

A BILL

23-640

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996 to require that DC Water provide for remote attendance of public hearings and Board meetings, to set certain reporting requirements for emergency events, to require that DC water provide a period for public comment after notice of the proposed establishment or adjustment of retail water and sewer rates, to require DC Water to post public comments received by the agency within 5 days after the close of the public comment period, to require DC Water to transmit to the Mayor and Council and post to the DC Water website a copy of the Independent Review of the Proposed Rates Report and the Cost of Service study, to require DC Water to treat disputes to residential customers' bills made in writing and received by the payment due date as timely, to require DC Water to provide notice to residential customers of the requirement to dispute a contested bill in writing by the payment due date when contacted by a residential customer regarding a bill dispute in any manner other than in writing, to require DC Water to list contact information for the DC Water complaint line and the Office of the People's Counsel on water bills, and to prescribe annual reporting requirements regarding the Clean Rivers Impervious Area Charge Relief Assistance Fund; to amend the Lead Service Line Priority Replacement Assistance Act of 2004 to permit DC Water to replace the portion of a lead water service line on private property where the agency is replacing the portion of the line on public property, whether or not it is made of lead; to permit DC water to move forward immediately with replacement work to repair a damaged or leaking water service line, to require DC water to request consent via email and telephone if not receiving a response in 14 days, to require DC Water to complete a lead water service line replacement on private property if receiving consent within 30 days, to define lead water service line to mean a service line including any lead and to include a brass or galvanized service line, to allow for funds from the lead water service line payment assistance program to be used to cover the cost of replacing a portion of a lead water service line remaining after a prior partial replacement, and to prescribe annual reporting requirements for DOEE regarding the lead water service line replacement assistance program; and to amend the District Department of the Environment Establishment Act of 2005 to prescribe annual reporting requirements for DOEE regarding the CRIAC fund.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “District of Columbia Water and Sewer Authority Omnibus Amendment Act of 2020”.

Sec. 2. Title II of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Official Code § 34-2202.01 *et seq.*), is amended as follows:

(a) Section 204(i) (D.C. Official Code § 34-2202.04(i)) is amended by striking the period and inserting the phrase “. For meetings open to the public, including committee meetings, the Board shall provide a method for the public to remotely attend the meeting, and include information on how the public may remotely attend as part of any notice posted on the Board’s website.” in its place.

(b) Section 205a (D.C. Official Code § 34-2202.05a) is amended by adding a new subsection (f) to read as follows:

“(f)(1) Within 5 days after an emergency event, the Authority shall provide the following information to OPC and the Chairpersons of the Advisory Neighborhood Commissions (“ANC”) and Ward Councilmembers representing areas that include affected properties:

“(A) A description of the emergency event, including, where available, the cause of the emergency event;

“(B) A list of ANCs with affected properties;

“(C) An estimate of the total number of affected properties;

“(D) A list of actions taken by the Authority in response to the emergency event;

“(E) A list of actions the Authority plans to take in response to the emergency event; and

“(F) Information, including a best point of contact, for owners of affected properties to report damage to or seek relief from the Authority.

“(2) Within 30 days after the end of an emergency event, the Authority shall provide a report to OPC and the Chairpersons of the ANCs and Ward Councilmembers representing areas that include affected properties that includes the following:

“(A) Information on affected properties, including:

“(i) The number of affected properties;

“(ii) A list of ANCs with affected properties;

“(B) Information on the emergency event, including:

“(i) For emergency events stemming from an extreme weather event:

“(I) The duration and amount of rainfall; and

“(II) An approximate number of affected properties experiencing any sewer system back-ups.

“(ii) For emergency events resulting in a major service interruption, the average amount of time affected properties were without service; and

80 “(iii) For emergency events resulting in the issuance of a Tier 1
81 public notice pursuant to the EPA Public Notification Rule, the length of time between the
82 Authority becoming aware of the emergency event requiring a Tier 1 public notice and the
83 Authority’s issuance of the Tier 1 public notice to residents affected by the emergency event;

84 “(C) A list of all actions taken by the Authority in response to the
85 emergency event, including:

86 “(i) Relief the Authority has offered to owners of affected
87 properties; and

88 “(ii) Outreach by the Authority to owners of affected properties
89 and, for events resulting in the issuance of a Tier 1 public notice pursuant to the EPA Public
90 Notification Rule, potentially affected properties; and

91 “(D) A list of planned actions to address the cause of the emergency event,
92 if any.

