

COMMITTEE ON HEALTH, HOSPITALS AND HUMAN  
SERVICES

03/23/2022-AMENDED AND REPORTED OUT TO THE FLOOR  
03/09/2022-AMENDED AND REPORTED OUT TO THE COMMITTEE ON RULES AND JUDICIARY  
10/18/2021-HELD

**BILL NO. 34-0101**

**Thirty-Fourth Legislature of the Virgin Islands**

**August 27, 2021**

An Act amending the Virgin Islands Code title 3, chapters 1, 15 and 25; title 23, chapter 7; and title 33, section 3032 to add a unit within the existing Virgin Islands Fire Service for emergency medical services, and to establish the Virgin Islands Fire and Emergency Medical Services to provide fire prevention services, fire suppression services, emergency medical services, and for the protection of life and property; to require the Fire Service and the Emergency Medical Services to develop and merger plan; and to provide for the transfer of employees from the Fire Service and the Emergency Medical Services to the Virgin Islands Fire and Emergency Medical Services; to provide for other related purposes

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**PROPOSED BY:** Senators Donna A. Frett-Gregory, Janelle K. Sarauw,  
Novelle E. Francis, Jr., and Kenneth L. Gittens by Request  
of the Governor  
Co-sponsors: Carla J. Joseph, Marvin A. Blyden,  
Milton E. Potter and Franklin D. Johnson

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1 *Be it enacted by the Legislature of the Virgin Islands:*

2       **SECTION 1.** Title 3 Virgin Islands Code, chapter 1 is amended in the title by striking  
3 “Fire Service” and inserting “Virgin Islands Fire and Emergency Medical Services” and by  
4 striking “Virgin Islands Fire Service” and “Fire Service” respectively and inserting “Virgin  
5 Islands Fire and Emergency Medical Services (VIFEMS)”.

6       **SECTION 2.** Title 3 Virgin Islands Code, chapter 15, section 257, subsection (a) is  
7 amended by striking paragraphs (1) and (2) in their entirety and renumbering the remaining  
8 paragraphs accordingly.

1           **SECTION 3.** Title 3 Virgin Islands Code, chapter 25, subchapter V, section 559 is  
2 amended by adding a subsection (f) that reads as follows:

3           (f) A firefighter who works in the Suppression Unit of the Virgin Islands Fire and  
4 Emergency Medical Services, which serves as the first responder to control and suppress fire  
5 outbreaks and contain Hazmat incidents on public and private property, shall receive a  
6 hazardous duty pay differential of either:

7           (1) 15% of the firefighter's basic compensation in addition to the basic  
8 compensation; or

9           (2) 20% of the firefighter's basic compensation in addition to the basic  
10 compensation when the firefighter is also certified as an Emergency Medical  
11 Technician.

12           **SECTION 4.** Title 33 Virgin Islands Code, chapter 111, section 3032 is amended in  
13 the section heading by striking "Fire Service" and inserting "Virgin Islands Fire and  
14 Emergency Medical Services" in all instances where they appear; and in subsection (a) in the  
15 last sentence by adding an "s" to the end of the word "section" and inserting "551b and"  
16 before the number "603".

17           **SECTION 5.** Title 23 Virgin Islands Code, chapter 7, is amended by striking "Fire  
18 Service" in the chapter and section headings and inserting "Virgin Islands Fire and  
19 Emergency Medical Services"; and replacing the existing section 551 with a new section 551  
20 in its stead:

21           **"§ 551. Incorporation of Virgin Islands Fire and Emergency Medical Services; director;  
22 organization**

23           (a) The Fire Services and Emergency Medical Services (EMS) of the Virgin Islands  
24 are under the supervision of the Director of the Virgin Islands Fire and Emergency Medical  
25 Services, (VIFEMS).

26           (b) VIFEMS, under the direction of the Director, is responsible for the following:

1           (1) To enforce the laws and regulations as they pertain to fire services and  
2 emergency medical services in the Virgin Islands.

