TWENTY-THIRD LEGISLATURE OF THE VIRGIN ISLANDS
Territory of the Virgin Islands
REGULAR/SPECIAL SESSION 20 00
ROLL CALL

**Bill No.** 23 - 0238 **Date:** September 19, 2000

**Short Title:** To authroize the issuance of bonds, notes or other evidences of indebtedness of the Government of the Virgin Islands and the Virgin Islands Public Finance Authority and for other related purposes

## LEGISLATIVE HISTORY

(a) Introduced and sent to Committee on.................................Date.........................................
(b) Reported from Committee and sent to Rules on.........................................................
(c) Reported from Committee on Rules.........................................................................
(d) Recalled from Committee by Special Order...............................................................
(e) Adopted on.......................................................................................... Adopted 9/19/00
(f) Rejected on..........................................................................................
(g) Vetoed by Governor on............................................................................
(h) Reconsidered by Legislature and passed or rejected over Governor's Veto on.............................................

| MEMBERS | YEA | NAY | NOT VOTING | ABSENT |
|---|---|---|---|---|
| BENNERSON, Gregory A. | 1 | | | |
| BERRY, Lorraine L. | 2 | | | |
| BRYAN, Adelbert M. | | 1 | | |
| LE, Donald "Ducks" | 3 | | | |
| DAVID, Roosevelt St. C. | 4 | | | |
| DONASTORG, Adlah "Foncie" | 5 | | | |
| GOLDEN, Violet Anne | 6 | | | |
| GOMEZ, Judy M. | 7 | | | |
| GOODWIN, George E. | 8 | | | |
| HANSEN, Alicia "Chucky" | 9 | | | |
| JN. BAPTISTE, Norman | 10 | | | |
| JONES, David S. | 11 | | | |
| LIBURD, Almando "Rocky" | 12 | | | |
| PETRUS, Allie-Allison | 13 | | | |
| RICHARDS Vargrave A. | 14 | | | |

Certified true and correct

Glencia M. Steele
CLERK

09/01/00 – AMEMDED AND REPORTED OUT TO THE COMMITTEE ON RULES

# BILL NO. 23-0338

## Twenty-Third Legislature of the Virgin Islands of the United States

JUNE 23, 2000

To authorize the issuance of bonds, notes, or other evidences of indebtedness of the Government of the Virgin Islands and the Virgin Islands Public Finance Authority and for other related purposes

**PROPOSED BY:** Senators Roosevelt St. C. David, Lorraine L. Berry and David S. Jones, George E. Goodwin, Violet Anne Golden, Gregory A. Bennerson, Vargrave A. Richards, Almando "Rocky" Liburd and Donald "Ducks" Cole

WHEREAS, the Senate of the Virgin Islands has determined that there is an immediate need for highway, transportation and related improvements throughout the United States Virgin Islands (the "Territory") in order to provide for the health, safety, and welfare of its citizens and to promote employment and economic development within the Territory;

WHEREAS, the Senate has determined that the best way to accomplish such improvements expeditiously is through the issuance of federal highway grant anticipation revenue bonds to finance certain of such highway and transportation improvements; and

WHEREAS, the Senate has further determined that the bonds should be payable from certain designated revenues derived from federal highway assistance funding;

WHEREAS, the Senate is seeking to finance certain transportation projects for which the Government expects to receive federal grants pursuant to the National Highway System Designation Act of 1995, the Transportation Efficiency Act for the 21st Century and other federal programs; and

**WHEREAS,** in order to facilitate the Government's borrowing for transportation projects in anticipation of receiving such federal highway grants, the Authority intends to issue up to $75,000,000 aggregate principal amount of its bonds and, pursuant to a loan agreement, loan the proceeds thereof to the Government against delivery of a limited obligation loan note of the Government to fund certain transportation projects approved by the Government and the Federal Highways Administration as part of the Territorial Transportation Improvement Program or as otherwise eligible for federal funding, fund any necessary reserves in connection therewith and pay the related costs of issuance of such bonds; Now, Therefore;

**BE IT ENACTED** by the Legislature of the Virgin Islands:

SECTION 1. <u>Definitions</u>

The following terms, as used in this subchapter, shall have the meaning set forth in this section:

(1) "Additional Bonds" means additional bonds issued under a duly authorized supplement to the Indenture for the Bonds;

(2) "Bonds" means the "2000 Federal Highway Grant Anticipation Revenue Bonds" or "GARVEE Bonds", as authorized in this legislation;

(3) "Debt Service" means all amounts required for the payment of principal, interest on, and premium, if any, due with respect to the Bonds in any fiscal year along with all associated costs, including the fees and costs of paying agents and trustees, remarketing agent fees, credit enhancement cost, and other amounts necessary in connection with the Bonds;

(4) "Federal Aid Highway Funds" means funds or to be received from the federal government of the United States as federal highway assistance funding allocated to the Territory, including those available under the Transportation Equity Act for the 21st Century ("TEA-21") and the National Highway System Designation Act of 1995("NHS Act") and other federal programs;

(5) "Loan" means the debt obligations set forth in the loan documentation securing the Bonds, including the Loan Note, the loan agreement and other instruments;

(6) "Loan Note " means the note issued by the Government to the Authority evidencing the loan of the proceeds of the Bonds; and

(7) "Transportation Projects" means the transportation projects approved by the Government and the Federal Highways Administration as part of the Territorial Transportation Improvement Program or as otherwise eligible for federal funding.

SECTION 2. <u>Authorization to borrow on a limited obligation basis</u>

(a) The Authority is herby authorized to issue up to Seventy-five million dollars in an aggregate principal amount of the 2000 Federal Highway Grant Anticipation Revenue Bonds for the following purposes:

(i) to fund the Enighed Pond Port Project on St. John, the Red Hook Terminal Facility on St. Thomas and the Christiansted By-Pass Road on St. Croix and certain other Transportation Projects to be approved by the Legislature in accordance with applicable federal laws, including TEA-21 and the NHS Act, and other appropriate federal highway and transportation assistance laws; and

(ii) to allocate apportion of the proceeds of the Bonds to fund ten million dollars to pave roads of the Virgin Islands and any necessary reserves, capitalized interest, if any, and pay the cost of issuance of the Bonds and the Loan Note including any credit enhancement, therefore;

(b) The Government is hereby authorized to issue the Loan Note to the Authority and execute a loan agreement to evidence its obligation to issue the Bonds and execute the indenture and all other instruments and documents necessary to close and effectuate the contemplated Bonds transaction.

SECTION 3. Authority to pledge Federal Aid Highway Funds

(a) The Government is hereby authorized to pledge the Federal Aid Highway Funds in accordance with TEA-21 and the NHS Act and other federal highway programs for repayment of the Loan Note and the Bonds as is consistent with applicable federal laws.

(b) In connection with the issuance of the Bonds and in furtherance of the pledge of Federal Aid Highway Funds, the Government and the Authority are hereby authorized to execute one or more agreements or other instruments, under which, (i) all Federal Aid Highway Funds available for Debt Service shall be deposited into a special account known as the "Federal Transportation and Highways Grant Escrow Account" which account shall be held in the custody of a banking institution approved by the Government, and shall be held separate from any other funds or accounts of the Government or such banking institution, (ii) the Government shall pledge and assign to the Authority which in turn shall assign to a trustee on behalf of the holders of the Bonds (the "Trustee) or a banking institution serving as escrow agent for the benefit of such Trustee a first lien on and security interest in the Federal Transportation and Highway Grant Escrow Account, and (iii) such Trustee shall apply such funds to pay Debt Service when due under the applicable indenture or loan agreement and to fund the Transportation Projects.

(c) Any escrow agreement entered into by the Government or the Authority or both the Government and the Authority which provides for the deposit and administration of Federal Aid Highway Funds for the benefit of the holders of the Bonds shall be maintained for so long as any of the Bonds are outstanding.

(d) Notwithstanding any other law, rule or regulation to the contrary, upon deposit of the Federal Aid Highway Funds into the Federal Transportation and Highway Grant Escrow Account, such amounts so deposited shall not be subject to any lien or attachment by any creditor of the Government or the Authority or by any other person or entity other than the lien and security interest authorized herein.

