

Senate Legal Counsel: Improper Submission Invalidates VIPOCC Salary Increase Report

A legal opinion from the Senate's Legal Counsel concludes that the VIPOCC failed to meet required submission protocols, rendering its salary recommendations invalid. The matter hinges on proving whether Francis received the report, a claim he denies

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A legal opinion issued by the Legislature's Office of Legal Counsel has raised questions about the legitimacy of recent salary adjustments for public officials in the Virgin Islands, citing potential procedural errors by the Virgin Islands Public Officials Compensation Commission (VIPOCC). The report, prepared in response to an inquiry from Senator Kenneth Gittens, outlines concerns about whether the recommendations ever triggered the required legislative review process.

The opinion, [seen here](#), authored by Assistant Legal Counsel Sharline L. Rogers and Chief Legal Counsel Amos W. Carty Jr., centers on provisions in the Virgin Islands Public Officials Compensation Act. The Act, codified in Title 3, Chapter 25, Subchapter IVa of the Virgin Islands Code, establishes the process by which the VIPOCC must submit its recommendations for salary adjustments.

According to the legal opinion, Section 544(a) mandates that the commission submit its report to the Governor, the President of the Legislature, and the Chief Justice of the Supreme Court no later than May 1 of the fourth year of each commission term. Section 546 requires the Legislature to act on the recommendations within 90 days. If no action is taken, the recommendations are automatically deemed approved.

The central question addressed in the opinion is whether the VIPOCC properly submitted its recommendations to the Legislature. The report notes that Section 544 does not specify how the recommendations must be delivered to the Senate President, and it does not require formal submission to the Legislature as a whole.

"If the Commission did not submit its report and recommendations to the President of the Legislature as required under section 544, then section 546 was not triggered," the legal opinion states. "In other words, the 90-day period... does not begin to run until the Commission submits its report and recommendations to the President of the Legislature."

The VIPOCC submitted the report to Senate President Novelle Francis Jr., Governor Bryan, and Supreme Court Chief Justice Rhys Hodge on August 13. The commission says it faced delays because of funding issues and therefore could not meet the May 1, 2024 deadline. The Consortium [confirmed](#) that the report was sent via email to the correct email addresses for all recipients. A potential challenge to the Senate's legal counsel findings appears to hinge on proving whether Senator Francis received the report, a claim he continues to deny.

If the recommendations were not properly submitted, the legal opinion concludes that the 90-day legislative review period was never triggered, and the recommendations cannot be considered legally binding on the Legislature or the government of the Virgin Islands.

This conclusion directly challenges the automatic implementation of salary adjustments that included increases for the governor, lieutenant governor, and other top officials. The report emphasizes that procedural compliance is critical to ensure the recommendations are valid and enforceable.

The legal opinion adds a new dimension to the controversy surrounding the VIPOCC salary adjustments, which have faced widespread public criticism. As previously reported, the salary increases were to take automatically on January 1, 2025, following the Legislature's inaction during the 90-day window for review.

The adjustments raised the governor's salary to \$192,088, sparking public outrage over unresolved fiscal issues, such as unpaid retroactive wages, delayed tax refunds, and vendor payments.

VIPOCC Chair Haldane Davies defended the commission's work, stating that the recommendations were submitted on August 13, 2024. However, questions remain about whether the submission met the legal requirements outlined in Section 544.

Senator Kenneth Gittens, who requested the legal opinion, has been a vocal critic of the salary increases. He has called for transparency and accountability in the process and emphasized the

need to address the territory's broader financial challenges before approving additional compensation for public officials.

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