

LEGISLATURE OF THE UNITED STATES VIRGIN ISLANDS



35th Legislature, THE HONORABLE SENATOR **DIANE T. CAPEHART**

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Chair
Vice Chair
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Committee on Rules & Judiciary
Committee on Disaster Recovery & Infrastructure
Committees on Health, Hospitals and Human Services
Committee on Education and Workforce Development
Committee on Economic Development & Agriculture
Subcommittee on Health and Public Safety

SEPTEMBER 28TH RULES AND JUDICIARY COMMITTEE REPORT

The 35th Legislature of the Virgin Islands' Committee on Rules and Judiciary met at the Frits E. Lawaetz Legislative Conference Room on September 28th at 9:30AM to consider the following:

In Block one, Committee Members considered the nomination of Sandra L. Setorie to serve as the Executive Director of the Virgin Islands Public Services Commission and the nomination of Laura Nichols-Samms to serve on the Virgin Islands Public Services Commission Board for the island of St. John. Questions related to solutions to the water issues, particularly on the island of St. Croix were discussed. Setorie stated that discussions have already begun with the Water and Power Authority to make sure more is done to provide potable water that can be used in normal functions of everyday life.

Nominee Nichols-Samms voiced additional support for taking any necessary steps to support consumers. Nominee Setorie stated that one of the biggest issues that existed was estimated bills, particularly related to the AMI System. Nominee Nichols-Samms stated that solutions were needed for recycling and renewable energy but did not offer any.

The nomination of Sandra Setorie was voted upon favorably. The nomination of Laura Nichols Samms was not successful. Both parties were forwarded to the full body for further consideration and will continue the vetting process at the next scheduled Legislative Session. In accordance with the 35th Rules of the Legislature, unfavorable considerations must still be forwarded to the full body for consideration.

In Block Two, Committee Members considered the following measures, which were voted upon favorably:

Bill No. 35-0014, An Act posthumously honoring and commending Wayne "Facts Man" Adams for articulating and bringing events of historic significance to the people of the Virgin Islands, by naming the bridge at the Nadir intersection on the island of St. Thomas the "Wayne 'Facts Man' Adams Bridge, sponsored by Senators Alma Francis-Heyliger and Marvin A. Blyden and co-sponsored by Senator Ray Fonseca.

Bill No. 35-0074, An Act honoring and commending former Senator Almando "Rocky" Liburd for his lifetime of service to the people of the Virgin Islands especially St. John and renaming the North Shore Road on St. John "The Almando "Rocky" Liburd Drive," sponsored by Senators Angel L. Bolques, Jr., Marvin A. Blyden, Carla J. Joseph and Alma Francis Heyliger and cosponsored by Senator Ray Fonseca.

In Block three, Committee Members considered the following measures, which were voted upon favorably:

No. 35-0067, An Act approving the Lease Agreement between the Government of the Virgin Islands, acting through its Commissioner of the Department of Property and Procurement, and Inter Island Auto Group, LLC d/b/a VIP Quick Lube for Improved Parcel No. 70 Submarine Base, No. 6A Southside Quarter, St. Thomas, Virgin Islands, to be used as a new and used car dealership, repair shop, importer of goods, retail shops, store, and for other related purposes, sponsored by Senator Novelle E. Francis, Jr.

Bill No. 35-0104, An Act approving the Lease Agreement between the Government of the Virgin Islands, acting through the Commissioner of the Department of Property and Procurement, and Roncan, Inc. d/b/a Sandcastle on the Beach to lease Plot No. 128-B Two Brothers, Smithfield, and Hesselberg, West End Quarter and Plot No. 129 Two Brothers, Smithfield, and Hesselberg, West End Quarter, St. Croix, Virgin Islands, sponsored by Senator Novelle E. Francis, Jr.

Finally, in Block four, the Committee considered Bill No. 35-0032, An Act repealing and reenacting Title 18 Virgin Islands Code, chapter 1, section 2, relating to government employees' eligibility for elected office, to allow government employees to run for political office while actively employed unless specifically prohibited by federal or other laws, sponsored by Senators Marise C. James and Donna A. Frett-Gregory.

