



**DISTRICT OF COLUMBIA
WATER AND SEWER AUTHORITY**

Board of Directors

Governance Committee Meeting

Wednesday, April 10, 2024

9:30 a.m.

Microsoft Teams meeting

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Passcode: VLUNHy

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Phone Conference ID: 974 743 357#

AGENDA

- 1. **Call to Order** **Christopher Herrington, Chairperson**
- 2. **Roll Call**..... **Michelle Rhodd, Board Secretary**
- 3. **Government Affairs Update**..... **Barbara Mitchell, Director Government Affairs & Public Policy**
- 4. **Executive Session***... **Christopher Herrington, Chairperson**
- 5. **Adjournment**.....**Christopher Herrington, Chairperson**

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.

*The DC Water Board of Directors may go into executive session at this meeting pursuant to the District of Columbia Open Meetings Act of 2010, if such action is approved by a majority vote of the Board members who constitute a quorum to discuss certain matters, including but not limited to: matters prohibited from public disclosure pursuant to a court order or law under D.C. Official Code § 2-575(b)(1); terms for negotiating a contract, including an employment contract, under D.C. Official Code § 2-575(b)(2); obtain legal advice and preserve attorney-client privilege or settlement terms under D.C. Official Code § 2-575(b)(4)(A); collective bargaining negotiations under D.C. Official Code § 2-575(b)(5); facility security matters under D.C. Official Code § 2-575(b)(8); disciplinary matters under D.C. Official Code § 2-575(b)(9); personnel matters under D.C. Official Code § 2-575(b)(10); third-party proprietary matters under D.C. Official Code § 2-575(b)(11); train and develop Board members and staff under D.C. Official Codes § 2-575(b)(12); adjudication action under D.C. Official Code § 2-575(b)(13); civil or criminal matters or violations of laws or regulations where disclosure to the public may harm the investigation under D.C. Official Code § 2-575(b)(14); and other matters provided under the Act.



GOVERNMENT AFFAIRS TEAM

(RE)INTRODUCTION

The Government Affairs team is lead by:

Marc Battle - Chief Legal Officer and Executive Vice President,
Government & Legal Affairs
and includes:

Barbara Mitchell - Associate General Counsel and Interim Director of
Government Affairs

Hamza Masud - Senior Program Manager, Government Affairs



BACKGROUND & BROAD STROKES

Government Affairs provides today's update in accordance with the **APPLICABLE BOARD BYLAW: section 5.01(vii) of the By-Laws:**

(vii) Governance Committee: Shall make recommendations to the Board regarding the policies and procedures to be followed by the Board, matters of internal governance of the Board, resolution of ethical questions, the discharge of the Board's duties,

including any modifications of these By-Laws, ***and policy level oversight of the Authority's legislative and governmental relations activities.*** The Committee may also consider other matters involving the conduct of members, which may be referred by the Chairperson.

Government Affairs:

1. **Cover** local and federal legislative meetings and hearings;
2. **Inform** relevant divisions about upcoming hearings, laws, and regulations of significant impact;
3. **Manage** District and federal government relationships;
4. **Strategize** with divisions for policy change; and
5. **Lobby** for policy changes.





UPDATE

Feb 5 - Marc Battle issues an opposition letter to the B25-0675, [The Water is Life Amendment Act of 2024](#), highlighting that the bill would impair DC Water's ability to collect revenue that is needed to provide drinking water and wastewater treatment services to our customers.

Feb 29 - Mr. Gadis successfully provides the DC Council with an update on DC Water operations during the **Performance Oversight Hearing**.

Mar 4- Marc Battle on Mr. Gadis' behalf, testifies before the Committee on Transportation and the Environment successfully provides the **DC Council testimony supporting Bill B25-0424, the DC Water Critical Infrastructure Freedom of Information Clarification Amendment Act of 2023**.

Mar. 20 - Senate Committee for Environment and Public Works conducts a **hearing on bill S.1430 - the Water Systems PFAS Liability Protection Act. DC Water** joins several clean and drinking water systems issuing **letters and lobbying** relevant senators supporting the legislation to exempt them from CERCLA liability for PFAS.

Apr 3- Apr 29 - Government Affairs works with Finance to understand the implications of the Mayor's budget. This year, CFO Matt Brown **testifies** on the importance of protecting monies for **Leak Repair Assistance, LPRAP, and CRIAC/CAP**.

