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Senate Reduces Line of Credit to \$100 Million, Mandates Hiring Freeze and Turnaround Company For WAPA

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Epic Curacao, ship carrying first delivery of propane fuel to WAPA, arrived at the semi-autonomous entity's Christiansted dock on Wed. Oct. 21, 2015. By. WAPA

Debated at the tail end of a substantial agenda, the contentious bill establishing a line of credit for the Government of the Virgin Islands was once again met with expressions of concern from several senators. Even so, lawmakers wound up approving a large sum of what Governor Albert Bryan had asked for: \$100 million of the requested \$150 million.

Bill 35-0070, proposed by the executive branch and introduced in the Senate during a special session [last week](#), would provide a \$150 million credit facility “to provide funding for authorized

governmental operations,” and also authorize the governor “to utilize monies from the public funds to create working capital to provide funds for any purpose for which the government is authorized to use and expend monies.”

The measure would last for three fiscal years beginning in 2023, with the funds being used to meet the territory’s commitments in federally-funded disaster recovery projects. According to the measure, \$45 million of that line of credit is to be utilized as an initial payment in a [settlement agreement](#) between the Water & Power Authority and Vitol, and that allocation was the central aspect of the debate on Friday, just as it was on April 5.

Senator Alma Francis Heyliger began by urging the Legislature that “we have to get to a point where this institution starts acting like the first branch of government. We have to move away from living in this territory and allowing other individuals to dictate the course of the territory through phone calls, through party affiliations and through a slew of things that has nothing to do with the 15 of us in here that are elected.”

Ms. Francis Heyliger suggested that while the governor is requesting a line of credit, without necessary amendments the bill would give him carte blanche rule over the budget, something which she could not accept. Acknowledging that there were amendments on the floor, Ms. Francis Heyliger said that she would withhold some that she had drafted until the other changes had been discussed. The senator also expressed concerns regarding turning over funding to WAPA, citing that documentation requested from WAPA to help guide responsible decisions is very often never submitted.

Several other senators took issue specifically with the portion of the bill which relates to WAPA. Senator Franklin Johnson noted that he could not support this measure unless there was a forensic audit of the Vitol project. “I gon’ spend my money how I want but I ain’t gon’ give way the people money like that, not me!” In a similar vein, Senator Dwayne DeGraff offered, “WAPA don’t have a cent to scratch their you know what, but we going to make adjustment and arrangements to give them \$45 million or however much I guess?” Mr. DeGraff also concurred with Ms. Francis Heyliger, saying that authorizing the executive branch to issue revenue anticipation notes within the timeline the proposed legislation contemplates would “supercede the authority of the Legislature.”

Senator Ray Fonseca suggested that there was an absence of transparency and accountability with WAPA. The senator highlighted uncertainty surrounding the company’s outstanding debts as well as the lack of a current audit. Fonseca maintained “we need to put our foot down. I feel like I’m being pushed into this.” According to the senator, while he fully supports relief measures for hurricanes and other projects, he takes issue with WAPA being lumped in.

Senator Javan James meanwhile, was one of the few senators who stood in full support of the bill. He noted that WAPA is a public not private entity and therefore steps must be taken to fix whatever issues exist. Senator Milton Potter said that while in its current form the bill presents some concerns, the expected amendments would hopefully make the bill more palatable to consider.

Senator Diane Capehart also noted that while she would not have supported the initial bill due to it being too vague and broad, it was later dissected by the senators and thus the Legislature would be voting on an amendment in the nature of a substitute. Her support of the line of credit legislation as amended, Ms. Capehart said, was buttressed by the earlier, unanimous passage of Bill 35-0061, which instructs the Inspector General to conduct an audit of WAPA and allocates \$250,000 for

that purpose.

During her time on the floor, Senator Donna Frett-Gregory expressed disbelief at the tenor of some of the previous debate and chided her colleagues who had been criticizing the bill as it had been initially written, arguing that it was gutted and subsequently amended collectively by lawmakers to ensure protection for the territory's money. Those protections, said Ms. Frett-Gregory, included mandating that WAPA hire a turnaround management company and provide regular reports. According to Frett-Gregory, the onus would be put on the executive branch to get and manage the turnaround company. WAPA would not be allowed to make any new hires until that company is in place, according to the amendment.

Although he thanked his colleagues who had put in the work to offer changes, Senator Gittens said that no amount of amendments would have been able to secure his vote. "We need to bring them people back here, and make sure we get the answers for the people of this territory who we're working on behalf of." He spent his two minutes largely railing against Governor Bryan's [claims](#) that he, specifically, and the legislative branch generally, had failed to provide solutions for WAPA's woes. Once again, he cited a raft of bills to bring more oversight and transparency to the utility that were passed in previous legislatures and vetoed by the governor — including the re-introduced attempt to have WAPA's affairs subjected to a thorough audit. Rebutting the governor's argument that a new management team was evidence that the company was on a path to reform, Mr. Gittens said, "We see still that who's there sitting, still allowing the same foolishness to happen...and it ain't happening with our people neither." The senator argued that WAPA needed more than money to fix it. "Until there's a fundamental change at WAPA, there will be no change at all."

Senator Carla Joseph acknowledged her colleague's perspective but said that the heavily amended bill was necessary to avoid causing suffering for Virgin Islanders. "I can't put people at risk of blackouts," she said. Referring to the description of the amended legislation by Ms. Frett-Gregory, Ms. Joseph went further, saying that the amendment would essentially place WAPA into receivership. "This is nothing that is abnormal for power authorities, to have that level of scrutiny to turn around," she said, citing an example from the state of Washington. Ms. Joseph also noted that a similar reform had been made for the V.I. Housing Authority.

"I've been involved in many, many, many controversial decisions since I've been here as a senator and you know what? I've not been wrong once. Not once!" That was Senator Blyden as he indicated his favorable vote for the substitute legislation. He noted that an additional provision of the amendment was a directive to establish the credit facility with a local bank, ensuring the money remains in the local community.

Wrapping up debate on the issue, Senate President Novelle Francis said that the amendment as offered was the legislative branch's best effort, and argued that the best way forward would be to take the opportunity to sever the relationship between WAPA and Vitol. "That's the answer as we move forward – let's get out of this bad marriage."

As Sen. Joseph was beginning to recite the language of the amendment that, as previously indicated was materially and substantially different from the draft legislation that had been initially introduced, Sen. Frett-Gregory interrupted her colleague to move that the text not be read out. Despite the objections of a number of other senators, that motion passed.

That was when Sen. Joseph rose on a point of privilege to make public the information that the amended bill would cap the credit facility at \$100 million instead of the requested \$150 million.

“We really worked collaboratively across the lines here to actually gut the initial bill that the governor sent down.”

The final vote on the amended bill was 11 in favor to 4 against – Senators De Graff, Heyliger, Gittens, and Johnson withheld their support.

In a statement following the amended bill's passage Friday night, Mr. Bryan thanked lawmakers for approving several of his nominees for various positions in government, however he did not speak to the amended bill's passage, leaving ambiguity as to whether the governor would sign the measure into law.

“I want to thank the members of the 35th Legislature for their vote of confidence Friday in confirming the outstanding Virgin Islanders chosen by our Administration to serve in the crucial positions to which I had the privilege of nominating them,” he said. “We have made significant progress over the last four years, but there is still work to do, and I believe wholeheartedly that, as Virgin Islanders, there is no issue too difficult or problem too complicated to solve once we come together. And, so I thank the members of the 35th Legislature for their due diligence and willingness to work with our Administration toward resolving those issues.”

It is also unclear what the current status is of the settlement between the utility company and the builder of its propane infrastructure.