

# The Virgin Islands Consortium

## Bill Seeking To Forfeit Pension Of Officials Caught In Public Corruption Held In Committee 'Pending Review'

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ST. CROIX -- [Back in August](#), Senator Kenneth Gittens, chairman of the Committee on Rules and Judiciary, introduced a measure, bill No. 31-0150, that would to take away retirement benefits from government officials — including governors, lieutenant governors, commissioners, members of the Legislature, justices of the territory's Supreme Court, judges and magistrate judges of the Superior Court and other elected and appointed officials — who have been convicted of a crime or crimes involving public corruption.

But the measure was held in committee in late October after senators could not agree on the bill's language, with some arguing that it should go further than only government

officials; while others said it was too stringent. Going further, Senator Neville James, Senate president, questioned outright the bill's validity and wondered aloud whether lawmakers were "going too far."

Another dissenter was Senator Terrence "Positive" Nelson, who struggled to formulate words that would accurately represent his unease with the Gittens-sponsored bill. Mr. Nelson said supporting the anti-corruption measure was difficult for him because it would not only affect the perpetrators, but also their families -- including wife and children.

"If one individual is guilty, should the whole family be persecuted?" asked the veteran senator. "That's my concern -- it's what happens to the family members. It's one of those things that weigh heavily on my actions. I weigh my actions; not only as a public official," Mr. Nelson said.

Attorney General Claude Walker, invited to testify, countered Mr. Nelson's opinion by stating that public officials should think about the consequences of stealing the public's money before committing the unlawful act.

"This is something that the person should think about before stealing," AG Walker said, adding that it was time for the government to decide whether it is serious about fighting corruption.

However, Mr. Walker, seemingly not wanting to offend senators on either side of the discussion, straddled both sides -- at one point showing support, while later expressing concern. He later said it was up to the Senate to decide how it intends to move forward.

Sen. James, who said he felt tension building in the Fritz E. Lawaetz Legislative Hall where the hearing was held, shared his thoughts on the matter, contending that the bill was overreaching.

"I'm not in the business of setting the example from the top, I am in the business of justice. I'm not in the business of doing things and passing legislation to give the public the impression that we're doing something," Mr. James said.

Mr. James, who won the public's trust in the 2014 General Elections after being out of office for multiple years, added: "sometimes, we go too far."

"Even this law," he went on, "someone could say we are overdoing it. You have to make room to give people another chance; and you can't pile on -- after they've gone to jail for five years, for example -- you can't add to it by taking away everything else. You have to be careful with this type of legislation."

Senator Neredia Rivera-O'Reilly, who supports the measure, said she introduced a similar bill in the 29th Legislature, but received an opinion that says the legislation was unconstitutional.

Mrs. Rivera-O'Reilly also pushed back forcefully against the dissenters.

"We are not 20-year-old young men or women who slip through the cracks and make a mistake. We are grown, so you know what's right and wrong. And some people make decisions knowing full well that if they get caught they would be landed in jail. All we are

saying today is in addition to that, you would lose your pension -- what the government pays; not your portion," Mrs. Rivera-O'Reilly said.

She went on: "I get the concerns about piling on and whether we should suspend or forfeit completely and give room to rehabilitate, but I support the measure. The question here today is not whether it should be from the top to the bottom or vice versa, but rather are we going to hold accountable those who hold public office.

"Government employees are hired through personnel, but we are elected through the votes of the people. And it's whether we are willing to hold ourselves to a higher standard -- and we have to do so.

"About 29 states have already passed similar legislation, and about 9 others are [considering], so the question of constitutionality has been put to rest."

Sen. Gittens said during the process of crafting the measure, playing politics was out of the equation. Rather, it was a matter of ending public corruption, which he contends has been prevalent from one administration to the next.

"I believe in setting the example and it was my intent to start at the top," Mr. Gittens began. "This isn't about politics for me, this is about stopping public corruption. It is too rampant in a small community, and as long as I sit here, it will be one of my aims to stamp out public corruption."

Mr. Gittens took on senators who contended that financial difficulty could cause even those held in high regard to steal money, stating that they should borrow from family and friends instead of stealing public funds.

"Regardless of what bump in the road, leave government money alone," Mr. Gittens said. "If I hit a bump in the road, we live in a close-knit enough community to go to a family member to borrow money. But there ain't no ifs or buts, public money is not an option."

Mr. Gittens went on: "We don't print money in the Virgin Islands, and our residents in public and private sectors work and pay taxes -- known as public funds -- which government officials are entrusted with. And when you put your trust in them, you don't expect them to take from you." Mr. Gittens said he agreed with Mr. Walker's position that officials should think of the consequences before acting.

"When you get caught with your hands in the cookie jar, then you should bear the consequences. We as policy makers are to be prudent in our decisions," he said.

Even so, Sen. Gittens said he would compromise and go from total forfeiture to suspension of one's pension if caught in public corruption. It was also a sentiment that AG Walker agreed with.

During the hearing, testifier Mary L. Moorhead advocated for broader language in the measure that would cover multiple means of public corruption, and not only the stealing of public money. She spoke of a DPNR employee who she said used government equipment for gain, highlighting the incident in an effort to expose flaws in the anti-corruption measure.

Mr. Gittens agreed with Ms. Moorhead, who also asked that the measure be amended to allow GERS to do what it feels is best with the pension funds of officials caught in corruption. The current measure designated a specific use of those funds.

Sen. Nelson later said he was not in favor of taking away benefits but would rather support better prosecution of White Collar crime. And Inspector General Steven van Beverhoudt called for more clarification in the bill. He said if someone steals \$101 and they worked for the government for 40 years, "we're going to take away their pension for the rest of their lives? Something doesn't seem right, there."

And Senator Justin Harrigan said he would not support the measure in its current form because it should include all government employees, not only public officials.

"If you're trying to stamp out corruption in government, it doesn't necessarily start at the top," Mr. Harrigan said. "If we are going to select a group of people or persons and leave the majority of government workers unscathed, I really don't see how you could consider that fair."

Sen. Novelle Francis, who supported the legislation, moved for the measure to be held in committee pending further review. The motion was seconded by Senator Jean Forde. Senators Francis, Forde, Harrigan, James and Gittens voted in the affirmative. Senators Rivera-O'Reilly and Janette Millin Young were absent.