Ongoing - Lead Free DC Mandate path forward that includes: Authority division review, Council collaboration, District agency discussions, and a marketing strategy.



USEFUL LINKS

Please click icons and links for useful documents!

Feb. 01 - B25-0675 - The Water is Life Amendment Act of 2024

<https://lims.dccouncil.gov/Legislation/B25-0675>



Feb. 05 - DC Water response to "The Water is Life Amendment Act of 2024"



Feb. 29 - DC Wafer's Performance Oversight Hearing:

https://dc.granicus.com/MediaPlayer.php?view_id=29&clip_id=8749

Mar. 4 - Public Hearing on B25-0424 (FOIA Bill):

https://dc.granicus.com/MediaPlayer.php?view_id=29&clip_id=8755



Mar. 20 - Senate Committee for Environment and Public Works hearing

<https://www.epw.senate.gov/public/index.cfm/2024/3/carpers-leads-hearing-on-pfas-as-hazardous-substances>



Apr. 3 - Mayor's Budget: <https://dc.gov/release/mayor-bowser-presents-fiscal-year-2025-budget-proposal-fair-shot-strategic-investments-and>



THIS
CONCLUDES
OUR
PRESENTATION

THANK YOU!

PUBLIC HEARING
COUNCIL OF THE DISTRICT OF COLUMBIA
THE HONORABLE CHARLES ALLEN, CHAIRPERSON
COMMITTEE ON TRANSPORTATION AND THE ENVIRONMENT



TESTIMONY OF MARC BATTLE
CHIEF LEGAL AND ETHICS OFFICER AND EVP,
GOVERNMENT AND LEGAL AFFAIRS, ON BEHALF OF
DAVID GADIS, CEO AND GENERAL MANAGER
DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

MONDAY, MARCH 04, 2024, AT 9:30 A.M. – 3:00 P.M

JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, NW

Good afternoon, Chair Allen, and esteemed members of the Committee on Transportation and the Environment. My name is Marc Battle, and I am the Chief Legal and Ethics Officer and Executive Vice-President for Government & Legal Affairs of the District of Columbia Water and Sewer Authority. It is my privilege to represent DC Water on behalf of David Gadis, the CEO and General Manager of DC Water. I am pleased to testify in support of Bill B25-0424, the DC Water Critical Infrastructure Freedom of Information Clarification Amendment Act of 2023.

Before delving into the specifics of the bill, I would like to express heartfelt condolences on behalf of our CEO and GM, myself, and the entire DC Water family for the loss of a valued member of Chair Allen's team, Chris Laskowski. Chris's passing is a profound loss, and our thoughts and prayers are with Chair Allen, the Committee, and all who knew Chris during this difficult time.

Chris was known for his dedication, professionalism, and commitment to public service. His contributions to the Committee and his impact on the community will be deeply missed. Please know that DC Water stands ready to assist in any way possible as you honor Chris's memory.

To begin, I would like to underscore the significance of the Freedom of Information Act (FOIA) in the United States and particularly in the District of Columbia. FOIA embodies the principles of transparency and accountability, serving as a cornerstone of democracy by granting individuals the right to access government records. Enacted in 1968, FOIA has been instrumental in promoting open government and empowering citizens to participate in the

democratic process by providing them with the means to obtain information about the government's activities.

In the District of Columbia, FOIA plays a pivotal role in ensuring government accountability and fostering public trust. As the nation's capital, Washington, D.C., operates under heightened scrutiny, and FOIA serves as a vital tool for citizens, journalists, and advocacy groups to hold government agencies accountable. By providing access to government records, FOIA promotes transparency, enhances public oversight, and facilitates informed decision-making, thereby bolstering the democratic principles upon which our nation was founded.

For DC Water specifically, it is imperative to emphasize the critical importance of safeguarding our infrastructure, which is essential for the health, safety, and well-being of the residents we serve. DC Water operates and maintains an extensive network of water and sewer systems that serve over 700,000 residents and 21.3 million annual visitors across the District of Columbia, Maryland, and Virginia.

