Authorization to Issue Government Bonds

Virgin Islands

1976
PUBLIC LAW 94-392 [H.R. 13359]; Aug. 19, 1976

AUTHORIZED TO ISSUE GOVERNMENT BONDS—VIRGIN ISLANDS

An Act to authorize the government of the Virgin Islands to issue bonds in anticipation of revenue receipts and to authorize the guarantee of such bonds by the United States under specified conditions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in addition to the authority conferred by section 8(b) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1574(b)), the legislature of the government of the Virgin Islands is authorized to cause to be issued bonds or other obligations of such government in anticipation of revenues to be received under section 28(b) of such Act (48 U.S.C. 7552). The proceeds of such bonds or other obligations may be used for any purpose authorized by an act of the legislature. The legislature of the government of the Virgin Islands may initiate, by majority vote of the members, a binding referendum vote to approve or disapprove the amount of any such bond or other obligation and/or any purpose for which such bond or other obligation is authorized.

(b) The legislature of the government of the Virgin Islands may, in connection with any issue of bonds or other obligations authorized to be issued under subsection (a), the proceeds of which are to be used for public works or other capital projects, that a guarantee of such bonds or obligations by the United States should be applied for under section 2 of this Act.

(c) Except to the extent inconsistent with the provisions of this Act, the provisions of section 8(b)(ii) of the Revised Organic Act of the Virgin Islands (other than the limitation contained in the proviso to the first sentence of subparagraph (A)) shall apply to bonds and other obligations authorized to be issued under subsection (a).

Sec. 2. (a) When authorized under subsection (b) of the first section of this Act, the government of the Virgin Islands may apply to the Secretary of the Interior (hereinafter referred to as the "Secretary") for a guarantee of any issue of bonds or other obligations authorized to be issued under subsection (a) of the first section of this Act. Any such application shall contain such information as the Secretary may prescribe.

(b) The Secretary is authorized, with the approval of the Secretary of the Treasury, to guarantee and to enter into commitments to guarantee, upon such terms and conditions as he may prescribe, payment of principal and interest on bonds and other obligations issued by the government of the Virgin Islands under subsection (a) of the first section of this Act. No guarantee or commitment to guarantee shall be made unless the Secretary determines—

(1) that the proceeds of such issue will be used only for public works or other capital projects;

(2) taking into account anticipated expenditures by the government of the Virgin Islands while the bonds or other obligations forming a part of such issue will be outstanding, all outstanding obligations of the government of the Virgin Islands which will mature while the bonds or other obligations forming a part of such issue will be outstanding, and such other factors as he deems

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pertinent, that the revenues expected to be received under section 28(h) of the Revised Organic Act of the Virgin Islands will be sufficient to pay the principal of, and interest on, the bonds or other obligations forming a part of such issue;

(3) that credit is not otherwise available on reasonable terms and conditions and that there is reasonable assurance of repayment, and

(4) that the maturity of any obligations to be guaranteed does not exceed thirty years or 90 per centum of the useful life of the physical assets to be financed by the obligation, whichever is less as determined by the Secretary.

(c) The Secretary shall charge and collect fees in amounts sufficient in his judgment to cover the costs of administering this section. Fees collected under this subsection shall be deposited in the revolving fund created under subsection (g).

(d) Any guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation for such guarantee, and the validity of any guarantee so made shall be incontestable, except for fraud or material misrepresentation, in the hands of the holder of the guaranteed obligation. Such guarantee shall constitute a pledge of the full faith and credit of the United States for such obligation.

(e) The interest on any obligation guaranteed under this section shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1954.

(f) The aggregate principal amount of obligations which may be guaranteed under this Act shall not exceed $80,000,000. No commitment to guarantee shall be entered into under this Act after October 1, 1979.

(g)(1) There is hereby created within the Treasury a separate fund (hereinafter referred to as the "fund") which shall be available to the Secretary without fiscal year limitation as revolving fund for the purpose of this Act. A business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 192, 193, and 104 of the Government Corporation Control Act (31 U.S.C. 817-819)) for wholly owned Government corporations.

