AMENDMENT TO RULES COMMITTEE PRINT 118-10

OFFERED BY MRS. GONZÁLEZ-COLON OF PUERTO RICO

Add at the end of title XVIII the following:

SEC. 18. SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES FOR CERTAIN RESIDENTS OF THE ISLAND OF VIEQUES, PUERTO RICO.

(a) IN GENERAL.—An individual claimant who has resided on the island of Vieques, Puerto Rico, for not less than 5 years prior to the date of enactment of this Act and files a claim for compensation under this section with the Special Master, appointed pursuant to subsection (c), shall be awarded monetary compensation as described in subsection (b) if—

(1) the Special Master determines that the claimant is or was a resident or an immediate heir (as determined by the laws of Puerto Rico) of a deceased claimant on the island of Vieques, Puerto Rico, during or after the United States Government used the island of Vieques, Puerto Rico, for military readiness;
(2) the claimant previously filed a lawsuit or an administrative claim, or files a claim not later than 120 days after the date of the enactment of this Act against the United States Government for personal injury, including illness or death arising from use by the United States Government of the island of Vieques for military readiness; and

(3) the claimant submits to the Special Master written medical documentation that indicates that it is more likely than not the claimant contracted cancer, hypertension, cirrhosis, kidney disease, diabetes, or a heavy metal poisoning as a result the United States Government used the island of Vieques, Puerto Rico, for military readiness.

(b) AMOUNTS OF AWARD.—

(1) IN GENERAL.—A claimant who meets the requirements of subsection (a) shall be awarded compensation as follows:

(A) $50,000 for 1 disease described in subsection (a)(3).

(B) $80,000 for 2 diseases described in subsection (a)(3).

(C) $110,000 for 3 or more diseases described in subsection (a)(3).
(2) INCREASE IN AWARD.—In the case that an individual receiving an award under paragraph (1) of this subsection contracts another disease under subsection (a)(3) and files a new claim with the Special Master for an additional award not later than 10 years after the date of the enactment of this Act, the Special Master may award the individual an amount that is equal to the difference between—

(A) the amount that the individual would have been eligible to receive had the disease been contracted before the individual filed an initial claim under subsection (a); and

(B) the amount received by the individual pursuant to paragraph (1).

(3) DECEASED CLAIMANTS.—In the case of an individual who dies before making a claim under this section or a claimant who dies before receiving an award under this section, any immediate heir to the individual or claimant, as determined by the laws of Puerto Rico, shall be eligible for one of the following awards:

(A) Compensation in accordance with paragraph (1), divided among any such heir.

(B) Compensation based on the age of the deceased, if the claimant shows that it is more
likely than not that the United States military activity caused the individual’s death as follows:

(i) In the case of an individual or claimant who dies before attaining 20 years of age, $110,000, divided among any such heir.

(ii) In the case of an individual or claimant who dies before attaining 40 years of age, $80,000, divided among any such heir.

(iii) In the case of an individual or claimant who dies before attaining 60 years of age, $50,000, divided among any such heir.

(c) APPOINTMENT OF SPECIAL MASTER.—

(1) IN GENERAL.—The Attorney General shall appoint a Special Master not later than 90 days after the date of the enactment of this Act to consider claims by individuals and the Municipality.

(2) QUALIFICATIONS.—The Attorney General shall consider the following in choosing the Special Master:

(A) The individual’s experience in the processing of victims’ claims in relation to foreign or domestic governments.
(B) The individual’s balance of experience in representing the interests of the United States and individual claimants.

(C) The individual’s experience in matters of national security.

(D) The individual’s demonstrated abilities in investigation and fact findings in complex factual matters.

(E) Any experience the individual has had advising the United States Government.

(d) AWARD AMOUNTS RELATED TO CLAIMS BY THE MUNICIPALITY OF VIEQUES.—

(1) AWARD.—The Special Master, in exchange for its administrative claims, shall provide the following as compensation to the Municipality of Vieques:

(A) STAFF.—The Special Master shall provide medical staff, and other resources necessary to build and operate a level three trauma center (in this section, referred to as “medical facility”) with a cancer center and renal dialysis unit and its equipment. The medical facility shall be able to treat life threatening, chronic, heavy metal, and physical and mental diseases. The medical facility shall be able to provide
basic x-ray, EKG, internal medicine expertise, medical coordination personnel and case managers, ultrasound, and resources necessary to screen residents for cancer and the other prevailing health problems.

