

COUNCIL OF THE DISTRICT OF COLUMBIA
Office of the Budget Director



FISCAL IMPACT STATEMENT

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jennifer Budoff, Budget Director

DATE: April 7, 2020

SHORT TITLE: “COVID-19 Response Supplemental Emergency Amendment Act of 2020” and “COVID-19 Response Supplemental Temporary Amendment Act of 2020”

TYPE: Emergency/Temporary

REQUESTED BY: Chairman Phil Mendelson

Conclusion

Funds are sufficient in the District’s FY2020 budget and financial plan to implement the COVID-19 Response Supplemental Emergency Amendment Act of 2020 and its corresponding temporary measure.

Background

On March 11, 2020, Mayor Muriel Bowser issued the Declaration of Public Emergency: Coronavirus (COVID-19) and the Declaration of Public Health Emergency: Coronavirus (COVID-19) due to the imminent threat to the health, safety, and welfare of District residents posed by the spread of the coronavirus.¹ On March 17, 2020 the Council passed D.C. Act 23-247, the COVID-19 Response Emergency Amendment Act of 2020 (“first emergency”) to address the needs of District residents and businesses during the public health emergency. The COVID-19 Response Supplemental Emergency Amendment Act of 2020 includes additional provisions in response to the pandemic, including wage replacement, consumer protections, business relief, public safety, and other public health efforts.

Specifically, the legislation does the following:

¹ Mayor’s Order 2020-045 and Mayor’s Order 2020-046, respectively.

Title I: Labor, Workforce Development, and Education

- **Section 101** makes technical corrections to several unemployment insurance compensation provisions in District law to align with the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act. There is no cost associated with this clarification.
- **Section 102** modifies the requirements for a shared work plan and authorizes the Director of the Department of Employment Services to approve a plan that reduces the normal weekly hours of work for an employee in the affected unit by not less than 10 percent and not more than 60 percent, consistent with federal law. This section also imposes additional conditions on the implementation of shared work plans. Funds are sufficient for the District to expand the program.
- **Section 103** requires employers with 50 to 499 employees to provide paid sick leave to an employee consistent with the federal Families First Coronavirus Response Act. Funds are sufficient to enforce this requirement.
- **Section 104** authorizes the use of the Universal Paid Leave Implementation Fund for activities related to enforcement of the declared emergency leave requirement. Expenses can be absorbed by the administrative cost set-aside in the fund.
- **Section 105** amends the University of the District of Columbia Fundraising Match Act of 2019 to adjust the FY2020 matching fund requirement from \$1 match for every \$2 the university raises to a one-to-one match. It preserves the existing ceiling of \$1.5 million in matching funds, appropriated in the FY2020 budget, therefore, there are no costs to this section.
- **Section 106** waives community service hours for high-school seniors who would otherwise be eligible to graduate in the 2019-2020 school year and allows for fewer in-classroom teaching hours in the 2019-2020 academic year in high-school courses. There is no cost associated with making these changes.

Title II: Business Development and Consumer Protection

- **Section 201** enhances penalties for violations of consumer protection laws during the declared public health emergency. The Department of Consumer and Regulatory Affairs can impose civil fines on businesses for deceptive, unfair, or unlawful trade practices against consumers. This section doubles those fines during the public health emergency. There are no costs associated with enhancing these penalties.
- **Section 202** requires residential and commercial mortgage servicers to develop a deferment program for borrowers who can demonstrate evidence of a financial hardship resulting from the public health emergency. The program must grant at least a 90-day deferment period and waive any fees accrued during the public health emergency. The section also places several requirements on the mortgage servicer, as it relates to collecting repayment from borrowers under a deferred payment program. The Commissioner of the Department of Insurance, Securities, and Banking (DISB) is authorized to investigate complaints from applicants who

have been denied deferment. There are no additional costs to DISB associated with implementing this legislation.

