

COMMITTEE ON GOVERNMENT OPERATIONS
AND CONSUMER PROTECTION

BILL NO. 34-0080

Thirty-Fourth Legislature of the Virgin Islands

July 9, 2021

An Act providing for the Legislature to hire a special investigator to conduct an investigation of the Virgin Islands Water and Power Authority and making an appropriation of \$250,000 to the Legislature of the Virgin Islands to pay for the services of the special investigator

PROPOSED BY: Senator Kenneth L. Gittens

1 *Be it enacted by the Legislature of the Virgin Islands:*

2 **SECTION 1.** The Legislature, by Resolution, shall select a special investigator,
3 authorized to practice law in the Virgin Islands, to investigate the following matters at the
4 Virgin Islands Water and Power Authority from fiscal years 2000-2021:

- 5 (1) billing practices;
- 6 (2) unlawful or unauthorized contracts and leases;
- 7 (3) credit card usage;
- 8 (4) equipment sales;
- 9 (5) Compliance with procurement laws;
- 10 (6) audit reviews;
- 11 (7) conflicts of interest; and
- 12 (8) nepotism.

1 **SECTION 2.** (a) The sum of 250,000 is appropriated in the fiscal year ending
2 September 30, 2021, from the General Fund to the Legislature of the Virgin Islands to pay for
3 the services of the special investigator selected in section 1.

4 (b) The sum appropriated in subsection (a) remains available until expended.

5 **SECTION 3.** (a) The special investigator may appoint additional personnel as the
6 special investigator considers necessary and appropriate.

7 (b) Not later than 30 days after being retained, the special investigator shall submit
8 to the Legislature a detailed budget for the investigator's services.

9 (c) Upon the request of the special investigator, the head of any government
10 department, agency, autonomous or semi-autonomous instrumentality ("Agency") may select
11 any of the personnel of the Agency to assist the special investigator in carrying out the
12 investigator's duties under this section.

13 (d) The special investigator may secure directly from any Agency, information
14 necessary to enable the special investigator to carry out the investigator's duties. Upon the
15 request of the special investigator, the head of the Agency shall furnish the requested
16 information to the special investigator.

17 (e) The special investigator may issue subpoenas requiring the attendance and
18 testimony of witnesses and the production of any evidence relating to any matter that the special
19 investigator is empowered to investigate under this section.

20 (f) The special investigator shall provide the President of the Legislature with a
21 progress report every 90 days until the investigation is complete and shall complete and submit
22 the investigation report to the President of the Legislature not later than 12 months after the
23 special investigator is retained.

1 (g) The President of the Legislature shall provide a copy of all progress reports and
2 the investigation report to all Senators not later than five days after receipt of the reports.

3 **SECTION 4.** Not later than 30 days after the investigation report is received by the
4 Legislature, the Legislature shall provide a copy of the report to the Attorney General of the
5 Virgin Islands or the U.S. Attorney to review and determine whether there have been any
6 violations of local or federal law and to prosecute any unlawful actions.

7 **BILL SUMMARY**
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9 This bill provides for the Legislature of the Virgin Islands to select a special investigator
10 to investigate the following matters at the Virgin Islands Water and Power Authority for fiscal
11 years 2000-2021: billing practices, unlawful or unauthorized contract and leases; credit card
12 usage; and equipment sales, compliance with procurement laws, audit reviews, conflicts of
13 interest, and nepotism. The bill makes an appropriation of \$250,000 from the General Fund to
14 the Legislature to pay for the services of the special investigator; authorizes the special
15 investigator to appoint additional personnel; requires the special investigator to submit to the
16 Legislature a detailed budget for the investigator's services; gives the special investigator the
17 power to issue subpoenas; requires the executive branch to cooperate with, and to provide any
18 information requested by, the special investigator; requires the special investigator to provide
19 progress reports every three months to the President of the Legislature ("President"); requires
20 that the investigation be completed not later than 12 months after the special investigator is
21 retained; requires the President to provide copies of all progress reports and the investigation
22 report to all Senators; and requires the Legislature to provide a copy of the investigation report
23 to the Attorney General or the U.S. Attorney to review and determine whether there have been
24 any violations of local or federal law and to prosecute any unlawful actions.

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26 **BR21-0403/ June 09, 2021/GC**
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REVIEWER'S NOTE

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2 The inherent power of the Legislature to investigate is extensive, extending to
3 probes into departments and instrumentalities of the Government to expose inefficiency,
4 waste and corruption in furtherance of a legislative purpose. Because the legislative
5 power to investigate is “justified solely as an adjunct to the legislative process”, the
6 investigative powers of the Legislature are not without certain limitations. *Watkins v*
7 *United States*, 354 U.S. 178, 197(1957) (Contempt of Congress conviction vacated because
8 investigation was outside legitimate legislative purpose). A legislature does not have the
9 power to expose corruption for the sake of exposure, although the public is entitled to be
10 informed concerning the workings of its government. *Id.* at 200. The investigation cannot
11 be an end. Nor may the investigation be used for punishment of those investigated or in
12 aid of law enforcement. This bill does not appear to be related to a valid, legislative
13 purpose. Rather, the gravamen of the investigation appears to be for the exposure of
14 illegal conduct in aid of law enforcement. The previous draft of this bill, which involved
15 actions by the Committee on Finance, projected that it was related to and in furtherance
16 of a legitimate task of the Legislature. Legislative investigations are limited to acquiring
17 certain information to be used by the Legislature in coping with the problem that falls
18 within the legislative sphere. *Id.* at 206. An investigation that itself is an end or has as its
19 gravamen the submission of the independent investigator’s report to the U. S. Attorney
20 or the Attorney General for possible prosecution is not in the furtherance of a valid
21 legislative purpose.