

The Virgin Islands Consortium

Bill Seeking To Pay Newly Retired Educators Unspent Vacation If Annuities Are Not Realized In 90 Days Held In Committee

VIC News / **Published On May 08, 2019 09:48 AM /**

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Lawmakers who make up the Committee on Finance met on Tuesday in St. Thomas to receive testimony and review Bill No. 33-0031 proposed by Senator Dwayne DeGraff, which seeks to allow teachers and school personnel to receive an advance against their retirement annuity upon retirement from government service, in the event that they are not paid an annuity for 90 or more days from the date of retirement. The measure specifically states, “who upon retirement have not received an annuity payment for 90 days, are entitled to an advance equal to 480 hours against their retirement annuity payable within 15 days of a written request.”

Austin L. Nibbs, GERS administrator and chief executive officer, appeared before the legislative body with Cathy M. Smith, general counsel, to give testimony on the measure.

GERS officials previously met with Mr. DeGraff to voice concerns, explain the challenges, and offer recommendations. One concern was the requirement to place a retiree on the payroll before this retiree qualifies to receive an annuity, and before all contributions are received. Mr. Nibbs said that the V3 system, which is the software used to process annuities, had limitations that include the inability to calculate an annuity before a retiree's Notice of Personnel Action (N.O.P.A.) is received, and all outstanding missing employee and employer contributions. He said GERS would have to manually calculate the 480 advance hours; and all loan payments would have to be paid in full before an advance can be disbursed to the retiree.

Passage of the bill would require the software provider to reconfigure it to process the changes required by the new law, Mr. Nibbs said. And the changes involve extensive research of approximately 400 hours, analysis, design, testing, and implementation incurring a cost of \$75,000 to \$90,000. GERS staff would also be required to work with the software provider and test the software prior to use.

According to Mr. Nibbs, GERS recommends that members review their annual benefit statements to determine if there are any outstanding periods of employee and employer contributions before considering retirement, schedule a preliminary review with a benefit analyst, and put in a request for the Department of Education's (D.O.E.) personnel officer to expedite the retirement NOPA. He expressed that the NOPA should be processed within 30 days of the retirement date. At one point, the NOPA approval process was 180 – 240 days.

Mr. Nibbs explained that GERS, because of extensive system changes, could not support the bill. However, if the retiree meets all requirements, their initial annuity payment would be processed within 90 days.

Racquel Berry-Benjamin, commissioner nominee of V.I. Department of Education (D.O.E.), said that since GERS is solely responsible for calculating all annuity payments using their current processes, D.O.E. is unable to provide input as it pertains to the bill because the department has no jurisdiction in annuity calculations.

Jenifer O'Neal, director nominee of the Office of Management and Budget (O.M.B.), shared that her office could not support the bill because teachers do not accrue annual leave and unused sick leave is not paid out to any employee. While it would be helpful in alleviating any financial hardship the retiree would face immediately after retirement, the initial accounting would be a "nightmare" for both GERS and the Division of Personnel (D.O.P.), she said. Ms. O'Neal expressed that the passage of this bill would not rescue GERS from facing certain collapse and that it will take a collective effort from all sides, including the legislative and executive branches of government, to solve this ginormous problem.

Carol Callwood, president of the American Federation of Teachers (A.F.T.) in St. Thomas – local 1825 – who is also the St. Thomas/St. John labor trustee for GERS, stated that she was there to testify on the teachers' behalf, but because of her position, has gained extensive knowledge of the system. She spoke to the lengthy delays before retirees'

annuity payments begin and voiced that she has never accepted nor appreciated them. Ms. Callwood echoed some of the same concerns and challenges Mr. Nibbs previously noted. And she applauded the legislative body's desire to source funds for the teachers but said that advance monies from the system would be problematic.

However, since most educators have accrued hundreds and some even thousands of unused sick leave hours, Ms. Callwood said her recommendation is that they receive a lump sum payment of unused sick leave upon separation. Ms. Callwood's second recommendation was to encourage the various departments to process the separation NOPA in a timely fashion, especially the D.O.E.

Most educators submit their intent to retire three to six months before the end of the school year. The NOPAs should be processed and submitted to GERS by the end of August, so that if GERS is true to its 90-day window, annuities should be received by the Thanksgiving holidays. If the bill is drafted to issue the lump sum payment, the retirees would be financially secure until the receipt of the first annuity payment.

Senator Donna Frett-Gregory, Finance Committee chair, said that she would have to give Ms. Callwood's first recommendation a bit more attention because sick leave is not a cashable benefit, contending that there was an attorney general's opinion a few years ago that clearly stated so.

Mrs. Frett-Gregory noted that the section of VI Code mentioned by Ms. Callwood also speaks clearly to lump sum payments relative to separation from employment or retirement: "In no event shall an employee receive a lump sum payment for accumulated sick leave upon separation from his employment or upon retirement," reads a portion of VI Code Title 2, Chapter 3, Section 41.

"I want to clear the record on that," she said.

Senator Marvin Blyden proposed an amendment to pay a lump sum for summer leave instead of the lump sum sick leave, an option that is already an ongoing process in the D.O.E.

Nicole Jacobs, director of Human Resources at D.O.E., testified regarding the NOPA process. She stated that the Department of Finance is crucial in the issuances of a NOPA, and does not process any NOPAs in a minimum of three pay periods. The department has also taken up to six months. Once processed, it is sent to D.O.E., GERS, and other necessary agencies to begin their processing.

Testifiers unanimously expressed that they were not in favor of the bill, with a majority of lawmakers voting to hold the measure in committee.