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Bill Allowing Gov't Employees to Seek Public Office While Continuing to Work Held Indefinitely

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Members of the Senate Committee on Rules & Judiciary this week voted to hold a bill that would have allowed government employees to contest elections while remaining on the job, after concerns were raised about conflicts of interest, potential violations of the regulations of some government agencies, and potential abuse of taxpayer dollars.

Testifying on Thursday in support of the measure, Elections Supervisor Caroline Fawkes also took the opportunity to plead with the Legislature to undertake a comprehensive electoral reform exercise ahead of the 2024 elections. "In the past, only certain sections of the code would be amended," Ms. Fawkes noted, which has now led to a scenario where "there are numerous sections in Title 18 that conflict with other sections."

Some of her recommendations include revisions or additions of basic electoral terms, the inclusion of ballot initiative and referendum processes, and the inclusion of recall provisions for elected officials. She also called for a stipulation that governor and lieutenant governor candidates on the same ticket must come from different territories. She urged lawmakers to address themselves by updating the statute governing elections, saying "these measures must be in black and white, the days of the gentleman agreement are outdated." Where the Revised Organic Act of 1954 is silent, Title 18 must speak clearly, the elections supervisor urged.

Ms. Fawkes also urged movement on amending Act 8681, which establishes the territory's sixth constitutional convention, implying that the Elections System cannot begin preparatory work until a "corrected bill" is passed, which would include adjustments to how voters choose delegates to the convention.

The measure also establishes guardrails prohibiting political activity during a government employee's work hours.

Speaking to the draft bill under consideration, Division of Personnel Director Cindy Richardson was on hand to offer her agency's full support of the legislation, saying if executed as amended, the measure would "open the doors for competition and diversity" in the territory's electoral process.

Following a motion by Senator Angel Bolques, Jr, correspondence from Chief Justice Rhys Hodge was read into the record. The letter requested the exclusion of all judicial branch employees from the provisions of Bill 35-0032, as in its current form, the measure "threatens the independence and public perception of the courts of the Virgin Islands." According to the Chief Justice, there are very strict guidelines governing the political activity of judicial officers and court staff, which would be overruled by the bill should it pass unchanged. Justice Hodge requested that the Legislature remove the reference to the judicial branch contained in one of the sections, so that officers of the court would continue to be guided by the current rules that apply to the judicial branch.

The Chief Justice's letter prompted some lawmakers to question whether the same conflict of interest concerns would apply to other government employees who work in the area of law and justice - police officers for example, or employees of the VI Department of Justice. Both Chief Negotiator Joss Springette and Division of Personnel Legal Counsel Aliya Felix admitted that the rules and regulations specific to those departments had not been reviewed prior to the drafting of the measure. "I think we have to do some real deep dive with this, especially in regards to the police department," Senator Franklin Johnson responded.

Ms. Fawkes confirmed the senator's supposition that this leave would come from the employee's bank of annual leave, or from unpaid days off if the employee does not have enough annual leave to support the 3 or 6 working weeks required under the measure as currently written. "We still have some work to do here," Senator Novelle Francis said, arguing that the current stipulations would "kind of defeat the purpose."

Senator Kenneth Gittens was unequivocal in his opposition to the measure, stating that it leaves taxpayer dollars vulnerable to abuse. "Undue influence is the term of the day," he said.

"If we were to allow this measure to go forward...we're going to have the possibility of individuals utilizing government resources, while on duty, to conduct political activities," Mr. Gittens argued, something that a Board of Elections member accused lawmakers themselves of doing during the board's discussion of the proposed legislation [earlier this week](#).

Mr. Gittens suggested instead that the territory align itself with the provisions of the Hatch Act. "It will keep a lot of our people out of trouble," he said.

Senator Carla Joseph expressed concern that too much responsibility was being placed on managers and supervisors, who now under the measure would have to make a determination on whether an employee seeking political candidacy could do so without adversely impacting their work. "I am not totally sold on that," Ms. Joseph said. Aliya Felix, legal counsel for the Division of Personnel, responded that managers have rules and regulations via which to measure performance and should have the ability to make such determinations. "I don't think that every legislation should have to spell out every single possibility," she said.

Ultimately, lawmakers did not feel comfortable enough with the measure as currently written to advance it to the next stage in the legislative process. Senator Marise James, the bill's co-sponsor, moved to hold Bill 35-0032 in committee indefinitely for further amendments, receiving unanimous support from her colleagues.