SECTION 4. Covenant

In furtherance of the pledge of the Federal Aid Highway Funds to be utilized for Transportation Projects, the Government hereby covenants and agrees for the benefit of the Bonds, for so long as any Loan Notes and Bonds remain unpaid, to take necessary steps to ensure continued receipt of Federal highways and transportation assistance allocations, including Federal Aid Highway Funds for deposit into the Federal Transportation and Highways Grant Escrow Account. Further, the Government covenants that it will in each year, obligates or commits any Federal Aid Highway Funds for Transportation Projects. Neither the Government nor the Authority shall take any action that will impair the rights of the holders of the Loan Notes and Bonds, impair the right of the Government to receive appropriate Federal Aid Highway Funds, or use such Federal Aid Highway Funds for projects not authorized by federal law or regulations. The Government further covenants and agrees to remain in compliance with all applicable federal transportation laws and regulations, as they may be amended or modified from time to time.

SECTION 5. **Authorization to assign loan note and note agreement**

In connection with the issuance of the Bonds, the Authority is hereby authorized to assign to the Trustee, for the benefit of the holders of the Bonds, the Authority's rights and interest in and to the Loan authorized herein.

SECTION 6. **Authorization to execute all necessary agreements**

The Government, acting by the Governor, the Commissioner of Finance or other appropriate official, and the Authority, action by the Governor as chairman (or other member designated in the resolution of the Authority) are each herby authorized to (i) execute and deliver all documents and agreements necessary or advisable in connection with the issuance of the Bonds and Loans authorized herein, (ii) provide for the loan of the proceeds of the Bonds by the Authority to the Government as contemplated herein, and (iii) pay all expenses associated with the issuance of the Bonds and Loans authorized herein, including, without limitation, any costs or expenses required to be paid by or in relation to the Loan authorized herein.

SECTION 7. Interest rate and term

Neither the Bonds nor the Loan Note may bear interest in excess of nine percent (9%) per annum. The terms of the Bonds and the related Loan Notes may no exceed thirty (30) years.

SECTION 8. Purposes of the Public Finance Authority

Title 29, Section 916 Virgin Islands Code, is here by amended to read as follows: 916. The Legislature of the Virgin Islands hereby finds and declares that, due to a general decline in investor acceptance of securities of the Government of the Virgin Islands, a need exists for the creation of a public corporation as a government instrumentality having full powers to borrow money and issue it bonds and notes for the purpose of raising capital for essential public projects and creating programs which will serve the financing needs of the Unites States Virgin Islands over the next several decades, and to encourage economic development through the issuance of special obligations issued to finance a project for the benefit of private parties which special obligations are payable out of the revenues generated by the involved project and/or payable to the Authority by said private party. It is further declared that such purpose is a public purpose in all respects for the benefit of the United States Virgin Islands.

SECTION 9. Legislative approval

Title 29, Section 920, Virgin Islands Code, is hereby amended to read as follows:

§920. Notwithstanding any provision of this chapter to the contrary, except for any indebtedness involving special obligations issued to finance a project for the benefit of a private party, and payable out of the revenues generated by the involved project and/or payable to the Authority by said private party, the Authority shall be authorized to finance, to make loans for or otherwise to apply its funds only to those projects specifically approved and authorized by the Legislature of the Virgin Islands or any agency, instrumentality, commission, authority or political subdivision of the United States Virgin Islands.

## BILL SUMMARY

Section 1 of the bill sets forth certain definitions.

Section 2 of the bill authorizes the Public Finance Authority to issue Bonds for projects approved under certain federal laws. Section 3 authorizes the Government to pledge federal funds for repayment of the Loan. The NHS Act of 1995 and the TEA-21 allow for debt backed by Federal-aid transportation monies. It is the purpose of this legislation to accelerate completion of certain vital projects within the Territorial Transportation Improvement Program.

Section 4 sets forth a covenant to protect the interests of the bondholders and the Government. Section 5 authorizes the Authority to assign the Loan to the trustee for the benefit of the holders of the Bonds. Section 6 authorizes the execution of necessary documentation. Section 7 establishes an interest rate limitation of nine percent per annum on both the Bonds and the Loan. The term established for the Bonds and the Loan is up to 30 years.