DC Water holds a central role in the District of Columbia's infrastructure landscape, boasting one of the most expansive capital programs in the region. Notably, our organization spearheads multiple large-scale initiatives, such as the renowned Clean Rivers Project and the transformative Lead-Free DC initiative. These endeavors not only address critical infrastructure needs but also cultivate enduring economic and environmental benefits for the District. Encompassing a vast expanse of 725 square miles, the drinking water infrastructure network comprises an impressive 1,350 miles of

interconnected pipes, four pumping stations, five reservoirs, four elevated water storage tanks and more than 43,800 valves and 9,500 fire hydrants. Further, our wastewater collection system, includes over 26,000 storm drains, 1,900 miles of sanitary and combined sewers, and 9 off-site wastewater pumping stations. Our operation and maintenance of these systems, underscores our unwavering commitment to ensuring the safety and well-being of our communities. With a diverse array of facilities, including world's largest advanced wastewater treatment plant, our infrastructure forms the cornerstone of the region's water and sewer services, providing indispensable resources for clean, safe, and reliable access to water for residents and businesses alike.

Given the critical nature of District's water and sewer infrastructure, ensuring its security and integrity is paramount. Any compromise to our infrastructure could have severe consequences, including disruptions to water and sewer services, public health hazards, and environmental contamination. Therefore, protecting the security of our infrastructure is a top priority for DC Water, and measures must be taken to safeguard against potential threats, including those posed by the disclosure of this sensitive information.

In this regard, I must highlight the invaluable contributions of DC Water's FOIA team, whose dedication and expertise are instrumental in managing the complex landscape of public records requests. The FOIA team at DC Water works tirelessly to process and respond to over 100 FOIA requests each year, spanning a wide range of topics and subject matters. Their diligent efforts ensure compliance with FOIA requirements while balancing

the need to protect sensitive information, including critical infrastructure data, from disclosure.

The FOIA team's role is multifaceted, and includes legal reviews, coordinating with relevant departments, and liaising with requestors to fulfill their requests in a timely and efficient manner. Their expertise in navigating the intricacies of FOIA law, coupled with their commitment to transparency and accountability, exemplifies DC Water's dedication to uphold the highest standards of governance and public service.

Despite the team's commendable efforts, DC Water faces significant challenges due to the current legal framework. Unlike companies regulated by the Public Service Commission of the District of Columbia, DC Water does not benefit from existing exemptions within the Freedom of Information Act (FOIA) or similar provisions. Consequently, our organization could be compelled to disclose sensitive information that jeopardizes the security of the District's critical water and sewer infrastructure. This statutory gap highlights the urgent need for legislative action to ensure that DC Water is afforded the same protections as other utilities, and safeguard essential critical infrastructure information and plans from disclosure.

To address this gap, we proposed an amendment to the FOIA statute that explicitly includes the District of Columbia Water and Sewer Authority within the scope of exemptions for critical infrastructure information. By amending the statute to reflect this inclusion, we can exclude the disclosure of this sensitive data that could compromise the security and functionality of our water and sewer systems.

In conclusion, I urge the Committee to support Bill B25-0424 and expedite its passage to provide DC Water with the necessary protections to safeguard our critical infrastructure information. The security and resilience of our water and sewer systems are essential to the health and well-being of our communities, and this legislation is a crucial step in ensuring their continued protection.

Thank you for introducing this legislation, and for your ongoing support of DC Water. This Committee has been instrumental in providing assistance to DC Water in the past, notably in passing the temporary and emergency legislation to address DC Water Critical Infrastructure Freedom of Information Clarification Amendment Act. Your dedication to ensuring the reliability and safety of our water and sewer systems is deeply appreciated.

That concludes my testimony. Thank you, members of the Committee, for providing me with the opportunity to share these thoughts and initiatives with you today. We look forward to continuing to work with you on this important issue and welcome any questions the Committee may have.



Councilmember Charles Allen

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Freedom of Information Act of 1976 to exempt from disclosure critical infrastructure information or plans that contain critical infrastructure information for the critical infrastructures of the District of Columbia Water and Sewer Authority.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “DC Water Critical Infrastructure Freedom of Information Clarification Amendment Act of 2023”.

