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A 36-page Daily News Special Investigative Report
By Senior/Investigative Reporter Joy Blackburn

GERS at Risk
Who's to Blame?

The V.I. Government Employees Retirement System

$4,070,000,000 unfunded liability

Inside

GERS at Risk Who's to Blame

By Daily News Senior/Investigative Reporter JOY BLACKBURN

Words to Know

ACCOUNTS RECEIVABLE — Money an entity has a right to collect for goods or services it has already provided.

ACTUARY — A professional who measures and manages risk. Pension actuaries assess the financial impact of future events (retirement, termination, disability and death) and future economic conditions (interest rates, investment returns and salary increases) to measure, among other things, the amount of money a pension needs to pay its obligations.

ACTUARIALLY DETERMINED CONTRIBUTION — The pension actuary's assessment of how much money should be put into the retirement system in a given time period to pay for current and future pensions.

ALTERNATIVE INVESTMENTS — Investments outside the traditional and fixed-income capital markets. Alternative investments have potential for higher returns than the public markets, but they also carry higher risk and can result in losses for the investor.

AMORTIZE — Pay off a debt gradually by making periodic payments of principal and interest. Home mortgages typically are amortized over 30 years. In finance, amortize also can mean gradually writing off the cost or value of an asset over time.

ANNUITY — A financial product that provides guaranteed periodic benefit payments, typically for a retiree's lifetime.

ASSETS — Something owned that has economic value, especially items that can be converted to cash. For example: cash, stocks and bonds, commercial inventory, office equipment, real estate and vehicles are assets.

BENEFIT MULTIPLIER — the factor in a defined benefit plan that helps determine the size of a retiree's annuity. In the case of GERS, for regular Tier 1 employees, the multiplier is 2.5; for regular Tier 2 employees, the multiplier is 1.75.

BOND — A debt created to raise capital. Bonds are basically promissory notes for a specific amount of cash. In order to get that cash, the bond seller (for example the V.I. government or the V.I. Water and Power Authority) agrees to pay back the bond buyer the same amount, plus a set number of interest payments over a pre-determined period. At the end of that period, the bond matures and the original investment is returned to the buyer. Bond buyers need to feel secure that the seller will be able to pay them back, so the seller has to show where the payback money will come from. The V.I. government has used its anticipated revenue from gross receipts taxes and rum excise taxes as security for bonds.

BOND RATING — A "grade" that a credit rating company assigns to a specific set of bonds or to a bond seller, based on the level of risk to buyers. Rating companies evaluate the likelihood that the seller will not be able to pay (default). Generally, the riskier the bond, the lower the credit rating. Each of the three major rating services — Moody's Investor Service, Fitch Ratings, and Standard & Poor's —has its own grading scales. The companies make their research and ratings available to potential investors.

BOTTOM LINE —The ultimate financial condition of a government or company after factoring in assets, income, debts, expenses and other liabilities.

CASH BALANCE PLAN — A pension plan that requires the employer to credit the employee's account with a set percentage of the employee's compensation, plus interest, annually. Participants get a defined rate of return that is not affected by the ups and downs in the value of the plan's investments. It is a variation of the defined benefit plan. The annuity is based on the cash balance of the plan.

COST OF LIVING ADJUSTMENT — Increases to pension amounts based on the cost of living. The GERS board can set a cost of living adjustment (COLA) amount based on the consumer price index, economic studies and other evaluations the board considers relevant. The board suspended retirees' COLA increases in 2013, except for disabled pensioners, and has not reinstated them.

DEBT SERVICE — The cash needed to repay interest and principal on a debt during a particular time period.

DEFINED BENEFIT PLAN — A pension plan in which the employer pays retirees a set amount until they die. GERS is a defined benefit plan.

DEFINED CONTRIBUTION PLAN — A pension plan in which the contribution — by employer or employee or both — is a set amount, which the retirement plan invests. Pension amounts vary depending on the investment earnings.

DEFAULT — Failure to make the required payments on a loan or bond.

FUNDED RATIO — A pension plan's level of assets in proportion to its level of liability, or obligations to pay.

FLOATING BONDS — A term used when bonds are being sold.

GOVERNMENT EMPLOYEES' RETIREMENT SYSTEM — The method of providing pensions for V.I. government employees. Participation is mandatory, and the government takes the employees' contributions out of their paychecks automatically.

HEDGE FUNDS — Pooled funds that make a wide range of riskier investments hoping they will perform better than the market average. They are called hedge funds because their successful investments make enough profit to provide protection — a hedge — against market ups and downs.

HYBRID PLAN — A pension plan that combines elements of defined benefit plans and defined contribution plans.

INSOLVENT — Inability to pay money owed. GERS will be insolvent when it has sold off all its assets and has nothing left except incoming contributions to use to pay pensions. As more employees retire, and less contribution money comes in, the pension amounts will decrease.

LIABILITY — A legally binding debt payable to another entity. GERS' main liability is the pensions it is obligated to pay.

NASRA — National Association of State Retirement Administrators.

PENSION OBLIGATION BONDS — Bonds that a government sells to raise money to pay its debt to its retirement system. The goal is to reduce the retirement system's unfunded liability. When the retirement system gets the money from the bond sale, it invests that money to potentially build up the pension fund. These bonds are considered risky because to work properly, the invested bond sale money has to earn at a higher rate than the interest rate on the bonds. The V.I. government has been authorized since 2006 to issue $600 million in pension obligation bonds to help GERS, but it has never done so.

TIER 1 — Employees who started working for the V.I. government before Oct. 1, 2005.

TIER 2 — Employees who started working for the V.I. government on or after Oct. 1, 2005. In general, Tier 2 employees get lower pensions and have to make higher contributions than Tier 1 employees.

PFA — The V.I. Public Finance Authority is a public corporation and autonomous agency of the V.I. government that raises capital for government projects and issues bonds for the government.

PLAN SPONSOR — The entity that sets up a pension system. The V.I. government is the plan sponsor of GERS.

POINT IN TIME SNAPSHOT — A record of what a particular place or situation is like at a particular time.

RATE OF RETURN — The value of earnings from investments, based on interest, dividends and capital gain and loss adjustments. It is expressed as a percentage.

SPECIAL INTEREST LEGISLATION — A law that benefits only one person or a small group, often at the expense of the rest of the population.

SUBSIDIARY — A company that is owned by another company. The owner is called a parent company or holding company, and it owns at least 50 percent of the subsidiary.

UNFUNDED LIABILITY — The difference between the total amount owed to current and future retirees and the actual amount of money on hand to make those payments.

VESTED — Eligible to receive benefits after retirement. A V.I. government employee must work 10 years to become vested in GERS.

VIATICAL — A form of alternative investment in which the investor buys the life insurance policy of an old or terminally ill person for a percentage of the policy's payout at death. The investor pays the premiums and receives all the insurance money when the beneficiary dies. It is risky because insurance companies may find a reason not to pay and because the person may live longer than expected, costing the investor more in premiums than the insurance is worth. GERS is invested in a viatical, but has suspended new investments in that category.

— Sources: GERS; V.I. Code; Pew Charitable Trusts; U.S. Department of Labor; Government Finance Officers Association; Actuarial Evaluation and Review of GERS, 2015; Investopedia; AARP, Merriam-Webster Dictionary.

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— $4,070,000,000.00 unfunded liability —

What's The Problem?

- **GERS pays out more than twice as much as it gets from contributions.**
- **V.I. government officials illegally withhold money from GERS.**
- **Politics play with retirees' futures.**

Inside Part 1

"

It's going to collapse, definitely. And ain't nobody really trying to fix it. A lot of lip service and no action. So eventually, the bottom is going to fall out.

— Eurman Fahie, St. Croix, GERS retiree

GERS at Risk Who's to Blame?

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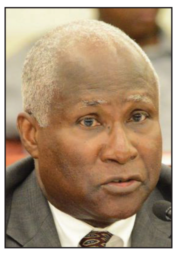
GERS Administrator Austin Nibbs, left, speaks with Sen. Terrence Nelson, Sen. Kenneth Gittens and 30th Legislature President Shawn-Michael Malone in 2014 in Ottley Legislative Hall on St. Thomas.

The Truth About GERS and What's Gone Wrong

For years the Virgin Islands government's pension plan has been sinking deeper into a debt it cannot pay.

Retirees are anxious, and active government employees are uncertain whether the pension plan even will exist when they retire.

V.I. Government Employees' Retirement System Administrator Austin Nibbs summarized the future this way:



Austin Nibbs

"By 2019, we will have exhausted and liquidated all our equity, which are stocks.

"By 2023, we will run out of cash.

"After 2023, we can only pay what we take in."

At that point, GERS would be considered insolvent, and officials estimate that retirees' pension payouts would be cut to less than half what they are now.

Nibbs warned that insolvency could come even sooner, depending on investment returns and factors outside GERS' control.

That grim future looks likely considering GERS' present problems:

• The $4.07 billion unfunded liability, which is the difference between the amount of the pensions the V.I. government promised to pay and the amount of money GERS has to pay them. This shortfall affects not only the retirement system but also the V.I. government's bottom line and credit ratings.

• A desperate need for a large cash infusion but no place to get it.

The plan's sponsor, the cash-strapped government of the Virgin Islands, is struggling to borrow money to pay its current operating costs and does not have funds of such magnitude available for GERS. The territory's bond ratings have been downgraded again and again and have reached junk status.

The economic impact of insolvency will reach far beyond retirees. The Virgin Islands economy depends in no small part on the money thousands of GERS retirees spend. When the retirees have less — or nothing — to spend, then businesses, jobs and wages all could decline.

GERS' downward spiral has quickened in recent years, fueled by multiple devastating factors:

• The government's decades-long failure to pay what it owes the system;

• The impact of more and more retirees drawing money out while fewer and fewer active members are paying in. **(Fig. 1)**

• And politicians pandering for votes by expanding early retirement eligibility without providing the money to make up for the amount those retirees and the government would have put into GERS if they had continued working.

Issues within GERS itself — including questionable investment decisions, inept record-keeping and inefficient collections — have added to the problems.

The safety net for GERS retirees is supposed to be the V.I. government, which by law

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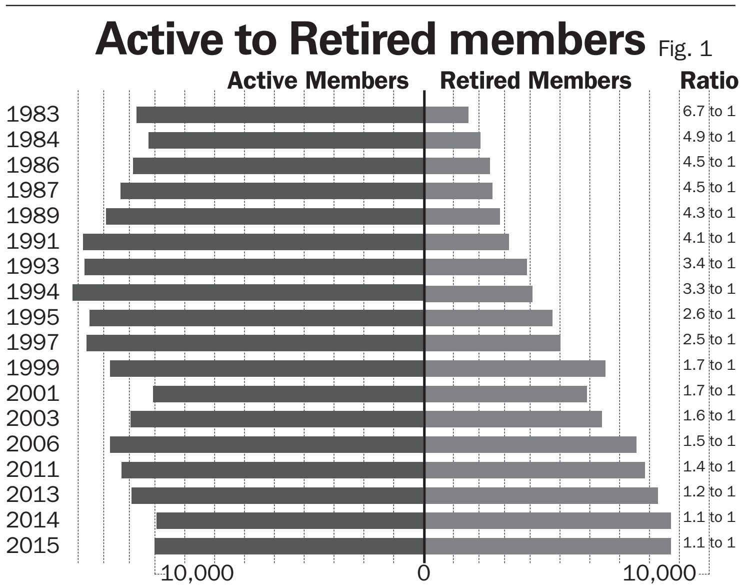

Source: Actuarial evaluations of GERS by Segal Consulting

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GERS at a Glance

V.I. Government Employees' Retirement System

- Created by the 3rd Legislature of the Virgin Islands in Act 479 on June 24, 1959. Operative by Oct. 1, 1959.
- A defined benefit pension plan for officials and employees of the V.I. government, for the payment of retirement annuities, disability annuities, and other benefits to government officials and employees, and to their dependents and beneficiaries, after stated periods of service and upon fulfillment of certain conditions.
- The V.I. government, is the employer and therefore is the plan sponsor.
- Originally, GERS was part of the Division of Personnel.
- Now GERS is an independent and quasi agency of the Government of the Virgin Islands, governed by a Board of Trustees. Quasi agencies are created and funded by the government but have operational and political independence.
- The system has the powers and privileges of a corporation.

Who is eligible?

- Employees of the government, who are required as a condition of employment to become members of GERS if they are under 55 years old when they are hired.
- Anyone whose position and salary are specifically fixed in the annual appropriation acts.
- Anyone who is employed by the government who is not elsewhere excluded by the Virgin Islands Code from membership and whose term of employment is for at least one year.
- New government employees age 55 and older can join the retirement system.
- Any government employee whose services are compensated on a contract fee or per diem basis and who works exclusively for the government at least 40 hours per week.

Who is not eligible

- Any casual employee, any part-time employee who does not regularly work at least 50 percent of the normal work period, and any provisional employee.

Source: V.I. Code, GERS

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is responsible for the benefits it promised its employees.

However, after years of borrowing money to cover day-to-day expenses, the government is deeply in debt and has little revenue that is not already committed for other purposes.

The government's financial prospects are so dire that when the government tried to sell bonds last December — and again in January — the bond sale could not move forward because not enough investors were interested.

Gov. Kenneth Mapp and the V.I. Legislature now are looking to generate more money with new and higher taxes and fees, but the general public is ardently opposed to those and businesses are warning that new taxes will kill the goose that lays the territory's golden egg: tourism.

While there has been talk of the possibility of furloughs and downsizing, those measures would also lower the money coming into GERS.

What GERS needs to survive

As things stand now, the cold fact is that no more than six years, 2017 to 2023, stand between GERS and insolvency.

"That's a pretty short period. That's a short window over which to preserve a plan," said Keith Brainard, research director for the National Association of State Retirement Administrators. "You don't want to waste a minute."

Last September at a GERS summit for policymakers and stakeholders, GERS actuary Rocky Joyner said that an immediate cash infusion of $1.4 billion to $1.7 billion could turn things around for the retirement system and enable it to meet its current obligations.

To put that into perspective: $1.4 billion is approximately double the territory's General Fund budget for this year. The higher number of $1.7 billion would be necessary to protect against under-performing investments.

Joyner, a vice president at Segal Consulting, discussed a variety of other scenarios for avoiding insolvency, but those options all revolved around different combinations of increasing contributions and reducing benefits.

GERS officials have not given up hope, Nibbs said, but the system had to develop a contingency plan in case the government cannot provide the urgently needed cash infusion.

In Governor Mapp's State of the Territory Address in January, he said he plans to host public hearings in both districts on GERS reform and submit proposed reforms to the Legislature by the end of March.

"The board cannot invest in any high risk-type investments, like hedge funds, at this time. We cannot take that risk. We have members to be paid. Retirees must be paid," Nibbs warned.

"It is incumbent on the Legislature and the plan sponsor, which is the government of the Virgin Islands, to do what they have to do," he said.

For years, politicians have made promises to save GERS, but those promises have been betrayed by pandering to the government employees' powerful voting bloc. Some of GERS' worst problems can be traced back to early retirement mandates that previous Legislatures passed — often in election years — without providing any money to cover the additional cost to GERS.

Politics and Insults

Even now, leaders' handling of the system is politically charged. Mapp has started a feud with the GERS board and management, and he has publicly called for Nibbs to be fired — although the GERS administrator is hired by and reports to the GERS board, not to the governor.

Nibbs, who has been in the position since 2008, blames GERS' problems on the government's failure to make its contributions.

Mapp sees it differently and says he wants to "change the trajectory for investments"; put people on the board who "understand" investments; and install a "credible and competent" administrator.

Mapp also says GERS has to "stop throwing our money away."

Nibbs counters: "What is going on is that the system is severely underfunded — and the government has not paid in the amounts that they should."

The fight expanded beyond words after the 31st Legislature in 2016 authorized the government to borrow $247 million. Senators earmarked $100 million of that money

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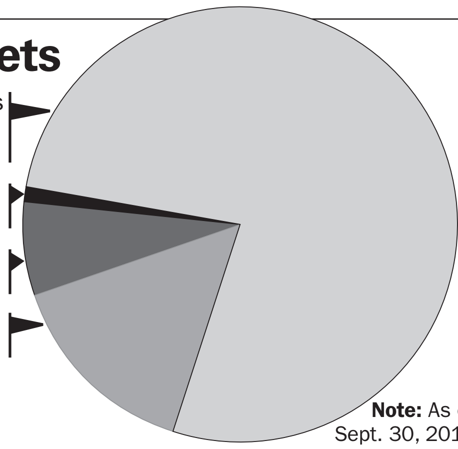
GERS Assets



Cash, cash equivalents and investments $828,287,000

Other assets $11,837,000

Real estate $72,885,000

Member loans $159,218,000

Total assets $1,072,227,000

Note: As of Sept. 30, 2015

Deficit Spending

GERS' deficit between contributions and expenses began in 1996. In 1996 the deficit was $1.6 million and in 2015, the deficit grew to $157.2 million.

Before 1996, revenue earned on GERS' investments offset any deficit, but the fund's retiree payments and expenses grew. At the same time, the V.I. government was not paying its required contributions.

Year	Total contributions	Benefit payments and expenses	Surplus/ (Deficit)*
1994	$61.7 million	$46.7 million	$15.0 million
1995	$74.9 million	$64.6 million	$10.3 million
1996	$71.7 million	$73.3 million	($ 1.6 million)
1997	$74.3 million	$80.0 million	($ 5.7 million)
1998	$71.9 million	$91.6 million	($19.7 million)
1999	$71.7 million	$95.4 million	($23.7 million)
2000	$70.2 million	$103.7 million	($33.6 million)
2001	$69.1 million	$121.2 million	($52.1 million)
2002	$80.1 million	$133.0 million	($52.9 million)
2003	$82.1 million	$138.0 million	($55.9 million)
2004	$84.9 million	$142.6 million	($57.7 million)
2005	$81.9 million	$153.0 million	($71.1 million)
2006	$99.3 million	$161.0 million	($61.7 million)
2007	$96.6 million	$170.5 million	($73.9 million)
2008	$112.8 million	$184.7 million	($71.9 million)
2009	$120.3 million	$193.9 million	($73.6 million)
2010	$117.1 million	$208.3 million	($91.2 million)
2011	$123.8 million	$223.0 million	($99.2 million)
2012	$104.4 million	$251.5 million	($147.1 million)
2013	$98.5 million	$260.1 million	($161.6 million)
2014	$102.3 million	$265.9 million	($163.6 million)
2015	$108.5 million	$265.7 million	($157.2 million)

Notes: * Parentheses indicate a deficit, or spending more than was paid in contributions

GERS Contributions Shortfall

Year	Actuarially Determined Employer Contributions	Actual Employer Contributions	Percentage Contributed
2006*	131,059,471	65,061,430	49.6%
2007	137,797,268	60,778,382	44.1%
2008*	138,488,871	75,871,146	54.5%
2009*	147,490,851	80,177,004	54.4%
2010*	157,817,709	77,004,630	48.8%
2011*	162,841,336	80,849,762	49.6%
2012	178,644,349	66,677,155	37.3%
2013*	172,439,842	64,431,322	37.4%
2014	189,715,251	68,298,617	36.0%
2015	200,089,791	72,387,934	36.1%
2016	247,158,137	Not available	Not available

Notes: Prior to 2014, this amount was the Annual Required Contribution (ARC) and based on GASB statement No. 25;
* Estimated based on prior year's actuarial valuation

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Any loss makes a difference. Whether it's that person not being able to buy something or whether it's that person not going out for breakfast and the waitress then not being able to buy something, it all trickles down.

– Lisa Bhola, owner of the Trends store in Christiansted

"

My concerns are that it's going to collapse and we will stop getting annuities, probably sooner than they are saying. It almost seems inevitable when you look at the numbers, at the amounts of money they say are missing and are needed.

— Phyllis Nehlsen, St. Croix, GERS retiree

Numbers Don't Lie

On the surface, cutting government spending by reducing the number of employees or putting employees on unpaid furloughs looks like a way to improve the government's financial status.

The true picture is more complicated, though, because at this point a smaller government payroll will damage GERS even more because fewer government employees means fewer dollars going to GERS, and that outcome would push the retirement system toward insolvency even faster.

The V.I. Code sets up GERS funding in the form of contributions from both the employees and the V.I. government. But since the early 1990s, the government has failed to pay GERS a significant part of its contributions.

In just one fiscal year, 2015, the government's contributions fell short of what GERS' actuary said was needed by nearly $128 million. The government's payments were supposed to total $200,089,791, but it paid only $72,387,934.

Every year that the government short-changes GERS, the retirement system falls farther behind and the unfunded liability grows.

At this point, the government is so far behind in making the required payments to the system, employer and employee contributions would have had to total a whopping 77.4 percent of payroll in Fiscal Year 2016 to pay the amount the actuary said was necessary.

If the government does not pay its contributions, GERS has less to invest — and investing the money over the long-term is what makes it grow.

The contribution shortfall forces GERS to sell investments just so it can pay pensions.

This creates an ever-increasing gap between the amount of money and assets GERS has in hand and the total amount of benefits that have already been earned by employees and retirees — benefits GERS will have to pay out.

This gap is known as an unfunded liability, which in GERS' case now stands at more than $4 billion.

The issues have been clearly spelled out to officials at the top level of government many times for many years.

At a 2016 summit meeting that laid out the dire condition of the retirement system, the GERS actuary cited shocking numbers: In the 16 years between 1999 and 2015, the government has short-changed the pension system by more than $1.1 billion.

That $1.1 billion is only part of the picture: According to information from GERS, the government has not met its GERS funding obligations since 1991 and possibly earlier.

The threat of GERS insolvency took root and has grown through the terms of five governors — Alexander Farrelly, Roy Schneider, Charles Turnbull, John deJongh Jr. and Kenneth Mapp — as well as 14 Virgin Islands Legislatures, the 19th to the 32nd.

"The longer you wait to fix it, the more bitter the medicine," said Keith Brainard, research director for the National Association of State Retirement Administrators.

Actuarially determined contributions are calculated using a formula that takes into consideration the future cost of benefits and the unfunded liability from previous years, then amortizes the results over 20 years, according to the GERS actuary, Rocky Joyner of Segal Consulting.

The government's failure to pay the $200 million it owed for 2015 led to a big increase in the amount owed for 2016 — which rose to $247 million.

Contributions to GERS

Who pays? How much? Where does the money go?

The Virgin Islands Code in 1959 established contributions from the V.I. government and the government's employees as the means of funding the V.I. Government Employees' Retirement System.

GERS uses the contribution money to pay retirees' pensions. But contributions are not enough, so it invests most of the money and puts the profits toward the difference.

When contributions and the profits from investments still are not enough, the law requires the V.I. government to cover the remaining costs; if it does not, then GERS has to sell off assets to get cash to pay retirees.

Unpaid contributions compound the damage: The pension system loses out not only on the contribution money but also on the profits that could have come from investing it.

The employees' contributions are a set percentage of each employee's earnings.

The law set up the government's contribution to be in two forms: a percentage of each employee's earnings and an additional amount, calculated every year by an actuary, that GERS needs to fund the pensions.

Each category and subcategory of contribution has its own formula:

Employee contributions

These are a percentage of an employee's wages up to $65,000 a year for regular and hazardous-duty employees. Senators and judges are not subject to the cap. The rate is set by the Legislature or GERS Board or both.

Contributions are made through automatic paycheck deductions. The percentage rate is determined by the employee's hire date, and classification and sub-set within the classification:

Tier 1: Hired before Oct. 1, 2005

Regular: Pay 11 percent of their wages.

Special classifications: Early Retirement Program (hazardous-duty) pay 13 percent; senators pay 12 percent; judges pay 14 percent.

30-year-plus: All Tier I employees with 30 years or more of credited service who were eligible to retire on July 5, 2011, but did not retire, contribute an additional 3 percent of their salary beginning Oct. 1, 2011, and an additional 1 percent each year, beginning Jan.1, 2015.

Tier 2: Hired on or after Oct. 1, 2005

Regular: Pay 11.5 percent of their wages.

Special classifications: Early Retirement Program (hazardous-duty) pay 13.625 percent; senators pay 14 percent; judges pay 15 percent.

Employer (government) contributions

These are in two categories, which are calculated two ways.

Set-Rate Contribution — Percentage rate, set by GERS board, of each employee's wages. Currently it is 20.5 percent

Actuarially Determined Employer Contribution — An annual amount that closes the funding gap between what GERS will have to pay out to retirees and the GERS' revenue from other contributions and investment profits.

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to go to GERS. And Mapp prevented GERS from getting it.

In its November meeting, the Public Finance Authority, chaired by Mapp, decided to float bonds for only $147 million, omitting entirely the $100 million for GERS.

"I'm not prepared to give the Government Employees Retirement System any wads of cash under the current construct," Mapp said at the PFA meeting. He made a point that GERS would have to undergo reforms as a condition of receiving the money.

Mapp also said that if he ever does decide to move forward with the Legislature's authorization to borrow $100 million for GERS, he would not give the money to the retirement system: He would instead invest it to benefit GERS.

GERS officials are questioning the legality of Mapp's plan.

The government was unable to borrow the money anyway — at least in part because of the condition of GERS.

Down to Junk Bond Status

The Virgin Islands government could not sell bonds when it tried in December. It is hoping that a new set of taxes and fees will give investors more confidence in the government's financial condition.

The government pushed hard for new taxes, originally arguing the increases would enable it to sell enough bonds to close its 2017 budget gap. Selling the bonds could still prove difficult.

The territory's failure to adequately fund GERS has hurt its borrowing ability.

