
COMMITTEE ON PUBLIC SERVICES AND CONSUMER AFFAIRS

YVETTE M. ALEXANDER, CHAIRPERSON
FISCAL YEAR 2012 COMMITTEE BUDGET REPORT



TO: Members of the Council of the District of Columbia

FROM: Councilmember Yvette M. Alexander
Chairperson, Committee on Public Services and Consumer Affairs

DATE: May 10, 2011

SUBJECT: Report and Recommendations of the Committee on Public Services and Consumer Affairs on the Fiscal Year 2012 Budget for Agencies Under Its Purview

The Committee on Public Services and Consumer Affairs (“Committee”), having conducted hearings and received testimony on the Mayor’s proposed operating and capital budgets for Fiscal Year (FY) 2012 for the agencies under its purview, reports its recommendations for review and consideration by the Committee of the Whole. The Committee also recommends new subtitles to the Fiscal Year 2012 Budget Support Act of 2011, as proposed by the Mayor.

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I. SUMMARY

A. FISCAL YEAR 2012 AGENCY OPERATING BUDGET SUMMARY TABLE (Dollars in Thousands)

Fund Type	FY 2009 Actual	FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee
Department of Consumer and Regulatory Affairs (CR)							
Local Funds	17,153	15,499	7,871	9,466	0	9,466	20.3%
Dedicated Taxes	0	0	0	0	0	0	N/A
Special Purpose	16,084	16,752	16,844	15,990	0	15,990	-5.1%
Federal Funds	0	0	0	0	0	0	N/A
Private Funds	2	0	0	0	0	0	N/A
Intra-District	0	0	0	0	0	0	N/A
GROSS FUNDS	33,239	32,251	24,715	25,456	0	25,456	3.0%
Office of the Tenant Advocate (CQ)							
Local Funds	840	539	645	1,924	0	1,924	198.3%
Dedicated Taxes	0	0	0	0	0	0	N/A
Special Purpose	1,097	1,780	1,171	0	0	0	-100.0%
Federal Funds	0	0	0	0	0	0	N/A
Private Funds	2	0	0	0	0	0	N/A
Intra-District	0	0	0	0	0	0	N/A
GROSS FUNDS	1,939	2,319	1,816	1,924	0	1,924	5.9%
Public Service Commission (DH)							
Local Funds	0	0	0	0	0	0	N/A
Dedicated Taxes	0	0	0	0	0	0	N/A
Special Purpose	9,201	9,561	9,453	9,901	0	9,901	N/A
Federal Funds	125	220	402	475	0	475	18.2%
Private Funds	0	0	0	0	0	0	N/A
Intra-District	0	70	0	0	0	0	N/A
GROSS FUNDS	9,326	9,851	9,855	10,376	0	10,376	5.3%
Office of the People's Counsel (DJ)							
Local Funds	0	0	0	0	0	0	N/A
Dedicated Taxes	0	0	0	0	0	0	N/A
Special Purpose	4,708	4,723	5,170	5,447	0	5,447	5.4%
Federal Funds	0	0	0	0	0	0	N/A
Private Funds	0	0	0	0	0	0	N/A

Intra-District	0	0	0	0	0	0	N/A
GROSS FUNDS	4,708	4,723	5,170	5,447	0	5,447	5.4%
Department of Insurance, Securities and Banking (SR)							
Local Funds	0	0	0	0	0	0	N/A
Dedicated Taxes	0	0	0	0	0	0	N/A
Special Purpose	15,204	14,953	15,088	17,042	0	17,042	13.0%
Federal Funds	0	0	0	0	0	0	N/A
Private Funds	0	0	0	0	0	0	N/A
Intra-District	0	0	0	0	0	0	N/A
GROSS FUNDS	15,204	14,953	15,088	17,042	0	17,042	13.0%
Committee Revenue Actions (+ = Revenue Increase; - = Revenue Decrease)							
Local Funds	0	0	0	0	0	0	N/A
Dedicated Taxes	0	0	0	0	0	0	N/A
Special Purpose	0	0	0	0	0	0	N/A
Federal Funds	0	0	0	0	0	0	N/A
Private Funds	0	0	0	0	0	0	N/A
Intra-District	0	0	0	0	0	0	N/A
GROSS FUNDS	0	0	0	0	0	0	N/A
Inter-Committee Funding Transfers (+ = Transfer-In; - = Transfer Out)							
Local Funds	0	0	0	0	0	0	N/A
Dedicated Taxes	0	0	0	0	0	0	N/A
Special Purpose	0	0	0	0	0	0	N/A
Federal Funds	0	0	0	0	0	0	N/A
Private Funds	0	0	0	0	0	0	N/A
Intra-District	0	0	0	0	0	0	N/A
GROSS FUNDS	0	0	0	0	0	0	N/A
NET COMMITTEE ACTION							
Local Funds	17,993	16,038	8,516	11,390	0	11,390	33.7%
Dedicated Taxes	0	0	0	0	0	0	N/A
Special Purpose	46,294	47,769	47,726	48,380	0	48,380	1.4%
Federal Funds	125	220	402	475	0	475	18.2%
Private Funds	4	0	0	0	0	0	N/A
Intra-District	0	70	0	0	0	0	N/A
GROSS FUNDS	64,416	64,097	56,644	60,245	0	60,245	6.4%