(B) OPERATIONS.—The Special Master shall fund the operations of the medical facility to provide medical care for pediatric and adult patients who reside on the island of Vieques, allowing the patients to be referred for tertiary and quaternary health care facilities when necessary, and providing the transportation and medical costs when traveling off the island of Vieques, until such time as medical testing establishes that the disease levels are reduced to the average in the United States.

(C) INTERIM SERVICES.—Before the medical facility on the island of Vieques is operational, the Special Master shall provide—

(i) urgent health care air transport to hospitals on the mainland of Puerto Rico from the island of Vieques;

(ii) medical coordination personnel and case managers;
(iii) telemedicine communication abilities; and

(iv) any other services that are necessary to alleviate the health crisis on the island of Vieques.

(D) SCREENING.—The Special Master shall make available, at no cost to the patient, medical screening for cancer, cirrhosis, diabetes, and heavy metal contamination on the island of Vieques.

(E) ACADEMIC PARTNER.—The Special Master shall appoint an academic partner, with appropriate experience and an established relationship with the Municipality of Vieques shall—

(i) lead a research and outreach endeavor on behalf of the Municipality of Vieques;

(ii) select the appropriate scientific expertise and administer defined studies, conducting testing and evaluation of the soils, seas, plant and animal food sources, and the health of residents; and

(iii) determine and implement the most efficient and effective way to reduce
the environmental toxins to a level suffi-
cient to return the soils, seas, food sources,
and health circumstances to a level that re-
duces the diseases on the island of Vieques
to the average in the United States.

(F) DUTIES.—The Special Master shall
provide amounts necessary for the academic
partner and medical coordinator to carry out
the duties described in subparagraphs (A)
through (D).

(G) PROCUREMENT.—The Special Master
shall provide amounts necessary to compensate
the Municipality of Vieques for—

(i) contractual procurement obligations
and additional expenses incurred by
the Municipality as a result of the enact-
ment of this section and settlement of its
claim; and

(ii) any other damages and costs to be
incurred by the Municipality, if the Special
Master determines that it is necessary to
carry out the purpose of this section.

(H) CONSULTING FIRMS.—The Special
Master shall provide amounts necessary for the
Special Master to contract with consulting
firms for technical advice on any aspect of the
Special Master’s duties.

(I) POWER SOURCE.—The Special Master
shall determine the best source of producing
independent power on the island of Vieques that
is hurricane resilient and can effectively sustain
the needs of the island and shall authorize such
construction as an award to the Municipality of
Vieques.

(2) SOURCE.—Amounts awarded under this Act
shall be made from amounts appropriated under sec-
tion 1304 of title 31, United States Code, commonly
known as the “Judgment Fund”, as if claims were
adjudicated by a United States District Court under
section 1346(b) of title 28, United States Code.

(3) DETERMINATION AND PAYMENT OF
CLAIMS.—

(A) ESTABLISHMENT OF FILING PROCE-
DURES.—The Attorney General shall establish
procedures whereby individuals and the Munici-
pality may submit claims for payments under
this section to the Special Master.

(B) DETERMINATION OF CLAIMS.—The
Special Master shall, in accordance with this
subsection, determine whether each claim meets
the requirements of this section. Claims filed by residents of the island of Vieques that have been disposed of by a court under chapter 171 of title 28, United States Code, shall be treated as if such claims are currently filed.

(e) Action on Claims.—The Special Master shall make a determination on any claim filed under the procedures established under this section not later than 150 days after the date on which the claim is filed.

(f) Payment in Full Settlement of Claims by Individuals and the Municipality of Vieques Against the United States.—The acceptance by an individual or the Municipality of Vieques of a payment of an award under this section shall—

(1) be final and conclusive;

(2) be deemed to be in full satisfaction of all claims under chapter 171 of title 28, United States Code; and

(3) constitute a complete release by the individual or Municipality of such claim against the United States and against any employee of the United States acting in the scope of employment who is involved in the matter giving rise to the claim.
(g) Certification of Treatment of Payments Under Other Laws.—Amounts paid to an individual under this section—

(1) shall be treated for purposes of the laws of the United States as damages for human suffering; and

(2) may not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(e)(2)(C) of title 31, United States Code, or the amount of such benefits.

(h) Attorney’s Fees.—A representative of an individual may not receive, for services rendered in connection with a claim of the individual under this Act, more than 20 percent of a payment made under this Act.