

Committee on Resources

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NIKOLAO PULA, ACTING DEPUTY ASSISTANT SECRETARY OF THE INTERIOR FOR INSULAR AFFAIRS

BEFORE THE
HOUSE COMMITTEE ON RESOURCES
REGARDING
H.R. 3589, TO CREATE THE OFFICE OF CHIEF FINANCIAL OFFICER OF THE GOVERNMENT
OF THE VIRGIN ISLANDS

June 16, 2004

Mr. Chairman and Members of the Committee on Resources, I am pleased to appear before you today to discuss H.R. 3589, a bill "to create the Office of Chief Financial Officer of the Government of the Virgin Islands." I am Nikolao Pula, Acting Deputy Assistant Secretary of the Interior for Insular Affairs.

To begin with , compliments are in order for Congresswoman Donna Christensen for the great courage she has shown in bringing into focus the need for a solution to the periodic fiscal crises faced by the Virgin Islands.

The fiscal problems faced by the Virgin Islands are significant. It is difficult for any government to labor under heavy debt. But we all must decide among priorities and make difficult choices. As a self-governing entity, the Government of the Virgin Islands should take action to resolve its fiscal problems.

The issue of self-government is of great concern to the people of the Virgin Islands, but equally so for the Department of the Interior (Department). For many decades, Interior officials has sought to continually increase self-government for the United States territories. We believe it important that self-government be preserved, and that all problems, including fiscal problems, be fully considered within the local territorial government before turning to the outside for help.

H.R. 3589 would establish a Chief Financial Officer (CFO) who would take over the duties of the Director of the Virgin Islands Office of Management and Budget. A seven-member CFO search commission would be appointed, one each, by the following Virgin Islands persons or entities: the Governor, the President of the Legislature, the Central Labor Council, the Chambers of Commerce of St.Thomas-St. John and St. Croix, the President of the University, the Chief Judge of the Territorial Court, and the At-Large Member of the Legislature. Within 60 days, the commission would provide the Governor with three nominees from which he would appoint the CFO with the advice and consent of the Virgin Islands Legislature. If the commission does not provide the requisite list of nominees within 60 days, the Secretary of the Interior would be obligated to do so within a subsequent 30 days. Also, if a CFO has not been appointed and confirmed within 180 days, the Secretary of the Interior would be obligated to appoint an acting CFO. Additionally, the bill would require Interior to purchase for the Virgin Islands a new financial management system, including computer hardware and software.

In accompanying comments on introduction of the H.R. 3589, Congresswoman Christensen states that the "CFO will be empowered to oversee and approve all spending of the government of the Virgin Islands and be authorized by law to disapprove items of spending which would send the government into financial deficit."

Regarding the mandate for Interior to purchase a financial management system in section 3, the Department has concerns. First, the cost of such a system could be considerable and has not been assumed in current budget estimates. Second, the timeline of providing a system within a year appears unrealistic. Third, and most importantly, as a self-government entity, it is the responsibility of the Virgin Islands to develop and fund its own financial management system.

With more specific regard to the CFO provisions of the bill, the Revised Organic Act of the Virgin Islands

established a republican form of government with three branches: legislative, executive and judicial. Elected by the voters of the Virgin Islands, the Governor heads the executive branch. Virgin Islands law provides that the Director of the Virgin Islands OMB serves at the pleasure to the Governor. This provision ensures that the Director carries out the policies of the Governor.

By giving the duties of the Director of the Virgin Islands OMB to the CFO and setting a five-year term of office, the CFO, no longer beholden to the Governor, will likely have priorities that are not consistent with the Governor's policies. Thus, appointment of a CFO under the provisions of H.R. 3589 will likely conflict with the goals of the system of government established in the Revised Organic Act. Only under extraordinary circumstances, would the Department of the Interior suggest that institutions of self-government be bypassed to address fiscal concerns.

If, however, the Congress determines that the fiscal problems are beyond internal solution by the Government of the Virgin Islands, options are available that have been successfully utilized by others. These options should be analyzed with an eye toward preserving the integrity of the Revised Organic Act and to minimize intrusion into local self-government. Before we discuss other possible options, I wish to repeat: the Department of the Interior favors the Virgin Islands' exercise of its self-government prerogatives to solve, internally, any fiscal problems it may have.

One option is to place a balanced budget provision in the government's foundation document: a constitution, in the case of a state; the Revised Organic Act, in the case of the Virgin Islands. There is an important difference between amending a constitution and an organic act. A constitutional amendment for any jurisdiction is given effect by the people of that jurisdiction; an amendment to the Virgin Islands Revised Organic Act would have to be effected by the U.S. Congress, which includes no voting member from the U.S. Virgin Islands.

Maryland and Hawaii are examples of jurisdictions that have balanced budget provisions in their respective constitutions. The benefit of a constitutional requirement for a balanced budget is that all decisions are made by the government in question. Self-government remains intact. However, the constitutional requirement must also be enforced.

American Samoa also has a constitutional provision requiring a balanced budget, together with an antideficiency statute. However, American Samoa has lacked enforcement, with the result that its debt has ballooned for years. Recently, however, the debt was paid down by utilizing the Federal tobacco settlement loan and hurricane insurance payments. Long-term, however, governments cannot be run on a hope for a windfall.

The management culture of a state government is as important as the legal requirement. In examining the experiences of Maryland, Hawaii and American Samoa, we see that a constitutional provision can be either effective or ineffective in dealing with budget issues, depending on whether it is enforced.

Still another option is a control board, as was used in Washington, D.C. to pull it out of its fiscal crisis in the 1990s. To assist Washington, Congress passed Public Law 104-8, the District of Columbia Financial Responsibility and Management Assistance Act of 1995. Under the complex 57-page act, the President appointed the five-member control board. The control board was granted virtually total authority over municipal finances and city government, concentrating on reducing the municipal workforce, paring services and programs, stimulating the economy, taking over of the school system and ordering the new school board of trustees to carry out specific school policies.

The Washington, D.C. control board was very successful in achieving balanced budgets. The city is still financially stable. There was great cost, however, in that self-government was virtually suspended. Nearly every decision of elected city officials could be over-ridden by the control board.

Finally, a third approach proved successful in turning back deficit financing in Palau. An uncomplicated system was implemented through which each category of revenue (e.g., income taxes, corporate taxes, license fees, etc.) was analyzed by an outside entity to make sure that it was within its historic three-year trend line, and a total revenue figure was confirmed by that entity. Spending was then capped at the confirmed total revenue figure. All decisions on spending priorities remained with the local government and there was virtually no administrative cost in implementing this procedure..

Congresswoman Donna Christensen said in a statement accompanying the introduction of H.R. 3589, “. . .

(H)istory informs that the necessary political resolve to put measures in place to address these problems . . . is best found and sustained outside of the political process.” If it is determined that debt is a problem that cannot be remedied within the existing parameters of local government, then uncomplicated, tested, and realistic solutions are available that can minimize interference with territorial self-government. In noting these options, we have endeavored to be helpful and stimulate discussion.

Mr. Chairman, while we laud the proposed legislation’s focus on solving the Virgin Islands’ fiscal management problems, we favor solutions to fiscal problems that are developed internally by the Government of the Virgin Islands.