

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: November 1, 2016

SUBJECT: Fiscal Impact Statement – Advisory Neighborhood Commissions
Omnibus Amendment Act of 2016

REFERENCE: Bill 21-697, Committee Print sent to the Office of Revenue Analysis on
October 26, 2016

Conclusion

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill.

The bill will cost at least \$170,000 to implement in fiscal year 2017 and at least \$680,000 over the four-year financial plan, but costs could be substantially higher due to additional staffing and technology requirements. We do not have enough information yet to estimate the total cost of the bill.

Background

The bill makes a number of clarifications and changes¹ to the services *all* District agencies must provide Advisory Neighborhood Commissions (ANCs), the services *specific* District agencies must provide ANCs, and the rules that govern ANC operations.

Services *all* District agencies must provide ANCs

The bill rearranges current D.C. Code² and groups together the actions for which District agencies must provide notice³ to affected ANCs:

¹ By amending The Advisory Neighborhood Councils Act of 1975, effective October 10, 1975 (D.C. Law 1-21; D.C. Official Code § 1-309.01 et seq.)

² D.C. Official Code § 1-309.10.

1. The award of any grant funds to a citizen organization or group;
2. The transmission to the Council of a proposed industrial revenue bond issuance;
3. The formulation of any final policy decision, guideline, or determination on a matter with respect to grant applications, comprehensive plans, requested or proposed zoning changes, variances, public improvements, licenses, or permits;
4. Changes in District government service delivery;
5. The opening of any proposed facility systems;
6. Any action for which prior notice of proposed rulemaking is required pursuant to section 105(a) of the DCAPA; and
7. Any intent to change the use of property owned or leased by, or on behalf of, the District government.

Notice is already required for all of these actions except for number 6, which requires an agency to send a notice to affected ANCs 30 days before the agency issues a new rule in the D.C. Municipal Regulations. The Mayor's Office of the Secretary already publishes The District of Columbia Register; a weekly publication that includes all emergency, proposed, and final rules. This bill would require agencies to separately contact ANCs that are specifically affected by a new rule.

Currently, agencies are required to send advance notice of actions to ANCs by first-class mail. The bill makes email the default mode for notices, but ANCs may request notices by first-class mail.

The bill requires that agency notices include a link to, or copy of, relevant applications, associated documents⁴, and a point of contact at the agency.

If an ANC comments on the proposed action in a notice, the bill requires the agency receiving the comments to respond to each comment with a substantive analysis. Current law requires agencies to respond to comments with "explicit reference" to each issue an ANC raises. The bill requires agencies to acknowledge receipt of comments from ANCs within five business days.

Services *specific* District agencies must provide ANCs

Office of Partnerships and Grant Services (OPGS): When ANCs issue grants, the overhead costs of the grantee cannot exceed 15 percent of the grant amount. The bill allows OPGS to perform an analysis of expected overhead costs for ANC grants, and, if OPGS's analysis differs from that of the grantee, OPGS can ask an ANC to use its overhead estimate instead of the grantee's.

Office of Advisory Neighborhood Commissions (OANC): The bill requires several things of the OANC, including: holding trainings twice a year for staff from District agencies and ANC Commissioners; keeping electronic copies of notices, ANC comments to Council, and ANC agendas; keeping a list of people assigned to be the ANC liaison at each District agency; providing ANCs with staff payroll

³ The 30-day notice requirement does not apply to licenses and permits issued by the Alcoholic Beverage Control Board (ABC Board) and applications to Department of Consumer and Regulatory Affairs (DCRA) for construction, demolition, and razing. The D.C. Code gives different timelines for notices from the ABC Board and DCRA.

⁴ Notices for licenses and permits issued by the ABC Board are exempted from this requirement. There is an exception for notices for retailer licenses that have been suspended on an emergency basis, which must include links to or copies of relevant documents.

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forms; and working with the D.C. Auditor to design forms for ANC grant applications and reimbursements for eligible expenses, among other requirements. Some of these are new requirements and some clarify existing requirements.

Office of Open Government (OOG): The bill requires OOG to coordinate with OANC to include OOG-developed Freedom of Information Act (FOIA) training materials in the Commissioner training sessions provided by the OANC. OOG will provide FOIA training to ANC commissioners twice a year.

