

# Report for Congress

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## **District of Columbia Appropriations Act for FY2003: Comparison of General Provisions of P.L. 107-96 and S. 2809**

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# District of Columbia Appropriations Act for FY2002: Comparison of General Provisions of P.L. 107-96 and S. 2809

## Summary

On September 17, 2002, the District's Chief Financial Officer (CFO) notified city leaders of the potential \$323 million budget shortfall facing the city in FY2003. On July 26, 2002, the Senate Appropriations Committee reported S. 2809, a bill appropriating funds for the District of Columbia for FY2003, and the Senate report (S. Report 107-225) accompanying the bill. In keeping with last year's efforts, which reduced the number of general provisions from 67 to 41, S. 2809, as reported by the Committee, reduces the number of general provisions from 41 to 36. It modifies a number of provisions that some observers consider intrusive. Among the more controversial sections is a general provision that prior to FY2002, prohibited the use of both federal and District funds to implement a 1992 District law allowing unmarried heterosexual or homosexual couples to register as domestic partners. Under the provision, first enacted as part of the District's FY2002 appropriations act, and included in S. 2809, District employees who register as domestic partners would be allowed to include domestic partners under their health insurance policies. The provision lifts the ban on the use of District, but not federal, funds to implement the 1992 Health Care Benefits Expansion Act.

The District's elected leadership has voiced concern about the inclusion of social riders in past appropriations bills and hope to negotiate with the congressional leaders on the contents of the general provisions to be included in the FY2003 appropriations bill for the District of Columbia. In previous years, city officials had complained about the inclusion of a number of home rule and "social" riders dealing with such issues as voting representation in Congress, abortion, medical marijuana, domestic partners health insurance expansion, and needle and syringe exchange programs.

The District of Columbia Appropriations Act for FY2003, as reported by the Senate Appropriations Committee, would continue existing prohibitions and restrictions on the use of federal and District funds for abortions and medical marijuana. However, S. 2809 includes provisions that would remove existing restrictions on the use of District funds for needle exchange programs, statehood lobbying, court challenges aimed at providing city residents with voting representation in Congress. It also includes a provision that would allow the District to continue to use local funds to administer the city's Health Care Benefits Expansion Act of 1992, as described earlier in this summary. For additional information on the District of Columbia's FY2003 Appropriations Act, including proposed funding levels and summaries of key policy issues see the following CRS report: *Appropriations for FY2003: District of Columbia*, RL31313, by Eugene Boyd.

## **Contents**

Background .....	1
District of Columbia General Provisions: P.L. 107-96 and H.R. 2809 .....	3

# District of Columbia Appropriations Act for FY2002: Comparison of General Provisions of P.L. 107-96 and S. 2809

## Background

The chronology of District of Columbia Appropriations for FY2003 is as outlined below. On February 4, 2002, President Bush submitted his budget recommendations for FY2003. The Administration's proposed budget included \$379 million in federal payments and assistance to the District of Columbia. On May 25, 2002, Mayor Anthony Williams, transmitted to Congress a budget approved by the city council that totaled \$7.3 billion in operating funds and capital outlays, including \$5.7 billion in general operating fund expenditures; \$662 million in enterprise funds; and \$931 million in capital outlays. The District budget, which must be approved by Congress, requests \$698.4 million in special federal payments for courts, corrections, and other activities. On July 26, 2002, the Senate Appropriations Committee reported S. 2809, the Senate version of the District of Columbia Appropriations Act for FY2003. The Senate Appropriations Committee recommends an appropriation of \$517 million in special federal assistance to the District of Columbia, including \$15 million for emergency and security management. This is \$138 million more than the \$379 million requested by the Administration. On September 17, 2002, the city's CFO released official financial projections showing a potential deficit of \$323 million for FY2003. Congress set an October 1, 2002, deadline for the city to develop a plan of action on the deficit, which may include a combination of tax increases, budget cuts, and the use of reserve funds.

Differences exist between the general provisions of S. 2809 and those of the District of Columbia Appropriations Act for FY2002, P.L. 107-96. The Senate Appropriation bill continues a trend established by last year's appropriations act, which included 25 fewer general provisions; 41 down from 67 in the FY2001 appropriations. This year's Senate Appropriations Committee version of bill includes 5 fewer provisions and provides for expanded local autonomy. It would continue to allow the District to use its funds to implement the city's Health Care Benefits Expansion Act (this provision was first approved in the FY2002 appropriations act), and removes penalties for teenage smoking, restrictions on the use of District funds for needle exchange programs, and provisions limiting city involvement in court challenges aimed at providing city residents with voting representation in Congress. The Act maintains prohibitions and restrictions on the use of federal and District funds for abortions, except in cases of rape or incest; and medical marijuana.

