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Governor Defends WICO's Autonomy; Senate Majority Leader Warns Against Circumventing Law in CEO Pick

A WTJX report highlights court rulings confirming WICO as a public entity, contradicting Governor Bryan's position. Senator Kurt Vialet warns that appointing Joseph Boschulte without a one-year gap from his board role could lead to legal challenges.

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WICO dock in Charlotte Amalie, St. Thomas. By. ERNICE GILBERT, V.I. CONSORTIUM

Governor Albert Bryan Jr. on Wednesday described the West Indian Company as a government-owned private entity amid rising debate over the board's selection of Joseph Boschulte as its new president and CEO. The decision was made during executive session at WICO's [Friday board meeting](#), though the company has not officially confirmed the action.

A WTJX report on Tuesday evening highlighted multiple court rulings indicating that the West Indian Company Limited (WICO) is a public entity. As a result, the company cannot appoint a sitting board member to its top position until a full year has passed.

According to the report, the Third Circuit Court of Appeals, in *Sprauve v. The West Indian Company Limited*, determined that WICO qualifies as a public agency under the Virgin Islands' taxpayer lawsuit statute. Additionally, the Virgin Islands Supreme Court, in *Virgin Islands Taxi Association v. The West Indian Company Limited*, reaffirmed this classification.

However, Governor Bryan says that while WICO is owned by the government, it is a private entity similar to several government-owned, private operations. This, he contends, allows WICO to make its own decisions on leadership unencumbered by laws governing the government's public-facing entities. He also points to WICO's own description on its website as a "publicly owned, privately managed" company.

WICO is "privately owned by the government. We also own Kings Alley Corporation and Lonesome Dove, which are private companies," Mr. Bryan told the Consortium Wednesday morning. "viNGN is a not-for-profit owned by the government and there is another under the VIHFA with the same designation."

He added, "Another thing is WICO is subject to taxation and the Legislature waived it for payment in lieu of taxes. Government entities are tax exempt, WICO is not tax exempt and therefore not a public (government) company."

The governor also noted that the Legislature does not approve WICO board members, arguing that this further demonstrates the entity's intended function.

"It was always intended to function as a private company or they would have made it a department in the Port Authority or the PFA," he stated. "It is clear the legislation that set it up did not want it to be a public company."

Senate Majority Leader Kurt Vialet pushed back against the governor's stance, noting that the courts have already settled the question of WICO's status. He argued that there is no room for interpretation by either the Legislature or the executive branch, as the courts have clearly ruled that WICO is a public entity.

"The private-public argument has been answered by the court. It's clear, it's not even an interpretation issue for the Senate or the executive branch, it has literally been argued in the court, and the court has rendered a decision, where they have said that WICO is public," Mr. Vialet stated. "So it's clear. Unless you're going to challenge the court decision to a higher court, but it's clear that that decision has been made, and there is language in the VI Code that prohibits a board member from assuming the top spot while he's a board member."

He asserted that the law explicitly prevents a sitting board member from taking on the role of president and CEO unless they have resigned from the board at least a year prior.

"You can't circumvent the law. If they wanted Boschulte to become the WICO president and CEO, they should have him resign from the board one year prior. But we can't get into the practice of circumventing the law. If there is a legislator that is going to change the law that would allow him to serve, then that is a different story. But besides that, you just can't circumvent the law."

The veteran lawmaker stressed the importance of adhering to Virgin Islands Code, warning that disregarding established legal precedent sends the wrong message.

"It's not a good look for the legislative branch and the executive branch to consistently be fighting battles out in court. It is the expectation that the board and the executive branch would adhere to the law as prescribed by VI Code," Vialet said.

To resolve the situation, Vialet suggested a delayed appointment process, where Boschulte steps down from the board and an interim president is appointed for a year before he takes on the role.

"The best bet would be for them to not select him for that position, have him resign the seat, have somebody serve in an interim capacity, and one year from now you could name him. But don't circumvent the law, and don't go back to the argument that WICO is private and it could do whatever it wants. Don't go back to that. We expect responsible leadership."

Vialet placed responsibility on the WICO Board and not Governor Bryan, particularly Chairman Jason Charles and its other members, insisting they must follow the law.

"I'm not even going to blame the governor in this because he has a board," he said. The board chair Jason Charles, along with the other board members, need to adhere to the law and it's just as simple as that."

Vialet warned that proceeding with Boschulte's appointment despite the legal restrictions could lead to potential legal challenges.

"If they select him, they're selecting him knowing that they're trying to circumvent the law, and there could be possible legal ramifications," he said.