



Office of
Legal Counsel

The Legislature of the Virgin Islands

P.O. Box 1690

Charlotte Amalie

St. Thomas, Virgin Islands 00804

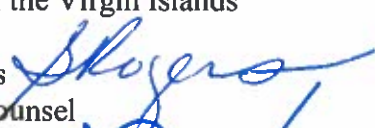
--0--

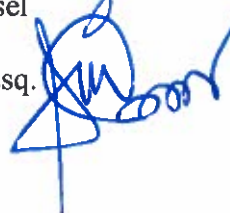
Tel: (340) 693-3544

Fax: (340) 693-3659

MEMORANDUM

TO: The Honorable Kenneth L. Gittens
Senator
35th Legislature of the Virgin Islands

FROM: Sharline L. Rogers 
Assistant Legal Counsel

THRU: Amos W. Carty, Jr., Esq. 
Chief Legal Counsel

DATE: January 8, 2025

RE: **BR NO. 25-1432** (Legal Opinion) – (Whether the Government of the Virgin Islands/the Legislature of the Virgin Islands are legally bound by the recommendations of the Virgin Islands Compensation Commission given the report was never formally submitted to the Legislature of the Virgin Islands)

I. RELEVANT LAW

The following provisions of title 3 Virgin Islands Code, chapter 25, subchapter IVa, the Virgin Islands Public Officials Compensation Act, are relevant to answering the question presented:

(1) The Virgin Islands Public Officials Compensation Commission Act is codified in title 3 Virgin Islands Code, chapter 25, subchapter IVa, which encompasses sections 540 through 546.

(2) The Virgin Islands Compensation Commission is established under title 3 Virgin Islands Code, section 542.

(3) Section 543(a) in pertinent part provides that “[b]eginning in January 15, 2021, and every four years thereafter, the Governor shall convene a Commission to conduct a review of the salaries, expense allowances, and other emoluments of the Governor; the Lieutenant Governor; members of the Governor’s cabinet, including the Attorney General, all commissioners and directors of government agencies; judicial officers; senators of the Legislature; and the Inspector General of the Virgin Islands.”

(4) Section 544(a) in pertinent part provides that “[t]he Commission shall submit to the Governor, the President of the Legislature, and the Chief Justice of the Supreme Court no later than May 1 of the fourth year of each term of the Commission a report of the results of the review conducted by the Commission of the offices and positions subject to this chapter, together with recommendations, but the first such report must be submitted no later than May 30, 2022.”

(5) Finally, section 546 in pertinent part provides that “[t]he Legislature shall act upon the recommendations of the Commission not later than 90 days after the recommendations have been submitted to the Legislature. Nonaction on the recommendation within the 90-day period is deemed an approval by the Legislature of the recommendations.”

II. ANALYSIS

Section 544(a) provides that the Commission **shall** submit the results of its review of the offices and positions and its recommendations to the President of the Legislature, the Governor, and the Chief Justice of the Supreme Court. Section 546 requires the Legislature to act upon the recommendations not later than 90 days after the Commission submitted its report and recommendations to the Legislature, and if the Legislature does not act upon the recommendations within the 90-day period, the Legislature is deemed to have approved the recommendations.

Your inquiry of whether the recommendations are legally binding on the Legislature and the Government of the Virgin Islands is based on the premise that the recommendations were “never formally submitted to the Legislature”. Please note that section 544 does not mandate that the report and recommendations be submitted to the Legislature, but rather to the President of the Legislature. Further, section 544 does not provide the method for the submittal of the report and recommendations to the President of the Legislature. If the Commission did not submit its report and recommendations to the President of the Legislature as required under section 544, then section 546 was not triggered. In other words, the 90-day period provided for under section 546 within which the Legislature must act upon the Commissions’ recommendations does not begin to run until the Commission submits its report and recommendations to the President of the Legislature.

III. CONCLUSION

If the Commission did not submit its report and recommendations to the President of the Legislature, the recommendations were not before the Legislature for action. As the recommendations were not before the Legislature, the 90-day period was not triggered, and the recommendations could not be deemed acted upon by the Legislature. Accordingly, under these circumstances, the recommendations are not legally binding upon the Government of the Virgin Islands and the Legislature of the Virgin Islands.