In previous years, city officials had complained to past Administrations and the leadership of Congress about the inclusion of a number of social riders dealing with such issues as abortion, medical marijuana, domestic partners health insurance

expansion, and needle and syringe exchange programs. They asserted that such riders interfered with the right of District residents to make their own policy decisions, and violated the spirit of home rule. Proponents of social riders counter that such provisions are within the powers of Congress under Article I, Section 8, of the Constitution, which conveys to Congress exclusive legislative control over the District of Columbia. In addition, supporters of specific social riders, such as the prohibition against the implementation of the District's domestic partners health care expansion program, contend that they are intended to protect the institution of marriage, or, in the case of medical marijuana and needle exchange programs, prohibit government sanctioning of illegal drug use.

The following is a side-by-side comparison of the general provisions of the District of Columbia Appropriations Act for FY2003, P.L. 107-96, and the Senate bill S 2809. House and conference provisions will be added when the legislation is reported out of the respective committee. This comparison follows the structure of P.L. 107-96. Any identical or equivalent Senate language that may not share the same section number as corresponding P.L.107-96 provisions is identified in the same row as its P.L. 107-96 counterpart. Provisions included in P.L. 107-96, but not included in S. 2809, are highlighted in gray. For detailed information on proposed funding levels and summaries of key policy issues see the following CRS report: *Appropriations for FY2003: District of Columbia*, RL31313, by Eugene Boyd.

**District of Columbia General Provisions:  
P.L. 107-96 and S. 2809**

P.L. 107-96	S. 2809	House	Conference
Sec. 101. <i>Prohibition Against Deficit Spending.</i> The provision prohibits deficit spending by limiting spending to not more than the amount specifically appropriated.	Sec. 101. Identical to provision in P.L. 107-96.		
Sec. 102. <i>Payment of Travel and Dues Related Expenses.</i> The provision allows funds appropriated under this Act to be used for travel and dues-related expenses of organizations concerned with the work of the District when approved by the mayor, and by the chair of the city council in the case of travel and dues related to the activities of the city council.	Sec. 102. Identical to provision in P.L. 107-96.		
Sec. 103. <i>Payment of Judgments.</i> The provision allows District funds to be used to pay judgments against the city. The provision does not affect or modify Sec. 11(c) of Title XII of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, sec. 47-1812.11(c)(3), a provision governing credits and refunds for overpayments of District taxes.	Sec. 103. Identical to provision in P.L. 107-96.		
Sec. 104. <i>Prohibition Against the Carryover of Appropriated Funds.</i> The provision requires the city to expend funds appropriated for FY2002 during that fiscal year, unless provided by another provision of this act.	Sec. 104. FY2003 language identical to provision in P.L. 107-96.		
Sec. 105. <i>Use of Public Schools.</i> The act allows public schools to be used for community or partisan political activities during non-school hours.	Sec. 105. Identical to provision in P.L. 107-96.		
Sec.106. <i>Congressional Inspection of Personnel Records.</i> The personnel records of all persons employed by the District government would be made available for inspection by House and Senate authorization and appropriations subcommittees, and the District of Columbia City council.	Sec. 106. Identical to provision in P.L. 107-96.		
Sec. 107. <i>Prohibition on the Use of Funds for Lobbying.</i> Prohibits the city from using city or federal funds to defeat any legislation pending before Congress or any state legislature. Allows the use of District funds for lobbying except in instances involving the promotion or support of any boycott or activities in support of statehood for the District or voting representation in Congress. See Sec. 124.	Sec. 109. Identical to provision in P.L. 107-96.		

