



THE UNITED STATES VIRGIN ISLANDS
OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE
Charlotte Amalie, V.I. 00802
340-774-0001

May 8, 2024

VIA HAND DELIVERY

The Honorable Novelle E. Francis
Senate President
Thirty-Fifth Legislature of the Virgin Islands
Capitol Building
St. Thomas, Virgin Islands 00802

Re: Governor's Action on Bill Nos. 35-0266, 35-0267, and 35-0268

Dear Senate President Francis, Jr.:

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 Vetoed **Bill Nos. 35-0266, 35-0267 and 35-0568**, passed by the Legislature at its Session held on April 25, 2024, and received by my office on April 26, 2024.

Bill No. 35-0266, an Act reappropriating funds to pay current year obligations of the Roy L. Schneider Hospital and Medical Center, the Governor Juan F. Luis Hospital and Medical Center, and the Virgin Islands Waste Management Authority to the Virgin Islands Water and Power Authority; and to authorize the Virgin Islands Water and Power Authority to issue a credit to the Roy L. Schneider Hospital and Medical Center, the Governor Juan F. Luis Hospital and Medical Center, and the Virgin Islands Waste Management Authority in lieu of payment to the Government of the Virgin Islands, is an unnecessary and unhelpful measure at this time. The proposal to forgive an outstanding loan the Government made to WAPA by eliminating certain debts owed to WAPA by the hospitals and Waste Management does not help solve the immediate cash-flow issues crippling WAPA's ability to operate. WAPA needs cash in hand to fulfill its obligations and this recommendation does not alleviate that critical need. I have already directed payment of the outstanding utility bills for JFL, SRMC, and VIWMA to rectify these debts owed to WAPA, which will provide WAPA with cash to pay its critical vendors. This looming energy crisis was well known to the Legislature. In fact, I requested that the Legislature address this shortfall in payment by JFL, SRMC, and VIWMA in December 2023, and again in the days leading up to the State of Emergency. The Legislature failed to facilitate a solution in a timely manner. WAPA's critical vendors began to withhold services; and without critical vendors, WAPA was forced to curtail power generation leading to rotating power outages and therefore it was necessary that I declare a State of Emergency to prevent ongoing prolonged catastrophic blackouts.

I have also vetoed **Bill No. 35-0267**, an Act authorizing the Government of the Virgin Islands to use the Budget Stabilization Fund to pay obligations of the Virgin Islands Water and Power Authority incurred in Fiscal Year 2024 because it is ill-conceived. The Legislature proposes to grant authority to pay certain bills out of the Budget Stabilization Fund, which by law is already explicitly available for use during a State of Emergency. This is a reactive measure that proposes an action that I have already taken. I would also remind the Legislature that the Budget Stabilization Fund was entirely unfunded for many years until our administration began allocating \$5,000,000.00 to this fund each year in every recommended Executive Budget we created beginning with FY 2020 and submitted to the Legislature for approval. Maintaining this fund has always been a priority for my administration, and we will continue to prioritize replenishment of this fund.

Finally, I have vetoed **Bill No. 35-0268**, an Act amending title 23 Virgin Islands Code, chapter 10, subchapter I relating to a declaration of a state of emergency by the Governor and other related issues. I could not in good conscience sign this bill into law, as there are several proposals, which if enacted, are dangerous and would significantly impair any Governor's ability to timely respond to disasters in the Territory. The Governor declares a State of Emergency when he/she believes a disaster has occurred or may be imminent that is severe enough to require the Territory aid to supplement existing resources in preventing or alleviating damages, loss, hardship, or suffering. This is an executive power that is established in the Revised Organic Act of 1954 and it would take an act of the US Congress to change or amend this statute.

The Legislature in its wisdom, proposes a definition for a specific type of catastrophe named "man-made catastrophe" to add to Title 33, Chapter 10, Subchapter I but it failed to simultaneously amend 23 VIC § 1005(d). With the proposed definition, the Legislature limits the Governor's ability to declare a state of emergency for a "man-made catastrophe" because it simply failed to include it as a reason for the Governor to declare a state of emergency. If this bill becomes law, the Governor would be precluded from declaring a state of emergency for any type of "man-made catastrophe", that includes acts of terror, arson, plane crashes, sinking cruise ships, bioterrorism, cyber warfare, and numerous other threats.

The bill also states that the Governor is to obtain legislative approval for any expenditure of government funds in response to emergencies or major disasters resulting from man-made catastrophes and that the Legislature is to "consider" the request within five days. The measure fails to recognize that five days is five days too long when responding to a catastrophe. As recently as last year, the Territory was faced with an unmanageable "man-made" landfill fire at Bovoni that required immediate action to dispatch outside assistance to secure the service of helicopters to dump massive quantities of water onto the fire. Waiting five days for the Legislature to "consider the request" for funds is not only impractical but also irresponsible and life-threatening.

Last but not least, the bill also mandates that the Governor notify the Legislature of "any actions" taken related to cooperation with federal and local agencies, including drills and exercises. This requirement is overly broad and unclear. On its face it would appear to require that in an emergency, the Governor must notify the Legislature in writing anytime he has a call with an official at FEMA, or anytime the National Guard performs drills related to emergency. While I understand the Legislature's intent to remain informed, this proposed requirement is unclear and overly burdensome.

Finally, the Legislature proposes that they may meet and vote by a two-thirds majority to terminate a State of Emergency. The proposal does not mandate that the Legislature convene a Special Session or that they hold a hearing to determine the status of the crisis to which the Governor is responding. Confusingly, in its attempt to curtail the Governor's authority related to man-made disasters, the Legislature also proposes removing its own authority to limit or modify the Governor's powers when a State of Emergency Order comes before the Legislature for extension, as is currently provided by law in subsection (h) of 23 VIC §1005.

Current law allows a State of Emergency to be in effect for 60 days before it must come before the Legislature for extension approval. At that time, the Legislature may make certain modifications it deems appropriate, or terminate the State of Emergency. This is a practical mechanism for oversight that allows the Governor to take the immediate action needed to confront a crisis, and to ensure that the Legislature is informed and in agreement with the continuation of the State of Emergency Declaration.

When considering whether or not to approve a measure, I always contemplate how a proposal will affect the future of the Territory, not just considering our current challenges, but also recognizing that future leaders will face a variety of unknown challenges. The health and safety of the residents of this Territory should always be the Governor's, as well as the Legislature's greatest priority, and we must be careful that the laws we set in place today are considerate of the future, and whatever obstacles may come. These knee jerk statutes may come back to haunt you or one of your colleagues should you ever be blessed with the opportunity to serve our people as Governor of these great Virgin Islands.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Albert Bryan Jr.', with a long horizontal stroke extending to the right.

Albert Bryan Jr.
Governor

Cc: *Members of the Thirty-Fifth Legislature*