

Pedro Pierluisi Sworn-In as New Governor of Puerto Rico; Senate to Hold Confirmation Vote Monday Afternoon

ATTORNEYS

- Marcos Rodríguez-Ema
- Sila M. González-Calderón
- Arturo J. García-Solá
- Isis Carballo-Irigoyen
- Samuel T. Céspedes Jr.
- Jorge J. García-Díaz
- Yamary I. González-Berríos
- Rubén Méndez-Benabe
- Francisco J. Pavía
- Lizzie M. Portela-Fernández
- Antonio J. Ramírez-Aponte
- Miguel Rivera-Arce
- Magda M. Boyles
- Antonio J. Rodríguez
- Carlos J. Villafañe-Real
- Xenia Vélez
- Nayuan Zouairabani-Trinidad
- Carla S. D'Almeida-Aracena
- Jaime F. González-Suárez

PRACTICE AREAS

- Government Affairs & Public Policy

An McV Government Affairs Alert

August 2, 2019

- On Friday, August 2nd, at 5:01 pm, Mr. Pedro Pierluisi was sworn in as the Governor of Puerto Rico. This happened despite the fact that the Puerto Rico Senate has yet to confirm Mr. Pierluisi as the Secretary of State.
- This development is a result of the political and social turmoil that has beset the Island during the last three weeks, and came as a result of the federal indictments against former officials of the Rosselló administration; and also, by the public disclosure of approximately 900 pages of a highly controversial cellphone chat in which former Governor Rosselló and other high-level officials and advisors participated, and which ultimately prompted his resignation.
- On July 31st, three days before his announced departure, former Governor Rosselló nominated former Resident Commissioner (2009-2016), Pedro Pierluisi, as Secretary of State of Puerto Rico, with the intention of having Mr. Pierluisi become Governor upon his departure on August 2nd. Given that the Legislature was not in session, Mr. Pierluisi was able to be sworn-in as Secretary of State as a recess appointment and act in such capacity pending the approval of both chambers.
- The Constitution of Puerto Rico (Article III, Section 7) states that when there is a vacancy in the office of the Governor by, among other causes, a resignation, the responsibility devolves upon the Secretary of State.
- Pursuant to Act No. 7 of July 24, 1952, as amended, the position of Secretary of State of Puerto Rico (even if assumed as a recess appointment like Mr. Pierluisi) must be approved by both legislative chambers, House and Senate, before it becomes fully effective.
- After the recess appointment of Mr. Pierluisi as Secretary of State, Governor Rosselló then called an extraordinary session of the Legislature to consider and approve his nominee as Secretary of State.
- During Thursday's Senate session, Senate President Thomas Rivera-Schatz indicated that the majority caucus in the Senate did not have the necessary votes to confirm Mr. Pierluisi as Secretary of State. Rivera-Schatz said this in a lengthy vitriolic speech targeting Mr. Pierluisi, some of his clients, his role as

Pedro Pierluisi Sworn-In as New Governor of Puerto Rico; Senate to Hold Confirmation Vote Monday Afternoon

attorney for the Fiscal Oversight and Management Board, and his alleged conflicts of interests, among the many considerations weighing against him.

- In his closing remarks, Mr. Rivera-Schatz mentioned that the Senate would resume the discussion of this matter and the consideration of Mr. Pierluisi next Monday for a full vote on the matter.
- The House of Representatives held hearings on Friday morning and approved the nomination of Mr. Pierluisi as Secretary of State in the afternoon.
- The absence of a duly approved Secretary of State, assuming the Senate does not approve Mr. Pierluisi as Secretary of State, creates a constitutional crisis on the legitimacy of the Governor and may open the door for the Secretary of Justice, Wanda Vazquez-Garced, to step in as Governor next week.
- Secretary Vazquez-Garced has stated that she is not interested in fulfilling the role of Governor of Puerto Rico, and would only do it because it is a constitutional mandate which she intends to obey. It is widely viewed that she intends to remain as Governor, assuming Mr. Pierluisi is not approved by the Senate, until such time as a suitable candidate for Secretary of State is nominated and approved by both legislative chambers.
- Many experts have already raised the possibility that this assumption of office is unconstitutional because Mr. Pierluisi, even after having been approved today as Secretary of State by the House of Representatives, still lacks the confirmation of the Senate, as required by the Constitution.
- As of today, Mr. Pierluisi faces an uphill battle for approval next week in the Senate. Sixteen votes are needed for approval in the Senate; the New Progressive Party in the majority holds 21 votes; other 9 votes are held by minorities. Several members of the minorities have already expressed unwillingness to vote for Mr. Pierluisi because of his ties to the law firm that represents the Fiscal Oversight and Management Board. Barring unforeseen circumstances, it seems unlikely that Mr. Rivera-Schatz's hold over the majority caucus (21 votes) would dissipate before the Senate vote on the confirmation of Mr. Pierluisi takes place, although political pressure will surely mount for the Senate to go along with the House's vote.
- Should the Senate approve Mr. Pierluisi's nomination as Secretary of State next week, there will be no question remaining about the legitimacy of his office and his standing as Governor of Puerto Rico.

Pedro Pierluisi Sworn-In as New Governor of Puerto Rico; Senate to Hold Confirmation Vote Monday Afternoon

- However, this constitutional issue may still make its way to the Supreme Court of Puerto Rico.
- In his first press conference as Governor of Puerto Rico, Mr. Pierluisi acknowledged that the Senate still has to confirm his position as Governor by holding a vote on his nomination as Secretary of State next week.
- The Senate has been convened for a roll-call vote on his nomination as Secretary of State this coming Monday, August 5th in the afternoon.
- Once all the legislative and constitutional scenarios have been properly reviewed and settled by the Courts, whoever is Governor will undoubtedly face the daunting challenge of projecting the necessary social and political stability, as well as political and economic credibility, both in Puerto Rico and Washington, DC. Furthermore, the new Governor must quickly engage in the process of normalizing the operations of the government, which includes the appointment of several cabinet members that have recently resigned as a result of the political unrest.

The content of this McV Alert has been prepared for information purposes only. It is not intended as, and does not constitute, either legal advice or solicitation of any prospective client. An attorney-client relationship with McConnell Valdés LLC cannot be formed by reading or responding to this McV Alert. Such a relationship may be formed only by express agreement with McConnell Valdés LLC.