New accounting rules require pension liabilities to be stated up

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How Does GERS Compare Nationwide?

GERS is not alone in its troubles. Across the United States, a number of state government's pension systems are struggling, but no state pension system in America is as bad off as GERS.

A snapshot of how GERS compares:

• GERS unfunded liability is $38,000 per V.I. resident.

• Nationwide, states' unfunded liability is $1,870 per resident

• Funded status of other plans average is 74 percent

• Funded status of GERS is 19.53 percent

Pension liability by state

According to a September report from S&P Global Ratings, the average funded status of state pension systems nationwide for 2015 was 73.2 percent. That means the average plan had 73.2 percent of the money it will need to meet its payment obligations.

That estimate was similar to a database of 160 state and local pension plans. Elizabeth Kellar, a senior fellow with the Center for State and Local Government Excellence, said that in 2015, the average funded status in a publicplansdata.org sample was 74 percent.

By comparison, the funded status of GERS was 19.53 percent in 2015.

Among the state and local plans in the database Kellar cited, 17 percent had an actuarial funded status of 40 to 59 percent, and 2.5 percent were at 20 to 39 percent.

Only 0.6 percent were under 20 percent, on par with GERS.

Even pensions in the worst condition among state plans posted funding levels far higher than GERS has available.

Even pensions in the worst condition among state plans posted funding levels far higher than GERS has available.

The S&P report, which looked at U.S. state pensions and did not consider the territories, found that the states with the worst-funded pension systems were Kentucky at 37.4 percent, New Jersey at 37.8 percent, Illinois at 40.2 percent, Connecticut at 49.4 percent and Rhode Island at 55.5 percent.

GERS' 19.53 percent places it below the bottom of the heap.

Another measure S&P looks at is state net pension liability per capita, which shows how much pension debt a state is carrying per resident. That provides a means for comparison among states of varying population size.

Pension liability per resident

In the Virgin Islands, the unfunded liability at GERS is $38,265 per resident, almost four times as high as the highest state.

GERS' and the Virgin Islands' situation also can be compared to that in Puerto Rico, which a Bloomberg report from August said had the worst-funded public pension systems of all the states and territories.

Bloomberg noted that Puerto Rico's largest public pension plan — its Employees Retirement System, which is expected to deplete its assets and become insolvent in the fiscal year that begins July 1 — now has more retirees than active members. GERS has been trending toward that for several years.

Bloomberg said that of the $30.2 billion the Puerto Rico Employees Retirement System owes to current and future retirees, it had only 0.27 percent of the assets necessary to pay those obligations.

Based on Puerto Rico's latest population statistics, that plan's unfunded liability per capita is approximately $8,500 — compared to $38,265 for GERS.

According to the S&P report, the highest net pension liability per capita among the states is for New Jersey, at $10,648, and the average net public pension liability per capita among states is $1,870.

The number for many states is much lower, though, including New York state, which has a net pension liability of $74 per resident, and Nebraska with a liability of $121 per resident, according to S&P. Some states such as South Dakota have no net pension liability, with their pension system funded at 104.1 percent.

Those figures are for state employee pensions only.

Still, the comparison underscores the severity of GERS' condition.

The actual level of the GERS' unfunded liability per capita is probably higher, as the $38,265 per person sum was figured using the 2010 Census count of 106,405 residents in the territory. Today the actual population could be lower, considering the closure of HOVENSA.

Investment losses

Also working against GERS' financial health is its return on investments, which were worse than results for most states. However, they varied widely year-to-year, and GERS' investment strategy is long-term.

Moody's has predicted that state public pension liabilities would continue to grow in the next two years because returns on investment fell far short of 2015 and 2016 targets. The median return for the year ending June 30, 2015, was a gain of 3.2 percent and for the year ending June 30, 2016, was a gain of 0.52 percent.

GERS' annual rate of return for investments for the year ending Sept. 30, 2015 was a loss of 1 percent.

Moody's also found that half the states did not contribute sufficient amounts to curb the growth of their unfunded liabilities in 2015, and that jurisdictions like the Virgin Islands with big contribution shortfalls will face increasing difficulties.

"Low funding levels make it harder for states to make progress," according to a Pew Charitable Trust report on the State Pension Funding Gap for 2014. "Those with larger unfunded pension liabilities require substantially higher contributions to pay down debt because they generate less in the way of investment earnings."

Turnarounds

Kellar and Keith Brainard, research director for the National Association of State Retirement Administrators, both described success stories of state pension systems that had turned things around.

The state of Maine "has a good story to tell," Kellar said.

Maine's State and Teachers plan had a funded ratio of 1991 of 36 percent, and by 2016 it was funded at 82.2 percent, she said.

Maine passed a state constitutional amendment in 1995 that required elimination of the 1995 unfunded accrued liability by 2028 through mandatory annual payments and restrictions on new benefits, she said.

"It usually takes a long time to get a pension back on track if it has become badly underfunded," Kellar said.

She acknowledged that six years was not much time for the Virgin Islands to make changes, particularly when the plan sponsor, the V.I. government, is already short of cash.

"Some places have made a commitment to speed up improvements. West Virginia is an example of that," Kellar said.

Brainard also pointed to West Virginia as a place that managed to turn things around. He said he has watched the West Virginia's teacher retirement plan go from a funded level of about 17 percent in the early 2000s to about 60 percent and improving, he said.

That pension plan initially switched to a defined contribution plan for about 10 years in an attempt to stop the bleeding and found it was the wrong thing to do, according to Brainard.

"It basically starved the pension plan of contributions from newly hired teachers and drove up the cost of the legacy pension plan," he said.

Eventually, the legacy plan was opened back up to new hires. In addition, West Virginia made a concerted effort to properly fund the plan, including finding additional revenue sources for the fund, he said.

I think we like to perform under crisis, because they've been telling us for years now that the system is in trouble. I guess we just let it go and every administration just let it go and let it go. And now we're at the point where it's really a crisis period. We've been seeing this coming for years now. Everybody just kick it down the road, kick it down the road, hope it will get better without doing anything.

— Helen Hart, St. Thomas, retired teacher and president of Government Retirees United for Fairness

The pension system is to a payment that's supposed to sustain you for the rest of your life, but it's not to say that it's a lucrative arrangement.

— Ian Williams Jr. St. Thomas, retiree from V.I. Fire Service

TRUTH

CONTINUED FROM PAGE 6

front on the government's financial reports. As a result, the accounting firm BDO USA had to go back and restate the territorial government's net deficit for Fiscal Year 2014.

That restatement made the territory's financial condition look approximately $2 billion worse.

In place of the $1.5 billion net deficit that the government reported in 2014, the number now is almost $3.5 billion and it continues to rise, mainly because the government short-changed GERS for so many years.

Credit rating agencies consider GERS' status when they rate the value of V.I. government bonds.

The "big three" credit rating services — Standard & Poor's, Moody's Investors Service, and Fitch Ratings — all recently cut the V.I. government's bond rating to junk status, and then cut them down even further.

GERS at Risk — Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

How to Spot a Pension System at Risk

GERS is sounding the alarm and waving a red flag

It is a monumental and nearly insurmountable issue. I think this should be a very high priority area for Governor Mapp's administration and for the Legislature. It's a big problem and 2023 is right around the corner. It's upon us. It needs to be all hands on deck and everybody focusing on this issue because I think this is the single most important issue of all the financial crises of this government.

— Troy deChabert-Schuster, State Director of AARP V.I.

I concerned that the pension keep coming. I guess I'd have to survive somehow. Maybe I will go on Food Stamps.

— Lloyd O'Bryan, St. Croix, retiree from Department of Housing, Parks and Recreation

By JOY BLACKBURN
Senior/Investigative Reporter

The warning signs that experts say characterize a trouble pension system show up all over the Virgin Islands government's handling of the pension plan it sponsors, the V.I. Government Employees Retirement System.

Those signs include:

• The extent to which the pension plan causes financial distress for the plan's sponsor.

• The sponsor's failure to pay money owed to the pension plan in full and on time.

• Controversy among officials and the public over plan decisions on policy and investment.

• Elected and appointed officials lacking the political will — or slow to act — to raise contributions and cut benefits as necessary to keep the plan in good financial shape.

• Chronic declines in the plan's funded status — its level of assets in proportion to its level of liability, or obligations to pay.

• Plan managers over-estimating the rates of returns the plan will get on its investments or too much investing in alternative or high-risk investments.

"The overarching metric of a pension plan's health really is whether or not it is causing fiscal distress for the plan sponsor," Keith Brainard, research director for the National Association of State Retirement Administrators, said.

Also common among troubled pension plans, according to Brainard, is "the employer's chronic, persistent failure to pay adequate contributions."

The Virgin Islands government has not paid the full amount it owes GERS since 1991. Even without paying those contributions, for years the Virgin Islands government has been under immense financial strain and borrowing to pay its own operating expenses.

The government's failure to pay GERS has significantly eroded the government's overall financial condition and credit rating.

GERS' looming insolvency, if not averted by drastic measures, also means the government will be directly responsible for paying millions of dollars owed to retirees.

Brainard said that another big sign of a troubled public pension is "a refusal or inability — political inability — to make changes to the benefit structure, when it's known that those changes are needed."

He noted that while legal protections and other factors could prevent altering benefits for participants already in the plan, changes can always be made for new hires.

"If it's known that the plan costs are problematic, or the plan itself is unsustainable, there needs to be a willingness to make changes," he said.

Elizabeth Kellar, senior fellow with the Center for State and Local Government Excellence, pointed to other signs of a troubled pension plan.

In a written response to Daily News inquiries, Kellar said a major sign of a troubled plan is a downward trend in its funded status — a trend GERS has seen year after year.

Funded status indicates a pension plan's level of assets in proportion to how much it is obligated to pay.

Other factors Kellar cited as indicators of a troubled pension system include the employer not paying its actuarially determined employer contribution every year, as well as cash flow issues.

Because of unpaid contributions owed by the V.I. government, many months GERS sells off part of its investment portfolio to make retiree payments.

Like Brainard, Kellar also cited failure to adjust assumptions or the plan design as needed as an indicator of a troubled pension system.

The V.I. government did enact some major changes to GERS in 2005, including setting up a second tier of employees — new hires — with higher contribution rates and lower benefit accrual rates.

Implementation of those reforms took years. Some smaller changes since then have not significantly pushed back GERS' anticipated insolvency date.

Edward Siedle, is considered an expert in pension forensics, offers another point of view on the signs of a troubled pension system. Forensic examination of a pension system involves looking for evidence of fraud or criminal activity.

Controversy over board members' management is a red flag that a system is in jeopardy, he indicated.

Gov. Kenneth Mapp has squared off publicly with the board and GERS Administrator Austin Nibbs over a number of funding and management priorities.

A number of the board's investment decisions also have been lightning rods for controversy.

Siedle offered a warning about a pension system assuming an artificially high rate of return on its investments. An investment return assumption rate that is set too high will give a false picture of what the pension plan should expect to earn from those investments, leading to an unrealistically high expectation of income.

The fact that most public pension systems set their assumed rates of return around 7.25 percent is a concern, Siedle said, pointing to the example of famed billionaire investor Warren Buffett, who sets the assumed rate of return for his pension plans around 6.5 percent.

"If Warren Buffett can't make seven and a quarter, how are these lug nuts running these pension funds going to make it?' Siedle said.

The GERS board reduced its assumed rate of return on investments in recent years from 8 percent to 7.25 percent to 7 percent, said Administrator Austin Nibbs. The assumed rate of return is used in actuarial calculations.

Siedle said most state pension plans set their assumed rate of return somewhere between 7 or 8 percent, but he believes they should be about 6.5 percent.

Another red flag — a big one — indicating trouble is the use of alternative investments, he said, describing those as the "highest cost, highest risk" investments.

So it is a "very bad sign" if you see "a large and growing percentage" of these types of investments at a pension.

"Alternative investments are high risk, high cost — and most public pensions, particularly most public pensions and struggling pensions, turn all too often to alternative investments as sort of a 'Hail Mary' pass to save them from forseeable failure," he said.

GERS' alternative investment program was the subject of a scathing Inspector General's audit in March 2016, which found that:

• The Alternative Investment Program law as it exists does not provide adequate controls and protection against the risk of loss of the pension funds entrusted to GERs.

• GERS officials did not exercise proper due diligence, monitoring or oversight in the alternative investment program and entered into unauthorized loan agreements.

• GERS entered into an extremely risky and questionable viatical investment that jeopardized about $42 million of its investment portfolio.

GERS board member Edgar Ross said the board has suspended the alternative investment program,

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Signs along the Road to Insolvency

In only 20 years, GERS has deteriorated from a healthy and stable pension system to almost certain death. Comparison of the pertinent statistics show the changes in glaring contrast.

Ballooning Deficits

• $1.6 million — the annual GERS deficit in 1996 the year the slide began.

• $157.2 million — the annual GERS deficit in 2015 (the last year for complete data).

Paying in vs. Paying Out

• 6.55 to 1 — the ratio in 1982 of active GERS-eligible employees (workers paying into the pension system) to retirees (who get payments from the system), meaning that six and a half times as many people were paying into the system as were receiving benefit payments.

• 2.58 to 1 — that ratio in 1995.

• 1.07 to 1 — that ratio in 2015, meaning that the number of retired employees drawing money out (48 percent) was almost the same as the number of active employees paying in.

Crystal Ball

• 11 out of 17— the number of times since 1999 that the territorial government has paid less than half the annual amount it owed to GERS.

• 9 years — the amount of time that it took to more than triple GERS' unfunded liability, the difference between money it owes in payouts and the money it has to pay them.

• $1.23 billion — GERS' unfunded liability in 2006.

• $4.07 billion — GERS' unfunded liability in 2015.

• 2023 — the year GERS is projected to hit insolvency. By 2023, GERS will have had to sell all of its assets to fill the gap between contributions coming in and payments going out, after which time the pension system will be insolvent but still have thousands of retirees to pay.

GERS at Risk Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

Governor and Lt. Governor pensions

How much do they get, and who pays?

GERS does not pay pensions to governors and lieutenant governors.

In 1990, Title 33 V.I. Code Section 3080 established the Elected Governors and Lieutenant Governors Retirement Fund in the V.I. treasury, to be maintained and administered by the V.I. finance commissioner.

The Legislature has changed that and other laws over the years — to greater benefit the governors — and now the Fund is paying out $575,000 per year. The money comes from general revenue, not from GERS.

Governors and lieutenant governors must contribute 9 percent of their salaries to the Elected Governors and Lieutenant Governors Retirement Fund. The Legislature appropriates additional money to keep the fund filled to pay out the pensions, which also are called retirement annuities.

Elected governors and lieutenant governors start receiving their pensions on the day they leave office. They also can begin collecting if they have to resign because of illness.

The pensions are calculated by this formula:

• After 1 term in office, 40 percent of the average annual salary during the last term in office.

• After 2 terms in office, 80 percent of the average annual salary during the last term in office.

• After 3 terms in office, 100 percent of the average annual salary during the last term in office.

There are conditions:

• If former governors and lieutenant governors are elected to certain other offices or hold any other appointed or salaried position in the government, the pension payments will stop until they leave that office.

• An individual who serves two terms as lieutenant governor and two terms as governor cannot collect a pension for both offices.

In December 2006, Governor Turnbull managed to get himself a windfall for life, thanks to a provision in the 1990 law and to his skill at getting the senators to pass Act 6905.

He had to call the senators into a last-minute session, just three days before his ended, to get what he wanted.

His stated reason for the urgency was to authorize $600,000 in pension obligation bonds to rescue GERS from the brink of ruin. The main thrust of the session was setting up huge raises and pension benefits for the governor and lieutenant governor and senators before they left office.

That's where the 1990 law produced the windfall: It said that regardless of their age, the governor and lieutenant governor start receiving their pension on the day they leave office and that it is based on the current salary.

So with three days remaining on the job, Turnbull got a $70,000 raise, lifting him from $80,000 a year to $150,000. As a two-term governor, he would begin receiving $120,000 a year for the rest of his life, starting as soon as he walked out the door of Government House for the last time.

If Turnbull had not gotten the huge raise from Act 6905, he would have retired at only $64,000 a year, so the fast work on Act 6905 ensured him $56,000 a year more.

In 2011, the Legislature changed the1990 law's wording for calculating those pensions to "average" salary and did away with "current."

Survivor benefits

In a questionable series of see-sawing political moves, senators passed special interest legislation granting large survivor benefits to spouses of deceased former governors.

The law was designed specifically to benefit Gov. Juan Luis' widow, Luz Luis.

The senators passed that law a month after former Juan Luis died on June 4, 2011. It set the benefit at 75 percent of the former governor's pension.

A few months later, the political tide changed, and the Senate repealed the measure.

Then a year after the repeal, the senators revived the benefit for governors' widows — plus they added benefits for lieutenant governors' surviving spouses.

That version, passed in late 2012, cut the benefit to 50 percent and set conditions, including that the surviving spouses were:

• At least 50 years old.

• Married to the former governor or lieutenant governor at the time of death.

• Not remarried

The 2012 act applies only to the spouses of governors or lieutenant governors who died after June 1, 2011. That kept Luz Luis eligible — but left out Monique Sibilly Hodge, widow of Lt. Gov. Derek Hodge who died May 31, 2011, and Joan Farrelly, widow of Gov. Alexander Farrelly, who died Sept. 10, 2002.

The senators changed the benefit yet again in September 2014. This time they took away the benefits for surviving spouses of deceased governors and lieutenant governors.

However the new legislation did not take away benefits from those who had received them previously — meaning Luz Luis is the only spouse of a deceased governor receiving benefits from the fund.

Who gets paid?

Former officials and survivors receiving benefits from the Elected Governors and Lieutenant Governors Retirement Fund are:

• John deJongh Jr. — $120,000 annually

• Charles Turnbull — $120,000 annually

• Gregory Francis — $100,000 annually

• Gerard Luz James — $50,000 annually

• Luz Luis — $75,000 annually

• Vargrave Richards — $50,000 annually

• Roy Schneider — $60,000 annually.

"Care and attention was not given to the system in a way that would help it to survive. Some of the folks who looked after system said, 'Well, there's plenty of money over there — let's go and use some of that money,' without recognizing or appreciating that whatever they took out of system, at some stage, we have to pay it back."

— Abdul Ali, St. Croix, retiree from the Labor Department

Special Pensions for 6 Judges

The V.I. Government Employees Retirement System administers retirement benefits for judges employed by V.I. Superior Court and V.I. Supreme Court.

That has not always been the case, however. A handful of former judges still get retirement benefits through a special fund administered by the V.I. Finance Department.

Act 3924 — which established a special retirement fund for judges, governors and senators — was extremely short-lived. Passed in December 1976, it had a 29-day life and was repealed the following month, according to a 2001 V.I. Inspector General's audit.

Six judges were covered by the program because they were serving on or after Dec. 1, 1976, and before Jan. 28, 1977, when the law was repealed.

Because the benefits in Act 3924 were more generous than those offered under GERS, the judges later sued to be allowed to retire under the provisions of Act 3964 — and won.

Who gets paid and how much?

Two of six judges eligible under Act 3924, Antoine Joseph and Irwin Silverlight, are deceased.

Four still receive retirement benefits from the V.I. Finance Department through an account funded by the judicial branch.

They are:

• Verne Hodge — $162,000 annually

• Raymond Finch — $152,000 annually

• Eileen Petersen — $152,000 annually

• Henry Feuerzeig — $83,599 annually.

"In my organization, I've been thinking that what we probably need to be telling people is how to survive when it goes under and their pension is cut.

— Helen Hart, St. Thomas, retired teacher and president of Government Retirees United for Fairness

RISK

CONTINUED FROM PAGE 8

including the loans program, at this point, so no new investments of that type are being made.

Signs of good health

One of the more popular benchmarks for a healthy pension system is an 80 percent or higher funding level, although that can vary, said Brainard at the National Association of State Retirement Administrators.

"Some people want to say, 'Well if it's below 80 percent funded, then it's in trouble.' And that's not true," Brainard said. "It may be a useful rule of thumb, but there are any number of plans that are funded below 80 percent that are in reasonably good shape, and a plan can be funded north of 80 percent and face trouble for a number of reasons, including the fiscal condition of the plan sponsor."

GERS was at a 19.58 percent funding level at the end of the 2015 fiscal year.

Even under a different method of calculation — assuming that investments will produce higher rates of returns and that the government will start paying its part to fund the system — GERS is still only 27.73 percent funded, according to the most recent actuarial report for 2015, which was released in August.

GERS at Risk  Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

GERS' Member Loan Shutdown Roils Politics

The GERS Board of Trustees suspended its loan program in August 2015 and immediately was embroiled in controversy generated by the politics and posturing of angry elected officials and the distress of anxious government employees.

V.I. Government Employees Retirement System officials' defended themselves, saying they had exercised their fiduciary responsibilities because insolvency is looming and the government has not offered a bailout.

The GERS board issued a statement saying it suspended the program "to immediately address the liquidity issues affecting the system, to ensure the availability of liquid funds to pay benefits, and to ensure the survivability of the system."

At the same meeting in August 2015, the board passed a resolution urging the government to immediately issue $600 million in pension obligation bonds — which had been authorized by the Legislature in 2006 but never used — and urging lawmakers to approve pension reforms pending before the Legislature.

The resolution made clear that if the cash infusion and the legislation were denied, GERS would "have no choice but to permanently suspend all of its loan programs in order to preserve cash to pay benefits, sell off its real estate holdings and file a lawsuit" to force the V.I. government to make its required annual contributions into the pension system.

GERS administrator Austin Nibbs told The Daily News in 2015 that the length of the suspension for the popular loan program "all depends on whether there is an infusion" of cash.

The suspension of the program rapidly became a political hot potato as politicians lined up on one side of the issue and GERS officials on the other.

Senators argued that the loan program had been successful and that their constituents depended on the loans. They also argued that the loans poured money into the local economy.

Sen. Kenneth Gittens called the program's suspension "unconscionable."

GERS officials, while acknowledging the program's popularity, pointed to the system's deteriorating financial condition and the need to preserve cash to pay out pensions.

The board members stood firm. In November 2015 they unanimously reaffirmed the decision to put the personal loan program on hiatus, and they reclassified the suspension as "indefinite."

The issue, according to GERS, is the illiquid nature of the loans, meaning that the borrowers' debt to GERS cannot easily be converted into cash if the system needs money to make pension payments.

Along with other assets such as stock, bonds and property, GERS could have to start selling the loans — likely at "fire sale" rates, Nibbs said.

Senators were unmoved.

In May 2016, the Legislature passed a bill — sponsored by Gittens, Sen. Kurt Vialet and Sen. Janette Millin Young — mandating that GERS reinstate the loan program within certain limits. Gov. Kenneth Mapp signed the measure into law.

GERS, again, was unmoved.

In June, the GERS board members said "No" and voted not to re-establish the loan program. They relied on the section of the V.I. Code that requires the GERS board to "make investment decisions in accordance with the 'prudent investor standard.'"

"Would it be prudent," Nibbs said, "to bring back a loan program, which would be drawing funds from the portfolio, for loans with a payback period greater than 2023?"

"Come 2023, 2022, 2020 — if nothing is done by the plan sponsor — we know we will have to sell the loans. And at that time, we will be selling them at a discount."

Advocates for the loan program question GERS' refusal to make loans to members and retirees at the same time it made loans to businesses as part of its alternative investment program.

GERS board vice president Edgar Ross says that the board also suspended GERS' alternative investment program. Some money, however, remains outstanding in those loans to businesses.

For active government employees and retirees, the larger and more critical question is not about the loans, it is about whether the retirement system's financial situation is as dire as GERS claims it is.

"I think that this stopping of the loan program was just to get everyone stirred up so the government would put more money into GERS," said Phyllis Nehlsen, a St. Croix retiree and GERS member. "And of course they just don't have the money for it," she said, referring to the government and its contributions, which it has not made in full for many years.

Financial Terminology is Complex, Imprecise and Confusing

What exactly is GERS' unfunded liability?

There's more than one answer.

What is the funded ratio?

There's more than one answer to that, too.

For this report, The Daily News is using the figures from the 2015 Actuarial Evaluation of GERS, released in August along with an explanation from Rocky Joyner of Segal Consulting, the actuary for GERS.

It can be easy to get lost in the weeds trying to follow the terms used in the financial reports, so first, here are some basic definitions:

• Unfunded liability is the difference in promised payments — the money the retirement system is obligated to pay out — and the money and assets it has in hand to make those payments. Unfunded liability is one of the core indicators of a pension system's financial health. GERS has an unfunded liability of $4.07 billion, which means it is in critical condition.

• Funded ratio is a comparison of the retirement system's assets to its liabilities. Liabilities, also called obligations, are the system's promised payments and its expenses. Its assets are the funds it will have available to pay. This is another core indicator of a pension system's financial health. A plan that is 100 percent funded has a funded ratio of 1.

Different experts use different cutoff points to indicate whether a system is healthy, but 80 percent funded is common — meaning a healthy plan would have a funded ratio of 0.8. GERS has a funded ratio of 0.1958 (19.58 percent).

Unfunded liability projections

Recent changes in accounting standards set by the national Government Accounting Standards Board have changed the way government pension system information is reported, so the latest GERS actuarial report provides two different measurement figures to illustrate unfunded liability.

They are used in different ways and assume different outcomes, Joyner said.

• Net pension liability

One measurement figure is "a point in time snapshot" of the system, reflecting the current state of the system – its net pension liability — and assumes nothing will change.

