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Bill Calling for Turnaround Company to Assess WAPA Becomes Law as Senators Override Bryan Veto

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Aerial shot of WAPA's Richmond Power Plant. By. ERNICE GILBERT FOR VI CONSORTIUM

Senators on Tuesday overrode a Governor Albert Bryan veto of a bill sponsored by Sens. Janelle Sarauw and Kurt Vialet (with important input from Sen. 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.

The bill, No. 34-0021, also establishes the Public Services Commission as a semiautonomous agency; subjects the Waste Management Authority to regulation; and provides for resolution of

customer complaints against wireless telecommunication providers and for other purposes related to the PSC and WAPA.

In a 13-0 vote Tuesday (Sens. Sarauw and Milton Potter were absent) — Ms. Sarauw is out of the territory with her mother who is receiving medical care — lawmakers breezed through an override of a bill they had deemed important to the future and viability of WAPA, the sole and beleaguered utility in the territory charging customers the highest rates in the U.S. and its territories, even as its customers are plagued with regular power outages.

Senators also overrode Mr. Bryan's veto of Bill No. 34-0026 by a 13-0 margin, also sponsored by Ms. Sarauw and Mr. Vialet, which establishes a "minimum criteria for the Virgin Islands Water and Power Authority 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."

The motion to override both vetoes was moved by Mr. Vialet.

Last week the WAPA board experienced a change in leadership, making Energy Office Director Kyle Fleming [the new chairman](#).

In a statement following the vote, Mr. Sarauw said, "For our recovery to be candidly recognized, for our infrastructure to be fully upgraded, and for our economic diversification and sustainability to be truly realized, the Territory's utility management, infrastructure and energy capacity must be addressed.

"We cannot travel to conduct job fairs on the mainland attempting to recruit capacity and residents to the Territory, void of addressing our energy crisis; we cannot claim to be recruiting businesses to the Territory, when so many businesses already here have had to shutter their doors due to our energy crisis; but most importantly, we owe it to our residents to once and for all, holistically address the management, reliability, and cost of power in the United States Virgin Islands."

Proponents of the measure calling for the turnaround company 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.

After vetoing the bill, Mr. Bryan said in his transmittal letter to the Senate that the measure "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, who offered the amendment to the bill calling for the turnaround company to assess WAPA, was surprised by the veto; stating prior to Mr. Bryan's action that she expected the measure to be approved. "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."

Senators held no debate before overriding the governor's vetos.