



## Jorge Navarro Suárez

Representante Distrito 5  
COMISIÓN DE GOBIERNO  
Presidente

April 6, 2020

**Mrs. Natalie Jaresko**

Executive Director

Financial Oversight and Management Board of Puerto Rico (FOMB)

PO Box 192018

San Juan PR 00919-2018

Dear Mrs. Jaresko:

Receive a cordial greeting.

Today we filled in House Joint Resolution 675 which has the purpose of establish that during the validity of Administrative Bulletin No. OE-2020-020 of March 12, 2020, through which a state of emergency was declared in Puerto Rico regarding the outbreak of the coronavirus (COVID-19) worldwide, during the validity of the Administrative Bulletin OE-2020-029 of March 30, 2020, which extended the terms of the state of emergency, the special provisions of the curfew and the operation of certain businesses, as well as during the validity of any other similar executive order that is issued, private employers that are providing service to the public to the maximum of their capacity and as permitted by OE-2020-029 or any other similar executive order that was issued, except those with less than fifty (50) employees and that generate an annual gross income of less than ten million dollars (\$ 10,000,000.00), must pay at the rate of time and a half the hours of employees who are working in their establishments in direct contact with the public.

As it is of public knowledge, we are facing a global health crisis unprecedented in modern history. The World Health Organization has declared the wide spread of the coronavirus called COVID-19 as a pandemic on March 11, 2020, as this disease has affected most countries in the world, including Puerto Rico. Five hundred thirteen (513) positive cases for COVID-19, twenty-one (21) deaths have been confirmed to date on the Island, and there are many other suspected cases awaiting the results of the corresponding tests. As a consequence of this pandemic, Puerto Rico not only faces difficulties in the health area, but also faces an economic and labor crisis.

Given the growing possibility that COVID-19 substantially affects our population, the Governor, Honorable Wanda Vázquez-Garced, declared a state of emergency in Puerto Rico through Administrative Bulletin OE-2020-020 starting on March 12, 2020. Likewise, in order to minimize the possibilities of contagion and spread of the virus, ordered the social isolation of people established a curfew on the Island and the complete closure of government and private




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operations, allowing only certain commercial establishments to continue functioning<sup>1</sup>. Some of these are: supermarkets, pharmacies, fast food establishments (through the delivery or pick-up service), pharmaceutical companies, among others.

The measures adopted to counteract the spread of COVID-19 are based on the Government's responsibility to safeguard public order and protect people's lives, as provided in Sections 7 and 19 of Article II of our Constitution. Likewise, Section 16 of the same Article recognizes the right of every worker to protection against risks to their health or personal integrity in their work or employment. In view of this, Law No. 16 of August 5, 1975, as amended, was approved, known as the "Occupational Safety and Health Law", to "guarantee [.] as much as possible to each employee [.] ... safe and healthy working conditions... [in order to] preserve our human resources... [and] minimize family and personal misfortunes [.] and the economic losses resulting from work injuries and illnesses." **The foregoing is also recognized at the federal level by the Occupational Safety and Health Act of 1970, as amended (Occupational Safety and Health Act or OSHA).**



In order to maintain a balance between combating the spread of COVID-19 and continue to provide essential services to prevent people from going to the streets, several of the private establishments allowed to continue operating need -of course- human capital to provide such services. Because these employees are compelled to report to their respective workplaces to meet the needs of the rest of the population, they are exposed to an increased risk of contagion.

Definitely, the tasks carried out by many of these workers, at any other time in daily life, do not necessarily present dangerous risks that threatened their health. However, in the face of the pandemic we are facing, that framework changed dramatically. For this reason, we understand that, in addition to the responsibility that every employer has to take processes to protect their employees in their workplace, it is prudent and necessary to compensate these workers who risk their health, and even sometimes even their lives, with a salary equal to time and a half, during the validity of the executive orders imposed by the Governor.

This extra compensation is recognized in Act No. 379 of May 15, 1948, as amended. Article 4 (c) of Law 379, provides for the payment of "overtime" as those "that an employee works for his employer during the days or hours in which an establishment must remain closed to the public by legal provision." The novel case presented by the worldwide pandemic due to the COVID-19 coronavirus constitutes a unique situation, in which there is a real risk to the health of those employees who must work, when in any other circumstance these establishments had not opened. Therefore, the employees should be compensated for having to go to their workplace, continually risking the spread of COVID-19.

However, we propose that the payment of wages on time and a half to employees **compelled to work in private companies authorized to remain open during this pandemic should be**

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<sup>1</sup> This was made through Administrative Bulletin OE-2020-023 of March 15, 2020, and then through Administrative Bulletin OE-2020-029 of March 30, 2020.





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applied only to businesses that have more than fifty (50) employees and that it generates a gross income of less than ten million dollars (\$ 10,000,000.00) each year and whose employees are working in direct contact with the public. In this way, small and medium merchants are protected from higher economic burdens; but employees will be benefited from this special and temporary measures.

Despite this exclusion, House Joint Resolution 675 has had a massive rejection by the local retail sector. Although we understand their objections, we are also firmly convinced that in the crisis we are facing, as legislators is our duty be on the side of the employees of these companies, who are bravely facing the pandemic on the street, providing service to citizens.

That is why I ask you to evaluate our proposal and if it does not prosper in the Legislative Assembly, help us identify another option to help this sector that will not receive any economic incentive for its extraordinary work in these difficult times.

Thanking you for your prompt attention to this matter, I remain.

  
Jorge Navarro-Suarez  
JNS/lhrs