Sec. 2. Section 204(a)(15) of the Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-534(a)(15)), is amended by striking the phrase “critical infrastructures of companies that are regulated by the Public Service Commission of the District of Columbia” and inserting the phrase “critical infrastructures of the District of Columbia Water and Sewer Authority or companies that are regulated by the Public Service Commission of the District of Columbia” in its place.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

34 Sec. 4. Effective date.

35 This act shall take effect following approval by the Mayor (or in the event of veto by the
36 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
37 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
38 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
39 Columbia Register.



February 5, 2024

Dear Members of the Council of the District of Columbia:

On February 1, 2024, legislation, “Water is Life Amendment Act of 2024,” was introduced in the Council of the District of Columbia that would, among other things, prohibit DC Water from disconnecting residential customers for non-payment of water and sewer charges.

We are reaching out to share and explain DC Water’s strong opposition to this provision of the legislation, and to ask that you do not support any language that would impair DC Water’s ability to collect revenue that is needed to provide drinking water and wastewater treatment services to our customers. A ban on disconnections for non-payment would do just that.

The bill has additional elements designed to ensure that residential tenants can access their water bill and utility assistance programs that are intended to help avoid service interruptions. DC Water supports these provisions and thanks the bill’s author, Ward 5 Councilmember Zachary Parker, for incorporating language offered by DC Water to achieve these important objectives.

As will be explained in greater detail below, banning disconnections for non-payment:

- **Violates DC Water’s Congressionally-mandated Financial Independence**
- **Will Cause Rates to Increase & Violate Bondholder Agreements**
- **Is not necessary because DC Water Offers Robust Financial Assistance to Customers**

Banning Disconnections for Non-payment Violates DC Water’s Congressionally-mandated Financial Independence

From the time of DC Water’s establishment as an independent agency in 1996, Congress has consistently mandated that decisions involving DC Water’s finances are to be made by its Board of Directors.¹ Shortly after DC Water was established, Congress enacted legislation authorizing it to issue revenue bonds for wastewater treatment facilities.² The legislative history of the federal enactment reveals that DC Water was intended to have a separate legal and fiscal existence, as well as considerable independence.³ The House

¹ “The new Water and Sewer Authority being created is independent, self-funded, and not in the General Fund of the District of Columbia budget. H.R. 3663 therefore takes the Authority out of the District[']s budget process. Other than nominating and confirming Board members for the Authority, the Mayor and Council will have no other role to play by way of exercising influence over the Authority.” H. Rept. 104-635 - DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY ACT OF 1996, H.Rept.104-635, 104th Cong. (2024), <https://www.congress.gov/congressional-report/104th-congress/house-report/635/1>.

² See Pub. L. 109-184 § 3, 110 Stat. 1697 (Aug. 1996); D.C. Code § 43-1679.

³ See *Dingwall v. D.C. Water and Sewer Auth*, 800 A.2d 686 (D.C. 2002)

Report also indicates that Congress was mindful of potential future actions that could impact DC Water's finances, and made clear that such efforts were impermissible.⁴

In 2008, during a DC Water Congressional Oversight Hearing, the District's own Congresswoman Eleanor Holmes Norton re-affirmed DC Water's financial independence, stating, "We make it clear that it is the Board, not any jurisdiction, that is to decide matters affecting finances, procurement, and personnel."⁵

Later in 2008, Congress passed the "District of Columbia Water and Sewer Authority Independence Preservation Act".⁶ The Act requires the financial management, personnel, and procurement functions and responsibilities of the District of Columbia Water and Sewer Authority to be: (1) established exclusively pursuant to rules and regulations adopted by its Board of Directors; and (2) consistent with the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, as in effect as of January 1, 2008.⁷

It is important to bear in mind that the measures taken to ensure DC Water's financial independence are in place given the historical financial instability that led to the creation of an independent water utility in 1996. Prior to that time, DC Water's [then WASA] budget was part of the District's general fund, and subject to the cuts, transfers and sweeps that occurred when the District was challenged by competing financial obligations and limited resources.⁸ The current proposal to ban disconnections for non-payment is even more impactful to DC Water's finances than the issues it faced prior to 1996 because it would effectively prevent DC Water from collecting its revenue in the first instance.

