



# District of Columbia Budget Autonomy: An Analysis of H.R. 733, 110<sup>th</sup> Congress

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## Summary

The District of Columbia Budget Autonomy Act of 2007, H.R. 733, 110<sup>th</sup> Congress, introduced on January 20, 2007, by Congresswoman Eleanor Holmes Norton, is the latest in a series of legislative proposals dating back to 1981 and the 97<sup>th</sup> Congress that have sought to provide budget autonomy for the District of Columbia. When Congress passed the District of Columbia Government Reorganization and Self-Government Improvement Act (the Home Rule Act, P.L. 93-198, 87 Stat. 774), in 1973, granting the city limited home rule authority, it included provisions retaining its constitutional authority to exercise exclusive legislative control over the District's affairs, including the budget process. The Home Rule Act requires congressional approval of the District's annual budget as part of the congressional appropriations process, and includes prescriptive provisions governing budget submission, financial management, and borrowing authority.

H.R. 733 would allow the District to forego congressional review and approval of that portion of its operating and capital budgets financed with local revenues. The bill would also lift several budget content and financial management reporting requirements and restrictions on the city's borrowing authority. City leaders have consistently contended that Congress has repeatedly delayed passage of the appropriations act for the District (in which Congress approves the city's budgets) well beyond the October 1 start of its fiscal year. The city's elected leaders contend that the delay in Congress's approval of the city's budget hinders their ability to manage the District's financial affairs and negatively affects the delivery of public services. Proponents of increased budget autonomy can point to the Bush Administration's budget for FY2004, which included a statement in support of budget autonomy for the District of Columbia, and the fact that the District has produced 10 consecutive balanced budgets, six of them without the supervision of the Financial Control Board.

An argument against granting the city budget autonomy is that it could be viewed as an abdication of Congress's constitutional responsibility to exercise legislative control over and oversight of the Nation's capital, "the seat of the Government." Such a lack of oversight of the city's financial affairs could result in the city slipping back into a fiscal crisis of the magnitude that led Congress to create the Financial Control Board in 1995. This report will be updated as events warrant.

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## Current Budget Process and Structure

Authority for congressional review and approval of the District's budget is derived from the Constitution and the District of Columbia Self-Government and Government Reorganization Act of 1973 (Home Rule Act, P.L. 93-198, 87 Stat. 774). The Constitution gives Congress the power to "exercise exclusive Legislation in all Cases whatsoever" pertaining to the District of Columbia.<sup>1</sup> In 1973, Congress granted the city limited home rule powers and empowered citizens of the District to elect a mayor and city council. At the same time, however, Congress retained the power to review and approve all District laws including the District's annual budget.

Under the District's home rule charter, the mayor must submit operating and capital budgets to the city council for review and adoption by a date specified by the council.<sup>2</sup> The charter also mandates that the proposed budget submitted by the mayor must assume that expenditures will not exceed resources, and requires that certain elements be a part of the mayor's budget submission.<sup>3</sup> In addition, the charter requires that the proposed budget include a four-year financial management plan outlining the projected long-term impact of current spending. When appropriate, the mayor may prepare, at his discretion or at the direction of the council, a supplemental or deficiency budget to address the need for additional expenditures and must identify the potential sources of revenues that will be used to address the deficiency.

The council must act on the budget and any supplemental appropriations, including the reprogramming of funds, which must be offset by reductions, within 56 calendar days of receiving the budget from the mayor. The approved budget must then be transmitted to the President, who forwards it to Congress for review, modification, and approval. Both the President, through his annual budget submission, and Congress may propose financial assistance to the District in the form of special federal payments in support of specific activities or priorities. Congress must approve the District's budget as one of the appropriations bills.

District of Columbia appropriations acts typically consist of three titles or parts. Title I includes special federal payments or contributions for specific activities or priorities. These are additional sums granted to the District, outside of the normal federal grant process, to address specific congressional priorities. Most recently, these special federal payments have included, but have not been limited to: funding of court operations and defender services; emergency planning and security; and education initiatives, including college tuition assistance, support for public schools, school choice scholarships (vouchers), and public charter schools.

Title II of District appropriations acts consists of the District's operating and capital budgets, including enterprise funds. The operating budget is supported by revenues from local taxes, fees, charges, and federal assistance available to all eligible state and local governments. The capital budget is sustained through bond sales and annual appropriations.

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<sup>1</sup> U.S. Constitution, Art. 1, §8, Cl. 17.

<sup>2</sup> For the last three years (FY2005-2007), the D.C. Council has approved budget submission requirements resolutions identifying the third Monday of March as the date for the mayor's proposed budget submission to the council and the public. The budget submission requirements resolutions for each of the fiscal years also identified the elements to be included in the mayor's budget submission.

<sup>3</sup> This includes financial and statistical information on the proposed budget, multi-year budget estimates for all agencies, multi-year capital budgets, program performance reports on as many programs as practical, and issues analysis statements on any activity or proposal having significant budgetary and revenue implications.