Alcoholic Beverage Control Board (ABC Board): The bill restates the current requirement that the ABC Board give ANCs a 45-day notice before hearings for certain licenses and permits. The bill adds one new requirement for the ABC Board: the Board must notify affected ANCs when a retailer license has been suspended on an emergency basis, and the Board must include with the notice a link to, or copies of, relevant documents.

Department of Consumer and Regulatory Affairs (DCRA): The bill restates the current requirement that DCRA provide ANCs, twice a month, with a list of applications for construction, demolition, and razing. The bill adds an additional requirement: this list must now include a link to a government webpage that provides access to available supporting documents and information for each application.

Office of Zoning (OZ): The bill restates the requirement in current law that the Office of Zoning notify ANCs affected by any application, public hearing, or action on a zoning case, and makes clear that OZ must give ANCs a 30-day notice. The bill adds the additional requirement that OZ should also notify ANCs within a half-mile of the affected ANC.

Historic Preservation Review Board (HPRB): The bill requires the HPRB provide a 30-day notice to ANCs on any matter on which the HPRB provides recommendations. The HPRB, like other agencies, can provide shorter notice with cause.

Secretary to the Council: The bill requires the Council to send ANCs a list of newly introduced measures twice a month.

Office of Human Rights or another executive agency: The bill requires the Mayor to provide Language Access services for residents for ANC documents and proceedings.

Office of the Chief Technology Officer (OCTO): The bill requires the Mayor to provide an email account for each ANC chairperson and create an ANC portal where District agencies and Commissioners can post information and interact with each other.

Department of General Services: The bill requires the Mayor to help Commissioners find office space when no District-owned or -leased space is available in a Commissioner's ANC district or ward.

Office of the D.C. Auditor (ODCA): The bill requires an applicant for an ANC grant to submit an application to the ANC and to ODCA. After an ANC issues a grant, the grantee must send a statement about the use of the grant funds, including receipts, to the Commission and ODCA, every 90 days. ODCA may prohibit Commissions from giving grants to past grantees that have previously misused funds. If ODCA chooses to do this, the office must keep a list of grantees who should receive future grants.

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Rules that govern ANC operations

The bill clarifies and makes additions and amendments to the rules that govern ANC operations. Among the changes, the bill: requires Commissioners to be physically present at meetings in order to be counted towards quorum; requires Commissions to publish draft agendas of meetings online, seven days in advance; clarifies what is considered an acceptable expenditure for "nominal refreshments;" and allows, but does not require, ANCs to reimburse Commissioners for childcare expenses while carrying out official business.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill.

We currently do not have enough information to give a complete cost estimate of the bill. Below we summarize the costs we were able to estimate and likely costs for which we do not yet have an estimate.

Cost of services *all* District agencies must provide ANCs

The new requirement that agencies notify ANCs specifically affected by new rules will likely have a cost. Some agencies, like the District Department of Transportation (DDOT), think the fiscal impact of this requirement will be minimal, since most of the rules they issue apply to the entire city. Other agencies, like the Office of Planning (OP), believe this requirement could have a significant negative impact on administrative costs and work flow.

The new requirement that notices include a copy of, or link to, relevant applications and supporting documents will likely have a cost. DDOT, for instance, makes some information about its public space permits available online, but the public cannot view the applications or supporting documents for these permits. To allow ANC Commissioners to view the applications for permits, DDOT will need additional personnel and IT funds to make changes to and support its online permit system. If ANC Commissioners requested hard copies of permit applications, DDOT will also need additional resources. Other agencies will likely be impacted by this requirement as well.

Cost of services *specific* District agencies must provide ANCs

Office of Partnerships and Grant Services (OPGS): OPGS currently does not work with ANCs, nor does it calculate overhead costs for grants. It does not plan to calculate overhead costs for ANC grants. The bill allows, but does not require, OPGS to calculate ANC grant overhead costs.

Office of Advisory Neighborhood Commissions (OANC): The bill creates additional work for OANC. It is possible that OANC would require additional personnel for this work, but at this time, OANC believes there is not enough information to support an additional FTE, so it will try to absorb the work.

