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# FY2016 Appropriations: District of Columbia

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## Summary

On February 2, 2015, the Obama Administration released its budget request for FY2016. The Administration's proposed budget includes \$474 million in special federal payments to the District of Columbia government. An additional \$286 million is requested for the Court Services and Offender Supervision Agency (CSOSA) and the Public Defender Service, two federally chartered, independent agencies that work exclusively on behalf the District criminal justice system. The combined budget requests total \$760 million in special federal payments. Approximately 80% (\$612 million) of the President's proposed budget request for the District would be targeted to the courts and criminal justice system. The President's budget request also includes \$83 million in support of education initiatives.

On April 2, 2015, the mayor of the District of Columbia, Muriel Bowser, submitted her proposed budget request for FY2016 to the District of Columbia Council for approval. The budget request includes \$474 million in special federal payments, \$12.9 billion in total operating expenditures and \$1.2 billion in capital outlays. The mayor's budget request does not include funding for Court Services and Offender Supervision and the Public Defender Service, which are submitted under a different account. The Council, pursuant to the requirements of the Home Rule Act, will have 56 days to review, amend, and approve the District's budget. The approved budget, comprising special federal payments, local sourced operating expenses, and general provisions, must be submitted to the President for transmittal to Congress for its review and approval.

The mayor's budget request also includes provisions that would grant the District significant autonomy over its budgetary and legislative affairs. Specifically, the act would repeal portions of the District's code governing congressional review of all acts passed by the District of Columbia Council, including referendum and initiatives. The inclusion of budget autonomy provisions in the mayor's request is part of an ongoing campaign by District officials to assert the principle of home rule. In addition to the provisions included in the mayor's budget request, the District's delegate to Congress has also introduced legislation, H.R. 552, that would grant the city budget autonomy by eliminating all congressionally imposed mandates over the District's financial affairs, including local budget process, financial management and oversight, and short-term borrowing. The issue of budget autonomy is currently being reviewed by the D.C. Court of Appeals based on a challenge to a 2012 voter-approved referendum amending the city's home rule charter.

In addition, Congress may act upon a number of other issues when it reviews the FY2016 District of Columbia appropriations act, including legislative autonomy, abortion services, needle exchange, and Second Amendment (gun rights) issues. This report will be updated as events warrant.

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## Introduction

The authority for congressional review and approval of the District of Columbia’s budget is derived from the Constitution and the District of Columbia Self-Government and Government Reorganization Act of 1973 (Home Rule Act).<sup>1</sup> The Constitution gives Congress the power to “exercise exclusive Legislation in all Cases whatsoever” pertaining to the District of Columbia. In 1973, Congress granted the city limited home rule authority and empowered citizens of the District to elect a mayor and city council. However, Congress retained the authority to review and approve all District laws, including the District’s annual budget. As required by the Home Rule Act, the city council must approve a budget within 56 days after receiving a budget proposal from the mayor.<sup>2</sup> The approved budget must then be transmitted to the President, who forwards it to Congress for its review, modification, and approval through the annual appropriations process.<sup>3</sup> This typically includes subcommittee hearings, which may take place before the actual budget submission to Congress; subcommittee and committee markups in the House and the Senate; committee reports and votes; floor action; conference report consideration; and final passage.<sup>4</sup> This budget review and approval process must be completed within approximately 120 calendar days before the beginning of the District’s fiscal year on October 1.

## FY2016 Budget Request

Congress not only appropriates federal payments to the District to fund certain activities, but also reviews, and may modify, the District’s entire budget, including the expenditure of local funds as outlined in the District’s Home Rule Act.<sup>5</sup> Since FY2006, the District’s appropriations act has been included in a multi-agency appropriations bill; before FY2006 the District budget was considered by the House and the Senate as a stand-alone bill. It is currently included in the Financial Services and General Government Appropriations bill (FSGG). **Table 1** will track the District’s appropriation for FY2016 as it moves through the congressional review process.

**Table 1. Status of FSGG and District of Columbia Appropriations, FY2016**

Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	

<sup>1</sup> See Article I, Section 8, clause 17 of the U.S. Constitution and Section 446 of P.L. 93-198, 87 Stat. 801.

<sup>2</sup> 120 Stat. 2028.

<sup>3</sup> 87 Stat. 801.

<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.

<sup>5</sup> D.C. Code §1-204.46.