Title III consists of general provisions governing various aspects of the operations and functions of District government. The general provisions included in recent District of Columbia appropriations acts can be grouped into six categories that:

- address fiscal and budgetary matters related to deficit spending, limits on the reprogramming of funds, prohibitions of the use of sole-source contracts, and requirements for emergency and contingency reserve funds;
- impose administrative controls;
- facilitate congressional oversight and reporting;
- limit use of appropriated funds for advocacy of District statehood or congressional voting representation;
- address educational issues related to the payment of attorney fees in Individuals with Disabilities Education Act (IDEA) actions; and
- impose limits, restrictions, and prohibitions on the use of federal or local funding to carry out specific social policies such as abortion services, needle exchange, and medical marijuana.

On occasion, Congress has used the District's appropriations act to authorize specific initiatives including school vouchers, the Chief Financial Officer act, and charter schools under a fourth title.

Once forwarded by the President to Congress, typically during the first weeks of June, the District's budget moves through the congressional appropriations process. This includes subcommittee hearings, which may take place before the actual budget submission to Congress, subcommittee and committee markups in both houses, committee reports and votes, floor action, reconciliations and conference report consideration, and final passage.<sup>4</sup> All of this is supposed to happen within approximately 120 calendar days before the beginning of the District's fiscal year on October 1. City leaders have consistently expressed concern that Congress has repeatedly delayed passage of the appropriations act for the District (in which Congress approves the city's budgets) well beyond the start of its fiscal year. The city's elected leaders contend that delay in Congress's approval of its budget hinders their ability to manage the District's financial affairs and negatively impacts the delivery of public services.

During the past decade the approval of the District's annual budget has been delayed by complications in the congressional appropriations process. Rather than being enacted on its own, the District of Columbia appropriations act has often been folded into omnibus or consolidated appropriations acts, and continuing resolutions. As documented in **Table 1**, FY1997 was the only year out of the past 12 years for which the D.C. appropriations act was enacted before the start of the fiscal year (on October 1 of the prior-numbered year).

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<sup>4</sup> Currently, the committees of jurisdiction are the House Committee on Oversight and Government Reform, Subcommittee on the Federal Workforce, Postal Service, and District of Columbia; the House Committee on Appropriations, Subcommittee on Financial Services and General Government; the Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia; and the Senate Committee on Appropriations, Subcommittee on Financial Services and General Government.

**Table I. Date of Enactment of the D.C.Appropriations Act, FY1996-FY2007**

<b>Fiscal Year</b>	<b>P.L. Number</b>	<b>Date of Enactment</b>	<b>Remarks</b>
1996	104-134	April 26, 1996	Five general continuing resolutions and three laws targeted to D.C. preceded this final omnibus appropriations act.
1997	104-194	September 9, 1996	The District's initial budget request was rejected by the Financial Control Board. It was cut and revised before being submitted to the President and the Congress. The Omnibus Consolidated Appropriations Act for FY1997, P.L. 104-208, also contained several provisions regarding D.C. public schools.
1998	105-100	November 19, 1997	During part of the complicated approval process, the D.C. bill was combined with two other appropriations bills. A controversial school scholarship proposal was split off as a separate bill. Between Oct. 1 and Nov. 19, the District was covered under successive continuing resolutions on appropriations.
1999	105-277	October 21, 1998	D.C. was one of eight regular appropriations bills included in the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999. From Oct. 1 through Oct. 21, D.C. was covered under five general continuing resolutions.
2000	106-113	November 29, 1999	The D.C. bill was included with four other appropriations measures in the Consolidated Appropriations Act, 2000. This was the third D.C. appropriations bill for FY2000 approved by Congress. Two previous bills were vetoed by President Clinton.
2001	106-522	November 22, 2000	Enactment of the D.C. appropriations bill was delayed nearly one month because it was first combined with another appropriation in a bill vetoed by President Clinton.
2002	107-96	December 21, 2001	Congressional approval of D.C. appropriations was delayed by efforts to resolve differences between the House and Senate over "general provisions" addressing social policy and to eliminate redundant or obsolete provisions.
2003	108-7	February 20, 2003	The 107 <sup>th</sup> Congress failed to complete action on D.C.'s and 10 other appropriations bills for FY2003 before it adjourned at the end of 2002. Eight continuing resolutions froze spending by the District and federal agencies at the FY2002 level until the 108 <sup>th</sup> Congress approved the Consolidated Appropriations Resolution, 2003, encompassing 11 appropriations acts.
2004	108-199	January 23, 2004	The Consolidated Appropriations Act, 2004, including the D.C. and six other appropriations acts, was not enacted until the second session of the 108 <sup>th</sup> Congress. Five continuing resolutions were enacted to cover the District and affected federal agencies for the first four months of FY2004.
2005	108-335	October 18, 2004	The D.C. Appropriations Act was enacted on its own, just a few weeks after the start of the fiscal year.
2006	109-115	November 30, 2005	D.C. appropriations were included together with five other appropriations in a consolidated appropriations act enacted two months after the start of the fiscal year.
2007	110-5	February 5, 2007	The D.C. bill was combined with six other appropriations bills, but that consolidated bill was not enacted. Ultimately, the government operated under continuing appropriations resolutions for the entire fiscal year.

