

COMMITTEE ON EDUCATION AND WORKFORCE
DEVELOPMENT

07/18/2024-AMENDED AND REPORTED OUT TO THE FLOOR
06/17/2024-REPORTED OUT TO THE COMMITTEE ON RULES AND JUDICIARY
05/16/2024-HELD IN COMMITTEE

BILL NO. 35-0240

Thirty-Fifth Legislature of the Virgin Islands

February 28, 2024

An Act transferring the administration of the Government Insurance Fund from the Commissioner of the Virgin Islands Department of Finance to the Commissioner of Virgin Islands Department of Labor and amending various sections of title 24 Virgin Islands Code, chapter 11 to facilitate better recovery for injury or disease that arises out of and in the course of employment in the Virgin Islands under the Workers' Compensation Administration, and to ensure that workers entitled to Workers' Compensation benefits receive medical coverage, rehabilitation services, and disability compensation without undue delay by merging the benefits and payment components of the Workers' Compensation Insurance Program

PROPOSED BY: Senator Novelle E. Francis, Jr., by Request of the Governor

1 **WHEREAS**, the Virgin Islands Department of Labor administers the Workers'
2 Compensation Administration;

3 **WHEREAS**, the Workers' Compensation Administration receives and processes claims
4 for injury or disease that arises out of and in the course of employment in the Virgin Islands;

5 **WHEREAS**, the Government Insurance Fund was established to insure employers
6 against liabilities for injuries occurring at the workplace; to assure that employees injured on the
7 job receive compensation, necessary medical coverage and rehabilitation assistance; and, in the
8 case of death, that the employee's dependents receive adequate assistance.

9 **WHEREAS**, the Virgin Islands Department of Finance currently administers the
10 Government Insurance Fund and releases the funds for payment of claims;

1 **WHEREAS**, injured workers should be able to file the claims and receive timely benefits,
2 while providers should be paid promptly;

3 **WHEREAS**, the Workers' Compensation Administration will be strengthened and
4 enhanced through the automation of all services, beginning with claims and including payments;

5 **WHEREAS**, the Workers' Compensation Administration will benefit by merging the
6 claims and payment components of the Workers' Compensation Insurance Program; and

7 **WHEREAS**, the Government Insurance Fund will be renamed the Workers'
8 Compensation Trust Fund and reestablished in the Department of Labor and administered
9 by the Commissioner of the Department of Labor or his designee; Now, therefore,

10 **SECTION 1.** Title 24 Virgin Islands Code, chapter 11 is amended as follows:

11 (a) By striking "Commissioner of Finance" in wherever it occurs and inserting
12 "Commissioner of Labor";

13 (b) by striking "Virgin Islands Government Insurance Fund" or "Government
14 Insurance Fund" wherever they occur and inserting "Workers' Compensation Trust Fund";

15 (c) by striking "Administrator" in wherever it occurs and inserting "Director";

16 (d) in section 251(a), by striking the definitions of "Board", "District Administrator"
17 and "Fund Administrator" and inserting the following definitions:

18 (1) "Director" means a person appointed by the Commissioner of Labor to
19 administer the operations of the Workers Compensation Administration.

20 (2) "Waiting Period" means the time that must pass before disability benefits can
21 be paid to an employee who has sustained a personal injury or occupational disease arising
22 out of and in the course of employment. The waiting period is counted as consecutive
23 business days, not calendar days. The date of the injury triggers the start of the waiting
24 period.

25 (e) by repealing section 251a in its entirety;

26 (f) in section 251b:

1 (1) in the section heading by striking “Board of Workers’ Compensation
2 Administration” and inserting “Commissioner of Labor”;

3 (2) in the first sentence by striking “Board of Directors of the Workers’
4 Compensation Administration” and inserting “Commissioner of Labor”;

5 (3) by striking subsections (b), (c) and (d) and inserting new subsections (b),
6 (c), and (d) that read as follows:

7 “(b) appoint the Director of the Workers’ Compensation Administration;

8 (c) to determine the salary of the Director of the WCA;

