

BILL NO. 29-0233

Twenty-Ninth Legislature Of The Virgin Islands

November 23, 2011

An Act amending title 3 Virgin Islands Code to add a new subsection creating “The Virgin Islands Government Transparency Act”

PROPOSED BY: Senator Nereida Rivera O’Reilly

1 *Be it enacted by the Legislature of the Virgin Islands:*

2 **SECTION 1.** Title 3, chapter 33, Virgin Islands Code is amended by inserting a new section
3 881a to read as follows:

4 “§ 881a. **Online access to information relating to public funds**

5 This section shall be known and may be cited as “The Virgin Islands Government Transparency
6 Act”.

7 (a) *Definitions.* As used in this section, the following terms shall have the following meanings:

8 (1) “*Agency*” means any department, office, board, commission, bureau, division, institutions or
9 institution of higher education. “*Agency*” specifically includes any authority created by an act of the
10 Legislature, including those authorities not receiving territorial tax revenue. This includes individual
11 agencies and programs, as well as those programs and activities that cross agency lines, and also

1 includes all elective offices in the Executive Branch of Government and the Legislative Branch of
2 Government.

3 (2) “*BIT*” means the Virgin Islands Bureau of Information Technology as established in 3 V.I.C.,
4 chapter 1.

5 (3) “*Entity*” or “*recipients(s)*” means any corporation, association, limited liability corporation,
6 limited liability partnership, or any other legal business entity. It shall also include any grantee or sub-
7 grantee, contractor or subcontractor, or any other government entity.

8 (4) “*Expected outcome*” includes, in relation to any tax exemption, tax credit, direct grant or
9 infrastructure assistance provided to a corporate or other business entity, the number and quality of jobs
10 to be created or retained, including wages and benefits, the date the job goals will be reached, the
11 estimated increase to the territory tax base, and whether the funded project involves the relocation of
12 jobs and if so how many and from where.

13 (5) “*Final outcome*” includes, in relation to any tax exemption, tax credit, direct grant or
14 infrastructure assistance provided to a corporate or other business entity, the number and quality of jobs
15 actually created or retained, including wages and benefits, and the actual increase to the Territory’s tax
16 base for the fiscal year in which the benefit was given; the outcomes achieved shall also include any
17 money recaptured from corporate subsidy recipients for failure to meet expected performance outcomes.

18 (6) “*Funding action or expenditure*” shall include details on the type of spending of both:

19 (A) appropriated expenditures, including but not limited to grants, contracts, and
20 appropriations; and

21 (B) tax expenditures, including but not limited to tax exemptions, waivers, and credits. This
22 shall include but not be limited to all tax exemptions, credits, direct grants, or infrastructure assistance
23 provided to any corporate or other business entity. Where possible, a hyperlink to the actual grants or
24 contracts shall be provided.

1 (7) “*Funding source*” means the account the expenditure is appropriated from.

2 (8) “*Searchable budget database website*” means a website that allows the public at no cost to
3 search for, obtain, and aggregate the information identified in subsection (b) of this section.

4 (9) “*State audit or report*” shall include any audit or report issued by the Virgin Islands Inspector
5 General, United States Inspector General, contracted private auditor, Legislative Post Auditor,
6 Legislative Committee, or Executive body relating to the past or current performance of the entity or
7 recipient of funds or the budget program, activity or agency which the Commissioner of Finance deems
8 as relevant.

9 (b) On or before January 1, 2012, the Bureau of Information Technology, as established in 3
10 V.I.C., chapter 1, shall establish and maintain an official internet website that is electronically
11 searchable by the public at no cost and that contains a comprehensive database of recipients and
12 expenditures of the Territory’s funds. The Bureau of Information Technology must present information
13 in the database in a manner that is intuitive to members of the general public, including graphical
14 representations.

15 (c) *Internet database; contents*

16 The internet database should include the following:

17 (1) The appropriation, expenditure or use of all public funds or federal funds or receipt of all
18 federal funds or public funds as defined in section 883 of this chapter;

19 (2) Annual government expenditures or funding actions provided to any entity, recipient or
20 agency, as determined by the Commissioner of Finance including the name and location of any such
21 entity, recipient or agency, the funding source, the amount of funds appropriated including tax
22 expenditures or other subsidies, the funding agency or authority, and a description of the purpose of the
23 funding action or expenditure. If the funding action or expenditure is a tax expenditure, information
24 about the expected outcome of such tax expenditure shall be included and information concerning the

1 final outcome shall be provided within 30 days from when it is reported to the appropriate agency before
2 transfer to the website;

3 (3) Bond debt payments and debt service including but not limited to amounts of bond interest
4 paid and sources of funds paid for individual bond issues;

5 (4) Local aid to each department including but not limited to amounts paid to individual units of
6 government for individually identifiable aid programs;

7 (5) Annual revenues, as determined by the Commissioner of Finance which shall include but not
8 be limited to:

9 (A) Receipts or deposits by any agency into funds established within the territory's treasury;

10 (B) Agency earnings, including but not limited to, amounts collected by each agency for
11 merchandise sold, services performed, licenses and permits issued, or regulation;

12 (C) Revenue for the use of money and property including, but not limited to, amounts
13 received for compensation for the use of government-owned money and property;

14 (D) Gifts, donations and federal grants including, but not limited to, amounts received from
15 public and private entities to aid in support of a specific function or other governmental activity; and

16 (E) Other revenue including, but not limited to, receipts not classified elsewhere.

