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Bryan Signs Five Bills Into Law For Nearly \$24 Million in Infrastructure Projects Territory-Wide

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Ernice Gilbert **May 20, 2021**

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The Ann E. Abramson Marine Facility, located in Frederiksted, St. ro By. GETTY IMAGES

Five out of 14 bills that Governor Albert Bryan recently signed into law include nearly \$24 million for infrastructure projects territory-wide. Mr. Bryan vetoed two measures as he took action on a total of sixteen bills.

The infrastructure measures, some of which were submitted by Mr. Bryan, include the following:

- Bill 34-0014, submitted by Mr. Bryan appropriates \$1.6 million from the Communities Facilities Trust Account for three community facilities projects – the pier at King’s Alley in Christiansted; the dock at Gallows Bay; and the DPNR roll-on roll-off ramp at the Gordon

A. Finch Molasses Pier at Krause Lagoon on St. Croix.

- Bill 34-0036 appropriates \$19.6 million for more than two dozen desperately needed road projects on St. Croix, St. Thomas and St. John. It was submitted by the governor.
- Bill 34-0020 was submitted by the governor had submitted to appropriate \$675,000 from the Community Facility Trust Fund to Sports, Parks and Recreation for the Caribbean Drag Racing Association to restore the facilities at the St. Croix Motor Sports Complex.
- Bill 34-0008, was sponsored by Senator Javan James to reprogram \$200,00 from the Gross Receipts Tax Bonds proceeds to renovate the Police Athletic League Headquarters in Estate Whim on St. Croix.
- Bill 34-000-13, which Mr. Bryan had submitted to appropriate \$2.05 million from the St. Croix Capital Improvement Fund to replace the deteriorated tender landing pier and make repairs to the Ann E. Abramson Marine Terminal in Frederiksted.

Mr. Bryan also signed into law the following measures:

- Bill 34-0003, relating to the time period within which the Zoning Administrator must act on a submitted building permit and requiring that 3 percent of the fees collected for building permits be deposited into the Department of Planning and Natural Resources' Reclamation Fund for maintaining its electrical permitting system that will go live to the public by the start of Fiscal Year 2022.
- Bill 34-0005, which clarifies the limitation on the number of governmental or quasi-governmental boards and commissions on which commissioners and directors of the Government of the Virgin Islands can serve, while serving on the board or commission of any autonomous or semi-autonomous agency.
- Bill 34-0023, which establishes the Invasive Species Eradication Community Program and appropriates \$10,000 from the Animal Fund to the Invasive Species Eradication Community Program Fund.
- Bill 34-0024, relating to the Fiscal Year 2021 operating budget and appropriating \$2.5 million to the Department of Justice; \$2 million to the Department of Labor to outstanding Workers Compensation payments to medical providers and \$40,000 to Clean Sweep Frederiksted for beautification of the town.
- Bill 34-0028, which authorizes registered nurses and certified registered nurse practitioners to determine and pronounce death under certain specific conditions.
- Bill 34-0041, which relates to the continuing medical education requirements for permanent and institutional licensees.
- Bill 34-0042, which is an Act authorizing members of the Board of Medical Examiners to serve temporarily as de facto members of certain other boards to establish a quorum to conduct business.

The territory's leader vetoed two bills, both related to the V.I. Water and Power Authority and one of which includes elements related to the Public Services Commission.

One of the two, sponsored by Senators Janelle Sarauw and Donna Frett-Gregory, 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]."

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