9 (d) the Commissioner of Labor shall hear appeals of decisions rendered by the
10 administrative law judge;”;

11 (4) “in subsections (h) and (i) by striking the word “board” and “Board”,
12 respectively, and inserting with “Commissioner of Labor”; and

13 (5) by redesignating subsection (i) as (j), and inserting a new subsection (i) that
14 reads: “(i) administer the Workers’ Compensation Trust Fund including the following:

15 (1) protect the solvency of the Workers’ Compensation Trust Fund by
16 conducting actuarial studies; determining premium rates in accordance with the costs
17 of administration and payment of claims;

18 (2) pay claims issued by the Commissioner of Labor;

19 (3) through the use of technology, plan and improve, the payment of claims;

20 (4) maintain accounts of income, expenditures and balances;

21 (5) manage the staff of the Workers’ Compensation Trust Fund;

22 (6) prepare the budget of the Workers’ Compensation Trust Fund;

23 (7) certify documents;

24 (8) collect interest on the Workers’ Compensation Trust Fund for the benefit
25 of the Fund; and

26 (9) perform other duties related to the management of the Workers’

1 Compensation Trust Fund.”;

2 (g) in section 251c:

3 (1) in subsection (b) by striking “Board of Directors of the WCA” and
4 inserting “Commissioner of Labor”;

5 (2) in subsections (c), (d), (e), (i) and (j) by striking “board” and inserting
6 “Commissioner of Labor” wherever it appears; and

7 (3) in subsection (j) by adding paragraphs (13) and (14) to read:

8 “(13) review title 24, chapter 11 and make recommendations for amendments
9 every five years; and

10 (14) establish, in partnership with the local medical community, a fee
11 schedule for the payment of medical procedures that must be implemented not later
12 than 60 days after it has been established.”;

13 (h) by repealing section 251d in its entirety;

14 (i) in section 252(a):

15 (1) after the first sentence, by inserting two sentences that read: “There will
16 be a five-day waiting period before disability benefits may be paid. If an employee
17 is found eligible for payment on the 15th day, the compensation is retroactive to the
18 first full day of disability”;

19 (j) in section 254a, by adding subsections (j) and (k) to read:

20 “(j) There is a four-year statute of limitations on medical care. If there has been
21 no activity in a case for four consecutive years, the case will be closed.

22 (k) If there has been no activity on a claim for six months, that claim is inactive.
23 The injured worker must submit a medical report for the Director’s consideration in
24 determining if the case will return to active status. A claim may remain inactive for not
25 more than four years.”;

26 (l) in section 254c:

1 (1) in subsection (b), by striking “245b” and inserting “254b”;

2 (2) by striking the language in subsection (c) and inserting new language to
3 read:

4 “(c) If a contract or temporary employee is injured, that employee is
5 eligible for a maximum of 26 weeks temporary total disability benefits after the
6 last day of employment. If the injury is catastrophic, that employee is eligible
7 for 120 weeks of disability benefits after the last day of employment. Contract
8 and temporary employees are entitled to medical rehabilitation as provided in
9 section 254a”;

10 (3) by adding subsection (g) to read:

11 “(g) Temporary total disability income benefits are paid for a period not
12 to exceed 120 weeks, or upon reaching maximum medical improvement,
13 whichever occurs first.”;

14 (m) in section 256 by striking “Board of the Workers’ Compensation Administration”,
15 “board”, and “Board of the WCA” wherever they occur and inserting “Commissioner of Labor”;

16 (n) in sections 261 and 263 by striking “Government Insurance Fund” wherever it occurs
17 and inserting “Workers Compensation Trust Fund”;

18 (o) by striking section 265 in its entirety and inserting a new section 265 that reads:

19 “Section 265. Workers’ Compensation Trust Fund

20 There is created the Workers’ Compensation Trust Fund (“WCTF”) within the
21 Department of Labor and administered by the Commissioner of Labor for the purpose of
22 insuring employers against liabilities imposed under this chapter, to guarantee that
23 persons entitled to compensation provided by this chapter will receive it, to pay providers
24 and vendors for services to injured workers, and to compensate injured workers directly.
25 The WCTF consists of all premiums received and paid into the WCTF, properties and
26 securities acquired by the WCTF, ten percent of all monies collected for traffic violations