93 “(3) For the purposes of this subsection, the term:

94 “(A) “Affected property” means a property where the owner or tenant has
95 reported to the Authority, or the Authority has otherwise identified, that an emergency event
96 affected the property.

97 “(B) “Emergency event” means an event resulting in a major service
98 interruption, the issuance of a Tier 1 public notice pursuant to the EPA Public Notification Rule,
99 or an extreme weather event.

“(C) “Extreme weather event” means an event in which the duration and intensity of rainfall causes an exceedance of the District’s sewer system.

“(D) “Major service interruption” means an unplanned interruption in water and sewer service lasting at least 24 hours and impacting at least 50 properties.

“(E) “Outreach” includes emails, text messages, and phone calls, social media posts, emergency alerts, media advisories and press releases, and other similar efforts to communicate with property owners.”.

(c) Section 216 (D.C. Official Code § 34-2202.16) is amended as follows:

(1) Subsection (b) is amended as follows:

(A) Paragraph (1) is amended by striking the phrase “notice and public hearing” and inserting the phrase “notice, public comment period, and public hearing” in its place.

(B) New paragraphs (2A) and (2B) are added to read as follows:

“(2A)(A) The Authority shall accept public comments on any establishment or adjustment of retail water and sewer rates from the date of publication of the notice of the proposed rulemaking to the date that is 5 days after the public hearing held pursuant to paragraph (1) of this subsection.

“(B) No more than 15 days after the end of the public comment period described in subparagraph (A) of this paragraph, but before the Board committee with

jurisdiction over the ratemaking process makes recommendations to the full Board for the final rate proposal, the Authority shall:

“(i) Transmit to the Board a report responding to comments received during the public comment period; and

“(ii) Publish the report on the Authority website in a manner accessible to the public.

“(2B)(A) The Authority shall provide a method for the public to remotely attend and participate in public hearings held pursuant to paragraph (1) of this subsection.

“(B) Notice required under paragraph (1) of this subsection shall include information on how the public may remotely attend and participate in the public hearing.”.

(2) A new subsection (b-2) is added to read as follows:

“(b-2) At least 45 days before the public hearing held pursuant to subsection (b)(1) of this section, the Authority shall transmit a copy of the Independent Review of the Proposed Rates Report and the Cost of Service study to the Mayor and the Council and publish both the report and study on the Authority’s website in a manner accessible to the public.”.

(3) New subsections (f) and (g) are added to read as follows:

“(f)(1) The Authority shall treat as timely challenges to a residential customers’ bill made in writing and received by the Authority within 20 calendar days after the date the bill is rendered.

138 “(2) If a residential customer’s challenge to a bill is timely, the Authority shall
139 suspend the residential customer’s obligation to pay the disputed bill until the customer has
140 received the result of the Authority’s investigation of the challenge in writing.

141 “(3) Where a residential customer contacts the Authority regarding billing in any
142 manner other than in writing, the Authority shall inform the customer of the requirement that a
143 challenge to a residential customer’s bill must be made in writing and received within 20
144 calendar days after the date the bill is rendered to be considered timely.

145 “(4) The Authority shall include on the front of a residential customers’ bill the
146 specific date by which a challenge under paragraph (1) of this section must be received by the
147 Authority to be considered timely.

148 “(g) The Authority shall include the following information on residential customers’ bills
149 and the Authority’s website:

150 “(1) A local customer assistance telephone number and e-mail address for the
151 Authority, with the hours of operation noted; and

152 “(2) The address and customer assistance telephone numbers for the Office of the
153 People’s Counsel.”.

154 (d) Section 216b(d) (D.C. Official Code § 34-2202.16b(d)) is amended as follows:

155 (1) The existing text is designated as paragraph (1).

156 (2) A new paragraph (2) is added to read as follows:

“(2) Within 60 days after the end of each fiscal year, the Authority shall transmit to the Mayor and the Council and publicly post on the Authority’s website a report that includes the following information from the preceding fiscal year:

“(A) The average impervious area charge for residential customers:

“(i) District-wide; and

“(ii) By ward; and

“(B) Efforts made by the Authority to publicize the availability of financial assistance through the Clean Rivers Impervious Area Charge Assistance Fund, established by section 113a of the District Department of the Environment Establishment Act of 2005, effective September 11, 2019 (D.C. Law 23-16; D.C. Official Code § 8-151.13a), including a description of the total amount of expenditures by the Authority on such efforts.”.

