

Government of the District of Columbia  
Office of the Chief Financial Officer



Natwar M. Gandhi  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Vincent C. Gray  
Chair, Council of the District of Columbia

**FROM:** Natwar M. Gandhi  
Chief Financial Officer

**DATE:** JUL 10 2007

**SUBJECT:** Fiscal Impact Statement: "Free Clinic Assistance Program Extension Amendment Act of 2007"

**REFERENCE:** Bill Number 17-255

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**Conclusion**

Funds in the amount of \$7.28 million<sup>1</sup> are available in the FY 2007 budget to cover the cost of providing professional liability needs for non-governmental health care clinics operating in the District; however, funds have not been identified in the proposed FY 2008 through FY 2011 budget and financial plan to provide such coverage.<sup>2</sup> Said professional liability coverage is backed by the full faith and credit of the Government of the District of Columbia. Therefore, this presents an open-ended and potentially large liability to the District.

The Department of Insurance Securities and Banking (DISB) reports that in September of this year (2007), DISB will be submitting to Council a separate piece of emergency legislation which would provide for the structure and funding mechanism of an insurance captive to cover the professional liability costs of free non-governmental health care clinics in the District. However, no such captive currently exists, and the District is responsible for providing open-ended liability coverage to said clinics until the captive is established.

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<sup>1</sup> Of the original \$8.78 million appropriated in the FY 2007 Budget Support Act of 2006 to DISB to provide for professional health care coverage of free clinics operating in the District, \$1.5 million was earmarked for the establishment of a captive insurance company. The remaining amount-- \$7.28 million—was to be used for the professional liability needs of said clinics.

<sup>2</sup> The \$8.78 million was provided in the FY 2007 Budget Support Act of 2006 (§ 2055 (18))

## **Background**

The proposed legislation would amend the Free Clinic Assistance Program Act of 1986 to extend the life of the free clinic assistance program until October 1, 2008 or an earlier time when the District of Columbia Free Clinics Captive—a government-owned captive insurance company—becomes operational. Currently, the free clinics assistance program is scheduled to expire October 1, 2007.

In 2004, in order to address the professional liability insurance needs of free non-governmental health care clinics, the Council of the District of Columbia enacted the "Free Clinic Assistance Program Extension Amendment Act of 2004."<sup>3</sup> In the 2004 Act, the Mayor was charged with the responsibility to establish a working group to study other alternatives to provide professional liability insurance or indemnification under the free clinic assistance program to other organizations, including examining the potential effects of covering clinics through commercial insurance and subsidizing part of the cost of the private insurance for clinics that are ineligible for the program.

A feasibility study for the Government of the District of Columbia to consider in addressing the issue of professional liability for District of Columbia free clinics opined that the best approach is to establish a government owned captive insurance company.

The District funded from the General Fund the fiscal effect of the Free Clinic Assistance Program Coverage Amendment Act of 2006 in the amount of \$8,780,300 for fiscal year 2007.<sup>4</sup> The Council of the District of Columbia clarified that \$1.5 million of the \$8.78 million is to be allocated to establish the captive. The balance of the funds is to provide for professional liability needs of free non-governmental health care clinics operating in the District. Under current law, the balance of the original \$8.78 million appropriation will revert to the general fund at the end of FY 2007. DISB is in the process of hiring a vendor to establish and operate the free clinic captive insurance company.

## **Financial Plan Impact**

Funds in the amount of \$7.28 million are available in the FY 2007 budget to cover the cost of providing professional liability needs for non-governmental health care clinics operating in the District; however, funds have not been identified in the proposed FY 2008 through FY 2011 budget and financial plan to provide such coverage.<sup>5</sup>

Said professional liability coverage is backed by the full faith and credit of the Government of the District of Columbia. Therefore, this presents an open-ended and potentially large liability to

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<sup>3</sup> D.C. Law 17-9, Effective June 12, 2007; D.C. Code § 1-307.23a

<sup>4</sup> § 2055 (18) of the Fiscal Year 2007 Budget Support Act of 2006

<sup>5</sup> The \$8.78 million was provided in the FY 2007 Budget Support Act of 2006 (§ 2055 (18))

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the District. Federal and District anti-deficiency laws<sup>6</sup> prohibit District officers and employees from exceeding agency appropriations in any fiscal year.

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<sup>6</sup> 31 USCA § 1341 (2000) and D.C. Official Code § 47-355.01 *et sequitor* (2003).