FLOOR

BILL NO. 32-0246

Thirty-Second Legislature of the Virgin Islands

July 24, 2018

An Act ratifying the agreement known as the Amended and Restated Terminal Operating Agreement by and Among the Government of the Virgin Islands and Limetree Bay Terminals, LLC, and the agreement known as the Refinery Operating Agreement by and Among the Government of the Virgin Islands and Limetree Bay Refining, LLC, in each case dated July 2, 2018; authorizing the use of funds obtained pursuant to the Operating Agreements to provide for an immediate infusion of up to $25,000,000 in the Government Employees' Retirement System (GERS) and make other provisions to improve GERS' fiscal situation and extend its solvency; to invest $10,000,000 in construction of a new, internationally branded hotel property on St. Thomas; to pay $10,000,000 in income tax refunds to Virgin Islands taxpayers; to invest $4,000,000 in the Paul E. Joseph Stadium project; to fund other critical projects and priorities; authorizing other actions that will generate new revenue streams for GERS and for other purposes; and to make amendments to title 3, chapter 27 of the Virgin Islands Code to improve the financial health and prospects of the GERS

PROPOSED BY: Senators: Neville A. James, Kurt A. Vialet, and Novelle E. Francis, Jr.

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. The Legislature of the Virgin Islands ratifies the agreement titled "Amended and Restated Terminal Operating Agreement by and Among the Government of the Virgin Islands and Limetree Bay Terminals, LLC," dated July 2, 2018, attached as Appendix A and made a part of this act.

SECTION 2. The Legislature of the Virgin Islands ratifies the agreement titled "Refinery Operating Agreement by and among the Government of the Virgin Islands and Limetree Bay Refining, LLC," dated July 2, 2018, attached as Appendix B and made a part of this act.

SECTION 3. The sum $70,000,000 to be paid to the Government of the Virgin Islands at closing by Limetree Bay Refining, LLC and Limetree Bay Terminals, LLC or their affiliates as compensation for the purchase of real estate and repayment of future payments in lieu of tax, is allocated as follows:

(a) $25,000,000 to the Virgin Islands Public Finance Authority to purchase from the Government Employees' Retirement System the real property described as Nos. 1, 2, 3, and 4 Estate Thomas, No. 6B New Quarter, St. Thomas, Virgin Islands, commonly known as the Havensight Mall, and the leasehold interest in Port of Sale, Inc.;

(b) $10,000,000 to invest in the construction of a new, internationally branded hotel on St. Thomas, to consist of a ten-year low-interest loan and an equity share entitling the Government of the Virgin Islands to certain cash distributions;

(c) $10,000,000 to pay income tax refunds to Virgin Islands taxpayers;

(d) $7,000,000 for the Virgin Islands Waste Management Authority to meet certain current and forthcoming expenses;

(e) $4,000,000 to invest in the development of the Paul E. Joseph Stadium;

(f) $3,000,000 to the judicial branch for fiscal year 2019 operating expenses;

(g) $3,000,000 to the Virgin Islands Public Finance Authority for legal and consulting fees and other transactional expenses;

(h) $3,000,000 to the St. Croix Capital Improvement Fund;

(i) $2,000,000 to the St. John Capital Improvement Fund;

(j) $2,000,000 for the relocation of and development of a legislative complex on St. Croix, Virgin Islands; and

(k) $1,000,000 for the reconstruction of the St. John Battery, destroyed by Hurricane Irma.

SECTION 4. (a) The Virgin Islands Public Finance Authority may purchase from the Government Employees' Retirement System the real property described as Nos. 1, 2, 3, and 4 Estate Thomas, No. 6B New Quarter, St. Thomas, Virgin Islands, commonly known as the Havensight Mall, and the leasehold interest in Port of Sale, Inc. with $25,000,000 of the $70,000,000 to be paid to the Government as provided in section 3. The remainder of the sales price will be financed pursuant to a mortgage to be entered into by the Government Employees' Retirement System at an annual interest rate not to exceed 8 percent.

(b) The Virgin Islands Public Finance Authority may enter into an agreement with the Government Employees' Retirement System whereby the parties agree that 50 percent of the net income earned by the Virgin Islands Public Finance Authority from its ownership of the Havensight Mall and certain adjacent real property must be paid annually to the Government Employees' Retirement System.

(c) The Government may enter into an agreement with the Government Employees' Retirement System whereby the parties agree that 50 percent of all Quarterly Refinery Payments received by the Government pursuant to Article 8 of the Refinery Operating Agreement by and among the Government of the Virgin Islands and Limetree Bay Refining, LLC, dated July 2, 2018, must be paid to the Government Employees' Retirement System upon receipt.

