BILL NO.   35-0032

Thirty- Fifth Legislature of the Virgin Islands

February 27, 2023

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

PROPOSED BY: Senators Marise C. James and Donna A. Frett-Gregory

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

2   **SECTION 1.**   Title 18, Virgin Islands Code, chapter 1, section 2 is repealed and

3   reenacted with amendments to read as follows:

4   **"§2. Government personnel candidacy for public office; Leaves of absence; Service**

5   **on Boards.**

6   (a)   Persons employed in the legislative, executive, or judicial branches of the

7   Government of the Virgin Islands are eligible for nomination as candidates for public office,

8   and no employer thereof shall take or threaten to take any personnel action against any such

9   employee due to such candidacy. A government employee may:

10   (1)   Become a member of a political party committee formed or authorized under

11   the election laws of the Virgin Islands;

(2)   Campaign for and accept partisan or non-partisan elected offices during the employee's personal time and remain in active employment status with the Government of the Virgin Islands, without reduction in salary or status during the candidacy;

(3)   Become a candidate for nomination and election to any local elective office without taking a leave of absence without pay from governmental duties; and

(4)   Engage in other political activities on behalf of a candidate or issue in connection with partisan or nonpartisan elections.

(b)   As an individual, each Government employee retains all the rights and obligations of citizenship provided in the Constitution and laws of the United States of America and laws of the Virgin Islands; however, no Government employee shall:

(1)   Take any active part in managing a campaign, or campaign for public office or otherwise engage in political activity while on duty or within any period of time during which he is expected to perform services for which he receives compensation from the Government;

(2)   Use the authority of his position, or utilize Government funds, buildings, equipment, or materials, or otherwise misuse his position in the Virgin Islands Government to secure support for or oppose any candidate, party, or issue in an election involving candidates for office or party nominations or affect the results thereof.

(c)   A Government employee's supervisor may determine that the employee's assigned governmental duties cannot be effectively handled during the employee's candidacy and require that the employee take a leave of absence. The employee may use accrued annual leave in taking such leave of absence. Persons who have no accrued annual leave must take leave without pay but without prejudice to seniority or other employment rights.

(d)   A Government employee may become a candidate for the Board of Education, as provided for under 3 V.I.C. § 97, or a candidate for the Board of Elections for the Virgin Islands, as provided for under section 41 of this title, but:

(1)   No employee or official of the office of the Supervisor of Elections may be a candidate for a Board of Elections, and no employee of the Board of Education may be a candidate for the Board of Education without taking leave of absence, and if elected, may not serve as an employee or official, as the case may be, during his incumbency. Employees becoming candidates may use accrued or accumulated annual leave. Employees who have no accrued or accumulated annual leave shall take a leave of absence without pay but without prejudice to seniority or other employment rights; and

(2)   No member of a Board of Elections may be a candidate for any other public office during the term for which the member was elected. Any member of a Board of Elections must resign his position on the board as a condition of seeking any other public office.

(e)   Any classified Government employee who is a candidate for a full-time elective office shall give notice in writing to his or her employer within thirty days after nomination for that public office. An employee who leaves Government employment to accept a full-time elective office must be granted a personal leave of absence without pay from his or her employment for not more than four years. Upon reapplication for the employee's original position at the expiration of such term or terms of office, the employer shall reinstate the employee in the employee's most recent position, if it is available, or a similar position with equivalent pay or to a vacancy in any other position such person is qualified to fill. If no such positions are available, such person's name shall be placed on all reemployment lists for positions for which he is eligible.

(f)   This section does not apply to campaign activity required to be governed solely by Federal law. Notwithstanding any contrary provisions of this section, the political activities of Government employees who are paid in whole or in part by federal loans or grants, or whose jobs are related to an activity that receives federal funds, are subject to restrictions imposed by

1   laws or regulations of the United States and the employee shall comply with those restrictions,

2   pursuant to sections 1501 through 1508 of title 5 of the United States Code."

3   **BILL SUMMARY**

4   The bill amends title 18 Virgin Islands Code, chapter 1, section 2, to allow government

5   employees to run for political office while actively employed, unless specifically prohibited by

6   federal or other laws. This bill would prohibit any employee whose salary is paid completely,

7   directly or indirectly, by loans or grants made by the United States Government or a federal

8   agency, from running for elected office even if the employee were to take a leave of absence

9   without pay.

10   **BR23-0252/February 13, 2023/HLF**