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Supreme Court Upholds WAPA Board Reform, Curtails Governor's Influence on Utility

In a landmark decision, the Supreme Court confirmed the Legislature's authority to reshape WAPA's board, reinforcing the utility's autonomy from executive control. The decision clears the way for reforms in accountability and operational standards

Government / **Published On October 30, 2024 04:51 AM /**

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Governor Albert Bryan Jr.

The Legislature of the Virgin Islands has been vindicated by the courts yet again, after the territory's Supreme Court upheld a ruling from the Superior Court regarding the composition of the Water and Power Authority Governing Board.

The legal battle began after the initial passage of Act 8472 in May 2021. The bill, originally sponsored by former Senator Janelle Sarauw, sought to reduce the number of WAPA board members from nine to seven. Rather than having three of the governor's appointees, the measure reduced that number to one, and imposed requirements for educational or professional expertise among remaining board members.

Governor Albert Bryan Jr. almost [immediately vetoed](#) the measure and the legislature just as [quickly overrode](#) his veto, prompting the governor to take his argument against the new law to the courts. WAPA itself sided with Governor Bryan in his opposition to the Act, which was based on the argument that the legislation would “weaken the duty of the governor to exercise general supervision and control of WAPA,” according to Mr. Bryan.

Despite a preliminary injunction being initially granted against the implementation of Act 8472, the Superior Court would [ultimately rule against](#) the Bryan administration. In March 2023, Judge Renée Gumbs Carty found that the legislation was constitutional and valid, however Governor Bryan pressed further, [appealing the decision to the territory's Supreme Court](#).

The Supreme Court of the Virgin Islands poured cold water on Governor Bryan's ambitions from the beginning, declining to stay the implementation of Act 8472, finding that the appeal from the executive branch was unlikely to succeed. That assessment was borne out this week, as an opinion issued on Tuesday authored by Associate Justice Maria Cabret concluded that “the Superior Court did not err” in its rulings on the matter.

The 62-page opinion supported all the conclusions reached by the lower court and argued by the Legislature, including that “WAPA should be regarded to possess a substantial degree of autonomy and independence from the executive branch, with the Governor having extremely limited authority over WAPA and the Governing Board.” Any authority the governor does have in the matter, Justice Cabret found, “must yield to Act No. 8472, a lawfully enacted Act by the Legislature.”

Following the publication of Tuesday's Supreme Court opinion, Senator Kenneth Gittens – one of the co-sponsors of Act 8472 – issued a statement welcoming the end of “the long and unnecessary battle” over the composition of WAPA's board. He said the conclusion of the legal fight was a “victory on behalf of the people of the Virgin Islands.”

“At last, we have a decisive win for the ratepayers and we can continue to push for greater accountability at the utility,” Mr. Gittens said, vowing to push for further reforms at the energy company. “WAPA’s problematic billing and metering are one of the things I am currently focusing on. However, I am deeply grateful for the attention that both the Supreme and Superior Court have given to this important matter.”

Governor Bryan, [who is out of the territory](#), has not publicly commented on the Supreme Court's ruling.