

COMMITTEE ON BUDGET, APPROPRIATIONS
AND FINANCE

BILL NO. 35-0050

Thirty-Fifth Legislature of the Virgin Islands

March 2, 2023

An Act amending the Virgin Islands Code, title 3 , chapter 7, by designating the existing provisions as subchapter I and adding a subchapter II establishing the Bureau of School Construction and Maintenance within the Virgin Islands Department of Education for budgetary purposes; amending title 33, chapter 111, section 3092a, changing the Education Maintenance Fund to the School Construction, Maintenance and Capital Fund; and making an appropriation of \$2,000,000 from the Virgin Islands Education Initiative Fund to the School Construction, Maintenance and Capital Fund and for other related purposes

PROPOSED BY: Senators Donna A. Frett-Gregory, Marise C. James,
Angel L. Bolques, Jr., and Marvin A. Blyden
Co-sponsor: Ray Fonseca

1 **WHEREAS** the physical state of public schools in the Territory has been deteriorating

2 for more than two decades due to inconsistent maintenance and limited resources;

3 **WHEREAS**, some schools in the Territory have experienced preventable structural
4 failures, resulting in injuries and the closure of entire school buildings;

5 **WHEREAS**, it is imperative that students, teachers, and support staff be provided with
6 safe, clean, and secure school facilities that support a nurturing and learning environment;

7 **WHEREAS**, it is important that the school facilities be economical, efficient, and
8 modernized;

9 **WHEREAS**, the primary focus of the Commissioner of the Department of Education and
10 the District Superintendents should be on student learning and academic achievement, and not
11 on school construction and maintenance;

1 **WHEREAS**, to achieve this objective, the Legislature of the Virgin Islands will establish
2 the Bureau of School Construction and Maintenance within the Department of Education with
3 the responsibility to construct and maintain public schools and other educational facilities;

4 **WHEREAS**, one of the first tasks of the Bureau of School Construction and Maintenance
5 will be to draft a 20-year Master School Construction, Maintenance and Capital Plan;

6 **WHEREAS**, the Master School Construction, Maintenance and Capital Plan will be
7 critical, strategic, long-term planning documents to guide the long-term construction of schools
8 and the maintenance of school facilities and grounds;

9 **WHEREAS**, primary objective of a Master Construction, Maintenance and Capital Plan
10 is to design, construct, and maintain safe, environmentally sound, modernized, technologically
11 advanced public schools in a cost-effective manner, to achieve the highest standard of
12 excellence in safety, quality, and integrity; and

13 **WHEREAS**, Master School Construction, Maintenance and Capital Plan will:

14 (1) identify the Territory's needs and provide recommendations to achieve those
15 needs;

16 (2) allow the Territory to pursue the long-term construction and maintenance
17 goals of the Territory, even as personnel change; and

18 (3) determine the use, development, and maintenance of school facilities within
19 the Territory; Now, Therefore,

20 *Be it enacted by the Legislature of the Virgin Islands:*

21 **SECTION 1.** Title 3 Virgin Islands Code, chapter 7 is amended by designating the
22 existing provisions of the chapter as subchapter I and adding a subchapter II that reads as
23 follows:

24 **“Subchapter II. Bureau of School Construction and Maintenance**

25 **§ 101. Establishment; duties and responsibilities of the Bureau of School**
26 **Construction and Maintenance**

1 (a) There is established within the Department of Education, for budgetary purposes
2 only, the Bureau of School Construction and Maintenance. The Bureau shall acquire, establish,
3 operate, develop, repair, maintain, renovate, improve, upgrade, inspect, modernize, manage,
4 and construct all public educational facilities, including, schools, educational centers, facilities,
5 and other structures that will be used for or occupied by students, faculty, staff, and
6 administration under the jurisdiction of the Virgin Islands Department of Education or its
7 successor department or agency. The mandate of the Bureau is to create affordable, sustainable,
8 and energy efficient public schools, buildings, facilities, and grounds throughout the Territory
9 for a safe, secure, and comfortable environment for learning and administration.

