

Spotlight On District's FY2012 Budget

FY2012 Budget Debate Kicks Off

Mayor Gray submitted his FY2012 \$9.6 billion budget (all sources) to the Council on April 1, 2011 to mixed reviews. To balance what would have been a projected deficit of some \$320 million, the proposed budget calls for \$187 million in spending reductions and \$127 million in new taxes and fees, measures that are likely to trigger considerable opposition. DCBIA will prepare an analysis of the Mayor's proposal, monitor Council deliberations and report developments in what is poised to become the major legislative issue of the year.

First Source Legislation

On March 14, 2011, DCBIA President Merrick Malone, Legislative Committee Chair Rod Woodson, and Past President Bob Brauholer testified before Councilmember Michael Brown's Committee on Housing and Workforce Development in opposition to Bill 19-50, the "D.C. Workforce Intermediary Establishment and Reform of First Source and Living Wage Amendment Act of 2011." Comments from Councilmembers on the dais suggest that the bill will be substantially amended before it emerges from Committee mark-up — expected this summer. DCBIA will continuously monitor what has become a major regulatory issue and will press for a comprehensive review of current First Source law and regulations.

In a related development, Mayor's Order 2011-47, 2/23/11, delegates to the Deputy Mayor for Planning and Economic Development "additional functions" in overseeing compliance with First Source — indicating the Administration's determination to make the program work as the District government's response to the weakness in employment of District residents.

Ex-Offender Legislation

A first hearing on Bill 19-17, the "Human Rights for Ex-Offenders Amendment Act of 2011," introduced by Councilmember Marion Barry, was held before Councilmember Marion Barry's Committee on Aging and Community Affairs on March 11, 2011. The bill would extend to ex-offenders the same civil rights protections that now apply to, among other things, race, sex and religion. It further allows a job applicant's criminal record to be considered only

where there is a "rational relationship" between the nature of the crime committed and the duties of the position sought.

While ex-offenders obviously face serious difficulties in their re-entry to society, the bill's limitations on an employer's discretion in hiring raises its own troubling issues as the business community testified at the hearing. However, it is expected to be reported out of Committee for consideration by the full Council.

Wal-Mart Wars

Bill 19-170, the "Large Retailer Community Agreement Act of 2011," introduced by Councilmember Phil Mendelson and co-sponsored by Councilmembers Yvette Alexander, Muriel Bowser and Harry Thomas, Jr., would require large retailers (75,000 sf) to enter into a community benefits agreement as a condition of receiving a business license. The agreement, however, would not be with the District but with a vaguely defined "broad-based coalition of individuals and entities that are reflective of the community in which the retail store is located," suggesting that the business licensing and regulation of what are defined as large retailers would be in the hands of self-appointed neighborhood groups. This measure is clearly an anti-business legislative initiative, and DCBIA will monitor the situation and take future action as appropriate. This bill was referred to Councilmember Harry Thomas' Committee on Economic Development

Bill 19-171, the "Large Retailer Accountability Act of 2011," also introduced by Councilmember Mendelson, would extend First Source and Living Wage Act mandates to large retailers and their contractors — since "they would otherwise erode living standards for working families in the District." A collective bargaining agreement, however, waives the requirements of the bill. In both cases, the bills impose clearly discriminatory, union-supported requirements, which can only retard retail development in the District. It is worth noting that this very same legislation was presented to the Council several years ago and no action was taken at that time. The bill was referred to Councilmember Michael Brown's Committee on Housing and Workforce Development.



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LEGISLATION/REGULATION continued from page 9**Workplace Fraud Legislation**

Bill 19-169, the "Workplace Fraud Amendment Act of 2011," introduced by Councilmembers Phil Mendelson and Michael Brown, would direct the Mayor to investigate allegations by "interested parties" that employers in the "construction services industry" are improperly classifying individuals as independent contractors instead of bona fide employees. The bill provides penalties including treble damages for employers found in violation. Since the status of independent contractors is already closely regulated by the IRS as part of the national tax code, the bill raises questions as to whether it is pre-empted by federal law and as to its purposes — which may have less to do with fighting fraud and more with enforcing First Source and promoting union membership.

Housing Affordability Legislation

Bill 19-46, the "Housing Affordability Act of 2011," introduced by Councilmembers Marion Barry, Michael Brown and Jim Graham, would stipulate the allocation of local and federal funding for affordable housing development in the District. It reserves 40% of such funds for developments to serve households up to 30% of AMI; another 40% for households up to 50% of AMI; and 20%

for those up to 80% AMI. It specifies that no funds shall be utilized for developments serving households above 80% AMI (in an apparent set back to "workforce" housing development) and sets aside 10% of all funding for affordable home ownership.

Lead-Based Hazards

Act 18-697 makes effective as law the "Lead Hazard Prevention and Elimination Act of 2010," which expands protections for pregnant women and children under six and modifies disclosure requirements of housing accommodations regarding lead-based paint. The act also expands the authority of the Mayor to conduct inspections and order remedial action.

DDOE Project Priority List

The D.C. Construction Grants Program identifies the projects likely to receive federal and District funds for the construction and rehabilitation of wastewater treatment facilities and other environment-related purposes for FY 2011 and 2012. The DDOE draft priority list of projects can be accessed on its web site: <http://www.ddoe.dc.gov> under the information section at the Public Notices and Hearings link. ▲

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