The net pension liability, which is a new measure created by the Government Accounting Standards Board, indicates what will happen when the system goes insolvent, which Joyner, the board's actuary, says will happen in 2023 if nothing changes.

By then, all the system's assets will have been liquidated to pay the pensions, and the money coming in to GERS would go out immediately to pay expenses and benefits — likely at a level of 50 percent or lower.

The government would be responsible for paying the difference in the benefits promised and what GERS could pay.

"You fix nothing, you run out of money … and you're stuck with just a pay-as-you-go system," Joyner said.

How much is it?

Nibbs used the figure $3.1 billion in Senate hearings in 2016, but that figure corresponds with the system's net pension liability for 2014.

Now, the 2015 net pension liability, released in August, is much higher: $4.07 billion.

• Unfunded actuarial accrued liability

The 2015 actuarial report includes a second measurement number – the "unfunded actuarial accrued liability" — which is $2.5 billion.

Joyner said unfunded actuarial accrued liability is the amount actuaries use in determining the recommended amount of contributions needed to appropriately fund the plan. It assumes a 7 percent rate of return on investments instead of the much lower rate of return used in the net pension liability figure.

It also assumes the government will start paying actuarially determined contributions.

"That number makes the presumption that the plan will get the contributions necessary to pay for the benefits that are due, and that the plan will earn 7 percent for the rest of its existence," Joyner said. "Now in reality, they haven't been getting the money."

Funded ratio estimates

The 2015 actuary report takes two different looks at funded status, one under the previous accounting rules and one under the new rules.

GERS' funded ratio under the new rules, which assumes a lower rate of return, is 0.1958 (meaning 19.58 percent) for 2015.

"That's the snapshot. That's the reality of where we are right now today," Joyner said.

GERS' funded ratio under the older rule is 27.73 percent. That assumes a 7 percent return rate on investments, according to Joyner.

Employees vs Retirees

Active employees

Total: 9,303
Includes 3,553 Tier 2 employees
Average age: 46.5
Average years of credited service: 14.7 years
Average pay: $39,560

Retirees

Total: 8,295 retired members and 170 beneficiaries, receiving total semi-monthly benefits of $10,004,807
Average semi-monthly benefit for retirees: $1,197
Average age of retirees: 69.9
Average age of beneficiaries: 77.7
Average semi-monthly benefit for beneficiaries: $439

Notes: All data is from Sept. 30, 2015:
Source: Government of the Virgin Islands Retirement System Actuarial Evaluation and Review for 2015, Segal Consulting, published August 8, 2016

Retirement Benefits

• Defined pension annuity after retirement.
• Government group health insurance after retirement. Once a retiree is eligible for Medicare, the government health insurance becomes secondary.
• Duty-related disability benefits.
• Non-duty-related disability benefits.
• Death benefits.
• Loan program, authorized by the Legislature but suspended by GERS board.

— Source: GERS

By Daily News Senior/Investigative Reporter JOY BLACKBURN

— $4,070,000,000.00 unfunded liability —

Who's to Blame?

- Government House's diversion of monies rightfully owed to GERS.
- Politicians' self-dealing and special-interest legislation
- GERS' bad decisions and bad management.

Inside Part 2

"

No money. They say there's no money, but there shouldn't be money for some and not others. To me, it just seems the system is unfair, very unfair, very one-sided.

– Barbara Isaac, St. Croix, retired teacher

GERS at Risk — Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

GERS has purchased considerable real estate including Havenishgt Mall, on St. Thomas, and Coakley Bay, on St. Croix, and has given V.I. Finest Foods a loan to build a supermarket near the University of the Virgin Islands campus on St. Thomas.

So much done wrong, so little done right

Many politicians, officials and bad ideas eroded GERS

GERS' descent into jeopardy did not happen suddenly. For years it was undercut by:

For at least 26 years, the V.I. government has chosen not to properly fund the system, as required by law. Now the cost of fixing GERS has reached staggering proportions.

• Today, GERS teeters near the edge of insolvency. Only six years remain before the doomsday.

• Today, the central government is struggling to stay afloat without destroying the territory's economy.

• Today, many of the territory's leaders are looking for easy answers and playing the blame game.

There's plenty of blame to go around.

At the times when small changes and small, manageable amounts of additional funding could have rescued GERS, senators and governors used GERS as a political tool, approving early retirement laws when it was to their advantage, politically popular and easy to do.

Even worse, the senators and governors never adequately funded the early retirements. Not only was GERS forced to start paying pensions sooner than expected, it lost out on the contributions into the system that those early retirees would have made if they had worked the regular number of years before retirement.

The senators gave themselves a sweet retirement package, plus big raises in the infamous Act 6905, which they passed in 2006 in an 11th hour-special session as their term was ending.

That bill also gave huge raises and pensions to the governor and lieutenant governor. Their pensions do not come out of GERS funds, so the money the government uses to pay those pensions is not money the government owes GERS.

On the other hand, those pension payments add to the depletion of the government's revenue and leaves it less able to pay what it does owe GERS for others' retirement benefits.

Far and away, the greatest damage to GERS is done by governors and government as they actively take money that should go to GERS and use it for other purposes. This has become a common and continual practice, and it has been going on for decades.

GERS itself is to blame for some of its troubles. It has consistently failed to maintain accurate records, thus creating costly problems for retirees and the system both. By making bad investment decisions without proper research, GERS has failed to protect the retirement system's interests and the government employees' pensions.

Such failures have made the GERS board of trustees, past and present, the subject of harsh and biting audit reports that raise the public's ire and erode public trust.

Early retirement

The U.S. Department of the Interior Office of the Inspector General's 2011 audit of GERS blamed the retirement system's massive and growing unfunded liability on laws the V.I. Legislature passed between 1984 and 2001 that encouraged government workers to retire early.

When the government reduced its workforce, "each of the laws passed either made lucrative provisions for early retirement or significantly increased benefit packages," the audit found.

The audit looked at the cost of just one of those laws — the Early Retirement Incentive, Training and Promotion Act of 1994 and a later amendment — and found that it prevented the retirement system from collecting $121 million, money that would have been invested and likely grown.

The senators appropriated only $30 million to cover the effects of those laws, and GERS officials

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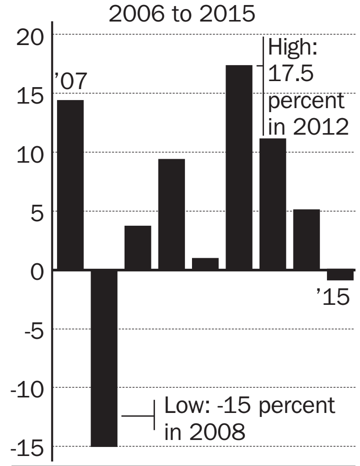
Investment Returns

2006 to 2015



Source: GERS audited financials

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typically refer to the nine different laws as the "unfunded mandates."

"I know how we got the unfunded liability, said former Sen. Craig Barshinger. "It was primarily due to previous legislatures looking at this multimillion-dollar pot of money and just thinking that it was something they could use for political ends, such as giving early retirement to people in the Department of Education or wherever."

"This was political 'plummery' — political plums for people. They threw actuarial science to the wind. That's how we got in trouble," Barshinger said.

Senators in the 15th, 20th, 21st 23rd and 24th Legislatures enacted the unfunded early retirement mandates, according to information from GERS.

Retirees not to blame

Retirees who spoke to The Daily News pointed out that they had paid their share, lived up to their side of the bargain, and earned their retirement benefits and thus are not to blame for GERS' funding problem.

They said they realize that eventually someone will have to pay for the past actions of the territory's elected leaders. The retirees just don't think it should be them.

"Should I pay for the mismanagement of money, for legislators passing nine unfunded mandates and knew full well they were passing nine unfunded mandates?" said retiree Barbara Isaac. "Should I pay for their foolishness, their carelessness?"

However, if the government does not rescue GERS soon, the retirees indeed will have to pay. GERS is having to liquidate assets and after those are gone, GERS will have nothing but the contributions coming in month-to-month. That will not be enough to pay the full pensions. Inevitably, retirees will get smaller and smaller pension checks until they level out at about 50 percent or less. That will occur when the money coming in equals the money going out.

"I think we ought to be clear that there's no expectation by the central government that we're going to float $100 million in bonds and then hand the cash over to the GERS. That's not going to happen. And if they're sitting there waiting for the money, they should pack a lunch.

— Gov. Kenneth Mapp

Deadbeat government

While generous with early retirement benefits, the Legislature and Government House have ignored the law's requirement that the government pay all it owes to GERS every year.

Senators typically appropriate money to cover the government's set-rate payroll contribution to GERS. However, that contribution is a small part of the total that the government is legally obligated to contribute to GERS every year.

In a motion filed late last year in an old court case, in which the retirement system tried to force the V.I. government to pay what it owes, GERS described the government's contribution as having three components:

- A set percentage rate of each employee's compensation. The Legislature typically appropriates this during the annual budget process.
- The mandated government funds necessary to pay the cost of special early retirement programs.
- An amount "sufficient to provide adequate actuarially determined reserve for the annuities," as the V.I. Code puts it.

Finance Commissioner Valdamier Collens pointed out the steady rise over the years in the amount the actuaries have determined the government had to pay to fund the retirement benefits.

Yet after year, the funds to pay those amounts do not appear in the government's budget, Collens said.

"If the actuaries are telling you in all those previous years, 'You should actuarially contribute this,' but we were doing the whole pay-as-you-go thing. Then, how?" Collens said.

"The budget itself is a document riddled with politics," he said.

Mapp punishes GERS

Late last year, senators did approve $100 million to go to GERS as part of a larger borrowing package to cover anticipated budget deficits. But Gov. Kenneth Mapp and the V.I. Public Finance Authority balked at giving the pension system the money.

After signing the borrowing bill into law in November, Mapp, who heads the PFA, said he would seek to borrow only the portion of the money that would go toward financing the territory's deficits.

He said he would not seek to borrow money for GERS. "I think we ought to be clear that there's no expectation by the central government that we're going to float $100 million in bonds and then hand the cash over to the GERS," Mapp said.

"That's not going to happen. And if they're sitting there waiting for the money, they should pack a lunch."

Although the Legislature made it clear the money was to go to GERS, Mapp said that even if the PFA eventually issued the $100 million in bonds for the GERS money, he would not give the money directly to GERS.

"My agreement with the members of the Senate is that if we do any financing under the current construction of the Government Employees Retirement system, without any significant reforms, then we will do it and put the proceeds in an investment instrument, matured to the interest of the GERS, meaning they will be able to carry it on their books. We'll put it in the market to work for them, and the retirees in the system will get the benefits of the money," Mapp said in November.

Mapp did not identify "the members of the Senate" he made the agreement with or clarify why the legislation was passed the way it was if they had made the deal.

It also was not clear to whom Mapp was referring when he said that "we" would put the proceeds from the bond in an investment instrument for the benefit of GERS.

GERS board vice chairman Edgar Ross, a retired Superior Court judge, said that he does not believe Mapp's plan would be legal.

"The governor should read the law," Ross said. "The instrumentality created by the law to do the investments of any money belonging to GERS is the board, not the governor."

Notably the law gives the GERS board, not the governor, the duty of supervising the system's administrator. Mapp called for the firing of the GERS administrator late last year, but the board did not bow to his demand.

Although Mapp had plans to issue bonds to finance the territory's deficit for this year and next, so

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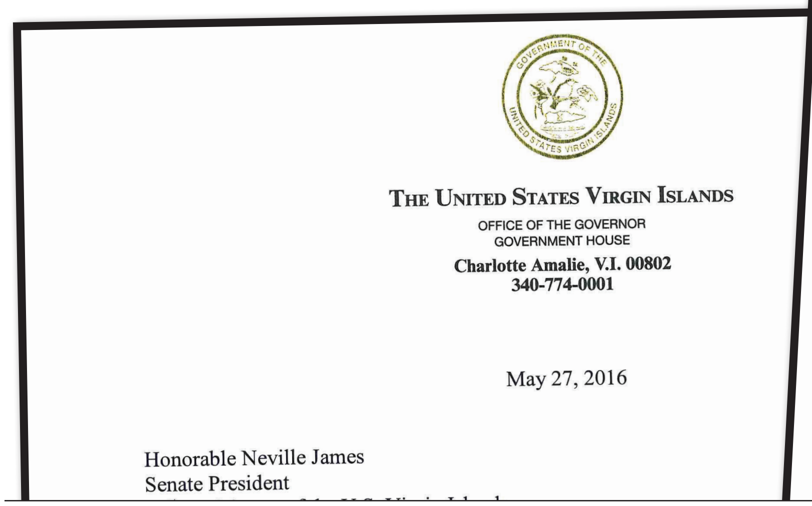
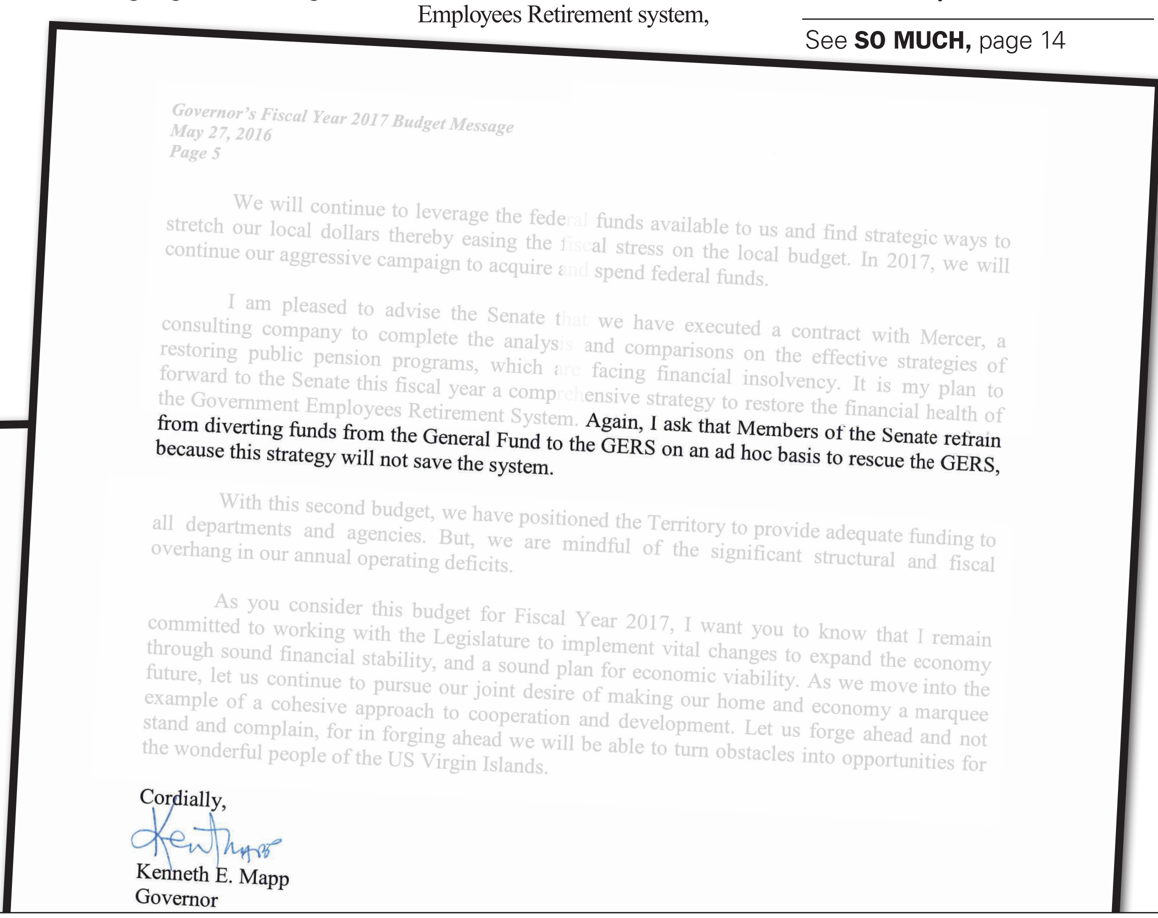


THE UNITED STATES VIRGIN ISLANDS
OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE
Charlotte Amalie, V.I. 00802
340-774-0001

May 27, 2016

Honorable Neville James
Senate President



Governor's Fiscal Year 2017 Budget Message
May 27, 2016
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We will continue to leverage the federal funds available to us and find strategic ways to stretch our local dollars thereby easing the fiscal stress on the local budget. In 2017, we will continue our aggressive campaign to acquire and spend federal funds.

I am pleased to advise the Senate that we have executed a contract with Mercer, a consulting company to complete the analysis and comparisons on the effective strategies of restoring public pension programs, which are facing financial insolvency. It is my plan to forward to the Senate this fiscal year a comprehensive strategy to restore the financial health of the Government Employees Retirement System. Again, I ask that Members of the Senate refrain from diverting funds from the General Fund to the GERS on an ad hoc basis to rescue the GERS, because this strategy will not save the system.

With this second budget, we have positioned the Territory to provide adequate funding to all departments and agencies. But, we are mindful of the significant structural and fiscal overhang in our annual operating deficits.

As you consider this budget for Fiscal Year 2017, I want you to know that I remain committed to working with the Legislature to implement vital changes to expand the economy through sound financial stability, and a sound plan for economic viability. As we move into the future, let us continue to pursue our joint desire of making our home and economy a marquee example of a cohesive approach to cooperation and development. Let us forge ahead and not stand and complain, for in forging ahead we will be able to turn obstacles into opportunities for the wonderful people of the US Virgin Islands.

Cordially,

Kenneth E. Mapp
Governor

GERS at Risk Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

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far he has been unable to do so. A combination of factors, including the territory's plummeting bond ratings and worsening fiscal condition, forced the government twice to call a halt in its attempt to sell the bonds.

No way out

At this point, to provide adequate funding for GERS, the government will have to pay far more than just its mandated set-rate contributions.

The government also must make hundreds of millions in additional contributions to meet the amounts necessary to fully fund the retirement benefits that the government has promised to deliver to its employees.

For decades, though, the government has not funded the system to back up its promises. Every year that the government failed to adequately fund the system, it became more expensive.

The government's obligations to GERS each year do not go away just because they have not been paid. Instead they get folded into the unfunded liability, compounding the damage, and increasing the obligations for coming years.

For example: Fiscal Year 2016 estimates show the government's employer contribution to GERS as $75.4 million and employee contributions of $37.6 million for a total of $112.1 million going into the retirement system.

That's not enough for GERS to have adequate funding, however. The actuary determined a total of $284.8 million was needed for 2016, which leaves a $171.7 million shortfall. The government is obligated to pay the difference but has not, so the $171.7 million will be rolled into GERS' unfunded liability.

Senate enables risky moves

GERS administrator Austin Nibbs said that while the territory's leaders have made some pension reforms in recent years, they have dodged the hard fixes.

"The can has been kicked down the road so long, it has a lot of dents in it," he said. "You put it at the top of the hill, it would not even come down. It wouldn't roll down."

In 2005, the 26th Legislature passed the Retirement System Reform Act. It included provisions that set up a second tier of employees — those hired after Oct. 1, 2005 — who would pay into the system at higher contribution rates and earn lower benefits.

The new law made a number of changes.

• It prevented V.I. government employees who accrued benefits while working for the federal government from receiving full benefits from GERS.

• It created a committee to evaluate all medical and disability claims.

• It established the alternative investments program, enabling the board to invest in bonds rated BBB or better and make more real estate and alternative investments.

Sen. Usie Richards amended the bill before it was passed in September 2005 to give the GERS board the option of investing in viatical contracts. In viaticals, the investors buy life insurance policy benefits from terminally ill or elderly people and pay the policy premiums in exchange for the insurance payout when the beneficiaries die.

By August 2006, the GERS board had entered into a viatical investment. That viatical and other decisions the GERS board made after senators enabled and expanded GERS' alternative investment program were the subject of a scathing V.I. Inspector General's audit report in 2016.

That audit found that the GERS board invested in "an extremely risky and questionable viatical investment that jeopardized about $42 million of its investment portfolio." GERS is planning to write off the loss in the coming years.

In an October interview, Nibbs concurred that the viatical was a mistake.

"I think that was the worst investment the board has ever made," he said, adding that the board and the investment adviser did not have experience with viaticals. "That's the only investment that I see as a bad investment."

The audit, however found that GERS' alternative investments were risky, unmonitored and not authorized by law.

Among the audit findings:

• The retirement system entered into loan agreements that are not authorized under the Alternative Investment Program or any other authority as defined by the V.I. Code.

• GERS entered into an extremely risky and questionable viatical investment that jeopardized about $42 million of its investment portfolio.

• The retirement system entered into numerous agreements and investments without performing the necessary due diligence to ensure a reasonable rate of return.

• The retirement system did not adequately monitor and oversee investments under the Alternative Investment Program to protect its interest.

• V.I. Code related to the GERS alternative investment program does not provide adequate controls and protection against the risk of loss of the pension funds entrusted to GERS.

In a written response, the GERS board disagreed with V.I. Inspector General Steven van Beverhoudt's assessment and said proper due diligence had been conducted.

Van Beverhoudt replied in his report that the GERS response was "confusing, contradictory and very general in addressing our serious concerns and recommendations regarding the millions of dollars invested in alternative and viatical investments."

Although the audit report recommended changes to the law, senators did not do so. In fact, several months before the audit was published, the Senate actually expanded the types of alternative investments GERS can get involved in.

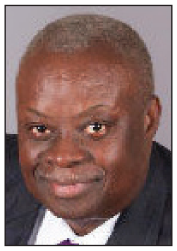
The GERS board has suspended new investments in its alternative investment program for now, vice-chairman Edgar Ross said.

After enacting the 2005 GERS reform — which set up the alternative and viatical investments — senators did a little more pension system reforming late in 2006, making changes that sweetened the deal for their own retirements.

In late December 2006, Gov. Charles Turnbull called the 26th Legislature into a special session to consider legislation that, among other things, authorized the issuance of $600 million in pension obligation bonds to help lower the GERS unfunded liability, which was around $1 billion at the time.

Charles Turnbull

John deJongh Jr.



Kenneth Mapp

Austin Nibbs

Willis Todman

Usie Richards

Turnbull called the session at the end of his term, pointing to the need for the bonds.

However, the complex 49-page bill that Turnbull asked senators to pass was an amalgam of several proposals, including some pension reforms, the bonds that were used as the reason for the session, and controversial self-interest raises and retirement benefits.

The Legislature passed Act 6905, but the pension obligation bonds that Turnbull said in 2006 were necessary to rescue GERS have never been issued and are discredited as highly risky by some financial advisers

Lip service to reforms

Retiree Barbara Isaac said she wonders why senators have not made more comprehensive reforms at GERS.

"Is it because they realize if they try to fix GERS and come up with comprehensive reforms, that everybody would have to be affected across the board, and not just pensioners? Is it that? I don't know," she said.

"What I'm beginning to feel is maybe that's why our legislators really haven't addressed the issue of GERS, haven't really done comprehensive reforms to GERS," Isaac said

By the time the Inspector General's audit report on the unfunded liability came out in 2011, senators had already taken testimony from GERS officials about changes needed to reform the system.

"They ran up the red flag and they said, 'Danger, Will Robinson, danger!'" former Senator Barshinger said. "We were told exactly what was happening."

The Legislature was given different options that would help save the retirement system, he recalled. "It was a joy to have somebody come and tell us there's a serious problem, but we're telling you in advance when the problem is still solvable."

"What we did was, as a government, as a legislature and as a government, we kicked the can down the road. And now, it's really hard to fix," Barshinger said. "At some point in time, it becomes very difficult to fix because the under-funding is too large."

The way that Barshinger recalls it, for a while in 2011, the pressure was on to enact reform, but then Gov. John deJongh Jr. convened a pension reform task force "that rehashed what we'd already done."

Barshinger was not alone in regarding the task force as redundant. GERS officials had testified repeatedly to the Legislature over the years about proposed changes that would to help stave off insolvency.

DeJongh provided a letter in response to the Daily News request to interview him for this special report. He wrote that he had hoped to use the Diageo rum matching funds as a revenue stream for GERS, but then the recession hit, followed by HOVENSA's closure, and the rum revenue had to go toward government operating expenses.

Following a recommendation in the 2011 audit, deJongh convened the pension reform task force in 2012. That group released a final report in 2013.

In March 2014, deJongh submitted a proposed pension reform bill to the Legislature. That was an election year, and deJongh was near the end of his last term in office and could not run for re-election. That meant he would not have to deal with the political fallout or the impact of pension reforms on the government's General Fund.

He said that the task force looked into pension obligation bonds, but The Center for Retirement Research had "concluded that most pension bonds issued are in the red, and thus have increased system costs."

A poison pill

His proposed 34-page bill contained a variety of unpopular reforms, which he anticipated in the letter he sent to the Senate along with the bill. It said:

"The corrective measures to be implemented will not be pleasant for any of the parties involved. Increased contributions will be required by current employees and, to a much larger extent, by government employers, which will necessarily have a material and growing impact on the General Fund budget over the coming years, and therefore, impact all across our community."

The bill would:

• Raise employers' and employees' contributions to GERS,

• Raise the minimum retirement age.

• Increase the required number of years of work before retirement.

• Limit the annual cost of living increase.

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GERS at Risk Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

The $4.07 billion unfunded liability, insolvency less than six years away, and the government still not offering any solutions, they had to halt the loan program. The suspension of the program generated anger among GERS participants, who questioned loans that were given to businesses. It also sparked controversy with the Legislature as well as with Gov. Kenneth Mapp. The issue, Austin Nibbs said, is not about whether the loaned money will be paid back, but rather about liquidity and about maturity dates that exceed the system's insolvency date. At some point before 2023, on the road to insolvency, GERS will need to sell off the loans for whatever it can get while liquidating assets, Nibbs said.

