

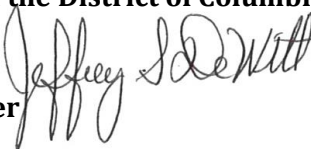
Government of the District of Columbia
Office of the Chief Financial Officer



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 6, 2020

SUBJECT: Fiscal Impact Statement – Zero Waste Omnibus Amendment Act of 2020

REFERENCE: Bill 23-506, Draft Committee Print as circulated on November 6, 2020

Conclusion

Funds are not sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill. The bill's implementation will cost approximately \$5 million in fiscal year 2021 and \$16.4 million over the four-year financial plan period across four District agencies.

The Department of Public Works (DPW) requires \$2.3 million in fiscal year 2021 and \$6.1 million over the four-year financial plan period. The Department of General Services (DGS) requires \$1.4 million in fiscal year 2021 and \$5.7 million over the four-year financial plan period. The Department of Energy and Environment (DOEE) requires \$1.1 million in fiscal year 2021 and \$3.6 million over the four-year financial plan period. The Office of the State Superintendent of Education (OSSE) requires \$250,000 in fiscal year 2021 and \$1 million over the four-year financial plan period.

The bill's implementation is subject to the required resources being included in an approved budget and financial plan.¹

¹ Some provisions do not require additional budgeted resources and can be implemented upon the bill's effective date. The provisions that are subject to appropriation are enumerated in Section 6 of the bill.

Background

The bill enhances the District's waste management and source separation efforts to encourage greater recycling and composting and reduce contamination in both residential and commercial collections. The bill requires the Mayor to develop and transmit to Council a plan to provide recycling infrastructure in public spaces by January 1, 2023. The recycling plan should analyze existing recycling infrastructure, contamination rates, best practices from other jurisdictions, and develop a consistent receptacle design scheme. The bill also mandates that DPW develop a consistent design, color, and labeling scheme for all public waste containers. The bill also requires the District to establish a collection site in the District for source separated glass to be transferred to a glass recycling facility by January 1, 2022. The bill authorizes the District to charge a glass disposal fee to cover the operating and transportation costs associated with the collection site. The bill allows the Mayor to require private collection properties that dispose of a high volume of glass to separately store and arrange for hauling to a glass recycling facility beginning January 1, 2024. The bill requires the DPW Office of Waste Diversion and Solid Waste Education and Enforcement Program (SWEEP) to develop and implement a source separation training and outreach program for property managers and janitorial staff at private collection properties by January 1, 2022. The Office of Waste Diversion and SWEEP should consult with waste management professionals and property managers at least four times each year and update the training and outreach program every five years. The bill requires certain private collection property owners² to designate an agent responsible for the property's waste collection responsibilities and mandates that these private collection property owners submit a source separation plan to DPW by January 1, 2022 and annually thereafter. The bill also requires private waste collectors to alert their customers when they see contamination in waste containers and to describe the waste contamination in their annual reports to DPW.³ For private waste collectors that use DPW transfer facilities, the bill requires those collectors to provide DPW with a list of their customer locations. The bill authorizes DPW to impose a surcharge on recycling disposed at one of its transfer stations if the load exceeds a predetermined contamination threshold. Any contamination surcharges collected will be deposited into the Solid Waste Diversion Fund⁴ to support increased solid waste diversion efforts in the District.

The bill requires all District government facilities and agencies to comply with all waste collection and source separation requirements and to designate an agency employee responsible for training and ensuring adequate receptacles are available. DPW should gather information from each agency on how they are complying with the waste collection requirements. DPW should include in its annual report to Council updates, by agency, on the District government's waste collection and source separation efforts at its facilities. District-owned and District-leased government facilities should also develop a consistent design, color, and labeling scheme for their waste receptacles. The District government should also maximize the purchase of Environmentally Preferable Products or Services⁵

² This requirement is applicable annually to multifamily properties with more than 80 units, commercial properties with 10 or more units, and enterprises with 101 or more employees and to smaller properties and enterprises upon request.

