

COMMITTEE ON HOMELAND SECURITY, JUSTICE
AND PUBLIC SAFETY

BILL NO. 35-0175

Thirty-Fifth Legislature of the Virgin Islands

October 18, 2023

An Act amending title 23 Virgin Islands Code, chapter 10, relating to emergency communications during an emergency and major disasters by adding a subchapter V establishing an Auxiliary Communications Unit within the Virgin Islands Territorial Emergency Management Agency and providing an auxiliary communications resource to any department agency and autonomous or semi-autonomous instrumentality of the Government of the Virgin Islands

PROPOSED BY: Senator Kenneth L. Gittens

1 **WHEREAS**, amateur radio operators residing in the territory have provided critical
2 communications capabilities in the territory during natural disasters when other methods of
3 communication were damaged and rendered inoperable;

4 **WHEREAS**, territorial amateur radio operators are listed in the territorial emergency
5 operations plan as an integral part of emergency communications response;

6 **WHEREAS**, the pool of qualified territory volunteer amateur radio operators has
7 traditionally been sufficient to provide communication support solely to the Virgin Islands
8 Territory Emergency Management Agency;

9 **WHEREAS**, recent growth in the number of amateur radio operators within the territory
10 creates an opportunity to provide additional communications services to other Virgin Islands
11 governmental agencies; and

1 **WHEREAS**, emergency preparedness and disaster response across the territory would
2 be improved with a recognized, integrated, and unified communications auxiliary unit to
3 support any agency of the territorial government; and

4 **WHEREAS**, the territory desires to encourage amateur radio operators to volunteer as
5 Auxiliary Communicators by limiting their risk of tort liability when acting in a non-negligent
6 manner on behalf of Virgin Islands government agencies; Now, Therefore,

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

8 **SECTION 1.** This act may be cited as the “Virgin Islands Auxiliary Communications
9 Act of 2023”.

10 **SECTION 2.** Title 23 Virgin Islands Code, chapter 10 is amended by adding a
11 subchapter V to read as follows:

12 **“Subchapter V. Auxiliary Communications**

13 **§ 1081. Definitions**

14 As used in this subchapter, the term:

15 (1) “Activation” means all activities performed by Auxiliary Communicators from
16 when they leave their residence or other location for auxiliary communications deployment
17 until they have returned to their home or other location at the end of deployment.

18 (2) “Amateur Radio Emergency Service (ARES)” means the public service branch
19 of the ARRL.

20 (3) “American Radio Relay League (ARRL)” means the national association for radio
21 amateurs.

22 (4) “Auxiliary Communicator” means an amateur radio operator licensed by the United
23 States Federal Communications Commission under 47 CFR 97 who meets the auxiliary
24 communication training requirements, is credentialed by the Virgin Islands Territorial
25 Emergency Management Agency and serves as an authorized volunteer of the Virgin Islands
26 Territorial Management Agency for purposes of section 1082.

1 (5) “Auxiliary Communications Unit” or “AuxComm Unit” means the volunteer
2 Auxiliary Communicators unit within the Virgin Islands Territorial Management Agency, the
3 successor entity to any territorial RACES organization referenced in any law, regulation, or
4 plan.

5 (6) “Director” means the Director of the VITEMA or the Director’s designee.

6 (7) “Incident Command System or “ICS” means the standardized emergency hierarchy
7 utilized for the command, control, and coordination of emergency response used by the Virgin
8 Islands planning and response agencies.

9 (8) “Radio Amateur Civil Emergency Service (RACES)” means, as defined in 47 CFR
10 § 97.3, a government service branch of ARES;

11 (9) “Section Manager” means the lead volunteer amateur radio representative for
12 auxiliary communications, the manager of ARES, and the lead supervisor of deployed
13 Auxiliary Communicators ARRL member elected as the section manager by ARRL Virgin
14 Islands members of the ARRL or the section manager’s designee.

