

COMMITTEE HOLDS BILL FOR JUDICIARY RETIREMENT BENEFITS PROGRAM

Date : November 16, 2016



ST.THOMAS—The Committee on Finance, chaired by Sen. Clifford F. Graham, met Wednesday at the

Earle B. Ottley Legislative Hall, where they held a measure regarding the retirement benefit program for

members of the Judiciary and for other related purposes.

Bill No. 31-0244, sponsored by Sen. Kenneth L. Gittens, repeals a section of the code (770I) and reintroduces an amended version that clarifies ambiguities relative to annuities, vesting periods, and

removes Government Employees Retirement System's authority over deferred compensation.

Legislators

moved to hold the measure. It was so ordered without objection.

"The law provides that their compensation, to include their pension benefits, are not to be changed

midstream

of their term,” explained Sen. Gittens. “We have been seeing some changes and this bill seeks to clarify what is happening. We need to realize that these individuals who serve as judicial officers are

people who we call upon to be fair and just in their decision making and it is only right for us to ensure

that the fair and just decision making occurs for all aspects,” he said.

Sen. Graham asked officials to explain the effect of increasing the cost of insurance.

“If the cost of insurance for members of the Government of the Virgin Islands increases, you are saying

that that’s in violation of the law with respect to judge’s salary, he asked.

Robert Molloy, who serves as a Judge of the Superior Court of the Virgin Islands, clarified that in other

jurisdictions with similar legislation, “you cannot reduce the take home compensation of a judicial officer”.

Other lawmakers weighed in.

“What we’re discussing is an unfunded liability,” said Sen. Violet. “I think we’re going to have to make

the determination today as to whether or not, once again, the Legislature is going to enter into [another]

unfunded liability and the system at a later point, will point out that the mandate was unfunded,” he said.

Members of the judiciary present spoke in favor of the measure and provided some recommendations for

areas in the proposed amendments to tighten the language, removing any residual ambiguity.

“Although one of the core purposes of Bill No. 31-0244 is to eliminate GERS’ ability to set contribution

rates for members of the Judiciary,” said Hon. Rhys S. Hodge, Chief Justice of the Supreme Court of the

Virgin Islands “reference to retirement contribution payments from the employer could be interpreted to

allow GERS to require such a payment.”

“This not only undercuts the purpose of Bill No.31-0244, but poses serious constitutional questions as to

its legality if applied retroactively to the current members of Tier I,” he said.

Changing the language to reflect a contribution rate change from 15% to 11% for contributions paid by

Tier I members would resolve that conflict, Justice Hodge added.

Austin L. Nibbs, Administrator at GERS also weighed in.

“We are extremely concerned that this piece of legislation, which we term as ‘Special Interest Legislation’

is being offered at time when there is an ongoing appeal hearing related to the same issues before the

Board with a sitting member of the Judiciary,” he said.

Others present disagreed with Nibbs however, pointing out that the legislation was presented before the

appeal hearing began. Senators also added that they expected to hear more than the generic response of

insolvency by 2023.

“We just cannot continue to set rates based on a particular argument and then knowing that it’s going to

come back to haunt the Government of the Virgin Islands. All of those previous [pieces of] legislation is

what destroyed the Government Employees Retirement System,” Violet said.

The committee also held Bill No. 31-0459 relating to the distribution of the proceeds of taxes collected

and deposited into the Virgin Islands Sin Taxing Revolving Fund and Bill No. 31-0441, establishing the

office of the public surveyor.

Committee Chair, Sen. Clifford F. Graham and members, Senators Marvin A. Blyden, Positive T.A. Nelson, Tregenza A. Roach and Kurt A. Violet, were present. Non-committee members Senators Kenneth

L. Gittens and Novelle E. Francis Jr., were also present.

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