⁴ "Concerns have been raised that since the Water and Sewer Authority is only a creation of the District government, the Council could amend the statute in the future in unfavorable ways. The Committee observes that Congress retains ultimate oversight and legislative power over the District and its legislative acts by the Constitution and PL 93-198. All Council acts must undergo Congressional review. Congress remains the watchdog of the District. The Committee commits itself to careful monitoring of the Water and Sewer Authority as it moves forward. It will do anything it can to help or improve the prospects of the Authority, and will be vigilant in looking for problems or attempts to subvert the performance of the Authority." See H. Rept. 104-635 - DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY ACT OF 1996, H.Rept.104-635, 104th Cong. (2024), <https://www.congress.gov/congressional-report/104th-congress/house-report/635/1>.

⁵ House of Representatives, Subcommittee on Federal Workforce, Postal Service, and The District of Columbia, Committee on Oversight and Government Reform (April 15, 2008) (The subcommittee's first D.C. Water and Sewer Authority [WASA], oversight hearing of the 110th Congress) <https://www.govinfo.gov/content/pkg/CHRG-110hhrg46013/html/CHRG-110hhrg46013.htm>

⁶ Public Law 110-273, "District of Columbia Water and Sewer Authority Independence Preservation Act" (July 15,2008). The law states, in relevant part, "Notwithstanding any other provision of this Act or any District of Columbia law, the financial management, personnel, and procurement functions and responsibilities of the District of Columbia Water and Sewer Authority shall be established exclusively pursuant to rules and regulations adopted by its Board of Directors." <https://www.govinfo.gov/content/pkg/PLAW-110publ273/html/PLAW-110publ273.htm>

⁷ This second clause acts to prohibit local legislative changes that would weaken the protections established by Congress as of January 2008.

⁸ "The thrust of the Water and Sewer Authority proposal was to separate water and sewer revenues from the General Fund so that further diversion of those funds would not be possible. The Water and Sewer Authority would set the rates it charged at whatever level was required to make it completely self-supporting and it would finance capital projects through revenue bonds secured by its own revenue." H. Rept. 104-635 - DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY ACT OF 1996, H.Rept.104-635, 104th Cong. (2024), <https://www.congress.gov/congressional-report/104th-congress/house-report/635/1>.

Banning Disconnections for Non-payment Will Cause Rates to Increase & Violate Bondholder Agreements

DC Water’s rates are set by the District of Columbia members of our board of directors. These board members are District residents who are nominated by the Mayor and confirmed by the Council of the District of Columbia. DC Water functions as a non-profit, and rates are set at a level needed only to meet our operational needs.

Residential and Multi-Family customer revenue constitutes more than a third (37%) of total operating revenues. The inability to disconnect customers for non-payment would have an immediate and severe impact on DC Water’s finances and would result in customers creating higher unrecoverable debts owed to DC Water. This would also impact our bond rating, increasing the costs of debt service for all customers. Without the ability to collect funds and without an incentive to pay, DC Water’s financial situation would become precarious. Our rates would quickly increase for all customers to make up the revenue for non-paying customers, compounding DC Water’s affordability, rate sustainability and equity efforts.

Congress enacted the District of Columbia Public Works Act of 1954 to authorize the District (now DC Water) to disconnect customers that are more than 30 days in arrears “regardless of any change in ownership or occupancy” “in order to encourage the prompt payment” of water and sewer charges. Those statutory provisions are still in effect today. Further, in its delegation of authority to DC Water to issue bonds (DC Code § 34–2202.11): “The District pledges to the Authority and any holders of bonds that, except as provided in this chapter, the District will not limit or alter rights vested in the Authority to fulfill agreements made with holders of the bonds, or in any way impair the rights and remedies of the holders of the bonds until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders of the bonds are fully met and discharged. The Authority is authorized to include this pledge of the District in any agreement with the holders of the bonds.” DC Water uses this code section to extend that pledge to bondholders. That pledge obviously includes the collection of rate charges for residential users. If enacted, a provision limiting DC Water’s ability to disconnect services for non-payment would clearly impair the Authority’s ability to collect those charges (for residential users) that have been pledged to the bondholders.