(2) All expenses, including reimbursements to other Government accounts, and payments pursuant to operations of the Secretary under this Act shall be paid from the fund. If at any time the Secretary determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

(3) If at any time the moneys available in the fund are insufficient to enable the Secretary to discharge his responsibilities under guarantees under this Act, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Secretary from appropriations which are hereby authorized for this purpose. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be less than the rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is author
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Sec. 1. The proceeds of the sale of any security issued under the Second Liberty Bond Act and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemp-
tions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

Sec. 2. The Secretary is authorized and directed to make grants to the government of the Virgin Islands for operation of such government in an amount not to exceed $8,500,000.

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Sec. 6. There are hereby authorized to be appropriated such sumsmay be necessary to carry out the provisions of this Act. Approved August 19, 1976.

Grants, 48 USC 1574a.

Income, ten per cent surtax levy.

Appropriation authorization, 48 USC 1574a note.

LEGISLATIVE HISTORY:

RESEARCH REPORT No. 94-1080 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (Comm. on Interior and Insular Affairs).

May 3, considered and passed House.

July 26, considered and passed Senate, amended.

Aug. 10, House concurred in Senate amendments.

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MAN of the National Archives Trust Fund Board, at the suggestion of
David N. Henderson, Chairman of the House Committee on Post
Office and Civil Service, "To amend section 2301 of title 44, United
States Code, to change the membership of the National Archives Trust
Fund Board."

Under the Rules of the House of Representatives adopted by the
94th Congress, the legislative jurisdiction of the National Archives
has been transferred to the House Committee on Government
Operations. Consequently, it would be appropriate to reconstruct the
membership of the National Archives Trust Fund Board by substituting
the Chairman of the House Committee on Government Operations
for the Chairman of the House Committee on Post Office and Civil
Service.

For reasons stated above, prompt favorable consideration of the
enclosed draft bill is recommended. The enactment of this proposed
legislation will not require the expenditure of additional Federal
funds.

The Office of Management and Budget has advised that, from the
standpoint of the Administration's program, there is no objection to
the submission of the proposed legislation to the Congress.

Sincerely,

ARTHUR F. SAMPSON,
Administrator.

Enclosure.

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AUTHORIZATION TO ISSUE GOVERNMENT BONDS—
VIRGIN ISLANDS

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House Report (Interior and Insular Affairs Committee) No. 94-1080,
Apr. 30, 1976 [To accompany H.R. 13359]

Senate Report (Interior and Insular Affairs Committee) No. 94-1021,
June 30, 1976 [To accompany H.R. 13359]

Cong. Record Vol. 122 (1976)

DATES OF CONSIDERATION AND PASSAGE

House May 3, August 10, 1976

Senate July 26, 1976

The Senate Report is set out.

SENATE REPORT NO. 94-1021

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The Committee on Interior and Insular Affairs, to which was re-
ferred the act (H.R. 13359) to authorize loan funds for the govern-
ment of the Virgin Islands, and for other purposes, having considered
the same, reports favorably thereon with an amendment to the title
and text and recommends that the act as amended do pass.

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Purpose

The purposes of H.R. 13329 are to enable the government of the Virgin Islands to raise sufficient funds for both operations of the government and its capital improvement program and to make grants to the Virgin Islands to alleviate the present fiscal crisis.

Background and Need

The economic crisis in the Virgin Islands has been precipitated by a sharp drop in tourism, the Virgin Islands' largest industry, triggered by the worldwide recession and local disturbances.

The situation was compounded by the Tax Reduction Act of 1975 (and its extension), with numerous tax reduction features which reduced the revenue available to the Virgin Islands Government.

The loss of revenues required a matching reduction in expenditures since the taxing authority and public indebtedness of the Virgin Islands is, by law, more greatly restricted than that of many states. It is clear that this legislation is necessary to stimulate the economy of the islands and allow the territory to balance the operating budget at an acceptable level of services by fiscal year 1979.