10 (b) The Bureau is responsible for:

11 (1) Identification, planning, development, budgeting, and execution of projects
12 associated with the maintenance, repairs, and construction of all public educational
13 facilities and grounds;

14 (2) Acquisition of property for the construction of schools and determining which
15 schools will no longer be used as schools;

16 (3) Construction of new buildings and the renovation of existing buildings, to
17 include maintaining the structural integrity of the buildings;

18 (4) Preventative and emergency maintenance and repair for the daily operations
19 of public educational facilities and grounds;

20 (5) Equipment and fixtures permanently affixed to buildings to include energy
21 management systems;

22 (6) Improvements to the buildings to meet new health and safety requirements,
23 reduce environment risks, and improve energy efficiency;

24 (5) Improvements to buildings to meet changes in educational, technological, and
25 social needs; and

1 (6) The development of Master School Construction, Maintenance and Capital
2 Plan.

3 (c) The Bureau may not issue negotiable bonds or notes or other instruments of debt,
4 unless otherwise specifically authorized by law.

5 **§ 102. Executive Director of the Bureau**

6 (a) The Bureau is managed by:

7 (1) an Executive Director, appointed by the Governor, who must be either an
8 architect or engineer licensed in the Virgin Island; an individual with seven or more years'
9 experience in construction, capital project management, or maintenance management;

10 (2) an Assistant Director of School Construction, who is an architect or engineer
11 licensed in the Virgin Islands; and

12 (3) an Assistant Director of School Maintenance, who has experience in building
13 or construction maintenance.

14 (b) The Executive Director shall:

15 (1) report to the Governor and work at the pleasure of the Governor;

16 (2) Work closely with the Commissioner of Education to determine the current
17 and future needs of public educational facilities;

18 (3) provide annual status reports to the Governor, the Commissioner of
19 Education, the Board of Education, and the Legislature, regarding the maintenance and
20 construction projects of school buildings, facilities and grounds; the financial status of
21 the Bureau; recommendations on policies and regulations; and other information required
22 by the Governor or Legislature;

23 (4) perform the administrative functions of the Bureau, including the hiring and
24 retention of technical and support staff, either permanently or temporarily, or by contract
25 or otherwise, and determine their qualifications, duties, tenure, and compensation, to
26 include the Assistant Director of School Construction, Assistant Director of School

1 Maintenance, Chief Financial Officer, the Chief Engineer; the Chief Operations Officer
2 and the Chief Legal Counsel;

3 (5) present the Bureau's annual budget to the Legislature;

4 (6) engage in public-private development partnerships;

5 (7) direct the expenditure of capital and operating funds, monies received from
6 the School Construction, Maintenance and Capital Fund and any other funding source;
7 and

8 (8) solicit proposals for and award financing to public-public and public-private
9 partnerships for the:

10 (A) purchasing of a school site and improvements to those site;

11 (B) constructing or purchasing of buildings to be used as schools;

12 (C) completing or partially furnishing and equipping of schools; and

13 (D) repairing and renovating school buildings;

14 (9) approve and authorize decisions at every stage pertaining to the infrastructure
15 of public schools and other public educational building, facilities, and grounds, including
16 maintenance, repair, renovation, modernization, planning, design, procurement, and
17 construction;

18 (10) contract with any agency, department, semiautonomous agency, autonomous
19 agency or instrumentality of the Government of the Virgin Islands for services the Bureau
20 may request, including professional and technical assistance by planning experts,
21 engineers, architects and any other staff; for the use of the premises, personnel or
22 equipment; access to data necessary to develop reasonable student-population
23 projections; and access to building permits and construction data;

24 (11) enter and execute contracts and all other instruments necessary or convenient
25 for the exercise of its functions, powers, and duties;

1 (12) accept any gifts, grants, or other financial aid in any form from the federal
2 government or any agency or instrumentality of the federal government, from the Virgin
3 Islands Government or any agency or instrumentality the Government, or from any other
4 source, for any purposes specified in this subchapter, and the Bureau shall comply with,
5 subject to the provisions of this subchapter, the terms and conditions of the loan or grant;

6 (13) collect data necessary to develop reasonable student-population projections;
7 and access to building permits and construction data;

8 (14) adopt policies, regulations, and procedures governing the procurement of
9 goods, materials, and services; and

10 (15) perform all things necessary or convenient to carry out and exercise the
11 powers granted under this subchapter.