³ D.C. Official Code § 8-1031.05(b).

⁴ Sustainable Solid Waste Management Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-154; D.C. Official Code § 8-1031.12).

⁵ D.C. Official Code § 2-351.04(30).

in its procurement efforts. The bill broadens the definition of the purposes for which the Mayor can issue grants to universities, nonprofits, and businesses to include the promotion of sustainable solid waste management and diversion practices, policies, and techniques. The bill authorizes the Mayor to inspect or observe, upon the presentation of appropriate credentials, any private property for the purposes of enforcing waste collection laws. The bill also requires the Mayor to study the feasibility and expected economic outcomes of implementing a variable rate pricing model for the collection of solid waste from public collection properties. The study should include a pilot program to assess how residents can be incentivized to reduce their volume of waste and recommendations to fully implement a variable rate pricing model. The Mayor should also assess the financial implications of a variable rate pricing model on the District's waste management budget. The study must be completed by January 1, 2022.

The bill requires DOEE to establish a Donation and Reuse Program. This program should help reduce needless waste and increase diversion by coordinating the direct donation and exchange of surplus materials, educating the public on the avoidance of single-use products, and increasing opportunities for reuse. DOEE can issue competitive grants to community organizations and businesses to support these efforts. DOEE should report annually to the Mayor and the Council, describing its efforts in the prior year to reduce needless waste through increases in reuse and donation.

Current law does not require the District to require the source separation of compostable materials until the Mayor implements a compost collection program.⁶ The bill requires the District to take several steps to encourage composting and the reduction of food waste in the District. The bill requires the District to develop and transmit to Council a comprehensive Organics Management Plan by January 1, 2023. The Organics Management Plan should include locations where compostable materials can be processed both regionally and on-site, plans for implementing a compost collection program, plans for meeting source separation at private collection properties, and a description of the District's education and outreach efforts. The bill establishes a DPW competitive grant program to help any business or nonprofit purchase an on-site organic food waste processing system.⁷ The bill imposes food waste donation⁸ and disposal requirements for commercial food businesses. Commercial food establishments should arrange for the separation and transport of food waste to an organic processing facility or process food waste in an on-site waste processing system. Establishments must ensure that food waste is properly stored and that employees are properly trained in separating and storing food waste. Collectors of food waste must provide training to establishments on proper source separation techniques and notify establishments when they identify contamination. By January 1, 2023, a retail food store with at least 10,000 square feet of floor area and a college or university with at least 2,000 students must comply with these food waste disposal requirements. Any other retail food store, arenas or stadiums that hold at least 15,000 people, hospitals or nursing homes with at least 300 beds, and colleges or universities with at least 500 residential students must comply by January 1, 2024. The Mayor should provide technical assistance to any food service establishments and conduct regular public education and outreach

⁶ D.C. Official Code § 8-1031.03(a)(2).

⁷ Processing systems include in-vessel composters or aerobic or anaerobic digesters.

⁸ Establishments should donate edible food consistent with the Good Faith Donor and Donee Act of 1981, effective October 8, 1981 (D.C. Law 4-39; D.C. Official Code § 48-301 et seq.).

around composing food waste. The bill also requires private collection properties to separate excess edible food for donation for human consumption if possible.

The bill authorizes OSSE to issue grants out of the Healthy Schools Fund⁹ to support the establishment of share tables, reduction of food waste, and use of reusable food service wares at schools in the District. Share tables are locations in a school where members of the school community can place unopened and sealed food items for other members of the school community to take, thereby reducing food waste and helping another member of the community. OSSE can issue these grants to local education agencies, nonprofit organizations, or other partnerships that support the grants' goals. The bill does not require, but strongly encourages, schools in the District to establish share tables. OSSE should include information on share table participation among local education agencies in its annual report on farm-to-school initiatives.¹⁰

