The Virgin Islands Consortium

Defying Law, G.E.R.S. Says It Will Not Reinstate Loan Program

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Ernice Gilbert June 16, 2016

ST. CROIX -- During a board meeting held today, the Government Employees' Retirement System Board of Trustees voted unanimously to not reinstate the loan program it suspended ten months ago.

The move falls in direct conflict with a recent bill, sponsored by Senators Kurt Vialet and Kenneth Gittens, that is now the law of the land after winning the approval of Governor Kenneth Mapp.

"The trustees, after reviewing the system's liquidity, cash flow, obligations to the current and future annuitants, and the prudent investor rule with respect to alternative investments, the Board of Trustees determined that to reinstate the loan program at this time would breach their fiduciary responsibility to the fund and the members," G.E.R.S. said in a statement.

Mr. Vialet, in speaking with The Consortium this afternoon, expressed his frustration with the board's decision, calling it a "malicious" act by a board that is "hellbent on keeping the people of the Virgin Islands hostage."

"[The decision] does not reflect what is going on at G.E.R.S. The loan was open to only active members who would be [borrowing] against themselves," Mr. Vialet said.

The bill sought to restore the loan program for approximately one year, and demanded that G.E.R.S. lends up to $20 million to government employees. It would allow for not more than $10,000 per individual, and the total lending sum of $20 million would split equally between districts. The payment plan comes with a five-year deadline with interest.

"This is a really malicious move by G.E.R.S. to force the government to issue a pension obligation bond," Mr. Vialet said, adding that historically, such a bond is issued by the system itself and not the government.

"They haven't been innovative," Mr. Vialet continued, his frustration vivid as he continued to assail the board. "They are hellbent on keeping the people of the Virgin Islands hostage. I hope a member would file a lawsuit against them."

The senator continued, warning the board to be careful with its decisions, as it could be dissolved by the Legislature.

"We could dissolve the board; it is a function of the Legislature," Mr. Vialet asserted. He added that the monies would circulate within the economy and also return to the government via gross receipt and excise taxes.

"Who gives the G.E.R.S. board the authority not to adhere to the laws of the Virgin Islands?" Mr. Vialet asked rhetorically, expressing even more dismay that former Judge Edgar Ross would vote in favor of the motion. The board's move amounted to asserting itself as a higher authority than the branch of government through which it was created, Mr. Vialet said, referring to the Legislature.

The bill's original sponsor, Mr. Gittens, also expressed disappointment in the board's decision.

"It's unfortunate that the G.E.R.S. board has decided to take such a hardline stance against its own members. The same members whose contributions make up the system which allows it to exist and make further investments to further enhance the system's financial viability," Mr. Gittens said in a press release issued late Thursday.

He added: "The administrator of the system has testified more than once that the loan program is a solid money making venture with guaranteed returns; so it's difficult for me to understand the board's position. That coupled with the fact that they've allowed riskier investments, and investments that at times were even questionable, causing great financial loss to the System, raises concerns."

The Consortium reported extensively on multiple risky investments the G.E.R.S. board made through the Alternative Investment Program (A.I.P.). We reported that G.E.R.S. could lose $40 million on a speculative deal; that it has made illegal investments; approved a loan totaling $8.2 million for the development of a local grocery store, even after being advised not to by an outside financial consultant; and granted a $5.7 million loan to the local owner of the Kentucky Fried Chicken fast food chain, Kazi Food, LLC, and have failed to give an account of how the money was used. G.E.R.S also inadequately protected the pension funds of government employees when it was forced to take ownership of the Carambola Beach Resort & Spa after loaning the faltering establishment $15 million on December 8, 2009, for the purposes of paying off an existing mortgage that had been in default, and to fund renovation costs.

Yet, the board is now resisting an investment into its own members that is guaranteed to see a return.

“I think it is time given the behavior of the Board that we begin to seriously consider a forensic audit of all investments the System has made to date, and determine the true picture of the finances of the System," Mr. Gittens said. "I am hoping to meet with board members and my colleagues following this decision and once and for all make things move in the best interest of the system and its members.

"Laws were not put in place to be ignored or stepped on. For the G.E.R.S. board members to ignore the law and continue with a unanimous vote against the reinstatement of the loan program, shows a blatant disregard for the legislative mandate and calls for immediate action."