The impact of the Tax Reduction Act on the $100 million Virgin Islands budget is indicated in the following figures submitted by the Department of the Interior to the Committee prior to the full Committee markup:

Effect of Tax Reduction Act on Government of the Virgin Islands Revenues

I. In a study conducted in February 1976 based on a sampling of 2,000 tax returns, it was estimated that the following revenues were lost to the Government of the Virgin Islands during calendar year 1975 due to the effect of the Tax Reduction Act of 1975 (Public Law 94-12):

- Rebates on 1974 taxes: $2,693,000
- Changes in low income allowance and standard deduction: $1,511,000
- Credit for exemptions: $2,644,000
- Earned income credit: $1,690,000
- Changes in normal corporate taxes: $333,000
- Changes in corporate tax exemption from $25,000 to $25,000: $3,134,000
- Investment tax credit: $3,000,000

Total estimated loss for tax year January through December 1975: $12,770,000

II. The Tax Reduction Act of 1975 was extended by Public Law 94-144 until June 30, 1976 and is expected to be extended for another six months. Assuming that the earned income credit is maintained the Virgin Islands Government estimates that revenue losses for 1976 will remain the same as 1975 except that there will be no rebate.

- 1976 estimated revenue loss: $12,770,000
- Less rebates: $2,063,000

Total estimated loss for tax year January through December 1976: $10,707,000

III. Total estimated revenue loss for the Government of the Virgin Islands for 1976 and 1977 due to the Tax Reduction Act and its extensions: $22,880,000
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Since the federal income tax operates as a local territorial tax in the
Virgin Islands, not only were revenues reduced in the Virgin Islands,
but the Virgin Islands was required to cover the rebate provisions of
the Tax Reduction Act from its own treasury.

LEGISLATIVE HISTORY

H.R. 13359 passed the House on May 3, 1976, and was the subject of
a full Committee hearing on May 10. Similar bills had been introduced
in the Senate (S. 3357 at the request of the Administration and S. 3357
at the request of Congressman DeLago). The Committee considered
H.R. 13359 during a full Committee markup on June 23, and adopted
a substitute amendment proposed by Senator Johnston.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Interior and Insular Affairs, in open
business session on June 23, 1976, by unanimous vote of a quorum present
recommends that the Senate pass H.R. 13359, if amended as de-
scribed herein.

Senators voting to report the bill, as amended, were as follows:

Ayes
Jackson
Church
Metcalfe
Johnston

Nayes
Abourezk
Haskell
Stone
Bumpers

COMMITTEE AMENDMENTS

1. The Committee adopted a substitute text proposed by Senator
Johnston. The House passed measure would have provided loans to
the Virgin Islands in the amount of $15 million for operations and
$61 million for capital improvements.

The Committee decided that loans for operations were inappropriate
since the operations shortfall being experienced by the Virgin
Islands is due, in part, to actions of the federal government. A grant
was substituted as being a more equitable form of assistance.

The committee further believed that a loan guarantee approach
would reduce direct Federal involvement in the financing of capital
improvements and encourage fiscal responsibility.

The amendment, in brief, provides increased revenue bonding au-
thority to the Virgin Islands, authorizes a grant of $8.5 million to
compensate the Virgin Islands for the unexpected revenue loss occasioned
by the Tax Reduction Act, and allows the Virgin Islands to
institute a 10 percent surcharge on income taxes.

Section 1(a) of the amendment authorizes the legislature of the
Virgin Islands to cause to be issued bonds or other obligations in
anticipation of revenues to be received under section 28(b) of the
Revised Organic Act of the Virgin Islands.

Section 1(b) provides that the Virgin Islands may request a fed-
eral guarantee for such obligations.

Section 1(c) extends the present controls on bond issues contained in
section 8(b)(ii) of the Revised Organic Act except for the limita-

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tion that the public indebtedness may not exceed 10 percent of the aggregate assessed valuation of the taxable real property in the Virgin Islands, and other limitations inconsistent with this authority.

Section 2 sets forth the requirements for a federal guarantee of any bond issue. The section requires the Secretary of the Interior to determine that (1) the proceeds will be used only for capital projects; (2) that there will be sufficient revenues to cover the bond issue; (3) that credit is not otherwise available on reasonable terms; and (4) that the maturity of the obligation does not exceed the lesser of 30 years or 90 percent of the useful life of the project. The section further provides that the Secretary shall collect fees to cover administrative costs, that the guarantee is conclusive evidence of the eligibility of the obligation for the guarantee, that the interest on the guaranteed obligation will be subject to federal income tax, that the aggregate amount of guaranteed obligations may not exceed $61 million and that no guarantee may be entered into after October 1, 1976.