SO MUCH

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• Change the formula used to calculate benefits.

While those changes were not popular, the bill also contained change that was a poison pill. It would kill the bill before it reached the Senate floor.

That change was:

• An across-the-board 10 percent cut in GERS pensions, starting Oct. 1, 2014.

• The cut would apply to existing pensions for retirees and future pensions for active employees.

"GERS never asked for cuts in existing pensions," said board member Edgar Ross.

"It was a politically hot potato."

"There are over 8,000 retirees in the Virgin Islands, which you would assume that at least 7,000 of them vote," Ross said. "Why would you tell people on a fixed income that you're going to cut their monthly pension by 10 percent, when the cause of them not having the pension is the government's failure to pay what it should have? The Legislature refused to do it."

DeJongh said he did not recall exactly what happened but he did remember that the Senate did not invite his cabinet members or representatives from the task force to testify.

The computerized bill tracker on the Legislature's website shows that bill was never even assigned a bill number.

Legislatures eventually did pass a few of the changes, but those started with GERS, Ross said.

No loans, much anger

Gov. Kenneth Mapp has steadily taken aim at GERS officials and board members, stepping up his verbal war with them, calling for the ouster of administrator Austin Nibbs and insisting that the government will give them no more money outside of the payroll contributions without reform.

His attacks have assumed motives that GERS officials deny.

"It is their belief that if they continue to hold the employees hostage, if they deny them the access to borrow their own money, which 97 percent of those monies are paid on time, that somehow they will force the government to float the $600 million bond and give them the money so they can throw it away," Mapp said at a press conference in October. "That's not going to happen."

GERS officials say that with a $4.07 billion unfunded liability, insolvency less than six years away, and the government still not offering any solutions, they had to halt the loan program.

The suspension of the program generated anger among GERS participants, who questioned loans that were given to businesses. It also sparked controversy with the Legislature as well as with Mapp.

The issue, Nibbs said, is not about whether the loaned money will be paid back, but rather about liquidity and about maturity dates that exceed the system's insolvency date. At some point before 2023, on the road to insolvency, GERS will need to sell off the loans for whatever it can get while liquidating assets, Nibbs said.

Ross said GERS was already having to sell off its portfolio to provide the loans, and with insolvency looming, the loan program was no longer fiscally responsible.

Mapp has not quantified how the changes he has alluded to might turn around the insolvency date for GERS.

"Reform the system, change the trajectory for investments, put people on the board who understand investments and find a credible and competent administrator to manage the system, those are the reforms I want to see done," Mapp said in October.

GERS' errors and omissions

GERS and its trustees over the years also bear blame for the current state of the retirement system.

The system was the subject of five Inspector General audits in the last 30 years, and all pointed out a multitude of problems in the way the system has been administered, its record-keeping, and its procedures, which the audits found failed to adequately protect the interests of the system.

The 2011 audit — which called on the government to quickly make drastic reforms to avoid insolvency — found that GERS did not always maintain accurate information about its members and that problem could lead to incorrect pension payments or wrong retirement dates.

That audit found that the retirement system was often unable to determine whether contributions were made.

"To test the integrity of member information maintained by the retirement system, we selected a sample of 50 active members and reviewed their official personnel records," the report from that audit said. "We compared that information to the retirement system's computer-generated contributions history report. We found that discrepancies existed in 38 of the 50 active-member files reviewed."

The report points out different instances when auditors learned that GERS had not maintained proper data, including key information that affected benefits.

Blaming the computer

And while GERS had pushed for the 2005 reform legislation that senators passed, six years later in 2011, GERS had still not fully implemented the reforms.

The audit indicates that Tier 1 changes had been implemented in January 2010, but implementation of Tier 2 changes was postponed at the governor's request. Because he said the government needed to plan for it.

GERS administrator Nibbs said that the reason for the long delays in the reforms was in part because the pension plan did not have a computer system in place that would allow GERS to implement the two different tiers and make the changes that the new law required.

"There was no system in place to implement the two sides of the contributions," Nibbs said, adding that when he came in in February 2008, the GERS board had already selected the system. The contract, he said, was signed two months after he came on board and implementation of the 2005 reform law started in February 2008.

"It lasted four years, until 2012," he said of the move to implement the law.

He offered this explanation for why it took so long to implement the reforms:

"You had to program everything in the code, you had to program everything in the procedures that you had. You were doing things manually, now you're doing things electronically, so everything had to be coded. We had to image every piece of documents in a member's file. Do you know how many millions of documents there are?"

The system, he said, had to be programmed to adhere to the complexities of V.I. Code as it relates to the Government Employees Retirement System.

"We still have issues right now," he said.

GERS had a computer system before, but it was not used the way the new system is, he said.

Because the computer system wasn't ready, those employees who were hired under the new Tier 2 starting Oct. 1, 2005 — employees who were required to make higher contributions — did not start making the higher contributions until years later.

Nibbs contended the delay was not a problem.

"What harm was it to the system? We got our monies," he said. "We increased the employer contribution 3 percent right away, from 14 to 17, to pay their share and make it up."

Always running behind

As for record-keeping, GERS has not always been timely in either its annual financial audits or its actuary reports.

Those two reports contain the key information on the financial health of the retirement system and exactly how much money the government should be giving it.

The audits are supposed to be done annually and the law requires the actuary report to be done once every two years.

That did not always happen.

In fact, the 2011 Inspector General's report had to rely on a 2006 actuarial evaluation, the most recent that was available at that time.

The 2006 actuarial evaluation, however, was not done in 2006 or 2007. According to the 2011 Inspector General's report, the 2006 actuarial evaluation was "conducted in 2009 based on conditions as of September 30, 2006."

That situation has now been resolved, but for many years as the government underfunded the system, it was not clear whether up-to-date actuarial evaluations and financial audits were available to provide an accurate reference point for what should have been paid.

Blame the man in prison

Nibbs said that when he came into the post, the annual financial audits were behind, and the actuarial evaluations cannot be done without the financials.

The audits were behind when the previous administrator, Willis Todmann, was still in charge, Nibbs said. Todmann had served as both chief financial officer and as administrator.

Todmann resigned in April 2007 after the board placed him on administrative leave. In January 2008, Todmann was arrested and charged with stealing money from GERS through a forgery scheme that allowed him to collect two salaries.

In 2011, Todmann was convicted of the crime and was sentenced in 2012 to five years in prison. Governor deJongh pardoned him on Dec. 31, 2014.

The audits "were behind before he left, and after he left they were behind because there were issues with changing auditors from KPMG to the auditors we have," Nibbs said. "Because of what he was charged with, as the CFO, there were a lot of issues with the financials."

Nibbs said there were also problems with the data used for the actuarial evaluations.

"There were some problems with the census. It was corrupted, so we had to do a lot, a lot, a lot of cleaning up of the historical data, which the actuary uses to compute and make his assumptions," Nibbs said.

There also were problems transferring data from the old system to the new, Nibbs said.

It was cleaned, but then got corrupted somehow, he said and then that problem had to be cleaned up too.

As of now, GERS has audited financials and actuarial evaluations that are current through Fiscal Year 2015, and because the GERS financial condition is so dire, the board has the actuarial evaluations done yearly instead of every two years.

GERS at Risk Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

Daily News file photo

When Gov. Charles Turnbull entered the Senate Chamber to deliver his State of the Territory address in 2005, GERS was in dire financial trouble. In December 2006, GERS was still struggling, but Turnbull and seven senators engineered Act 6905 to vastly increase their pensions and give themselves huge raises.

The salaries — for the governor and senators — from Act 6905 are ridiculous and that needs to go. Their retirement agreement needs to be looked at. There's a whole lot of fat to cut before you start cutting services, because people need the services.

— Phyllis Nehlsen, St. Croix, retiree

What GERS is continuously saying is that they need a lump sum of money in the system to make it work. I believe that is what is needed, but somehow they're not getting what they're asking for from the governor and the Legislature. It's money they need to keep the system going.

— Helen Hart, St. Thomas, retired teacher and president of Government Retirees United for Fairness

The Long Shadow of Act 6905

Self-dealing legislation's pensions and raises still affect GERS

In less than 24 hours at the end of 2006 — in the week between Christmas and New Year's, when one administration was on its way out and another was coming in — special interests took root in GERS funding and in the government's spending priorities.

Act 6905 — the very name has become synonymous with self-dealing and special-interest legislation — was rushed into law, and its effects still are felt today.

Public attention and vocal anger focused immediately on the act's extravagant raises for Gov. Charles Turnbull, Lt. Gov. Vargrave Richards and the senators of the 26th Legislature, but Act 6905 contained much more in its 49 pages.

A prologue occurred in late November 2006, when Turnbull called the Legislature into special session to consider several financial bills, including one that authorized floating $600 million in pension obligation bonds that were urgently needed to cover part of GERS' unfunded liability.

The senators, however, for reasons of their own would not pass the legislation and instead shuffled the bills off to committee.

Turnbull, however, was determined. As the sun was setting on Dec. 27, he ordered the senators back from their holiday for a special session. When the sun rose the next morning, the senators were back in their seats, looking at his new, 49-page financial package, which he expected them to pass then and there, while he and they still were in office.

On the night the governor announced he was convening that special session, Daily News reporters called senators to find out what was on the agenda, only to discover that some were surprised; they said they first learned about the session when The Daily News contacted them.

The voluminous, complex bill they would consider included measures previously discussed — in particular the authorization to issue $600 million in pension obligation bonds — and some that the senators had never seen before. Those included:

• Giving a $15 million bridge loan to Golden Gaming LLP, a classic special-interest appropriation, to support Paul Golden's planned casino, which 10 years later has yet to break ground.

• Huge raises for the governor, the lieutenant governor and the senators. This self-dealing component has long been viewed as swaying the Senate to pass the whole package.

The governor got a $70,000 raise that immediately boosted him from $80,000 a year to $150,000.

The lieutenant governor got a $50,000 raise, from $75,000 to $125,000.

The senators each got a $20,000 raise, from $65,000 to $85,000, because the bill made their salaries equal to the salary of the lowest-paid executive branch commissioner, which at the time was $85,000.

An additional — and extraordinary — part of Act 6905 was the generous new pension formula for senators. It increased the speed at which senators could earn retirement benefits and become eligible to receive pensions.

Act 6905 bumped up the senators' pension payout benefits by increasing their multiplier — the percentage number that is multiplied by the years in office and the salary amount to determine the size of the retiree's pension.

The senators gave themselves a multiplier that starts higher and ends higher than before.

Equally lucrative for the senators — but an eventual drain on GERS' funds — was the way Act 6905 raised their maximum pension amount. Whereas before, the most they could get was 75 percent of compensation, Act 6905 raised it to 100 percent. That meant senators with enough years of service could keep drawing their full pay for life. If a senator making $85,000 annually served long enough, the pension difference would be more than $21,250 per year.

That Dec. 28, 2006, special session was, according to The Daily News' report at the time, full of "passionate debate, biting salvos and pleas for colleagues to vote their conscience."

The bill passed by one vote: seven senators for it; six against. None of the seven who approved Act 6905 is still in the Senate. One who voted against is still in office.

Senators voting "YES" were:

• Lorraine Berry, now deceased.

• Roosevelt David, now a consultant to EDC applicants.

• Pedro Encarnacion, now retired.

• Juan Figueroa-Serville, now a deputy commissioner with Property and Procurement.

• Louis Hill, now residing outside the territory

• Norman Jn Baptiste, ran unsuccessfully in 2016 for a Senate

See **ACT 6905,** page 18

GERS at Risk Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

The Tease and the Truth of $600 million from Bonds

Once promised as the way to rescue GERS, Bond issue falls victim to governors' other priorities

Why hasn't the V.I. government issued the $600 million worth of pension obligation bonds it authorized over 10 years ago?

In 2006 the GERS board came up with the idea for the pension obligation bonds as result of legislation that mandated GERS to lay out options to reduce its unfunded liability.

Gov. Charles Turnbull's financial team at first disagreed about the bonds' feasibility, on the basis that the V.I. government did not have the debt capacity to issue $600 million in pension obligation bonds and that the plan was flawed.

Later, the Turnbull team worked with the GERS board to come up with a plan that went to the V.I. Legislature.

That plan was for the government to enter into a service contract with the V.I. Public Finance Authority or with a single-purpose subsidiary established by the PFA. The government would make payments to the PFA, or the subsidiary, in exchange for the service of reducing GERS' unfunded liability, which at the time was $1.23 billion.

Essentially, the PFA would send the bond proceeds to the retirement system and then be responsible for making payments on the debt to investors.

The governor's financial advisers contended that the pension obligation bonds would not affect the territory's statutory debt limit, although the debt service would affect the government's cash. Testifiers in 2006 said that the transaction would merely trade one liability for another, not incur new debt, but they would affect cash flow.

Turnbull called the Legislature into special session to get the pension obligation bonds passed, and he emphasized the importance of the bonds in a letter to Senate President Lorraine Berry that accompanied the bill. Act 6905 was the result.

In a recent interview for this report, Turnbull said he did not recall the specifics of why he felt the special session at the end of his term to get authorization for pension obligation bonds was necessary and urgent.

"I know that the retirement system was in trouble. We felt we should do whatever we can to help," Turnbull said. "That was the general idea behind it, but I don't remember all the particulars."

Plans disrupted

Turnbull's successor, Gov. John deJongh Jr., opposed the pension obligation bonds. He said GERS needed major reforms before getting a cash infusion.

During deJongh's administration, GERS' financial outlook steadily grew worse, and the V.I. government's employer contributions increased. A year into office, deJongh said, he changed his mind and planned to issue the bonds.

In a written response to recent Daily News inquiries about the bonds in preparation for this report, deJongh said an initial concept behind the massive corporate tax breaks deal with Diageo was to dedicate half of the federal matching fund revenues from rum produced at the new Captain Morgan distillery to GERS to offset the unfunded liability. The other half was to be used to address the General Fund's structural deficit.

Then the bottom dropped out.

The worldwide economic collapse in 2008 caused a sharp decline in the V.I. government's tax and fee revenues, so the uses of the money had to change, deJongh said.

"Sustaining ongoing government functions and employment became the overriding priority. It is important to acknowledge that the GVI and GERS are a closed and connected system; a dollar out of one has implications for the other as both are sustained by the same funding streams," he said.

The pension obligation bonds would have taken resources out of the General Fund because there was no designated revenue stream to pay the debt service, he said.

The recession, the 2012 shutdown of HOVENSA's refining operations, plus federal actions that curtailed the Economic Development Commission program, all depleted government resources, deJongh said.

His administration and the Legislature moved to increase government revenues and cut expenses. Among the measures were two Gross Receipts Tax increases, which together raised the tax from 4 percent to 5 percent, and a government-wide 8 percent salary cut that lasted two years. Governor deJongh also laid off workers and repeatedly borrowed money to keep government operations afloat.

The 8 percent salary cut and layoffs did reduced government spending, but had a negative effect on GERS because lower salaries and fewer workers meant lower contributions into the system.

Before 2012, the first year that federal matching funds from Diageo-produced rum started arriving, those funds would not have been enough to pay the debt service on a $600 million pension obligation bond.

Financial modeling showed that using the same cash flow to make a direct contribution to GERS would have extended GERS slightly longer than a pension bond and "with a more solid footing via pension reform," deJongh said.

He characterized that model as a $600 million bond placed directly within GERS, with a pledge that would force surplus matching fund revenues into GERS.

None of that happened, however.

By 2014, most of the matching fund revenue was going to the benefit of the General Fund, he said, and was used to pay debt service on other bonds, which the government had issued just to pay for operations.

Through it all, the authorization for the bonds has remained intact, waiting for the green light.

No money, no bonds

During his successful 2014 campaign for governor, Kenneth Mapp expressed support for the pension obligation bonds, but he emphasized that a funding source to repay the bonds would have to be identified. That's because the 2006 legislation authorizing those bonds was vague: it just said gross receipts or income taxes.

Governor Mapp also said he also wanted to look closely at the pension system's portfolio and stop GERS from making risky investments and business loans.

GERS Board Of Trustees Vice Chairman Edgar Ross, a retired judge, said he had championed pension obligation bonds "because it was the law, considered by a Legislature, passed and signed by then-Governor Turnbull. I wanted them to enforce it."

However, Ross also said the bonds would not have been his first choice because the bond money would not fix what ails GERS.

"Pension obligation bonds are very risky propositions, OK?" he said. "All I was trying to do was get the law enforced, because that's what the Legislature and governor intended."

By the time of Mapp's second State of the Territory Address in January 2016, he was not talking favorably about pension obligation bonds idea.

Mapp said in that speech that fixing problems at GERS would be one of his top priorities but that floating $600 million in pension obligation bonds and turning the funds over to the retirement system to purchase an additional 22 years of life for the system was not a genuine fix.

He said he would ask the Senate to add two members to the GERS board who would bring investment and hedge fund management expertise to the board. Hedge funds are alternative investments and may carry more risk than traditional investments.

The governor also said a year ago that he would work with members of the GERS board to present to the community and retirees a comprehensive GERS reform plan to fix the problems once and for all.

During 2016, he did not make public a plan and instead picked a fight with the GERS managers and board.

Daily News requests to Government House for specifics about Mapp's plan to reform GERS, or about any GERS legislation he might propose, went unanswered.

Meanwhile, the territory in December and January tried to float bonds for other purposes and failed to attract investors.

In his 2017 State of the Territory Address, Mapp said he planned to submit comprehensive GERS reform legislation to the Senate by the end of March.

As of today, the pension obligation bond authorization exists but has not been implemented, the promised plan to reform GERS does not exist, and GERS' $4.07 billion unfunded liability is steadily growing.

Gov. Kenneth Mapp said in that speech that fixing problems at GERS would be one of his top priorities, but that floating $600 million in pension obligation bonds and turning the funds over to the retirement system to purchase an additional 22 years of life for the system was not a genuine fix.

"

Tell the government to pay its money, because all they've been doing is accelerating the decline of the GERS system by not paying its contributions. The public needs to know that it also affects the people who are waiting to collect annuities.

— Mary Moorhead, St. Croix, retired from the Education Department

"

Our legislators really haven't addressed the issue of GERS, haven't really done comprehensive reforms to GERS. Is it because they realize if they try to fix GERS, and come up with comprehensive reforms, that everybody would have to be affected across the board, and not just pensioners?

— Barbara Isaac, St. Croix, retired teacher

GERS at Risk Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

"

I can't see how we're going to rescue this. We just keep borrowing, and we just keep raiding the retirement system.

— former V.I. Sen. Craig Barshinger, St. John, now retired

"

Governor Mapp says he wants to change, to fire people on the board, in the system, Mr. Nibbs. I don't know if that's the solution. It might be. But start putting the money in, as much as possible.

– Phyllis Nehlsen, St. Croix, retired teacher

"

People are afraid. There were administrations in the past that put the fear of God in people. They made people so afraid to speak out. It's a small community. You speak out, they get you back.

– Joyce Rohlsen, St. Croix, retired school nurse

Desperately Clinging to a Bad Idea

Pension obligation bonds would do more harm than good

Over the last two years, an old bonding authorization has been all the talk as a potential means to get new money into the Government Employees Retirement System.

The GERS governing board in August 2015 passed a resolution urging the V.I. Government to take immediate action to issue the $600 million in pension obligation bonds and for the Legislature to approve pending pension reform legislation that had been on the table for years.

And still the bonds, which the 26th Legislature authorized 10 years ago in Act 6905, have not been issued and GERS' vision of the $600 million cash infusion is proving to be an illusion.

Among the reasons:

• The risky nature of pension obligation bonds.

• The V.I. Government's existing level of debt and the fact that it is rapidly approaching statutory and contractual debt ceilings, after which it will not be able to borrow more.

• The territory's bad credit rating, which means any borrowing the Virgin Islands does is likely to cost more in the form of higher interest rates.

• The V.I. Government's current financial condition. The government has tried twice to borrow money in the bond markets recently, just to stay afloat this year and was unable to. The government for years has operated this way – living beyond its incoming revenues and taking on 30-year debt to pay current bills.

Why are these bonds risky?

Pension obligation bonds work differently than most bonds the territory issues, and different rules apply.

The basic idea is this: A government borrows money by issuing pension obligation bonds. The bond proceeds go to the pension system to invest, with the idea that the rate of return on the investments will exceed the interest rate that the government owes on the bonds, earning money for the pension system and lowering the government's unfunded liability.

If the gamble doesn't work, though, and a high enough rate of return is not achieved, the government is left holding the bag – still owing all the interest on the money it borrowed, as well as the unfunded pension liabilities because the investments did not perform as hoped.

"They're risky, very risky, because remember it's all based on arbitrage, it's all based on hoping that your bets are going to come to fruition, and those bets have to be able to meet a certain investment criterion for the GERS to continue to be sustainable," said Finance Commissioner Valdamier Collens.

Attorney Patricia Goins, of Hawkins Delafield & Wood, the V.I. government's bond counsel, said that pension obligation bonds had been popular in the past, but historically, have not performed well.

"It's not risk-free. In fact, it's considered a very risky investment. It's an arbitrage interest rate risk," she said. "The timing is critical. You are talking about exchanging a soft obligation – your requirement to fund the pension UAL — against a hard obligation, the principal and interest on bonds."

UAL stands for unfunded actuarial liability. Notably, the V.I. government has not taken action to pay down the unfunded liability it owes the retirement system, and instead has let it grow larger and larger each year.

Former Gov. John deJongh Jr., in a written response to a Daily News inquiry, pointed out that pension obligation bonds are inherently more problematic for the Virgin Islands than for states for two reasons: because the territory would pay more in borrowing costs because of its financial condition and credit ratings — and because the territory doesn't pay its actuarially determined contributions to GERS anyway.

Therefore, he said, unlike most governments that issue a pension obligation bond, pension obligation bonds issued by the V.I. government would "increase the costs to the government vs. the status quo, not reduce them."

The Government Finance Officers Association, a professional association for public finance officers in the United States and Canada, strongly advises against state and local governments issuing pension obligation bonds for these reasons:

• The invested bond proceeds may fail to earn more than the interest rate owed over the term of the bonds;

• Pension obligation bonds are complex instruments and carry considerable risk;

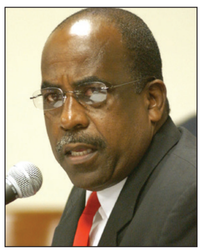
• Pension obligation bonds increase a jurisdiction's bonded debt burden and potentially use up debt capacity that could be used for other purposes;

• Pension obligation bonds are often structured in a way that increases the sponsors' overall costs; and

• Rating agencies may not view issuing pension obligation bonds as a positive.

They voted for Act 6905

Lorraine Berry



Roosevelt David

Pedro Encarnacion

Juan Figueroa-Serville

Louis Hill

Norman Jn Baptiste

Ronald Russell

ACT 6905

CONTINUED FROM PAGE 16

seat, now a radio talk-show host he ran unsuccessfully.

• Ronald Russell, now working in his private law practice.

Senators voting NO were:

• Liston Davis, now a talk radio host.

• Adlah Donastorg Jr., now in private business.

• Shawn-Michael Malone, now working for Governor Mapp at Government House.

• Positive Nelson, remained in office; now in the 32nd Legislature.

• Usie Richards, now a Mapp appointed member of the V.I Casino Control Commission.

• Celestino White Sr., now a consultant.

Two senators were absent and so did not vote: Craig Barshinger, now retired, and Neville James, who is still in the Senate.

Public outcry over Act 6905 ensued immediately. Recall petitions spread quickly, but in the end they fell short of the more than 8,000 signatures that Elections officials said were needed.

Although the incoming 27th Legislature amended a few provisions in Act 6905 — including changing GERS benefits for hazardous-duty employees — all the raises and the increases in senators' pensions stayed in place and continue to impact GERS.

Governor's pension boosted

For Turnbull, getting the bill passed guaranteed his pension would be far larger than his salary on the job as governor.

At an $80,000 annual salary for his eight years in office, Turnbull had been facing a pension of $64,000 a year. Act 6905 changed that by setting $150,000 a year as his salary, which gave Turnbull a lifetime pension of $120,000 a year. In additional generosity, the Senate made Turnbull's $150,000 salary retroactive three months.

Act 6905 also gave his lieutenant governor a bump. Richards' pension went up from $30,000 to $50,000 per year.

While pensions for senators impact GERS, the pensions for Turnbull and Richards — as for all governors and lieutenant governors — do not. Those pensions are drawn from a special fund, not from GERS, and are paid through the V.I. Finance Department.

The pension obligation bonds that Turnbull urged the senators to pass in order to rescue GERS — and that he used as the pressing reason for calling them into the 11th-hour special session — are still authorized but have never been issued.

GERS at Risk Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

Myrna van Beverhoudt taught in V.I. schools for 30 years, when she retired, GERS told her she owned more than $11,000 in contributions. That number turned out to be incorrect.

Costly mistakes

They messed with the wrong government employee, wife of a paragon of accurate documentation

It should come as no surprise to V.I residents that longtime V.I. Inspector General Steven van Beverhoudt is a meticulous record-keeper.

Steven van Beverhoudt

That came in handy when his wife, Myrna, who worked for the V.I. Education Department for more than 30 years, decided to retire at the end of 2012.

Several years before that, GERS advised members that if they were planning to retire, they should find out ahead of time whether they owed GERS any additional contributions, van Beverhoudt said.

