

BILL NO. 35-0287

Thirty-Fifth Legislature of the Virgin Islands

June 20, 2024

An Act amending title 2 Virgin Islands Code, chapter 3, section 41 relating to the accrual of sick and annual leave for employees of the Legislature of the Virgin Islands and allowing employees who are separating from the service to receive a lump sum payment for accumulated and accrued annual leave

PROPOSED BY: Senator Novelle. E. Francis, Jr.

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 2 Virgin Islands Code, chapter 3, section 41 is amended in the following instances:

(a) Re-designate the introductory language as subsection (a), strike “Effective on and after April 10, 1961, all administrative and clerical” and insert “All full-time”, and strike “shall be” and insert “are”;

(b) Strike subsections (1) through (3) in their entirety and add the following new language:

“(1) 208 hours of annual leave with pay each calendar year, which are accrued at the rate of eight hours for each 80-hour biweekly pay period. Any unused annual leave in any year accumulates for succeeding years until it totals an amount not to exceed 480 hours. Except as provided in subsection (f), no money is paid in lieu of leave.

(2) Cumulative sick leave, with pay, at the rate of four hours for each 80-hour biweekly pay period. The President may approve advanced sick leave in an amount not

1 exceeding 1,440 hours, or 180 days. Sick leave that is not used accumulates for use in
2 succeeding years. Upon retirement, accumulated sick leave is applied in accordance with
3 3 V.I.C. § 731 or §770j, as applicable. There is no lump sum payment for accumulated
4 sick leave upon separation from employment or upon retirement.

5 (b) All part-time employees of the Legislature of the Virgin Islands are entitled to the
6 following leave benefits:

7 (1) 98.8 hours of annual leave with pay each calendar year, which are accrued at
8 the rate of 3.8 hours for each 38-hour biweekly pay period. Any unused annual leave in
9 any year accumulates for succeeding years until it totals an amount not to exceed 240
10 hours. Except as provided in subsection (f), no money is paid in lieu of annual leave.

11 (2) Cumulative sick leave, with pay, at the rate of 1.9 hours for each 38-hour
12 biweekly pay period. Sick leave which is not used by an employee accumulates for use
13 in succeeding years. There is no lump sum payment for accumulated sick leave upon
14 separation from employment or upon retirement.

15 (3) For purposes of this section, “part-time employee” means an employee who
16 works 38 or less hours biweekly.

17 (c) Any full-time employee who works less than 80 hours in a pay period and any part-
18 time employee who works less than 38 hours in a pay period, will accrue prorated sick and
19 annual leave.

20 (d) Every effort must be made to allow annual leave when requested, but department
21 heads have the discretion when granting annual leave.

22 (e) A full-time employee who has accrued annual leave at the end of the calendar year
23 that is in excess of 480 hours, is entitled to a service credit towards the employee’s service
24 retirement annuity.

25 (f) (1) Any full-time employee who is separated from the service of the Legislature is
26 entitled to be paid a lump sum for all accumulated annual leave not to exceed 480 hours and

1 all current accrued annual leave as defined in paragraph (3). Any part-time employee who is
2 separated from the service of the Legislature is entitled to be paid a lump sum for all
3 accumulated annual leave not to exceed 240 hours and all current accrued annual leave as
4 defined in paragraph (3). The lump-sum payment must equal the compensation that the
5 employee would have received had the employee remained in the service of the Legislature.

6 (2) Except for purposes of taxation, the lump-sum payment authorized in
7 paragraph (1) is not salary or compensation and is not subject to retirement deductions.

8 (3) For purposes of this subsection, as it pertains to full-time employees, “current
9 accrued annual leave” means annual leave accrued during a calendar year through
10 January 31st of the succeeding calendar year that is in excess of 480 hours. As it pertains
11 to part-time employees, “current accrued annual leave” means annual leave accrued
12 during a calendar year through January 31st of the succeeding calendar year that is in
13 excess of 240 hours.”

14 **BILL SUMMARY**

15 The bill amends title 2 Virgin Islands Code, chapter 3, section 41 by making technical
16 amendments and by allowing all full-time employees of the Legislature of the Virgin Islands
17 to accrue annual and sick leave. Current law allows only administrative and clerical employees
18 to accrue sick and annual leave. The bill also reduces, in conformance with the status quo, the
19 accrual of sick leave hours for full-time employees, from 10 hours per month to 4 hours for
20 each full biweekly pay period, and provides for the accrual of leave benefits for part-time
21 employees which is defined as an employee who works 38 biweekly hours, with annual leave
22 to accrue at the rate of 3.8 hours and sick leave to accrue at the rate of 1.9 hours for each
23 biweekly pay period. Finally, the bill allows an employee who is separated from the service
24 of the legislature, to receive a lump sum payment for accumulated annual leave not exceeding
25 480 hours in addition to all current accrued annual leave. As it pertains to full-time employees,
26 “current accrued annual leave” means unused annual leave that is accrued during a calendar

1 year through January 31st of the succeeding calendar year that is in excess of 480 hours, and as
2 it pertains to part-time employees, “current accrued annual leave” means unused annual leave
3 that is accrued during a calendar year through January 31st of the succeeding calendar year that
4 is in excess of 240 hours. There are no provisions under the current law for legislature
5 employees who are separating from the service, to receive a lump sum payout for accumulated
6 leave or accrued leave. The law that provided for this type of payout was rewritten in 1999 by
7 Act No. 6333 which deleted 2 V.I.C. § 41(3) in its entirety and inserted the existing subsection
8 (3) without any mention of the previous language providing for the lump sum payment. The
9 existing subsection (3) only provides for service credits, for retirement purposes, for annual
10 leave exceeding 60 days. The language added to section 41 is similar to the language in 3
11 V.I.C. § 587 which allows for lump sum annual leave payouts for employees who are
12 separating from the executive branch. Specifically, section 587 allows executive branch
13 employees to receive a lump sum payment for all unused annual leave in an amount not to
14 exceed 60 days, in addition to unused annual leave accrued through December 31st that is in
15 excess of 60 days. This bill extends the December 31st cutoff date for accrued leave for lump
16 sum payout purposes, to January 31st of the succeeding calendar year to encourage employees
17 who are planning to separate from the service of the legislature, to remain employed through
18 January 31st of the succeeding calendar year to assist with the transition process between
19 legislative terms.

20 **BR24-1048/June 13, 2024/GC**