The bill creates a battery stewardship program to support the recycling of primary and rechargeable batteries and imposes prohibitions on the disposal of batteries in the District beginning on January 1, 2022 for battery producers¹¹ and January 1, 2023 for all other persons. The bill requires the producers of all covered batteries sold in the District¹² to be a member of a battery stewardship organization that must be registered with DOEE and submit to DOEE and have approved a battery stewardship plan (stewardship plan) by January 1, 2022. A stewardship organization must develop the stewardship plan, maintain a public website, provide educational materials, and cover all costs of the battery recycling process, from collection to end-of-life. The stewardship organization should register annually with DOEE, providing a list of and contact information for its participating producers, a description of how it will meet its obligations under the bill, and the contact information for a nonmember producer to contact to explore joining the stewardship organization.

The stewardship plan must, at a minimum, include a list of all participating producers, their contact information, battery brands, and battery-containing products; the annual budget for the stewardship organization; a feasible performance plan for the first three years of the stewardship organization's operations in the District; a description of how the stewardship organization will collect batteries with at least one collection site for every 10,000 people and collection sites across all eight wards;¹³ a description of how the stewardship organization will ensure batteries are recycled in an environmentally sound manner; the names and contact information for all collectors, transporters, and recyclers of collected batteries; and a description of the stewardship organizations education and outreach plans. DOEE must approve a stewardship plan within 120 days of receiving it and the stewardship organization must implement the plan within 90 days of its approval.¹⁴ DOEE should

⁹ Healthy Schools Act of 2010, effective July 27, 2010 (D.C. Law 18-209; D.C. Official Code § 38-821.02).

¹⁰ D.C. Official Code § 38-823.03.

¹¹ Producers include the manufacturers of covered batteries or covered battery-containing products, the owners or licensee of a brand or covered product (if no manufacturer exists), or the importer of a covered product (if no manufacturer, owner, or licensee exists).

¹² The stewardship plan does not apply to covered batteries imported into the District prior to the bill's effective date.

¹³ Collection sites must complete a training on how to handle batteries, display their availability as a drop-off site, and accept up to 100 batteries per visit.

¹⁴ Any plan that is rejected by DOEE can be revised within 45 days of the rejection. DOEE will have 45 days to approve any revised plans.

provide a 30-day public comment period from the date a stewardship plan is deemed complete. Every two years, a stewardship organization should update its performance goals in the stewardship plan and submit those to DOEE for approval. By April 1, 2023 and annually thereafter, a stewardship organization should submit a report describing its activities to implement the stewardship plan, data on the weight of batteries collected, the weight of batteries sold in the District, progress toward stewardship plan performance goals, a description of how batteries were sorted and processed, and the costs of implementing the stewardship plan. The bill also requires a stewardship organization to obtain a third-party independent assessment of the implementation of the stewardship plan four years after its initial implementation.

The bill requires DOEE to maintain a website that includes all approved stewardship plans, names of the producers and brands participating in the stewardship plans, and a copy of all annual reports submitted by a stewardship organization. The bill authorizes DOEE to investigate any battery producer for failure to comply with the bill's requirements upon a petition from a stewardship organization. A stewardship organization can also bring civil action against a producer for its failure to comply with the bill's requirements. DOEE should report to Council every four years on the status of the District's battery recycling program. The report should include the weight of batteries collected, the share of batteries collected that were not part of a participating stewardship organization, and recommendations for enhancing the law governing battery recycling in the District. In its first report, DOEE should include evaluations of whether the District should authorize a point-of-sale environmental handling fee and how rechargeable batteries rating over 300 Watt-hours could be included in the District's recycling program. The bill also requires DOEE to assist in the educational and outreach efforts associated with battery recycling in the District. The bill authorizes DOEE to charge an annual administrative fee to a stewardship organization to cover DOEE's costs of implementing and enforcing the bill's requirements. These fees should be deposited into the Product Stewardship Fund.¹⁵

The bill amends the existing manufacturer-directed electronic waste recycling stewardship program.¹⁶ The bill requires a covered electronic manufacturer or partnership organization to certify that vendors who recycle or reuse their goods do not export electronic waste to developing countries, dispose of electronic waste in landfills or incinerators, or use prison labor for processing hazardous materials.