So Myrna van Beverhoudt asked GERS do an analysis of her contributions. In April 2008, GERS provided her with a figure of approximately $11,900, which GERS said was the sum of contributions she owed.

"She worked up a plan where she would pay them every payday," Steven van Beverhoudt said. Approximately $90 extra would be deducted from her paycheck every two weeks to pay off what GERS said she owed.

In 2010, she increased the extra deduction to $300 every two weeks until she owed nothing — and GERS confirmed that, he said.

"It was paid off before she retired," he said.

But when Myrna van Beverhoudt resigned at the end of 2012 and went into retirement, GERS came back and said she owed an additional $5,000 in contributions, the inspector general said.

That claim — after his wife had already paid the amount GERS initially said she owed — prompted van Beverhoudt to get involved.

"That's when I questioned it," he said.

"I said, you guys did your assessment years ago, and she got into a payment plan and started paying the money," he said. "How can you now turn around and say she owes more money again? I don't agree with that."

Van Beverhoudt, who has been V.I. Inspector General since 1989 and recently was confirmed for seven more years, noted that he is "very particular" with his own documents.

In fact, he said, he has every paycheck stub for his wife from the first day she started working for the V.I. government.

So when GERS said his wife owed the system even more money, van Beverhoudt hauled out the pay stubs and went to work putting together a spreadsheet.

"I sat down, and I input every single one, what her payments were and what they should have been," van Beverhoudt said. "Whatever year the law changed and they increased the percentage, I increased it too."

He also obtained copies of GERS' records showing his wife's contributions and compared that with his data.

In the end, the time van Beverhoudt spent with the documents paid off.

"I came up with her not owing any money," he said, noting that he compared the documents, pay period by pay period, and found discrepancies.

"I found numerous instances where the money was taken from her, but for some reason, it wasn't recorded in their system," van Beverhoudt said.

Van Beverhoudt said that when he took his spreadsheet into GERS, officials there did their own analysis and then did an adjustment. "They wiped out that $5,000 they said she owed," he said.

His wife retired in December 2012 and got her first retirement check in May 2013. It was a retroactive payment covering January through April of that year.

A small amount had been taken out of that first check for employer contributions, stemming from a one-year stint she worked at the University of the Virgin Islands in the 1980s, he said. UVI reported that it made the employer payments, but to a different plan they were using at the time in place of GERS.

Van Beverhoudt said he and his wife discussed it with GERS and agreed to pay the $3,900 in missing UVI employer contributions — even though she had already paid her employee contributions.

> **They come and tell you this is how much you owe.**
> **Then, on the verge of retiring, they tell you, 'No, that's not correct, you owe more.'**
> **That's not right.**
>
> — Steven Van Beverhoudt

Van Beverhoudt said he is worried about GERS' record-keeping.

"I feel sorry for the average person, the Joe Blow. You're focused, you're working, you're barely making $20,000," he said. "And if they screwed up hers, they may have screwed up everybody in the government during that time period."

He also is concerned, he said, about the way GERS handled the matter.

"They come and tell you this is how much you owe," he said. "Then, on the verge of retiring, they tell you, 'No, that's not correct, you owe more.'"

"That's not right."

Van Beverhoudt said that when he retires, he's ready to make sure everything GERS says is correct.

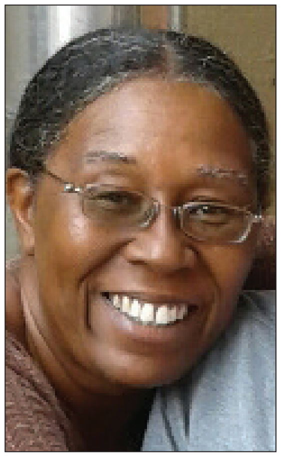
"I have every single pay stub from when I started work in the government in 1978. Every pay stub," he said.

> **I've never gotten a statement from GERS that they would stand behind.**
>
> — Pat Oliver, librarian at St. Croix Educational Complex. GERS told her she owes the retirement system more than $8,000 — without saying why that money is owed or in what time period it was under-paid

> **Cut out some frivolous spending that we see every day. Make the Carnival support itself. Have people go on leave without pay if they want to take a trip. Don't have us paying for it. Fix Government House so we're not paying a hotel bill every month. That $1.5 million going to the senators, that was ridiculous. We're acting on one hand like we have plenty of money, and then we say we have nothing when it's another situation.**
>
> — Phyllis Nehlsen

GERS at Risk Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN



Former Sen. Craig Barshinger has struggled with GERS for two years to receive his pension.

I feel like I am a pawn. I'm being used. I feel that GERS is using me to squeeze the government. Nobody can live in this world without money. I'm praying to God, knocking on every door, trying to get the problem resolved.

— V.I. Police Sgt. (ret) Patricia Tranberg Stevens, St. Thomas. When she retired, GERS withheld her first pension pay for a year because the government had not paid its share of her benefits

I still don't understand why the first thing in the Board of Trustees' vocabulary is they should cut annuities of pensioners. Why is that your first option? Isn't there anything else you can do?

– Barbara Isaac, St. Croix, retired teacher

A Long Wait

GERS' inability to compute former senator's pension spotlights a source of retirement system's trouble

How long should it take for government employees who have retired to start getting their GERS benefits?

A week? A month? Six months? A year?

Delays sometimes stretching on for years — and often blamed on funding, paperwork or computer errors — affect retirees who had worked at all levels of the government — even the top.

Former Sen. Craig Barshinger, who retired after leaving office in January 2015, has been waiting more than two years and still has not seen a dime, he said.

GERS staff keeps changing the story on why his retirement payments have not started yet, he said.

Barshinger not only was a senator, he was elected four times as senator at large, representing the entire territory. His eight years in office make him eligible for the V.I. Legislature's pension program — Yet still he waits.

What is the problem?

For two years GERS staff have alternated back and forth on what's to blame. They cite missing employer contributions or they say the retirement system's software can't handle benefits for a retiree with two different kinds of government service.

Before his work as a senator, Barshinger worked 12 years for the V.I. government — but GERS can't find records for three of those years, Barshinger said. The records make a difference because the number of years of service have a direct impact on how much pension a retiree receives.

Barshinger said he went to a GERS pre-retirement workshop about a year before he retired. When he retired, he followed the instructions, he said.

He left office in January 2015, as the 31st Legislature was sworn in.

"In the first month that I was retired, I went in to the GERS, and I signed all the paperwork with the benefits analyst," he said.

"And they said, 'You know, it might be a while until you see this.'

I said, "Yes, I'm prepared."

They said it could be six months.

I said, 'I'm prepared.'"

After six months, though, nothing came.

So Barshinger went back to check with GERS.

"They said, 'Oh, well, we're working on it,' " he said. "And when eight months had passed, they said, 'We have a problem, and you're not the only senator who has this problem, but our software won't allow us to issue you a check. It's for anyone who has both government service and Senate service. It's two different things.'"

The two types of benefits are calculated differently. Senators pay more in contributions, but also have much higher benefits than regular government employees.

Under V.I. law at the time that Barshinger left office, senators were eligible after three terms – six years – for some level of retirement benefits once they are no longer employed by the government and have reached the age of 50. More than 10 months after Barshinger retired, a new law raised that age to 60.

By about the end of 2015, Barshinger said GERS told him they'd worked out the software problem, but contended they'd found a "new" problem: that the Legislature owes employer contributions for him.

How much was not clear.

"It's a new excuse every few months," he said. "They say, 'Wait a few months and we'll work out this problem.' Then, when that's worked out, there's a new problem."

Even now, Barshinger said, GERS will not give him a full accounting of what they say the Legislature did not pay in employer contributions for him.

GERS staff have instead suggested that Barshinger pay what the Legislature should have paid, he said.

Barshinger refuses to pay the government's share.

"I have no interest in that," he said. "My interest is in fixing the problem."

Barshinger said he feels like "the only senator who's retired who hasn't gotten his money. It's a reasonable amount. It's under $30,000 a year, but it still is significant."

Barshinger said he went again to the GERS office in December to assess the situation.

"They're back to the thing where they say that their computer can't process people who have two kinds of service," he said. "I don't think they're really confused as much as they don't really know what to do."

Barshinger said he again pushed for concrete information and explanations.

"They were soft on everything that was specific," he said. "I pushed it hard, and the only thing I walked away with was a paper that shows why they say I haven't had enough service."

He also said he signed a document saying he wanted the Legislature to pay its employer contributions. Since Virgin Islands law requires payment of employer contributions, why a document like that would be necessary was unclear.

Barshinger said he has been trying to avoid having to pay an attorney to get what he is due from GERS, but that eventually may prove necessary.

His next step, he said, is to contact all the members of the 32nd Legislature about the problem since he and they are part of the same class of employees.

Barshinger, who became a father in 2015, said he needs the income and had planned on having it by now.

"I need my retirement — just something. I'm getting nothing right now," he said. "But I'm not going to let the fact that they're not paying it at all cause me to make a deal and accept less than the law says."

GERS at Risk Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

The former management of the Carambola Beach Resort and Spa on St. Croix filed suit against the Government Employees' Retirement System, claiming it failed to pay management fees and other reimbursements.

Carambola – a Symbol of GERS' Bad Deals

Hints of political pressure and evidence of improper decision-making have made the loan to the resort a catchphrase for GERS' problems

How did GERS wind up owning the Renaissance St. Croix Carambola Beach Resort?

It all started when the retirement system gave the struggling resort $15 million so it could pay off a mortgage in default and make renovations.

That loan was exactly the sort that the V.I. Inspector General criticized in a 2016 audit. He said Virgin Islands law bars the V.I. Government Employees Retirement System from making such loans.

GERS officials disagreed. They argued that commercial loans to new, expanding, or financially troubled businesses were allowed because they fall under the law's definition of "private equity investments in special situations."

The retirement system ultimately made seven such loans, and the Inspector General criticized all of them as illegal and as bad investments. The profits GERS received from most of the loans were below expectations.

"GERS engaged in highly speculative and risky activities by entering into these loan agreements without performing sufficient due diligence or having a mechanism to adequately monitor these questionable activities," the Inspector General said in his March 2016 audit report.

"In addition, GERS has been forced to liquidate millions of dollars from traditional investments to disburse large sums of money to these commercial borrowers," the Inspector General reported.

Daily News file photo

Tables full of senators, their staff, family and friends filled the dining room at Renaissance St. Croix Carambola Beach Resort in January for a private celebratory dinner, at V.I. taxpayers' expense.

GERS' entanglement in Carambola began as far back as 2009, when the board agreed to make the loan. In January 2010 when Gov. John deJongh Jr. announced the deal and praised the GERS board for making the loan, plus a loan to Seaborne Airlines, some questioned whether politics influenced the loan decisions.

The GERS board then issued a statement saying it had conducted five months of due diligence before the July 24, 2009, vote to make the loan to Carambola Northwest LLC at 10.5 percent interest. "Due diligence" is the process used to gather facts and evaluate a possible business transaction.

The GERS statement described how Carambola would use the $15 million: $8.2 million to pay off existing bank loans, judgments and priority liens against the property and $6.8 million to pay for upgrades so the resort could meet hospitality company Marriott Corp.'s standards.

The renovations were completed, and Carambola received Marriott's Renaissance Hotel designation, but the property owner did not keep up with its payments to GERS.

In August 2011, GERS Administrator Austin Nibbs informed a Senate committee that Carambola had not paid principal or interest for the last two months and had defaulted on the loan.

In December 2011, the GERS board voted to refinance Carambola's loan and cut the interest rate from 10.5 percent to 6.3 percent, but in just a few months, Carambola again defaulted.

GERS took over ownership of the resort in May 2012.

The V.I. Inspector General's audit report, published in March 2016, sharply criticized GERS for failing to perform adequate due diligence and failing to sufficiently monitor its alternative investment loans.

GERS officials countered that they carefully evaluated all agreements and investments before making decisions, but the Inspector General found specific evidence that GERS had not done so before giving Carambola the $15 million loan. The IG said in the audit report:

• The financial consultant reported that because of the expedited nature of the loan, the binder of required documents was not complete. These documents include critical financial and legal paperwork that are used to determine an entity's ability to pay.

• GERS had to pay more than $1

See **CARAMBOLA,** page 22

Active loans

Loan to ATTILANUS
(viaticles)

Loan amount: $10 million
Maturity date: July 10, 2017
Interest rate: 15%
Interest paid: $1,988,708.37
Principal paid: $0
Amount now due: $10 million

Loan to GOVERNMENT

Loan amount: $13 million
Maturity date: Dec. 15, 2016 (extended to Dec. 15, 2018
Interest rate: 4.91%
Interest paid: $1,949,773.49
Principal paid: $8,079,867.17
Amount now due: $4,920,132.83

Loan to KAZI FOODS
(KFC & Pizza Hut)

Loan amount: $6 million
Maturity date: Oct. 1, 2023
Interest rate: 6.25%
Interest paid: $1,165,150.66
Principal paid: $700,024.61
Amount now due: $5,299,975.39

Loan to V.I. FINEST FOODS
(St. Thomas supermarket near UVI campus)

Loan amount: $11 million
Maturity date: Mar. 31, 2025
Interest rate: 6.40%
Interest paid: $508,777.78
Principal paid: $324,232.40
Amount now due: $10,675,767.60

Loan totals

GERS lent: $40,000,000.00
Interest paid to GERS: $5,612,410.30
Principal paid to GERS: $9,104,124.18
Amount now due: $30,895,875.82

Investments

Mesirow Fund V
GERS committed $10 million
GERS put in $7.65 million

Mesirow Fund IV
GERS committed $15 million
GERS put in $13.8 million

Attilanus
GERS put in $50 million
Received a return of $8 million
$42,000,000 being written off

Real estate

Hoffman/Nullyberg
Bought for $4.595 million

Coakley Bay
Bought for $5 million

Havensight Mall
Bought for $32 million

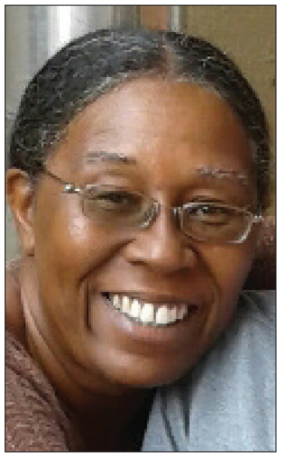
Carambola
Default on $15 million

GERS at Risk Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

The Dark Side of the Carambola deal

GERS let itself get bilked of $15 million by former owner



"

Get somebody else in there to run it. Why should anybody wait a year to be paid?

— V.I. Police SGT (Ret.) Patricia Tranberg Stevens, St. Croix

"

I've gone a year without pay.

– Ian Williams Jr., St. Thomas, retired from the V.I. Fire Service, whose pension was withheld because the government did not pay its share of his benefits.

"

I hear the governor is using the excuse of mismanagement as a reason not to give GERS money. But that's not the answer. They need what was due, and then they need to be monitored. Or change the board.

— Phyllis Nehlsen, St. Croix, retiree

GERS relied heavily on information from Larry Vaughn, the sole owner of Carambola Northwest, LLC, when agreeing to a "friendly foreclosure" after Carambola defaulted on a $15 million loan GERS made to the company.

Vaughn defaulted on the loan and later declared bankruptcy in Florida. Then GERS filed a lawsuit in Florida against the borrower after a forensic review of Carambola's books and records.

The court filing sheds light on GERS' improper handing of the loan, despite GERS officials vigorous defense of its actions.

GERS said in the filings that Vaughn's representations after the loan went into default encouraged the retirement system to agree to a "friendly foreclosure" under which Vaughn assigned ownership of the hotel to GERS.

Vaughn had represented to the GERS board that Carambola had no outstanding debts or liens unpaid bills through November 2012, but to the contrary, Vaughn's company owed $1

Larry Vaughn, left, is joined in 2010 by Gov. John deJongh Jr. during the grand re-opening of the Marriott Renaissance Carambola Beach Resort and Spa on St. Croix. Vaughn would shortly default on his loan from GERS that paid for the upgrades to secure the Marriott Renaissance branding.

million tax debts and $40,000 to a law firm, GERS complained in the court filing. As a result, GERS not only lost its $15 million, it had to pay Vaughn's debts when it took over the property.

GERS said in its filing that the system never would have agreed to take over ownership of Carambola had it been aware of those debts.

The system claimed that Vaughn had manipulated to defraud GERS out of the loan proceeds by organizing "sham contractors" to perform repairs and bill for work that was never completed — but for which GERS paid. That claim echoes findings in the Inspector General's report.

Among those "fraudulent, manipulated expenses" that GERS alleged in court were:

- More than 16 payments totaling $78,968 made to a company that GERS contends was connected to Vaughn.
- More than 138 payments worth $1,272,905, for which no expense justification records existed.
- More than 26 payments worth $31,421 with duplicate check numbers.
- Payroll payments of $37,236 to four employees — after their termination dates.
- $1 million that GERS gave to Carambola for a sprinkler system that had never been installed.

In his own court filing, Vaughn denied those allegations.

He also contended that GERS was "well aware" of the outstanding tax debt before executing the final disposition agreement and that the debt to the attorney had been disclosed as well.

The GERS lawsuit against Vaughn ended in January with both sides agreeing to a dismissal of the action and paying their own attorney fees.

CARAMBOLA

CONTINUED FROM PAGE 21

million in hotel room tax liability for periods from 2005 to 2012, a liability that was not disclosed in the Dec. 8, 2009, closing documents.

- "In our opinion, if the financial advisor was not pressured to submit incomplete work, the issues regarding unpaid taxes, future repayment ability, and character of the proposer(s) would have surfaced during the due diligence research. The results of such efforts would have allowed the Board of Trustees to make a more insightful decision regarding this investment."

The audit also found that GERS paid numerous expenses for Carambola — in addition to the $15 million loan — and that as of June 2015, those extra disbursements totaled $12 million, racking up a total cost for the Carambola venture of more than $27 million — and counting.

In the audit report's section about GERS' inadequate monitoring of alternative investments, the Inspector General noted that GERS' 2013 forensic audit of the hotel operation identified high-risk transactions, including:

- Payment in 2010 of $1.2 million for a fire detection and sprinkler system that was not operational.

Daily News File Photo

The Renaissance St. Croix Carambola Beach Resort and Spa underwent a renovation that was funded by a $15 million loan from GERS. The retirement system ended up owning the resort in 2012 when the owner defaulted.

- Twelve payments totaling $83,626 from the hotel owner at the time to his three other business operations.
- Goods supplied to the hotel that were not in the line of business of the items supplied: for example, an electronics shop was supplying towels.
- Instances where landscaping services totaling $23,843 were procured from Florida-based service providers whose invoices included travel costs from Florida to St. Croix as well as a custom waterfall for $8,195 that could not be located.

The Inspector General observed that the forensic audit that GERS commissioned was limited in scope because:

- There were no supporting documents for a sample of 23 wire transfers totaling almost $7.6 million.
- There was no listing of aged accounts receivable from December 2009 to December 2010.
- Financial statements were not certified as accurate by senior management between December 2009 and March 2013.
- There was no documentation in accounting journal entries relating to GERS' wire transfers from December 10, 2012, to August 26, 2013.

Those findings raised questions about whether funds were expended for their intended purposes, the Inspector General said.

His report lays the blame on GERS: "Despite these findings, we found no evidence that GERS took steps to address the concerns. Instead, GERS continued to fund various operations at the hotel and invested an additional $12 million, through June 2015, without ensuring that basic internal controls were developed and implemented to reduce or eliminate questionable transactions, minimize the risk to members, and maximize the rate of return on the investment.

GERS officials disagreed with the Inspector General's conclusion they had not conducted efficient monitoring and oversight.

The GERS board voted in 2014 to put the resort up for sale and continue investing in it until it is sold. As of now, there are no buyers.

The board suspended its alternative investment program in September 2015, saying it did not want to tie up additional funds.

GERS at Risk Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

Inspector General audits of GERS

Summary of Findings U.S. Interior Department Inspector General

September 1985

- The retirement system may not have accumulated sufficient reserves to guarantee the payment of promised retirement benefits.
- Loan procedures were not sufficient to prevent lost revenues and protect the retirement system's interests.
- Annual revenues of more than $164,000 were not realized because of the procedures used to compute interest on personal loans.
- GERS did not correct poor performance by investment managers in a timely fashion.
- Internal controls were insufficient to detect and minimize errors in computing duty-connected disability annuities.
- Inadequate controls over reserve funding, loan policies and administration, interest income, performance of professional investment managers and duty-connected disability annuities.

September 1991

- GERS had not implemented 15 of the 24 recommendations contained in the 1985 report.
- GERS did not have current and accurate records of the status of loans.
- Minimal collection efforts were made on delinquent loans.
- GERS personnel did not ensure that automobiles and real property purchased by members through GERS loans were adequately insured,
- Although some improvements had been made in reserve funding, personal loan interest computations, investment management and disability annuity calculations, additional improvements were needed in loan administration.

Based on the governor's response to the followup audit report, auditors decided:

- 2 of the 15 unresolved recommendations from the 1985 report were resolved and implemented.
- 13 recommendations from 1985 plus 3 new ones were unresolved.

March 1999

- GERS did not fully implement 15 of the 16 unresolved recommendations contained in the 1991 followup report and therefore did not adequately administer loans to members.
- GERS' bank account had not been reconciled since 1995. As a result, a difference of $15 million existed between the bank statement balance and the cash balance shown in the Retirement System's internal records.
- Erroneous contribution amounts were deducted from employees' salaries, which resulted in the need to refund about $104,000 annually.
- GERS lost about $1 million in interest income because of the government's delays in submitting biweekly contributions.
- GERS did not implement the recommendations and therefore did not adequately administer loans and
- did not initiate collection actions on delinquent loans.
- did not have accurate and reliable loan information on its computer system.
- did not implement standardized written policies and procedures for loan processing.
- did not ensure that all automobile and mortgage loans had current insurance policies.

September 2011

- GERS is at critical risk due to a growing unfunded liability. At the time, it was more than $1.4 billion.
- Factors in the unfunded liability include insufficient contribution levels, an unhealthy ratio of active to retired members, and unfunded legislative mandates.
- Unless the government acts quickly to implement drastic reforms, employees who have made mandatory retirement contributions for years may find themselves with no retirement income at all.
- GERS does not always maintain accurate member information, which could lead to GERS paying incorrect pension amounts or employees retiring earlier or later than they should..

The 2005 GERS reform legislation had not yet been fully implemented.

V.I. Inspector General's Inspection of GERS' Alternative Investments

March 2016

- V.I. Code related to the GERS alternative investment program does not provide adequate controls and protection against the risk of loss of the pension funds.
- GERS entered into loan agreements that are not authorized under the Alternative Investment Program or any other authority as defined by the V.I. Code.
- GERS entered into an extremely risky and questionable viatical investment that jeopardized about $42 million of its investment portfolio.
- GERS entered into numerous agreements and investments without performing the necessary due diligence to ensure a reasonable rate of return.
- GERS did not adequately monitor and oversee investments under the Alternative Investment Program to protect its interests.

Source: U.S. Department of Interior Office of Inspector General, Virgin Islands Office of Inspector General

GERS 2011 Reforms

31st Legislature's changes to GERS include:

- Made new government employees eligible to join GERS immediately, instead of after a month.
- Allowed people who work exclusively for the government on a contract fee or per diem basis for at least 40 hours a week to join GERS.
- Allowed any member who is vested to buy up to five years of additional service credit by paying employer and employee contributions, along with a charge to be determined by the actuary.

For Tier 2 employees:

- Increased the early retirement age from 50 to 60.
- Increased the regular retirement age from 60 to 65.
- Increased the retirement age for hazardous duty personnel from 55 to 60 with at least 10 years of service, or age 58 with 25 years of service.
- Removed the provision that lets people who have not reached retirement age retire with full benefits after 30 years of service.
- Changed the formula for calculating pensions from the average wage over the most recent five years to the average wage over all the years worked.
- Increased the contribution rate for judges and senators to 15 percent. Tier 2 senators still contribute at 14 percent, which the GERS board set.
- Increased the age at which senators can start receiving retirement benefits from 50 to 60.

Other provisions

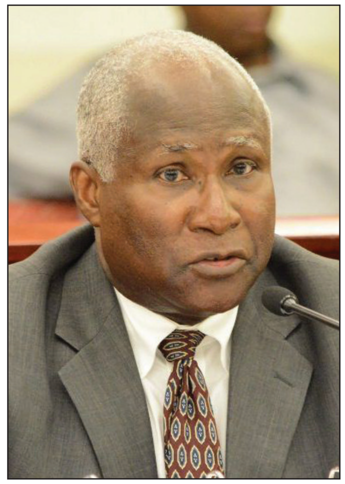
- Raised the mandatory retirement age for police, firefighters and corrections officers from 55 to 63.
- Dedicated funds the government receives from the Lonesome Dove petroleum company, after the first $500,000, to go to pay unpaid government contributions to GERS or to assist GERS in paying down the unfunded liability. Lonesome Dove petroleum company went into receivership in 1992 as part of the V.I. government's efforts to collect $21.8 million in taxes, penalties and fees. The V.I. government recently got the corporate shares when the receivership action ended.

Board's actions to save GERS

As the GERS' funding situation has grown worse, the Board of Trustees has made changes to stave off insolvency. Those include:

- Suspended the cost of living adjustment for retirees, starting in 2013.
- Suspended the alternative investment program.
- Suspended the loan program.
- Raised employer and employee contribution rates.
- Started billing the central government for the cost of benefits GERS is giving, including for employees who retire but have missing contributions.

