



THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE

Charlotte Amalie, V.I. 00802
340-774-0001

May 27, 2016

VIA MESSENGER

The Honorable Neville James
President
Thirty First Legislature of the Virgin Islands
Capitol Building
St. Thomas, VI 00802

Re: Governor's Action on Bills numbered 31-0075, 31-0359, 31-0360, 31-0130, 31-0161, 31-0176, 31-0279, 31-0289, 31-0342, 31-0355, 31-0357 and 31-0358

Dear Mr. President:

I write to advise you that, pursuant to Section 9(d) of the Revised Organic Act of the Virgin Islands of 1954 as amended, I have today acted on the following legislative bills:

I have approved Bill No. 31-0075, an act authorizing the Department of Human Services to develop a comprehensive care program for females in the Youth Rehabilitation Center and the Juvenile Justice System.

I have approved Bill No. 31-0359, which, in pertinent part, makes an additional appropriation from the General Fund to the Law Enforcement Planning Commission for Fiscal Year 2016 for reimbursement to the federal government of \$523,579.00, and which would then give the Territory access to approximately \$7,000,000.00 in new grant funding. This Bill also provides an appropriation to the Department of Sports, Parks & Recreation for the Estate Profit Toddler's Gym. The measure also appropriates funds to the Bureau of Corrections, the Department of Education, the Virgin Islands Taxi Cab Commission, the University of the Virgin Islands, and to the St. Croix Jr. Statesman organization for a summer intern program. The measure authorizes security consulting services for the improvement of public safety and security in the Territory by allowing the Virgin Islands Police Department to contract with consultants to implement consent decree requirements, the strategic plan and recommendations for crime reduction and prevention strategies.

When the Legislature overrode my veto of Section 3 in Bill No. 31-0224, now Act No. 7866, it then amended the new Act, by striking the words “official or” in one sentence, but neglected to delete the words “official or” throughout the remainder of section 3. I urge the Legislature to revisit the measure and make the change in the language consistent.

While I have approved certain sections of Bill No. 31-0359, I have also line item vetoed Section 7 and Section 8 of the measure.

I have vetoed Section 7 of the bill in its entirety which seeks to amend certain sections of Title 29, Virgin Islands Code, Chapter 22 (the “TIF Act”). This section of the bill proposes to expand the Tax Increment Finance Program (the “TIF Program”). The adopted amendment would permit simultaneous financing of projects using the Hotel Development Act and the TIF Act, as well as a pledge of the Hotel Occupancy Tax Revenues and the Casino Tax Revenues as additional security for TIF bonds and notes.

Currently, the TIF Act limits qualified TIF projects to government-owned infrastructure improvements. The amendment to Section 1201 of the TIF Act would expand the scope of qualified TIF projects to authorize the financing of “construction, preservation, rehabilitation, repairs, or remodeling of new or existing public and now private buildings, structures, or fixtures within the TIF area . . .”. Further, it expands the source of payment for TIF Bonds beyond Incremental Gross Receipts Taxes (“Incremental GRT”) and Incremental Real Property Taxes (“Incremental RPT”), to also include, as applicable, Designated Casino Tax on Gross Revenues and Designated Hotel Room Occupancy Taxes, each as defined under the Hotel Development Act, pursuant to Title 29 V.I.C., Chapter 23.

Moreover, Section 1209 of the TIF Act is further amended to authorize a development sponsor “developing a hotel project” to be financed with proceeds of TIF Bonds and under the Hotel Development Act, to have bonds issued through the Virgin Islands Public Finance Authority, and to secure such bonds with Designated Casino Tax on Gross Revenue and the Dedicated Hotel Room Occupancy Tax in addition to Incremental GRT and Incremental RPT. It further permits such Designated Casino Tax on Revenue, the Dedicated Hotel Room Occupancy and the Incremental GRT and Incremental RPT to be pledged to secure Hotel Development Notes “as if the VIPFA was an authorized issuer of Hotel Development Notes under the Hotel Development Act. However, the VIPFA is not an authorized issuer of notes under the Hotel Development Act. The current Hotel Development Act allows developers of hotels to pledge any tax revenues generated by their facility, including the hotel occupancy taxes to loans or mortgages associated with that facility. In short, the hotel can collect taxes from a guest, can generate a property tax obligation and use those taxes to pay notes or loans of the facility.