Caroline Fawkes, Supervisor of Elections of the Elections System of the Virgin Islands delivered testimony on the measure. The Election System of the Virgin Islands supported the proposed measure but proposed one amendment. The Election System proposed that instead of requiring the candidate to take leave beginning at 12:01 the first day of Early Voting, that leave be taken sixty days before any election. The main reason for this amendment is that early voting is not the beginning of the voting process, but the absentee ballot process is. The Election System of the Virgin Islands does not support any candidate who falls under the law that is being amended to remain employed by the Virgin Islands Government.

The proposed measure will ensure that all candidates are provided with equal opportunities to compete in elections. This would allow a greater pool of candidates who would not have to worry about using most or all their leave or being placed on leave without pay. The amendment would mandate that all candidates, which is the current law, take 60 days leave instead of 80 days for political parties and 180 days for those not in a political party. The dates to begin leave would begin on June 4 (forty-

one workdays) or September 6 (about forty workdays). This sixty-day period does not include weekends and holidays. This reduces the number of days an employee would be out on leave. Many states do not require candidates to take leave or resign, not just those in federal positions. ESVI would not support candidates on the job while the voting process has begun.

Cindy Richardson, the Director of the Division of Personnel delivered brief testimony. According to Richardson, the Division fully supported the measure as amended. Richardson stated that once the legislation is enacted, it would open the doors for competition and diversity of candidates who would not be hindered by leave restrictions that would impact their personal funds in pursuit of public office.

Testimony was read into the record from the Chief Justice of the Supreme Court of the Virgin Islands, Rhys S. Hodge. Chief Justice Hodge requested that the reference to the Judicial Branch in Section 2(a) be removed. Hodge's testimony stated that an independent, fair, and impartial judiciary is an indispensable component of our justice system and society. The testimony once again affirmed that the people of the Virgin Islands must remain confident that the courts of the Virgin Islands are comprised of people of the highest integrity who will interpret and apply the law independently, impartially, and competently, without regard to partisan politics or any other inappropriate consideration. The Code of Judicial Conduct establishes the highest standards. Canon 4 prohibits a judicial officer from engaging in any political activity and requires that a judicial officer resign upon becoming a candidate for nonjudicial elective office.

Court staff, while not subject to the same complete prohibition on political activity imposed on judicial officers, must also adhere to ethical rules. Judicial Law Clerks, who assist judicial officers must abide by the Virgin Islands Code of Conduct for Law Clerks, codified as Rule 103. Law clerks must refrain from open political activity, including running for public office, endorsing candidates, or soliciting funds. Chief Justice Hodge's testimony warned that if the proposed bill were enacted without removing the Judicial Branch, Virgin Islanders would not believe that the judiciary would remain impartial and that it would create multiple conflicts of interest. He urged that the bill be amended to remove the Judicial branch.

Senator Capehart urged potential candidates to have a financial plan in place before applying to run for Office. She discussed the possibility of offering an amendment that would allow employees of the government to use the donated leave program as donated hours hold cash value. Senator Capehart suggested a \$1,000 cap and for the transaction to be logged in the same way as a financial contribution on the Campaign Disclosure Report. However, Division of Personnel Director Richardson states she would not be in support of the proposed as it would change the intention of the donated leave program for sick employees.

Senator Franklin Johnson voiced concern over the measure as it pertains to employees of the Police Department, voicing apprehension over conflicts of interest, especially as it pertains to measures of public safety.

Senate Majority Leader Kenneth Gittens voiced unease over the proposed measure. Citing the Federal Hatch Act, he stated that if the measure were to proceed, we would have the possibility to have individuals using government resources to perform campaign activities and risk losing federal funds.

Eventually, Bill number 35-0032 was held in Committee until the call of the Chair.

Senators present at today's Committee hearing included Diane T. Capehart, Milton E. Potter, Angel L. Bolques, Jr., Kenneth L. Gittens, Marise C. James, Franklin D. Johnson, and Carla J. Joseph. Non-Committee members present included Novelle E. Francis Jr., Donna A. Frett-Gregory, and Javan E. James Sr.