Office of Open Government (OOG): OOG already conducts FOIA training for ANC Commissioners, so it can meet the requirements of the bill without additional resources. However, the training materials

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it gives to OANC will be electronic since it doesn't have funding to create printed materials. OOG estimates it would cost up to \$5,000 a year to design and print FOIA training materials, and it cannot absorb these expenses in its current budget.

Alcoholic Beverage Control Board (ABC Board): The ABC Board can provide notice to ANCs when a retailer license has been suspended on an emergency basis without additional resources, since emergency suspensions are rare. The ABC Board can meet the other requirements of the bill using its current resources as long as it does not have to include copies of applications and other documents with the notices it sends to ANCs.⁵ The ABC Board would need additional personnel if it had to include applications and other documents with the notices.

Department of Consumer and Regulatory Affairs (DCRA): DCRA can, using its current resources, send a list of applications to ANCs, but the agency cannot currently meet the requirement that it provide a link to a webpage that provides access to available supporting documents. DCRA is working to make an application's supporting documents available on the internet, but it does not expect to finish this project until the end of fiscal year 2018.

Office of Zoning (OZ): OZ can meet the requirements of the bill without additional resources.

Historic Preservation Review Board (HPRB): HPRB can meet the requirements of the bill without additional resources since it recently added administrative staff to meet notice requirements.⁶

Secretary to the Council: The Secretary can meet the requirements of the bill without additional resources. Her office already sends to ANCs twice a month a list of newly introduced measures. While Council does not have a specific person it has designated as its ANC liaison, which the bill requires, it fulfills the duties of the ANC liaison by working with the OANC and committee staff.

Office of Human Rights or another executive agency: We estimate it will cost the Mayor about \$170,000 per year to provide Language Access services to residents for ANC documents and proceedings. This would be enough money to cover interpretations into one language for 10 meetings a year for each ANC⁷, and translation of 30 pages into one language for each ANC each year⁸. Here we assume that some ANCs will need interpretations and translations into several languages, while other ANCs will rarely request these services. There could be additional administrative costs, depending on how the Mayor decides to administer these services.

Office of the Chief Technology Officer (OCTO): OCTO can meet the requirements of the bill without additional resources. It already provides Commissioners with email addresses, and has developed an ANC portal that it is currently testing. Once OCTO finishes testing the portal it will allow all Commissioners access to it.

⁵ The intent of the bill is to exempt the ABC Board from having to include copies of applications and other documents with its notices, except in the case of emergency suspensions, but the Board believes the language in the bill is unclear.

⁶ The determination assumes that the HPRB over-the counter permits are considered "matter-of-right" actions and the ANC would not need to be notified. If this were not the case, HPRB would need additional personnel. Note that the HPRB assumes that under the bill it can continue its current practice of giving a 15-day notice to ANCs of all potential HPRB cases, and giving a 45-day notice upon request.

⁷ Assuming interpretation into one language costs \$200 per meeting.

⁸ Assuming a cost of \$75 per page of translation.

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Department of General Services (DGS): DGS's portfolio managers can help ANCs find office space and do not need additional resources to assist ANCs.⁹

Office of the D.C. Auditor (ODCA): ODCA, using its current resources, can receive ANC grant applications and expenditure statements on a rolling basis, publish a quarterly list of grantees that have not followed grant rules and should not receive future grants, and cross-reference that list when it receives new grant applications. However, ODCA would need an additional FTE if it had to do a full review of a grantee (such as confirming the grantee's overhead costs) each time it received a new grant application or expenditure report. If ODCA had to audit reimbursements for childcare expenditures, a new category of ANC spending the bill allows, ODCA would need to modify its system for electronic filing of ANC financial reports. There would be an IT cost for modifying the filing system, but we do not have enough information yet to estimate the cost of the modifications.

Cost of rules that govern ANC operations

Unless otherwise noted above, the changes the bill makes to the rules governing ANC operations do not impact the budget and financial plan.

⁹ Though DGS notes that the District-owned portfolio is at capacity, and it has struggled recently to find space for ANCs.