The bill amends the District's disposable food service ware restrictions¹⁷ to further define and limit the use of accessory disposable food service wares¹⁸ and to authorize the use of reusable food service wares.¹⁹ The bill requires every food service entity in the District to provide accessory disposable

¹⁵ D.C. Official Code § 1-325.381.

¹⁶ D.C. Official Code § 8-1041.01 et seq.

¹⁷ Sustainable DC Omnibus Act of 2014, effective December 17, 2014 (D.C. Law 20-142; D.C. Official Code § 8-1531 et seq.).

¹⁸ The bill defines accessory disposable food service wares as those food service wares that are not used to hold or do not contain food, including straws, utensils, condiment cups, cup sleeves, and napkins.

¹⁹ Reusable food service wares are any food service containers or accessory items that are designed to be collected after use and reused after being properly sanitized.

food service wares only upon customer request by on January 1, 2022. Food service entities must provide a way for customers to affirmatively request accessory disposable food service wares across all ordering platforms, including in-person and digital ordering. Third-party ordering platforms must provide an option on their sites to affirmatively select disposable food service wares by July 1, 2021. The bill also authorizes food service entities to utilize reusable food service wares for on-site, take-out, or delivery customers either on their own or in partnership with a third-party reusable food service ware provider.²⁰ The bill requires DOEE to provide microgrants to food service entities or third-party reusable food service ware providers to support a reduction in the use of disposable food service wares.

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's implementation will cost approximately \$5 million in fiscal year 2021 and \$16.4 million over the four-year financial plan period.

The Office of Waste Diversion within DPW will be responsible for implementing most of the bill's provisions around waste management, source separation, and waste diversion. The bill requires DPW to develop a public recycling infrastructure plan, a variable rate pricing plan, and an Organics Management Plan. DPW must also provide outreach and education to private collection property managers and janitorial staff on source separation and review the properties' source separation plans that are required for some types of properties by January 1, 2022 and annually thereafter. The bill authorizes the Mayor to enter and inspect private collection properties to support source separation and waste management goals. As it relates to composting, the bill requires DPW to provide technical assistance to food establishments, manage a competitive grant program, and implement a public education campaign. The bill also requires DPW to work with other District government agencies to ensure that source separation activities are taking place within the government. The Office of Waste Diversion will require six additional program staffers to support all the bill's requirements. This staff will cost \$582,000 in fiscal year 2021 and \$2.3 million in over the four-year financial plan period.

Some DPW responsibilities in the bill will also require non-personnel resources to implement. DPW will need \$100,000 to complete a recycling plan for receptacles in public space by January 1, 2023. The plan is necessary to determine how DPW would implement a District-wide public space recycling program.²¹ The bill requires that these recycling receptacles have a consistent color, design, and labeling scheme, but also that the litter receptacles have a consistent appearance. DPW intends to meet the litter receptacle requirement by changing existing ones as they are due for replacement.²² A second required study is for variable rate pricing, also known as a pay-as-you-throw program. The

²⁰ A third-party reusable food service ware provider offers reusable food service wares to food service entities, collects them from customers after use, and washes them for reuse.

²¹ While the plan is required to determine the actual cost of implementing public space recycling infrastructure, it is important to note that any program is likely to require significant fiscal resources. For example, if recycling receptacles were to match, one-for-one, each of the existing litter receptacles, the investment required would be approximately \$6 million.

²² If DPW were required to change all of the litter cans immediately, it would cost approximately \$6 million.

bill gives DPW 18 months to complete the study, which must include a pilot program. The study itself will cost \$200,000 and the pilot program will cost \$600,000 to establish and operate.

