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Bill Calling for Turnaround Company to Assess WAPA and Provide Measures to Reduce Cost of Electricity Vetoed by Bryan

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Aerial shot of WAPA's Christiansted power plant on St. Croix. By. ERNICE GILBERT FOR VI CONSORTIUM

Governor Albert Bryan has vetoed a bill sponsored by Senators Janelle Sarauw and Donna Frett-Gregory that calls for a turnaround company to provide an assessment on the true state of the Virgin Islands Water and Power Authority, and to provide measures on how to reduce the cost of electricity and water to ratepayers.

Amendment No. 34-164 was offered by Ms. Frett-Gregory to Bill No. 34-0021, which was initially passed in the 33rd Legislature as Bill No. 33-0055 but vetoed by Mr. Bryan. Proponents

of the measure say it follows the advice of the Virgin Islands Supreme Court and grants the V.I. Public Services Commission regulatory oversight of WAPA and other utilities in the Virgin Islands. It also allows consumers to file complaints regarding telecommunication companies with the Public Services Commission.

In his transmittal letter to Ms. Frett-Gregory, Mr. Bryan said the bill "goes beyond enhancing the territorial regulatory functions of the PSC by giving the PSC and the Legislature the authority to run various instrumentalities and businesses characterized as public utilities. In doing so, the Legislature has again intruded into the supervisory and decision-making powers of the executive branch and violated several federal statutes."

Mr. Bryan added, "The most fatal component of the bill is the inclusion of the directives that WAPA must hire a turnaround management company, implement its recommendations and comply with its turnaround report."

Ms. Frett-Gregory has said that she expected the measure to be approved, adding that she saw no reason why Mr. Bryan would veto it. "It is clear there are systemic issues at the Water and Power Authority, and we cannot continue to kick the can down the road," she said. "The people of the Virgin Islands must understand the true state of the Water and Power Authority, we need a starting point, a base from which to make reasoned decisions. Further, on more than one occasion, information provided to the people via testimony given to the Legislature by leadership at WAPA, has been opaque at best. We need transparency and clarity, amendment 34-164 offers this to the people of the Virgin Islands and I thank my colleagues for their support."

In his transmittal letter, Mr. Bryan brought up the separation of powers doctrine, which he said is incorporated in Section 11 of V.I. Code, part of which reads, "the governor shall have general supervision and control of all departments, bureaus, agencies and other instrumentalities of the executive branch of the government of the Virgin Islands."

Mr. Bryan further stated that any decision to engage a turnaround company and pay for services it offers "is clearly an executive decision and function to be made by WAPA's board and executive committee."

Relative to the portion of the bill that enhances the PSC's function by giving the PSC regulatory oversight of WAPA and other utilities in the Virgin Islands, Mr. Bryan wrote, "these provisions are preempted by established federal law (47 USC, Section 332(c)(3) and the V.I. Consumer Protection Law."

"We urge the Legislature to support the actions being taken by the professional and executive staff and board of WAPA, with the support of multiple federal and local agencies to effectuate a change of course in our utility's viability and service of which we may all be proud," the governor said.

Mr. Bryan also vetoed Sarauw-sponsored Bill No. 34-0026, an Act amending Title 30, Chapter 5, subchapter II, section 103 relating to WAPA to establish minimum criteria for WAPA's Governing Board, and changing the number of its members; and amending section 104(b) to change the number of members of the Governing Board constituting a quorum from five to four.

In his transmittal letter, the governor wrote, "The proposed change in the composition of the board is solely to remove the number of individuals directly appointed by the governor from amongst cabinet-level heads of departments and agencies." Mr. Bryan added this would "weaken the duty of the governor to exercise general supervision and control of WAPA as is required by Section 11 of the [Revised Organic Act]."

The governor did approve Bill No. 34-0025, also sponsored by Ms. Sarauw, which establishes a minimum criteria for PSC members while changing the number of its members. According to Mr. Bryan, "Unlike the previously vetoed Bill No. 33-0211, which also sought to amend certain aspects of the PSC, this bill was properly drafted to enable the commission to function better, with fewer member seats to fill and a more realistic number to establish a quorum while not attempting to remove the governor's authority and obligations pursuant to Section 11 of the [Revised Organic Act]."