

TESTIMONY

BEFORE THE LEGISLATURE OF THE VIRGIN ISLANDS

COMMITTEE ON RULES AND THE JUDICIARY

SEPTEMBER 28, 2023



BILL NO. 35-0032

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ELECTIONS SYSTEM OF THE VIRGIN ISLANDS

1 **INTRODUCTION**

2 Good afternoon, Honorable Chairwoman Diane T. Capehart,
3 distinguished members of the Committee on Rules and the Judiciary,
4 other members of the 35th Legislature, members of the press, the
5 viewing and listening audience. I am Caroline F. Fawkes, Supervisor
6 of Elections, of the Election System of the Virgin Islands. It is an
7 honor to appear before you today, to present on Bill 35-0032
8 proposed by Senators Marise C. James and Donna Frett-Gregory. An
9 Act repealing and reenacting title 18 Virgin Islands Code, chapter 1,
10 section 2, relating to government employees' eligibility for elected
11 office, to allow government employees to run for political office while
12 actively employed, unless specifically prohibited by federal or other
13 laws.

14 The Elections System of the Virgin Islands reviewed Bill 35-0032 and
15 support it with one amendment to **Section 1 (b) (1)** –

16 Instead of requiring the Candidate to take leave beginning 12:01 the
17 first day of Early Voting, we recommend taking leave sixty days prior
18 to any election. One of the main reasons for this amendment is Early
19 Voting is not the beginning of the voting process, the Absentee Ballot
20 process is. ESVI do not support any Candidate who falls under this

21 law we are amending, to remain employed by the Virgin Islands
22 government.

23 The Military and Overseas Voter Empowerment Act (MOVE) amended
24 UOCAVA and other statutes by providing greater protections for
25 Service Members, their eligible family members, and other overseas
26 citizens. Among other provisions, the MOVE Act requires States to
27 send absentee ballots to UOCAVA voters at least 45 days before
28 federal elections.

29 The electoral cycle approach depicts elections as a continuous,
30 integrated process made up of building blocks that interact with and
31 influence each other, rather than as a series of isolated events.

32 Bill 35-0032 will ensure that all candidates are provided with
33 equitable opportunities to compete in elections. This will allow a
34 greater pool of candidates who will not have to worry about utilizing
35 most or all their leave time or being placed on leave without pay. This
36 amendment would mandate that all Candidates as per the present
37 Title 18 law, they would take 60 days leave instead of 80 days for
38 political party candidates and 180 days for those not in a political
39 party. The dates for taking leave would begin on June 4th (about 17
40 workdays) or September 6th (about 37 workdays), respectively. This

41 sixty day does not include weekends and holidays. This drastically
42 reduces the number of days an employee will be out on leave, which
43 we have been discussing for over four years. Many states and
44 territories do require Candidates to take leave or resign, not just
45 those in federal positions.

46 ESVI would not support Candidates on the job the while the voting
47 process has begun.

48 This recommendation is based on The Uniformed and Overseas
49 Citizens Absentee Voting Act is commonly referred to as UOCAVA.
50 This Act provides the legal basis for these citizens' absentee voting
51 requirements for federal offices.

52 I would like to move forward on addressing other elections concerns.

53 I would like to state we are not requested to appear before this
54 legislative body as often as many other Agencies, therefore, when we
55 appear one or two times a year, we will always take that opportunity
56 to address our outstanding concerns or provide highlighted
57 information. As the old saying goes, the squeaky wheel gets the oil.

58 We need the Legislature to seriously look at total election reform. In
59 the past, only certain sections of the code would be amended. There

60 are numerous sections in Title 18 that conflicts with other sections.
61 Today, I sit in front of members of the 35th Legislature through the
62 Committee of Rules and Judiciary once again pleading for this body
63 to pass these amendments to Title 18.

64 Some of the election laws, because 2024 is an election year, I
65 recommend we addressed in a timely manner, are as follows:

66 • Amending Title 18 Section 410 (a)(2) to state afternoon of the
67 second Tuesday of May of each general election year and before 5
68 p.m. seven (7) calendar days by the third Tuesday in May by 6:00
69 PM. The current requirement as follows:

70 (2) second Tuesday in May by 6 p.m. of each general election year
71 and before 5 p.m. seven (7) calendar days thereafter.

72 • Creating Title 18 Section 410 (d) to allow aspirants to submit
73 their nomination petitions and papers electronic via a medium
74 approved by the Supervisor of Elections.

75 We need to add or revised the definitions in Chapter 1, General
76 Provisions, section 1 to add the following election terms:

77 **Run Off Election** - A continuation of the General Election;
78 considered a second election. It is held if the top vote-getting

79 candidate in a first election; the general election did not achieve the
80 minimum percentage of votes required to declare victory.

81 **Initiative** - The initiative process allows citizens to propose a new
82 statute or constitutional amendment. In political terminology, the
83 initiative is a process that enables citizens to bypass their state
84 legislature by placing proposed statutes and, in some states,
85 constitutional amendments on the ballot. There are two types of
86 initiatives: direct and indirect. In the direct process, proposals that
87 qualify go directly on the ballot. In the indirect process, the proposal
88 is submitted to the legislature. The legislature can approve the
89 proposed measure, or a similar one, in which case it is unnecessary
90 for the measure to go on the ballot for voters to consider.