- **Section 203** amends Section 312 of the first emergency, related to the District’s Tenant Opportunity to Purchase Act (TOPA), to toll the running of all time periods for tenants and tenant organizations to exercise TOPA rights from the beginning of the public health emergency until it ends and 30 days thereafter. The section requires any notice of intent to vacate prior to a public health emergency to be tolled for the duration of the public health emergency. This section also prohibits rent increases for all residential properties during a public health emergency and for 30 days thereafter. There are no costs to the District associated with implementing this section.
- **Section 204** prohibits the disconnection, suspension, or degradation of service by cable, internet, and other telecommunications providers during a declared public health emergency for non-payment of a bill or other charges. This section also provides the Office of the Attorney General (OAG) with powers to enforce the prohibition. There are no costs to the District associated with this prohibition. Section 204 also expands the uses of the District’s Clean Rivers Impervious Area Charge (CRIAC) Relief Fund to include payment for water bills during a declared public health emergency, provided that certain minimum amounts are reserved for impervious area charge relief for nonprofit organizations and residential customers. The CRIAC Relief Fund currently has a balance above that amount and because this language permits, but does not require this use, there are no costs associated with this part of Section 204.
- **Section 205** requires that all contracts for government-assisted services that are in excess of \$250,000 and entered into during the COVID-19 emergency but are unrelated to the District’s response to the COVID-19 emergency adhere to a revised set of Certified Business Enterprise (CBE) standards, absent a waiver. It requires that at least 50 percent of the dollar value of these contracts are subcontracted to small business enterprises or qualified certified business enterprises. For every \$1 expended under these contracts, a beneficiary receives a credit towards their CBE minimum requirement of \$1.10 for contracting with a resident-owned business (ROB), \$1.25 for contracting with a disadvantaged business enterprise (DBE), and \$1.30 for contracting with a business that is both ROB and DBE. Further, Section 205 lifts the contracting requirements created by the Small and Certified Business Enterprise Development and Assistance Act of 2005 and the First Source Employment Agreement Act of 1984 from contracts related to the District’s response to the COVID-19 emergency.
- **Section 206** directs the Department of Consumer and Regulatory Affairs, in consultation with the Board of Funeral Directors and the Attorney General, to create a Funeral Bill of Rights to inform consumers of required pricing, disclosures, and other available consumer rights. This section also amends the District’s municipal regulations by adding additional requirements and penalties related to pricing and funeral industry practices. There are no costs associated with these provisions.

- **Section 207** provides temporary relief to District residents against debt collection during the declared public health emergency and for 60 days thereafter. There are no costs to the District associated with implementing this provision.
- **Section 208** makes clarifying changes to section 203 of the first emergency that authorized restaurants and certain other businesses to provide beer, wine, and spirits when serving food through delivery or takeout. There are no costs to these changes.
- **Section 209** expands the uses of the District’s Opportunity Accounts during a declared public health emergency to include costs, expenses, or items authorized by the DISB Commissioner and paying for living expenses that occur due to a sudden loss of income. This section also amends the matching amounts, which remain subject to available annual appropriations. There are no costs associated with these changes.
- **Section 210** allows an executive agency to make advance payments when necessary to a certified contractor for purchases related to the public health emergency, and those advance payments may be greater than 10 percent of the total value of the contract. There are no costs to the District associated with implementing this section.
- **Section 211** clarifies that the District will not designate a property as vacant during a public health emergency and for 60 days thereafter, if the business closes as a result of the public health emergency. There are no costs to the District associated with implementing this section.
- **Section 212** exempts small business loans awarded and subsequently forgiven under the federal CARES Act from certain taxes. Since any taxes that may have arisen from these loans were not part of the District’s approved budget and financial plan, there is no fiscal impact to providing this exemption.

