

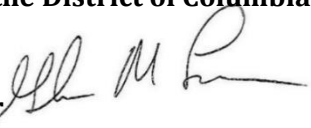
Government of the District of Columbia
Office of the Chief Financial Officer



Glen Lee
Chief Financial Officer

MEMORANDUM

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

FROM: Glen Lee
Chief Financial Officer 

DATE: December 18, 2023

SUBJECT: Fiscal Impact Statement – Proactive Inspection Program Act of 2023

REFERENCE: Bill 25-48, Draft Committee Print as provided to the Office of Revenue Analysis on December 6, 2023

Conclusion

Funds are not sufficient in the fiscal year 2024 through fiscal year 2027 budget and financial plan to implement the bill. The bill's implementation costs approximately \$2 million in fiscal year 2024 and \$7.2 million over the four-year financial plan period.

Background

The Department of Buildings (DOB) currently manages a Proactive Inspection Program¹ (Program) where it inspects multi-unit residential properties to ensure residential units are safe and properties comply with applicable building codes. DOB runs all properties through an algorithm that looks at various criteria and identifies buildings that should be proactively inspected. DOB then sets out to inspect 100 percent of the units in these buildings. DOB issues a notice of infraction (NOI) for violations it finds. Property owners must rectify violations within certain time periods, depending on their severity.

The bill formally establishes the Program at DOB and alters many of the Program's parameters. The bill requires DOB to develop an algorithm that will designate multifamily residential properties into two tiers for a particular proactive inspection cycle. The bill expands the existing algorithm criteria² that DOB can consider when building the algorithm, including the number of stop-work orders; the

¹ <https://dob.dc.gov/service/get-proactive-inspection-no-cost-residents-a0>

² Existing criteria include the age of the property, the type of building, the status of the license, the legal structure of the licensee, and the history of code violations at the property.

number of violations for improper solid waste storage; the length of time code violations remained unabated; delinquent property taxes; and locations in areas disproportionately affected by elevated lead blood levels among children, pediatric asthma, and characteristics of vulnerable populations.³ The bill requires DOB to submit a report to Council within ninety days that outlines the factors used in the algorithm and how the efficacy of the algorithm was and will be assessed.

The bill establishes that Tier 2 properties should be evaluated every six years, Tier 1 properties every two years, and that DOB should notify each property owner of their respective property's tier classification. The bill also sets a minimum share⁴ of the total units that should be proactively inspected for each building. The bill requires DOB to inspect vacant units, but those do not count toward the share of units that must be inspected. The bill requires DOB to notify a property owner or property manager at least sixty days prior to a scheduled inspection. Upon notification, DOB should provide the housing provider with consent forms to give to tenants that allow DOB to inspect their units. The consent forms should notify the tenant that DOB will enter the unit, the purpose of the inspection, the date and time of the inspection, and that the tenant has the right to see the inspector's identification prior to entry. The housing provider should make every attempt to get the consent forms signed and transmitted to DOB twenty-five days prior to the inspection. The bill allows a tenant to volunteer for a proactive inspection if they do not receive a consent form from the housing provider. DOB should not delay or reschedule an inspection if the housing provider fails to provide sufficient consent forms to meet the unit inspection threshold.

If DOB finds that two or more units, or 20 percent of the inspected units, have four or more class 1 civil infractions,⁵ then DOB may require that 100% of the property's units be inspected. DOB may also take reasonable steps to further inspect any unit or area of the building if it has reasonable cause to believe that a unit or area of the property is so hazardous or unsafe that immediate measures must be taken.

The bill directs all fees for proactive inspections to be deposited into the Nuisance Abatement Fund⁶ and all proceeds from paid fines into the District's Local Fund.

When the Council established DOB, it imposed a reporting requirement⁷ to track the agency's progress against its Strategic Enforcement Plan⁸ and provide data on complaints, violations, fine collections, abatement, and enforcement. The bill enhances the annual report to require DOB to include inspection data and to report data under the Program separate from other data.

The bill authorizes DOB to issue rules necessary to implement the Program. The rules should be submitted to Council for a 45-day period of review and if the rules are not acted upon by the Council, they should be deemed approved.

