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WAPA Counsel Join Governor Bryan in Opposing Law Changing Board Composition; Judge Grants Preliminary Injunction

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Ernice Gilbert **September 24, 2021**

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Governor Albert Bryan. By. ERNICE GILBERT/VI CONSORTIUM

The V.I. Water and Power Authority has joined Governor Albert Bryan in opposing a recently enacted law that changed the composition of the WAPA board, and earlier this week Superior Court Judge Renee Gumbs Carty granted a preliminary injunction that called for the law to be cast aside until a permanent injunction hearing scheduled for Oct. 5 determines the law's fate.

In a judgement handed down on Monday, Judge Gumbs Carty ordered the WAPA board not to implement any changes set in motion by the new law, [Act. 8472](#). The order further prohibited the board from "acknowledging or recognizing any new member appointed or elected," and it barred

the WAPA board from removing any member discharged as a result of the new law.

Additionally, the order blocks the WAPA board from making any changes as prescribed by the law, and said the status quo should remain in place.

Though the outcome won't be known until Judge Gumbs Carty rules on the matter on Oct. 5, Mr. Bryan's case is strengthened as WAPA counsel has decided not to defend the law, choosing instead to join with the administration.

Enactment of the law following the Senate override of Mr. Bryan's veto caused the immediate removal of two Bryan cabinet members from the board, namely, Property and Procurement Commissioner Anthony Thomas and Bureau of Internal Revenue Director Joel Lee. The V.I. Energy Office director is the only cabinet member allowed on the board by virtue of his/her position under the new law. Kyle Fleming is the current director of the Energy Office.

In his transmittal letter to the 34th Legislature that accompanied the vetoed measure, Mr. Bryan [said](#), "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 V.I. Dept. of Justice, which is representing the governor, on Sept. 2 [announced](#) it had challenged the law. Defending the decision, V.I. Attorney General Denise George said the law stood in contravention of the Revised Organic Act. "The action is unconstitutional and unlawfully infringes upon the power and authority of the executive branch and chief executive, in violation of the separation of powers doctrine under the Revised Organic Act of 1954 and the Constitution of the United States," she said.

The attorney general added that the Legislature's "purposeful restrictions on a governor's intrinsic power of appointment and removal of executive branch board members to the WAPA Board unlawfully restricts and erodes the chief executive's supervision and control of the executive branch of the Government of the Virgin Islands as mandated in the Revised Organic Act of 1954."

The law's chief sponsor, Senator Janelle Sarauw, expressed incredulity at the legal action. "I am nauseated by the lengths the administration is going to go to protect the utility. Through legislation, this body established the utility and its board and we have the right to amend the composition or abolish it altogether if we so choose. It is evident Governor Bryan is tone deaf to the cries of the people and defending WAPA at any costs matter more."

Senator Kenneth Gittens called on his colleagues in the Senate to push back against the attorney general. "This institution must formally petition the Court to dismiss what is a frivolous claim by the V.I. Attorney General," Mr. Gittens recently wrote in a letter to Senate President Donna Frett-Gregory. "This body established the V.I. Water & Power Authority Board, to include its composition, and it is within our power to reorganize or dismantle it if such an initiative is in the best interest of the people of this Territory."

He also encouraged fellow lawmakers to unite on behalf of consumers. "The unanimous support of the 34th Legislature's override of the Governor's previous veto of the legislation in question is indicative of this body's clear support for reform at WAPA. The government's efforts to block these reforms are without merit and, frankly, repellant," Mr Gittens said. "This said, I am urging that we act as a body to make a strong statement against any effort to prevent lawfully enacted reforms at the Water & Power Authority."

Assistant Attorneys General Ariel Smith and Julie Beberman represent the government and Governor Bryan in the action. WAPA is being represented by attorneys Dionne G. Sinclair and Aysha R. Gregory, according to [court documents](#).

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