Banning Disconnections for Non-payment Is not Necessary because DC Water Offers Robust Financial Assistance to Customers

DC Water offers some of the most robust customer assistance programs in the United States. Our Customer Assistance Program (CAP) began 20 years ago and offers a 68% bill reduction to households with incomes less than \$95,000 (households of four). The DC Water CAP2 program provides discounts for households (four members) with incomes up to \$120,000. With the District-funded CAP3 Program, discounts are provided up to a household income of \$152,000 (also households of four). It should be noted that renters in single family homes are also eligible for the CAP programs. Further, we work with our customers on flexible payment plans, and the DC Water SPLASH (Serving People by Lending a Supporting Hand) program provides emergency assistance funds to low-income customers in need.

When it became apparent that COVID-19 would present a public health emergency, DC Water suspended disconnections and took the unprecedented step of re-connecting all previously disconnected residential properties without requiring any payment. This was initiated prior to the emergency legislation passed by

the Council to prevent disconnection of utilities.⁹ DC Water provided a record amount of customer assistance in Fiscal Year 2022, assisting households with \$8.4 million -- more than four times the amount of assistance (\$1.8 million) provided in Fiscal Year 2020. DC Water created the Residential Assistance Program that provided up to \$2,000 per residential customer per year and one of the nation's first Multi-Family Assistance programs that also provided \$2,000 in assistance to residents of multi-family buildings like apartments. Further, DC Water launched a one-time Catch-up Offer to assist all customers with their bills this year. This offer assisted approximately 9,000 customers by waiving late fees and penalties and providing a one-time adjustment to help customers get current on their bills. We continue to expand customer programs. Our FY 2025 Budget includes a new CAP+ program for very low-income households as well as a leak detection program to assist low-income customers identify water leaks.

In closing, we are available to meet with you and your staff to address any questions or concerns you may have. Please do not hesitate to reach out to myself or Barbara Mitchell, Director & Associate General Counsel (and Interim Director of Government Affairs & Public Policy), if you would like to discuss this matter further.

Best regards,

Marc Battle

Marc Battle
Chief Legal Officer & EVP, Government & Legal Affairs

⁹ In the transmittal letter introducing his bill, Councilmember Parker stated “[a] residential disconnection ban will not threaten the financial or operational integrity of D.C. Water.” This speculative statement is inconsistent with our actual experience with disconnections – which shows that when DC Water suspended disconnections due to COVID, delinquencies more than doubled. And with respect to the financial outlook in Chicago, it is worth noting that DC Water’s current bond rating is significantly higher than Chicago’s rating. Putting this in context, if DC Water had Chicago’s bond rating, we estimate that our debt service costs would be about \$18 million more each year on the \$3.3 billion that we will issue over the next ten years to support our capital program.



COUNCIL OF THE DISTRICT OF COLUMBIA

THE JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
SUITE 102
WASHINGTON, D.C. 20004

ZACHARY PARKER
COUNCILMEMBER, WARD 5

COMMITTEE MEMBER
Facilities and Family Services
Health
Hospital and Health Equity
Housing
Transportation and the Environment

February 1, 2024

Nyasha Smith, Secretary
Council of the District of Columbia
1350 Pennsylvania Avenue NW
Washington, DC 20004

Dear Secretary Smith,

Today, I am introducing the Water Is Life Amendment Act of 2024. Please find enclosed a signed copy of the legislation.

D.C. Water’s motto, “water is life,” recognizes that fresh water is necessary for the survival of all living organisms on Earth. However, my office regularly assists District residents whose water service has been shut off due to nonpayment—even in circumstances where those very residents are either tenants who are not responsible for paying the bills or individuals who are eligible for utility assistance programs. Residential tenants are particularly vulnerable to service disconnection because in many cases, they are not the D.C. Water account holder—the property owner is. Black households are disproportionately likely to be renters, and shortcomings in our utility assistance programs fall hardest on them.

A particularly frustrating pattern my office has observed is that many low-income residents cannot reestablish service once they are disconnected because they are ineligible to enroll in utility assistance programs without first paying down their outstanding bill. Moreover, our water assistance programs—like other assistance programs—are chronically under-enrolled. As few as ten percent of eligible households participate in water assistance programs.

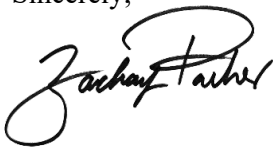
To put an end to the avoidable and inequitable infliction of human misery that water service disconnections represent, the Water Is Life Amendment Act of 2024 makes two critical changes to the provision of water service in D.C. First, the legislation ensures residential tenants can access their water bill and utility payment programs that are intended to prevent low-income residents from service interruptions. Making it easier for tenants to enroll in these programs is a win-win because D.C. Water is the ultimate recipient of any water assistance that a District resident receives.