1 under title 20 Virgin Islands Code, chapter 43, and any interest earned on monies
 2 belonging to the Fund. The Commissioner of Labor shall make payments from the Fund
 3 for losses sustained due to injuries and for expenses in as provided in this chapter.”;

4 (p) by striking section 266 in its entirety;

5 (q) in section 272 by striking subsection (c);

6 (r) in section 273:

7 (1) by striking subsection (c) and inserting a new subsection (c):

8 “(c) The annual premium must be paid in full by December 31, or in two
 9 installments. If the installment option is chosen, the first installment is payable on
 10 or before December 31, consisting of not less than one-half of the annual premium,
 11 plus any additional premium due, for which a 6-month policy will issue, and the
 12 second installment must be paid on or before June 30, for which a policy will issue
 13 for the remaining six months effective until December 31. The actual number of
 14 employees a company has employed must be reported to the Workers’
 15 Compensation Administration not later than September 30 of the current year.
 16 Rates and notices must be issued to the employer by the Workers’ Compensation
 17 Administration not later than November 15, and insurance policy renewals must
 18 begin on January 1 of the following year.”;

19 (s) in section 276, by striking "four" and inserting “ten”;

20 (t) in section 277(a), by striking “\$500” and inserting “\$5,000”;

21 (u) by striking the language in section 279 in its entirety and inserting new language

22 that reads:

23 “Every employer insured under the Workers’ Compensation Trust Fund shall keep
 24 a true and accurate record of the number of employees and of the wages paid, and the
 25 records must be always available for inspection and audit by the Director and the
 26 Commissioner of Labor. The Commissioner of Labor shall assess and collect fines from

1 an employer who fails to keep true and accurate records or wilfully misrepresents the
2 difference between the premiums paid and the premiums that should have been paid in
3 the same manner as premiums are assessed and collected.”

4 (v) in section 285(a)(2), after the first sentence, by inserting the following
5 sentence: “An employee terminated for just cause may not receive disability benefits.”

6 (w) in section 286, by adding subsection (d) to read as follows:

7 “(d) An employer shall respond to a payroll inquiry not later than ten days after
8 the inquiry. The Director of the Workers’ Compensation Administration shall impose a
9 fine of \$250 when an employer fails to respond within the ten days. The Director of the
10 Workers’ Compensation Administration shall recommend to the Commissioner of
11 Licensing and Consumer Affairs that the employer’s business license be suspended until
12 the payroll inquiry has been completed.”;

13 (x) in section 287(c) by striking “Board of Directors of the Workers’ Compensation
14 Administration” and inserting “Commissioner of Labor”; and

15 (y) in section 288 by striking “Board”, “Board of Directors”, “hearing reporter section
16 of the board”, “the board”, and “board member” and inserting “Commissioner of Labor” in each
17 instance.

18 **SECTION 2.** Title 20 Virgin Islands Code, chapter 43 is amended by striking
19 “Government Insurance Fund” or “Virgin Islands Government Insurance Fund” wherever
20 it occurs and inserting “Workers’ Compensation Trust Fund”.

21 **SECTION 3.** This act must be fully implemented not later than December 31, 2025.

22 **BILL SUMMARY**

23 This bill amends title 24 Virgin Islands Code, chapter 11, by transferring the
24 administration of the Government Insurance Fund from the Commissioner of Finance to
25 the Commissioner of Virgin Islands Department of Labor to facilitate better recovery for
26 injury or disease which arises out of and in the course of employment in the Virgin

1 Islands under the Workers' Compensation Administration. Further, this bill ensures that
2 workers entitled to Workers' Compensation benefits receive medical coverage,
3 rehabilitation services, and disability compensation without undue delay by merging the
4 benefits and payments components of the Workers' Compensation Insurance Program.

5 **BR23-0912/February 7, 2023/HLF**

6 **G35-034**

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