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Senators Make Yet Another Effort to Regulate WAPA Through PSC After Bryan Vetoed Two Measures Aimed at Reigning in the Authority

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Aerial view of the WAPA power plant in Richmond, St. Croix. By. ERNICE GILBERT FOR VI CONSORTIUM

A bill that seeks to give the Public Services Commission (PSC) more authority over the Virgin Islands Water and Power Authority Governing Board and other utilities doing business in the territory, was met with resistance by WAPA Friday, though the measure was approved in the Committee on Rules and Judiciary and now faces a vote in the full Senate.

The measure comes less than a month after Governor Albert Bryan vetoed two bills directly related to WAPA, one that sought to bring oversight to the authority and another making changes

to the utility's board structure. A third measure sought to make changes to the Public Services Commission board in an effort to bring more accountability. But Mr. Bryan [vetoed them all](#), citing the Revised Organic Act and Separation of Powers Doctrine to argue that the senators' action was an overreach.

Bill No. 33-0055, sponsored by Senator Janelle Sarauw in collaboration with a number of other lawmakers, also seeks to give the commission oversight of wireless telecommunication providers, though that authority would be limited to service issues only. For example, if the PSC reasonably suspects a pattern of customer abuse, the commission may, on its own motion, initiate investigations into the activities of wireless telecommunications providers offering cellular service.

That same investigative power covers WAPA as well. And relative to WAPA's under-grounding effort, the bill says, "In order to ensure that undergrounding is performed in as cost effective a manner as possible, prior to undertaking any under-grounding activity, any entity engaged in the above activities must notify the Public Services Commission and the Department of Public Works."

WAPA CEO and Executive Director Lawrence Kupfer yet again brought resistance, stating that the bill giving PSC more authority to regulate utilities would only incur additional cost — cost he said would be passed down to ratepayers. "The proposed bill seeks to undermine five decades of legislative enactments that have withstood the test of time and increase the operational costs of WAPA without any corresponding benefit," he said. Ostensibly, Mr. Kupfer was referring in part to a portion of the bill that says utilities must cover the cost of investigations initiated by the PSC. "These higher costs will ultimately be borne by WAPA ratepayers if this bill is enacted into law," said Mr. Kupfer.

According to Ms. Sarauw, a court ruling indicated that the PSC could not regulate as it should because the V.I. Legislature did not give the commission such authority. She said lawmakers have been working on Bill No. 33-0055 since the 32d Legislature.

"The bill is a bipartisan effort. It's an effort of the institution and really not of me," said Ms. Sarauw, pointing to Senator Novelle Francis, who she said added the portion of the measure relating to telecommunications firms, along with contributions from Senators Allison DeGazon and Alicia Barnes.

Mr. Kupfer told lawmakers that millions of dollars have already been used on what he deemed exorbitant PSC regulatory costs in which ratepayers currently bear and have borne for decades for the PSC's consultants. He said WAPA has paid the PSC over \$8.6 million for annual assessments over the past five years.

Ms. Sarauw, however, knew WAPA would be resistant to the changes, as the authority has done in virtually every measure seeking to tighten oversight of its operations. She said, "We had a bill to address the qualifications of the WAPA board, that was met with resistance. We came back and we asked WAPA not to bill over a certain amount of time, that was met with resistance. We came back and we said, 'okay WAPA, you need to have oversight,' that was met with resistance.

"We are here moving a legislation to empower the PSC, that is met with resistance. So what really works? The Public Services Commission is to protect the consumer. That is who their loyalty is to: the consumer," Ms. Sarauw said.

Donald G. Cole, executive director of the PSC, stated that the recommended changes are more than 15 years in the making and are long overdue. "This legislation is for the best interest of the people of the territory," he said.

The bill was supported by all members of the Committee on Rules and Judiciary. It will be forwarded to the full Senate where it is expected to pass as well and then forwarded to Governor Albert Bryan.

Along with Bill No. 33-0055, the following measures were vetted and unanimously voted on by the Committee on Rules and Judiciary and now head to the full body:

- Bill No. 33-0435 An Act amending Act No. 8365, relating to the fiscal year 2021 operating budget for the Government of the Virgin Islands to increase the funding for wage adjustments from \$2,623,000; to \$9,760,658, to appropriate \$18,000,000 to the Single Payer Utility Fund, to reduce the operating expenses for the Department of Finance from "\$2,091,757 to \$1,591,757, to reduce the budget for the Department of Education from \$167,807,284 to "\$164,180,173"; to increase the Department of Public Works' appropriation for the Abandoned Vehicles Programs in St. Croix, and St. Thomas from \$25,000 to \$75,000; to appropriate an additional \$75,000 for a St. John Abandoned Vehicles Program and \$400,000 for addition road work; to increase the appropriation for the Nurse Licensure Board from \$391,026 to \$536,886; to appropriate of \$305,312" as a contribution to the Taxi License Fund; to appropriate \$2,000,000 as a contribution to the V. I. Housing Finance Authority; amending Act No. 8366 relating to the 2021 fiscal year operating budget for the University of the Virgin Islands to provide for a direct appropriation to the University and to add an appropriation of \$180,000 for preparing an agriculture plan, and amending Act No. 8245 relating to fiscal year 2020 operating budget for the Government of the Virgin Islands to make the \$10,000,000 appropriation for Retroactive Payment to Retirees Over 65 non-lapsing; and provided for other related purposes (Sponsored by Senator Kurt A. Violet)
- Bill No 33-0436 An Act appropriating \$1,665,637 from the St. Croix Capital Improvement Fund to the Virgin Islands Port Authority for the completion of the "Henry E. Rohlsen Improvement and Expansion Project" (Sponsored by Senator Kurt A. Violet, Senator Donna Frett-Gregory, Senator Myron D. Jackson; Co-Sponsored by Senator Javan E. James, Sr.)
- Bill No. 33-0360 An Act amending Title 17 Virgin Islands Code, chapter 5 adding a section 41g, implementing and setting the requirements for online learning (Sponsored by Senator Donna FrettGregory)
- Bill 33-0312 A Resolution honoring and commending Janet Valencia Prince-Soto for her contributions to the St. Croix community through her years of educating and mentoring others in the field of cosmetology and her entrepreneurship in the same field (Sponsored by Senator Stedman Hodge, Jr.)
- Bill No. 33-0430 A Resolution posthumously honoring and commending the late Reverend Vincent Hoover Adams Gordon, Sr., D.D. for his outstanding contributions to the Virgin Islands community (Sponsored by Senator Kurt A. Violet)
- Bill No 33-0345 An Act honoring and commending Judy M. Gomez, Esq., for her contributions to the Virgin Islands community, especially the children of the Virgin Islands (Sponsored by Dwayne M. DeGraff)
- Bill No 33-0352 A Resolution honoring and commending Charles Lambert Alvarez Christian for his dedication and accomplishments in the field of martial arts and the Virgin Islands community (Sponsored by Senator Oakland Benta)
- Bill No 33-0426 A Resolution recognizing the 100th year anniversary of the Senepol Cattle (Sponsored by Senator Myron D. Jackson)

- Bill No 33-0427 A Bill recognizing and honoring the late Mrs. Dorothy Lockhart-Elskoe for her vast contributions to the preservation of the arts and culture of the Virgin Islands by renaming Raphune Hill the “Dorothy “Dotsy” Lockhart-Elskoe Drive” (Sponsored by Senator Myron D. Jackson, Senator Steven D. Payne, Sr.)

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