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Bill to Encourage Business-Led Beautification in V.I. Faces Backlash, Shelved for Revision

Senator Francis Pulls Proposal Following Criticism Over Potential Tax Impacts and Bond Risks

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Janeke Simon **November 01, 2023**

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Altona Lagoon, Christiansted, St. Croix. By. GETTY IMAGES

A bill aimed at establishing the V.I. beautification tax credit was shelved after sponsor Senator Novelle Francis fielded numerous concerns from various perspectives during Monday's hearing of the Senate Committee on Budget, Appropriations and Finance.

According to Senator Francis, Bill No. 35-0097 "incentivizes corporate participation in local beautification efforts" by encouraging local business to work collaboratively with the Department of Public Works "to support a cleaner community."

He argued that the measure was not a “giveaway” to corporate interests, but a means of encouraging the participation of the private sector “in ways that enhance our quality of life.” Mr. Francis noted that “the territory has historically incentivized programs to attract businesses as part of its economic development strategy,” and suggested that the same model could apply to the beautification of the territory. “This is an opportunity to build partnerships between the public and private sectors in ways that reap significant economic, social and environmental benefits for the Virgin Islands with the added benefit of supporting our tourism product,” he argued.

From the outset, Director of the Bureau of Internal Revenue Joel Lee seemed wary of the proposal. “This bill represents an opportunity for avoidance of payment of the gross receipts tax,” he noted, before firing off a barrage of questions about how participants would go about applying, and being approved, for permission from DPW to perform the specified beautification work. “Is there a bidding process, a licensing requirement and the execution of a contract? Would the participant be held to all other government vendor requirements under the procurement laws, such as registering with sam.gov?” Mr. Lee inquired. “Will the Department of Public Works ensure that the participant is enrolled in workman's compensation and obtains the required insurance for this type of work? In Subsection C, one, the expenditure can be payment to an employee or a contractor. Can the contractor be another taxpayer separate and apart from the approved participant?” he asked. “Does that mean that the participant can, in effect, get another person to do the work and receive the tax credit?” Mr. Lee wondered.

Honing in on the potential impact of the proposed tax credit on the territory’s finances, Mr. Lee noted that if the draft legislation allows for the beautification credit to offset other, unrelated sources of income, “this bill has the potential to result in an undetermined reduction of the gross receipts tax collections from other businesses that would not normally be exempt from tax.”

The unquantifiable nature of that reduction made Bill 35-0097 especially problematic in the eyes of Mr. Lee. “We're all aware that the gross receipt taxes are tied to the bond covenants, which precludes us from doing anything that would reduce its collections without a formal approval risk in the government of the U.S. Virgin Islands being put into default status,” he warned.

Responding to probing from Senator Marvin Blyden about his specific concerns about bonding, Mr. Lee called the draft legislation “nerve-wracking,” saying that the territory has “pretty strong” bond covenants that restrict the deliberate reduction of gross receipts, which is the effect Bill 35-0097 would have. “I don't quite understand how we're able to do that. Once you break a bond covenant, you automatically risk being in default,” he said.

However, attorney Alex Golubitsky, who testified in support of the bill, noted that the measure provides for a maximum of \$1.5 million per district allocated from the Tourism Advertising Revolving Fund to be used to offset the tax credit so that there is no default on bonds. These funds, Mr. Golubitsky said, would prevent “excessive costs, and make sure that this measure is paid for and will not affect bond covenants.” Business owner Jose Rasario also supported the measure, arguing that “it's imperative that we recognize the vital role of beautification efforts and its impact on the return of visitors.”

Meanwhile, DPW Commissioner Derek Gabriel supported the intent of the bill, but refrained on commenting on specifics, as tax is not his area of expertise. He instead outlined the department’s landscaping goals and the steps DPW would take to implement the legislation if passed. “Maintaining and beautifying our roads is not only important to us, but also to Governor Bryan and Lieutenant Governor Roach, who have identified it as one of this administration's priorities,” said Mr. Gabriel. He noted that the success of the program would require the addition of a

significant number of skilled employees to the department. “We suggest onboarding a landscape architect and a landscape assistant at the very least. These two individuals could use their expertise to develop comprehensive rules, liaise with contractors and businesses and hone this process fully,” Mr. Gabriel recommended. “Right now, we don't have the resources in-house to manage an additional program,” he admitted.

Colleagues of Mr. Francis remained skeptical of the measure as well. Non-committee member Senator Marise James, who was on hand to present legislation of her own, said that in her estimation, “there just seems to be too many areas that are vague.” She questioned the bill’s seeming exclusive focus on littering, “because then there will be no lasting effect by us putting this amount of money if it's simply cleaning up litter.” Ms. James also took exception with the clause that allowed businesses to hire a contractor to do the beautification work. “It just doesn't sit right with me that this has become a means for a big business to then get tax credits by hiring someone else to do the work. That's my biggest concern,” she said.

Senator Samuel Carrion noted that the \$1.5 million from the Tourism Revolving Fund could just be directly spent on beautification without involving the private sector as a middleman. “We can pay directly from the tourism revolving fund and hire contractors to do the beautification, Public Works or Waste Management, establish the projects, and just hire them to do the job,” he noted. He also reminded fellow legislators that several nonprofit organizations have been doing this kind of work for years, “with basically no assistance other than from the community.” He suggested directing some funds to them instead of private sector enterprises, so that “they could be more successful and effective in the work that they've been doing.”

Mr. Francis agreed to entertain amendments that would strengthen the legislation, but vowed to continue pushing for a change. “For years, we keep having this circular discussion about how nasty the island looks, and how filthy it looks. We have an opportunity now to be able to get not just the government side to do their part but allow for investment to be made in the private sector to make this contribution,” he said.

At the end of debate, Mr. Francis moved to hold his bill in committee pending further amendments and edits. All committee members agreed with his decision.