District of Columbia appropriations acts typically include the following three components:

1. *Special federal payments* appropriated by Congress to be used to meet certain statutory obligations<sup>6</sup> and to fund particular initiatives or activities of interest to Congress or the Administration.
2. The *District's operating budget*, which includes funds to cover the day-to-day functions, activities, and responsibilities of the government; enterprise funds that provide for the operation and maintenance of government facilities or services that are entirely or primarily supported by user-based fees; and long-term capital outlays such as road improvements. District operating budget expenditures are paid for by revenues generated through local taxes (sales and income), federal funds for which the District qualifies, and fees and other sources of funds.
3. *General provisions* are typically the third component of the District's budget reviewed and approved by Congress. These provisions can be grouped into several distinct but overlapping categories, with the most predominant being provisions relating to fiscal and budgetary directives and controls. Other provisions include administrative directives and controls, limitations on lobbying for statehood or congressional voting representation, congressional oversight, and congressionally imposed restrictions and prohibitions related to social policy.

It should be noted that Congress has, from time to time, included language authorizing new programmatic initiatives or amendments to the District of Columbia home rule charter in the District's Appropriations bill. For example, in 1995, Congress included language authorizing the creation of public charter schools in the District of Columbia as part of P.L. 104-134, a consolidated appropriation measure.<sup>7</sup> In 2004, Congress included statutory provisions creating a school voucher program as part of the District of Columbia Appropriations, which was a component of a consolidated appropriations act, P.L. 108-199.<sup>8</sup>

## The President's FY2016 Budget Request

On February 2, 2015, the Obama Administration released its detailed budget request for FY2016. The Administration's proposed budget included \$760 million in special federal payments to the District of Columbia, including court services, offender supervision and public defender services, which is \$80 million more than the District's FY2015 appropriation of \$680 million. The proposed \$80 million increase includes additional funding for the Tuition Assistance Program, court operations, and court services. The request also includes \$20 million in funding for a mix of new initiatives, including the promotion of solar energy, the redevelopment of the St. Elizabeths campus, affordable housing, and funds for the arts.

<sup>6</sup> The National Capital Revitalization Act, P.L. 105-33, 111 Stat. 712, transferred to the federal government control of certain state-like functions, such as court operations and prisons, as part of an effort to return the city to fiscal solvency. The act also created an independent federal agency, Court Services and Offender Supervision Agency (CSOSA) for the District of Columbia, to perform community supervision of D.C. Code offenders, including responsibility for adult probation and parole supervision.

<sup>7</sup> 110 Stat. 1321-107.

<sup>8</sup> 118 Stat.126.

Approximately 80% (\$612.4 million) of the President's proposed budget request for the District would be targeted to the courts and criminal justice system. This includes

- \$274.4 million in support of court operations;
- \$49.9 million for Defender Services;<sup>9</sup>
- \$244.7 million for the Court Services and Offender Supervision Agency for the District of Columbia, an independent federal agency responsible for the District's pretrial services, adult probation, and parole supervision functions;
- \$1.9 million for the Criminal Justice Coordinating Council;
- \$40.9 million for the public defender's office;<sup>10</sup> and
- \$565,000 to cover costs associated with investigating judicial misconduct complaints and recommending candidates to the President for vacancies to the District of Columbia Court of Appeals and the District of Columbia Superior Court.<sup>11</sup>

The President's budget request totals \$83.6 million in support of education initiatives, including \$43.2 million to support elementary and secondary education, \$435,000 to support the D.C. National Guard college access program, and \$40 million for college tuition assistance. These amounts represent 10.9% of the Administration's budget request for the District of Columbia for FY2016. The President's budget also includes a general provision in support of budget and legislative autonomy for the District.

## District's FY2016 Budget

On April 2, 2015, the mayor of the District of Columbia submitted a proposed budget to the District of Columbia Council. The FY2016 budget request includes \$12.2 billion in operating expenditures and \$1.2 billion in capital outlays. The special federal payments section of the mayor's budget request is consistent with the Administration's budget submission, excluding funding for court services and public defender offices.<sup>12</sup>

<sup>9</sup> Funds are administered by the Joint Committee on Judicial Administration in the District of Columbia and may be used to provide court appointed attorneys and other services for (1) indigent persons charged with a criminal offense; (2) family proceedings in which child neglect is alleged, or where the termination of the parent-child relationship is under consideration; and (3) the representation and protection of mentally incapacitated individuals and minors whose parents are deceased. Funds may also be used to provide guardian training and payments for counsel appointed in adoption proceedings, and for services such as transcripts of court proceedings, expert witness testimony, foreign and sign language interpretation, investigations, and genetic testing.