**Sources:** The corresponding annual CRS reports, listed in the "References" section at the end of this report.

## Summary and Analysis of Provisions of H.R. 733

The District of Columbia Budget Autonomy Act of 2007, H.R. 733, 110<sup>th</sup> Congress, introduced on January 20, 2007, by Congresswoman Eleanor Holmes Norton, is the latest in a series of bills dating back to 1981 that would provide budget autonomy for the District of Columbia. (See the **Appendix**.) The bill was introduced by D.C. Delegate Eleanor Holmes Norton and co-sponsored by Representative Tom Davis. When the District of Columbia Government Reorganization and Self-Government Improvement Act (Home Rule Act, P.L. 93-198, 87 Stat. 774) was enacted in 1973, granting the city limited self-governing authority, it retained congressional authority to review and approve the District's annual budget as part of the congressional appropriations process. The Home Rule Act includes several prescriptive provisions governing budget submission, financial management, and borrowing authority. Several of these provisions were put in place in response to the fiscal crisis the city faced during the 1990s.

H.R. 733 would allow the District to forego congressional review and approval of its operating and capital budgets financed with local revenues. The bill would also remove several budget submission and financial management reporting requirements and restrictions on the city's borrowing authority. Proponents of increased budget autonomy can point to the Bush Administration's budget for FY2004, which included a statement in support of budget autonomy for the District of Columbia,<sup>5</sup> and the fact that the District has produced 10 consecutive balanced budgets (six of them without the supervision of the Financial Control Board).

### Budget Submission Requirements

#### Summary of Proposed Changes

H.R. 733 would eliminate substantive elements of the District's home rule charter governing the budget submission process. Specifically, the bill would remove language that establishes different fiscal year starting points for the District of Columbia general government (October 1 to September 30); public education institutions, including public schools, charter schools, and the University of the District of Columbia (July 1 to June 30); and the Armory Board (January 1 to December 31). The bill would also eliminate provisions that:

- prescribe the content and timing of the mayor's proposed budget submission to the council, such as the inclusion of a multi-year budget plan for all agencies, multi-year capital budgets, and annual program performance reports;
- dictate the timetable for council consideration of the proposed budget (currently 56 days);

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<sup>5</sup> "The budget also supports 'budget autonomy' for D.C. This proposal would allow D.C.'s local budget to go into effect without prior congressional approval, provided that any general provisions from the previous year stay in effect until the Congress acts and provided that the Congress retains the right to redirect by law portions of the local budget after it goes into effect. This proposal reflects the dramatic improvement in the District's ability to manage its budget processes in the post-Control Board era." U.S. Executive Office of the President, Office of Management and Budget, *Budget of the U.S. Government, Fiscal Year 2004* (Washington: February 2003), p. 298.

- restrict the mayor's and council's ability to alter the budget submissions of specific independent agencies;<sup>6</sup> and
- require a 30 legislative-day congressional review period for District budget acts (instead of allowing such acts to take effect on the date stated in the act).

## **Policy Implications of Proposed Changes**

H.R. 733 renders inapplicable large portions of the Home Rule Act, notably the requirements for congressional review. Section 2(b) of H.R. 733 states that “the process by which the District of Columbia develops and enacts the budget for the District government for a fiscal year, and the activities of the District government for a fiscal year, shall be established under such laws as may be enacted by the District.”

Those portions of the D.C. Code that dictate the timing and content of the budget process would remain in effect during a control year.<sup>7</sup> For non-control years, the policy implications of H.R. 733 are highly dependent upon the nature of the laws that would eventually be enacted by the District. Should Congress approve H.R. 733, the District would have the power to change its fiscal year or otherwise alter its budget processes to better serve its constituents without having to go through Congress. A change in the fiscal year may more closely reflect the needs of the District. Decoupling the District general budget from the appropriations process could result in a shorter budget cycle, allowing for more accurate revenue and expenditure estimates. The current budget approval process involves the mayor, the council, the congressionally created Chief Financial Officer (CFO), the President, the Office of Management and Budget, the Appropriation Committees of the House and Senate, and the full Congress. The process requires at least 15 months to complete; typically, the process has exceeded 15 months.