Sec. 3. The Lead Service Line Priority Replacement Assistance Act of 2004, effective December 7, 2004 (D.C. Law 15-205; D.C. Official Code § 34-2151 *et. seq.*), is amended as follows:

(a) Section 6019a (D.C. Official Code § 34-2158) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (1) is amended to read as follows:

“(a)(1) Except as provided in paragraphs (2) and (4) of this subsection, the District of Columbia Water and Sewer Authority (“DC Water”) shall not replace the portion of a

water service line that is on public property unless it also replaces the portion of the lead water service line that is on private property, if any, subject to the consent of the property owner."

(B) Paragraph (2) is amended as follows:

(i) The lead-in language is amended by striking the phrase "a lead water service line that is on public property" and inserting the phrase "a water service line that is on public property" in its place.

(ii) Subparagraph (C) is amended to read as follows:

"(C) The replacement is necessary to repair a damaged or leaking water service line and, prior to commencing work to replace any portion of the water service line, DC Water requests the consent of the private property owner, in writing via hand delivery to the property, to replace the portion of the lead water service line on private property, including documentation describing the health risks created to occupants by a partial lead water service line replacement."

(C) A new paragraph (2A) is added to read as follows:

"(2A) In cases where DC Water replaces the portion of the water service line on public property pursuant to subsection (a)(2)(C) of this section:

"(A) If DC Water has not received a response from the private property owner to replace the portion of the lead water service line on private property as of 14 days after delivery of the request described in subsection (a)(2)(C) of this section, DC Water shall request

the consent of the private property owner by telephone and e-mail, if DC Water possesses that contact information; and

“(B) DC Water shall complete the lead water service line replacement on private property, if the private property owner provides consent within 30 days after DC Water’s request under subsection (a)(2)(C) of this section.”.

(2) A new subsection (d) is added to read as follows:

~~“(d) For the purposes of this act, the term “lead water service line” means a water service line containing any lead and shall include a brass or galvanized water service line.”.~~

“(d) For the purposes of this act, the term “lead water service line” means a water service line containing any lead and shall include:

“(1) a brass water service line; or

“(2) or galvanized water service line.”.

(b) Section 6019b (D.C. Official Code § 34-2159) is amended to read as follows:

(1) Subsection (a) is amended by striking the phrase “portion of a lead water service line located on their private property if the portion of the water service line on public property is not a lead water service line, whether in whole or in part.” and inserting the phrase “eligible portion of the lead water service line.” in its place.

(2) Subsection (f) is amended to read as follows:

213 “(f)(1) DC Water shall publish on its website a list of approved contractors for residential
214 property owners to use for the replacement of the eligible portion of a lead water service line.
215 The list shall be updated at least once per fiscal year.

216 “(2) If a residential property owner seeks to use a contractor not on the list
217 required by paragraph (1) of this subsection, the residential property owner shall first receive
218 written approval from DC Water to use that contractor. If a residential property owner does not
219 receive written approval from DC Water to use a contractor and the contractor is not on the list
220 required by paragraph (1) of this subsection, any replacement costs incurred by the residential
221 property owner for work completed by the contractor shall not be eligible for financial assistance
222 under the Program.”.

223 (3) Subsection (g)(1) is amended to read as follows:

224 “(g)(1) The property owner shall be responsible for securing and contracting with a
225 contractor for the replacement of the eligible portion of a lead water service line. When the
226 contractor completes the replacement of the eligible portion of the lead water service line, a copy
227 of the invoice for the replacement of the eligible portion of the lead water service line shall be
228 provided to DC Water.”.

229 (4) New subsections (j) and (k) are added to read as follows:

230 “(j) Within 60 days after the end of each fiscal year, DOEE shall transmit to the Mayor
231 and the Council and publicly post on the DOEE website a report that includes the following

information for the lead water service line replacement payment assistance program (“Program”) established pursuant to this section, for the preceding fiscal year:

“(1) The number of property owners that submitted an application for financial assistance, broken down by:

“(A) The categories described under subsection (b)(1) of this section; and

“(B) The Ward and Advisory Neighborhood Commission in which the property is located;

“(2) The number of property owners approved by DOEE for financial assistance, broken down by:

“(A) The categories described under subsection (b)(1) of this section; and

“(B) The Ward and Advisory Neighborhood Commission in which the property is located;

“(3) The most common reasons for denial of an application for payment assistance under the Program; and

“(4) Efforts made by DOEE to publicize the availability of payment assistance through the Program, including a description of the total amount of expenditures by DOEE on such efforts.