<sup>10</sup> The Public Defender Service for the District of Columbia is a federally funded, independent organization governed by an 11-member Board of Trustees. Created by federal statute (P.L. 91-358, D.C. Code Sec. 2-1601), the Public Defender Service implements the constitutional mandate to provide criminal defense counsel for indigent individuals. The organization also provides legal representation for individuals facing involuntary civil commitment in the District's mental health system or parole revocation for D.C. Code offenses.

<sup>11</sup> This includes \$295,000 to the Commission on Judicial Disabilities and Tenure and \$205,000 to the Judicial Nomination Commission.

<sup>12</sup> These funds are submitted under a separate budget request. These two agencies are federally chartered entities working exclusively on behalf of the District.

The mayor's budget request also includes general provisions that would grant the District greater self-governance. The act proposes to provide some level of budget autonomy in the expenditure of local funds and legislative autonomy. Specifically, the act, if approved by Congress, would amend the District's home rule charter by removing language that currently subjects the District's general fund budget to the congressional appropriations process. Also, the proposed amendment would make the annual operating/local budget effective upon passage by the District Council. The mayor would be directed to submit to the President for transmittal to Congress that portion of the budget with respect to special federal payments for its review and approval. The amendment would only require the mayor to notify the Speaker of House and the President of the Senate regarding that portion of the budget covering the expenditure of local funds. No congressional action would be needed.

In addition, the mayor's budget request for FY2016 includes provisions intended to advance the principles of home rule. The mayor's proposal would

- enact the Local Budget Autonomy Amendment Act of 2012;<sup>13</sup>
- shorten the congressional review period (which currently allows Congress 30 legislative days to review non-criminal-code legislation passed by the District of Columbia Council and 60 days for legislation related to criminal offenses, procedures, and prisoners) by eliminating language that excludes Saturdays, Sundays, holidays, and any day on which neither chamber is in session because of an adjournment sine die, a recess of more than three days, or an adjournment of more than three days beginning on the day the legislation is transmitted to the House or Senate; and
- no longer subject proposed charter amendments to the 35-day congressional review period.

As a fallback position, should Congress fail to enact the mayor's proposal, the mayoral budget request also includes language that would allow for the expenditure of local funds as outlined in an approved budget request act or continuing budget resolution if Congress fails to enact a District appropriations at the beginning of a fiscal year starting with FY2017. This provision would be void if Congress approves amendments to the home rule charter granting the District budget autonomy or if Congress enacts the Local Budget Autonomy Amendment Act of 2012, as passed by the District of Columbia Council and ratified by District voters.

## Congressional Action

In the coming weeks and months, Congress will review the District's budget and consider additional federal assistance to the District as part of the appropriations process for FY2016. This section of the report will discuss congressional action as it occurs.

<sup>13</sup> The act was recently the subject of a court challenge before the DC Court of Appeals. See "General Provisions: Key Policy Issues" section of this report for a fuller discussion of budget autonomy.

## Special Federal Payments

Both the President and Congress may propose financial assistance to the District in the form of special federal payments in support of specific activities or priorities. As noted in the sections above, the Obama Administration budget proposal for FY2016 includes a request for \$760 million in special federal payments for the District of Columbia. **Table 2** shows details of the District's federal payments, including the FY2015-enacted amounts, the amounts included in the President's FY2016 budget request, the amounts included in the budget approved by the city, the amounts recommended by the House and Senate Appropriations Committees, and the final amounts appropriated.

**Table 2. District of Columbia Appropriations, FY2015-FY2016:  
Special Federal Payments**  
(in millions of dollars)

	<b>FY2015 Enacted</b>	<b>FY2016 Admin. Request</b>	<b>FY2016 Mayoral Request</b>	<b>FY2016 House Committee</b>	<b>FY2016 Senate Committee</b>	<b>FY2016 Enacted</b>
Resident Tuition Support	30.000	40.000	40.000			
Emergency Planning and Security	12.500	14.900	14.900			
District of Columbia Courts	245.110	274.401	274.401			
Defender Services	49.890	49.890	49.890			
Court Services and Offender Supervision Agency	234.000	244.763	— <sup>a</sup>			
Public Defender Service	41.231	40.889	— <sup>a</sup>			
Criminal Justice Coordinating Council	1.900	1.900	1.900			
Judicial Commissions	0.565	0.565	0.565			
Water and Sewer Authority	14.000	24.300	24.300			
School Improvement	45.000	43.200	43.200			
<i>Public Schools</i>	<i>15.000</i>	<i>20</i>	<i>20</i>			
<i>Public Charter Schools</i>	<i>15.000</i>	<i>20</i>	<i>20</i>			
<i>Education Vouchers-linked activities</i>	<i>15.000</i>	<i>3.200</i>	<i>3.200</i>			
D.C. National Guard	0.435	0.435	0.435			
D.C. Committee on Arts and Humanities	—	1.000	1.000			
Climate Risk	—	0.750	0.750			