B. FISCAL YEAR 2012 AGENCY FULL-TIME EQUIVALENT TABLE

Fund Type	FY 2009 Actual	FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee
Department of Consumer and Regulatory Affairs (CR)							
Local Funds	119.2	69.0	82.0	95.0	0.0	95.0	15.9%
Dedicated Taxes	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Special Purpose	179.5	185.6	183.0	170.0	0.0	170.0	-7.1%
Federal Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Private Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Intra-District	0.0	0.0	4.0	6.4	0.0	6.4	60.0%
GROSS FUNDS	298.7	254.6	269.0	271.4	0.0	271.4	0.9%
Office of the Tenant Advocate (CQ)							
Local Funds	6.9	4.3	7.5	13.5	0.0	13.5	80.0%
Dedicated Taxes	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Special Purpose	6.5	9.6	6.0	0.0	0.0	0.0	-100.0%
Federal Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Private Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Intra-District	0.0	0.0	0.0	0.0	0.0	0.0	N/A
GROSS FUNDS	13.4	13.9	13.5	13.5	0.0	13.5	0.0%
Public Service Commission (DH)							
Local Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Dedicated Taxes	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Special Purpose	57.4	64.8	67.1	67.2	0.0	67.2	0.1%
Federal Funds	1.0	1.1	5.5	5.4	0.0	5.4	N/A
Private Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Intra-District	0.0	0.0	0.0	0.0	0.0	0.0	N/A
GROSS FUNDS	58.4	65.9	72.6	72.6	0.0	72.6	0.0%
Office of the People's Counsel (DJ)							
Local Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Dedicated Taxes	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Special Purpose	31.5	32.5	33.4	33.4	0.0	33.4	0.0%
Federal Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Private Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Intra-District	0.0	0.0	0.0	0.0	0.0	0.0	N/A
GROSS FUNDS	31.5	32.5	33.4	33.4	0.0	33.4	0.0%

Department of Insurance, Securities and Banking (SR)							
Local Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Dedicated Taxes	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Special Purpose	98.5	92.4	101.8	111.8	0.0	111.8	9.8%
Federal Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Private Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Intra-District	0.0	0.0	0.0	0.0	0.0	0.0	N/A
GROSS FUNDS	98.5	92.4	101.8	111.8	0.0	111.8	9.8%
NET COMMITTEE ACTION							
Local Funds	126.1	73.3	89.5	108.5	0.0	108.5	21.2%
Dedicated Taxes	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Special Purpose	373.4	384.9	391.3	382.4	0.0	382.4	-2.3%
Federal Funds	1.0	1.1	5.5	5.4	0.0	5.4	N/A
Private Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Intra-District	0.0	0.0	4.0	6.4	0.0	6.4	60.0%
GROSS FUNDS	500.5	459.3	490.3	502.7	0.0	502.7	2.5%

C. FISCAL YEAR 2012 AGENCY CAPITAL BUDGET SUMMARY TABLE
(Dollars in Thousands)

The agencies under the purview of the Committee on Public Services and Consumer Affairs do not have any FY 2012 proposed capital budgets.

D. SUMMARY OF COMMITTEE BUDGET RECOMMENDATIONS

1. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Operating Budget Recommendations

- The Committee endorses the Mayor's FY 2012 operating budget request for DCRA.

Capital Budget Recommendations

- The Committee has no Capital Budget recommendations.