(d) The Government may enter into an agreement with the Government Employees' Retirement System whereby the parties agree that 50 percent of any revenues earned from the Government's financial interest in the hotel project described in section 3(b), including, as applicable, revenues from interest payments, equity distributions, and any equity interest payable upon a sale or similar transaction, must be paid the Government Employees' Retirement System upon receipt.

SECTION 5. Title 3 Virgin Islands Code, chapter 27, is amended as follows:

(a) Section 702, subsection (n) is amended by striking "or in the computation of many annuity of benefit hereunder shall be $65,000" and inserting "is the maximum taxable earnings for Social Security contributions as established annually by the Social Security Administration. Notwithstanding the foregoing, the maximum amount of compensation to be used in the computation of any annuity or benefit is $75,000."

(b) Section 706, subsection (d) is amended by striking "$65,000" and inserting "$75,000";

(c) Section 715, subsection (a) is amended by in the third sentence by striking "seven" and inserting "eleven"; in the sixth sentence by striking "five" and inserting "nine"; and in paragraph (2) by inserting "in the field of investment or finance" after "experience"

(d) Section 718 is amended in the following instances:

(A) By adding a sentence at the end of subsection (b) that reads: "Notwithstanding any other provision of law, for purposes of this section, compensation means amounts received as pay, salary or remuneration for services rendered in any amount up to the maximum taxable earnings for Social Security contributions as established annually by the Social Security Administration."

(B) In subsection (g) by adding paragraphs (13), (14) and (15) that reads:

"(13) after October 1, 2018 - 23.5%

(14) after October 1, 2019 - 26.5%

(15) after October 1, 2020 - 29.5%"; and

(e) By adding a subsection (m) that reads:

"(m) Notwithstanding any of the forgoing, the Board of Trustees and the System may not take any action affecting or restricting the benefits of or the distribution to retirees without the express written consent of the Government."

SECTION 6. The sum of $6,000,000 that is being held in escrow by the Virgin Islands Public Finance Authority for the liquidated cost of a bitumen storage facility is allocated to the Public Finance Authority and may be used for Phase II of the Frederiksted Economic Revitalization Project, which includes the Paul E. Joseph Stadium, the Terrence Martin Softball Field, the Crucian Christmas Festival Village and the infrastructure for adequate flood control and drainage to protect the project, persons, and property within the town of Frederiksted.

SECTION 7. The Government of the Virgin Islands and the Public Finance Authority may utilize the financial services of financial institutions located on the United States mainland as an alternative to financial institutions located in the Virgin Islands, if, in the professional judgement of the Government or the Public Finance Authority, it is in the public interest to do so.

SECTION 8. The sums authorized in sections 3, 4, and 6 remain available until expended.

BILL SUMMARY

This bill provides for the ratification of the Amended and Restated Terminal Operating Agreement by and Among the Government of the Virgin Islands and Limetree Bay Terminals, LLC, and the Refinery Operating Agreement by and Among the Government of the Virgin Islands and Limetree Bay Refining, LLC; and the appropriation of the closing payments as provided in section 3 and 4. It also authorizes the Virgin Islands Public Finance Authority to purchase assets from the Government Employees' Retirement System.

The bill also authorizes the Virgin Islands Public Finance Authority to release and utilize the funds identified in Section 6 for the completion of Phase II of the Frederiksted Economic Revitalization Project, which includes the Paul E. Joseph Stadium, the Terrance Martin Softball Field, the Crucian Christmas Festival Village and the infrastructure for adequate flood control and drainage to protect the Project and persons and property within the town of Frederiksted. Further, that all sums appropriated in sections 3, 4, and 6 to remain available until expended.

Section 5 increases the size of the GERS of Trustees from seven to eleven members and requires members to have five years of in the field of investment or finance; establishes the maximum amount of compensation to be used for contributions by the members for the Government Employees' Retirement System as the maximum taxable earning for Social Security contributions as established annually by the Social Security Administration; raises the $65,000 cap to $75,000 for pension calculation purposes, but requires employees to contribute to the pension system up to the Social Security limit. Which is $128,400 in 2018, provides for three percent pension contribution rate increases beginning on October 1, 2018 and requires the Board of Trustees and the System to obtain the express written consent of the Government before taking any action that would affect or restrict benefits of or the distribution of benefit to retirees.

Section 7 clarify that the Government and the Public Finance Authority have the authority to borrow funds and utilize financial services from financial institutions located outside the Territory and are not required to use local institutions if the Territory's best interest so require.

BR18-1010/July 10, 2018/SLR