P.L. 107-96	S. 2809	House	Conference
Sec. 108. <i>Capital Borrowing Plan</i> . Requires the mayor to develop an annual capital outlays borrowing plan. The plan is to include quarterly and project information. The mayor is to report to the city council and Congress on actual and projected spending.	Sec. 108. Identical to provision in P.L. 107-96.		
Sec. 109. <i>Prohibition on the Reprogramming of Funds</i> . Prohibits the District government from reprogramming federal and District funds appropriated under the Act for seven specific activities. Funds could not be reprogrammed in order to: create new programs; eliminate a program or project; establish or change allocations specifically denied, limited, or increased by Congress; increase funds for activities or personnel in areas where funds have been denied or restricted; re-establish funding for any project previously deferred through reprogramming; augment existing programs or projects by reprogramming funds that exceed \$1 million or 10% of the existing program's funding; prohibit a 20% or greater increase in personnel assigned to a specific project. Funds may be reprogrammed after congressional review by House and Senate Appropriations Committees. Limits the transfer of reprogrammed funds to not more than 2% of the local funds in the appropriations.	Sec. 109. Identical to provision in P.L. 107-96.		
Sec. 110. <i>Limitation on the Use of Appropriated Funds</i> . Limits the use of funds to the activities or objects for which the appropriations were made except as otherwise provided by law.	Sec. 110. Identical to provision in P.L. 107-96.		
Sec. 111. <i>Merit Personnel Act Responsibility of the Mayor</i> . States that the mayor shall be responsible for the administration of personnel function of employees under the city's merit pay personnel code. In determining employee compensation, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 shall apply.	Sec. 111. Identical to provision in P.L. 107-96.		
Sec. 112. <i>City Council Review of Revised Revenue Estimates</i> . Requires the mayor to submit to the City council revised revenue estimates for the first quarter of FY2002 not later than 30 days after the first quarter of FY2002.	Sec. 112. <i>City Council Review of Revised Revenue Estimates</i> . Requires the mayor to submit to the City council revised revenue estimates for the first quarter of FY2003 not later than 30 days after the first quarter of FY2003.		

P.L. 107-96	S. 2809	House	Conference
Sec. 113. <i>Sole Source Contracts</i> . Prohibits sole source contracts for services unless competitive bidding is not feasible and the contract has been approved by the control board as set forth by D.C. Code, sec. 1-1183.3.	Sec. 113. Identical to provision in P.L. 107-96.		
Sec. 114. <i>Sequestration under the Balanced Budget</i> . In order to comply with sequestration order under Balanced Budget and Emergency Deficit Control Act of 1985, federal funds appropriated under a District of Columbia appropriations act are to be sequestered from each account and not the aggregate total of those accounts.	Sec. 114. Identical to provision in P.L. 107-96.		
Sec. 115. <i>Gifts and Donations</i> . Allows District government agencies and officials to accept gifts and donations in FY2000 only if: <ul style="list-style-type: none"> <li>• the mayor approves, (this provision does not apply in cases of gifts or donation to the city council);</li> <li>• the gift or donation is used to carry out an agency function;</li> <li>• the government entity receiving the gift or donation keeps records of all gifts and donations available for audit and public inspection.</li> </ul> This section does not apply to the Board of Education.	Sec. 115. Identical to provision in P.L. 107-96.		
Sec. 116. <i>Prohibits the Use of Funds for Statehood Lobbying</i> . Prohibits the use of federal funds for the payment of expenses related to the offices of U.S. Senate or U.S. House of Representative under the District of Columbia Statehood Constitution Initiative.	Sec. 116. Identical to provision in P.L. 107-96.		
Sec. 117 <i>Abortion</i> . Prohibits the use of funds for abortion services except in cases of rape, incest, or when the mother's health is endangered.	Sec. 117. Identical to provision in P.L. 107-96.		
Sec. 118. <i>Health Care Benefits Expansion Act</i> . Prohibits the use of federal funds to implement the Health Care Benefits Expansion Act of 1992, which extends medical, employment, and government benefits to unmarried couples, including homosexuals.	Sec. 118. Identical to provision in P.L. 107-96, which prohibits the use of federal funds, but allows the use of District funds.		



P.L. 107-96	S. 2809	House	Conference
<p>Sec. 119(a). <i>Acceptance of Grant Funds Not Included in Ceiling.</i> The mayor, after consulting with the CFO, may accept and expend grants from private and federal sources that are not part of this appropriation. Such gifts may be accepted and expended only after the CFO has submitted to the city council a detailed report regarding such grants. The city council has 14 days after receipt of the report to review and approve its acceptance or to file a resolution of disapproval. The Council has 30 calendar days from initial receipt of the report from the CFO to act on a resolution of disapproval. The provision:</p> <ul style="list-style-type: none"> <li>• prohibits the city from expending city funds in anticipation of a grant award;</li> <li>• requires the CFO to submit to the city council and House and Senate Appropriations Committees detailed reports regarding all federal and private grants approved under this section.</li> </ul>	<p>Sec. 119. Identical to provision in P.L. 107-96.</p>		
<p><i>Sec. 120. Use of City Vehicles.</i> Limits a District employee’s use of official vehicles only to performance of official duties. Grants four exceptions:</p> <ul style="list-style-type: none"> <li>• a police officer may use police vehicles to travel to and from work and home only if the officer resides in the District of Columbia, or is granted permission by the Chief of Police;</li> <li>• an employee of the Fire and Emergency Ambulance Department who resides in the District and is on call 24 hours a day;</li> <li>• the mayor; and</li> <li>• chair of the city council.</li> </ul> <p>Requires the CFO to submit an inventory of all vehicles owned, leased or operated by the District government by November 15, 2001. Does not specify to whom the inventory is to be submitted. Includes an additional provision that requires the District to conduct a cost analysis for the procurement of all goods and services in excess of \$2,500, excluding goods and services being acquired by CIO, CFO, and Metropolitan Police. In conducting such analysis the District is to compare costs under District procurement regulations and procedures with those applicable under the federal GSA supply schedules.</p>	<p>Sec. 120. Identical to provision in P.L. 107-96 except inventory of all vehicles owned, leased or operated by the city is due November 15, 2002..</p>		
<p>Sec. 121. <i>Special Education Evaluation Time Frame.</i> This provision requires that the school board complete an evaluation of students who may be in need of special education services within 120 days of the student’s referral, and to place students with special education needs, as defined by federal law (Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)) or the Rehabilitation Act of 1973 29 U.S.C. 706(8)) in appropriate programs.</p>	<p>Sec. 121. Identical to provision in P.L. 107-96.</p>		