Enactment of H.R. 733 would not prevent Congress from intervening in District budgetary matters. Even if autonomy were granted for the part of the District's budget financed by locally raised revenues, Congress would still need to appropriate federal funds for certain functions that are carried out by the District but financed by the federal government as special federal payments. This includes, for example, corrections; courts and defender services; security and emergency planning; and selected education initiatives, such as the college access program, school choice scholarships, and public charter schools. Furthermore, H.R. 733 may not prevent Congress from adopting future proposals, including so-called "social policy" provisions, that would limit the District's ability to spend its own funds (as well as federal funds) on certain goods or services. Congress could always pass freestanding legislation restricting the use of the District's own source revenues, or include such restrictions or prohibitions as general provisions in a District appropriations bill. Such actions would run counter to the intent of H.R. 733 and the principles of home rule. Moreover, the rules of both chambers bar the inclusion of legislation in appropriation bills. Any attempt to include "social riders" or other legislative provisions in District appropriation bills could be challenged on a point of order. However, the House or Senate could

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<sup>6</sup> The independent agencies include District of Columbia Auditor, District of Columbia Judicial Nomination Commission, Court system, the Zoning Commission of the District of Columbia, the Public Service Commission, the Armory Board, the Commission on Judicial Disabilities and Tenure, and the District of Columbia Water and Sewer Authority.

<sup>7</sup> The District of Columbia Financial Responsibility and Management Assistance Act of 1995 established the definition of a "control period" as any period where the District fails to service its debt, defaults on any loan, has a large cash deficit, or requisitions funds from the U.S. Treasury (P.L. 104-8 §209, 109 Stat. 97).



adopt procedural rules governing federal appropriations for the District that would allow for the inclusion of legislative provisions that would impose restrictions on the use of District funds or authorize new programs. For instance, during consideration of the District of Columbia Appropriations Act for FY2004, H.R. 2765, the House approved a rule (H.Res. 334), which allowed the consideration of an amendment (H.Amdt. 368) authorizing a school choice program. Without the rule, a point of order could have been raised challenging the amendment as legislation in an appropriations measure.

## **Financial Management Requirements**

### **Summary of Proposed Changes**

The bill would remove certain provisions and financial management reporting requirements included in the home rule charter. Specifically, the bill would strike provisions that:

- limit the city's ability to increase spending based on an increase in revenues after Congress has approved a fiscal year appropriation;
- require the mayor to submit a complete financial report to the council by February 1 of each year;
- require the city to maintain an emergency reserve fund equal to 2% of operating expenditures as identified in the Comprehensive Annual Financial Report (CAFR) submitted by the CFO and dictate the uses of such fund; and
- require the city to maintain a contingency reserve fund of not less than 4% of operating expenditures as identified in the CAFR submitted by the CFO and dictate the use of such fund;
- establish the position of the District of Columbia Auditor;
- require the mayor annually to develop and submit to the House and Senate oversight and appropriations committees, and the Government Accountability Office (GAO), a performance accountability plan for all departments, agencies, and programs of the government of the District of Columbia for the next fiscal year;
- require the mayor to develop and submit to the House and Senate oversight and appropriations committees, and the Government Accountability Office (GAO), a performance accountability report for all departments, agencies, and programs of the government of the District of Columbia for the previous fiscal year;
- require the CFO to develop and submit to the House and Senate oversight and appropriations committees, and the Government Accountability Office (GAO), not later than March 1 of each year, a five-year financial plan for the government of the District of Columbia that contains a description of the steps the government will take to eliminate any differences between expenditures from, and revenues attributable to, each fund of the District of Columbia during the five years beginning after the submission of the plan.
- require the CFO to submit a financial compliance report to the House and Senate oversight and appropriations committees on the progress made in executing the plan, and to have the report evaluated by GAO and OMB, which must report

- their findings to the House and Senate oversight and appropriations committees not later than April 15<sup>th</sup> of each year; and
- require the CFO to submit quarterly financial and budgetary status reports to the House and Senate oversight committees and appropriations subcommittees.

## **Policy Implications of Proposed Changes**

The bill would render moot certain provisions and financial reporting requirements put in place to ensure that congressional committees of jurisdiction have sufficient information from which to exercise informed oversight and appropriations responsibilities. On the one hand, eliminating congressional review of the District's budget and financial management process is consistent with promoting self-government and local autonomy, and does not necessarily imply the elimination of performance and financial plans and reports. On the other hand, the absence of any formal congressional review and oversight process may hinder Congress's ability to guard against waste fraud and abuse, and to ensure that the nation's capital is financially solvent. Another implication is that the District would be less of a federal city; Members would have less say on District financial matters.

## **Borrowing Restrictions**

### **Summary of Proposed Changes**

The bill proposes to allow the District to enact laws that establish the “the process and rules” that the District would follow in borrowing funds, rather than the congressionally approved structure currently included under the city's home rule charter.<sup>8</sup> The home rule charter currently contains limitations on the amount of borrowing the District may undertake: “No general obligation bonds or Treasury capital project loans shall be issued during any fiscal year in an amount which would cause the amount of principal and interest required to be paid ... to exceed 17% of the District revenues....” (D.C. Code § 1-206.03b). Additionally, revenue anticipation bonds can be issued, but “The total amount ... shall not exceed 20% of the total anticipated revenue of the District for such fiscal year....” (D.C. Code § 1-204.72b).