	FY2015 Enacted	FY2016 Admin. Request	FY2016 Mayoral Request	FY2016 House Committee	FY2016 Senate Committee	FY2016 Enacted
Management						
Mass Transit Innovation	—	1.000	1.000			
Supportive Housing	—	6.000	6.000			
Solar Power Initiative	—	1.000	1.000			
St. Elizabeths Hospital Campus Redevelopment	—	9.800	9.800			
HIV/AIDS Prevention	5.000	5.000	5.000			
<b>Special Federal Payments (total)</b>	<b>679.631</b>	<b>759.793</b>	<b>474.141</b>			

**Sources:** FY2015 Enacted is taken from the President’s FY2016 budget request. Columns may not equal the total due to rounding.

- a. Not included in the mayor’s budget request. This is a federally chartered entity working exclusively on behalf of the District. Its budget request is submitted under a separate account.

### Local Operating Budget

As noted previously, the District’s General Fund Budget for FY2016, which was released by the mayor on April 2, 2015 totaled \$12.9 billion, including \$11.1 billion for operating expenses and \$1.8 billion for enterprise funds (**Table 3**). These expenditures, which are supported by locally raised revenues, must be approved by Congress. Under the District’s Home Rule Act,<sup>14</sup> Congress retains the power to review and approve all legislative acts of the District government, including its annual budget.

**Table 3. Division of Expenses: District of Columbia Funds: FY2016**  
(in millions of dollars)

	District	House	Senate	Final
<b>General Fund</b>				
Government Direction and Support	798.611			
Economic Development and Regulation	534.865			
Public Safety and Justice	1,295.583			
Public Education	2,225.104			
Human Support Services	4,441.995			
Public Works	768.921			

<sup>14</sup> D.C. Code § 1-206.01

	District	House	Senate	Final
Financing and Other	1,088.281			
<b>Total General Operating Expenses</b>	<b>11,153.360</b>			
<b>Enterprise Funds</b>				
WASA	541.605			
Washington Aqueduct	62.728			
Lottery	220.000			
Retirement Board	32.302			
Convention Center	129.670			
Housing Finance Agency	10.798			
University of D.C.	150.459			
Library Trust Fund	0.017			
Unemployment Insurance Trust Fund	235.000			
Housing Production Trust Fund	100.000			
Tax Increment Financing	64.256			
Baseball Fund	67.507			
Repayment of PILOT	18.741			
Not-for-Profit Hospital Corporation	129.000			
Health Benefit Exchange Authority	32.513			
<b>Total Enterprise Funds</b>	<b>1,794.596</b>			
<b>Total Operating Expenses</b>	<b>12,947.956</b>			
<b>Capital Fund</b>				
Capital Construction	1,772.734			
—Rescissions	730.968			
<b>Total Capital Outlay</b>	<b>1,041.766</b>			

**Source:** District of Columbia Fiscal Year 2016 Budget Request Act as submitted by the mayor to the District of Columbia Council.

## General Provisions: Key Policy Issues

### Abortion Services

The public funding of abortion services for District of Columbia residents is a perennial issue debated by Congress during its annual deliberations on District of Columbia appropriations.

District officials have cited the prohibition on the use of District funds as another example of congressional intrusion into local matters. Since 1979, with the passage of the District of Columbia Appropriations Act of 1980, P.L. 96-93 (93 Stat. 719), Congress has placed some limitation or prohibition on the use of public funds for abortion services for District residents. From 1979 to 1988, Congress restricted the use of federal funds for abortion services to cases where the woman's life was endangered or the pregnancy resulted from rape or incest. Under these circumstances, the District was free to use District funds for abortion services. When Congress passed the District of Columbia Appropriations Act for FY1989, P.L. 100-462 (102 Stat. 2269-9), it restricted the use of District and federal funds for abortion services to cases where the woman's life would be endangered if the pregnancy were taken to term. The inclusion of District funds and the elimination of rape or incest as qualifying conditions for public funding of abortion services were endorsed by President Reagan, who threatened to veto the District's appropriations act if the abortion provision was not modified.<sup>15</sup> In 1989, President George H.W. Bush twice vetoed the District's FY1990 appropriations act over the abortion issue. He signed P.L. 101-168 (103 Stat. 1278) after insisting that Congress include language prohibiting the use of District revenues to pay for abortion services except in cases where the woman's life was endangered.<sup>16</sup>

