



TESTIMONY ON BILL 36-0066

COMMITTEE ON GOVERNMENT OPERATION, VETERANS AFFAIRS,
CONSUMER PROTECTION

36th LEGISLATURE OF THE VIRGIN ISLANDS

TUESDAY, MAY 20, 2024

EARLE B. OTTLEY LEGISLATIVE HALL

ST. THOMAS, U.S.V.I.

2:30 PM

BY:

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VIRGIN ISLANDS PUBLIC FINANCE AUTHORITY

Introduction

Good afternoon, Honorable Senator Avery L. Lewis, chairman of the Committee on Government Operation, Veteran's Affairs, Consumer Protection of the 36th Legislature of the Virgin Islands, distinguished members of the Committee, other members of the 36th Legislature present, fellow testifiers, ladies and gentlemen in the Chambers, and the listening and viewing audiences. My name is Nathan Simmonds, and I am the Director of Finance and Administration of the Virgin Islands Public Finance Authority (the "Authority").

Mr. Chair, first, let me thank you for your courtesy in allowing Commissioner McCurdy and me to submit this written testimony, as we are presently out of the Territory attending the GARVEE Bond Pricing Event in New York.

Bill No. 36-0066 (the Bill") seeks to amend Title 29, Chapter 15, Virgin Islands Code, by adding section 928(a), which would provide that all officials and employees of the Virgin Islands Public Finance Authority, and its wholly owned subsidiaries, would be members of the Government Employees Retirement System ("GERS"). Those subsidiaries more specifically are West Indican Company Limited ("WICO") and Virgin Islands Next Generation Network ("viNGN") (hereinafter jointly referred to as the "Subsidiaries").

First and foremost, I would like to start by clarifying that there is no need to enact a law that employees of the Authority become members of the GERS, because we already are. All employees of the Authority become members of the GERS upon their employment. The intended impact of the Bill is therefore on the Subsidiaries, which are not a part of the retirement system. The Bill assigns the Authority with the responsibility of contributing to the GERS not only for itself- which it already does- but for the officials, officers and employees of the Subsidiaries, as well. We cannot facilitate such a mandate as each Subsidiary has its own separate and independent operations and financial management system. Further to that, the mandate to now require the Subsidiaries to become a part of the retirement system will have unintended negative consequences for their operations.

In understanding the Subsidiaries and their relationship to the Authority, allow me to provide information on how the referenced subsidiaries are structured. WICO is wholly owned by the Public Finance Authority pursuant to Act 5826, section 2(c), which authorized the transfer of the shares of the common stock of WICO to the Authority. Once acquired, WICO, per section 8 (b) of the Act, was granted the status of a public corporation and governmental instrumentality of the Government of the Virgin Islands and deemed a public entity operating on behalf of the Government of the Virgin Islands. As a result, WICO operates independently of the Authority, having its own board of directors and an executive management team.

viNGN, on the other hand, was created by the Authority, pursuant to authorization granted it by Act 7240 to serve as a public corporation and a wholly owned subsidiary of the Authority, subject to the requirements of the laws of the Virgin Islands of the United States and more particularly the General Corporation Law of the Virgin Islands (Chapter 1, Title 13, Virgin Islands Code). More specifically viNGN was created to enable the territory to qualify for and implement the United States Department of Commerce's Broadband Technology Opportunity Program Grants. Like WICO, viNGN operates independently of the Authority and has its own board of directors and executive management team.

In a nutshell, WICO and viNGN are distinct legal entities separate and apart from the Authority that have their own assets, liabilities, and financial obligations. Hence the Authority cannot be responsible for or facilitate the payment to the GERS of the cost of retirement for the officials and employees of the Subsidiaries.

Beyond that, it is important to note that each of the Subsidiaries have an established participatory retirement plan for their employees that has been in existence for many years. viNGN offers its employees a simple IRA. WICO on the

other hand offers its employees a defined contribution retirement plan through **VOYA Financial**, which eligible employees make mandatory (*after-tax*) contributions of 3% with a company match of 100% of 3%. In addition to mandatory contributions, employees can make voluntary 401(k) (*pre-tax*) contributions of 1% - 4% toward their retirement.

Both Subsidiaries have expressed concerns that mandatory participation in the GERS would create significant challenges including but not limited to:

- loss of key personnel
- increase retirement contribution obligations substantially from a 3% matching contribution for participating employees to a mandatory 11% contribution for all employees
- substantially increase employer contribution from 3% to 22.5%, which would present a financial hardship on both entities

viNGN for example is aimed to earn a profit for the first time this year. Forcing them into GERS could put this goal permanently out of reach. Further to that, the Bill does not provide a mechanism for the current retirement benefits the employees of the Subsidiaries have earned or how prior years of service will be addressed.

It is understood that adding employees to the GERS can be an asset to the system, however, this bill would add a financial strain to the Subsidiaries and create uncertainty in the hiring opportunities and retention of current employees

Accordingly, the Authority does not support Bill 36-0066. Thank you for the opportunity to provide comments on Bill 36-0066.