Now that I have dispensed with the legal conflicts that require me to veto this section, let me detail for the community what the amendment intends to accomplish. On March 23, 2016, I line item vetoed Section 9 of Bill 31-0114. Section 9 amended the Casino Control Act to allow the Casino Control Commission to waive certain room requirements of a hotel in the enterprise zone. Section 9, which I vetoed, sought to waive the completion of the room requirements for the casino

to open at Caravelle Hotel. I asked then, why would we waive the requirement for a gaming establishment owner to make a real investment in our economy before extracting dollars from the same. I asked on March 23rd about the construction jobs, the spending in the community, the purchase of land to build the new rooms. On March 30, 2016, the Legislature answered my inquiry by overriding my veto and cleared the way for the Casino Commission to waive the requirement of building the new rooms before operating the casino. The Casino Commission subsequently waived the requirement of the new rooms, and on April 21st the casino at Caravelle Hotel opened.

On May 9, 2016, the Legislature adopted and passed section 7 of Bill 31-0359. Section 7 seeks to amend the TIF Act to merge it with the Hotel Development Act. The merger of these Acts would allow the owners and operators of the Caravelle Hotel and Casino to use the taxes generated under the Hotel Development Act and now gross receipts taxes, hotel occupancy taxes and designated casino taxes on gross revenues to finance the acquisition of land and the construction of the required number of rooms.

Again I ask, given this amendment; where is the financial investment of the owners of the Caravelle Casino to the economy of the Virgin Islands? The Members of the 31st Legislature seem quite content by way of this amendment, to heave upon the taxpayers of the Territory the capital requirements of the casino operator. The Senate is clearly saying, not only are we prepared to suspend the casino operator's investment requirements; but we are now prepared to allow the operator to use taxpayers' money to pay for them.

I have also line item vetoed Section 8 of Bill No. 31-0359, which amends Title 24 V.I.C., Chapter 1, Section 4 as amended by Act No. 7856, section 1(a). On March 23, 2016, I approved Bill No. 31-0236, becoming Act No. 7856, which set the base wage of tip service workers to 40% of the minimum wage. In my message to the Legislature approving the measure, I acknowledged that the bill was in the best interest of tip service workers in the Territory and consistent with my administration's efforts to increase pay to all employees. In less than three (3) months; why is the Legislature reversing course and seeking to reduce the base pay increase of tip service workers? It is common knowledge that tip service workers make a substantially low base pay rate. The increase originally passed in Act No. 7856 provided some relief for such workers. This amendment reducing the base wage is a step in the wrong direction. Accordingly and on behalf of tip service workers in the Virgin Islands, I am vetoing Section 8 of the bill.

I have vetoed Bill No. 31-0360, an Act repealing Act No. 7863, which relates to the number of signatures necessary for nomination papers under Title 18, Virgin Islands Code, Chapter 17, Subchapter, Section 381.

While some in our community argue that this measure appears to discourage persons from seeking elected public office, the opposite has now been proven to be the reality. There exist 44,752 registered voters in the US Virgin Islands. How could any viable candidate for elected office argue that having one hundred (100) registered voters sign a petition of candidacy be a difficult or discouraging task? I agreed then that we should increase the minimum number of signatures required to be placed on the election ballot. Currently, forty-six (46) candidates have

filed nomination petitions with at least 100 signatures of registered voters to vie for the offices of Delegate to Congress and the Legislature of the Virgin Islands in the 2016 election cycle. The Legislature is a deliberative body that should enact laws after discussion, deliberation and debate. You have done so in this instance. Why the “flip-flop”?

I have approved Bill No. 31-0130, an Act amending Title 5, Virgin Islands Code, chapter 401 relating to the duties of the Bureau of Corrections; and establishing “The Correctional Workers Safety Act of 2016”. Let me bring to your attention some technical issues I believe should be addressed. First, in subsection (h) there should be an amendment by striking the preposition “at” after “Bureau” and inserting the disjunctive “or”. Second, in subsection (i) the language does not specify in what areas the employees may carry the non-lethal weapons. I ask the body to revisit these areas and clarify the statutory language.

I have vetoed Bill No. 31-0161, an act to amend 20 V.I.C., Part II, chapter 43 to provide for the distribution of funds collected from traffic fines. In the measure, the Virgin Islands Police Department would receive 60%, the Bureau of Motor Vehicles would receive 20%, and the Superior Court of the Virgin Islands would receive 20% of the funds. If we enact this measure as written, the funds now earmarked to the Government Insurance Fund would be eradicated. How is the Legislature suggesting that we meet the obligations under the Government Insurance Fund when it removed the source of revenues that are now directed there? Until you provide an alternative revenue source to support the Government Insurance Fund, I must veto this measure.

I have approved Bill No. 31-0176, an act amending Title 3 Virgin Islands Code, Chapter 25 adding subchapter IVa enacting “The Virgin Islands Public Officials Compensation Commission Act.” I have approved this measure recognizing that it is an advisory Commission to assist the Legislature by providing non-binding recommendations regarding salaries of certain Government officials.