3           (2) To provide effective fire prevention, fire protection, fire suppression, and  
4 special operations, such as hazardous materials, and search and rescue to persons and  
5 property of the Virgin Islands;

6           (3) To provide emergency and non-emergency basic and advanced life support  
7 services to persons in the Virgin Islands;

8           (4) To prevent and reduce the risk of fire through effective public education  
9 and injury prevention, conduct fire safety code inspections and enforcement programs;

10          (5) To conduct arson investigations and make arrests pertaining to such  
11 matters; and

12          (6) To establish and participate in training and certification, professional  
13 development, and educational programs relating to fire science, EMS, and other related  
14 matters.

15          (c) VIFEMS shall have one Medical Director of Emergency Medical Services, one  
16 Assistant Director of Fire, one Assistant Director of Emergency Medical Services, and one  
17 Territorial Training Coordinator, all of whom are appointed by the Governor and report to the  
18 Director of VIFEMS.

19          (d) There must be one Fire Chief and one Emergency Medical Services Chief for the  
20 District of St. Croix and one Fire Chief and one Emergency Medical Services Chief for the  
21 District of St. Thomas-St. John. There must also be a Deputy Fire Chief for the Island of St.  
22 Croix, a Deputy Fire Chief for the Island of St. John who must be a resident of St. John, and a  
23 Deputy Fire Chief for the Island of St. Thomas, all of whom must be appointed by the  
24 Governor.

25          (e) The Director shall establish an Arson Prevention and Investigation Unit within  
26 each fire district for the purpose of enforcing the provisions of the Territorial Fire Prevention  
27 Code and such other rules and regulations that will aid in the prevention of fires. Each Arson

1 Prevention and Investigation Unit must be staffed by one District Fire Marshal, and such Fire  
2 Inspectors, Deputy Marshals and Deputy Inspectors I, II, II, as determined by the Director.  
3 The Fire Marshals, Fire Inspectors, and Deputies must have specialized training in arson and  
4 investigation, which training must be certified by the Director.

5 (f) The Fire Chief and the Fire Marshal or their authorized representative has the  
6 authority to investigate the cause, origin, and circumstances of every fire, explosion, or  
7 hazardous materials emergency. When the Fire Chief, the Fire Marshal, or the authorized  
8 representative has reason to believe that a fire, explosion, or hazardous materials incident  
9 may be the result of a violation of any law, the Fire Chief, Fire Marshall, or authorized  
10 representative shall immediately take custody of and safeguard all physical evidence in  
11 connection therewith, and has the authority to prohibit the disturbance or removal of any  
12 material, substance, device, or utility in, or upon, any building or property where the  
13 emergency occurred until such time as the investigation of the incident is complete, However  
14 with respect to fires, explosions, and hazardous materials incidents involving critical injury,  
15 death, or assaults with intent to kill, the Virgin Islands Police Department is the primary  
16 investigative agency.

17 (g) The Fire Chief and the Fire Marshal or their authorized representative has the  
18 authority to enter business premises and inspect the premises for any violations to the fire  
19 code. If a determination is made that there are violations that present an imminent fire  
20 hazard, the offending business has 72 hours to correct the violations. The Director of  
21 VIFEMS has the authority to close any business that fails to correct the violations with  
22 written notice to the Department of Licensing and Consumer Affairs. The business may be  
23 opened only upon the issuance of certificate of compliance by the VIFEMS Director to the  
24 Department of Licensing and Consumer Affairs.

25 (h) The Territorial Training Coordinator shall design an education and training  
26 program that encompasses entry-level and in-service training based upon the VIFEMS'  
27 mission and operational performance measures. The Territorial Training Coordinator, in

1 close coordination with the Assistant Directors and Medical Director, shall develop and  
2 implement a program of certification for firefighters, paramedics, emergency medical  
3 technicians, and emergency medical responders.

4 (i) The organization of VIFEMS within the Office of the Governor shall be in  
5 accordance with rules and regulations promulgated by the Director.