The section also establishes a revolving fund and authorizes the Secretary of the Interior to borrow from the Treasury in the event of default on a guaranteed obligation. The borrowing authority is necessary in order to assure investors of timely payment in the event of default.

Section 3 provides that any bond issued under this Act will have a priority on revenues derived from section 28 (b) of the Revised Organic Act for repayment and that of such bonds, any guaranteed issue will have first priority.

Section 4 directs the Secretary to make grants for operations to the Virgin Islands' government in an amount not to exceed $8.5 million.

Section 5 provides that the Virgin Islands legislature may institute a 10 percent income tax surcharge.

Section 6 authorizes the appropriation of such sums as may be necessary to carry out the provisions of this Act.

2. The title was changed to reflect the amendment.

COST AND BUDGETARY CONSIDERATIONS

The legislation contemplates an $8.5 million grant to the Virgin Islands. The timing of the grant will depend upon the submission of an appropriation request by the Administration. Loan guaranty authority of up to $61 million is provided subject to future appropriations action by the Congress.

EXECUTIVE COMMUNICATIONS

The pertinent legislative reports and communications received by the Committee from the Department of the Interior setting forth Executive Agency recommendations relating to H.R. 13359, are set forth below:

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., April 7, 1976.

Hon. Nelson A. Rockefeller,
President of the Senate,
Washington, D.C.

Dear Mr. President: Enclosed is a draft bill "To authorize loan funds for the Government of the Virgin Islands and for other purposes."

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We recommend that the bill be referred to the appropriate Committee for consideration and that it be enacted.

At present there is a fiscal crisis confronting the territorial Government of the Virgin Islands. This crisis is due to the decline of the economy and government revenue collection capability. Tourism—the largest industry and major contributor to the gross domestic product of the Virgin Islands—has declined over the past three years. This decline was caused by the worldwide recession, local disturbances, and the reduced attraction of the islands' freeport status. The latter was the result of the devaluation of the U.S. dollar and the lowering of tariff barriers on the mainland United States. The decline in tourism precipitated the reduction of public revenues from this industry.

In addition to this revenue decline, the Tax Reduction Act of 1975 (and the amendment which extended it) with its rebate provisions, negative income tax, liberalized investment credits, and other tax reduction features, further reduced the revenues available to the Virgin Islands Government.

The purpose of the Tax Reduction Acts was to stimulate the economy. While this was achieved in the continental United States, the Acts had the opposite result in the Virgin Islands.

In practice, under the Tax Reduction Acts, people would have more money to spend, which would improve the demand for goods and services. This would have a multiplier effect on the economy, and thus it would improve. Such was true in the United States. However, most of the goods and services in the Virgin Islands come from the continental United States. The new money in the Virgin Islands quickly went to the mainland without improving the Virgin Islands economy. Estimated losses of Virgin Islands Government revenues as a result of these Acts approximate $15 million.

The loss of government revenues meant a corresponding reduction in expenditures. Since the taxing authority and public indebtedness of the Virgin Islands is, by law, far more restricted than that of the U.S. Government or many States, the Virgin Islands cannot compensate for the loss of revenues.

At the beginning of fiscal year 1978 the revenues projected for the Government of the Virgin Islands exceeded $132 million. Proposed expenditures for government operating costs were equal to that amount. That revenue amount included $20 million in anticipated receipts from customs duties on petroleum products imported into the United States from the Virgin Islands. However, the Department of Justice has ruled that there is no legal authority in the U.S. to make these payments, and thus, they are not available. Actual receipts for the first half of fiscal year 1978 suggest maximum receipts of $92.5 million from all taxes, fees and fines, including moneys collected from hospital operations. Executive action such as reducing expenditures and increasing revenues yielded a balanced budget of $117.1 million.