I have approved Bill No. 31-0279, an Act amending Title 17, Virgin Islands Code, Chapter 11 providing grief and stress counseling training to school counselors. I urge the Legislature to identify appropriate funds to aid in meeting the requirements of this new Act.

I have approved Bill No. 31-0289, an Act amending Title 3, Virgin Islands Code, sections 717 and 766 by requiring the GERS to issue personal loans to members in an amount not to exceed \$10,000.00 and requiring that the personal loans issued not to exceed an aggregate amount of \$10,000,000.00 per annum, per district. The measure now mandates that the Government Employees’ Retirement System Board issue personal loans to “active members” of the system in an amount not to exceed \$10,000.00 per loan. While this will allow active members of the system to have a monetary lending stream, I am concerned that the measure may not adequately protect such members from substantially high interest rates on such loans. The measure simply leaves the determination of the interest rate on such loans with the GERS Board. The Board could conceivably attach an interest rate of fifteen, twenty or even thirty per cent to discourage members from applying for loans. I urge the Legislature to revisit this measure and enact an interest rate cap that reflects some amount above the systems’ required rate of return.

I have approved Bill No. 31-0342, an Act naming Route 663 on St. Croix, “The Route 663—Eddie Ortiz Drive”. Mr. Ortiz contributed to his community and to the island of St. Croix. Naming a portion of Route 663 the “Eddie Ortiz Drive is quite fitting.

I have approved Bill No. 31-0355, an Act honoring and commending John W. Tranberg, Sr., on the celebration of his centennial anniversary; petitioning the Governor to finalize the purchase of Plot No. 14AB Estate North Hall; appropriating \$7,000,000.00 to acquire the property; and repealing Act No. 7192, which made an earlier appropriation to acquire the property.

It gives me great pleasure to approve this measure as it honors a dedicated and committed Virgin Islander and specifically a Crucian. A little over a month ago I had the opportunity to welcome the U.S. Secretary of Veterans Affairs to the Territory. The Secretary paid homage to Mr. Tranberg for his military service. In addition, I proclaimed April 25, 2016, John “Johnny” Tranberg Day. At the age of 100, Johnny has seen many changes in the Territory, and he has contributed to the growth and development of our islands. From his honorable service in the United States Army to his outstanding achievements, contributions, and work in the agricultural industry in the Territory, Johnny exemplifies what it means to be a true Crucian icon.

However, while it is indeed appropriate and fitting to honor and commend Mr. Tranberg for his many accomplishments and contributions to this Territory, I am concerned that the measure would also mandate the purchase of property and appropriate a sum of money without having any appraisals or assessments done of the property to determine fair market value or the need for the Government of the Virgin Islands to purchase and own such property.

It is not within the Legislature’s authority to negotiate and purchase property on behalf of the Government of the Virgin Islands. Moreover, it isn’t prudent for the Legislature to appropriate funds for the purchase of property on behalf of the Government without first conducting some diligence. How did the Legislature determine that the value of Mr. Tranberg’s property is \$564,516.00 per acre?

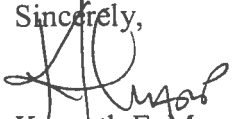
I vetoed Bill No. 31-0357, an Act amending Official Zoning Map SCZ-3 for Plot No. 115-A, Estate Green Cay, St. Croix from R-1 (Residential-Low Density) granting a use variance for the operation of a veterinary medical clinic. While Virgin Islands law provides that the Governor has the authority to correct non-substantial typographical errors in the text of a bill presented to him (*see*, 1 V.I.C. § 202), I must bring to the attention of the Legislature an error in the bill which I cannot correct pursuant to 1 V.I.C. § 202. The bill references amending Official Zoning Map SCZ-3 for Plot No. 115-A. However, the correct description should be Official Zoning Map SCZ-8 for Plot No. 115-A. This will need to be corrected. Additionally, the measure includes a “home occupation” restriction to the land use. I have been advised by the Department of Planning and Natural Resources that the “home occupation” restriction should be excluded from the measure. The “home occupation” restriction prohibits the property owner from displaying or advertising any commodity or service for sale on the property. This would be a substantial overreach of the bills intent. Therefore, I must veto the bill, and I urge the Legislature to make the appropriate

amendments.

I have approved Bill No. 31-0358, an Act to rezone Plot No. 50 Estate Orange Grove, Company Quarter, St. Croix, Virgin Islands, from R-3 (Residential Medium Density) to B-2 (Business-Secondary/Neighborhood).

As always, thank you for your continued work on behalf of the people of the Virgin Islands.

Sincerely,



Kenneth E. Mapp
Governor

Enclosures