17 (6) Annual bonded indebtedness which shall include, but not be limited to, the amount of the
18 total original obligation stated in terms of principal and interest, the term of the obligation, the source of
19 funding for repayment of the obligation, the amounts of principal and interest previously paid to reduce
20 the obligation, the balance remaining of the obligation, any refinancing of the obligation, and the cited
21 statutory authority to issue such bonds;

22 (7) A link to any local or federal audit or report; and

23 (8) Any other relevant information specified by the Commissioner of Finance.

1 (d) The searchable budget database website shall retain information for each fiscal year on the
2 single website for not less than 10 years and shall include data for the most recent fiscal years.

3 (e) The searchable budget database website shall have a link for each branch of government and
4 every governmental agency defined in section 883 of this chapter to include the Legislative branch of
5 Government.

6 (f) BIT shall update the searchable budget database website as new data becomes available. All
7 agencies shall provide to the BIT all data that is required to be included in the searchable budget
8 database website no later than 30 days after the data becomes available to the agency. BIT and the
9 Commissioner of Finance shall provide guidance to agency heads to ensure compliance with this
10 section.

11 (g) The searchable budget database website shall not include:

12 (1) Tax payments or refund data that includes confidential taxpayer information;

13 (2) Data relating to payments of “state” assistance to individual recipients;

14 (3) Payees’ addresses or telephone numbers, but the agencies may allow public access in the
15 database to information identifying the district which the payee is located;

16 (4) Work product in anticipation of litigation or information subject to attorney-client privilege;

17 (5) Any other information that is designated by law as confidential or preapproved as confidential
18 by the agency pursuant to rule. The agency and any officer or employee of the agency:

19 (A) may rely on a determination made by a budget unit regarding confidentiality of
20 information relating to the budget unit’s expenditures.

21 (B) are immune from civil liability for posting confidential information under this section if
22 the posting is in reliance on the budget unit’s determination relating to confidentiality.

23 (h) The Governor, Lieutenant Governor, all government agencies and the Legislature shall
24 include a link to the database under this section in their individual official websites. Each government

1 agency that maintains a generally accessible internet website, or for which a generally accessible
2 website is maintained, shall include a link on that website to the database under this section.

3 (i) Each government agency shall cooperate with the BIT as necessary to implement and
4 administer this website. Each government agency shall provide to the department any additional data in
5 a manner and schedule prescribed by the BIT that are required to be included in the database.

6 (j) BIT shall not be considered in compliance with this section if the data required for the
7 searchable budget database website is not available in a searchable and aggregate manner or if the public
8 is redirected by the searchable budget database website to other government websites, unless each of
9 those websites complies with the requirements of this section.

10 (k) Notwithstanding any law to the contrary, two or more violations of this section by a
11 governmental agency in any fiscal year upon the second or subsequent violation, subjects the
12 governmental agency to an audit of their budget and all expenditures by the U.S. Inspector General, the
13 Virgin Islands Inspector General or the Legislative Post Audit Division.”

14 **BILL SUMMARY**

15 Section 1 of this bill seeks to amend 3 V.I.C. by inserting a new §881a. which requires the
16 Bureau of Information Technology (BIT) to create an online searchable budget database website for all
17 governmental departments and agencies.

18 Internal §881a (a) sets forth the definitions used in the section.

19 Internal §881a (b) mandates the BIT to establish an official internet website that is electronically
20 searchable as it relates to recipients and expenditures of the Territory’s funds.

21 Internal §881a (c) outlines the required contents of the internet database.

22 Internal §881a (d) requires the information in the database be retained for 10 years.

23 Internal §881a (e) requires links for each branch of government and government agency.

1 Internal §881a (f) mandates the BIT to continuously update the database as new information
2 becomes available.

3 Internal §881a (g) outlines what information may not be included in the database.

4 Internal §881a (h) requires the Governor, Lieutenant Governor, all government agencies and the
5 Legislature to include a link to the database under this section in their individual official websites.

6 Internal §881a (i) requires each government agency to cooperate with the BIT to implement and
7 administer the database.

8 Internal §881a (j) outlines when the BIT shall not be considered in compliance with the section.

9 Internal §881a (k) outlines the penalty for two or more violations of the section.

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12 **BR 11-0704/ August 30, 2011/ PFA Revised by TF**

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