The D.C. Code also establishes the manner in which bonds may be issued. It requires that certain provisions appear in the act that authorizes the issuance of bonds. It places constraints on the payment schedule for issued bonds (e.g. annual payments “beginning not more than 3 years after the date of such bonds and ending not more than 30 years after such date”). It institutes a special annual tax to cover the principal and interest due on such bonds. It also establishes that all District bonds are backed by the full faith and credit of the District of Columbia, and not that of the United States. It contains a number of other provisions that establish other protocols relating to the roles played by the mayor and the council in the issuance and payment of bonds.

Except in the case of a control year, H.R. 733 would make almost all of the current language related to District borrowing non-binding. Important exceptions to this general theme are stated in the bill. H.R. 733 would retain:

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<sup>8</sup> The following constraints are similar to those self-imposed, constitutionally or statutorily, by other state and local governments.

- the full faith and credit of the District;
- the nonapplicability of the full faith and credit of the United States; and
- federal and District tax exemption for District-issued bonds and notes.

## **Policy Implications of Proposed Changes**

While much of the existing language would become non-binding, a significant provision in H.R. 733 is that "... the process and rules by which the District of Columbia issues bonds or otherwise borrows money shall be established under such laws as may be enacted by the District." As a result of this provision, it is unclear what rules or laws would be established to regulate issuance of bonds by the District.

If H.R. 733 were enacted, it is possible that the District would maintain the protocols and procedures set forth by Congress in the Home Rule Act. An important past example of District policy in the wake of a repealed congressional mandate may be that of the budget reserve fund. The budget reserve fund was at one time, but is no longer, congressionally mandated. Despite the repeal of the congressional mandate, the District continues to maintain a budget reserve fund at the level originally mandated by Congress (\$50 million). However, the legislative changes that the District would actually undertake are unknown.

It cannot be stated with certainty what impact the current limitations and regulations on borrowing has on the District's financial health or its ability to govern. The proposed changes would allow the District to establish its own laws governing the borrowing process. Some benefits of this might include the ability of the District government to respond to particular circumstances quickly by raising the borrowing cap or by allowing special issuances of bonds not currently outlined in the D.C. Code.

Another implication of borrowing autonomy for the District is that, given the power to borrow according to its own laws and rules, the District government can be held accountable by its constituents in the event of poor decisions surrounding the management of its borrowing authority. The District would need to set up financial institutions, including borrowing regulations and limitations, that would serve its constituents' needs efficiently and maintain financial stability.

While considering H.R. 733, Congress may want to inquire of the District what laws it intends to pass and what procedures it intends to maintain, repeal, or establish in order to ensure good borrowing practices in the future. These changes would likely take some time to establish. In the interim, it may make sense for Congress to require that the District establish certain temporary institutions, or to propose a time-line for the creation of relevant District laws, while granting the District the power to alter such institutions or laws at some future time.

## **Arguments For and Against District Budget Autonomy**

Arguments for and against budget autonomy for the District may be grouped into three general categories: constitutional and philosophical; accountability and governance; and best practices and economic impact.

## **Arguments in Favor of Budget Autonomy**

### **Constitutional and Philosophical Arguments**

- The citizens of the District of Columbia have a democratic right to elect representatives with the authority to make decisions over the expenditure of their constituents' tax dollars without needing federal approval.

### **Accountability and Governance Arguments**

- Without its own authority to enact an annual budget and with congressional constraints that make the process cumbersome, District government cannot be held singularly accountable since responsibility for final passage is shared between the District and the federal governments.

### **Best Practices and Economic Impact Arguments**

- Involving the District in the congressional appropriations process extends the District's budget process by six months or more. As a result, spending and revenue estimates are often based on incomplete or dated information. This makes the budget less reliable and incurs economic costs.
- In theory, it is more efficient to have a single body in charge of budgetary matters rather than splitting financial decision making between two bodies with vastly different objectives and priorities.

## **Arguments Against Budget Autonomy**

### **Constitutional and Philosophical Arguments**

- Congress has a constitutional obligation to maintain oversight over the affairs of the District. It cannot surrender that obligation except through constitutional amendment.
- The District of Columbia is the seat of the federal government and, as such, the policies and practices of the District should represent not only the interests of the citizens living in it, but also the interests of the entire nation. Maintaining congressional oversight helps to ensure that this is the case.

### **Accountability and Governance Arguments**

- Without congressional oversight, there is no guarantee that the District will not once again fall into financial trouble. Line-item approval of the District's budget is an important safeguard against future financial trouble.
- Should the District government perform poorly under budget autonomy, it could trigger another takeover by the financial control board serving as an agent of the federal government.

## **Best Practices and Economic Impact Arguments**

- Other cities have state governments which, to some degree, oversee the activities of local governments to ensure that they comply with state and federal regulations. If the District government acts as both city and state, it will lack a counter-balance that is present in other cities.

