

The Virgin Islands Consortium

Gittens Bill Calling for Special Investigator With Prosecutorial Powers to Probe WAPA Held in Committee

Government / **Published On August 09, 2021 05:44 AM /**

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Aerial shot of WAPA's Richmond Plant on St. Croix. By. VI CONSORTIUM

A Senator Kenneth Gittens-sponsored measure that calls for a special investigation on behalf of the Legislature into the Water and Power Authority was held in the Committee on Government Operations and Consumer Protection Friday after committee members were told by the Inspector General, Attorney General and President of the Bar Association that the proposed measure would violate the separation of powers in government.

The scope of the proposed investigation would cover billing practices, unlawful or unauthorized contracts and leases, credit card usage, equipment sales, compliance with procurement laws, audit reviews, conflicts of interest and nepotism from fiscal years 2000-2021. It would be funded by an appropriation of \$250,000 from the General Fund this fiscal year.

In the bill's introduction, Mr. Gittens said, "Usually when I introduce a bill I would say I am proud to bring it to the floor. I can't say that about this bill today."

In his own words, Mr. Gittens said "Bill No. 34-0080 calls for the appointment of a special investigator with the authority to thoroughly review concerns as it relates to W.A.P.A. and to make prosecutorial recommendations to the V.I. Attorney General's Office and/or to the U.S. Attorney's office."

He said the investigator would have the power to issue subpoenas and to engage government auditors and personnel. He added that the investigation "is necessary at this time to root out corruption at W.A.P.A. and to help restore accountability to the institution."

But V.I. Attorney General Denise George, President of the Bar Association Charlotte Perrell, and Inspector General Steven Van Beverhoudt all said they were against the measure because it would violate the separation of powers in government. Ms. Perrell was not present but her testimony was read into the record.

After hearing his colleagues' questions and the responses of testifiers during the hearing, Mr. Gittens said, "This is exactly why the people of the Virgin Islands consistently call for an independent attorney general in the Virgin Islands. As the top legal officer of the U.S. Virgin Islands, I am totally disappointed but not surprised in the testimony here today by the attorney general. Your responsibility is to represent the people's interest..."

For Mr. Gittens, the A.G.'s responses reflected the administration's. He said in instances where the executive branch is forced to investigate itself, the public seemingly cannot trust that the probe would be executed fully and fairly. "The answer is seemingly no," he said.

Senator Javan James sought to learn what action was taken as a result of the leaked document from Jed JohnHope, the former WAPA board vice chairman who is [said to have resigned](#). Ms. George said she would not comment on the status or existence of an investigation based on the document.

Mr. James pressed harder, stating that he wasn't seeking specifics but rather a yes or no response. "The only thing I can say is that this memorandum with Mr. JohnHope name on it came to my attention and that was publicly done," she responded.

Frustrated, Mr. James said, "It just seems like every step or angle the Legislature takes to resolve this issue there is a pushback by the executive branch, and it was made mention about separation of powers but if we don't force the hands of those in power it does seem like nothing happens."

Ms. George said the separate of powers issue rendered the bill null. "This is definitely a problem with this legislation, period," she said. "With respect to having the investigation

done by the executive branch, that is our duty to do.. It's not of the legislative branch, it's not legislative in nature."

The attorney general then took a moment to highlight her credentials, suggesting that she could do the job Mr. Gittens's bill is seeking to accomplish. "I don't have to prove myself in nature, my reputation goes before me... I have prosecuted and successfully prosecuted and involved in the investigation and prosecution in a number of government employees. So I don't have to prove anything to anybody."

Mr. James took exception. "Members of the executive branch must prove themselves to be confirmed by this body and they must prove themselves when it comes to transparency..."

Mr. Gittens piled on. "...May I remind you today that you work for the people of the Virgin Islands and that last statement should have been held."

Earlier in the hearing, Mr. Van Beverhoudt, the inspector general, proposed an alternate solution. "I still feel that the best approach would be to work it through the Attorney General's Office and the [Inspector General's Office]... let us do what needs to be done jointly so give us the funding."

Asked by Sen. Franklin Johnson for an estimated cost for a special investigation through the A.G.'s and I.G.'s offices, Mr. Van Beverhoudt said it would be closer to \$1 million. "You're talking about a 22-year period... the scope as I said is tremendous, it's very broad. It would have to be narrowed down so you can focus on specific areas — all of that would have to be fine-tuned."

Asked by Mr. Johnson for a timeframe if the investigation were to be approved through the I.G.'s and A.G.'s offices, the inspector general said, "I would start with no more than five years at the most. I would start with the most current timeframe and work your way back... I wouldn't cover more than a five-year period initially."

Sens. Carla Joseph, Blyden and Alma Francis-Heyliger voted for a motion to hold the bill, while Sens. James and Johnson voted against the motion. Mr. Gittens is a non-committee member.

Committee Members Sens. Milton Potter and Novelle Francis were absent.

Explaining his no vote, Mr. Blyden said, "Based on the A.G, I.G. and Bar Association they say we are in violation with the Constitution... We are going to work on it and bring the legislation forward whereas it doesn't have no question in terms of moving forward...no one is against holding W.A.P.A. accountable and being transparent."

Mr. Gittens said, "This is a measure we can't sit on. Whatever it takes to move this measure out of committee at a next hearing I am available to my colleagues to get your input. But I am not going to sit back and wait for an attorney general investigation or inspector general investigation."