The Virgin Islands Consortium

Bryan Vetoes Bill Seeking to Help Struggling Small Businesses With CARES Act Funding, Citing Separation of Powers, Lack of Funds

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A bill that sought to provide financial relief to small Virgin Islands businesses struggling to stay afloat as a result of the Covid-19 pandemic, was vetoed by Governor Albert Bryan, with the governor citing separation of powers and a lack of funding as reasons.

Bill No. 33-0410, sponsored by Senators Donna Frett-Gregory, Kurt Vialet and Janelle Sarauw, is an Act providing for the disbursement of funds to the V.I. Economic Development Authority to establish a "Small Business Relief Grant Program" and a "Covid-19 Disaster Loan Program".

The bill sought funding from the $75 million in CARES Act funding provided to the territory by the federal government. However, Mr. Bryan said the entire $75 million was already accounted for.

"First, the CARES Funds are already fully appropriated to other causes that qualify under the guidelines established by the U.S. Dept. of Treasury and hence there are no more funds available for this purpose," Mr. Bryan said. He did not provide a breakdown of areas of appropriation that consumed the $75 million.

Mr. Bryan also made the separation of powers argument, stating that the authority of such action lies with the executive branch, not the legislative.

"Second, the CARES Funds are federal program funds and are administered by the executive branch through the Department of Finance and the Office of Management and Budget pursuant to guidelines established by the US Department of the Treasury. These agencies are further responsible for accounting for the use of the CARES Act funds to the federal government. There is no authority for the Legislature to appropriate or delegate the use of these funds in Section 8(a) of the Revised Organic of 1954 (48 U.S.CS. § 1541 et seqi ("Revised Organic Act")," the governor wrote in his transmittal letter to the Senate.

Sen. Frett-Gregory, a primary sponsor of the measure, expressed disappointment.

"I am deeply disappointed in the governor's veto of Bill No. 33-0410, a legislation to provide small business owners with access to grant funding and low-interest, forgivable loans amid the financial challenges brought on by this pandemic. As primary sponsor, along with two of my colleagues, it is important to note that we did not craft this bill in isolation, our intent was discussed with the governor. In fact, we worked closely with the leadership from the Economic Development Authority to finalize the bill and even revised language based on their recommendations.

She added, "This is absolutely not a bill we threw together at the last minute with zero input from the executive branch. We've been working on this measure since April to provide our small business owners with funding to remain afloat, many of whom did not qualify for the PPP and other federal programs. Our business owners are hurting and this legislation was crafted to help lift them up during these challenging times. I look forward to hear of the governor's plans to support this lost opportunity."

Under the vetoed measure, two programs were offered offering varying levels of funding. The grant program for example, would have a total of $7 million to expend and would have provided up to $10,000 to a business. Establishments were to adhere to the following guidelines:

- Valid business license
- Certificate of good standing or certificate of existence
- Must have been in operation prior to March 1, 2020
- Gross Receipts that have not exceeded $225,000
- Grant may not be used to meet any expenses met by the Small Business Administration, Paycheck Protection Loan Program, the state's share of medicare, damages covered by insurance, or payroll benefits to employees whose work

duties are not substantially dedicated to mitigating or responding to public health emergencies.

The loan program on the other hand would have a total of $4.5 million to expend, and would been used to provide low-interest loans of up to $50,000 per business. The interest rate on the loan would not exceed 1 percent.

Additionally, the loan would be forgiven if the borrower met the following criteria:

- Granted employees paid leave
- Maintained payroll expenses
- Experienced increased cost of materials or otherwise increased inventory
- Mortgage, lease, or rent payments cannot be met due to revenue loss

The bill would call on the EDA to provide the Legislature with a status report on the programs' execution no later than November 15. The report would detail the progress of the programs and the EDA must submit a final report no more than 60 days after the Dec. 3 deadline to apply.