Second, the legislation bans water service disconnections for nonpayment at *residential* properties to ensure that residents are not subjected to a humiliating, unsafe, and ultimately unnecessary penalty. The disconnection of water service is not simply a nuisance; very quickly it can compound the challenges a family is experiencing. Without water, a family cannot bathe, cook healthy meals, prepare infant formula, and so much more. Those outcomes are not theoretical—during my first year in office, my team repeatedly assisted residents who faced the prospect of navigating life with an infant or young children without water service. Water shutoffs also have the potential to exacerbate the racially and economically disparate impacts of lead poisoning as stagnant water can corrode pipe surfaces and allow lead and other metals to leach into the water. And, for water customers who are in fact eligible for utility assistance programs, disconnection becomes the insurmountable hurdle to their enrollment in those programs.

To be clear, a residential disconnection ban will not threaten the financial or operational integrity of D.C. Water. The City of Chicago instituted a similar disconnection ban in 2022, yet the financial outlook for its Water Fund has not materially changed.¹ D.C. Water’s fundamental guarantee of payment is its ability to impose a lien on a property associated with an account in arrears pursuant to D.C. Code § 34–2407.02. Despite claiming that this proposal might impair representations that D.C. Water makes to its bondholders, D.C. Water has thus far been unwilling to produce a copy of the representations it claims would be impaired. The bill also leaves intact D.C. Water’s ability to disconnect for nonpayment at commercial properties, which represent a significant portion of D.C. Water’s customers. The residential disconnection ban would have no practical impact on customers in multifamily buildings, where D.C. Water already has a practice—though not an enforceable policy—of maintaining water service despite nonpayment. Finally, the legislation makes explicit D.C. Water’s authority to disconnect service if it determines that service to a property is causing waste, abuse of water supply, or any danger to public health or safety.

Please contact my Deputy Chief of Staff, Conor Shaw, at cshaw@dccouncil.gov if you have any questions about this legislation.

Sincerely,



Zachary Parker
Ward 5 Councilmember

¹ See Annual Comprehensive Financial Report For the Year Ended Dec. 31, 2022, *City of Chicago Dept. of Water Management*, https://www.chicago.gov/content/dam/city/depts/fin/supp_info/CAFR/2022CAFR/Water2022.pdf.



Councilmember Zachary Parker

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Public Works Act of 1954 and the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996 to ensure authorized tenants of residential properties are able to receive utility payment assistance and to prevent water service from being disconnected from residential properties for nonpayment.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Water Is Life Amendment Act of 2024”.

Sec. 2. The District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 102; D.C. Official Code § 34–2101 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 34-2303) is amended to read as follows:

“(a) If an owner of a residential property, their agent, or a third party service is billed directly by the District of Columbia Water and Sewer Authority (“DC Water”) for water and sanitary sewer services provided to the residential property, an authorized tenant who resides at the service address may request and receive a copy of the water and sanitary sewer services if the person is an authorized tenant.

(b) Any payment made by a tenant of residential property pursuant to subsection (a) of this section shall be deemed in lieu of an equal amount of rent and shall be deducted, by the

34 landlord, from any rent due and owing or to become due and owing to the owner, agent, lessor,
35 or manager of the residential property.

36 (c) An authorized tenant that is eligible for a payment plan or any customer assistance
37 programs may apply for both the plan or any applicable programs and may receive assistance
38 from the People’s Counsel.

39 (d) Nothing in this section shall prevent the Mayor from pursuing any other appropriate
40 action or remedy at law or equity against an owner, agent, lessor, manager, or tenant of a
41 residential property, including that DC Water shall retain the right to lien the account property in
42 accordance with provision for DC Code §34-2407.02 *et seq.*

43 (e) DC Water shall not be responsible for the fraudulent acts or acts of omission
44 associated with deeming a person an authorized tenant, and the DC Water shall incur no liability
45 associated deeming the tenant an authorized tenant.

46 (f) For the purposes of this section, the term:

47 (1) “Authorized tenant” is a person who has provided acceptable evidence of
48 occupancy in accordance with rules issued pursuant to § 34-2306.

