

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 9, 2020

**SUBJECT:** Fiscal Impact Statement – Public Facilities Environmental Safety  
Amendment Act of 2020

**REFERENCE:** Bill 23-665, Committee Print provided to the Office of Revenue  
Analysis on November 4, 2020

A handwritten signature in black ink that reads "Jeffrey S. DeWitt".

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**Conclusion**

Funds are not sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill. The bill will cost \$8.6 million in fiscal year 2021 and \$33.7 million over the four year financial plan.

**Background**

The bill sets environmental testing and reporting requirements for the Department of General Services (DGS) regarding public buildings, playground surface materials, and environmental hazards at construction projects at District-owned sites.

Current law<sup>1</sup> requires DGS to establish allowable thresholds and assess public sites for twelve different environmental risks and requires DGS to develop protocols regarding frequency and methods of assessment. Currently, DGS assesses for the twelve hazards on an as-needed basis. The bill adds five more environmental risks that must be assessed and requires assessment of each site every ten years.

The bill also requires environmental assessments of any public site that is undergoing demolition, construction, excavation, or substantial renovation. If DGS determines a potential environmental hazard exists at a site, it must conduct a test to see if the risk exceeds established thresholds and publish the test results on its website within ten business days. If test results are found to be in excess of thresholds, DGS must isolate the area of risk until remediation can occur and provide public notice

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<sup>1</sup> D.C. Official Code § 10-712.

The Honorable Phil Mendelson

FIS: "Public Facilities Environmental Safety Amendment Act of 2020," Bill 23-665, Committee print as shared with the Office of Revenue Analysis on November 4, 2020.

of potential environmental risks and a timeline for remediation. Within 20 days, DGS must coordinate with relevant agencies to conduct a public meeting on test results, and repeat testing until conditions do not exceed established threshold levels. DGS must publish online and submit to the Council an annual report that describes each publicly owned site that has undergone significant renovation and details of environment hazards and remediation that have occurred.

The bill requires DGS to conduct lead testing every three years on all public playground surfaces that are composed of synthetic materials. If a playground test identifies lead levels above established thresholds, DGS must close the playground within 24 hours and not reopen until the lead is remediated and a subsequent test determines the level of lead is below thresholds.

Within ten business days of a playground closure, DGS must publish notice on the DGS website and post signage communicating the reason for the closure and planned remediation efforts. Within 20 days, DGS must coordinate with other agencies to have a public meeting to communicate details of the remediation process and potential health risks.

No later than eight months after the effective date of the bill, DGS must publish on its website a warranty and certificate of compliance with regulatory standards for all existing synthetic fields and playgrounds that contain synthetic materials installed within the last five years. DGS must continue to publish the certificate for any newly installed surfaces.

No later than ten months after the effective date of the bill, DGS must provide a report to the Council on all materials currently available on the market for use in public field and playground surfaces. It must contain an analysis of materials and known environmental and health risks and provide comparative test results for surfaces to determine a level of naturally occurring lead in the District.

Lastly, prior to the replacement of any public field and playground surface, the bill requires DGS to conduct community outreach to explain options for replacement, obtain input, and explain decision making factors.

### **Financial Plan Impact**

Funds are not sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill. The bill will cost \$8.6 million in fiscal year 2021 and \$33.7 million over the four year financial plan. DGS will require resources to perform the required testing, analysis, and specific publication and communication requirements included in the bill.

DGS currently performs Phase 1 environmental assessments of public buildings on an ad hoc basis, but the bill requires review of all sites once every ten years and increases the number of hazards to be assessed. The bill also requires all construction projects to first have an environmental assessment. However, DGS's standard is to complete Phase 1 environmental studies only for large projects, and for small projects, only if there is a specific reason to believe a risk exists. DGS estimates the ten-year cycle of testing of public sites will cost \$5M, spread out over ten years, and the testing associated with approximately 180 smaller projects per year will cost \$7.2M annually.

The bill requires lead testing every three years on playground surfaces. DGS estimates the testing will cost \$680,000 every three years. DGS also estimates needing personnel to manage the new requirements, in particular for legal review of assessments prior to publication, and communication of assessments to the public – both online and in public meetings. The agency will also require a web-

The Honorable Phil Mendelson

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based interface to publish the testing and connect to the agency's current Salesforce platform, at an estimated cost of \$300,000.

Lastly, should testing uncover a need for remediation, there is no specific budget for environmental remediation. Some project budgets may have sufficient margin to cover the costs, while others may not. To the extent that regular assessments turn up remediation needs, then sites will remain closed until sufficient budget can be identified to perform necessary remediation.

<b>Public Facilities Environmental Safety Amendment Act of 2020</b>					
<b>Bill 23-665</b>					
<b>Fiscal Year 2021 – Fiscal Year 2024</b>					
<b>(\$ thousands)</b>					
	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>Total</b>
<b>10 year cycle of assessments of public buildings</b>	\$500	\$500	\$500	\$500	\$2,000
<b>Additional Phase 1 Assessments of small construction projects</b>	\$7,200	\$7,200	\$7,200	\$7,200	\$28,800
<b>3-year cycle of playground lead testing</b>	\$227	\$227	\$227	\$227	\$907
<b>4 FTEs for legal and communication related to new requirements</b>	\$436	\$436	\$436	\$436	\$1,744
<b>System enhancement to publish testing</b>	\$300	\$0	\$0	\$0	\$300
<b>TOTAL FISCAL IMPACT</b>	\$8,662	\$8,362	\$8,362	\$8,362	\$33,751