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Bill To Require Background Checks For Government IT Personnel Held In Committee

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Senator Dwayne Degraff during debate on Bill 35 - 0086. By. ALVIN BURKE JR. AND BARRY LEERDAM, LEGISLATURE OF THE VIRGIN ISLANDS

There needs to be much more work done on draft legislation aimed at vetting employees who work for the Bureau of Information Technology or IT departments at agencies elsewhere in the public center, as well as any employee who handles classified information.

That was the consensus of members of the Senate Committee on Homeland Security, Justice and Public Safety on Tuesday, as they voted unanimously to hold Bill 35-0086 in committee for amendments.

Several testifiers before the committee expressed hesitation about certain components of the measure. Chief Technology Officer at the Bureau of Information Technology Mark Bough said that he appreciated the intent behind the draft legislation, but that the “responsibility for conducting background checks be placed within the domain of human resources, a department equipped to handle such matters efficiently and comprehensively.”

Mr. Bough also took objection to using the National Crime and Investigation Center (NCIC) as the sole data source for such checks, noting that its primary focus is on criminal activity. “We recommend exploring alternative, specialized databases or collaborating with law enforcement entities to ensure accurate and reliable background checks,” he offered.

Meanwhile, VI Police Department Commissioner Ray Martinez, while stating that the VIPD does not have a position on the bill because all personnel are already required to undergo background checks, noted that “the proposed legislation appears overbroad” in its referral to classified information. He also informed lawmakers that the Federal Bureau of Investigation forbids use of NCIC criminal record checks for the purposes of employment.

VITEMA Director Daryl Jaschen also criticized the draft legislation for being vague, urging adjustments to the legislation to add “substance.” The references to classified information were moot, he argued, because “as far as I know, the Government of the Virgin Islands, including the Bureau of Information Technology, does not currently classify any of its information or databases.”

The Water and Power Authority, senators were told, already conducts background checks on prospective employees, which includes criminal background checks on the local, national state and federal levels, a credit check, drug screening, and a background check with the federal Department of Homeland Security, among other probes. The VI Port Authority is also conducting background checks for all personnel in the aviation, marine and administrative divisions, lawmakers learned.

During debate on the measure, senators noted the conspicuous absence of representatives from the Division of Personnel. “It would have been good to have them here with us so that they could elaborate more on the bill,” remarked Senator Angel Bolques Jr. Committee chair Senator Kenneth Gittens agreed. “Obviously we will need to work on some amendments and have further discussions on this matter.”

Senator Ray Fonseca signaled his intention to offer an amendment to the legislation to “ensure that we give a change to those that have been rehabilitated in the justice system, and give them a second chance.”

In response to a question from Senator Marvin Blyden, Mr. Martinez, the police commissioner, noted that currently, formerly incarcerated individuals are disqualified from joining the VIPD. However, he noted that if “second chance” legislation were to be passed by the Senate and written to include the VIPD in its remit, he would have no choice to comply.

Senator Dwayne DeGraff, who sponsored the draft legislation, ultimately agreed with his colleagues that the measure needed work. “The intent was for each department to promulgate the rules,” he explained, “but the basis of it in law states that you have to have that criminal background check as part of hiring your employees.”

During the two years it has taken for him to bring this current iteration of the bill to the floor, Mr. DeGraff said that he did speak with representatives of the Division of Personnel, but did not

include them during Tuesday's hearing "based on a conversation in terms of the amount of background checks and them not having the capacity to be able to conduct them."

It was Mr. DeGraff himself who ultimately moved to hold the bill in Committee. "I don't normally hold my bills. I'll go down fighting," he remarked, before conceding that the measure needed more work before it would be ready to move through the full legislative process. "Even if you didn't hold the bill, we'd hold it for you," Mr. Gittens joked.

Despite his cooperation in this instance, Mr. DeGraff said that he would "fight it down" if the process of amending the draft legislation took too long. He wants to "fix the bill" over the course of the next few days, not drag things out for months on end. "I ain't getting soft," he declared.

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