49 (2) “Residential property” means a property that contains an ambulatory care
50 facility, group home, sleeping unit, dwelling unit, housing unit, custodial care facility, or foster
51 care facility as those terms are defined in Section 202 of the Building Code Supplement of 2017
52 (12A D.C.M.R § 202 (2021)).”

53 (b) Section 103 (D.C. Official Code § 34–2407.01) is amended to read as follows:

54 “(a) The Mayor of the District of Columbia is authorized to provide for the collection of
55 water charges, in advance or otherwise, from the owner or occupant of any building,
56 establishment, or other place furnished water or water service by the District.

57 “(b) The Mayor is authorized to shut off the water supply to any such building,
58 establishment, or other place upon a determination that water service is causing waste, abuse of
59 water supply, or any danger to public health or safety. Within 180 days of enactment of the
60 Water Is Life Amendment Act of 2024, the Mayor shall promulgate rules or regulations for
61 making such determination.

62 “(c) The Mayor is authorized to shut off the water supply to any nonresidential building,
63 establishment, or other place upon failure of the owner or occupant thereof to pay such water
64 charges within 30 days from the date of rendition of the bill therefor. Such authority to shut off
65 the water supply may be exercised by the Mayor regardless of any change in ownership or
66 occupancy of such nonresidential building, establishment, or other place. When the water supply
67 to any such nonresidential building, establishment, or other place has been shut off for failure to
68 pay such water charges, the Mayor shall not again supply such nonresidential building,
69 establishment, or other place with water until all arrears of water charges, together with penalties
70 and the costs actually incurred in shutting off and restoring the water supply, are paid.

71 “(d) If the water supply to any property has been shut off for failure to pay District water
72 and sanitary sewer service charges, and later restored without the express authorization of the
73 Mayor, the Mayor shall impose a fine in an amount not less than 20% of the delinquent charges
74 or more than \$100, whichever is greater, upon the owner or occupant of the property, unless the
75 Mayor determines that the owner or occupant did not restore or solicit a person to restore the
76 water.

77 “(e) For the purposes of this section, the term “nonresidential building” means a building
78 that does not contain an ambulatory care facility, group home, sleeping unit, dwelling unit,
79 housing unit, custodial care facility, or foster care facility as those terms are defined in Section

80 202 of the Building Code Supplement of 2017 (12A D.C.M.R § 202 (2021)).”

81 Sec. 3. The Water and Sewer Authority Establishment and Department of Public
82 Works Reorganization Act of 1996 (D.C. Law 11-111; D.C. Official Code § 34–2202.01 *et seq.*),
83 is amended as follows:

84 (a) Section 201 (D.C. Official Code § 34–2202.01) is amended by adding a new
85 paragraph (5A) to read as follows:

86 “(5A) “Nonresidential building” means a building that does not contain an
87 ambulatory care facility, group home, sleeping unit, dwelling unit, housing unit, custodial care
88 facility, or foster care facility as those terms are defined in Section 202 of the Building Code
89 Supplement of 2017 (12A D.C.M.R § 202 (2021)).”

90 (b) Section 203 (D.C. Official Code § 34–2202.03) is amended as follows:

91 (1) Paragraph (19) is amended to read as follows:

92 “(19) To shut off water and sewer service to any building, establishment, or other
93 place upon a determination that water service is causing waste, abuse of water supply, or any
94 danger to public health, safety, or the general well-being of the District water system or to shut
95 off water and sewer service to a nonresidential building for failure of the owner or occupant
96 thereof to pay such water charges within 30 days from the date of rendition of the bill;”

97 (2) Paragraph (32) is amended by striking the phrase “; and” and inserting a
98 semicolon in its place;

99 (3) Paragraph (33) is amended by striking the period and inserting “; and” in its
100 place.

101 (4) A new paragraph (34) is added to read as follows:

102 “(34) To forgive debts owed by current and former customers in circumstances

103 deemed appropriate by the agency.”

104 Sec. 4. Fiscal impact statement.

105 The Council adopts the fiscal impact statement in the committee report as the fiscal
106 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
107 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

108 Sec. 5. Effective date.

109 This act shall take effect after approval by the Mayor (or in the event of veto by the
110 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
111 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
112 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
113 Columbia Register.