P.L. 107-96	S. 2809	House	Conference
Sec. 122. <i>Buy American Act</i> . Encourages District government to comply with the Buy American Act 41 U.S.C. 10a-10c). Includes a sense of the Congress provision encouraging the purchase of American made products.	Sec. 122. Identical to provision in P.L. 107-96.		
Sec. 123. <i>Inspector General Audits</i> . Only the District of Columbia Inspector General may conduct and certify agency audits in compliance with the District of Columbia Procurement Practices Act of 1985 (D.C. Code, sec. 1-1182.8(a)(4).	Sec. 123. Identical to provision in P.L. 107-96.		
Sec. 124. <i>Voting Representation Cost Prohibition</i> . Prohibits the use of federal and District funds, including funds for the corporation counsel, to cover the cost of court challenges aimed at providing city residents with voting representation in Congress.	Sec. 124. <i>Voting Representation Cost Prohibition</i> . Prohibits the use of federal, but not District, funds to cover the cost of court challenges aimed at providing city residents with voting representation in Congress.		
Sec. 125. <i>Needle Exchange Program</i> . Prohibits the creation and funding of a needle exchange program with federal or District government funds. Such programs may be funded with private funds and must be accounted for separately.	Sec. 125. <i>Needle Exchange Program</i> . Allows the use of District funds for such programs, but prohibits the use of federal government funds. Requires entities administering needle exchange programs to track program funds used for such activities separately from any funds appropriated under this act.		
Sec. 126. <i>CFO Certifications</i> . Funds may not be used to pay agency CFOs 60 days after the passage of this Act if the agency CFO has not filed a statement with the mayor and CFO of the District certifying that the agency CFO understands and will abide by the duties and restrictions of his office.	Sec. 126. Identical to provision in P.L. 107-96.		
Sec. 127. <i>Medical Marijuana Initiative</i> . Prohibits the use of federal or District funds in carrying out any law or regulation that legalizes or reduces the penalty for possession of a Schedule I substance, including the medical use of marijuana. Prohibits the implementation of citizen approved medical marijuana initiative.	Sec. 127. Identical to provision in P.L. 107-96.		
Sec. 128. <i>Conscience Clause Covering Contraceptive Coverage in Private Health Plans</i> . The provision requires the inclusion of a conscience clause allowing employers to exclude contraceptive coverage in the employer's health insurance plan for moral or religious reasons.	Sec. 128. Identical to provision in P.L. 107-96.		

P.L. 107-96	S. 2809	House	Conference
<p>Sec. 129. <i>Prompt Payment of Appointed Counsel.</i> Requires the DC Court of Appeals to make payment to counsel representing indigent persons, and children in neglect and abuse cases within 45 days of receiving a payment voucher. Failure to make payment within the 45-day time period would require the DC Court of Appeals to pay interest to the attorneys representing indigent persons, and children in neglect and abuse cases. Requires the Court to establish standards for the submission of completed vouchers. Covers claims received during fiscal year 2002 and unpaid claims that remained at the end of fiscal year 2001.</p>	<p>Sec. 129. Covers claims received during fiscal year 2003 and unpaid claims that remained at the end of fiscal year 2002.</p>		
<p>Sec. 130. <i>Teenage Smoking.</i> Bans possession of tobacco by minors and imposes fines, community service, and revocation of driving privileges. Provides \$100,000 in federal assistance for enforcement activities.</p>	<p>Not included in this bill.</p>		
<p>Sec. 131. <i>Budget-linked Quality of Life Factors.</i> Identifies a number of quality-of-life indicators that characterize the city's deficiencies in the areas of crime, education, corrections, management of public services. Directs the mayor to submit quarterly reports to House and Senate appropriation and oversight committees.</p>	<p>Sec. 130. Identical to Sec. 131 of P.L. 107-96.</p>		
<p>Sec. 132. <i>Corporation Counsel Review of Private Lawsuits.</i> The provision permits the district's corporation counsel to review and comment on briefs in lawsuits filed by private citizens, and to consult government officials regarding such lawsuits. This includes lawsuits seeking voting representation in Congress.</p>	<p>Sec. 131. Identical to Sec. 132 of P.L. 107-96.</p>		

