


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



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

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

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: January 30, 2018

SUBJECT: Fiscal Impact Statement - Office of Administrative Hearings Jurisdiction
Expansion Amendment Act of 2018

REFERENCE: Bill 22-352, Committee Print as shared with the Office of Revenue
Analysis on January 29, 2018

Conclusion

Funds are not sufficient in the proposed fiscal year 2018 through fiscal year 2021 budget and financial plan to implement the bill. The bill will cost \$76,800 in fiscal year 2018 and \$315,000 over the four-year financial plan.

Background

The bill expands¹ the jurisdiction of the Office of Administrative Hearings (OAH) to include cases from the Department of Behavioral Health (DBH), Department of Housing and Community Development (DHCD), Department of Energy and Environment (DOEE), Office of the Secretary (OS), and Office of the State Superintendent of Education (OSSE). Currently, OAH is granted jurisdiction over DHCD, DOEE, OS, and OSSE cases through annual Memorandum of Understandings (MOUs) rather than through statute. The MOUs also specify how much each case-generating agency pays to OAH per adjudicated case. OAH has, in the past, adjudicated DBH cases through an MOU with the agency, but there is currently no formal agreement in place. The bill eliminates the need to establish jurisdiction through MOUs each year. The types of cases transferred to OAH in the bill are listed below for each case-generating agency.

¹ By amending Section 301 of the District of Columbia Mental Health Information Act of 1978, effective March 3, 1979 (D.C. Law 2-136; D.C. Official Code § 7-1203.01).

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FIS: "Office of Administrative Hearings Jurisdiction Expansion Amendment Act of 2018," Bill 22-352, Committee Print as shared with the Office of Revenue Analysis on January 29, 2018.

Department of Behavioral Health

- Denial, suspension, conversion, or termination of a license or certification of a mental health rehabilitation services provider, substance abuse provider, or mental health community residence facility.
- Imposition of a civil fine on a mental health community residence facility or mental health and substance abuse provider.
- Reduction, suspension, or termination of a supported housing subsidy.
- Discharge or transfer from a mental health community residence facility.
- Non-Medicaid recoupment action against a mental health and substance abuse provider.
- Adjudicated cases arising from any party dissatisfied with the outcome of the external review of their grievance.

Department of Housing and Community Development

- Rejection of condominium registration applications and public offering statements.
- Revocation of condominium registration.
- Structural defect warranty claims.
- Petitions for declaratory relief after a showing of reasonable grounds for a hearing.
- Rejection of applications for rental housing conversion and sale.
- Temporary cease and desist orders from unlawful practices.
- Revocation of a certificate or registration.

Department of Energy and Environment

- All energy or environmental violations and administrative complaints.

Office of the Secretary

- Adjudicated cases involving the denial or revocation by the Mayor of a notary commission.

Office of the State Superintendent of Education

- Child care eligibility determinations, the licensing and regulatory oversight of child care facilities, including the denial, refusal to renew, restriction, suspension, or revocation of a license, or enforcement actions subject to civil infractions.
- Disputed residency status for students attending District of Columbia Public Schools or District of Columbia Public Charter Schools.
- Invoice disputes over special education providers.
- Denial of a federal grant application administered by OSSE.

The bill also requires Administrative Law Judges to meet all eligibility requirements at the time of reappointment in addition to their initial appointment.

Financial Plan Impact

Funds are not sufficient in the proposed fiscal year 2018 through fiscal year 2021 budget and financial plan to implement the bill. The bill will cost \$76,800 in fiscal year 2018 and \$315,000 over the four-year financial plan.

DHCD, DOEE, OS, and OSSE currently pay OAH a fee for each case it adjudicates. These fees are transferred through an intra-district payment and are used to offset administrative costs tied to hearing a case. The annual intra-district payment budgets for the cases specified in the bill must be

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reprogrammed from case-generating agencies to OAH on a permanent basis to implement the bill. OAH will assume jurisdiction over the cases once the necessary budget actions occur. The intra-district payment reprogramming amounts for each agency are listed in the table below.

Office of Administrative Hearings Jurisdiction Expansion Amendment Act of 2018 Reprogrammings Required by Agency					
Agency	FY 2018	FY 2019	FY 2020	FY 2021	Total
DHCD	\$20,000	\$20,350	\$20,706	\$21,068	\$82,125
DOEE	\$45,000	\$45,788	\$46,589	\$47,404	\$184,780
OS	\$1,300	\$1,323	\$1,346	\$1,369	\$5,338
OSSE	\$10,500	\$10,684	\$10,871	\$11,061	\$43,115
Total Fiscal Impact^(a)	\$76,800	\$78,144	\$79,512	\$80,903	\$315,358

Table Notes:

(a). Assumes 1.75 percent growth each year to account for inflation.