply to this e-mail in order to be added as recipient. Stay tuned for further updates of **FGR GOVERNMENT WATCH.**

If you have any questions in regards to the above, please do not hesitate to contact our offices. Our address is: Fiddler González & Rodríguez, PSC, P.O. Box 363507, San Juan, PR 00936-3507. Fax (787) 754-7532. Our website is www.fgrlaw.com

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