BILL NO. 36-0132

Thirty-Sixth Legislature of the Virgin Islands

August 26, 2025

An act amending title 3 Virgin Islands Code, chapter 27 by enacting the "Public Corruption Act" providing for the suspension of retirement benefits of government officials and employees, who are members of the Government Employees Retirement System, upon the conviction of any felony violating public trust, and applying those benefits toward the costs of imprisonment and restitution

PROPOSED BY: Senator Kenneth L. Gittens

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 3 Virgin Islands Code is amended in the following instances:

(a) Chapter 27 is amended by adding the following section 724a:

"§ 724a. **Public Corruption**

This Act shall be known and may be cited as the "Public Corruption Act."

(a) **Definitions**. For purposes of this section, the following terms and phrases have the following meanings:

(1) "an offense that violates the public trust" means any applicable offense enumerated in title 14 Virgin Islands Code, chapters 11, 15, 19, 21, 22, 25, 27, 29, 30, 35, 37, 39, 41, 44, 45, 55, 57, 59, 69, 75, 77, 83, 89, 93, 105, 110, and 117, or any of the applicable offenses enumerated in 5 USC § 8332(o)(2)(B).

(2) "convicted" means an individual found guilty of a criminal offense by a court of competent jurisdiction, following a trial or a plea of guilty or no contest.

(3) "cost of imprisonment" means the expenses incurred by the Government of the Virgin Islands for incarcerating an individual, including housing, food, medical care, and other associated costs.

(4) "final conviction" means a conviction: (A) that has not been appealed or is no longer appealable because the time for taking an appeal has expired; or (B) that has been appealed and the appeal process has been completed.

(5) "government employee" means any individual who is employed by the Government of the Virgin Islands or any autonomous or semi-autonomous agency of the Government of the Virgin Islands.

(6) "government official" means any individual who is elected or appointed to office, who are members of the Government Employees Retirement System ("GERS") including senator, appointed head of a department, agency or instrumentality of the government, commissioner, assistant commissioner, deputy commissioner, director, assistant director, judge, and magistrate.

(7) "public trust" refers to the fiduciary responsibility and ethical conduct expected of government employees in the execution of their duties.

(8) "restitution" refers to the payment made to compensate for losses or damages caused by criminal conduct, as ordered by a court.

(9) "retirement benefits" means any government employees retirement system pension, annuity, or other retirement income or benefits provided to government officials and employees because of their employment.

(b) Notwithstanding title 3 Virgin Islands Code §§ 701 — 741, any government employee or public official forfeits any retirement benefits accrued during their tenure or employment upon a guilty plea, a plea of no contest, or upon a final conviction in any court in the Virgin Islands, or any federal or state court in the United States, for an offense that violates the public trust when:

(1) The offense occurs while the individual is currently an employee of the government or a public official; and

(2) The elements of the offense relate directly to the performance of the individual's duties as an employee of the government or public official.

(c) Contributions made to GERS must be first applied towards any restitution that must be paid, and the remainder, if any, if the government employee or public official is incarcerated, must be deposited into the Correctional Facilities Repair and Renovation Fund established pursuant to title 33 Virgin Islands Code, section 3075. If the government employee or public official has not been incarcerated, then the remainder of the government employee's or public official's retirement contributions must be applied to the unfunded liability of GERS.

(d) **Withholding of Retirement Benefits**

(1) *Eligibility for Withholding*. Retirement benefits of a government employee convicted of a felony involving breach of public trust shall be subject to withholding as prescribed in this chapter.

(2) *Determination of Withholding*. Upon conviction, the court shall notify GERS to suspend or withhold the retirement benefits of the convicted individual.

(3) *Amount to be Withheld*. The amount withheld shall be determined based on the cost of imprisonment, restitution owed, and any other financial obligations imposed by the court.

(e) **Application of Withheld Benefits**

(1) *Cost of Imprisonment.* Withheld retirement benefits may be used to cover the cost of imprisonment as determined by the Bureau of Corrections.

(2) *Restitution*. Withheld benefits shall be applied to satisfy any restitution ordered by the court, in accordance with the prioritization established by the court.

(3) *Excess Funds*. Any funds remaining after covering the cost of imprisonment and restitution shall be held in reserve and may be returned to the individual upon completion of their sentence and fulfillment of restitution obligations.

(f) **Administrative Procedures**

(1) *Pension Fund Notification*. The court shall notify GERS of the conviction and the order to withhold benefits.

(2) *Appeal Process*. The convicted individual may appeal the withholding order within thirty days of notification. The GERS Board of Trustees shall review the appeal.

(3) *Review and Adjustment*. The GERS shall review the amount withheld periodically to ensure that it reflects any changes in the cost of imprisonment, restitution obligations, or other relevant factors.

(g) **Reporting and Accountability**

(1) *Annual Report*. The GERS shall submit an annual report to the President of the Legislature detailing the number of cases, amounts withheld, costs of imprisonment covered, and restitution applied.

(2) *Audit*. The Virgin Islands Inspector General shall conduct an independent audit every two years to ensure compliance with this act and the proper application of withheld benefits.

BILL SUMMARY

This bill amends title 3, chapter 27 of the Virgin Islands Code by providing for the suspension of retirement benefits of government employees or public officials upon the final conviction of specified felonies and outlines the key elements of the “Public Corruption Act”, including definitions, procedures for withholding and applying retirement benefits, administrative processes. and reporting requirements. It is designed to ensure that government officials and employees convicted of crimes involving a breach of public trust face appropriate financial consequences.

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