

The Virgin Islands Consortium

Bill Seeking To Raise Internal Revenue Matching Fund Contribution To G.E.R.S. To \$10 Million Moves Forward; Nominees Testamark And Springette Head To Full Senate

VIC News / **Published On April 26, 2019 07:51 AM /**

Staff **April 26, 2019**



A bill seeking to raise the contribution from the local government's Internal Revenue Matching Fund to the Government Employees' Retirement System from \$7 million to \$10 million, was approved during a Committee on Rules and Judiciary hearing Thursday and will be forwarded to the full body for further consideration.

Sponsored by Senators Donna Frett-Gregory, Allison DeGazon, Marvin Blyden and Oakland Benta, the measure was described as a piecemeal effort to help keep afloat the

struggling pension system.

From the \$10 million, 40 percent would be used for outstanding employer contributions, while 60 percent would go towards direct contributions, according to language found in the amended version of the measure.

G.E.R.S. is arguably the biggest challenge facing the territory.

The Government of the Virgin Islands, which is the plan sponsor of G.E.R.S., has underfunded the pension system by \$1.6 billion, according Austin Nibbs, G.E.R.S. administrator. In September 2016, G.E.R.S.'s total pension liability, which is its total obligation to beneficiaries, was \$5.5 billion, and the total net pension liability was \$4.6 billion.

Yet even with its ballooning debt, G.E.R.S. continues to lose value as it sells assets to pay members. Its latest asset sale consideration is the Carambola Resort. The pension system's assets are valued at about \$670.1 million — a fraction of its total debt. G.E.R.S.'s actuary, Rocky Joyner of Segal Consulting, has consistently said that a large infusion of cash is needed to shore up the fund.

G.E.R.S.'s grim reality sees it paying out \$20.1 million to beneficiaries on a monthly basis, while collecting 50 percent or less in contributions. The months of October and September 2017 were especially bad, as G.E.R.S. paid pension benefits of \$20.1 million in October and collected only \$6.3 million. In September 2017, G.E.R.S. collected \$746,283 and paid pension benefits of \$20.1 million, according to details provided in the letter, seen [here](#).

The pension system said it was ignored by the Mapp administration throughout Mr. Mapp's tenure. The relationship is well documented, too, with the former governor on a number of occasions calling for the firing of Mr. Nibbs and other board members, contending that they had mismanaged the pension system's assets and portfolio. A series of stories published on The Consortium, triggered by a Inspector General report, [revealed](#) a [number](#) of [bad deals](#) that the board allowed G.E.R.S. to enter into.

Bryan nominees

Also on Thursday, members of the Committee on Rules and Judiciary approved nominees Wynnne Testamark, who was chosen by Governor Albert Bryan as director of the Virgin Islands Bureau of Corrections (B.O.C.), and Attorney Joss N. Springette as chief negotiator of the Office of Collective Bargaining (O.C.B.).

Ms. Testamark has said that the territory needs new correctional facilities.



Wynnie Testamark, courtesy Barry Leerdam for the VI Legislature

But the buildings were not the only problem, Ms. Testamark told lawmakers in March as she gave the gloomy outlook during a Committee on Homeland Security, Justice and Public Safety hearing. There, the director nominee detailed the woes of the facilities, including deterioration, low morale among staff, a severely understaffed bureau, and a mental health crisis that sees patients being indefinitely imprisoned at the facilities not because they were charged with crimes, but because the territory has no place to house them.

“These areas of concern are all interrelated. Deteriorating and dangerous facilities prevent full compliance with the federal consent decrees and lead to low morale among the staff, which makes it harder to recruit and retain qualified correctional professionals. These challenges have been years in the making and cannot be solved overnight with

quick fixes. Ultimately, we will need to build new facilities on St. Thomas and St. Croix. This will save money in the long term,” Ms. Testamark said.

She added, “We need a fresh approach to the way we think about corrections. We cannot have an effective, functioning criminal justice system without providing correctional facilities that are safe, secure, and humane. If the conditions of confinement at our prisons do not meet even minimum constitutional standards, then our police, prosecutors, and judges will eventually be hampered in their work.

The director nominee revealed that the bureau as of March housed 192 inmates locally — 88 at the Alexander A. Farrelly Criminal Justice Complex on St. Thomas, and 104 at the Golden Grove Adult Correctional Facility on St. Croix. “In addition to these, the Bureau pays between \$12 million and \$15 million a year to house 179 inmates in off-island correctional facilities on the U.S. mainland,” she said.

Ms. Springette, during her testimony on Thursday, spoke of some of her short-term goals if her nomination were to be approved. They include increasing the number of attorneys from 2 to 4, filling 3 vacant positions; assessing staff skills to determine their needs and areas in need of improvement; and meeting with each union to discuss their general concerns and goals.



Joss N. Springette, courtesy Barry Leerdam for the VI Legislature

"Based on inquiries in the past of other assistant attorneys general and reviewing the testimony of other offices providing legal representation, the average caseload for other AAGs is 40-50. This means that the AAGs at O.C.B. are handling 3-4 times the average caseload," she said. "Moreover, a large amount of the pending cases are demands for arbitration, which must be processed and scheduled for hearing in a very short time from the date of receipt. Therefore, most of the cases are on the same timeline. With so few attorneys, it can take some cases 6 months to a year to be arbitrated. It is important to note that some collective bargaining agreements require that the cases be arbitrated by a specific time."

Ms. Springette said delays in resolving cases may also increase the value of cases. Delays can also affect the memory of witnesses and foster discord between the

government and unions, she said. "In some instances, unions have filed cases challenging the long delay between the date that the demand for arbitration was filed and hearing dates. Therefore, if confirmed, one of my top goals is to increase the number of AAGs from two to four. It is also important to note that the salaries of the AAGs assigned to O.C.B. are funded by the V.I. Department of Justice, so this goal is dependent on the availability of funds in that department," Ms. Springette said.

Both nominations were forwarded to the full Senate for further consideration.