The bill also requires DPW to increase the District's composting and food waste diversion efforts. DPW must develop an Organics Management Plan to look at where and how organic materials can be processed in the District and consider a public compost collection program. This plan will cost \$100,000 and needs to be completed by January 1, 2023. DPW will not know the structure of, or infrastructure needed for, a public composting program, so the cost of implementing a program will not be known until the plan is completed. The bill also establishes a grant program that allows DPW to support the purchase or lease of on-site organic food processing systems. DPW can fund a successful grant program with approximately \$200,000 annually. The bill also requires DPW to provide technical assistance to food service establishments and education and outreach to individuals in the District to support increases in composting. This technical assistance and education and outreach require an additional \$200,000 annually in budgeted resources. Implementation of the Organics Management Plan will require additional DPW budget resources, but those resources cannot be identified until the plan is completed.

The bill requires DPW to do greater outreach and education on source separation to the property managers and janitorial staff of private collection properties. This education, outreach, and inspection will cost \$300,000 annually. The bill's requirement to create a dedicated glass recycling location and authorization to implement a surcharge for contaminated recycling beyond a certain threshold are consistent with DPW's existing plans and no additional budgeted resources are required to implement these provisions.

The bill also requires District government agencies to comply with the District waste management and source separation practices. DGS oversees all District-owned and District-leased properties and will need to ensure that District agencies have source separation infrastructure with a consistent appearance. DGS will need to purchase thousands of new receptacles for District-owned facilities and will need to ensure that leased facilities upgrade their infrastructure and personnel are properly trained to meet the District's requirements. This will require three new staff members at a cost of \$215,000 in fiscal year 2021 and \$865,000 over the four-year financial plan period. DGS expects to phase in the changeover of receptacles, with a consistent appearance, at cost of approximately \$1.1 million annually. DGS also requires an additional \$54,000 annually to support training and technology costs. The bill's requirement that DPW develop an Organics Management Plan would likely require DGS to implement a composting program at District agencies. However, like DPW, the ability of DGS to plan for that effort will be informed by the Organics Management Plan and will require resources that cannot be identified by our office at this time.

The bill requires DOEE to establish a Donation and Reuse Program to support the District's waste diversion efforts. The District does not currently manage a program like this, but other jurisdictions, such as New York City, do. DOEE requires two additional program staff members and technology support staff to help manage and operate the District's program. These staff will cost \$222,000 in fiscal year 2021 and \$890,000 over the four-year financial plan period. DOEE expects that it can leverage the technology platform developed by another jurisdiction to minimize its software and technology costs. DOEE requires \$275,000 in the first year to stand-up its technology platform. If

DOEE needed to develop a platform from scratch, the costs would be significantly higher. The bill also allows DOEE, if it chooses, to offer grants in support of this program. DOEE believes it would need \$75,000 annually to successfully run a grant program to support donation and reuse efforts. DOEE will also need \$75,000 annually to publicize and educate users about the program.

The bill requires DOEE to oversee a battery recycling program in the District by registering battery stewardship organizations, reviewing and monitoring stewardship plans, assisting in education and outreach, and enforcing compliance with the bill's battery recycling requirements. The bill authorizes DOEE to charge an administrative fee to help cover DOEE's costs of implementation, but DOEE's experience with other stewardship programs and the experience of at least one other jurisdiction with a battery stewardship program indicate that the program will not be able to charge fees sufficient to cover the costs of implementing the program. DOEE requires an additional program manager and program management resources to implement the stewardship program. The program manager costs \$94,000 in fiscal year 2021 and \$377,000 over the four-year financial plan period. The program also requires \$20,000 annually to pay for outreach, educational materials, and other program costs. The administrative fee DOEE can charge to stewardship organizations will offset some of these costs, but the timing and amount of the fee is uncertain at this time. Any fees collected will be deposited into the Product Stewardship Fund and the Mayor will need to request budget authority to expend any revenues collected.