Source: Daily News archives and GERS vice chairman Edgar Ross



Austin Nibbs

GERS Administrator

Austin Nibbs is the GERS administrator. He was appointed to the post by the board in October 2007 and confirmed by the Legislature in March 2008.

Duties of the administrator

- Administering the business of the system, responsible for its proper operation and in charge of the detailed affairs of the system.
- Following orders, resolutions and directives of the board.
- Employing clerical, professional and technical support services as the board determines necessary for operating the system.
- Establishing a GERS office and providing for a complete and adequate system of accounts and records.
- Adopting the required actuarial tables and compiling statistical data necessary for periodic actuarial valuations and surveys.
- Certifying payments to be made and maintaining the system's accounts.
- Making recommendations to the board.
- Preparing and submitting the annual report.
- Providing reports the board requests.
- Issuing a statement of accounts showing the amount of a member's contributions to the system within 30 days of the date of a request.
- Issuing to each retiring member and the Internal Revenue Bureau a statement of the amount of the retiring members' contributions.

Source: V.I. Code

GERS at Risk Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

People when they can't retire want to blame the GERS, when the problem is in the executive branch. And we see it now. All they're doing is moving up the date that this system is going to go down.

— Mary Moorhead, St. Croix, retired from the Education Department

There needs to be a moratorium on lending our money to failing businesses.

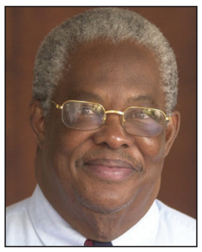
— Barbara Isaac, St. Croix, retired teacher

The GERS system was enacted from 1959 and it was a well-oiled machine until you got different people come in and they decided to get creative and do this and do that.

— Ian Williams, St. Thomas, retired V.I. firefighter

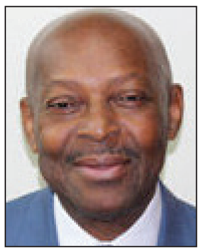
Government Employees' Retirement System office operations coordinator Linda Nanton, left, leads a tour of the boardroom at the retirement system's St. Croix Office Building in Estate Orange Grove shortly after the building's dedication in 2010.

GERS Board of Trustees 2017



Edgar Ross
vice chairman, elected retiree

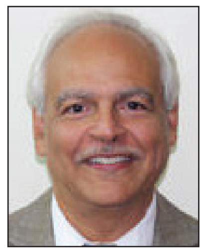
Desmond Maynard
private sector



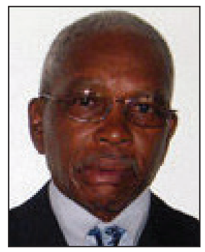
Wilbur Callender
Chairman, elected retiree

Carol Callwood
Central Labor Council

Leona Smith,
active employee



Michael McDonald
retiree



Vincent Liger
Central Labor Council

Term of service
5 years.

Duties, powers, responsibilities

- Setting policies
- Making investments to maximize investment returns
- Determining investment asset allocations
- Authorizing the purchase and sale of investments
- Holding regular public meetings
- Investigating and deciding appeals at the request of a member on decisions by the administrator
- Transmitting an annual report on the operations of the system, and publishing in a newspaper of general circulation a summary of the annual report
- Can sue or be sued in the name of the retirement system
- Entering into contracts, leases, and agreements
- Recommending to the governor and Legislature an adjustment in benefits for all annuitants and pensioners at least every two years, based on a review of cost of living and other economic factors
- Retaining a nationally recognized Certified Public Accountant, with experience in pension and trust accounting, to audit the financial statements of the system
- Accepting, receiving, depositing, controlling, investing and managing appropriations, gifts, devices, bequests, or contributions regardless of the source, on behalf of the system
- Appointing the administrator, with the advice and consent of the Legislature
- Setting contribution rates for employer and employee, within limits
- Sitting as a panel at least once a month to hear suggestions of retired government employees on improvements to the system and deciding grievances of retired government employees.
- Buying and selling property, including real estate
- Borrowing money and issuing bonds for any corporate purpose, provided that the authorization for the issuance of the bonds shall not exceed 10 percent of the market value of the total investments of the system

Note: The board does not have the authority to add, change or delete benefits without the Legislature's approval

How the members are chosen

2 Elected by GERS retirees

- 1 retiree from St. Croix district.
- 1 retiree from St. Thomas-St. John district.

5 Appointed by governor, confirmed by Legislature

- 1 from St. Croix
- 1 from St. Thomas
- 1 from St. John.
- 2 members (1 from St. Thomas-St. John District, 1 from St. Croix) appointed from a pool of at least six who are members of the Central Labor Council, active members of GERS and recommended by Central Labor Council executive committee.

Source: V.I. Code, GERS

GERS at Risk Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

— $4,070,000,000.00 unfunded liability —

How Will GERS Insolvency Impact You?

- Sharp pension cuts for retirees
- Uncertain future for active employees
- Economy setbacks worse than HOVENSA shutdown

Inside Part 3

"

In my organization, I've been thinking that what we probably need to be telling people is how to survive when it goes under and their pension is cut.

— Helen Hart, St. Thomas, retired teacher and president of Government Retirees United for Fairness

GERS at Risk Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

What GERS Insolvency Would Look Like

Pensions would fall, likely down to half the promised amount

Insolvency. The collapse of the retirement system.

It has loomed, a vaguely alarming but distant specter, for decades when officials have warned about the troubles of the territory's pension system.

The V.I. Government Employees Retirement System has been on the road to insolvency for at least two decades, but now it is no longer a distant apparition many years down the road.

GERS' actuary predicts insolvency in five to six years — during Fiscal Year 2023.

The timing depends on a variety of factors and could shift somewhat depending on investment performance, whether the Virgin Islands government meets more or less of its funding obligation, and if reforms passed in the last two years help slow the outflow of money.

Nevertheless, insolvency appears inescapable unless the government takes action.

What would that look like? What would it mean to retirees and employees looking ahead to retirement?

At the point of insolvency and afterward, GERS would be reduced to taking whatever money comes in as contributions and immediately paying it back out as benefits and for expenses of running the system without ever investing it.

"After Fiscal 2023 is basically what we call a pay-go system, where they're not accumulating any monies, as in assets. They're just paying the liabilities out from what they receive in cash flow every year," said Marcy Block, a senior director at Fitch Ratings who does much of that rating company's analysis of the territory's credit risk.

Insolvency, though, does not mean that retirees would get nothing from the system. Officials say they would be likely to see greatly reduced benefits. GERS board vice president Edgar Ross described the conditions created by insolvency this way:

Pay-as-you-go pensions

"If nothing is done to the system between now and then, we can only pay out the monies that we have available, which would be limited to the contributions that come in from the employer and employee, which may amount to less than 50 percent of present benefits," he said.

Numbers that GERS submitted in an ongoing court case estimate that benefits to retirees would be cut even further.

"Absent a unilateral reduction in vested benefits, the current rate of contribution will support only 40 percent of the statutory level of benefits on a forward-going basis," GERS states in a request to a federal judge to enforce a consent judgment that required the V.I. government to pay what is required by law into the pension system on a timely basis.

The GERS filing also included this bleak description: "Current member contributions will be absorbed completely for the payment of accrued liabilities to retired members, effectively reducing the System, beginning in 2023, to a government sponsored Ponzi scheme."

Ponzi schemes are a form of fraud that, among other things, promise investment returns that can never be paid. Ponzi schemes generate returns for long-term investors by acquiring new investors who put money in, rather than through profit earned from legitimate sources.

No matter how much or how little an insolvent GERS might pay out, however, the V.I. government remains on the hook for all the retirement benefits it has promised its employees. That obligation does not go away, and the government is responsible for the full amount of benefits, Ross said.

"GERS would continue to pay out what comes in and request central government appropriations to fund the deficit," Ross said. "The GERS would not have to go into bankruptcy, because the primary obligation for the pension obligations is the central government."

If insolvency caused lawsuits, as might be expected, GERS then would have to use some of the money coming in to defend itself from those lawsuits, he said.

The GERS federal court filing included this bleak description: 'Current member contributions will be absorbed completely for the payment of accrued liabilities to retired members, effectively reducing the System, beginning in 2023, to a government sponsored Ponzi scheme.'

Farewell to assets

GERS has for years been selling its investments in the stock market to pay current benefits.

The amount that needs to be turned to cash varies month to month, but the overall trend of the system's portfolio has been downward from year to year because of the frequent need sell off investments in order to pay benefits to retirees.

As GERS moves farther down the road to insolvency, the sell-off of assets will continue.

"As part of the liquidation plan, if nothing else happens, we will try to sell off the assets that we have to use to pay benefits," Ross said.

Recent reform measures implemented by the board or enacted by the Legislature have helped slow the sell-off, but it continues at a pace of tens of millions of dollars a year.

By the end of the 2016, fiscal year, the schedule of receipts and disbursements GERS issues monthly showed that the system had paid out $90 million more than it had taken in through the year.

Without major restructuring, eventually there will be no more stocks and bonds to sell. The board then would have to try selling less liquid assets such as the collection value of the remaining unpaid loans made through its loan program and other holdings.

"We will have to look at the physical assets we have and try to sell them, convert them to cash," Ross said.

Physical assets that GERS owns include Havensight Mall on St. Thomas, GERS office buildings on St. Thomas and St. Croix, Carambola Beach Resort on St. Croix and land on St. Croix and St. Thomas. The board would have to choose what to sell and when, but the pressure of insolvency would lower the chances of getting the best prices.

"The purpose of the board, the existence of the board, is to pay benefits," Ross said. "If we have to sell all the physical assets and move to a smaller place and reduce staff, we will do so to accommodate the needs we have."

GERS at Risk Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

Economic Chaos

Insolvency would take away $600 million circulating in V.I.

V.I. Government Employee's Retirement System officials have warned that the pending insolvency of the system would create financial havoc in the territory.

Retirees and active government employees' weakened buying power would mean a loss of gross receipts tax and income tax revenues for the V.I. government.

But the impact would not stop there.

"If this system is allowed to fail, it's going to cause economic chaos in this territory," said GERS administrator Austin Nibbs.

That is because the system's payments of approximately $250 million per year contribute a significant amount of the cash that circulates through the territory as GERS retirees and beneficiaries pay rent, buy groceries, support churches or in other countless ways engage in commercial activity.

"When those monies go into the economy, there's a multiplier effect, let's say maybe two times, maybe three times," Nibbs said.

A report from the National Institute on Retirement Security estimated that the multiplier effect of retirement benefits was approximately 2.4. That means that each dollar paid out in pension benefits supports approximately $2.36 in total economic output.

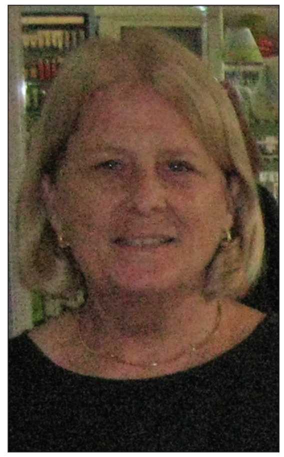
Using that figure, the $250 million in annual benefit payouts — if it were paid solely to people who reside in the territory — would translate into almost $600 million in economic output.

Even taking into account the fact that some GERS beneficiaries live outside the territory or spend at least some of their GERS payments off-island, the pension plan's economic contribution to the territory amounts to hundreds of millions of dollars each year.

According to information the U.S. Bureau of Economic Analysis released in December, the Virgin Islands' gross domestic product in 2015 was over $3.7 billion. Gross domestic product is the value of the goods and services produced by the V.I. economy, less the value of the goods and services used up in production.

The $600 million in estimated economic activity stemming from GERS pensions in the territory is equal to almost 16 percent of the territory's total gross domestic product.

However, if the retirement system becomes insolvent in 2023, retirees could see their annuities cut in half or worse, and the loss to the local economy could be on par with the Great Recession that began in 2008 or the HOVENSA refinery shutdown in 2012 that caused crashes that still echo in the territorial economy.



"It would be devastating for every business in the Virgin Islands. People wouldn't have money to spend. They would be spending their money on rent or mortgages and food and power bills. And then if there was anything left over they would have to buy very carefully and frugally. I believe a lot of people will leave — again.

— Peyton Bryant, owner of Small Wonders, a children's clothing and toy store in Christiansted

Insolvency Spurs 'Life or Death' Concerns for Retirees

Thousands dread losing half or more of their already-small GERS pension

The V.I. Government Employees Retirement System pays pensions to more than 8,000 retirees — what will happen to them if the pension system becomes insolvent?

Benefits would be slashed by half or more, according to officials who estimated that money coming into GERS after it sells its last assets would cover only 40 percent to 50 percent of what is owed to retirees.

Without a massive cash infusion or other drastic change to contributions or benefits, GERS will become insolvent in 2023, six years from now. Although the Virgin Islands government still would be legally responsible for the full amount of pensions promised to retirees, its cash-strapped position shows no indication that it could make up the difference.

Retirees watching and worrying about GERS' future fear dire consequences for many who depend on government pensions.

"For some people, 30 percent could almost be a death sentence because they'll need to go on public welfare," said Phyllis Nehlsen, a St. Croix retiree. "They might be developing illnesses at that certain age that are expensive. It would be a total collapse, I think, of the economy here. We've already been through some of that."

Nehlsen was concerned about proposed cuts of 30 percent that GERS considered in November — which the board voted not to implement — as well as the threat of even higher cuts that would come with insolvency.

She said some retirees are barely making it and any cut — even as little as $50 a month — could send them over the financial edge.

About one-fourth of the retirees who rely on GERS get less than $10,000 a year.

Information provided by GERS shows that during August 2015 the system made payments to 8,457 retirees. The net annual earnings for 2,291 of them — about 27 percent — totaled less than $10,000.

Among those receiving the least amounts:

- 394 those retirees received less than $2,400 annually.
- 570 got between $2,400 and $4,800.
- 660 got $4,800 to $7,200.
- 667 got $7,200 to $9,600.

"It would be catastrophic for some people," Nehlsen said of the cuts that insolvency would force.

While people getting annuities of $10,000 or less might be least equipped to handle a 50 to 60 percent reduction of their benefits, cuts that severe would change the lives of virtually all GERS beneficiaries, V.I. government retirees told The Daily News.

"I would feel it. It would cut out my travel, it would make me tighten my belt," Nehlsen said. "But I know for some people, it would be life or death."

Some retirees already have felt the impact of disruptions to their promised pension benefits.

Patricia Tranberg Stevens, a retired police sergeant, had to wait almost a year after retiring before GERS finally started paying her. She experienced the same difficulties — stemming from the V.I. government's failure to pay the full amount it owes GERS — as did a number of other hazardous duty employees eligible for early retirement.

Retirees 'will have to consider whether to buy medicine or not, whether to drive their car or not.'

— Barbara Isaac, GERS retiree

Stevens is the caregiver for her elderly father, but his pension was not enough to sustain them, she said.

"Nobody can live in this world without money," she said.

By the time Stevens started receiving benefits, she had depleted her checking and savings accounts and was barely getting by. She was concerned about losing her house, she said.

If insolvency forced GERS to cut annuity benefits by 50 to 60 percent, Stevens said she again would be in financial straits.

"It would put me right back in the same hole," she said. "How am I going to operate at that level?"

St. Thomas retiree Barbara Isaac said she thinks the type of cuts that would happen under insolvency would devastate the V.I. economy as other retirees cut back on the services they use and the goods they buy.

"There are so many things I would have to stop doing because of my pension," she said. "What's going to happen to those businesses? What's going to happen to social programs in the Virgin Islands?"

"What am I supposed to do? Not save money and use all my assets to live? What if I live another 20 years?" she said. "What if, in another year or two, I get a stroke? I may need care. What happens then?"

Isaac helps out her granddaughter who is in college, and she wondered whether she would have to cut back on that if the territory's leaders do not implement reform before it is too late.

"It's a complex problem, and I understand that. But I would like to see our leaders start to tackle the problem, and not just do the first thing that comes into their heads, cut the annuities of the retirees," she said. "I would like to see our leaders attack it, at least begin to attack it. One step at a time."

"The picture is dim and I may be one of those that it may not shake as hard. But what about the other people whose pension may not be as much as mine, who actually barely survives right now?" she said. "They cut their pension, and they will have to consider whether to buy medicine or not, whether to drive their car or not."

"The impact would be devastating to each and every retiree, their entire family and the entire economy and community. Many people would be plunged into poverty immediately. How would they survive?

— Troy deChabert-Schuster, State Director of AARP V.I.

GERS at Risk Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

GERS Unfunded Liability Sours Experts on V.I.'s Long-Term Financial Outlook

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Everybody is to blame: every elected official for the past 20 years, every board member — especially those that voted so foolishly to put money where it shouldn't have been put — the administration, the governors who didn't pay the money they should have paid in.

— Phyllis Nehlsen, St. Croix, retired teacher

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We are going to suffer; ultimately some of us are going to survive and some of us won't.

— Barbara Isaac, St. Thomas, retired teacher

After decades of V.I. government officials failing to adequately fund the Government Employees Retirement System and at times wielding it for their own political advantage, the problems created by their actions — and inactions —finally have come home to roost.

The unfunded liability that the government owes to GERS has suddenly become much more visible in the government's own financial statements under new accounting rules, bumping an already bloated deficit by more than $2 billion.

The pension system's troubles also played a significant role in credit agencies' decisions over the last few months to downgrade V.I. bonds from investment grade into speculative status — junk bond territory.

And at least one rating agency sees the potential GERS insolvency in 2023 as an increasingly likely scenario.

Eurson Fahie, a retiree, addressed V.I. government active employees and retirees in October at a rally in opposition to potential GERS benefit cutbacks. The rally was sponsored by Government Retirees United For Fairness.

New accounting rules

The Governmental Accounting Standards Board, or GASB, has set new standards aimed at greater transparency for government finances.

Such rules are known by numbers, and financial types refer to the new accounting rules dealing with pension systems as GASB 67 and 68.

"GASB 67 and GASB 68, in its simplest form, took the liabilities out of the notes to the financial statements and onto the government's balance sheet. So not only did it have an effect on the balance sheet, it also had an effect on the government's statement of revenues and expenditures," said V.I. Finance Commissioner Valdamier Collens.

"Before, it was tucked away in words in the back of the book," Collens said. "And now, which I agree, it is front and center."

The new rules' impact on the Virgin Islands government's financial statements was immediate.

An initial Fiscal Year 2014 audit of the V.I. government by BDO USA showed a $1.5 billion net deficit. Under the new accounting rules, the auditors had to go back and restate the government's net deficit for 2014 as almost $3.5 billion.

The adoption of the new rules "accounted for $2.015 billion difference between the negative net position for 2014 as was reported initially in the 2014 annual report and that reported in the 2015 annual report," Michael Granof, an accounting professor at the University of Texas at Austin, said in a written response to Daily News inquiries.

By the end the 2015 fiscal year, the government's net deficit was up to $3.7 billion.

To be clear: the new rules did not create new debt, but they did require that existing debt be stated more clearly on government financial records.

"The standards had no impact on the amount actually owed to active and retired employees, but they did require that governments measure and report their obligations in a manner than substantially increased the amounts included as balance sheet liabilities," Granof said.

Credit ratings plunge

The GERS' unfunded liability also impacted the government's credit ratings and was a factor in the decisions by the big three credit rating agencies to cut the V.I. government's bond ratings to junk status.

"It definitely has an impact on the credit rating. When we're looking at the liability burden, we look at the outstanding debt, plus the unfunded pension liability,' said Marcy Block, a senior director for Fitch Ratings — Public Finance. "And since their unfunded liability is so high, it really has a sizable impact on the rating."

A lower credit rating typically results in higher interest rates, meaning the government's costs of borrowing money by selling bonds goes up.

The Virgin Islands has been trying to borrow $147 million to fund operating deficits in the 2017 and 2018 fiscal years, as well as to provide some funding for the territory's hospitals and the V.I. Waste Management Authority. The government decided in December to delay that transaction — which amounted to more than $200 million because of the high costs associated with this borrowing — until January, and then called a halt to the January attempt when not enough investors were interested. To date it has not sold the bonds.

Although the Legislature also authorized an additional $100 million in borrowing to pay down some of what the government owes to GERS, the V.I. Public Finance Authority, chaired by Gov. Kenneth Mapp, voted not to borrow that portion.

So far, though, the government's financial situation and the government's inability to borrow have prompted the three major credit rating services to downgrade the territory's bond ratings and its general credit rating on two different occasions over the course of seven months.

Those moves sent the territory's bond ratings out of investment grade into speculative status, then further into junk bond territory.

In its downgrade of the PFA's bonds in December, S&P cited the government's fiscal distress as evidenced by its significant imbalance of government revenue and expenses, the government's continued reliance on borrowing to fund operations, its weak financial reporting, and its significantly underfunded pension liabilities, among other factors.

Moody's Investors Service also cites the "large unfunded pension liability" as a factor in its downgrade.

Fitch Ratings in an August report pointed to the territory's tendency to shift spending needs to future periods, and noted specifically how the territory consistently budgets funding for GERS at amounts that are far below actuarially required levels, raising the pension system's liability and elevating future required contributions.

Later in the report it cited the territory's long-term liability burden, which includes the GERS unfunded liability. It noted that if the pension system goes insolvent, the territory is still required to pay the money it owes retirees.

"Fitch views the depletion of GERS's pension assets as becoming an increasingly likely scenario over the intermediate term," the report states. "All else being equal, asset depletion would expose the USVI's budget to the additional burden of covering current retiree benefits from operating resources."

Based on the 2015 fiscal year figures from GERS, Fitch estimated that additional burden at $145 million annually — "a figure likely to rise over time."

By Daily News Senior/Investigative Reporter JOY BLACKBURN

— $4,070,000,000.00 unfunded liability —

Can GERS Be Saved?

- Pros and Cons of other pension plans
- Governor's 5-Year Plan
- Experts' advice

Inside Part 4

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I would be interested in meeting with individuals who can tell us how we might get some money to keep the system alive and making whatever adjustments need to be made to it, like maybe looking at different plans or getting more people to pay into the system.

— Abdul Ali, St. Croix, retired from the Labor Department

GERS at Risk  Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

Band-Aids can't stop GERS' bleeding

The V.I. Government Employees Retirement System's problems are the direct result of the V.I. government using money that legally belonged to GERS.

From the very beginning, the V.I. government made promises that in the long run it could not keep. It doesn't have all the money it is supposed to give GERS, and it has not found a way to get enough without cutting essential government services

A variety of potential solutions are available to help GERS avoid insolvency, but unless GERS and the government choose and commit to the necessary solutions soon, GERS will be insolvent in six years.

GERS and the Legislature have made changes, but they merely slowed the decline. They did not solve the core problem: GERS does not have enough money.

These are among the recent changes:

• First, GERS suspended its loan program in order to keep more cash on hand. A new loan takes cash out of the system in one large lump, but loan repayments come back into the system slowly and in small amounts.

• Second, the GERS Board and the V.I. Legislature raised both employee and employer contribution rates.

• Third, in 2016 the government transferred $7 million to GERS from the Internal Revenue Matching Fund, the fund that holds the rum excise tax money that comes to the territory when Virgin Islands produced rum is sold stateside. Although a V.I. law passed in 2011 requires the government to make that transfer to GERS every year, the government did not do so until 2016.

No quick fix

GERS board vice chairman Edgar Ross is optimistic. "This is my personal opinion," he said. "If we can get enough monies on a regular basis, on a monthly basis, to cover the demands of the retirees and the cost of the benefits, we can continue to limp along."

V.I. Finance Commissioner Valdamier Collens said he thinks it is possible to prevent GERS insolvency, but it will require, as he put it, "hard decisions and political will."

Keith Brainard, research director for the National Association of State Retirement Administrators, put it this way: "If it's known that the plan costs are problematic, or if the plan itself is unsustainable, there needs to be a willingness to make changes."

There is no quick fix, no matter what changes are made, warned Elizabeth Kellar, a senior fellow at the Center for State and Local Government Excellence. Correcting years of underfunding "usually takes a long time," which is why the key to keeping retirement system healthy is "to pay the employer contribution every year and adjust the employee contributions and/or plan design as needed."

Many different examples of effective changes and reforms are available now because, like GERS, many other government pensions were underfunded and have faced insolvency.

NASRA reported in June 2016 that changes to public pension plan design and financing "have never been more numerous or significant than in the years following the Great Recession."

"Although the global market crash and recession affected all plans," NASRA reported, "differing plan designs, budgets and legal frameworks across the country defied a single solution. Instead, each state met its challenges with tailored changes specific to its unique circumstances."

Most government pension plans kept the essentials:

• Mandatory participation.
• Cost-sharing between employer and employees.
• Pooled and professionally managed assets.
• Guaranteed pension amounts.
• Lifetime pension payouts.
• Survivor and disability benefits.
• Supplemental savings.

"Reforms in most cases preserved these important features and modified some combination of required employee contributions, benefit levels, or eligibility for retirement," the NASRA report said.

Can Big Changes Help GERS?

Experts suggest GERS' problems might be solved by changes in what the retirement system does and how it is funded. Some of those changes would not work for GERS; some have been tried elsewhere and here, with yet undetermined results, and some are on GERS' wish list.

Suggested changes include:

1. A large cash infusion

This option is GERS' preferred solution, but it is highly unlikely, given the government's dire financial condition and inability to meet its day-to-day operating expenses without borrowing or adding taxes.

Rocky Joyner, a vice president at Segal Consulting who is GERS' actuary, told local policymakers in September that a one-time cash infusion of $1.4 billion to $1.7 billion by Sept. 30, 2016 would keep the system afloat indefinitely.

