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BILL NO. 29-0320

GOVERNOR

TWENTY-NINTH LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2012

An Act amending title 24 Virgin Islands Code, chapter 10 relating to apprenticeship programs and their consistency with federal requirements, repealing sections 226, 232 and 233 of title 24, chapter 10, adding a new section to chapter 21 of title 29 providing an economic hardship package to small businesses, amending title 33 to permit the Government Employee Retirement System and the Virgin Islands Finance Authority to purchase certain properties attached for the nonpayment of taxes and public sewer system user fees, amending Act No. 7081 to reprogram \$200,000 to DPW to renovate the Pine Peace Recreational Facility, amending title 1 to mandate a notice period of 90 days for the submission of agreements needing ratification by the Legislature, amending section 715(a) of title 3 to permit the electing of the GERS Board members by both active and retired members of the GERS, waiving all interests and penalties levied on real property assessments for the property tax years of 2002 to 2010 for a six month period, amending title 12 to add certain definitions and providing that from the effective date of the section until January 1, 2021, the importation of electric vehicles and the lithium-ion batteries they use, hybrid vehicles, and other alternative fuel vehicles is exempt from the payment of customs duties and excise taxes, and amending section 4 of Act No. 7366 to add a section providing that the sum appropriated in that section shall remain available until expended, under the condition that the Board opens no less than four polling place in each district, providing one on St. John and for other purposes

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Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 24 Virgin Islands Code, chapter 10 is amended in the following instances:

(a) Section 221 is amended by striking all of the language in that section and inserting new language that reads as follows:

“When used in this chapter the term,

(1) “Apprentice” means a worker at least 16 years of age, except where a higher minimum age standard is otherwise fixed by law, who is employed to learn an apprenticeable occupation, as defined in section 230 (a) (6).

(2) "Apprentice Program" means a program approved and registered by the State Apprenticeship Agency for workers who are at least 16 years of age which operates under an approved plan containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, including such matters as the requirement for a written apprenticeship agreement.

(3) "Federal Purposes" includes any federal contract, grant, agreement or arrangement dealing with apprenticeship; and any federal financial or other assistance, benefit, privilege, contribution, allowance, exemption, preference or right pertaining to apprenticeship.

(4) "Registration of an Apprenticeship Program" means the acceptance and recording of such program by the State Apprenticeship Agency acting as the Registration Agency, as meeting the basic standards and requirements of the Department of Labor for approval of apprenticeship programs for Federal Purposes, and evidenced by a Certificate of Registration or other written indicia.

(5) "State" includes the Virgin Islands for Federal Purposes.

(6) "State Apprenticeship Agency" means the Virgin Islands Department of Labor which has been properly authorized by the federal Office of Apprenticeship to register and oversee apprenticeship programs and agreements for Federal Purposes, and which has responsibility and accountability for apprenticeship within the Virgin Islands.

(7) "State Apprenticeship Council" means the entity established in section 222 to assist the Virgin Islands Department of Labor in its roles as State Apprenticeship Agency and as State Registration Agency.

(b) Section 222 is amended by striking all of the language in that section and inserting new language that reads as follows:

"The State Apprenticeship Council is established in the Department of Labor and is composed of nine members appointed by the Commissioner of Labor. Of the nine members appointed, two members must be selected from the Virgin Islands Department of Labor, one of whom must be the Department's legal counsel; two members must be selected from the Virgin Islands Board of Career and Technical Education. Of the private-sector members, two must be persons who represent the interests of workers; two must be persons who represent the interests of employers, and one must be a person who is familiar with apprenticeable occupations."

(c) Section 223 is amended by striking all of the language in that section and inserting new language that reads as follows:

"(a) Public-sector members shall serve for the duration of their term of office.

(b) Private-sector members shall serve a term of three years. However, the initial two persons appointed who represent the interests of workers shall serve an initial term of three years. The initial two persons appointed who represent the interest of employers shall serve an

initial term of three years. The initial person appointed for the person's knowledge of apprenticeable occupations shall serve an initial term of two years".

(c) Section 227 is amended in the first sentence by striking "Governor" and inserting "Commissioner of Labor" and by inserting "State" before "Apprenticeship" and by striking "and Training", and in the second sentence by striking "insular";

(d) Section 228 is amended in the following instances:

(1) Subsection (a) is amended by striking "and training" in the first and second sentences, and in the second sentence after "trades and" by inserting "apprenticeable", and after "chapter" by adding the following:

"The standards developed by the Council for registration of apprenticeship programs must at a minimum require apprentice programs to have an organized, written plan or program standards, embodying the terms and conditions of employment, training, and supervision of one or more apprentices in an apprenticeable occupation, as defined in section 230 (a) (6), and subscribed to by a sponsor who has undertaken to carry out the apprentice training program. The program standards developed by the Council must contain provisions that address:

(1) The employment and training of the apprentice in a skilled occupation;

(2) The term of apprenticeship, which for an individual apprentice may be measured either through the completion of the industry standard for on-the-job learning, at least 2,000 hours, known as "the time-based approach", the attainment of competency, known as "the competency-based approach", or a blend of the time-based and competency-based approaches, known as "the hybrid approach";

(3) An outline of the work processes in which the apprentice will receive supervised work experience and training on the job, and the allocation of the approximate amount of time to be spent in each major process;

(4) Provision for organized, related instruction in technical subjects related to the occupation and the qualifications of apprenticeship instructors;

(5) A progressively increasing schedule of wages to be paid to the apprentice consistent with the skill acquired, with the entry wage not less than the minimum wage prescribed by the Fair Labor Standards Act, where applicable, unless a higher wage is required by other applicable federal law, Virgin Islands law, respective regulations, or by collective bargaining agreement;

(6) Periodic review and evaluation of the apprentice's performance on the job and in related instruction; and the maintenance of appropriate progress records;

(7) A numeric ratio of apprentices to journey workers consistent with proper supervision, training, safety, and continuity of employment, and applicable provisions in collective bargaining agreements, if not prohibited;

(8) A probationary period reasonable in relation to the full apprenticeship term, not exceeding 25 percent of the length of the program, or one year, whichever is shorter, with full credit given for such period toward completion of apprenticeship;

(9) Adequate and safe equipment and facilities for training and supervision, and safety training for apprentices on the job and in related instruction;

(10) The minimum qualifications required by a sponsor for persons entering the apprenticeship program, with an eligible starting age not less than 16 years;

(11) The placement of an apprentice under a written Apprenticeship Agreement that meets the requirements of this chapter and incorporates the standards of the program as part of the agreement;

(12) Assurance of qualified training personnel and adequate supervision on the job;

(13) Recognition for successful completion of apprenticeship, as evidenced by an appropriate certificate issued by the State Apprenticeship Agency;

(14) Provision for the registration, cancellation and deregistration of the program; and for the prompt submission of any program standard modification or amendment to the State Apprenticeship Agency for approval;

(15) Provision for registration of apprenticeship agreements, modifications, and amendments; notice to the State Apprenticeship Agency of persons who have successfully completed apprenticeship programs; and notice of transfers, suspensions, and cancellations of apprenticeship agreements and a statement of the reasons their cancellation.

(16) Authority for the cancellation of an apprenticeship agreement during the probationary period by either party without stated cause; cancellation during the probationary period will not have an adverse impact on the sponsor's completion rate;

(17) Compliance with 29 CFR part 30, including the equal opportunity pledge prescribed in 29 CFR 30.3(b); an affirmative action plan complying with 29 CFR 30.4; and a method for the selection of apprentices authorized by 29 CFR 30.5; and

(18) All other provisions required for Federal Purposes and for purposes of this chapter.”

(2) Subsection (h) is amended by striking “and Training” before “Division” and striking “or training” before “case”;

(3) Subsection (i) is amended by striking “Employment Security Agency” and inserting “Department of Labor”; and

- (4) Subsections (c), (d), (e), (f), and (g) are stricken in their entirety; and
- (e) Section 229 is amended by striking “and Training”; and
- (f) Section 230 is amended in the following instances:

(1) In the introductory language, “and Training “is stricken, and subsection (a) is amended by striking “and other types of on-the-job training” and by inserting at the end of the subsection, new language to read as follows:

“including

(1) Registering, and determining eligibility for registration of apprenticeship programs in conformity with the apprenticeship program standards published in 29 C.F.R. Part 29 and this chapter;

(2) Providing for cancellation and deregistering of apprenticeship programs, and for temporary suspension, cancellation, and deregistration of apprenticeship agreements;

(3) Providing sufficient resources to carry out the functions of a Registration Agency, including: Outreach and education; registration of programs and apprentices; provision of technical assistance, and monitoring as required to fulfill the requirements of this chapter;

(4) Implementing policies and procedures to promote equality of opportunity in apprenticeship programs pursuant to a State Plan for Equal Employment Opportunity in Apprenticeship which adopts and implements the requirements of 29 CFR part 30, and to require apprenticeship programs to operate in conformity with such State Plan and 29 CFR part 30;

(5) Prescribing the contents of apprenticeship agreements, and ensuring that the apprenticeship agreement contains at a minimum:

(A) Names and signatures of the contracting parties (apprentice, and the program sponsor or employer), and the signature of a parent or guardian if the apprentice is a minor.