This included the transfer into the operating budget of capital improvement funds in excess of $25 million, a severe curtailment of government services, and a personnel reduction of 346 employees. The government is the primary employer in the Virgin Islands and the rate of unemployment prior to the government layoff already exceeded 9% of the work force.
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In the areas of health and education these reductions have been most pronounced. The reductions in health personnel required reducing the number of hospital beds and limited the service capability of the Virgin Islands' two hospitals.

The schools are understaffed and over crowded. In 1970 the school system admitted all non-citizen (alien) school-age children legally residing in the Virgin Islands. The enrollment increase since then has been 58.3 percent, with a serious impact on education services.

To meet its service responsibilities to its citizens, the Government of the Virgin Islands has, from 1971 through 1975, deferred $31 million worth of capital improvement projects to make these moneys available for operating expenses. Without financial relief, an additional $30 million in capital projects will have to be deferred in fiscal years 1976 and 1977. This is a total of $61 million for the period fiscal years 1971 through 1977.

The Government of the Virgin Islands needs legislation and Federal assistance through loans to stimulate the economy. Such assistance will allow the territory to balance the operating budget at an acceptable level of services by fiscal year 1976.

The attached draft bill would deal with the effects of the Tax Reduction Acts and the deferred capital improvements projects. Section 1 would amend the Act of July 14, 1921, to authorize the Government of the Virgin Islands to levy a surtax, not to exceed 10%, on the future income taxes payable to the Government of the Virgin Islands. The 1921 Act provides that the income tax laws in force in the United States shall be likewise in force in the U.S. Virgin Islands, except that the proceeds of Virgin Islands taxes shall be paid into the Virgin Islands Treasury. This amendment would enable the Government of the Virgin Islands to respond to changes in the income tax laws of the United States. Along with the present estimated $31.5 million in revenues, the Virgin Islands expects to lose $5 million annually in future revenues under the Tax Reduction Acts.

Section 2 would authorize loans up to $15 million to supplement the operations budget of the Government of the Virgin Islands for their fiscal years 1977 and 1978. Their operating expenditures for fiscal year 1975 amounted to $117 million; fiscal year 1976 expenditures are projected at $177.1 million. The Government of the Virgin Islands has proposed an austerity budget of $118.6 million for fiscal year 1977 but estimates revenues at only $110.1 million. There is a shortfall of $8.5 million. Given the effects of inflation and past cuts in expenditures, government services are already at unacceptably low levels. A loan of $15 million would allow the balancing of local 1977 and 1978 budgets at acceptable levels of services. These loans for operations taken together with the economic recovery stimulated by the capital improvement program loans proposed in section 3 would result in increased revenue collections by the government. It would then be capable of balancing its fiscal year 1979 budget without further assistance.

Section 3 would authorize $61 million in loans to bring the Virgin Islands long-delayed capital improvement program up-to-date. How quickly these funds are requested for appropriation will depend upon review of proposals by the Government of the Virgin Islands, how-
ever the legislation would allow the funding to be spread out over five years. The Virgin Islands cannot borrow for non-revenue producing purposes under the Revised Organic Act of the Virgin Islands. Thus, if the capital improvement program is to be implemented at this time, the Virgin Islands will need a Federal loan.

Section 4 would provide the conditions and repayment provisions for the loans authorized pursuant to sections 2 and 3. Amortization of the loans would begin July 1, 1982 and be paid back over 10 years, with interest equal to the average yield of outstanding marketable obligations of the United States of comparable maturities. In our judgment, since funds will become available to the Virgin Islands through the expiration of certain industrial tax exemptions in 1978 and 1981, the government will be readily able to amortize any debt incurred through this provision. It is anticipated that after 1981 the

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Government of the Virgin Islands will benefit from up to $100 million annually in additional revenues due to the expiration of these exemptions.

Under section 5 of the draft bill, the Secretary would be able to place any stipulations he deems appropriate on the loans to the U.S. Virgin Islands.

The Office of Management and Budget has advised that there is no objection to the presentation of this legislative proposal from the standpoint of the Administration's program.

Sincerely yours,

JOHN KYL
Secretary of the Interior.

Enclosure.