The District successfully sought the removal of the provision limiting District funding of abortion services when Congress considered and passed the District of Columbia Appropriations Act for FY1994, P.L. 103-127 (107 Stat. 1350). The FY1994 act also reinstated rape and incest as qualifying circumstances allowing for the public funding of abortion services. The District's success was short-lived, however. The District of Columbia Appropriations Act for FY1996, P.L. 104-134 (110 Stat. 1321-91), and subsequent District of Columbia appropriations acts, limited the use of District and federal funds for abortion services to cases where the woman's life was endangered or cases where the pregnancy was the result of rape or incest.

In FY2010, with the passage of P.L. 111-117, Congress lifted the prohibition on the use of District funds for abortion services, but maintained the restriction on the use of federal funds for such services except in cases of rape, incest, or a threat to the life of the woman. The position was reversed with the passage of the appropriations acts for FY2011 (P.L. 112-10), FY2012 (P.L. 112-74), FY2013 (P.L. 113-6), FY2014 (P.L. 113-76), and FY2015 (P.L. 113-235). Those acts included provisions restricting the use of both federal and District funds for abortion services, except in instances of rape, incest, or the woman's life was endangered if the pregnancy was carried to term.

During the 112<sup>th</sup> Congress, two bills were considered in the House that would have banned or restricted the provision of abortion services in the District of Columbia. On May 4, 2012, the House passed H.R. 3, the No Taxpayer Funding for Abortions Act. The measure included a provision (Section 309) that would have permanently prohibited the use of federal and District funds for abortion services, except in instances of rape, incest, or a threat to the life of the woman.

On June 17, 2012, the House Judiciary Committee ordered reported H.R. 3803, the District of Columbia Pain-Capable Unborn Child Protection Act. The bill would have permanently banned doctors and health facilities from performing abortions in the District after the 20<sup>th</sup> week of

<sup>15</sup> "District Policies Hit Hard in Spending Bill," *Congressional Quarterly Almanac*, vol. XLIV (Washington: Congressional Quarterly, Inc., 1988), p. 713.

<sup>16</sup> "D.C. Bill Vetoed Twice Over Abortion Funding," *Congressional Quarterly Almanac*, vol. XLV (Washington: Congressional Quarterly, Inc., 1989), p. 757.

pregnancy, except when the pregnancy would result in the woman suffering from a physical disorder, injury, or illness that endangers her life. It would have imposed fines and imprisonment on doctors who violated the act and would have allowed the pregnant woman, the father of the unborn child, or maternal grandparents of a pregnant minor to bring a civil action against any person who performed an abortion after the 20<sup>th</sup> week of pregnancy. The act would have required any physician that performed an abortion to report specific information to the relevant health agency in the District, including post-fertilization age of the fetus and the abortion method used. The District health agency would have been required to compile such information and issue an annual report to the public. The District’s delegate to Congress, Eleanor Holmes Norton, though not allowed to testify before the Committee, spoke out against the measures as infringements on home rule.<sup>17</sup>

The Obama Administration’s FY2016 request includes a provision that would continue to prohibit the use of federal funds for abortion services except in cases of rape, incest, or when the woman’s life would be endangered if the pregnancy were carried to term, but does not include language that would restrict the use of District funds for abortion services. The mayor’s budget request proposal does not include abortion services provisions.

## Local Budget Autonomy

District of Columbia political 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 budget) well after the start of the District’s 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 affects the delivery of public services.

A review of recent history reveals that 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 4**, FY1997 was the only year out of the past 18 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). To mitigate the impact of congressional delays in the approval of the District’s appropriation before the beginning of a fiscal year, Congress has routinely included language in continuing budget resolutions allowing the District to expend local funds on programs and activities included in its General Fund budget.

**Table 4. Date of Enactment of the D.C. Appropriations Act, FY1996-FY2015**

Fiscal Year	P.L. Number	Date of Enactment	Remarks
1996	P.L. 104-134	April 26, 1996	Five general continuing resolutions and three laws targeted at D.C. preceded this final omnibus appropriations act.
1997	P.L. 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

<sup>17</sup> Representative Eleanor Holmes Norton, “District of Columbia Pain-Capable Unborn Child Protection Act, H.R. 3803,” House debate, *Congressional Record*, July 31, 2012, p. H5445.

