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TESTIMONY
BEFORE
THE
COMMITTEE ON ECONOMIC DEVELOPMENT, AGRICULTURE AND PLANNING

BILL NO. 31-0343

"An act amending title 29 Virgin Islands Code, chapter 12, section 710 relating to employment of residents, providing that a nonresident hired by an entity receiving economic incentives, based in part upon how many Virgin Islands residents it hires, will continue to be identified as a nonresident hire throughout the person's employment at the entity for the purposes of determining the entity's continued receipt of economic incentives."

APRIL 1, 2016

A pleasant good morning to all – Senator Janette Millin Young, Chairwoman, Committee members, other senators of the 31st Legislature, testifiers, the Virgin Islands Economic Development Authority (VIEDA) staff, the legislative staff, and the general public. I am Wayne Biggs, Jr., Acting Chief Executive Officer of the Virgin Islands Economic Development Authority; also here with me today is Margarita Benjamin, Director of Applications/Economic Development Commission, and Claude Gerard, Director of Compliance/Economic Development Commission. I would like to thank the Committee Chair and members of the Committee on Economic Development, Agriculture and Planning for inviting me to offer testimony on Bill No. 31-0343, "An act amending title 29 Virgin Islands Code, chapter 12, section 710 relating to employment of residents, providing that a nonresident hired by an entity receiving economic incentives, based in part upon how many Virgin Islands residents it hires, will continue to be identified as a nonresident hire throughout the person's employment at the entity for the purposes of determining the entity's continued receipt of economic incentives."

The basic purposes and objectives of the Economic Development Program are: to promote the growth, development, and diversification of the economy of the US Virgin Islands, to discover and develop human and economic resources to establish opportunity for gainful employment of USVI Residents, to promote the formation of capital, to contribute towards the development of the educational system, and to preserve the environment, beauty, and natural resources of the Territory.

The goal of the Authority is to have thriving communities within the Territory with good quality of life for its residents by attracting external and increasing internal capital investments

in the Territory, creating new jobs and employment opportunities for its residents, and creating additional tax revenues to expand the tax base of the government.

Bill No. 31-0343 seeks to amend V.I. CODE ANNOTATED Title 29, Chapter 12, Section 710 by adding a subsection "(g)". The amendments, in effect, seek to eliminate a nonresident person hired by an entity that receives Economic Development Commission (EDC) benefits from ever being considered a resident for the purpose of employment compliance under the EDC program.

Presently, an individual is considered a resident for the purpose of employment compliance within the EDC program after living in the Territory for a period of one (1) year. During each entity's Compliance Reviews and/or Compliance Audits, the entity's quarterly employment reports are reviewed and scrutinized to determine compliance with the 80% total employment and 20% management, supervisory and/or technical positions residency requirements. Beneficiaries found noncompliant with employment requirements are fined by the EDC Governing Board for each noncompliant employee pursuant to the EDC's Rules and Regulations.

We encourage and support the hiring of residents as evidenced by our strict enforcement of the above indicated residency requirements, and we understand the noble intent of the proposed amendments, however, we do not support the amendment as it is our

opinion that it will have a negative impact on our business attraction (recruitment), business expansion, and business retention efforts.

We understand that there are public concerns and perceptions that a beneficiary can circumvent the hiring of existing residents by waiting for the one (1) year requirement to be met prior to hiring additional non-residents. However, it is our positions that this legislation is not necessary as the EDC statues and its Rules and Regulations provide sufficient avenues to adequately enforce the beneficiary employment residency requirement through the assessment of fines and/or the requirement of employee training programs.

The program law also requires that the company comply with Labor laws which include the posting of vacancies locally and to demonstrate its inability to recruit locally. In areas where there are specialized skills and experience required for business operations this factor is generally represented at the time of the application and addressed. It is important to note that once an individual relocates to the Territory and makes here its home, place of residence, there are additional economic benefits to the Terriorty.

Additionally, should these amendments pass; they will be in direct conflict with Title 29 Section 710(a), which provides the authority for the EDC Governing Board to issue employment residency waivers to beneficiaries under varying circumstances. Is the intent of the amendments to limit or remove the EDC Governing Board's authority?

We would recommend, however, that the amount of the elected payment for the beneficiary to the Territorial Scholarship Fund in lieu of creating a training program be increased from $2,500 to $10,000 for each nonresident employee.

Further, Act #7301, (Section 5, subsection (a)) signed into law in October 2011 requires all beneficiaries under the Economic Development Authority and the Hotel Development Act to contribute $2,500 annually for the creation, development, management and maintenance of a database designed to recruit Virgin Islanders living abroad. The intent of this legislation was twofold - to provide an avenue for Virgin Islanders living outside the Territory to return home to jobs with meaningful salaries and to establish a recruitment tool for employers looking for Virgin Islanders with varying skill sets that may not be available locally. If the amendments are passed, a Virgin Islander that is a resident of another jurisdiction that returns home to work for an EDC beneficiary would never be considered a resident for the purpose employment compliance within the EDC program as long as they work for that entity once it is established, for example, that the Virgin Islander who attended school in the Virgin Islands for at least six (6) years or is a high school or University of the Virgin Islands graduate, but was registered to vote *outside* the Virgin Islands as per the EDC definition of a resident. (See VIRR 703-1(r). Why should EDC beneficiaries use this recruitment database when they would be penalized for doing so? Why should EDC beneficiaries have to pay for the creation, development, maintenance, and management of this recruitment database when would be penalized if they used it?

We understand the intent of this legislation in line with the mandate of the program. However, we must ensure that a balance exist that allows for business recruitment, and expansion while ensuring there is economic and fiscal impact to the Territory. As stated previously, we believe that we can adequately enforce the 80% total employment and 20% management, supervisory and/or technical positions residency requirements with the current legislated tools (fines, training programs, and, if necessary waivers) that are available to us, we do not see this as an overwhelming issue (most beneficiaries are in compliance), and we do not think this legislation would be in the best interest of the Economic Development Program.

I thank you for the opportunity to comment on Bill No. 31-0343. If there are any questions related to this testimony, I stand ready to answer.