Title III: Judiciary and Public Safety

- **Section 301** adjusts the Police Complaints Board’s review of the Metropolitan Police Department’s Narcotics and Special Investigations Division’s activities from January 1, 2017 through December 31, 2019 to August 1, 2019 through January 31, 2020. The section also extends the deadline for the review’s report submission from April 30, 2021 to September 30, 2021. The review and report were fully funded, and these changes do not require additional funds.
- **Section 302** excludes from unlawful discriminatory practice, during a public health emergency, the reassignment of Fire and Emergency Medical Services personnel for inability to wear personal protective equipment in a manner consistent with medical and health guidelines. There is no cost to this provision.
- **Section 303** provides the Office of the Attorney General, during a public health emergency, authority in civil actions for violations of the Human Rights Act or a civil action arising in connection with the public health emergency. Specifically, it allows the Attorney General to seek pre-suit subpoenas, and to obtain injunctive relief, civil penalties, and other relief allowed. There is no cost to this provision.

- **Section 304** extends the deadline from 15 days to 90 days for when a non-custodial arrestee must report to a police station to complete the arrest, provided the arrest was conducted during a public health emergency. There is no cost to this provision.
- **Section 305** addresses disparity in access to good time credits and compassionate release for D.C. Code offenders in the custody of the Bureau of Prisons, which currently vary depending on the timeframe of the original sentencing. Specifically, the section (1) standardizes the awarding of good time credits; (2) aligns the District's compassionate release provisions with the federal provisions and allows individuals who meet certain requirements to petition for early release, including those who have a terminal illness, are elderly and suffering from a chronic or serious medical condition, to directly petition the Superior Court for relief. There is no cost to this provision.
- **Section 306** authorizes the use and validity of electronic wills during a public health emergency, provided certain requirements are met. This section allows for the electronic presence of those required to witness the execution of a will; for the execution of a will with an electronic document; and for the use of electronic signature; and establishes safeguards to prevent fraud. There is no cost to this section.

Title IV: Health and Human Services

- **Section 401** amends section 301(b) of the first emergency and exempts any person, District government employee, or contractor from civil liability for damages for certain actions taken solely during the public health emergency. This section also authorizes the Mayor to extend the 15-day public health emergency declared on March 11, 2020 for an additional 90 days. There is no cost associated with these provisions.
- **Section 402** allows for youth in foster care who turn 21 during a declared public health emergency and who would otherwise age out of the foster care system to remain under the care of the Child and Family Services Agency (CFSA), provided the youth consents to CFSA's continued custody. Funds are sufficient to implement this provision. CFSA indicated that they can absorb the estimated cost of \$167,000 for implementing this provision in FY2020.
- **Section 403** authorizes the Mayor to issue grants to District non-profit and for-profit hospitals to address the impacts of COVID-19. The grants may be used for supplies and equipment, personnel costs, and costs of constructing or operating temporary structures to respond to COVID-19. The section allows the Mayor to use a third-party grant-management entity to administer the program and issue the grants. It provides the Mayor the authority to stand up this grant program but does not require its implementation or funding. However, the Mayor plans to allocate local resources - and federal resources to the extent available - to fund this program.

Title V: Government Direction and Support

- **Section 501** extends the 180 days allowable for a holdover executive appointment to exclude days of a declared public health emergency and tolls the time periods for certain matters transmitted to the Council. There are no costs associated with implementing this section.
- **Section 502** amends the Council’s code of conduct to allow Councilmembers, during a declared public health emergency, to send electronic newsletters without approval from the Office of the General Counsel and to permit Councilmembers to disseminate information about for-profit entities. There are no costs to the District associated with implementing this provision.
- **Section 503** amends the Advisory Neighborhood Commissions (ANC) Act to pause elections to fill ANC vacancies during a public health emergency, including the timeframe for obtaining and circulating petitions. This section also extends the notice timeline by 21 days for property changes and Alcoholic Beverage Regulation Administration licenses during a public health emergency. There are no costs associated with implementing these sections.
- **Section 504** extends the deadline from April 30 to July 30 for members of the District of Columbia Employees Retirement Board to file a personal financial disclosure statement. The section also provides the Board of Ethics and Government Accountability with flexibility on the 2020 deadlines for public and confidential financial disclosure submissions and lobbyist activity reporting. It authorizes the Office of Campaign Finance (OCF) to hold online campaign finance training for candidates and treasurers and extends the timeline from 5 calendar days to 5 business days for OCF to direct disbursement for fair elections payments. There are no costs associated with these changes.
- **Section 505** makes several changes to election law necessary to implement the June 2, 2020 Primary Election and the June 16, 2020 Ward 2 Special Election, including: (1) clarifying that the Board of Elections (BOE) may use Vote Centers; (2) requiring BOE mail every voter an absentee ballot request form; (3) requiring voter registration agencies to promote the primary and special elections on social media; and (4) removing BOE’s obligations to put the voter rolls in libraries. BOE can absorb any costs associated with this section.
- **Section 506** amends the District of Columbia Municipal Regulations to remove the requirement that voters must sign their absentee ballot request forms for the June 2, 2020, Primary Election or the June 16, 2020, Ward 2 Special Election. There is no cost to this provision.
- **Section 507** authorizes an increase in the stipend for BOE members for the remainder of 2020, not to exceed \$25,000 for each member and \$53,000 for the Chairperson for the year. This increase may cost up to \$51,000 in FY2020 but can be absorbed by BOE.
- **Section 508** tolls certain deadlines for administrative hearings associated with adverse actions that may be taken surrounding public assistance benefits. There are no costs to the District associated with implementing this provision.
- **Section 509** approves 20 nominations currently pending before the Council. There are no costs associated with approving these nominees.

