

Council of the District of Columbia

MEMORANDUM

1350 Pennsylvania Avenue, NW, Washington, DC 20004

TO: Chairman Phil Mendelson
FROM: Councilmember Charles Allen
RE: Request to Agendize Measures for the October 1, 2024 Legislative Meeting
DATE: September 26, 2024

I request that the following measures be placed on the agenda for the October 1, 2024 Legislative Meeting:

Permanent Legislation Approved by the Committee

- B25-106, the “Comprehensive Electric Vehicle Access, Readiness and Sustainability Amendment Act of 2024”

B25-106 would amend the Department of Transportation Establishment Act of 2002 to encourage greater charging reliability in the District by requiring that DDOT prioritize the development of an extensive electric vehicle (“EV”) charging network, investing in and deploying EVSE across the District in commercial and residential buildings, in shopping hubs, and around parks and other public spaces, and creating EVSE fueling stations modeled after the gas stations to which we are accustomed. The electric vehicle infrastructure deployment and management plan required in the bill mandates that DOEE identify legislative and regulatory recommendations for creating standards that promote interoperability and reliability. The Print also requires the Mayor to launch a public awareness campaign to educate residents and visitors about EVs and their environmental and other benefits to our communities and to promote the availability of EVSE across the District. To ensure that the District regularly assesses our readiness and capacity to support EV charging, the Print also amends the District Department of the Environment Establishment Act of 2005 to require that DOEE develop and make an EV Infrastructure Deployment and Management Plan publicly available. Additionally, to ensure charging reliability, the Print also calls for DOEE to establish EV charging standards to ensure accessibility and interoperability and to establish the Electric Vehicle Charging Incentive Program to assist with EV charging infrastructure purchases, installations, and maintenance. The Print also amends the Green Building Act of 2006 to set new permitting standards for new construction and substantial improvements of commercial and multi-unit buildings and single-family homes while also creating a “right to charge” for residents living in a condominium association, community association, common interest development or are renting from a housing provider.

A copy of the committee report is attached. I intend to move an amendment in the nature of a substitute to this measure at the Legislative Meeting.

Emergency Legislation

- “Buzzard Point Park and Trails National Park Service Grant Congressional Review Emergency Declaration Resolution of 2024”

- “Buzzard Point Park and Trails National Park Service Grant Congressional Review Emergency Amendment Act of 2024

On July 9, 2024, the Council passed the Buzzard Point Park and Trails National Park Service Grant Emergency Amendment Act of 2024, effective July 23, 2024 (D.C. Act 25-524; 71 DCR 9584) (“emergency legislation”). The emergency legislation is set to expire on October 21, 2024. The Buzzard Point Park and Trails National Park Service Grant Temporary Amendment Act of 2024, passed on second reading on September 17, 2024 (enrolled version of B25-889) (“temporary legislation”), is currently under mayoral review and will not complete its 30-day congressional review period prior to the expiration of the emergency legislation. Both the emergency legislation and temporary legislation expanded the District Department of Transportation’s (“DDOT”) grantmaking authority, allowing the agency to issue a grant to NPS for parks and trails improvements in the Buzzard Point neighborhood. This congressional review emergency legislation is necessary to prevent a gap in the law between the expiration of the emergency legislation and effective date of the temporary legislation.

- “Transportation Improvements Congressional Review Emergency Amendment Act of 2024”
- “Transportation Improvements Congressional Review Emergency Declaration Resolution of 2024”

On July 9, 2024, the Council passed the Transportation Improvements Emergency Amendment Act of 2024, effective July 6, 2024 (D.C. Act 25-544; 71 DCR 9971) (“emergency legislation”). The emergency legislation is set to expire on October 24, 2024. The Transportation Improvements Temporary Amendment Act of 2024, passed on second reading on September 17, 2024 (enrolled version of B25-0891) (“temporary legislation”), is currently under mayoral review and will not complete its 30-day congressional review period prior to the expiration of the emergency legislation. Both the emergency legislation and temporary legislation expanded the District Department of Transportation’s (“DDOT”) authority to accept land transfers to include land designated for recreational purposes. This congressional review emergency legislation is necessary to prevent a gap in the law between the expiration of the emergency legislation and effective date of the temporary legislation.

- “DC Circulator Transition Emergency Declaration Resolution of 2024”
- “DC Circulator Transition Emergency Amendment Act of 2024”
- “DC Circulator Transition Temporary Amendment Act of 2024”

The District Department of Transportation (“DDOT”) manages the DC Circulator bus system (“DC Circulator”) through a partnership with RATP Dev USA.