Fiscal Year	P.L. Number	Date of Enactment	Remarks
			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	P.L. 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	P.L. 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	P.L. 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	P.L. 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	P.L. 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	P.L. 108-7	February 20, 2003	The 107 <sup>th</sup> Congress did not 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	P.L. 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	P.L. 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	P.L. 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	P.L. 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.
2008	P.L. 110-161	December 26, 2007	On September 29, 2007, the President signed a continuing budget resolution, P.L. 110-92, that included a provision allowing the District to spend local funds at a rate consistent with amounts identified in the District's FY2008 Proposed Budget and Financial Plan submitted to Congress by the District of Columbia on June 7, 2007, and amended on June 29, 2007. The Financial Services and

Fiscal Year	P.L. Number	Date of Enactment	Remarks
			General Government Appropriations Act, which included the D.C. Appropriations Act, was ultimately included in the Consolidated Appropriations Act of 2008, P.L. 110-161.
2009	P.L. 111-8	March 11, 2009	On September 30, 2008, the President signed the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009, P.L. 110-329. The act included a provision allowing the District of Columbia to expend local funds for programs and activities under the heading "District of Columbia Funds" at a rate consistent with amounts identified in the District's FY2009 Proposed Budget and Financial Plan submitted to Congress by the District of Columbia on June 9, 2008.
2010	P.L. 111-117	December 16, 2009	On October 1, 2009, the President signed the Continuing Appropriations Resolution for FY2010, P.L. 111-68. The act included a provision (Division B, Sec. 126) allowing the District of Columbia government to spend locally generated funds at a rate set forth in the budget approved by the District of Columbia on August 26, 2009.
2011	P.L. 112-10	April 15, 2011	Provision was included in Department of Defense And Full-Year Continuing Appropriations Act, 2011, P.L. 112-10, allowing the District of Columbia to expend local funds for programs and activities under the heading "District of Columbia Funds" at a rate consistent with amounts identified in the District's FY2011 Budget Request Act (D.C. Act 18-448).
2012	P.L. 112-74	December 23, 2011	On September 30, 2011, President signed a Continuing Budget Resolution, P.L. 112-34, allowing the District of Columbia to expend local funds for programs and activities under the heading "District of Columbia Funds" at a rate consistent with amounts identified in the District's FY2012 Budget Request Act (D.C. Act 19-92).
2013	P.L. 113-6	March 26, 2013	On September 28, 2012, because no regular FY2013 District of Columbia appropriations bill could be enacted before October 1, 2012, Congress included language in P.L. 112-175 allowing the District of Columbia to expend local funds for programs and activities under Title IV of H.R. 6020 (112 <sup>th</sup> Congress), as reported by the House Committee on Appropriations, at the rate set forth under "District of Columbia Funds—Summary of Expenses" as included in the Fiscal Year 2013 Budget Request Act of 2012 (D.C. Act 19-381), as modified as of the date of the enactment of H. J. Res. 117/P.L. 112-175. The act authorized the District to expend local funds for certain programs and activities. On March 26, 2013, the President signed P.L. 113-6, which included special appropriations for the District of Columbia.
2014	P.L. 113-76	January 17, 2013	On October 17, 2013, the President signed a continuing appropriations act for FY2014, P.L. 113-46, which provided funding authority through January 15, 2014, and included a provision releasing the District's General Fund Budget for FY2014 from further congressional review, allowing the District to expend locally raised revenues as outlined in the its Fiscal Year 2014 Budget Request Act of 2013 (D.C. Act 20-0127). On January 17, 2014, the President signed the Consolidated Appropriations Act for FY2014, P.L. 113-76, which included provisions approving FY2014 special federal payments to the District and the District's FY2014 operating budget for the remainder of the fiscal year.

Fiscal Year	P.L. Number	Date of Enactment	Remarks
2015	P.L. 113-235	December 16, 2014	On September 19, 2014, the President signed into law P.L. 113-134, a Continuing Budget Resolution for FY2015 (CR). The CR included a provision (Sec. 123) that allowed the District of Columbia to expend local funds under the heading "District of Columbia Funds" for programs and activities under title IV of H.R. 5016 (113 <sup>th</sup> Congress) as passed by the House of Representatives on July 16, 2014, at the rate set forth under "District of Columbia Funds—Summary of Expenses" as included in the Fiscal Year 2015 Budget Request Act of 2014 (D.C. Act 20-370.) On December 16, 2014, the President signed the Consolidated and Further Continuing Appropriations Act of FY2015, P.L. 113-235, which included provisions approving FY2015 special federal payments to the District.