Title VI: Borrowing Authority

Title VI authorizes the issuance of up to \$300 million of general obligation notes to meet appropriations for FY 2020. The notes shall be due and payable, as to both principal and interest, on or before September 30, 2021. Title VI also authorizes the issuance of general obligation revenue anticipation notes in a sum not to exceed \$200 million to finance general governmental operating or capital expenses in anticipation of the collection or receipt of revenues for the fiscal year ending September 30, 2020. The Mayor will include repayment of the general obligation notes in the FY 2021 proposed budget, and a reprogramming for the debt service for the general obligation revenue anticipation notes is in process.

Title VII: Revenue Bonds

Title VII authorizes the issuance of revenue bonds in an aggregate principal amount of \$12.5 million for The Studio Theatre, Inc., \$16 million for DC Scholars Public Charter School, Inc., \$28 million for Washington Housing Conservancy, and \$210 million for National Public Radio, Inc. The Bonds will be issued without recourse to the District. Funds are sufficient to issue the bonds.

AN AMENDMENT

Bill 23-733, "COVID-19 Response Supplemental Emergency Amendment Act of 2020"

April 7, 2020

Introduced Version

Section 202. Mortgage Relief

(a) Section 202(g), Line 374, is amended by striking the phrase "commercial tenant" and inserting the phrase "tenant" in its place

(b) Section 202(l)(5), Line 405, is amended by striking the phrase "commercial tenant" and inserting the phrase "tenant" in its place

Rationale: This change would allow a residential tenant that is impacted by the public health emergency to request a rent deferral from a landlord receiving a mortgage deferral.

Section 204. Utilities.

(a) Section 204(a), Lines 476-485, in each place it appears, strike the phrase "other cable operator" and inserting the phrase "other basic cable operator" in its place.

(b) Section 204(a), Line 484, strike the phrase "includes broadband" and insert the phrase "includes basic broadband" in its place

(c) Section 204(b), Line 495, strike the phrase "degrade telecommunications" and insert the phrase "degrade basic telecommunications" in its place.

Rationale: This change is a technical change requested by the Executive. It clarifies that a utility provider may lower an internet tier for nonpayment, but must still provide at least basic service.

Section 205. Certified Business Enterprise assistance

Section 205(b)(3), Line 545, is amended by striking the phrase "CBE Act shall receive" and inserting the phrase "CBE Act, the beneficiary shall receive"

Rationale: This change is a technical change requested by the Executive.

Section 207. Debt Collection.

Section 207(b), amendatory section (l)(1), line 652, is amended by striking the phrase "subsection (a) of this section" and inserting the phrase "subsection (a) of this section, subsections (l) and (m) of this section shall apply to any debt, including but not limited to," in its place

Rationale: This change is a technical change requested by the Office of the Attorney General.