91 **Referendum** - The referendum process allows citizens to refer to a
92 law that passed the legislature to the ballot for voters to decide
93 whether to uphold or repeal the law. "Referendum" is a general term
94 which refers to a measure that appears on the ballot. There are two
95 primary types of referenda: the legislative referendum, whereby the
96 Legislature refers a measure to the voters for their approval, and the
97 popular referendum, a measure that appears on the ballot because
98 of a voter petition drive. The popular referendum is like the initiative

99 in that both are triggered by petitions, but there are significant
100 differences.

101 The popular referendum is a device which allows voters to approve or
102 repeal an act of the Legislature. If the Legislature passes a law that
103 voters do not approve of, they may gather signatures to demand a
104 popular vote on the law.

105 **Recall**- is a procedure that allows citizens to remove and replace a
106 public official before the end of a term of office. Recall differs from
107 another method for removing officials from office. Recall is a political
108 device while impeachment is a legal process.

109 **Recount** - An election recount is typically ordered or requested when
110 the margin of victory in an election is extremely small, or when people
111 believe that the election may have been dishonest. As a rule, only one
112 recount per election will be allowed from any Candidate.

113 **Recount** - An election recount is a process by which votes cast in an
114 election are re-tabulated to verify the accuracy of the original results.

115 An election recount is a process by which votes cast in an election
116 are re-tabulated to verify the accuracy of the original results.

117 Recounts typically occur in the event of a close margin of victory,

118 following accusations of election fraud, or due to the possibility of
119 administrative errors.

120 The Governor and Lieutenant Governor should come from each
121 district and secondly, no one with a felony can run for the following
122 offices: governor, lieutenant governor nor delegate, enact these two
123 laws to cement them. These measures must be in black and white,
124 the days of the gentlemen agreement is outdated; we need to codify
125 laws in Title 18 areas where the Revised Organic Act of 1954 is silent.

126 I would like to take this time to inform the public and the Senators
127 of the 35th Legislature that the Elections System of the Virgin Islands
128 is preparing and will execute the election of delegates for the Sixth
129 Constitutional Convention during the 2024 General Election
130 scheduled for Tuesday, November 5, 2024. The Elections System of
131 the Virgin Islands is in receipt of Act 8681 which is an Act
132 establishing the Sixth Constitutional Convention of the Virgin
133 Islands; and providing for an appropriation to cover convention-
134 related expenses. However, we are still awaiting the corrected Bill,
135 time is not on our side. The following changes must be made to
136 ensure uniformity in Act 8681 Section 3(a) which does not reference
137 delegate-at-large in the selection and qualification:

138 (a) Section 4(a) Every qualified voter may vote for no more than five
139 candidates for the legislative district for which the voter is a resident.

140 (b) Section 4(e) Each candidate for delegate shall file a petition with
141 the Supervisor of Elections signed by fifty qualified voters of the
142 district. These two areas needs to be clarified:

143 • Section 4(a) Every qualified voter may vote for no more than
144 SEVEN candidates for the legislative district for which the voter
145 is a resident. There are seven candidates running.

146 • Should the St. John candidate run at-large like the Legislature?
147 It would be unfair for the St. Thomas-St. John candidate to vote
148 for eight and STX district for seven.

149 We would like to publish the Constitutional Convention Calendar at
150 the same time. Although they will both be conducted during the 2024
151 General Election, both have different Nomination Petitions/Papers
152 requirements, which the public must be aware of in a timely manner
153 to plan.

154 I repeat this plea which I have made since 2013, The Virgin Islands
155 Elections Laws are outdated and ambiguous, therefore, I look forward
156 to returning to this body to testify on the other electoral bills in for
157 legal review.

158 The Elections System of the Virgin Islands continues to celebrate our
159 Sixth Anniversary. The next quarter events are the ESVI Forum –
160 Naturalization – “Home is Where My Vote Is” on October 4, 2024, at
161 the UVI Innovation Building and on October 6, 2024- St. Croix at the
162 UVI Medical Simulation Building. Both events will begin at 6 p.m.
163 and will be livestreamed or videotaped. Information will also be
164 shared on social media platforms.

165 The High School Quiz bowl – Civics Matters, preliminary rounds were
166 held last week and both districts had a tie. This past Tuesday and
167 Wednesday was the tie breaking round. The Education Committee
168 Chairperson, Ms. Lisa Harris Moorhead will send out a Press Release
169 with the results on Friday, September 29th. The championship round
170 will be conducted on October 28, 2023, on St. Croix at the UVI Great
171 Hall. Time to be formalized. Look out for ESVI Episode 3 & 4
172 upcoming.

173 I will close with this quote, ““To improve is to change; to be perfect is
174 to change often.” -Winston Churchill.

175 Madam Chairwoman, I thank you, Members of the Committee on
176 Rules and Judiciary and other Members of the 35th Legislature for

177 inviting me to present on Bill 35-0032 which we support with one
178 amendment.

179 I am prepared to respond to any questions you may have. Your Voice
180 Your Vote, and Your Vote is Your Voice!