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Gittens Seeking Lawsuit Against GERS Board, Saying Pension System Continues to Defy Law and Common Sense

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Senator Kenneth Gittens. By. V.I. LEGISLATURE

Saying that the Government Employees Retirement System continues to defy both the law and common sense through its actions and lack thereof, Senator Kenneth Gittens is moving to file a lawsuit against the GERS Board of Trustees and system Administrator Austin Nibbs.

Mr. Gittens said Wednesday that he has requested a resolution be drafted compelling the legislative body to take legal action against GERS for failing to comply with laws requiring the pension system to reinstate its loan program and to provide annual paper statements to members.

According to Mr. Gittens, GERS has continued to disregard the law and repeated requests for compliance have been largely ignored. Act 7880, sponsored by Mr. Gittens in 2016, requires GERS to reinstate the suspended loan program, which GERS has repeatedly testified is profitable. GERS stopped issuing loans in 2015 based on what the system described as its “looming insolvency”. The senator's amendment, codified in 2014, requires that GERS mail out an annual paper statement apprising members of their status and account balances.

“By granting a \$70,000 raise to the System Administrator in a closed meeting this week, I have lost faith in the current Board of Trustees to act in the best interest of the people of the Virgin Islands,” Mr. Gittens said. “This is an unconscionable action given that we just narrowly averted disaster at GERS due in part to poor management and bad investment decisions. GERS was not saved as a result of any action by the Board nor its leadership. No one at GERS deserves to be rewarded at this time.”

The senator noted that he wrote to Administrator Nibbs on February 24, 2022, once again formally requesting that the loan program be reinstated as per Act 7880.

“I sent this letter after we knew that GERS would be given the infusion of funds it needed to remain solvent,” Mr. Gittens said. “Despite the fact that Senators and the Administration worked together to stabilize GERS, the leadership at the system has remained defiant. Administrator Nibbs replied that it would not begin fully reinstating the loan program until 2025, subject to the approval of the Board.”

Mr. Gittens said he was unclear as to why any board member would consider granting a massive salary increase to the administrator at this time.

“I don’t see common sense in play here,” he said. “Salary increases at GERS and other semi-autonomous agencies must be tied to performance. GERS has failed its membership and has failed to comply with Virgin Islands law. We have written letters and made repeated requests. A lawsuit is the next step.”

The senator said he was in the process of meeting with his colleagues and the Legislature’s attorneys, but that he had already submitted a request to draft a resolution in support of a GERS lawsuit.