The Mercer Report, which the V.I. Public Finance Authority commissioned to benchmark the funded status of GERS, also cited the advantage of a large cash infusion after examining different methods of pension funding. That report did not suggest a specific amount.

The V.I. government does not have an extra $1.7 billion — which is more than double its annual General Fund budget — to give GERS, nor does the V.I. government have enough borrowing capacity to get that much money to give GERS. In recent months the government could not even get enough investor interest to issue bonds that Gov. Kenneth Mapp said were needed urgently to run the territory through September 2018.

For GERS right now, according to the Mercer Report, short-term help should be the first goal: "We suggest that the initial focus needs to be on short-term viability — getting enough cash in the door to pay the benefits that will be owed over that short-term period, and thus avoiding insolvency," the report advised.

2. Bigger payroll contributions

The Mercer report to the V.I. government questions whether employees would be willing to pay higher contribution rates if they don't expect to retire before the system goes insolvent.

On Jan. 1 of this year, each employee's required contribution rate rose 1 percentage point, putting the rates at 11 to 17 percent, depending on the employee's position and Tier 1 or Tier 2 status. The V.I. government's payroll contribution rate is 20.5 percent, which the government must pay.

The GERS board could raise employee rates in 2020 – or the V.I. Legislature could raise them sooner — but the rates already are 5 to 10 percent higher than in many other public pension plans.

3. Smaller pensions

Employees might see this as solving the problem on the backs of the workers, however there are different ways to cut future pension costs, for example:

• Reduce or eliminate cost of living adjustments.

The GERS board has authority over this, and in 2013 it suspended cost-of-living adjustments except for disabled pensioners.

• Change the formula for calculating pension amounts.

Pension formulas typically use a percentage of the employee's average salary multiplied by a set number of years the employee worked. For GERS, the Tier 1 employees' multiplier is 2.5 percent of salary, and for Tier 2 employees, it is 1.75 percent.

Possible changes to the formula would be reducing the multiplier and increasing the number of years over which the average salary is calculated.

The 31st Legislature changed the time period in the formula for Tier 2, raising it from the most recent five years to all the years the employee worked.

• Change pension eligibility dates

GERS has two important dates: The year of employment when an employee becomes eligible for a pension and is vested in GERS, and the year an employee reaches retirement age. Both dates differ according to the employee's status.

Changing GERS' vesting period is an unlikely choice because it already is 10 years, which is a long time compared to other public pension plans.

Increasing the age for early retirement keeps people working longer and contributing money into the system instead of taking money out in pension payments. The 31st Legislature partially accomplished this in 2015 by raising the retirement ages for Tier 2.

• Cut existing pension amounts

The GERS board in November considered cutting pensions for current retirees by 30 percent, but decided against it.

The move would have been unprecedented. The Mercer Report said, "Be it from a sense of fairness, concern about the employee relations ramifications or lack of legality, to the best of our knowledge no state has done this."

GERS vice president chairman Edgar Ross, a retired judge, said he thinks cutting existing pensions would violate the law.

4. Get higher returns from GERS' investments

"In theory, taking more investment risk could result in higher returns, but it also leads to higher chances of ruin," according to the Mercer Report.

The short time remaining until insolvency limits how much reward the pension fund could get from riskier investments.

Meketa Investment Group, which manages the GERS portfolio, reported in September that GERS has an annualized rate of return of 9 percent going back to 1981. According to a National Association of Retirement Administrators report last month, the median public pension fund annualized investment returns for the 25-year period that ended in December was 7.8 percent and for the last 30 years, was 8.3 percent.

GERS returns have varied greatly year-to-year, ranging from minus 1 percent to 11.2 percent in just the years from 2013 to 2015.

A V.I. Inspector General's audit report criticized the GERS board, saying it had not adequately protected the system's interests in its alternative investments and that the V.I. Code needed to be changed to limit such

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GERS at Risk Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

Pensions come in many forms

Employers phase out old plans to get upper hand on costs

The V.I. government has good reasons to offer good pensions to its employees.

"It is an important human resources management tool to attract and retain qualified workers who are needed to provide essential public services," said Keith Brainard, research director for the National Association of State Retirement Administrators.

The pension benefit is a hook to keep good employees, but "if you get rid of that hook, then the government becomes the training ground for the private sector," he said.

For the V.I. government, the big question is how to keep the hook without going broke: GERS' $4 billion unfunded liability has a doomsday clock ticking down to 2023, the year the retirement system will become insolvent – unable to pay the promised pensions in the promised amounts.

Something must be done. But what?

The V.I. Government could create a new tier within the existing GERS plan for new employees, with lower benefits or higher contribution rates, or both.

Another possibility could be changing the type of retirement plan the government uses. Plans exist in various forms, and each has advantages and disadvantages for the employer and the employee.

Defined benefit plan

A "defined benefit plan" is the current GERS plan. The employer — in GERS' case the V.I. government — promises a specific pension amount that is determined by a formula based on such factors as, compensation history and length of time on the job rather than on investments.

The defined benefit plan, which can take different forms, is common in state and city government retirement systems, and it works well — but only if the sponsor puts the required amount of money into it.

"It's like a car. It only works if you put gasoline in it," said Brainard.

Defined contribution plan

This plan, which has several variations, requires the employer, the employee or both to make regular contributions, which then are invested. In this type of plan, the contribution amount is a pre-set amount, but future pension amounts depend on the investment earnings.

Hybrid plan

This combines elements of defined benefit plans and defined contribution plans. Hybrid plans have variations, all depending on how the contributions are structured.

Whatever it decides to do — make changes in the existing plan or switch to a completely new plan — the government will, by law, remain responsible for providing all of the existing benefits that its employees and retirees have earned under the current plan.

The government also will still have to pay down GERS' current unfunded liability. The cost of doing that would have to be included in the cost of switching to a new plan.

"They still owe those benefits that have been promised," Brainard said. "And switching to a different type of plan… has nothing to do with solving the problem of the defined benefit plan."

Any move that would close the existing GERS plan to new entrants and require the new employees go into a defined contribution plan instead not only would not help GERS' current plan, it would speed up insolvency.

"When you close off the pension plan to newly hired workers, you're basically starving that plan of contributions that were expected, which would be used to pay down the unfunded liability," Brainard said.

The V.I. government is looking for solutions, and it commissioned global pension consultant Mercer LLC to explore different options that other states have implemented and that the V.I. government and GERS might consider, and then gave positives and negatives associated with each.

The Mercer report included, at the government's request, an analysis of what the state of Rhode Island did to help turn its state pension system around.

Mercer found that Rhode Island moved its current active members with less than 20 years of service into a new plan structure that combined defined benefit and defined contribution. New employees go directly into the new plan.

This is how the combination works for Rhode Island: The employee keeps any retirement credits already earned in the old defined benefits plan. Those credits will not change. But going forward, the amount of benefit that an employee would earn under the old plan is reduced and replaced to some degree by a contribution into the newer plan.

The Mercer report noted that it did not try to verify 2023 as GERS' insolvency date, but it estimated that the date may be optimistic — insolvency could happen sooner — if GERS' assets such as the amounts receivable from member loans and from real estate and limited partnerships cannot be liquidated at their current value.

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The pension benefit is a hook to keep good employees, but "if you get rid of that hook, then the government becomes the training ground for the private sector.

— Keith Brainard, research director for the National Association of State Retirement Administrators

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What GERS is continuously saying is that they need a lump sum of money in the system to make it work, but somehow they're not getting what they're asking for from the governor and the Legislature.

— Helen Hart, St. Thomas, retired teacher and president of Government Retirees United for Fairness

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A bill was passed to give the GERS $100 million, which the governor say he ain't giving them. I think he's wrong.

— Eurman Fahie, St. Croix, retired from Department of Housing, Parks and Recreation

CHANGES

CONTINUED FROM PAGE 30

investments.

Just before the audit, the 31st Legislature did the exact opposite. The senators expanded the alternative investment program and even added to the list of risky alternative investments in which GERS could invest.

The senators also made changes allowing GERS to invest in more junk bonds and make more foreign investments.

5. Reduce GERS' expenses

GERS' annual administrative expenses from 2010 to 2015 have ranged from $13.5 million to $19.5 million, which is high compared to other pension plans of similar size and even in comparison to some much larger plans.

The Government of Guam's pension system, which is about the same size as GERS, had administrative costs of $4.5 million, according to the Mercer Report.

The Minnesota State Retirement System, which covers more than 100,000 employees in five plans, had about $10 million in administrative costs in 2015, according to the report.

6. Create a new employee tier

A third tier for employees hired after a certain date could have different contribution and benefit accrual rates, but that would not reduce GERS' obligations to current Tier 1 and Tier 2 retirees and active employees.

7. Find a dedicated funding source

If the government would set aside a permanent and steady revenue stream exclusively for GERS, the retirement system would have a better chance of survival.

Board vice chairman Edgar Ross thinks that could be a partial answer to GERS' problems. "A funding source has to be given to the system — a dedicated funding source that would help us meet the ongoing annual expenses and increase our investment assets," he said.

The 31st Legislature made a step in that direction, but the anticipated revenue is small in the face of GERS' needs. The senators earmarked funds the government receives from the resolution of the Lonesome Dove petroleum company receivership. The funds are to be divided between the Senior Citizens Center Fund, which gets the first $500,000 each year and the government to get the rest to make up for its unpaid employer contributions to GERS or to abate and assist GERS in reducing its unfunded liability. The amount could mean less than $1 million a year for GERS.

Senators also passed a bill requiring all proceeds from the sale or renting of houses the government acquired from Limetree Bay be contributed directly to GERS. The houses, formerly owned by HOVENSA, were deeded over to the government as part of the operating agreement with Limetree Bay when that company purchased the old refinery site

Mapp vetoed the bill, saying he wanted to use the money to make up for GERS contributions that government agencies did not pay for individual retirees who can't receive their pensions until the government pays overdue amounts.

The governor also said that half of the money from the housing rents has to go toward maintenance of the properties. He did not clarify why cost of maintenance would require half the revenue from the rents.

GERS at Risk Who's to Blame?

By Daily News Senior/Investigative Reporter JOY BLACKBURN

GERS awaiting court's help

Seeks enforcement of government contributions

GERS went to the U.S. District Court in October to try to get a federal court order forcing the V.I. government to make its required contributions to GERS. Judge Curtis Gomez has not made a ruling yet.

GERS filed the new motion in a 1981 federal case against the V.I. government that was settled with a consent decree in 1984. In the decree, the government agreed to pay the total amount due in its employer and employee contributions within 30 days of each payroll period. It was modified in 1994 to ensure accurate, timely payments into appropriate bank accounts controlled by GERS, according to court documents.

In the current action, GERS contends that the government has failed to abide by the terms of the consent decree for years, and GERS asks the judge to find the government in contempt of court.

An issue is whether that 33-year-old consent decree applied only to the government's payroll contributions for each employee or whether it also included the amount that an actuary determines the government needs to pay in addition to its payroll contributions.

What do the experts advise?

A new report on GERS says that the options to avoid insolvency — which is expected sometime in Fiscal Year 2023 — are very limited, but simple: put more money into the system or stop paying so much out.

The report, commissioned by the V.I. Public Finance Authority and authored by James Verlautz, a principal at Mercer LLC, confirms what GERS officials and its actuary have been saying for a long time.

"Anything other than significantly increasing cash contributions into the plan to essentially cover the benefit payments or cutting the plan's existing obligation for retiree payments is unlikely to have a significant effect on avoiding insolvency," Verlautz wrote.

Finance Commissioner Valdamier Collens said the PFA contracted with Mercer to provide the government with certain information and the options that might be available for GERS, based on similarly situated jurisdictions stateside.

The Mercer report contains some information that is similar to information the retirement system has already released – although the report also provides potential solutions, as well as a comparison of the funded status of GERS with select plans in other states.

The report, which at times points out the obvious, notes that GERS has two funding issues and that each will require its own solution. Those issues: preventing short-term insolvency and ensuring long-term stability.

A projected insolvency date of 2023 for the retirement system is "a very short time frame in actuarial terms and the potential remedies are limited and conceptually simple," Verlautz wrote.

He gives the government these three options for avoiding GERS insolvency in 2023:

- Making significant additional contributions, either as a one-time cash infusion or as substantially increased annual contributions
- Cutting benefits of current benefit recipients
- Transferring "the obligation for the benefit to another party such as the USVI government."

It was not clear what the consultant meant by the last option, because the government is already obligated to pay the benefit.

In explaining that option, Collens said it was "having some other governmental entity take on the responsibility of keeping the pension system going" – but he pointed out that no other governmental entity has extra cash floating around to give to GERS either.

"I can't think of another governmental entity that has enough excess revenues right now to be able to assist the GERS," he said.

Collens said he breaks down that option to mean "that the central government in its planning of its executive budgets would have to take on more of a ... make more appropriations on an annual basis to the GERS to keep it going."

The options of making additional contributions or cutting benefits were explored extensively in presentations GERS made public in September, presentations by the system's actuary and investment advisers.

During the September presentation, Rocky Joyner of Segal Consulting, which provides actuarial services to GERS, explored the potential impact that different levels of increasing contributions and cutting benefits, in different combinations, would have on staving off insolvency.

Cutting benefits?

The GERS board decided in November that cutting benefits for current retirees and beneficiaries was not an option.

Board member Edgar Ross said in an interview that the board had considered the cuts because the actuary, Joyner, had presented them as a potential way to help avoid pending insolvency.

Ross, a retired judge, said that it is his position that such cuts would not be legal – not for the board to implement and not even if enacted by the Legislature. He pointed to a recent decision by the 3rd U.S. Circuit Court of Appeals.

That decision found that even though the Legislature in 2011 enacted 8 percent paycuts for government employees for two years, the government still had to live up to its collective bargaining agreements, which did not allow for the paycuts.

Ross said in light of that decision, he did not believe making cuts to retiree benefits would be legal.

"Most of our retirees were members of unions. The unions, while these members were employees, bargained with the government for certain benefits. The mere fact that the employment relation terminated does not mean that the benefits agreed upon while they were active members terminate," Ross said. "The government has to honor the collective bargaining agreement."

The GERS board had considered a 30 percent cut.

Officials anticipate that if the plan is allowed to go insolvent, the cuts to retiree benefits would go deeper, at 50 percent or more, as benefits would be based solely on how much came in in contributions each month.

The formula for survival

The Mercer report also explores potential solutions – things that have been tried in other retirement systems — that could help GERS reach long-term stability. The report cautions, though, that actions must first be taken to avoid short-term insolvency.

The report provides a formula as a simple way of describing the costs of a retirement plan:

Employer contributions equal benefits paid plus administrative expenses minus investment earnings minus employee contributions. The V.I. government has been falling far short of the mark for employer contributions for years.

The report says that the five elements in the formula "are the levers an employer uses in designing and administering a retirement plan."

The equation does not balance for GERS, but the report notes that one or more of the levers could potentially be moved to get the retirement system back into balance.

The Mercer report goes on to explore different options that might help GERS on the pathway to long-term stability. Those possibilities, among others, are outlined in this Daily News report.

Collens said the V.I. Public Finance Authority paid Mercer $32,286 for its evaluation of GERS. The PFA selected Mercer after contacting four companies about actuarial services and subsequent competitive negotiation. The other companies were AON Risk, PricewaterhouseCoopers and Towers Perrin, he said.

Too little, too late to help

Five-Year Financial Plan expects money for GERS, but details are vague and the amount falls far short

The V.I. government seems deaf to the ticking of the doomsday clock and has publicly described only one new, upcoming strategy for dedicating additional revenue to GERS.

A Five-Year Financial Plan put together in late 2016 by the governor's financial team says that starting in 2018, the V.I. Economic Development Authority will approve five new applications for Economic Development Commission benefits every year, each generating $5 million to the government's revenue, for a total of $25 million. Then, in 2020, the government will start sending 60 percent of the money to GERS.

The wording of the plan does not make clear whether the money to GERS would be 60 percent of the cumulative amount of three years of new revenues, which would be $45 million, or 60 percent of the new revenue from one year, which would be $15 million

No matter whether it is $45 million or $15 million, it would not be enough to help GERS break even in 2020, and it would not have been enough in 2015. Nor would it make a significant inroad in the pension plan's unfunded liability. Expecting that much additional revenue from that many new EDC companies could be equally unrealistic.

The Five-Year plan cites 17 applications "currently in the pipeline," but provides no specifics.

V.I. Finance Commissioner Valdamier Collens referred The Daily News to the EDA for answers about how the expectation of 25 new companies — 5 per year for 5 years — was reached, and about how the government had concluded that each of those new businesses — which likely would be receiving significant tax breaks — would add $5 million a year to the V.I. government's revenue.

An EDA spokeswoman said that Daily News requests to interview EDA acting CEO Wayne Biggs were forwarded "to USVIEDA management for review."

No further response has been forthcoming.

By Daily News Senior/Investigative Reporter JOY BLACKBURN

GERS' Timeline of Trouble

The V.I. Government Employees Retirement System stands on the edge of a fiscal cliff, the result of countless decisions and actions — or inactions — by government and GERS leaders over the course of decades — especially in the last 15 years.

Many of the events described in this timeline might appear minor, in and of themselves, but viewed together they show the complex, interwoven path that has brought the territory to the point it is at today.

— 1959 —

June 24, 1959 — The 3rd Legislature of the Virgin Islands enacts the Government Employees Retirement System with Act 479.

— 1980s —

Oct. 25, 1983 — Act 4877, the Omnibus Authorization Act, No. 1 of the nine "unfunded mandates," passed by the 15th Legislature, becomes law.

Feb. 21, 1984 — Act 4896, providing early retirement for Education Department as personnel, passed by the 15th Legislature, becomes law as unfunded mandate No. 2.

— 1990s —

Aug. 16, 1994 — Act 6007, the Early Retirement Incentive Training and Promotion Act of 1994, passed by 20th Legislature, becomes law as unfunded mandate No. 3.

Dec. 5, 1995 — Act 2088 extending Act 6007, passed by the 21st Legislature, becomes law as unfunded mandate No. 4.

— 2000 —

Oct. 19, 2000 — Act 6361 providing early retirement options and reducing expenditures, passed by 23rd Legislature, becomes law as unfunded mandate No. 5.

— 2001 —

Early 2001 — Act. 6391 increasing retirement benefits for Territorial Court judges, passed by 23rd Legislature, becomes law as unfunded mandate No. 6.

June 18, 2001 — Act 6415 funding pay increases for retirees and eligible employees is passed by the 24th Legislature, becomes law as unfunded mandate No. 7.

June 19, 2001 — Act 6427 placing employees on steps, passed by the 24th Legislature, becomes law as unfunded mandate No. 8.

Sept. 24, 2001 — Act 6429 expanding eligible members of the early retirement program, passed by the 24th Legislature, becomes law as unfunded mandate No. 9.

— 2002 —

May 23, 2002 — GERS struggles to collect on loans Senate requires it to offer employees up to $50,000. It has no procedures to foreclose on delinquent mortgages or repossess vehicles or force mortgage holders to insure their properties.

July 30, 2002 — GERS informs Legislature that a combination of additional contributions totaling 6.6 percent of compensation is necessary for GERS to break even. Unfunded liability is $518.1 million. Government is $23.3 million in arrears.

Sept. 17, 2002 — GERS Administrator Laurence Bryan Jr. warns Senate Committee about the "pending calamity of a collapse" and pleads increase in contribution levels.

Dec. 6, 2002 — GERS Board of Trustees continues $10,000 cap, the maximum level at which the system can insure the loans for all members.

Dec. 23, 2002 — 24th Legislature in its final hour raises senators' salary from $65,000 to $85,000, governor's salary from $80,000 to $135,000, and lieutenant governor's salary from $75,000 to $115,000.

— 2003 —

Jan. 10, 2003 — Gov. Charles Turnbull bows to public pressure and vetoes the raises bill after two weeks of public outrage and protest demonstrations at his inauguration.

March 18, 2003 — Advocates for the Preservation of the Retirement System present petitions bearing 6,000 signatures to Senate President David Jones calling for the repeal of unfunded mandates passed by the 24th Legislature.

Aug. 20, 2003 — GERS administrator Laurence Bryan tells a Senate committee that the retirement fund is deteriorating and the government needs to make regular payments toward a $731 million unfunded liability, stop awarding enhanced benefits without appropriate funding, and add a new tier for new employees

August 2003 — GERS submits draft legislation to Government House to reduce pension pay for future employees. Nothing is done.

— 2004 —

June 21, 2004 — GERS officials, testifying before a Senate committee, propose increasing contributions from employees and the government.

July 15, 2004 — GERS administrator Laurence Bryan tells senators that the GERS' unfunded liability is nearly $1 billion, urges them to increase contribution rates and pass a law giving the GERS board power to increase rates.

Nov. 5, 2004 — GERS board fires Bryan, giving no reason, and names GERS chief financial officer Willis Todmann as acting administrator.

December 2004 — Consultants make an independent operational analysis of GERS and find that the system is rife with inefficiency. Problems include lengthy loan processing, loan payments not been posted since January 2004, no formal process in place to track delinquent accounts on a monthly basis, and delinquencies not reviewed since December 2003. Bryan calls the report flawed and a smoke screen to divert blame.

Dec. 20, 2004 — Groundbreaking on the new $5.4 million new GERS headquarters in Orange Grove, St. Croix, which officials say will enhance customer service and operations.

— 2005 —

Feb. 1, 2005 — GERS board member Marvin Pickering says at board meeting: "We are liquidating our assets, and the clock is ticking" as result of the widening gap between retirement payouts and employer and worker contributions.

March 16, 2005 — GERS acting administrator Todmann tells Senate the GERS board needs authority to raise contribution rates.

May 19, 2005 — GERS board approves a $4.28 million construction bid from Best Construction Inc. to build its St. Croix headquarters. Earlier groundbreaking preceded acceptance of the bid.

Aug. 3, 2005 —Todmann testifies that the system cannot survive another 10 years without increasing contribution rates. He urges the Legislature to give the board statutory authority to raise contribution rates.

Sept. 22, 2005 — Senate committees debate extensive GERS reform bill and add many amendments, including Sen. Usie Richards' provision authorizing GERS board to make risky viatical investments.

Sept. 26, 2005 — Legislature unanimously passes GERS Reform bill.

Oct. 17, 2005 — Act 6793 to spend $60 million in unanticipated revenues and 16.3 million in debt reserves and give $6.3 million to GERS, passed by 26th Legislature is signed by Gov. Charles Turnbull.

Nov. 2, 2005 — Act 6794, the GERS Reform Act of 2005, is reluctantly signed into law by Turnbull, who says its negatives barely outweigh positives. The law creates Tier 2 of government employees who will make higher contributions for lower benefits; creates GERS alternative investment program; allows GERS board to increase contribution rates up to 3 percentage points over five years. The bill also requires the government to fully fund any special early retirement programs before the programs start and does not allow any increases in benefits unless a specific funding source has been identified and provision made for the funding of all future benefits on a sound actuarial basis in the annual budget.

Dec. 15, 2005 — Government owes GERS $25 million in delinquent contributions.

December 2005 — Turnbull asks the Senate for a raise to $135,000 a year and a raise for the lieutenant governor to $120,000 a year.

— 2006 —

Jan. 11, 2006 — In Committee of the Whole meeting, Senate President Lorraine Berry directs GERS officials and the governor's financial team to develop a feasible plan for reducing GERS unfunded liability by April 15. GERs officials have made three recommendations: float $600 million in bonds; double employer contributions, and tap into HOVENSA's corporate income tax payments.

Jan. 16, 2006 — Senate sends proposed GERS legislation back to Government House for redrafting. Turnbull's proposed 42-page bill addressing problems he saw in the September 2005 GERS reform legislation includes a section that would increase pensions for retired senators to as much as 100 percent of their Senate pay.

May 25, 2006 — Senate Rules Committee approves Todmann as GERS administrator.

July 12, 2006 — GERS estimates its unfunded liability has topped $1 billion.

November 2006 — GERS board considers how to develop 120 acres it bought in July in estates Hoffman and Nullyberg on St. Thomas.

Nov. 25, 2006 — Gov. Turnbull calls the 26th Legislature into special session Nov. 28 to consider floating $600 million in pension obligation bonds to pay down GERS' unfunded liability.

Nov. 28, 2006 — At the special session, the Senate sends the four bills — including the one for pension obligation bonds — to the Committee of the Whole for further vetting.

Dec. 1, 2006 — In Committee of the Whole, AARP Virgin Islands members testify about problems with Turnbull's proposed changes to the 2005 Retirement System Reform Act, citing the proposed increase in senators' benefits and provisions that would undo some reforms put in place in 2005. Senators also discuss Turnbull's $600 million pension obligation bond proposal.

Dec. 12, 2006 — In a brief legislative session, senators vote to send into committee several bills — including Turnbull's GERS reform proposal and the authorization for $600 million in pension obligation bonds — so the incoming 27th Legislature can consider the measures.

Dec. 27, 2006 — Turnbull calls the 26th Legislature into special session the next day to consider a 48-page bill that includes the $600 million in pension obligation bonds and several changes Turnbull had proposed for GERS. It also includes raising salaries for the governor, lieutenant governors and senators, as well as the lucrative new retirement package for senators.

Dec. 28, 2006 —26th Legislature passes Turnbull's bill on a 7-6 vote with two senators absent.

Dec. 29, 2006 — Turnbull signs the bill into law.

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By Daily News Senior/Investigative Reporter JOY BLACKBURN

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— 2007 —

Jan. 1, 2007 — Turnbull leaves office; John deJongh Jr. takes office as governor.

