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Bill to Establish Sixth Constitutional Convention Crosses First Hurdle; Frett-Gregory Plans Committee of the Whole

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Linda Straker **January 20, 2022**

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A bill that seeks to establish the U.S. Virgin Islands' Sixth Constitutional Convention, a group of individuals responsible for determining the text of the would-be constitution and presenting it to the U.S. Congress which must approve the constitution in order for it to be valid, was approved in the Committee on Government Operations and Consumer Affairs Wednesday. The measure would also provide an appropriation to cover convention-related expenses.

The Fifth Constitutional Convention was rejected by Congress because of controversial portions of the document, including language that says ancestral Virgin Islanders, more pointedly those who had family in the territory in or before 1932, would be exempt from paying property taxes. The failed document also says only native-born Virgin Islanders can run for the office of governor

or lieutenant governor. The fifth document was proposed in May 2009.

Bill No. [34-0153](#), sponsored by Sen. Janelle Sarauw, had several testifiers as part of the process for providing clarity and in-depth understanding behind establishing a Sixth Constitutional Convention. They included former senator and historian Myron Jackson, University of the Virgin Islands Professor Malik Sekou, and Gerard Emanuel, a former delegate of the 5th Constitutional Convention, among others.

The Wednesday hearing in St. Thomas was not without criticism, with Senator Kurt Vialet choosing not to ask testifiers any questions but instead using his seven minutes to express concerns about the current behavior and actions of some who believe the document from the Fifth Constitutional Convention should be the master guide going forward.

"...Now that we have a bill, the Fifth Constitutional Convention has resurfaced and you're hearing, 'well, they should continue to be able to do the job that they were supposed to do.' But the same can be said for the fourth, same can be said for the third, the second, the first. So what really makes the fifth so different that we can't do anything unless we continue with the fifth?" said Mr. Vialet.

"There is no law that is being violated; the Virgin Island's Legislature has the right to establish a constitutional convention and that is the sixth time that we will be doing such. So there is no violation," he said while reminding the hearing that a referendum conducted in 2020 was non-binding.

He added, "There is nothing in this bill, nothing in the enactment clause that states that the Sixth Constitutional Convention must follow that non-binding referendum question," he said while sharing his ideas about what can be undertaken as part of the latest effort.

He said the Sixth Constitutional Convention would have the ability to utilize the Revised Organic Act, or could use a document that was prepared by the Fifth Constitutional Convention or any before it.

"But even in the formation we can't even agree," he stated, evidenced by the reality that the territory is trying for a sixth time to establish a constitution. "It is easy to see why we don't have a constitution that has been adopted by this territory. Even in the formation of establishing a constitutional convention, it is just argument about the process, so we arguing about the Fifth Constitutional Convention that has not met, that did not submit any changes to the areas of concern," he said.

He said the fifth effort "literally dissolved in an argument among the members, dissolved in differences of opinion among the members and we want to go back to that?" He said the fifth "was a grand opportunity to fix up," instead members "could not come to an agreement to the part of moving forward and that is the reality."

Referring to [a recent trip to Colorado](#) where members of the Legislature learned about the marijuana industry, Mr. Vialet said there were discussions with the Colorado House and Senate and while discussing laws, some questions were asked about the federal government's intervention and role.

"And clearly the answers that were given, the members of the Colorado House and Senate said that the federal government respects the state's rights as established by a constitution, and that they are able to back off with enforcing any of those federal regulations because they respect the

right of the state." Mr. Violet said cannabis legislation was embedded in Colorado's constitution when a constitutional amendment was passed.

"We do not have a constitution in which we could protect the rights of measures that are passed by this body," he told lawmakers who participated in the hearing, including Senate President Donna Frett-Gregory, who during her contribution to the debate confirmed that the Committee of the Whole would hold further deliberations on the bill.

"We're going to have a Committee of the Whole because this particular issue requires us to truly drill down on it," Ms. Frett-Gregory said. "It also requires the full complement of the body to be present as we have this very, very, very important conversation as it relates to the establishing of the identity of the people of the Virgin Islands. I look forward to the opportunity to talk about this more."

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