12 (c) The Executive Director serves as a liaison between the Office of the Governor, the
13 Department of Education, the Department of Public Works, the Department of Planning and
14 Natural Resources, the Board of Education, and any other government entity or instrumentality
15 for all matters relating to the statutory purpose of the Bureau.

16 (d) The Executive Director shall evaluate solicited proposals based on adherence to the
17 Master School Construction, Maintenance and Capital Plan and determine whether the
18 proposals:

19 (1) are appropriately designed for educational and school-based programs,
20 support services, and extracurricular activities;

21 (2) include well-designed physical systems and components that promote
22 learning, culture, safety, energy efficiency, and effective structural resistance to hurricane
23 and seismic events;

24 (3) create connections to the surrounding community and support for community
25 activities; and

26 (4) are cost-effective to build, operate, repair, and maintain the facilities.

1 (e) To perform the duties and responsibilities granted in this subchapter, Executive
2 Director may procure goods and services not to exceed \$1,000,000 without the need to comply
3 with title 31 Virgin Islands Code, chapter 23. But the Executive Director shall comply with
4 title 31 Virgin Islands Code, chapter 23 to procure goods and services of more than \$1,000,000.

5 **§103. Master School Construction, Maintenance and Capital Plan; Review Panel**

6 (a) There is established a Master Construction, Maintenance and Capital Plan Review
7 Panel (“Review Panel”), who shall review and approve the Master School Construction,
8 Maintenance and Capital Plan. The Review Panel consists of the St. Croix Insular
9 Superintendent, the St. Thomas/St. John Insular Superintendent, and the members of the Virgin
10 Islands Board of Education. A quorum consists of six members, with one being an Insular
11 Superintendent.

12 (b) The Executive Director shall prepare an initial 20-year Master School Construction,
13 Maintenance and Capital Plan and submit it to the School Construction and Maintenance
14 Review Panel for its evaluation and approval.

15 (c) The initial Master School Construction, Maintenance and Capital Plan must include
16 information regarding current and future needs for student housing, quality of the existing
17 facilities, facilities renovation, facilities expansion requirements, or new construction required
18 to support the Territory’s educational and programmatic goals and a complete territory-wide
19 inventory of all schools, whether in use or not in use. The Plan must also include accurate
20 projections regarding enrollment and careful determination of school site location and capacity
21 and must be flexible, implementable and must address the need to provide capacity for
22 projected student enrollment.

23 (d) The Review Panel shall convene not later than 45 days after receipt of the Master
24 Construction, Maintenance and Capital Plan to evaluate and approve the Plan. Failure to
25 convene within the 45-day time-period or to otherwise vote on the Master Construction,
26 Maintenance and Capital Plan, constitutes approval by the Review Panel.

1 (e) After approval of the initial Plan, the Executive Director shall update the Plan every
2 five years and submit it to the Review Panel for review and approval.

3 **SECTION 2.** (a) Not later than 90 days of the effective date of this act, the Bureau of
4 School Construction and Maintenance shall promulgate regulations necessary to effectuate its
5 statutory purpose.

6 (b) Not later than 120 days after the effective date of this act, the Department of
7 Education's maintenance and engineering division, including all personnel and the portion of
8 the Department of Education's budget allocated for these purposes, must be transferred under
9 the jurisdiction of the Bureau of School Construction and Maintenance. Employees are
10 transferred to the Bureau without impairment of seniority and without reduction in
11 compensation, and without loss of accrued rights to holidays, sick or annual leave or any other
12 benefits notwithstanding any changes in job titles or duties. All employees transferred to the
13 Bureau continue to be covered by and subject to the Government Employees' Retirement
14 System and the Workers' Compensation Act.

15 (c) Not later than 180 days after the effective date of this act, the Bureau of School
16 Construction and Maintenance shall present the initial Master School Construction,
17 Maintenance and Capital Plan to the Legislature of the Virgin Islands. At this presentation, the
18 Bureau shall also advise the Legislature of the status of the Bureau.

19 **SECTION 3.** Title 17 Virgin Islands Code, chapter 5, section 60d is amended by striking
20 subsection (b) in its entirety.