6 **SECTION 6.** Title 23 Virgin Islands Code, chapter 7 is amended by inserting section  
7 551a to read as follows:

8 **“§ 551a. Medical Director**

9 (a) To be eligible for appointment, the Medical Director must:

10 (1) Be a practicing physician licensed to practice medicine in the Virgin  
11 Islands;

12 (2) Be board certified in a medical specialty that represents the broad patient  
13 base that the Department serves, such as emergency medicine, general surgery, family  
14 medicine, or internal medicine; and must have at least four years of substantial  
15 experience such specialty.

16 (b) The Medical Director shall:

17 (1) Provide medical oversight for all aspects of pre-hospital medical services  
18 provided by the VIFEMS, including:

19 (A) Written policies, procedures, and protocols for pre-hospital medical  
20 care;

21 (B) Medical training; and

22 (C) Quality assurance of medical services;

23 (2) Supervise the administration of pre-hospital medical care; and

24 (3) Work collaboratively with the Director, Assistant Directors, Fire Chief,  
25 Deputy Fire Chiefs, Emergency Medical Services Chiefs, and other personnel in the  
26 VIFEMS.

1 (c)(1) The provision of pre-hospital medical care by the VIFEMS's certified  
2 emergency medical technicians and paramedics shall be under the license of the Medical  
3 Director.

4 (2) The Medical Director is not personally liable for the good-faith performance of  
5 the Medical Director's duties under this section for a death or injury that results from the  
6 provision of pre-hospital medical care by the VIFEMS's certified emergency medical  
7 technicians or paramedics practicing under the license of the Medical Director unless the  
8 death or injury is the result of willful misconduct or gross negligence of the Medical Director.

9 (d)(1) The Medical Director has the authority to order hospital emergency rooms  
10 within the Virgin Islands to accept any VIFEMS transports and to require hospitals and  
11 medical providers to accept the transfer of care of a patient or patients within a specified  
12 period of time.

13 (2) The VIFEMS may transport patients to any licensed clinic or other medical  
14 facility that is not a hospital emergency room, appropriate to the patient's need.

15 (3) The Medical Director has the authority to work directly with the Governor,  
16 the Commissioner of Health, and other appropriate agencies to develop programs and  
17 enter into agreements with clinics or other health care providers to receive the  
18 VIFEMS's transport of patients.

19 (4) The Medical Director has the authority to work with the hospitals to  
20 coordinate pre-hospital medical services with medical research of best practices for the  
21 delivery of pre-hospital medical care.

22 (5) The position of Medical Director may be a part-time, full-time or  
23 contractual position dependent on the complexity, scope, and needs of VIFEMS.  
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1           **SECTION 7.** Title 23 Virgin Islands Code, chapter 7, is amended by inserting section  
2 551b:

3           **§ 551b. Emergency ambulance service fees**

4           (a) In accordance with ambulance service pricing guidelines from the Centers for Medicare  
5 and Medicaid Services, or successor organization, the Director may establish fees to be charged  
6 for services provided by the emergency ambulance service of the VIFEMS in such amount as  
7 may be reasonable in consideration of the interests of the public and the persons required to  
8 pay the fees, and in consideration of the approximate cost of furnishing such services; but no  
9 one shall be denied the services because of his or her inability, and no one may be questioned  
10 about the ability to pay at the time the services are requested.

11           (b) (1) A health care facility shall reimburse the VIFEMS for the cost of emergency  
12 ambulance services, as determined under subsection (a) of this section, incurred by a patient  
13 resident of the health care facility if the health care facility requests ambulance transport  
14 services from the VIFEMS and the patient's healthcare insurance denies payment for the  
15 ambulance transport after a determination that the transportation did not meet the medical  
16 necessity standard as provided in 42 CFR § 410.40(d).

17           (2) For the purposes of this subsection, the term:

18           (A) "Ambulance" means any publicly owned vehicle specially designed,  
19 constructed, modified, or equipped for use as a means for transporting patients in  
20 a medical emergency or any publicly owned vehicle that is advertised, marked, or  
21 in any way held out as a vehicle for the transportation of patients in a medical  
22 emergency.