(B) The date of birth and, on a voluntary basis, Social Security number of the apprentice;

(C) Contact information of the Program Sponsor and State Apprenticeship Agency;

(D) A statement of the occupation in which the apprentice is to be trained, and the beginning date and term of apprenticeship;

(E) A statement showing:

(i) The number of hours to be spent by the apprentice in work on the job in a time-based program; or a description of the skill sets to be attained by completion of a competency-based program, including the on-the-job learning component; or the minimum number of hours to be spent by the apprentice and a description of the skill sets to be attained by completion of a hybrid program; and

(ii) The number of hours to be spent in related instruction in technical subjects related to the occupation, not less than 144 hours per year.

(F) A statement setting forth a schedule of the work processes in the occupation or industry divisions in which the apprentice is to be trained and the approximate time to be spent at each process;

(G) A statement of the graduated scale of wages to be paid to the apprentice and whether or not the required related instruction is compensated;

(H) Statements providing:

(i) for a specific period of probation during which the apprenticeship agreement may be cancelled by either party to the agreement upon written notice to the State Apprenticeship Agency, without adverse impact on the sponsor;

(ii) that, after the probationary period, the agreement may be:

(a) Cancelled at the request of the apprentice, or

(b) Suspended or cancelled by the sponsor, for good cause, with due notice to the apprentice and a reasonable opportunity for corrective action, and with written notice to the apprentice and to the State Apprenticeship Agency of the final action taken.

(I) A reference incorporating as part of the agreement the standards of the apprenticeship program as they exist on the date of the agreement and as they may be amended during the period of the agreement;

(J) A statement that the apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training, without discrimination because of race, color, religion, national origin, or sex; and

(K) Contact information, including name, address, phone, and e-mail if, appropriate, of the appropriate authority designated under the program to receive, process and make disposition of controversies or differences arising out of the apprenticeship agreement when the controversies or differences cannot be

adjusted locally or resolved in accordance with the established procedure or applicable collective bargaining provisions.

(6) Ensuring that the registration of apprenticeship programs occurs only in apprenticeable occupations, including occupations in high growth and high demand industries. For purposes this chapter, an apprenticeable occupation is one which is specified by industry and which must:

(A) Involve skills that are customarily learned in a practical way through a structured, systematic program of on-the-job supervised learning;

(B) Be clearly identified and commonly recognized throughout an industry;

(C) Involve the progressive attainment of manual, mechanical or technical skills and knowledge which, in accordance with the industry standard for the occupation, would require the completion of at least 2,000 hours of on-the-job learning to attain; and

(D) Require related instruction to supplement the on-the-job learning;

(7) Reviewing all programs for quality and for conformity with the requirements of this chapter; and

(8) Performing all other acts necessary to carry out the purposes of this chapter.

(2) Subsection (e) is amended by striking all of the language and inserting new language that reads: "monitor as required to fulfill the requirements of this chapter."

(3) Subsections (d) and (f) are stricken.

SECTION 2. Title 24 Virgin Islands Code, chapter 10, sections 226, 232 and 233 are repealed.

SECTION 3. Section 1, subsections (b) and (c) of this Act take effect upon the appointment of the last of the five public-sector members.

SECTION 4. Title 29, chapter 21 is amended by adding a new section 1117 to read as follows:

§1117. Economic Hardship Package

(a) There is established under the control of the Economic Development Authority the "Economic Hardship Package" to provide low interest loans to small businesses to help secure their financial viability.

(b) Loans shall be provided at a 3% interest rate to qualifying businesses.

(c) Notwithstanding any other law to the contrary or the provisions of §1116 funds shall be made available to finance these loans from the Economic Development Fund.

(d) The Authority shall promulgate rules and regulations to establish qualification guidelines and any other rules and regulations it deems necessary for the implementation of this measure within six months of enactment of this Act.

SECTION 5. Title 33 Virgin Islands Code, chapter 89 is amended in the following instances:

(a) Section 2546 is amended at the end of the first sentence after “sale” by adding an exception clause that reads as follows “;but in the case of a sale to the Government Employees Retirement System, or to the Virgin Islands Housing Finance Authority under section 2552a, the Lieutenant Governor shall prepare a written notice of the sale for service upon the taxpayer, or the taxpayer’s representative”;

(b) Section 2552a is added and reads as follows:

“§2552a. After the levy of attachment, the Lieutenant Governor shall notify the Administrator of the Government Employees Retirement System and the Executive Director of the Housing Finance Authority of the attachment of any parcel of real property greater than one acre in area. Every piece of real property greater than one acre in area attached for the non-payment of taxes and public sewer system user fees may be purchased by the Government Employees Retirement System, or by the Virgin Islands Housing Finance Authority for and in the name of the respective entity instead of by auction sale, after the Lieutenant Governor gives notice to the taxpayer, or the taxpayer’s representative of the sale pursuant to sections 2546 and 2547. The Government Retirement System, or the Virgin Islands Housing Finance Authority, as the case may be, shall make a payment for such property in the amount of the delinquent taxes and public sewer system user fees, penalties and costs. If the right of redemption provided for in section 2581 is not exercised within the time prescribed, the certificate of purchase, when recorded in the Office of the Recorder of Deeds shall vest the title to the property absolutely in the Government Employees Retirement System, or in the Virgin Islands Housing Finance Authority as the case may be, free from all mortgages, liens or other encumbrances. The certificate is prima facie evidence of the facts therein recorded in any controversy, proceeding or action involving or concerning the rights of the purchaser, the purchaser’s heirs or assigns, to the property thereby conveyed. No fee may be charged by the Recorder for recording such certificate nor for issuing a copy of the certificate.”; and

(c) Section 2584 is amended in the following instances:

(1) after “Virgin Islands” by inserting “Government Employees Retirement System, or the Virgin Islands Housing Finance Authority, as the case may be”;

(2) after “public auction” by inserting, “or the purchase by the Government Employees Retirement System, or by the Virgin Islands Housing Finance Authority”; and,

(3) after the second occurrence of "Government" by inserting 'or in the name of the Retirement System, or the Virgin Islands Housing Finance Authority as the case may be'.

SECTION 6. (a) Act No. 7081 is amended in the following instances:

(1) In Section 2(e) by striking the sum "\$1,735,000" and inserting "\$1,535,000" in lieu thereof;

(2) In Section 2(L) by inserting a new line item to read:

"\$200,000 to DPW to renovate the Pine Peace Recreational Facility"

(b) The sum of \$200,000 remains available until expended, to be used exclusively for the project listed in subsection (a)(2) above.

SECTION 7. Title 1, Virgin Islands Code, Chapter 13, is amended by inserting a new appropriately numbered Section to read:

"§ ____ . Ratification of agreements by the Legislature

Any department, agency or instrumentality of the Government of the Virgin Islands, including those deemed to be autonomous or semi-autonomous, that enters into an agreement which requires ratification by the Legislature, shall submit such agreement to the Legislature no less than 90 days prior to the effective date of the agreement."

SECTION 8. Title 3 Virgin Islands Code, Chapter 27, Section 715(a) is amended in the sixth sentence, after the word "elected", by inserting the phrase "by both active members and retirees".

SECTION 9. (a) Notwithstanding the penalty and interest provisions of title 33 Virgin Islands Code, chapter 89, section 2494, any interest or penalty levied on any assessment for the real property tax years of 2002 to 2010, shall be waived for a period of six months.

(b) The Office of the Lieutenant Governor shall engage in a public awareness campaign by ensuring announcements on television, radio and in a newspaper of general circulation on a daily basis for one week per month for six months.

(c) This Act takes effect upon enactment.

SECTION 10. Title 12 Virgin Islands Code, chapter 23, is amended in the following instances:

(1) Section 1101 is amended by adding the following definitions appropriately alphabetized within the section:

"() 'Electric vehicle' means any vehicle that uses solely electric motors for propulsion.

() ‘Hybrid vehicle’ means any vehicle that combines the technologies of using an internal combustion engine with a battery-powered electric motor to gain advantages of both propulsion systems.

() ‘Other Alternative Fuel Vehicle’ means any vehicle using alternative sources of energy, such as solar, wind, hydrogen fuel cell, compressed natural gas or liquefied natural gas. The term does not include vehicles powered by gasoline, petroleum, bio-diesel, or bio-ethanol.”

(2) Subsection 1129, subsection (d), paragraph (1) is amended after the words “hybrid vehicle” by inserting the words “electric vehicles”.

SECTION 11. Title 12 Virgin Islands Code, chapter 23, subchapter III is amended by adding a section 1131 that reads as follows:

“§1131. As provided in 33 V.I.C. §42 (e) (7) and 33 V.I.C. §533, from the effective date of this section until January 1, 2021, the importation of electric vehicles and the lithium-ion batteries they use, hybrid vehicles, and other alternative fuel vehicles, is exempt from the payment of customs duties and excise taxes”.

SECTION 12. Act No. 7366 (Bill No. 29-0305) is amended in Section 4 at the end of the paragraph by adding a new sentence to read:

“The sum appropriated herein shall remain available until expended, under the condition that the Board opens no less than four polling place in each district, providing one on St. John.”

Thus passed by the Legislature of the Virgin Islands on June 28, 2012.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 6th
Day of July, A.D., 2012.



A handwritten signature in blue ink that reads "Ronald E. Russell".

Ronald E. Russell
President

A handwritten signature in blue ink that reads "Samuel Sanes".

Samuel Sanes
Legislative Secretary