The Mayor’s FY24 Proposed Budget would have eliminated one-half of the DC Circulator routes in operation. While the Council was able to identify one-time funding to maintain service in FY24, future funding for the DC Circulator was uncertain. The Council, accordingly, encouraged the Executive to form a transition plan for winding down DC Circulator operations to minimize the impact on riders and operators. The transition plan would consider, among other

things, whether the Washington Metrorail Transit Authority (“WMATA”) could either absorb the DC Circulator and maintain service or offer alternative routes through its own Metrobus service.

As anticipated, the Mayor’s FY25 Proposed Budget included a proposal to completely wind-down the DC Circulator over the fiscal year, with a complete termination of service by Spring 2025. Now, however, service cuts are scheduled to begin as soon as October 1, 2024 and the operators who rely on the service for their livelihoods, will begin experiencing the negative impacts resulting from the loss of employment.

By setting aside money derived from the disposition of the DC Circulator’s assets, the District can financially support DC Circulator workers—many of whom have several years of service to the District—while they seek employment.

- “Office of District Waterways Management Establishment Emergency Declaration Resolution of 2024”
- “Office of District Waterways Management Establishment Emergency Amendment Act of 2024”
- “Office of District Waterways Management Establishment Temporary Amendment Act of 2024”

On December 22, 2022, the Council passed the District Waterways Management Authority Establishment Act of 2022, effective March 22, 2023 (D.C. Law 24-336; D.C. Official Code § 8–191.01 *et seq*) (“Act”). This Act established the Office of District Waterways Management (“Office”) in the Department of Energy and Environment with a mandate to comprehensively plan, promote, advocate for, and facilitate stakeholder cooperation for the diverse uses of and access to the District’s waterways and adjacent property as well to produce a Waterways Advisory Plan (“Advisory Plan”). The Office has communicated several challenges in implementing the Act that this emergency and temporary legislation addresses. First, the emergency and temporary bills would amend the Act to allow for a 2-year rather than 1-year period for the Advisory Plan to be developed and adopted, creating a more realistic timeline supported by market research and ensuring the necessary stakeholder and public engagement can occur effectively. Second, this legislation would amend the Act to allow the Waterways Advisory Commission (“Commission”) to meet bimonthly rather than monthly, given the Commission’s large size and the need for flexibility in scheduling meetings and developing meeting agendas. Finally, this legislation would change the appointment procedures for Mayoral appointees to the Commission, allowing for a 45-day passive approval period instead of a 90-day active approval period. These changes to the Act on an emergency and temporary basis are necessary to enable the Office to continue its work to stand up the Commission and begin developing the Advisory Plan.

- “CRIAC Clarification Emergency Declaration Resolution of 2024”
- “CRIAC Clarification Emergency Amendment Act of 2024”
- “CRIAC Clarification Temporary Amendment Act of 2024”

In 2009, the Council passed the Water and Sewer Authority Equitable Ratemaking Amendment Act of 2008, effective March 25, 2009 (D.C. Law 17-30; 56 DCR 1350), which authorized the District of Columbia Water and Sewer Authority (DC Water) to use a billing

methodology that takes into account the amount of impervious surface on a property. Since then, DC Water has been assessing the Clean Rivers impervious area charge (“CRIAC”) against property owners in the District.

The CRIAC funds upgrades the District’s combined sewer system, as mandated by a consent order between the District and the federal government, to prevent overflows during heavy rains that impair the region’s water quality and health. This federally mandated project is known as the Clean Rivers Project.

Two lawsuits before the D.C. Court of Appeals challenge DC Water’s authority to levy the CRIAC against property owners who are not connected to the District’s sewer system. However, the Council did not intend to exempt property owners not connected to the sewer system from the CRIAC. Such property owners – like parking lot owners – still contribute substantially to stormwater runoff and the overflow of the District’s combined sewer system. Charging such property owners the CRIAC for their contribution to stormwater runoff equitably spreads the burden of upgrading and maintaining the District’s sewer systems. Briefing in one of these appeals is scheduled to close in early November.

Emergency legislation is therefore necessary to clarify the Council’s intent that DC Water has had the authority, since 2009, to assess the CRIAC against property owners who are not connected to the District’s sewer system.

Draft copies of these emergency and temporary measures are attached. Please contact Kevin Whitfield, Committee Director, at kwhitfield@dccouncil.gov with any questions.

cc: Members, Council of the District of Columbia
Office of the Budget Director
Office of the General Counsel
Office of the Secretary