23           (B) The term "health care facility" includes, but is not limited to,  
24 hospitals, nursing homes, hospices, health care clinics, health centers, behavioral  
25 health facilities, community residence facilities, maternity centers, ambulatory  
26 surgical facilities, renal dialysis facilities, intermediate care facilities,  
27 rehabilitation facilities, urgent care facilities, and home care agencies.

1 (c) All health insurers, hospitals or medical services corporations, preferred provider  
2 organizations and health maintenance organizations shall reimburse VIFEMS for emergency  
3 services that are due to a medical emergency.

4 (d) Fees collected by VIFEMS under this section must be deposited in the Fire and  
5 Emergency Medical Services Fund.

## 6 **SECTION 8. Global amendments**

7 (a) Title 23 Virgin Islands Code is amended as follows:

8 (1) In chapter 7, sections 552, 553, 554, 555, and 556 - 560 by striking the  
9 words "Fire Service" wherever they appear and inserting "VIFEMS" in their place and  
10 by striking the words "fire service" wherever they appear and inserting "fire and  
11 emergency medical services" in their stead; and

12 (2) In chapter 9 as follows:

13 (A) In sections 601, 603, 606, and 613 by striking the words "Fire  
14 Service" and inserting "Virgin Islands Fire and Emergency Medical Services" in  
15 their stead; and by striking the words "Fire Service" and inserting "VIFEMS" in  
16 their place, as appropriate; and

17 (B) In section 604 by striking "Chief of the fire service" and inserting "Fire  
18 Chief", and in section 605, by striking "Fire Service Emergency" and inserting "Virgin  
19 Islands Fire and Emergency Medical Services.

## 20 **SECTION 9. Merger plan.**

21 (a) No later than 90 days after the passage of this act, the Director of the Fire Service  
22 and the Director of Emergency Medical Services ("EMS") shall submit to the Legislature's  
23 Committee on Health and Human Services ("the Committee"), a jointly-authored merger plan  
24 outlining all operational and managerial steps to be taken by both the Fire Service and EMS  
25 to carry out the merger, with particular emphasis on communication protocols during the  
26 transition period in order to ensure public safety. A full description of the education and



1 training program designed by the Territorial Training Coordinator as described in §551(h)  
2 must be a part of this merger plan.

3 (b) The Directors of the Fire Service and EMS shall consult with the Department of  
4 Property and Procurement to include in the merger plan a complete and exhaustive list of all  
5 property and equipment to be transferred from both Fire Service and EMS to the VIFEMS.

#### 6 **SECTION 10. Transfer of employees**

7 (a) On the effective date of this act, all Emergency Medical Services employees of  
8 the Virgin Islands Department of Health, except those employees retained to occupy  
9 positions in the Office of Emergency Medical Services within the Department of Health, and  
10 all employees of the Virgin Islands Fire Service are transferred to the Virgin Islands Fire and  
11 Emergency Medical Services along with all such records, executed contracts, unexpended  
12 balances of appropriations, grants, and other funds held by the Department of Health for the  
13 Emergency Medical Services and by the Virgin Islands Fire Service; such real and personal  
14 property, equipment, facilities and other assets, as appropriate; and all powers, duties, rights  
15 and obligations.

16 (b) Any certification or recognition of any union or existing collective bargaining  
17 agreements representing the transferred employees from the Department of Health and Virgin  
18 Islands Fire Service is transferred and recognized by the Virgin Islands Fire and Emergency  
19 Medical Services.

20 (c) The transferred employees may not have their salary or status reduced as a result  
21 of a transfer under this act, and their service must be considered continuous.

22 (d) Rights and entitlement to annual and sick leave benefits, the Government  
23 Employees' Retirement System benefits, the Personnel Merit System, Group Health  
24 Insurance Plan under 3 V.I.C. § 634, seniority and other employee benefits of any employee  
25 transferred to the VIFEMS, pursuant to this act, may not be impaired.

1 (e) VIFEMS shall place the employees transferred pursuant to this act, in a position  
2 comparable to the position the employee enjoyed under the employee's employment prior to  
3 the transfer, subject to the following:

4 (1) VIFEMS, in determining a comparable position, shall consider the  
5 employee's education, experience, and the salary, duties and responsibilities of prior  
6 employment; and

7 (2) No employee employed at VIFEMS on the effective date of this act may be  
8 demoted to accommodate an employee transferred under this act.”