³ Vulnerable populations include people with disabilities, foreign-born residents, households with extremely low income, and people with limited or no English proficiency.

⁴ The inspection minimum is 50% of units on a property with 25 units or less, 40% for properties with 26 to 49 units, 30% for properties with 50-199 units, and 20% for properties with 200 or more units.

⁵ Classes of Infractions, effective February 18, 2017 (16 DCMR 3200.1).

⁶ Nuisance Abatement Reform Amendment Act of 2006, effective April 4, 2006 (D.C. Law 16-81; D.C. Official Code § 42-3111.01).

⁷ Department of Buildings Establishment Act of 2020, effective April 5, 2021 (D.C. Law 23-269; D.C. Official Code § 10-562.02).

⁸ D.C. Official Code § 10-562.01.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2024 through fiscal year 2027 budget and financial plan to implement the bill. The bill's implementation requires \$2 million in fiscal year 2024 and \$7.2 million over the four-year financial plan period.

DOB estimates that there are approximately 6,000 buildings with three or more units, encompassing 130,000 residential units. In fiscal year 2023, DOB performed over 13,000 inspections⁹ in its current proactive inspection program and issued over 3,100 NOIs.

The bill requires DOB to develop a tiered proactive inspection program and inspect all multifamily residential properties on a two- or six-year cycle. For DOB to inspect every property over the prescribed cycles and successfully implement the program, DOB requires additional inspectors and support staff. DOB expects to double the number of inspections performed and NOIs issued. To perform over 13,000 additional inspections annually,¹⁰ DOB requires six new inspectors and a manager at a cost of \$802,000 in fiscal year 2024 and \$3.3 million over the four-year financial plan period. To support the inspectors, DOB requires seven additional vehicles and inspection technology. These additional costs are \$378,000 in fiscal year 2024 and \$384,000 over the four-year financial plan period.

DOB requires three support staff to help with inspections and NOI processing and one staffer each for the alternative resolutions team and civil infractions team. These 5 staffers will cost \$452,000 in fiscal year 2024 and \$1.9 million over the four-year financial plan period. DOB also requires two attorneys to help manage adjudications of approximately 1,000 additional contested NOIs.¹¹ These attorneys cost \$296,000 in fiscal year 2024 and \$1.2 million over the four-year financial plan period.

Finally, DOB requires one program staffer. This staffer will ensure that the algorithm is updated, the bill's reporting requirements are met, and support is provided to building owners once the new tier system and inspection program is launched. This staffer costs \$100,000 in fiscal year 2024 and \$415,000 over the four-year financial plan period.

The table on the following page summarizes the bill's implementation costs:

⁹ The 13,000 inspections includes re-inspections, so the number of unique units inspected is assumed to be lower than 13,000.

¹⁰ This estimate assumes that 80 percent of units will be on the Tier 2 cycle and 20 percent of units will be on the Tier 1 cycle.

¹¹ DOB has a target caseload per attorney of approximately 200 cases per year, but the current workload exceeds that target. Two additional attorneys would exceed the target workload, but would experience lower workloads than existing staff.

The Honorable Phil Mendelson

FIS: Bill 25-48, "Proactive Inspection Program Act of 2023," Draft Committee Print as provided to the Office of Revenue Analysis on December 6, 2023

Proactive Inspection Program Act of 2023					
Bill 25-48					
Implementation Costs					
Fiscal Year 2024 – Fiscal Year 2027					
(\$ thousands)					
	FY 2024	FY 2025	FY 2026	FY 2027	Total
Inspectors (7)^a	\$802	\$819	\$837	\$856	\$3,314
Inspection resources	\$378	\$2	\$2	\$2	\$384
Support Staff (5)^b	\$452	\$462	\$472	\$482	\$1,867
Attorneys (2)	\$296	\$302	\$309	\$315	\$1,221
Program Manager	\$100	\$103	\$105	\$107	\$415
TOTAL COSTS	\$2,028	\$1,688	\$1,725	\$1,762	\$7,201

Table Notes

a Includes six inspectors and one manager.

b Includes three staffers to support the inspection and NOI process, one for the civil infractions team, and one for the alternative resolutions team.