The Virgin Islands Consortium

Sin Tax Bill To Face Final Vote On Tuesday; Democrats Expected To Support Measure

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ST. THOMAS -- Members of the 32nd Legislature will gather on Tuesday morning at the Earl B. Ottley Legislative Hall for a session that includes a final vote on the sin tax bill, before sending the measure to its author, Governor Kenneth Mapp.

But regardless of any back and forth discussion on the matter that Senate Democrats may engage in on the bill during the session, they are expected to approve the legislation, and Mr. Mapp is expected to sign the new taxes -- including taxes on rum, tobacco products, beers and sugary drinks, as well as internet purchases and timeshare unit owners -- into law, which the administration is projecting will raise some $250 million over five years. This includes a new measure that creates a base of $360 for property taxes.

Time and time again, business leaders and community members have voiced their opinions on the new taxes, contending that the effects on the economy will be negative if the measure becomes law.

“Any which way you want to look at these revenue enhancements, the local private sector is going to be hit hard; our ways of life will change. Yes, charitable and nonprofit contributions will be reduced across the board and there will be a severe impact on the tourism sector,” said Attorney David A. Bornn, who testified against the measure when it was being heard a second time in the Committee on Finance on February 15.

Adam Reeve, a native Virgin Islander whose father designed and built the legendary Kon Tiki, which offers a sightseeing and beach cruise to tourists in St. Thomas and was winner of Trip Adivsor Certificate of Excellence in 2013, testified against the measure during the Feb. 15 hearing, relaying to senators the potential harm the sin taxes would wreak on his business.

“Many vessels are already operating on lean margins, an incremental increase with introduction of a excise tax on alcohol and drinks will add another nail into the coffin of the charter yacht industry operating in the USVI. Charter yachts have a choice when choosing which island to provision their yachts. Alcohol is included in charter fees, and is a major contributing factor as to where these yachts choose to moor and provision,” Mr. Reeve said.

“Charter yachts provisioning in the USVI cause a beneficial ripple effect in the local economy. Many services which support charter vessels provisioning here also benefit our local economy: docking fees in marinas; fueling; laundry; maintenance services and repairs etc.,” he added.

On Thursday at the Fritz Lawaetz Legislature in Frederiksted, Attorney George Dudley, a partner of the law firm Dudley, Topper and Feuerzeig, LLP, said that for about 25 years, “despite the dramatic rise in tourism in the Caribbean, the only development that has occurred in the Virgin Islands has been timeshare development. And now that development, that creative energy, is about to be defeated and rendered useless by taxes imposed by Bill No. 32-0005,” Mr. Dudley said, referring to the sin tax measure.

Pointing to two of the biggest resorts in the territory, Mr. Dudley said Wyndham Vacation Ownership and Marriott Vacations Worldwide have collectively invested over $350 million in developing their timeshare products — Margaritaville Vacation and Frenchman’s Cove respectively.

Mr. Dudley then brought the Senate’s attention to a law governing the Virgin Islands Economic Development program, which says in part, “In order to establish the incentives offered hereunder on a firm, realistic and sure basis, the Government of the Virgin Islands further declares that it considers each certificate granting industrial development benefits that may be issued under the provisions of this subchapter as being in the nature of a contract between such government and the beneficiary, and the government shall not adopt any legislation impairing or limiting the obligation of such contract.” (VI Code Section 710 (c), Title 29)

“Let me repeat that last phrase: the government shall not adopt any legislation impairing or limiting the obligation of such contract,” Mr. Dudley stressed. He said both Wyndham and the Marriott have kept their end of the contract by investing more than $350 million to develop the two resorts. “The V.I. Government’s adoption of $25 per night occupancy tax severely harms — if not completely destroys — the right of the two companies to successfully market their timeshare developments,” Mr. Dudley said.

But the countless testimonies, calls made, letters and emails sent to the various committees were not enough to dissuade Senate Democrats, who contended throughout the hearings that something needed to be done to allay the territory's financial crisis.

Senator Kurt Vialet, chair of the Committee on Finance, said on Feb. 15 that while he understood the concerns of the business sector as well as residents, he said the bond market, whose dollars have sustained the territory’s structural deficit for years, was tired of hearing talk. “We can’t sit here, do nothing and believe we’re going to solve the problems,” Mr. Vialet said. Mr. Vialet reminded the public of the 31st Legislature’s stalemate with Mr. Mapp, when it opposed vehemently the governor’s plan to raise his department and agency heads’ salaries by thousands of dollars, as a testament to the Senate’s opposition to wasteful spending.

He also challenged Mr. Mapp to implement austerity measures in his administration, beginning with the elimination of retirees who hold top positions at departments and agencies. The committee chairman, pushing back against the notion that the Senate hadn’t listened to the business sector’s suggestions, brought up a slide revealing concessions that were made as a result of meetings with the private sector.

Senator Nereida Rivera-O'Reilly, whose relationship as grown contentious with the business community following certain comments made by the senator (Mrs. Rivera-O'Reilly said recently that there was a lack of private sector involvement in the community), frowned on the thought of the territory’s finances being managed by a federal control board, à la Puerto Rico. “We were told [that] the day we run out of cash, is the day we become the jurisdiction of a financial oversight board,” she on Feb. 15.

Minority caucus senators are expected to vote against the measures, but they are outnumbered by the Democrats.

Tuesday's session starts at 10:00 a.m., according to Senate President Myron Jackson's office.