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STANDING - PUERTO RICO

In re Financial Oversight and Management Board for Puerto Rico

United States Court of Appeals, First Circuit - July 25, 2024 - F.4th - 2024 WL 3533427

Following determination by court, under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), that “Law 29,” Puerto Rico legislation purporting to eliminate burden on Puerto Rico’s municipalities of complying with the Commonwealth’s reformed public pension funding scheme, violated PROMESA and thus was “a nullity” and “of no effect,” not-for-profit membership organization comprised of municipalities’ mayors brought adversary proceeding against the Financial Oversight and Management Board for Puerto Rico and others, asserting that Board lacked authority to recover the funds retained by municipalities under the auspices of Law 29 during the year before it was declared void.

Defendants moved to dismiss.

The United States District Court for the District of Puerto Rico granted motions. Organization appealed.

The Court of Appeals held that:

- Allegation that municipalities had been deprived of significant revenue to which they were entitled satisfied the “injury in fact” requirement for Article III standing
- The *Hunt* “indicia of membership” test, 97 S.Ct. 2434, was applicable to determine whether organization, which was made up of mayors, had organizational standing to sue on behalf of non-member municipalities;
- The injured municipalities had sufficient “indicia of membership” in organization for it to satisfy the requirements of organizational standing;
- Organization lacked standing to sue the executive branch defendants;
- Law 29 was invalidated from its inception, not merely going forward; and
- The Title III court had authority to nullify Law 29.