Jan. 4, 2007 — Widespread anger over the passage of Act 6905 leads to petition drives to recall the senators who supported the measure who are not leaving office at the end of the Senate's term.

Jan. 8, 2007 — 27th Legislature takes office as the recall efforts gain momentum: A petition drive in St. Thomas-St. John targets Sen. Louis Hill; on St. Croix the protest movement targets Senators Juan Figueroa-Serville, Norman Jn Baptiste and Ronald Russell, who voted for Act 6905, as well as Sen. Neville James, who missed the Dec. 28 special session.

Jan. 16, 2007 — The four St. Croix senators subject to recall petitions take a grievance to the Federal Communications Commission about radio personality Roger Morgan, whose talk show "Free Speech" has been a forum for callers' outrage over Act 6905. The senators claim that Morgan is using the issue of a senatorial recall "to destabilize the legislative branch of government."

Jan. 22, 2007 — DeJongh in his first State of the Territory Address says he disagrees with the plan to use pension obligation bonds to cover the GERS unfunded liability and will not support issuing more debt.

Feb. 9, 2007 — More than 100 emergency first responders take to the streets on St. Croix to protest Act 6905, specifically a provision that increased the number of years emergency services employees must work to get full annuities.

March 5, 2007 — The petition drive to recall four St. Croix senators over Act 6905 fails because the petitions were short of the 8,691 signatures required; a similar recall effort in St. Thomas-St. John had fizzled in January.

Week of March 21, 2007 — GERS board places system administrator Todmann on leave, and board members are tight-lipped about why.

March 22, 2007 — Senators repeal a provision of Act 6905 that added five years to the time newer emergency service employees have to work to receive full retirement benefits.

March 24, 2007 — Todmann, under fire from the GERS board, resigns as administrator and chief financial officer effective April 24.

April 19, 2007 —GERS board approves more than $200,000 for a forensic audit and to hire an internal auditor.

June 2007 — Jaredian Design Group advises GERS that it has cause to terminate a $5.4 million contract with Best Construction, which was hired to build the system's new headquarters on St. Croix. In a letter, Jaredian said Best Construction failed to meet its contractual requirements by not supplying enough properly skilled workers or paying subcontractors as specified. The building had been scheduled for completion at the end of 2006 but is only 30 to 35 percent finished.

Sept. 20, 2007 — The GERS board directs legal counsel Cathy Smith to issue eviction notices to the V.I. Justice Department and V.I. Division of Personnel because they are past due on more than $1 million in rent for their spaces in the GERS Building on St. Thomas.

Oct. 10, 2007 — DeJongh urges senators to increase the employer's set-rate contribution to GERS from 14.5 percent to 17.5 percent

Oct. 18, 2007 — V.I. Personnel Director Kenneth Hermon Jr. asks the GERS board for a three-year timetable to pay off his agency's past-due rent and to waive about $150,000 in late fees. Personnel owes GERS more than $647,000 in back rent and utility bills. GERS says it received just two rent payments from Personnel in 2005 and none in 2006. The board does not make a decision.

Oct. 18, 2007 — GERS board unanimously selects Austin Nibbs, executive assistant commissioner at the V.I. Finance Department, to replace Todmann as GERS administrator; his selection also requires Senate confirmation.

Oct. 25, 2007 — GERS board approves an $8 million loan to help St. Croix-based GeoNet Ethanol fill its inventory.

Dec. 20, 2007 — GERS board receives a report saying the Justice Department owes back rent of $1.2 million and Personnel owes $446,000. The board does not take action.

— 2008 —

Jan. 23, 2008 — Pivoting from his earlier objection to the $600 million pension obligation bonds issue, deJongh says he expects to them by June. He says he changed his mind because of plans to increase the government contribution rate from 14.5 percent to 17.5 percent.

Jan 29, 2008 — GERS board unanimously agrees to terminate its contract with Best Construction. The new office on St. Croix was supposed to be finished by the end of 2006, but construction still is not complete. J. Benton Construction has been tapped to take over the project.

Jan. 29, 2008 — Former GERS administrator Todmann is arrested, accused of stealing from GERS through a forgery scheme that allowed him to collect two salaries.

March 19, 2008 — The full Senate approves a bill to increase employer contributions to GERS from 14.5 percent to 17.5 percent of an employee's compensation.

April 13, 2008 — DeJongh signs the bill to increase employer contributions.

May 15, 2008 — GERS board selects seven companies to manage alternative investments in real estate, private equity and hedge funds.

June 23, 2008 — DeJongh announces Diageo plans to build a facility on St. Croix to produce Captain Morgan rum. He says part of the rum excise tax revenues that will come to the territory when the new facility's rum is sold in the U.S. will help combat the GERS' unfunded liability.

Oct. 10, 2008 — Recession-driven decline in the value of GERS' investments is estimated at $330 million.

Dec. 15, 2008 — DeJongh's financial team meets with GERS board over its decision to enforce the law requiring members to pay GERS for unused leave time if they want it to count toward their retirement. DeJongh asks GERS to delay implementing the policy.

Dec. 16, 2008 — GERS board votes to wait another year before requiring government employees to pay into the system for unused leave they credit toward retirement. Several semi-autonomous agencies have not paid their additional contributions to the system since the employer contribution rate was raised by 3 percentage points.

— 2009 —

January 2009 — GeoNet Ethanol finishes paying back its $8 million loan from GERS, plus $660,000 in interest.

June 2009 — GERS' investment portfolio values begin rebounding following hard decline in 2008.

July 1, 2009 — Government officials learn that GERS has not yet implemented the second tier pension program for new employees — one of the key provisions of the GERS reforms passed in 2005.

July 31, 2009 — More than 5,700 government retirees are slated to get a $395 bonus from V.I. Lottery funds.

Oct. 1, 2009 — GERS marks its 50th anniversary with open houses and benefit fairs.

Oct. 19, 2009 — At a Senate town hall meeting, government employees voice fear and anger over the plan to implement provisions of the 2005 GERS reform act on Jan. 1, 2010.

Oct. 28, 2009 — In response to widespread public outcry, the Legislature passes an amendment that pushes back implementation of the GERS Reform Act of 2005 for another year, to Jan. 1, 2011.

Nov. 12, 2009 — DeJongh signs the measure delaying implementation of GERS reform. The legislation also appropriates $3 million to pay both employer and employee contributions on outstanding accrued leave time that employees want to use as credit toward retirement so that employees planning to retire in 2010 can do so.

December 2009 — GERS makes major loans to two prominent Virgin Islands businesses: $15 million to Carambola Beach Resort and Spa and $3.3 million to Seaborne Airlines.

— 2010 —

February 2010 — The U.S. Interior Department Inspector General's Office, spurred by GERS' growing unfunded liability, proceeds with an audit investigation of the retirement system.

March 12, 2010 — GERS attorney Cathy Smith says a bill the Senate approved that purportedly came from GERS differed significantly from draft legislation she submitted. The bill as passed allows government employees who owe back pension payments — but are not told by GERS they owe them in time to make payments before they retire — to start collecting retirement checks anyway.

March 17, 2010 — After five years and a cost of $11 million, the new GERS office building in Orange Grove on St. Croix enters the final stages of construction. The original project plan had a $5.4 million budget with completion scheduled for the end of 2006.

June 11, 2010 — With an eye toward securing a guaranteed revenue stream, GERS considers building supermarkets that would be open to everyone but offer discounts to members.

July 2010 — GERS moves into its new St. Croix headquarters.

Sept. 20, 2010 — Senators approve a bill appropriating $4 million annually for the next 10 years to pay the government's contribution on retroactive annuity payments to government retirees.

Sept. 22, 2010 — Senators approve a measure to let GERS put up to 10 percent of its portfolio into alternative investments, which carry higher than usual risks but offer the potential for larger profits than some other investments.

Nov. 25, 2010 — DeJongh approves a bill appropriating $2.4 million for contributions to GERS for unused sick leave credited toward retirement for members who retire in 2010.

— 2011 —

Jan. 1, 2011 — Tier 2 GERS members — those hired Oct. 1, 2005, and after — start making increased contributions as required by the 2005 reform law.

Jan. 25, 2011 — GERS board votes to move forward with plans to develop land it owns in estates Hoffman and Nullyberg on St. Thomas.

Feb. 16, 2011 — GERS announces $5 million purchase of 170 acres on St. Croix's East End as an investment.

July 5, 2011 — DeJongh signs the V.I. Economic Stability Act of 2011, which cuts government employees' salaries by 8 percent for two years and includes a retirement incentive program. The move decreases the amount of money coming to GERS. DeJongh also line-item vetoes a $7 million appropriation from the Internal Revenue Matching Fund to GERS.

July 7, 2011 — Senators override deJongh's veto of the $7 million appropriation to GERS in FY 2013, meaning it is now law.

July 8, 2011 — The GERS board approves a 1.5 percent cost of living increase for government retirees. GERS officials also say that the Economic Stability Act will harm the system with new provisions that could add another $26.3 million to GERS' unfunded liability.

July 29, 2011 — GERS officials say WAPA owes more than $5 million in contributions to the system.

Aug. 12, 2011 — GERS officials testify before a Senate committee about needed reforms of the retirement system.

Aug. 23, 2011 — GERS officials tell the Senate Finance Committee that Carambola has defaulted on its $15 million loan from 2009.

Aug. 30, 2011 — The Economic Stability Act's retirement incentive program is reported to have

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drawn applications from about 370 government employees.

Oct. 1, 2011 — The report on Interior Department Inspector General's examination of GERS reveals the system at critical risk of failure because of a $1.4 billion unfunded liability. Interior requests oversight by its Office of Insular Affairs to ensure the territory is acting on recommended changes.

September 2011 — The GERS board passes a resolution seeking to "amicably resolve" the pending criminal charges against former administrator Willis Todmann, who has been charged with stealing from GERS.

Oct. 18, 2011 — A Superior Court jury finds Todmann guilty.

Oct. 26, 2011 — A Senate committee endorses a plan GERS recommended that would clarify language and ambiguities in existing law, increase contribution rates for judges and senators and allows contract and per diem employees who work exclusively for the government at least 40 hours a week to be included in GERS.

Nov. 14, 2011 — GERS closes on a $13 million loan to the government at a 4.91 percent interest rate to enable the government to pay retirement incentives that are part of the Economic Stability Act.

Dec. 14, 2011 — The GERS board agrees to a request to refinance the loan to the Carambola at a 6.3 percent interest rate rather than the original 10.5 percent rate.

— 2012 —

Jan. 10, 2012 — Statements to the GERS board say deJongh's dismissal of government workers to offset a budget gap could "cripple" GERS. About 350 full-time government positions had been terminated during January, and the governor had dismissed more than 100 part-time, temporary and per diem contract workers in December.

May 2012 — GERS takes ownership of Carambola Beach Resort after its owners default on a $15 million loan from GERS.

June 19, 2012 — DeJongh signs an executive order creating a task force to look at GERS' long-term financial condition.

July 26, 2012 — Todmann is sentenced to five years in jail.

Aug. 31, 2012 — Nibbs tells senators that Carambola Beach Resort ultimately defaulted on its $15 million loan from GERS, ultimately only paying back $2.1 million; GERS had taken over the property in May.

Aug. 9, 2012 — DeJongh approves a bill providing a $6 million appropriation to GERS.

Sept. 20, 2012 — A St. Croix government retiree presents a petition to senators during a GERS hearing, asking for a variety of measures including a sin tax on liquor and cigarettes with proceeds to go to GERS, a repeal of sections of Act 6905 that increased salaries and retirement benefits for senators and the saving directed to GERS, and that new and renewal tax exemptions under the Economic Development Authority be decreased and the difference allocated to GERS.

Sept. 22, 2012 — GERS board loans Seaborne another $1.5 million and decreases the interest rate on an existing loan to Seaborne to 6.23 percent.

November 2012 — GERS has town hall meetings on reforms proposed to help stave off insolvency.

— 2013 —

May 16, 2013 — DeJongh's GERS taks force makes a report and recommendations including setting a minimum age for retirement, withholding cost of living adjustments, increasing contribution rates, reducing Tier 1 benefits by 10 percent, increasing contributions for senators and sitting judges and using rum revenues to back an increase in employer contributions.

June 28, 2013 — Senators pass legislation to ensure that the 8 percent pay cuts for government employees mandated by the Economic Stability Act are restored in July.

Sept. 26, 2013 — The GERS board votes to increase employer contribution rates by 3 percentage points and to raise employee contribution rates by 1 percentage point each year for the next three years, starting Oct. 1, 2013.

Oct. 17, 2013 — Nibbs tells senators that GERS has not received the $7 million in rum tax revenues it was supposed to get under a provision in the Economic Stability Act. In 2001 deJongh had line-item vetoed the provision, but the Senate voted to override the veto.

Nov. 18, 2013 — GERS reveals that employee and employer contribution did not go up effect Oct. 1, 2013. GERS board member Edgar Ross says that a day after the Sept. 26 vote to increase the rates, the board met with deJongh and then reversed its decision behind closed doors.

Dec. 19, 2013 — Seaborne Airlines, a day after announcing plans to move its headquarters to Puerto Rico, informs GERS that the airline has paid off its $4 million in outstanding loans from the system.

— 2014 —

Jan. 23, 2014 — GERS insists that Seaborne Airlines still owes the system nearly $187,000, although Seaborne says the company paid its full debt to GERS.

Feb. 6, 2014 — Retiree advocacy group Government Retirees United for Fairness sends a letter to GERS board members to demand reinstatement of cost of living increases.

March 18, 2014 — DeJongh signs legislation passed earlier this month to allow GERS to return the 8 percent contributions withheld on 2010 retroactive payment checks issued to some retirees, plus 9 percent interest.

April 12, 2014 — GERS board votes to put the Carambola Beach Resort and Spa up for sale.

May 13, 2014 — The Senate Committee of the Whole meets to begin discussing major GERS reform. DeJongh submitted a bill in March that incorporates the task force suggestions, although no bill is before the Senate yet. Other meetings are planned.

Aug. 24, 2014 — GERS' updated actuarial report shows an unfunded liability of $1.84 billion.

Sept. 10, 2014 — Nibbs discusses the pressing need for pension reform with the Senate Finance Committee, urging senators to take action on GERS reform legislation that has been pending before the Senate for years. Similar legislation was considered in the 29th Legislature but never made it out of the Rules Committee.

Nov. 20, 2014 — GERS board votes to hike contribution rates beginning Jan. 1, 2015. The employer rate is set to go up 3 percentage points, from 17.5 percent to 20.5 percent, and stay at that level for five years. Tier 1 employees will see their contribution rates increase by 1 percentage point a year for three years.

Dec. 31, 2014 — Willis Todmann, former GERS administrator, is pardoned by deJongh after serving three years in prison for stealing from GERS.

— 2015 —

Jan. 21, 2015 — GERS board votes to increase contribution rates for Tier 2 employees by 1 percentage point each year for three years, starting in February.

Feb. 12, 2015 — At a press conference, Gov. Kenneth Mapp says he will name new members to the GERS board after outlining faults he found in GERS investments.

March 19, 2015 — Nibbs announces that following a government payment of $1 million, GERS begins paying annuities for some of the hundreds of retirees who had been waiting months or years for their pensions to start because their employer contributions were missing.

Aug. 19, 2015 — GERS board suspends all loans to members to preserve the system's liquidity and passes a resolution urging the government to issue the $600 million in pension obligation bonds authorized by Act 6905 and for the Legislature to approve pending pension reform legislation.

Sept. 23, 2015 — The Senate approves modest GERS reforms including raising retirement ages and some benefits modifications.

Oct. 8, 2015 — Mapp vetoes the GERS legislation, which had been stalled for years, claiming the bill contains drafting errors and provisions that were not considered or voted on by the Senate.

Oct. 19, 2015 — The Senate approves a revised bill that raises the retirement age for government employees to 65 and modifies a number of benefits for Tier 2 employees.

Oct. 26, 2015 — Mapp signs the GERS bill into law.

— 2016 —

March 14, 2016 — A scathing V.I. Inspector General's audit finds that GERS' alternative investments are risky, unmonitored and illegal.

April 25, 2016 — Mapp approves a bill that earmarks a portion of the government's revenue from Lonesome Dove petroleum company for GERS.

May 27, 2016 — Mapp asks Senate to "refrain from diverting funds from the General Fund to GERS."

May 31, 2016 — Mapp signs legislation mandating that GERS offer loans to active GERS members in amounts up to $10,000.

June 16, 2016 — Despite the new loan program mandate, the GERS board votes not to reinstate the program. Members say it would go against their fiduciary duty.

August 2016 — GERS sues Luis Hospital for $7 million, claiming the hospital failed to pay employer and employee contributions.

Sept. 20, 2016 — Rocky Joyner, GERS' actuary, tells policymakers that GERS needs an immediate cash infusion of $1.4 billion to $1.7 billion to avert insolvency in 2023. GERS' most recent actuarial report shows an unfunded liability of $4.07 billion.

Sept. 22, 2016 — Senators vote to approve borrowing $247 million, with $100 million going to GERS, to help pay down GERS' unfunded liability.

October 2016 — A group of public service retirees protests the long delays in getting their pensions started.

October 2016 — GERS asks a federal judge to enforce court mandate issued in the 1980s that required the V.I. government to pay what is required by law into the retirement system.

Oct. 25, 2016 — Mapp says he will veto the $247 million borrowing bill. He also calls for Nibbs to be fired.

Nov. 3, 2016 — In a special session the 31st Legislature again authorizes $247 million in government borrowing, including the $100 million for GERS, correcting the wording mistakes in the earlier bill.

Nov. 7, 2016 — Based on the Nov. 3 authorization, the PFA votes to issue $147 million in bonds — leaving out the $100 million earmarked for GERS.

Nov. 22, 2016 — GERS board votes down a proposed 30 percent cut to all pension benefits for current retirees, because it would violate the U.S. Constitution.

Dec. 20, 2016 — The 31st Legislature approves a bill that provides for the proceeds from the rental of property acquired in the Limetree Bay Terminals agreement to go toward decreasing GERS unfunded liability.

— 2017 —

Jan. 1, 2017 — Government employees' GERS contribution rates go up 1 percentage point, as scheduled.

Jan. 20, 2017 — Mapp vetoes the bill directing proceeds from renting the Limetree Bay properties directly to GERS, saying he wants to use those proceeds to pay missing government contributions to GERS for employees who are retiring but have missing government contributions, and that some of the money needs to go for property maintenance. He asks senators to revisit the measure.

Jan. 30, 2017 — In his State of the Territory Address, Mapp says he will submit comprehensive GERS reform legislation to the 32nd Legislature by March 31.

By Daily News Senior/Investigative Reporter JOY BLACKBURN

How The Daily News Did This Report

Daily News reporter Joy Blackburn began research for this report in October 2016. Although long aware of challenges GERS faces, The Daily News and Blackburn both found the newest numbers striking: Only six years to insolvency, and GERS' urgent need for an infusion of $1.7 billion — more than double the territory's annual General Fund budget — to get the retirement system back on track.

Joy Blackburn

At stake in GERS' impending insolvency are the livelihood and well-being of thousands of V.I. government retirees, the future financial security of thousands of active government employees and the economic stability of the entire Virgin Islands economy.

How did we get to this point? Is there still time to avoid disaster? What has worked in other places to turn troubled pension systems around?

The Daily News put top priority on uncovering the truth, the causes and the effects on this fast-approaching calamity and on any possible solutions.

This report was prepared not only to inform but also to generate public discourse and government action to turn the tide — before it's too late.

Documents used

(all are public information)

- Actuarial evaluations
- Audited financial reports
- Bills and Acts of the V.I. Legislature
- Briefings
- Budgets
- Census data
- Court documents
- Credit ratings and analyses
- Dictionaries
- Economic data
- Financial statements
- U.S. Interior Department Inspector General audit reports
- V.I. Inspector General audit reports
- Internet sites
- Memos
- Letters
- GERS newsletters
- Government House news releases
- GERS news releases
- Government agencies' news releases
- V.I. government five-year plan, various drafts
- Professional associations' position papers and resolutions
- Presentations by GERS actuary Rocky Joyner of Segal Consulting
- Presentations in 2015 and 2016 by GERS adviser Meketa Investment Group
- National Association of State Retirement Administrators briefs and analyses
- Reports on public pension systems
- Data analysis on public pension systems
- Written testimony to V.I. Legislature hearings
- Video of V.I. Legislature hearings
- Audio files of government and GERS press conferences
- V.I. Code
- Daily News archives

Governmental locations

- V.I. Bureau of Economic Research
- V.I. Finance Department
- V.I. Government Employees Retirement System
- V.I. Legislature
- V.I. Office of Inspector General
- V.I. Office of Management and Budget
- V.I. Public Finance Authority
- V.I. Superior Court
- V.I. Supreme Court
- V.I. Government House
- U.S. Census Bureau
- U.S. Bureau of Economic Analysis
- U.S. Department of Interior Office of Inspector General
- U.S. Department of Labor
- U.S. District Court
- U.S. Bankruptcy Court
- Government Accountability Office

Non-governmental locations

Documents also are in the files of professional associations, community organizations, nonprofits and ratings services:

- AARP
- American Academy of Actuaries
- Brookings Institution
- Center for Retirement Research at Boston College
- Center for State and Local Government Excellence
- The Council of State Governments
- Fitch Ratings
- Governmental Accounting Standards Board
- Moody's Investor's Service
- National Association of State Retirement Administrators
- National Conference of State Legislatures
- Government Finance Officers Association
- The National Institute on Retirement Security
- Pew Charitable Trusts
- St. Croix Government Retirees Inc.
- S&P Global

People interviewed

- Abdul Ali, St. Croix, GERS retiree
- Craig Barshinger, former Virgin Islands senator-at-large, retired
- Lisa Bhola, St. Croix business owner, Trends
- Marcy Block, senior director at Fitch Ratings – Public Finance
- Keith Brainard, research director for the National Association of State Retirement Administrators
- Peyton Bryant, St. Croix business owner, Small Wonders
- Kinila Callendar, GERS spokeswoman
- Valdamier Collens, V.I. Finance Commissioner and Public Finance Authority executive director
- Eurman Fahie, St. Croix, GERS retiree
- Patricia Goins, attorney and partner at Hawkins Delafield & Wood, the V.I. government's bond counsel.
- Helen Hart, St. Thomas, president of GERS Reitrees United for Fairness
- Verne Hodge, retired Superior Court judge
- Barbara Isaac, St. Thomas, GERS retiree
- Rocky Joyner, vice president and actuary at Segal Consulting, the company that provides actuarial services to GERS
- Elizabeth Kellar, senior fellow at the Center for State and Local Government Excellence
- Mary Moorhead, St. Croix, GERS retiree
- Phyllis Nehlsen, St. Croix, GERS retiree
- Austin Nibbs, GERS administrator
- Lloyd O'Bryan, St. Croix, GERS retiree
- Pat Oliver, librarian at St. Croix Educational Complex and active GERS member
- Joyce Rohlsen, St. Croix, GERS retiree
- Edgar Ross, former Superior Court judge, GERS retiree, and GERS board vice chairman
- Edward Siedle, president of Benchmark Financial Services
- Troy deChabert-Schuster, state director of AARP Virgin Islands
- Patricia Tranberg Stevens, St. Croix retiree, GERS member
- Bernice Turnbull, former V.I. finance commissioner
- Charles Turnbull, former V.I. governor
- Ian Williams Jr., St. Thomas, GERS retiree
- Steven van Beverhoudt, V.I. Inspector General
- Numerous V.I. government employees who did not want to be named
- Numerous V.I. government retirees who did not want to be named
- Business owners territory-wide.

Interviewed in writing

- John deJongh Jr., former V.I. governor.
- Cathy Smith, GERS legal counsel

Declined to be interviewed

- Wayne Biggs Jr., acting chief executive officer of the Virgin Islands Economic Development Authority, did not respond to requests for interviews
- GERS Board of Trustees Chairman Dr. Wilbur Callender referred all questions to Nibbs.

Tell Us Your Solutions

The threat of GERS insolvency threatens the livelihoods of thousands of Virgin Islands people and the economic well-being of everyone in the territory.

All of us have an interest in averting a financial crisis.

What are your ideas for ways the people of the Virgin Islands and officials could get a handle on this problem?

This Daily News Special Report highlighted the people, the decisions, and the circumstances that got us to this point. Now we ask you:

- What lessons from should we learn from that history so we can avoid past mistakes?
- What should be the most important priorities for V.I. government and GERS?
- What are we willing to sacrifice or change in order to save GERS — and what are we not?

We welcome your thoughts.

Every idea is worth hearing — and who knows, yours may be one that leads to positive changes.

Send your questions and suggestions to letters@dailynews.vi, jblackburn@dailynews.vi, or call Joy Blackburn at **340-714-9145**.

We request that you include your name.

Tell Us Your Troubles

Every V.I. government retiree seems to have at least one story to share about the challenges of dealing with GERS.

Missing records, unpaid government contributions and computer problems have frustrated and infuriated many GERS participants, and have even left some retirees still waiting for their pension check.

Has any of that happened to you?

- If you are retired having difficulty collecting your benefits, getting the amount corrected — or getting a straight answer about what's wrong — we hope you'll share your story.
- If you are one of the retirees who managed to get your GERS problems fixed, others would like to know how you did it.
- If you are planning to retire soon and are worried that GERS' record-keeping will be a problem for you, tell us about it.

The power of one can be the power of many. You deserve to be heard!

Please send us your story at letters@dailynews.vi, jblackburn@dailynews.vi, or call Joy Blackburn at **340-714-9145**.

We request that you include your name.