**Source:** CRS analysis of legislative information obtained from Congress.gov.

The mayor's FY2016 budget request, which must be considered and approved by the Council before it is forwarded for congressional review, includes provisions that would provide the District with some level of autonomy over locally raised revenues. Specifically, the budget request would

- allow the District to decouple its fiscal year from the federal fiscal year allowing the District to establish when its local fiscal year would start;
- permit District officials to obligate and expend local funds upon enactment by the District of its local annual budget; and
- grant the District the authority to spend local funds if Congress does not enact a federal appropriation authorizing the expenditure of local funds before the start of the District's fiscal year.<sup>18</sup>

In addition, the District Delegate to Congress has introduced legislation, H.R. 552, a bill that would grant the District budget autonomy over locally raised revenues by eliminating the requirement for congressional approval of the District's General Fund budget. This is one in a line of budget autonomy bills that have been introduced in successive Congresses starting in 1981 when then District of Columbia Delegate to Congress, Walter Fauntroy, introduced a budget autonomy measure.<sup>19</sup>

In addition, to legislative proposals before Congress, in 2014, the District of Columbia Council was involved in a legal dispute with then Mayor Vincent Grant and the Chief Financial Officer, Jeffrey DeWitt, regarding a budget autonomy amendment to the District's home rule charter. On December 19, 2012, District of Columbia Council passed the Local Budget Autonomy Act of 2012, B19-993. The mayor signed the measure as A19-0632, on January 18, 2013. Subject to voter approval through the referendum process, the bill purportedly amended the District's home

<sup>18</sup> In addition to budget autonomy provisions included in the Mayor's budget request, the District's Delegate to Congress has also introduced legislation H.R. 552, that would grant local budget autonomy to the District. The District is also appealing a Superior Court decision in *District of Columbia Council v Vincent Gray, Mayor of the District of Columbia*. The case is before the United States Court of Appeals for the District of Columbia Circuit.

<sup>19</sup> The bill, H.R. 1254, as introduced in the 97<sup>th</sup> Congress would have amended the District's home rule charter by granting the District government autonomy over the expenditure of funds derived from locally generated revenues.

rule charter by eliminating the requirement for congressional approval of the District of Columbia budget as part of the federal appropriations process. Instead, the charter amendment simply would subject the District local budget (General Fund Budget) to a 30-day congressional review/layover period like all other laws passed by the District. Despite objections raised by the District's Attorney General in a letter,<sup>20</sup> dated January 4, 2013, the District of Board of Elections placed the proposed charter amendment on an April 23, 2013, ballot. District of Columbia voters approved the local budget autonomy charter amendment with 83% of the vote in support of the amendment.<sup>21</sup>

Although supportive of budget autonomy, the mayor informed the Council, in an April 11, 2014, letter,<sup>22</sup> of his intent not to enforce the law based on the opinion of the District's Attorney General that the charter amendment was unlawful. According to the mayor, the opinion of the District's Attorney General is legally "binding on Executive branch of the District government absent a controlling court opinion to the contrary."<sup>23</sup> The essential legal objection to the proposed charter amendment is captured in this excerpt from the Attorney General's letter to the District's Board of Election urging the Board of Election not to place the referendum of the ballot:

..., the OAG has serious reservations about the legality of the amendment, whether it would be sustained if challenged in court and most pertinently, whether the Board has the authority to place this amendment on a ballot referendum in light of the clear prohibition under Section 303(d) of the District of Columbia Home Rule Act ("Home Rule Act"), approved December 24, 1973, 87 Stat. 790, P.L. 93-198, D.C. Code §1-203.03(d) (2012 Supp.). That provision of governing law provides in relevant part that "*the [Charter] amending procedure may not be used to enact any law or affect any law with respect to which the Council may not enact under the limitations specified in §1-206.01 to §1-206.03.*" The statute is phrased in clear mandatory terms: a proposed amendment is precluded by law from going on the ballot through the Charter-amending procedure of Section 303 if the proposed amendment would "enact any law or affect any law with respect to which the Council may not enact ... under the limitation specified in" Sections 206.01-03. For reasons we detail below it is precisely these limitations, reserving to Congress, among other things, the authority to change the laws governing the role played by Congress and the President in the District's budget that in the considered judgment of this office, preclude using the charter amendment procedures, including the placement on a ballot for the electorate for the proposed amendment. Likewise, it is our view that under those express limitations, Congress or a court reviewing the merits of the legal issue would find the amendment to be outside the scope of the Charter amending process in Section 303 and also contrary to other federal laws, those found in Title 31 of the U.S. Code.