9 **SECTION 11. Department of Health**

10 The Department of Health shall fully cooperate with the VIFEMS in the  
11 implementation 9 of the realignment pursuant to this act.

12 **SECTION 12. Office of Collective Bargaining Certification of Transfers; Reporting**  
13 **Requirements on Transfer of EMS Employees.**

14 (a) The Director of the VIFEMS, no later than 90 days after effective date of section  
15 10 of this act, shall submit a report pursuant section 9 (a) to the Legislature, the Office of  
16 Collective Bargaining (OCB) of the Government of the Virgin Islands and the Department of  
17 Property and Procurement which includes information on the status of the VIFEMS act.

18 (b) The report must, at a minimum, include:

19 (1) The number of employees laterally transferred to the VIFEMS pursuant to  
20 section 10 of this act;

21 (2) A job description of the transferred employees' prior positions, prior job  
22 functions, duties, educational background, experience, the degree to which the  
23 transferred position is similar to the pre-transfer position, job status with respect to the  
24 career or exempt government service, and their seniority;

25 (3) A description of the position to which each transferred employee was  
26 appointed; and

1 (4) A detailed explanation of how each transferred employee is being utilized  
2 within the VIFEMS.

3 (c) In reviewing the report, the OCB shall examine all employee transfers in order to  
4 certify that the positions are true, lateral transfers pursuant to the applicable collective  
5 bargaining agreement. No later than 30 days after receiving the report, the OCB shall submit  
6 the certification response to both the VIFEMS and the Legislature, outlining any  
7 recommended personnel changes.

8 **SECTION 13.** Section 10 of this act takes effect 180 days after enactment.

9 **BILL SUMMARY**

10 This bill amends title 23, chapter 7 of the Virgin Islands Code, which creates the  
11 Virgin Islands Fire Service. Section 5 of the bill replaces the existing section 551, with a new  
12 section 551 establishing the “Virgin Islands Fire and Emergency Medical Services”. The bill  
13 organizes the new entity and creates the position of Medical Director and authorizes the  
14 Director of VIFEMS to set fees for emergency ambulance services. The bill provides for the  
15 transfer of employees of the Fire service and Emergency Medical Service to the Virgin  
16 Islands Fire and Emergency Medical Services.

17 **BR21-0258/August 12, 2021**

18 **REVIEWER’S NOTE**

19 Before this bill goes forward, it should be revised and rewritten. Although the bill has  
20 now been amended, it still requires better organization and revision in accordance with  
21 established drafting rules. There had not been enough time to revise the bill before its initial  
22 hearing. be amended after the first hearing. However, the bill should be revised before  
23 enactment.

24 The bill in section 4, section 551 (a), purports to create or establish the Virgin Islands  
25 Fire and Emergency Medical Services but does not include any language, not even in the  
26 section heading, which expresses the intent to establish the VIFEMS as an agency of the  
27 government. In fact, it is not until subsection (i) of that section that the bill provides that

1 “The organization of VIFEMS within the Office of the Governor shall be in accordance with  
2 rules and regulations promulgated by the Director. The bill with respect to the establishment  
3 of the VIFEMS is not self-executing. The Virgin Islands Fire and Emergency Services will  
4 not be established immediately upon the bill’s enactment. It will not be established until  
5 regulations are promulgated and approved by the Governor. The bill should establish the  
6 VIFEMS outright, without having to await regulations for the organization of the VIFEMS.

7 The bill provides “No employee employed at the VIFEMS on the effective date of this  
8 Act may be demoted to accommodate an employee transferred under subsection (a).” On the  
9 effective date of the act there will not be anybody already employed at the VIFEMS.  
10 Employees are to be transferred on the effective date. Moreover, the VIFEMS will not exist  
11 until the effective date of the act and will not be organized in the Office of the Governor until  
12 the Director promulgates regulations