15 (10) “VITEMA” means the Virgin Islands Territorial Emergency Management Agency
16 established in 3 V.I.C. § 23.

17 **§ 1082. Established, coordination, supervision, and direction of AuxComm**

18 (a) The AuxComm unit is established in the VITEMA. The Director shall act as the
19 manager of the AuxComm Unit and shall set policy, qualify, credential, coordinate, and direct
20 the AuxComm activities.

21 (b) Jointly with the Director, the Section Manager shall establish programs for the
22 training and credentialing of Auxiliary Communicators to ensure they are suitably qualified to
23 conduct AuxComm missions. Auxiliary Communicators are limited to individuals certified by
24 the Director as meeting the applicable training and credentialing requirements. By being
25 credentialed to participate in AuxComm missions, Auxiliary Communicators are authorized to
26 transmit and receive radio communications on any radio frequency licensed to any agency of

1 the Virgin Islands Government, as well as install, operate, remove, program, adjust, or
2 otherwise maintain any communications equipment, including ancillary equipment within the
3 scope of their assignment, owned by any participating Virgin Islands governmental agencies.

4 (c) Auxiliary Communicators shall assume all the duties and possess all the authority
5 and responsibilities of the RACES 47 CFR 97.407 within the territory. Any reference to
6 RACES in any territorial law, regulation, or disaster plan refers to the AuxComm Unit. No
7 other individual, entity, association, or government agency may represent that it is a RACES
8 organization in the territory.

9 (d) The VITEMA shall recognize that Auxiliary Communicators are volunteers and
10 that they are responsible for securing the safety and welfare of their respective families before
11 fulfilling any activities for the AuxComm Unit.

12 (e) Auxiliary Communicators shall cooperate with the VITEMA and shall perform
13 tasks related to the primary AuxComm mission of auxiliary communications and such other
14 reasonable duties as may be defined by the Director, the Section Manager, or their designees.

15 (f) Auxiliary Communicators may not be asked to undertake any task that a VITEMA
16 employee in a comparable position would not typically perform.

17 (g) The Director shall determine the priority, order, and capacity in which other Virgin
18 Islands governmental agencies are served with AuxComm Unit resources.

19 (h) The Section Manager shall advise the Director regarding the availability,
20 assignment, and capability of AuxComm resources.

21 (i) Upon completion of acceptable application information, the Director shall issue
22 Auxiliary Communicators curfew passes or similar credentials recognized throughout the
23 territory for granting access to public roads, Government facilities, emergency operations
24 centers, incident command posts, disaster scenes, and other VITEMA specified locations.

25 **§ 1083. AuxComm Unit membership requirements**

26 (a) Auxiliary Communicators:

1 (1) serve in a voluntary capacity;

2 (2) shall maintain a valid FCC amateur radio or FCC commercial operator's
3 license; and

4 (3) shall maintain current certification in core ICS classes or successor classes,
5 as required by the VITEMA for AuxComm membership.

6 (b) All applications to serve as an Auxiliary Communicator must be submitted to the
7 Section Manager. The Section Manager shall evaluate candidates' capabilities and prior
8 experience with meeting AuxComm requirements and submit the evaluation to the Director.

9 (c) The Director may conduct criminal background investigations on candidates for
10 credentialing of Auxiliary Communicators in accordance with the agency's security needs. The
11 Director may deny credentialing to any candidate based upon the results of that background
12 check or any other reason.

13 (d) The Director may revoke AuxComm Unit membership of any Auxiliary
14 Communicator at any time and for any reason, which must be disclosed to the Section Manager.

15 (e) The Section Manager may be dismissed only upon the AuxComm Unit's
16 termination or another Section Manager's election.

17 **§ 1084. AuxComm activation and deactivation**

18 (a) All activation requests, deactivation requests, or delegation notifications to or from
19 the Director or the Section Manager must be made in writing or by electronic means, including
20 e-mail or text, capable of being printed. Delegations must state the exact authority that is being
21 delegated and to whom. Voicemails or verbal requests are not valid methods for delegation,
22 activation, or deactivation requests.