P.L. 107-96	S. 2809	House	Conference
<p>Sec. 133. <i>Emergency Cash Reserve and Contingency Reserve Funds.</i> Requires budget reserve of \$120 million in FY2002, and \$70 million in FY2003. For each of fiscal years 2004 and 2005 the District must maintain a cumulative cash reserve of \$50 million. Outlines the conditions under which budget and cash reserves may be used to include:</p> <ul style="list-style-type: none"> <li>! CFO certification that funds are available;</li> <li>! amounts are to be obligated or expended in accordance with laws enacted by city council;</li> <li>! prohibition on the use of funds for agencies under court ordered receivership; and</li> <li>! only after House and Senate Appropriations Committees have been notified by the mayor in writing 30 days in advance of any obligation or expenditure.</li> </ul> <p>Requires funds taken from the reserve be replenished in order to maintain required balance. Transfers all funds in the \$150 million budget reserve created under Sec. 106-113 into the Emergency and Contingency Reserve Funds established under Sec. 159 of P.L. 106-522.</p>	Not included in this bill.		
<p>Sec. 134. <i>Integrated Products Team.</i> Prohibits the appropriation of funds for the Integrated Product Team. The city has approved a reorganization plan for the team and a Capital Construction services Administration</p>	Not included in this bill.		
<p>Sec. 135 <i>Revised Operating Budget Submission.</i> Requires the CFO to submit to the appropriate committees of Congress, the mayor, and the city council a revised appropriated funds operating budget budget no later than 30 days after the enactment of this act. The revised budget should reflect anticipated actual expenditures for the fiscal year.</p>	Sec. 132. Identical to Sec. 135 of P.L. 107-96		
<p>Sec. 136. <i>City Council Chairman Compensation.</i> Eliminates the provision that provides \$10,000 in additional annual compensation to the chairman of the city council above the amount of compensation provided to other council members. Provides additional compensation to chairman of the city council equal to \$10,000 less than the compensation paid to the mayor.</p>	Not included in this bill.		
<p>Sec. 137. <i>Risk Management for Settlements and Judgments.</i> Allows any District government agency to pay a settlement or judgement stemming from a claim or lawsuit that does not exceed \$10,000.</p>	Sec. 133. Identical to Sec. 137 of P.L. 107-96.		

P.L. 107-96	S. 2809	House	Conference
Sec. 138. <i>Closing of Certain Streets.</i> Waives the period of congressional review for closing of portions of 2 <sup>nd</sup> and N Streets, NE.	Not included in this bill.		
Sec. 139. <i>Boy Scouts.</i> Prohibits the use of District or federal funds for payment to plaintiffs awarded \$50,000 by the District's Commission on Human Rights related to Boy Scout's policy prohibiting homosexuals from serving as scout leaders.	Sec. 134. Identical to Sec. 139 of P.L. 107-96.		
Sec. 140. <i>Attorney's Fees for Special Education.</i> Prohibits the use funds appropriated under this and subsequent appropriation acts from being used to pay attorney's associated with representing disabled students fees incurred prior to the enactment of this act. Requires the DC public school system to submit to Congress a report that lists all judgments against the DC public schools under the Individuals with Disabilities Education Act (IDEA). The report is to be submitted within 60 days of enactment of this act and is to include detailed information for each of the years 1999 to 2001, on the amount paid and owed plaintiffs' attorneys and attorneys representing the school board.	Not included in this bill.		
Sec. 141. <i>GAO Report on Attorney's Fees for Special Needs Students.</i> Directs GAO, with the assistance of relevant agencies and House and Senate subcommittees on DC appropriations and oversight, to submit by March 31, 2002., a report to the House and Senate appropriations and oversight committees detailing the awards in judgment rendered in the District of Columbia that were in excess of the cap imposed by prior appropriations acts in effect during the fiscal year when the work was performed, or when payment was requested for work previously performed, in actions brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. §1400 et. seq.).	Not included in this bill.		