

The Virgin Islands Consortium

GERS, GVI, Submit Plans To District Court For Gov't To Come Current On Payments

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ST. THOMAS -- The Government of the Virgin Islands and the Government Employees' Retirement System were ordered by District Court Judge Curtis Gomez [a week ago](#) to submit either a joint or separate plans to assure payment by the government to the pension system for employee and employer contributions, along with a plan of avoidance to ascertain that the government does not renege on its statutorily obligated duty in the future.

Emphasizing the continued disagreements between G.E.R.S and the government, on Tuesday, the two entities submitted separate plans on how the government should come current, according to court documents. (During last week's case, G.E.R.S. said the

government owed it \$41 million for employer and employee contributions, as well as loan deduction payments. The government's number, however, was a bit lower, with Grace Fahie-Lindo, director of payroll at the Department of Finance for 9 years, stating that the amount was roughly \$30 million.)

While the government's proposal to come current remained the same with what was discussed during the court hearing on March 13 and introduced to G.E.R.S. in a meeting preceding the hearing, G.E.R.S.'s plan came with two options.

The government's plan sees the Mapp administration making one delinquent payment and one current payment every payday until July 19, 2018, at which point the government would become current with its employee, employer and loan deduction payments to G.E.R.S. The payments would also include interest payments to the pension system.

The first option of G.E.R.S.'s plan sees the government setting aside some funds provided by the federal government for emergency response, to come current with its statutorily obligated duty to pay the system through March 19. This includes employee, employer and loan deduction payments -- along with interests. The first plan also includes a special account to be controlled by G.E.R.S. that would include four months worth of employee, employer and loan deduction payments to G.E.R.S., as a security peradventure the government misses its payments. The funds for this account would be secured from federal emergency funding, according to court documents.

The second G.E.R.S. plan is selfsame with the first, only that the government would seek any other funding source if it can't procure federal dollars.

It's hard to see how the District Court approves G.E.R.S.'s first plan that seeks payment through federal dollars, because it remains an open question as to whether those funds could be used to pay the pension system. That being said, the federal government in December approved some \$85 million in community disaster loan funds to the local government. It was not clear whether the \$85 million was already expended, or only now being released. If the latter is true, some of those dollars could possibly be used to fund G.E.R.S.

Yet even when the court determines how and when G.E.R.S. should be paid, the bigger issue, by far, remains the pension system's unfunded liability of over \$4 billion.

G.E.R.S.'s goal on March 13 was to proceed on multiple fronts, including the government's decades-long negligence of its actuarially determined employer contribution (ADEC), currently standing at \$1.2 billion, which G.E.R.S. says the government has not paid since 1991. The argument being that the system's life is at stake and that all the components to its survival deriving from the government's dereliction should be considered. Judge Gomez, however, said a determination of whether the consent judgement's breadth covered the ADEC would be determined at another time. The next court hearing has been set for May 28.

GERS By the Numbers

- The pension system has 8,500 retirees and 9,300 active government employees, for a total of 17,800 members
 - From 2000 to early 2018, G.E.R.S.'s withdrawals to make benefit payments totaled \$1.5 billion
 - Total assets remaining is \$716 million
 - Current annual payout to retirees is \$250 million
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G.E.R.S. CEO and Administrator, Austin Nibbs, said during the court hearing that while G.E.R.S.'s problems have been unabating throughout multiple government administrations, at least there were efforts and discussions between the pension system and past administrations on how to remedy the problems. (Mr. Nibbs spoke of a task force formed during the de Jongh years to that end.)

But in 2016, the delinquent employer and employee payments to the system had recommenced, he said, and there were no conversations between the Mapp administration and G.E.R.S. until in recent weeks to deal with the matter. According to Virgin Islands law, the government is supposed to remit employee and employer contributions to G.E.R.S. in ten days of receipt, but the government currently owes the system for multiple months dating back to 2017, for a total of \$31 million without considering loan deductions — payments of which the government is also failing to make.

The government was asked whether it was breaking the law by not meeting its statutorily obligated duty of on-time payments, but Mrs. Jacobs-Thomas argued that the government, while late, was not breaking the law. The question was posed by Judge Gomez in multiple ways yet the government's answer remained the same.

Asked by Judge Gomez what should the government do if there was no money to fund the pension system, Mr. Klausner said a modification should be sought, but the system should not be left to die — which would leave the 17,800 people who depend on it without retirement, while destroying a third of the territory's economy, he contended.

G.E.R.S. said the missed payments over the years have hastened the pension system's impending collapse. An assessment of the system, conducted in 2016, concluded that G.E.R.S. would run out of money by February 2023, but with the continued deterioration of funding — Mr. Nibbs said the system is spending \$138 million more than what it's taking in — the 2023 projection now seems like an optimistic assessment, said Rocky Joyner of Segal Consulting, who is G.E.R.S.'s actuary.