

# TESTIMONY

**BEFORE THE LEGISLATURE OF THE VIRGIN ISLANDS**

**COMMITTEE ON RULES AND THE JUDICIARY**

**March 23, 2022**



**BILL NO. 34-0153**

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**SUPERVISOR OF ELECTIONS**

**ELECTION SYSTEM OF THE VIRGIN ISLANDS**

1 **INTRODUCTION**

2 Good afternoon, Honorable Chairman Milton E. Potter,  
3 distinguished members of the Committee on Rules and the  
4 Judiciary, other members of the 34th Legislature, members of the  
5 press, the viewing and listening audience. I am Caroline Fawkes,  
6 Supervisor of Elections. It is an honor to appear before you today to  
7 present on Bill No. 34-0153, An Act establishing the Sixth  
8 Constitutional Convention of the Virgin Islands; and providing for  
9 an appropriation to cover convention-related expenses.

10 The Elections System of the Virgin Islands support the elections  
11 timeline in this Bill.

12 First, I would like to share some background information on a  
13 Referendum. A government-initiated referendum can be held with a  
14 general election or a special election. The government must pass  
15 legislation to enable the referendum to be held. A government-  
16 initiated referendum can be binding or indicative (non-binding). A  
17 referendum can ask more than one question or have questions with  
18 more than two possible answers. On the General Election Ballot of  
19 November 3, 2020, there was a Referendum, from the 32<sup>nd</sup>  
20 Legislature. The question was, Are you in favor of the Legislature

21 enacting legislation to convene a constitutional convention to adapt  
22 the Revised Organic Act of the  
23 Virgin Islands, 68 Stat. 497, or portions of it as the Constitution of  
24 the Virgin Islands?

25 The results were as follows: 10,115 Voter's Participated in this  
26 Contest, Yes Votes – 7,275 and No Votes – 2,840. The required  
27 threshold was met, 50% plus 1%. Today, we are embarking on the  
28 next step by this Bill 34-0153.

29 The Board of Elections along with the Deputy Supervisors and  
30 myself, met on February 8, 2022, and March 4, 2022, Bill 34-0153  
31 was discussed, and the proposed recommendations were submitted  
32 to the Bill Sponsor, Senator Janelle K. Sarauw and Senator  
33 Genevieve R. Whitaker on March 10, 2022. We are not sure if any of  
34 those recommendations have been incorporated to date.

35 Therefore, I would like to share the proposed recommendations with  
36 this legislative body and the public.

37 On Page 1, General Section – Line 7 “WHEREAS, Congress and  
38 President Obama... “we recommend utilizing his official full name,  
39 especially for future references and historical purposes. It should  
40 read President Barack H. Obama.

41 On Page 6, Section 3 -Lines 14 & 15 -Any employee of the  
42 Government of the Virgin Islands who files a valid petition, as  
43 provided under section 4 (e) of this act, and becomes a candidate  
44 for delegate, must be granted a leave of absence without pay as may  
45 be required to campaign for a delegate seat:

46 Title 18, Chapter 1, Section 2.” Eligibility of government personnel  
47 for public office” - Persons employed in the legislative, executive or  
48 judicial branches of the Government of the United States Virgin  
49 Islands shall be eligible for nomination as candidates for public  
50 office but any such person who becomes a candidate for public  
51 office shall be granted and shall take a leave of absence from his  
52 governmental duties from the date of the filing of his nomination  
53 petition or paper until the date of the ensuing general election,  
54 unless the person is a candidate at a primary election who fails to  
55 be nominated, in which case the person's leave of absence may  
56 terminate immediately after the primary. Persons becoming  
57 candidates may use accrued annual leave in taking such leave of  
58 absence.

59 We recommend following this law for the Constitutional Delegates  
60 also, thereby ensuring a level playing field to all aspirants.

61 On Page 6, Section 3, line 5(b) “Petition” should be changed to  
62 “Papers”. Since that Contest on the ballot should not bear party  
63 symbols or emblems, the nomination documentation should be  
64 called “Papers”.

65 On Page 7, item (f) would need to be revised because it would be  
66 impossible to meet the common filing date if the bill is not signed  
67 into law. April 4 starts the Nomination Petition and Papers process,  
68 and the delegates would not be given the full opportunity.

69 Bill 34-0153 should clearly state that the Constitutional Convention  
70 Delegate Position is not a Public Office in accordance with Title 18,  
71 Chapter 1, Section -7: “Prohibition of dual candidacies” to avoid  
72 voters and aspirants’ wrongful interpretation of the law and avoid  
73 confusion.

74 The Elections System of the Virgin Islands (ESVI) is requesting that  
75 the appropriate funding be made available to inform and educate  
76 the public on the Nomination process for public offices and the  
77 delegates to the Constitutional Convention, prepare Nomination  
78 Paper packages for delegates, potential cost for an additional ballot,  
79 overtime, and any other cost relative to implementation of this bill.

80 ESVI is requesting an appropriation of-\$75,000.00 to address the  
81 items listed above for the Sixth Constitutional Convention.

82 Since the 2022 General Election Funds were not appropriated and  
83 would be considered in a Supplemental Budget, this funding  
84 requirement would be inclusive. The Elections System of the Virgin  
85 Islands is requesting \$450,000.00 to conduct the General Election.  
86 As per FY 2020, both the Primary and the General Election Budget  
87 was appropriated in FY 2019. The reason for this is the election  
88 cycle begins after Primary election and obtaining the funding in late  
89 October, would hamper our preparations and operations for the  
90 General Election.

91 Based on my historical analysis and for planning purposes, we  
92 must prepare for a Runoff Election, therefore an appropriation must  
93 be budgeted for that in the FY23 Budget.

94 We are prepared to conduct the Constitutional Constitution  
95 Delegate Election for the November 2022 General Election. Please  
96 bear in mind the Nomination Petition/Paper process begins in April  
97 and is completed on May 17, 2022, therefore, the timely passage of  
98 this Law is encouraged.

99 The 2022 Elections Event Calendar kicks off this afternoon at 5:30  
100 p.m. in the St. Croix Elections Office with the Nomination Petition  
101 and Papers training and tomorrow, Thursday, March 24<sup>th</sup> in the St.  
102 Thomas Elections Office.

103 In conclusion, Mr. Chairman, I thank you, Members of the  
104 Committee on Rules and Judiciary and other Members of the 34<sup>th</sup>  
105 Legislature for inviting me to present on Bill No. 34-0153, An Act  
106 establishing the Sixth Constitutional Convention of the Virgin  
107 Islands; and providing for an appropriation to cover convention-  
108 related expenses. I am prepared to respond to any questions you  
109 may have. Voting Is Not Your Right, It Is The Right Thing to Do!