## **Policy Questions**

Should H.R. 733 become law, what changes might be enacted by District officials regarding:

- The budget process?
- The fiscal year?
- Revenue estimation?
- Financial management safeguards?
- Contingency and emergency reserve funds?
- Borrowing limits?
- Protocol for issuance of general obligation bonds?

If Congress does not grant the District full budget autonomy, which specific provisions currently in place are regarded as particularly burdensome and of high priority for removal by District officials? Some examples might include the power to change the fiscal year dates or relax requirements for the reserve fund. If full budget autonomy is not approved, what would be an appropriate compromise?

What prevents the District from passing needed changes to the Home Rule Act through Congress under the prevailing legislative structure, including improvements in the budget process and the fiscal year?

How have delays in congressional approval of the District's budget harmed the operation of the District government?

## Appendix. A History of D.C. Budget Autonomy Legislation

The proposed District of Columbia Budget Autonomy Act of 2007, H.R. 733, 110<sup>th</sup> Congress, is the latest in a series of bills dating back to 1981 and the 97<sup>th</sup> Congress that have sought to provide budget autonomy for the District of Columbia. In 1973, with the passage of the District of Columbia Self-Government and Governmental Reorganization Act, commonly known as the District of Columbia Home Rule Act, Congress acted to “... grant to the inhabitants of the District of Columbia powers of local self-government; ... and, to the greatest extent possible, consistent with the constitutional mandate, relieve Congress of the burden of legislating upon essentially local District matters.”<sup>9</sup>

During consideration of the Home Rule Act, budget autonomy for the District was a feature of the original House bill, but was abandoned as Congress adopted the substitute Senate resolution.<sup>10</sup> In the intervening 34 years, the issue has repeatedly been brought before Congress.

This appendix contains an accounting of previous bills that proposed budget autonomy for the District of Columbia, including the main provisions of the bills, the relevant context surrounding their introduction, and important actions of Congress with regard to such bills.

### Summary

District of Columbia Budget Autonomy Act of 2007, H.R. 733, is the latest in a series of bills dating back to 1981 and the 97<sup>th</sup> Congress that have sought to provide budget autonomy for the District of Columbia. None have become law. Briefly, bills seeking budget autonomy for D.C. may be grouped into five categories:

- District of Columbia Budget Autonomy Acts: 97<sup>th</sup> - 99<sup>th</sup> Congresses.<sup>11</sup> These bills sought to grant the District of Columbia autonomy over the expenditure of own-source revenues. They would also have provided the District with the authority to hire employees.
- Budgetary and Legislative Acts: 101<sup>st</sup> - 103<sup>rd</sup>, 105<sup>th</sup> Congresses.<sup>12</sup> In addition to eliminating the requirement that the District budget be approved by an act of Congress prior to becoming effective, these bills sought to provide the District with the authority to hire employees and to allow the District Council to override a mayoral disapproval of a budget with a two-thirds majority. The bills also sought to waive the period of congressional review required before District acts took effect.

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<sup>9</sup> P.L. 93-198, 87 Stat. 774.

<sup>10</sup> H.R. 9682, 93<sup>rd</sup> Congress; S.R. 1435, 93<sup>rd</sup> Congress.

<sup>11</sup> H.R. 1254, 97<sup>th</sup> Congress; H.R. 3708 and H.R. 3699, 98<sup>th</sup> Congress; and H.R. 324, 99<sup>th</sup> Congress.

<sup>12</sup> H.R. 52, 101<sup>st</sup> Congress; H.R. 3581, 102<sup>nd</sup> Congress; H.R. 2071, 103<sup>rd</sup> Congress; and H.R. 3920 and H.R. 4054, 105<sup>th</sup> Congress.

- Fiscal Protection Act, 104<sup>th</sup> Congress.<sup>13</sup> This bill would have provided the District with the authority to spend own-source revenue to continue District operations. It required written notification from the District of Columbia Chief Financial Officer (CFO) to interested parties, including both the President and the Appropriations Committees in the House and Senate.
- Fiscal Integrity Act, 107<sup>th</sup> Congress, and the District of Columbia Budget Autonomy Acts, 108<sup>th</sup>, 109<sup>th</sup> Congresses.<sup>14</sup> These bills sought to allow enactment of the District’s budget without congressional approval, as well as the hiring of employees. They also sought to alter the role of the CFO by repealing sections of the Home Rule Act pertaining to the CFO and providing for the enactment of the Independence of the Chief Financial Officer Establishment Act. In the 108<sup>th</sup> Congress, the Senate passed the District of Columbia Budget Autonomy Act of 2003, but the legislation was not considered by the House.
- District of Columbia Budget Autonomy Acts (House versions): 105<sup>th</sup>, 106<sup>th</sup>, 108<sup>th</sup> - 110<sup>th</sup> Congresses.<sup>15</sup> This series of bills represented a return to similar bills in the 97<sup>th</sup> - 99<sup>th</sup> Congresses. These bills, in common with the current bill under consideration, H.R. 733, sought to amend the Home Rule Act to eliminate congressional review, allowing the District budget to take effect upon its approval by the city council and the mayor. H.R. 733 would also eliminate previous federal mandates governing the District budget, financial management, and borrowing. It would allow the District to operate under its own laws provided that the fiscal year is not a “control year.”