21 **SECTION 4.** Title 20 Virgin Islands Code, chapter 38, section 425, subsection (d) is
22 amended by striking "Education Maintenance Fund" and inserting "Bureau of School
23 Construction, Maintenance and Capital Fund" and by striking subsections (e), (f), (g), and (h).

24 **SECTION 5.** Title 33 Virgin Islands Code, chapter 111 is amended in section 3092a as
25 follows:

1 (1) by changing the name of the fund from the “Education Maintenance Fund” to the
2 “School Construction, Maintenance and Capital Fund”;

3 (2) In subsection (a), by striking “Education Maintenance Fund” and inserting “School
4 Construction, Maintenance and Capital Fund” and at the end of the second sentence, by
5 inserting “, and 100 percent of the proceeds generated from the leasing of properties that were
6 previously used as schools, or such other percentage of the leasing proceeds as the
7 Commissioner of Property and Procurement and the Director may negotiate. The
8 Commissioner of the Department of Property and Procurement, along with the Director of the
9 Bureau, may negotiate the percentage of business income from the lease of a property that was
10 previously used as a school to be deposited into the Fund.”

11 (3) In subsection (c) in the first sentence by inserting “from this Fund must be used
12 exclusively to support the activities of the Bureau of School Construction and Maintenance as
13 established pursuant to title 3 Virgin Islands Code, chapter 7, subchapter II and” after “Monies”
14 and by striking “Commissioner of Education” and inserting “the Executive Director of the
15 Bureau of School Construction and Maintenance”.

16 **SECTION 6.** (a) Notwithstanding 33 V.I.C. § 3093(c), the sum of \$2,000,000 is
17 appropriated from the Virgin Islands Education Initiative Fund to the School Construction,
18 Maintenance and Capital Fund, 33 V.I.C. § 3092a, in the fiscal year ending September 30,
19 2023, to assist in readying the Bureau of School Construction and Maintenance to fulfill its
20 statutory purpose.

21 (b) The sum appropriated in this section remains available until expended.

22 **SECTION 7.** The sum of \$5,500,000 is appropriated from the Virgin Islands Initiative
23 Fund to the School Construction, Maintenance and Capital Fund in the fiscal year ending
24 September 30, 2023, to begin repairs, maintenance and modernization of public schools
25 throughout the territory not slated for rebuild by federal funds.

1 **SECTION 8.** Every fiscal year, the Legislature of the Virgin Islands shall appropriate
2 not less than \$5,000,000 to the School Construction, Maintenance and Capital Fund for the
3 repairs, maintenance, modernization, and overall upkeep of public schools in the Territory.

4 **BILL SUMMARY**

5 This bill provides for the establishment of a Bureau within the Department of Education
6 to be known as the Bureau of School Construction and Maintenance. The Bureau will provide
7 for the maintenance, inspection, construction, renovation, repair, and modernization of the
8 Virgin Islands public schools, buildings, facilities, and grounds that fall under the purview of
9 the Virgin Islands Department of Education. The Bureau will be headed by an executive
10 director. The existing Education Maintenance Fund is renamed the School Construction,
11 Maintenance and Capital Fund, under the administration of the Commissioner of Finance and
12 Director. The money in the Fund will be used exclusively to support activities of the Bureau.
13 The Funds will consist of appropriations and money realized from properties that were once
14 utilized by schools and are now leased by the Department of Property and Procurement to other
15 entities. The bill provides that not later than 120 days after the enactment of this bill, the
16 Department of Educations' engineering and maintenance employees must be placed under the
17 purview of the Bureau. The Bureau must present to the Legislature of the Virgin Islands, not
18 later than 180 days after the enactment of this bill, the Master School Construction,
19 Maintenance and Capital Plan, which must include a complete territory-wide inventory of all
20 school and a new proposed updated school inventory. Finally, the bill provides for a
21 \$5,500,000 appropriation to the Fund for the fiscal year ending September 30, 2023, and for
22 the Legislature to make appropriations to the Fund of not less than \$5,000,000 in each fiscal
23 year thereafter.

24 **BR23-0043/February 28, 2023/SLR**