Section 8 authorizes the Public Finance Authority to issue bonds to finance public/private capital projects which will promote economic development in the Territory.

Section 9 provides for Legislative approval of any public/private project to be financed by bonds issued by the Public Finance Authority.

2. In Section 2, page 3, line 20, after the word "Projects" insert "to be approved by the Legislature".

3. In Section 2, page 4, line 1, after the word "fund" insert "ten million dollars to pave roads of the Virgin Islands and.

BR00-1354a/ September 1, 2000/ SA:nb

Government of the U.S. Virgin Islands

# Preliminary List of Projects to be Advanced

[redacted]

| | |
|---|---|
| Enighed Pond Port (STJ) | $ 8.0 mm |
| Red Hook Ferry Terminal (STT) | 2.5 |
| Chrtistiansted Bypass (STX) | 4.0 |
| Mon Bijou Ghut (STT) STX | 2.4 |
| Islandwide Paving (STX, STJ, STT) | 15.0 |
| Scott Free Road (STT) | 10.0 |
| Christiansted Boardwalk - Phase II (STX) 32? | 2.0 |
| Roadway and Drainage Improvements Rt. 30 (ST_) | 4.0 |
| Roadway and Drainage Improvements Rt. 38 (ST_) STT | 4.0 |
| | $ 51.9 mm |

Liburd Amendment to.

Seconded Berry
Objection Bryan

TWENTY-THIRD LEGISLATURE OF THE VIRGIN ISLANDS
Territory of the Virgin Islands
REGULAR/~~SPECIAL~~ SESSION 2000
ROLL CALL

**Bill No.** 23-0238 **Date:** 9/19/00

**Short Title:**

## LEGISLATIVE HISTORY

(a) Introduced and sent to Committee on.................................Date.........................................

(b) Reported from Committee and sent to Rules on..................................................................

(c) Reported from Committee on Rules.............................................................................

(d) Recalled from Committee by Special Order...................................................................

(e) Adopted on........................................................................................................ Adopted 9/19/00

(f) Rejected on........................................................................................................

(g) Vetoed by Governor on.....................................................................................

(h) Reconsidered by Legislature and passed or rejected over Governor's Veto on........................................................................

| MEMBERS | YEA | NAY | NOT VOTING | ABSENT |
|---|---|---|---|---|
| BENNERSON, Gregory A. | 1 | | | |
| BERRY, Lorraine L. | 2 | | | |
| BRYAN, Adelbert M. | 3 | | | |
| [illegible]LE, Donald "Ducks" | 4 | | | |
| DAVID, Roosevelt St. C. | 5 | | | |
| DONASTORG, Adlah "Foncie" | 6 | | | |
| GOLDEN, Violet Anne | 7 | | | |
| GOMEZ, Judy M. | 8 | | | |
| GOODWIN, George E. | 9 | | | |
| HANSEN, Alicia "Chucky" | 10 | | | |
| JN. BAPTISTE, Norman | 11 | | | |
| JONES, David S. | | 1 | | |
| LIBURD, Almando "Rocky" | 12 | | | |
| PETRUS, Allie-Allison | 13 | | | |
| RICHARDS Vargrave A. | 14 | | | |

Certified true and correct

Glencia M. Oliver [signature]

CLERK

Amendment to Bill No. 35-0258

Offered by Senator Liburd

Pg 3

162

Bill No. 35-0258 is amended in the following instances;

1. Page 4, line 1, after "St. John" insert "- $8 million,";

2. Page 4, line 2, after "St. Thomas" insert "- $2.5 million,";

3. Page 4, line 2, after "St. Croix" insert "- $4 million";

4. Page 4, line 6, ~~[illegible]~~ after "fund" delete "ten" and insert in lieu thereof "fifteen";

5. Page 4, after line 9, insert a new item (iii) to read;

"(iii) to fund the ~~[illegible]~~ Mon Bijou Gut, St. Croix - $2.4 million, Scott Free Road, St. Thomas - $10 million, Christiansted, St. Croix - $2 million, Roadway and Drainage Improvements - St. Croix - $4 million + St. Thomas - $4 millio

1-83 - 162 - 9-19-80

18
36
2
16