## **The Home Rule Act and Early Budget Autonomy Bills**

Some of the first discussions on budget autonomy for the District of Columbia occurred in consideration of the passage of the District of Columbia Home Rule Act in 1973.<sup>16</sup> There was enough political support for self-government for the District to pass the Home Rule Act, but the prospect of budget autonomy was ultimately rejected. The bill that became law contained provisions requiring that the District of Columbia transmit its budget to Congress, and that Congress approve the budget before the budget could take effect. Although the Home Rule Act became law in 1973, it took several years before the District was governed under its own rule, with elections of a Mayor and the Council in 1974 and the establishment of other institutions in the following years. Congress proposed the Voting Rights Amendment, seeking to give the District voting representation in Congress in 1978, but the amendment was not ratified by the states. In 1980, voters called for the creation of a state constitution.<sup>17</sup>

One of the earliest bills seeking to provide budget autonomy to the District was the District of Columbia Budget Autonomy Act (H.R. 1254, 97<sup>th</sup> Congress), introduced by the District’s

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<sup>13</sup> H.R. 2661.

<sup>14</sup> H.R. 2995 and S. 2316, 107<sup>th</sup> Congress; S. 1267, 108<sup>th</sup> Congress; and S. 800, 109<sup>th</sup> Congress.

<sup>15</sup> H.R. 4054 and H.R. 3920, 105<sup>th</sup> Congress; H.R. 1197, 106<sup>th</sup> Congress; H.R. 2472, 108<sup>th</sup> Congress; H.R. 1629, 109<sup>th</sup> Congress; and H.R. 733, 110<sup>th</sup> Congress.

<sup>16</sup> For a comparison of two versions of the House resolution, as well as some discussion of budget autonomy in the 93<sup>rd</sup> Congress, see House Debate, *Congressional Record*, vol. 119, part 26 (October 9, 1973), pp. 33353-33413.

<sup>17</sup> The Council of the District of Columbia, “History of Self-Government in the District of Columbia,” 1997, at <http://www.dccouncil.washington.dc.us/history.html>, visited May 24, 2007.

Delegate to Congress, Walter Fauntroy, in January 1981. The bill sought to amend the Home Rule Act to grant autonomy to the District over expenditures of own-source revenues. It also set forth procedures by which the Council could exercise control over its budget processes. It was introduced without cosponsors and referred to committee, where it received no action. Over the next two Congresses, virtually identical bills were introduced by Delegate Fauntroy, also without cosponsors, but never made it out of committee.

In 1989, Delegate Fauntroy was a cosponsor of the District of Columbia Budgetary and Legislative Efficiency Act of 1989 (H.R. 52, 101<sup>st</sup> Congress), the first in a series of bills that sought not only to provide budgetary autonomy, but also to eliminate the congressional review period required before laws passed by the District Council take effect. The bill died in committee. In 1991, Representative Ronald Dellums introduced H.R. 3581, in the 102<sup>nd</sup> Congress, the District of Columbia Legislative and Budget Autonomy Act of 1991.

In 1992, Congress passed an act that included the portion of H.R. 3581 that waived the period of congressional review for certain legislation enacted by the District of Columbia.<sup>18</sup> As the House prepared to vote in favor of the bill, Delegate Eleanor Holmes Norton urged her colleagues to pass H.R. 3581 as well. The bill was reported out of committee in February 1992,<sup>19</sup> and placed on the Union Calendar, but never made it to the floor. A similar bill in the 103<sup>rd</sup> Congress died in committee.

## **The D.C. Financial Control Board and the Government Shutdown of 1995**

In 1990, the Rivlin Commission Report warned of continuing operating deficits over the following five years.<sup>20</sup> In June 1994, a federal audit made it clear that the District was in financial distress, running out of cash on hand.<sup>21</sup> These and other problems for the District government contributed substantially to Mayor Sharon Pratt Kelly's defeat in the 1994 Democratic primary. Former Mayor Marion Barry was returned to office in the subsequent general election. In April 1995, Congress passed the District of Columbia Financial Responsibility and Management Assistance Act of 1995, establishing what came to be known as the Control Board, and defining a "control period" as any period where the District failed to service its debt, defaulted on any loan, had a large cash deficit, or requisitioned funds from the U.S. Treasury.<sup>22</sup>

In the bills introduced after the establishment of the Control Board, provisions relating to budget autonomy—in particular, the ability of the District to expend own-source revenues without prior congressional approval—were conditioned on the fiscal year in question not being a control year. In debates and discussions over District budget autonomy since 1995, the need for and

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<sup>18</sup> H.R. 5623, 102<sup>nd</sup> Congress; P.L. 102-360.