The bill also requires DOEE to support greater restrictions on accessory disposable food service wares and an increase in the use of reusable food service wares at food service entities. The bill also requires DOEE to issue microgrants to food service entities or third-party reusable food service ware providers to support these efforts. DOEE requires a new program staffer at a cost of \$76,000 in fiscal year 2021 and \$304,000 over the four-year financial plan period. The program requires \$200,000 annually to support microgrants and \$65,000 annually for administration and outreach costs.

The Healthy Schools Fund does not have additional resources for grants to support in-school share tables, composting efforts, or obtaining reusable food service wares. OSSE estimates that it would require \$250,000 annually for grants related to share tables. OSSE can issue and administer the grants with its existing budgeted resources. OSSE does not believe that share tables will be implemented at any local education agencies during the current public health emergency²³ given the ways schools are planning for meal services to keep students and staff safe. OSSE does not expect to issue grants for composting and disposable food service wares given its lack of experience in these subjects, but the bill does not require grants to be issued for these programs.

The chart on the following page summarizes the fiscal impact of the bill's implementation on the District's fiscal year 2021 budget and the four-year financial plan period.

²³ Declaration of Public Emergency and Declaration of Public Health Emergency, Declared March 11, 2020 (Mayor's Orders 2020-45 and 2020-46).

The Honorable Phil Mendelson

FIS: Bill 23-506, "Zero Waste Omnibus Amendment Act of 2020," Draft Committee Print as circulated on November 6, 2020

Zero Waste Omnibus Amendment Act of 2020 Bill 23-506 Implementation Costs Fiscal Year 2021 – Fiscal Year 2024 (\$ thousands)					
	FY 2021	FY 2022	FY 2023	FY 2024	Total
DPW Costs^a					
Office of Waste Diversion Staff	\$582	\$584	\$586	\$588	\$2,340
Public Recycling Plan	\$100	\$0	\$0	\$0	\$100
Variable Rate Pricing Study	\$200	\$0	\$0	\$0	\$200
Variable Rate Pricing Pilot	\$600	\$0	\$0	\$0	\$600
Organics Management Plan	\$100	\$0	\$0	\$0	\$100
Food Processing System Grants	\$200	\$200	\$200	\$200	\$800
Composting Education and Outreach	\$200	\$200	\$200	\$200	\$800
Source Separation Education	\$300	\$300	\$300	\$300	\$1,200
Subtotal – DPW Costs	\$2,282	\$1,284	\$1,286	\$1,288	\$6,140
DGS Costs^b					
Staff	\$215	\$216	\$217	\$217	\$865
Receptacles	\$1,148	\$1,148	\$1,148	\$1,148	\$4,593
Training and Technology	\$54	\$54	\$54	\$54	\$216
Subtotal – DGS Costs	\$1,417	\$1,418	\$1,419	\$1,419	\$5,674
DOEE Costs					
Donation and Reuse Program ^c	\$647	\$372	\$373	\$373	\$1,765
Battery Stewardship Program	\$114	\$114	\$114	\$115	\$457
Disposable Food Service Wares	\$341	\$341	\$341	\$341	\$1,364
Subtotal – DOEE	\$1,102	\$827	\$828	\$829	\$3,586
OSSE Grant Resources^d	\$250	\$250	\$250	\$250	\$1,000
Total Bill Costs	\$5,051	\$3,779	\$3,783	\$3,786	\$16,399

Table Notes

^a The table does not include direct costs for full implementation of the public recycling plan, variable rate pricing study, and Organics Management Plan. Implementation of any one or all of these plans will require significant additional resources, but those resources will not be known until the plans and studies are completed.

^b The table does not include implementation costs for the source separation of compostable materials at District agencies, as those needs will not be identified until DPW completes its Organics Management Plan.

^c The bill does not require DOEE to issue grants under the Donation and Reuse Program and the \$75,000 annual amount included reflects DOEE's expectation of what a successful grant program would entail. This also includes one-time start-up costs in fiscal year 2021.

^d This amount only reflects grants for shared food tables as the bill does not require OSSE to issue grants to support the bill's food waste diversion and general waste reduction efforts at schools and OSSE does not expect to issue grants for these efforts.