These objections were reiterated and expanded upon in an April 8, 2014, legal analysis by the Office of Attorney General. The Government Accountability Office (GAO) analysis articulated the following objections to the proposed charter amendment:

<sup>20</sup> See hand delivered letter to the District of Columbia Board of Elections at <http://oag.dc.gov/sites/default/files/dc/sites/oag/publication/attachments/to%20k.%20mcghie%20re%20budget%20autonomy%20act%201-4-13.pdf.pdf>.

<sup>21</sup> Mike DeBonis, "D.C. Council Files a Lawsuit Against Mayor, CFO Over Budget Autonomy Measure," *Washington Post*, April 17, 2014, [http://www.washingtonpost.com/local/dc-politics/dc-council-files-a-lawsuit-against-mayor-cfo-over-budget-autonomy-measure/2014/04/17/0cb80d64-c646-11e3-9f37-7ce307c56815\\_story.html](http://www.washingtonpost.com/local/dc-politics/dc-council-files-a-lawsuit-against-mayor-cfo-over-budget-autonomy-measure/2014/04/17/0cb80d64-c646-11e3-9f37-7ce307c56815_story.html).

<sup>22</sup> See [http://dccouncil.us/files/performance\\_oversight/letter\\_from\\_mayor\\_to\\_chairman1.pdf](http://dccouncil.us/files/performance_oversight/letter_from_mayor_to_chairman1.pdf).

<sup>23</sup> *Ibid.* p. 2.



**I. The act is null and void because the Council exceeded its authority in enacting it and because it violates federal law.**

- a. The act violates the limitations of Section 602(a)(3) because it changes the functions of the United States and because it is not restricted in its application exclusively or to the District.
- b. The act violates the limitations of Section 603(a) because it changes the longstanding roles and procedures of Congress, the President, and other federal entities in the formation of the District's total budget.
- a. The act violates the limitations of Section 603(e) by using the ratification process to establish local budget autonomy.

**II. The legal arguments advanced in support of the act are unpersuasive.<sup>24</sup>**

A GAO legal analysis also raised the same objection and questioned the legal standing of the proposed charter amendment.<sup>25</sup>

On April 17, 2014, the District of Columbia Council filed a suit in the United States District Court for the District of Columbia to compel the mayor to execute the charter amendment changes. On May 19, 2014, Judge Emmet G. Sullivan of the United States District Court for the District of Columbia issued an opinion concluding that the Local Budget Autonomy Act was unlawful and that District officials were permanently enjoined from enforcing it.<sup>26</sup> The Council appealed the decision and on October 18, 2014, presented its case before a three-judge panel of the United States Court of Appeals for the District of Columbia. Before the panel issued a ruling a new mayor was elected, Muriel Bowser, who reversed Mayor Gray's decision not to enforce the Budget Autonomy Act. On March 23, 2015, a Suggestion of Mootness and Motion to Dismiss was filed with United States Court of Appeals for the District of Columbia.<sup>27</sup> The motion claimed that since there was no dispute or disagreement between the Council and the mayor, the judgment rendered by the District Court for the District of Columbia in April 2014 should be vacated, the appeal dismissed, and the case remanded to the D.C. Superior Court. The Appeals Court has not yet acted on the motion to dismiss. Despite all that has transpired, the issue of budget autonomy remains an open question.

<sup>24</sup> Letter from Irvin Nathan, District of Columbia Attorney General, to Vince Gray, Mayor of the District of Columbia, April 8, 2014, Exhibit E at [http://dccouncil.us/files/performance\\_oversight/Complaint1.pdf](http://dccouncil.us/files/performance_oversight/Complaint1.pdf).

<sup>25</sup> U.S. Government Accountability Office, *District of Columbia—Local Budget Autonomy Amendment Act of 2012*, B-324987, January 30, 2014, pp. 5-8, <http://www.gao.gov/products/D06683>.

<sup>26</sup> *District of Columbia Council v. Vincent C. Gray, Mayor of the District of Columbia and Jeffrey DeWitt, Chief Financial Officer*, Civil Action No. 14.655 [https://ecf.dcd.uscourts.gov/cgi-bin/show\\_public\\_doc?2014cv0655-44](https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2014cv0655-44) (United States District Court for the District of Columbia 2014).

<sup>27</sup> *Council of the District of Columbia, Plaintiff-Appellant, v. Muriel Bowser, et al., Defendants-Appellees*, USCA 14-7067 (United States Court of Appeals for the District of Columbia 2015).

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