<sup>19</sup> H.Rept. 102-429.

<sup>20</sup> Commission on Budget and Financial Priorities of the District of Columbia, *Financing the Nation's Capital*, (known as the Rivlin Commission Report), November 1990.

<sup>21</sup> "Governing Washington, D.C." *CQ Researcher*, vol. 6, no. 44 (November 22, 1996), p. 1046.

<sup>22</sup> P.L. 104-8, 109 Stat. 97, §209. For the House Report from the Committee on Government Reform and Oversight, see H.Rept. 104-408.



establishment of the Control Board has been a regular feature of opposition to District autonomy.<sup>23</sup>

On November 14, 1995, both the federal and the District of Columbia governments shut down when Congress failed to approve an appropriations bill in time to service the national debt. Three days later, on November 17, 1995, Congresswoman Norton introduced H.R. 2661, the District of Columbia Fiscal Protection Act of 1995. The shutdown ended on November 19, 1995, and over the next several months, Congresswoman Norton regularly addressed Congress, advocating passage of a resolution allowing the District to spend its own-source revenues during the federal government shutdown.

On December 14, 1995, it became clear that the federal government would be entering another period of shutdown. Representative Tom Davis published an editorial in *The Washington Post* endorsing H.R. 2661, and the House Committee on Government Reform and Oversight filed a late report by midnight.<sup>24</sup>

On December 22, 1995, a continuing resolution was introduced and passed by both the House and the Senate and signed into law, allowing the District to operate until January 3, 1996.<sup>25</sup> Another continuing resolution was introduced on January 3, 1996, and passed the following day, providing the District with appropriations until January 25, 1996.<sup>26</sup> The budget autonomy bill, H.R. 2661, was placed on the Union Calendar on December 14, 1995, but never made it to the floor for a vote.

## **Budget Autonomy Bills of the Last Decade**

In 1998, the first of the latest series of budget autonomy bills (H.R. 4054, 105<sup>th</sup> Congress) was introduced but never made it out of committee. The following year, an identical bill (H.R. 1197, 106<sup>th</sup> Congress) was introduced and also never made it out of committee. In the 107<sup>th</sup> Congress, a bill entitled “District of Columbia Fiscal Integrity Act of 2001” was introduced in the House by Representative Constance Morella, with a related bill introduced in the Senate the following year by Senator Mary Landrieu (H.R. 2995 and S. 2316, 107<sup>th</sup> Congress).

These bills were more ambitious than other bills introduced in the last decade, not only seeking budget autonomy for the District but also expanding the authority of the District’s CFO, with the stated intent of the bill “To make technical and conforming changes to provide for the enactment of the Independence of the Chief Financial Officer Establishment Act of 2001.” The House and Senate versions of the D.C. Fiscal Integrity Act died in committee.

In the 108<sup>th</sup> Congress, Representative Davis and Senator Susan Collins introduced H.R. 2472 and S. 1267, respectively, both titled the “District of Columbia Budget Autonomy Act of 2003.” The House version of the bill returned to the more modest wording of the 105<sup>th</sup> and 106<sup>th</sup> Congresses. The Senate version contained Title II: District of Columbia Independence of the Chief Financial

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<sup>23</sup> “Q: Should Congress let the District of Columbia control its own budget? - Eleanor Holmes Norton answers yes; Rep. Charles Taylor says no - Symposium,” *Insight on the News*, July 6, 1998.

<sup>24</sup> Davis, Thomas M. III, “Why Shut Down the District?,” *The Washington Post*, December 14, 1995.

<sup>25</sup> P.L. 104-69.

<sup>26</sup> P.L. 104-90.

Officer Act of 2003, which again sought to expand the authority of the District's CFO. The bill passed in the Senate on September 9, 2003, and was sent to the House, where it was not reported out of committee.<sup>27</sup>

In the 109<sup>th</sup> Congress, the District of Columbia Budget Autonomy Act of 2005 was introduced in both the House and the Senate. Both bills were very similar to their counterparts in the previous Congress.<sup>28</sup> Neither bill made it out of committee.

Finally, in the 110<sup>th</sup> Congress, H.R. 733 seeks to amend the District of Columbia Home Rule Act by making large portions of the act inapplicable so long as the District is not in a "control period" as defined by the criteria established by the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (P.L. 104-91). The bill's stated intent is "To amend the District of Columbia Home Rule Act to eliminate all federally imposed mandates over the local budget process and financial management of the District of Columbia and the borrowing of money by the District of Columbia."

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<sup>27</sup> United States Congress, Senate Committee on Governmental Affairs, *District of Columbia Budget Autonomy Act*, report to accompany S. 1267, 108<sup>th</sup> Cong., 1<sup>st</sup> sess., S.Rept. 108-212, (Washington: GPO).

<sup>28</sup> H.R. 1629 and S. 800.

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