23 (b) The Director shall notify the Section Manager of any request to activate
24 AuxComm.

1 (c) An activation request must include, at a minimum, the scope of the activation, any
2 special equipment requests, the estimated number of Auxiliary Communicators required,
3 deployment location, and, if known, the estimated beginning and end time of the activation.

4 (d) Following receipt of an activation request from the Director, the Section Manager
5 shall respond to the Director with the names of available Auxiliary Communicators and
6 recommendations on which individuals to activate.

7 (e) The Director, if determined appropriate, shall approve the activation by responding
8 to the Section Manager with the individual names approved for activation.

9 (d) The Section Manager, or appointee, shall determine the assignment location for
10 individual Auxiliary Communicators based on the agency's needs and requests, the individual's
11 ability, and other risk factors, as required.

12 (f) The Director or Section Manager may request deactivation of Auxiliary
13 communicators. The request must list the names, specific locations, and dates and times of
14 Auxiliary Communicators to be deactivated.

15 (g) The party not requesting deactivation shall approve or deny the deactivation
16 request by responding to the deactivation requestor with the individual Auxiliary
17 Communicator names approved for deactivation. The deactivation approvals must come no
18 later than four hours following a deactivation request.

19 **§ 1095. Auxiliary Communicator participation, validation**

20 (a) If requested by the Section Manager or designee, the Director shall establish a
21 system in which an Auxiliary Communicator may obtain written proof of AuxComm
22 participation to provide to the Auxiliary Communicator's employer or other entity as
23 appropriate, which specifies:

24 (1) The VITEMA activated the auxiliary communicator to assist in a disaster;

25 (2) The name of the Auxiliary Communicator;

1 (3) The beginning and ending date and times of the Auxiliary Communicator's
2 involvement in supporting the VITEMA; and

3 (4) Other details as appropriate.

4 (b) Training exercises may be considered activations only if the Auxiliary
5 Communicator is called to service by the VITEMA to volunteer in a training exercise drill or
6 class conducted in preparation for a disaster, and the exercise, drill, or class is organized or
7 under the direction of the VITEMA, or other VITEMA- approved agency.

8 **§ 1086. Compensation**

9 (a) Auxiliary Communicators:

10 (1) may not receive monetary compensation for their services;

11 (2) may receive periodic meals, if served, at deployment locations;

12 (3) at the sole discretion of the Director, may receive pre-paid gas coupons for
13 assignments requiring driving lengthy mileage distances as determined by the Director;

14 (4) are entitled to full pre-deployment payment of travel expenses if deployed to
15 an island other than their island of residence;

16 (5) are entitled to per-diem reimbursements, following proper expense
17 documentation and approval in accordance with the VITEMA's expense reimbursement
18 policy; and

19 (6) are considered territorial members of the Civil Defense Volunteer Corps as
20 defined in 24 V.I.C. § 282.

21 (b) This section does not apply to a training exercise, drill, or class without the
22 Director's consent and approval.

23 **§ 1087. Exemption from liability**

24 Any Auxiliary Communicator who, having been activated according to the process in
25 this subchapter, acting in the scope of their assignment, renders communications assistance to
26 the territory is not liable for civil damages for any personal injuries or property damage that

1 result from acts or omissions by the Auxiliary Communicator in rendering communications
2 assistance, which may constitute ordinary negligence. This immunity does not apply to acts or
3 omissions constituting gross, willful, or wanton negligence.

4 **BILL SUMMARY**

5 This bill establishes an Auxiliary Communicators Unit composed of volunteer amateur
6 radio operators licensed by the United States Federal Communications Commission who meet
7 the AuxComm training requirements and are credentialed by the VITEMA. The unit serves as
8 authorized volunteers of the VITEMA to assist with communications during emergencies.

9 **BR23-0315/August 24, 2023/YLT**