What legal resources does the Board have to stop the Labor Reform?

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Although Governor Pedro Pierluisi Urrutia has had House of Representatives Bill 1244 before his consideration since last week, which would give way to a Labor Reform, the Fiscal Supervision Board (JSF) could be presenting a legal remedy to stop the legislation because it is contrary to the certified fiscal plan and the federal PROMESA Act .

Supervisory Board rejects the Labor Reform

The labor lawyer and former secretary of the Department of Labor, Carlos Saavedra Gutiérrez , stressed that if it were to occur, this legal controversy would be historic because it would mean the first time that the Board has gone against the government for legislation that mainly impacts the private sector .

> *'There are basically two sections of the PROMESA Law that the Fiscal Oversight Board can activate to stop a law. They are sections 204 and 108. Basically, what is established is that, if the entity establishes that a law is inconsistent with the Fiscal Plan, the Board can order the government not to implement it,' highlighted the former Secretary of Labor. "They have never sued the government for a law that affects the private sector," he added.*

Currently, the Oversight Board has filed around ten lawsuits against the government because certain legislation fails to comply with the provisions of the federal PROMESA Law, such as, for example, the Dignified Retirement Law .

'All those laws, the Board sends a letter to the government informing it that the legislation is inconsistent with the Fiscal Plan. The Board is undefeated in these claims. They haven't lost a single one. Judge Laura Taylor Swain has basically ruled that the government has to show that the board's conclusion is capricious and unreasonable. That's a pretty low standard. In the meantime, the board only has to demonstrate noncompliance with the fiscal plan, and that is enough ,' she added.

Particularly, the issue is even more interesting when talking about the amendments to the Labor Reform, because for the lawyer so far the demands that the Board has brought have been with laws that are directly related to the treasury, a term that refers to the State as a legal entity that has the power to make collections.

'There have always been laws that, for the Board, it has been easy to identify non-compliance as it impacts the government budget. But, they tie it to the fact that -if the Labor Reform is implemented- we will have job losses. Although I still find that a bit esoteric. The only concrete thing that I see is the Work Credit, because the Fiscal Plan presumes that a certain amount of that work credit will be flowing into the economy. That credit depends on the number of people who work,' he said.

Yesterday, the Oversight Board, through a letter, opposed House Bill 1244 because it is contrary to the certified fiscal plan and the federal PROMESA Act.

'House Bill 1244 (C.P. 1244) proposes to repeal certain parts of the Labor Transformation and Flexibility Act (LTFA) to reinstate many of the onerous labor restrictions that previously existed of the approval of the LTFA, and create new labor restrictions', says the letter signed by the president, David Skeel.

Through this legislation, labor rights will be restored and expanded to workers in the private sector, after the House of Representatives and the Senate concurred with the amendments to the measure, it is expected to become law as soon as possible.

With this measure, vacations for full-time employees are increased to 1.25 days per month; a new half-day benefit per month for vacations and one day for sickness is created for part-time employees; the accumulation for the Christmas bonus is reduced from 1,350 hours to 700 hours and 900 hours for SMEs; the prescriptive period is increased to three years; the presumption of dismissal is reversed in favor of the employee; the probationary period is reduced to three months with the possibility of extending an additional three months upon notification; Overtime in excess of ten hours will be paid double time in flexitime agreements and without flexitime agreement at time and a half; among other benefits.

The governor has until Tuesday, June 21 to sign or veto the measure. From that date, he has seven days to show that the legislation is not inconsistent with the Fiscal Plan.