The Virgin Islands Consortium

Revised STARS Act, $1 Million HOVENSA Litigation Bills Heads To Governor's Desk

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Ernice Gilbert March 12, 2015

The 31st Legislature on Wednesday passed legislation that seeks to build the video, film, audio and music industries in the territory, to change the budget calender to match the current year, and the appropriation of $1 million for litigation pertaining to the government's intent to foreclose on the HOVENSA refinery and other environmental issues at the site.

The existing Sustainable Tourism through Arts-based Revenue Streams, STARS Act, was signed into law by former Governor John de Jongh on Feb. 21, 2012 with clearly defined tax incentives for licensed businesses involved in the local film, music and audio recording industries, as well as for professionals who visit the Virgin Islands to perform or record their work. However Bill No. 31-0009 had been introduced by Sen. Clifford Graham with the intent of “repealing and reenacting” the STARS Act to only include incentives for the film and video industries.

But after testimony on Feb. 23 by Laurent “Tippy” Alfred, the award-winning St. Croix music producer behind the mega hit, “Virgin Islands Nice” and countless other reggae music successes on the world stage, and push back from other stakeholders in the local film and music industry, Graham changed course and promised to amend Bill No. 31-0009 to reinstate the music and audio industry components of the existing STARS Act before being voted on by the body.

That bill was approved by the Senate on Wednesday; however, before it was approved, senators amended it to require the Virgin Islands Bureau of Economic Research analyze and report on its impact to the territory's Treasury on an annual basis.

The passage of the bill appropriating $1 million for litigation expenses over the HOVENSA refinery had been a continued push by the Virgin Islands Government in order to receive its $40 million that HOVENSA agreed to pay as part of a settlement agreement with the company.

Mapp identified a law firm on the U.S. mainland with experience in dealing with issues relating to refinery and oil to lead the litigation, because, he says, “We also have the issues of the breach under the concession agreement, [and] as I indicated to Mr. Goodell and his team, the people of the Virgin Islands expect a full compliance with the obligations under our contract, and a complete cleanup of the south shore of St. Croix as mandated, and we will pursue those claims to the fullest extent of the law.”

In January, the governor had expressed frustration following a meeting with HOVENSA's owners, where Timothy Goodell, senior vice president of Hess Corp., made clear to Mapp that the only way the V.I. Government would receive the $40 million owed it by HOVENSA is if HOVENSA is able to sell the refinery.

"What seemed strange in Mr. Goodell’s comments to me was he indicated that if they were unable to sell the plant, for which proceeds of the sale would be used to pay the government its $40 million that were due on December 31st, 2014, they would use those sums to bring the refinery plant to a mothball close, and then seek to file bankruptcy," Mapp said.

“I was a bit dismayed by the comment and asked for some clarification, and it was restated. And so, in short, and in layman’s terms, what Mr. Goodell said was that, ‘I have your $40 million and if we are unable to get a buyer who will provide $40 million to pay for it, the $40 million that is due and owing to you, we would use that money to mothball the plant and shut it down.

“I’ve loaned folks money, so I know what that meant.”

Following Goodell’s comments, Mapp instructed then-Attorney General Soraya Diase-Coffelt to move swiftly in filing suit against HOVENSA, and to issue a notice of breach of contract to HESS Oil and to PDVSA, HOVENSA’s owners. Following the resignation of Diase-Coffelt, the case is now being spearheaded by the governor's Chief Counsel, Emile A. Henderson.

Mapp also directed his legal team to proceed with foreclosure action.

“As you may know, as a security instrument, on the sums due and owing to the government under the contamination issue only, HESS Oil put up its plant, all of its facilities, fixtures and property at Estate Hope,” Mapp explained. “To secure that note, I am instructing the Attorney General to foreclose on the note, and to take every legal action to seize the assets and security instruments contained at Estate Hope.”

In other Senate action, a bill was approved that made minor changes to the legislature's budget so that it falls in line with the calendar year. The motive was to prevent current senators from voting on budgets that would affect legislatures coming after Dec. 31.