“(k) For the purposes of this section, the term “eligible portion of the lead water service line” shall mean the portion of the lead water service line located on private property, or any

portion of the lead water service line remaining on public property from prior work to remove a lead water service line.”.

(b) A new section 6019d is added to read as follows:

“Sec. 6019d. Reporting.

“Within 60 days after the end of each fiscal year, DC Water shall transmit to the Mayor and the Council and publicly post on the DC Water website a report that includes the following information for the preceding fiscal year:

“(1) For the lead water service line replacements under section 6019a(a)(2):

“(A) The number of times that DC Water replaced a damaged or leaking water service line on public property and requested the consent of the private property owner to replace the portion of the lead water service line on private property;

“(B) The number of private property owners that provided consent, did not provide consent, or did not respond to DC Water’s request for consent within 30 days after delivery of the request described in section 6019a(a)(2)(C); and

“(C) The number of locations, broken down by Ward and Advisory Neighborhood Commission, where DC Water replaced the portion of the lead water service line on public property but did not replace the portion of the lead water service line on private property; and

“(2) For the lead water service line replacement payment assistance program (“Program”) established by section 6019b:

271 “(A) The number of contractors who submitted an invoice to DC Water
272 under section 6019b(g)(1), broken down by:

273 “(i) Whether or not DC Water paid the contractor the amount of
274 the discount; and

275 “(ii) The Ward and Advisory Neighborhood Commission in which
276 the property is located;

277 “(B) The most common reasons that DC Water declined to pay a
278 contractor the amount of the discount submitted under section 6019b(g)(1);

279 “(C) As of September 30 of the preceding fiscal year, the number of
280 residential property owners with lead water service lines located on their private property where
281 the portion of the water service line on public property is not a lead water service line;

282 “(D) The average number of days DC Water took to provide financial
283 assistance to a contractor under the Program, from the date the contractor provided DC Water
284 with an invoice to the date that DC Water paid the contractor the amount of the discount for
285 which the residential property owner was approved; and

286 “(E) A description of efforts made by DC Water to publicize the
287 availability of financial assistance through the Program, including a description of the total
288 amount of expenditures by DC Water on such efforts.”.

289 Sec. 4. Section 113a of the District Department of the Environment Establishment Act of
290 2005, effective February 15, 2006 (D.C. Law 16-51, D.C. Official Code § 8-151.13a), is
291 amended by adding a new subsection (e) to read as follows:

292 “(e) Within 60 days after the end of each fiscal year, the District Department of Energy
293 and Environment (“DOEE”) shall transmit to the Mayor and the Council and publicly post on the
294 DOEE website a report that includes the following information for financial assistance programs
295 established pursuant to section 216b of the Water and Sewer Authority Establishment and
296 Department of Public Works Reorganization Act of 1996, effective October 30, 2018 (D.C. Law
297 22-168; D.C. Official Code § 34-2202.16b), for the preceding fiscal year:

298 “(1) The total amount of funding remaining at the end of the fiscal year in the
299 Fund;

300 “(2) The number of nonprofit organizations that applied for financial assistance,
301 the number of nonprofit organizations that received financial assistance, and the total amount of
302 funding provided to nonprofit organizations;

303 “(3) Not including any emergency relief, the number of residential customers that
304 applied for financial assistance, the number of residential customers that were approved for
305 financial assistance, and the total amount of funding provided to residential customers, broken
306 down by Customer Assistance Program income limits;

“(4) The number of residential customers that requested emergency relief, the number of residential customers that received emergency relief, and the total amount of funding provided to residential customers for emergency relief;

“(5) Broken down by nonprofit and residential customer applicants, the average number of days DOEE took to process applications for financial assistance, from the date DOEE received the application, to:

“(A) For approved applications, the date that DOEE notified the applicant that they qualify or assistance; and

“(B) For denied applications, the date that DOEE notified the applicant that the applicant did not qualify for financial assistance; and

“(6) Efforts made by DOEE to publicize the availability of financial assistance through the Fund, including a description of the total amount of expenditures by DOEE on such efforts.”.

Sec. 5. Applicability

(a) ~~Section 3(a)(2)~~ The amendatory subsection (d)(1) within section 3(a)(2) shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council for certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of the provision identified in subsection (a) of this section.

Sec. 6. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (12 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 7. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.