Policy Recommendations

1. In the last three Committee Budget Reports, the Committee recommended that DCRA reclassify two FTEs as inspection auditors. These new FTEs would be fluent in all applicable building and safety codes and would perform quality

control by spot-checking the competency and professionalism of DCRA inspectors. However, the agency reports that it has not reclassified or otherwise hired inspection auditors. The Committee directs the agency to immediately reclassify two FTEs as inspection auditors.

2. The Committee recommends that DCRA obtains approval from the City Administrator to fill the 23 vacant inspector positions as soon as possible. The Inspections Division is currently understaffed and the committee has great concern about the agency's ability to meet its responsibility to handle the demands of inspecting commercial and residential properties quickly and efficiently.
3. The committee is requesting that the vending regulations be submitted to the Council for review before July 15, 2011. The regulations are necessary to implement Bill 18-257, the "Vending Regulation Act of 2009" because they are the appropriate vehicle to establish prices for site permit prices, parameters of legal sites, appeals rights, and lottery specifications. Without regulations, the moratorium was, effectively, never lifted and there is no reestablished, vibrant vending program.
4. The committee recommends that DCRA sends renewal notifications to businesses no less than sixty (60) days prior to the expiration of the current license so all referenced timelines can be met and so that adequate time is provided to schedule inspections with the Department of Health when necessary.

Budget Recommendations not funded in the Committee's Report

The Committee is unable to fund the "District of Columbia Code Title 29 (Business Organizations) Enactment Act of 2010 (Bill 18-500; D.C. Act 18-724). This legislation is a comprehensive, up-to-date, organization of the Business Organizations Code. Once this legislation becomes effective, the District will have a modern, comprehensive, and user-friendly set of laws for business entities. In its fiscal impact statement dated December 2, 2010, the OCFO stated that funds were not sufficient to implement Bill 18-500. The OCFO found the legislation would have a negative fiscal impact of \$342,000 in FY 2011 and total net negative fiscal impact of \$251,000 over the FY 2011 through FY 2014 budget and financial planning period.¹ As discussed during its mark-up and vote of its FY 2012 Budget Report, the Committee strongly urges the full Council to fund this legislation.

¹ See Fiscal Impact Statement – "District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2010", December 2, 2010, found at http://app.cfo.dc.gov/services/fiscal_impact/pdf/spring09/FIS-18-500-DC-Official-Code-Title-29-Business-Organizations-Enactment-Act-of-2010.pdf

2. OFFICE OF THE TENANT ADVOCATE

Operating Budget Recommendations

- The Committee endorses the Mayor's FY 2012 operating budget for OTA.

Capital Budget Recommendations

- The Committee has no Capital Budget recommendations.

Policy Recommendations

The Committee directs the agency to publish within 60 days regulations detailing the use of the Housing Assistance Fund to include a limitation on the number of days that any individual or family may receive funds, total amount of funds that may be expended per individual or family, protocol for determining eligibility for funds, limitations on incidental expenditures, and procedures for preparing individuals and families to transition from emergency housing to permanent housing. The Committee also directs the agency to avoid co-mingling Housing Assistance Funds designated for emergency housing and those designated for administration of the agency.

3. PUBLIC SERVICE COMMISSION

Operating Budget Recommendations

- The Committee endorses the Mayor's proposed FY 2012 operating budget for the Public Service Commission.

Capital Budget Recommendations

- The PSC does not have a capital budget.

4. OFFICE OF THE PEOPLE'S COUNSEL

Operating Budget Recommendations

- The Committee endorses the Mayor's proposed operating budget for the Office of People's Counsel.

Capital Budget Recommendations

- The OPC does not have a capital budget.

5. DEPARTMENT OF INSURANCE, SECURITIES AND BANKING

Operating Budget Recommendations

- The Committee endorses the Mayor's FY 2012 operating budget request of \$17,042,318 for DISB. All of DISB's funding is from special purpose revenue.

Capital Budget Recommendations

- The Committee has no Capital Budget recommendations.

II. AGENCY FISCAL YEAR 2012 BUDGET RECOMMENDATIONS

A. INTRODUCTION

The Committee presents its recommendations for the District of Columbia's Fiscal Year 2012 budget. The Committee on Public Services and Consumer Affairs is responsible for matters related to: (1) consumer and regulatory affairs; (2) public utilities; and (3) the regulation of banks, securities, and insurance, including private health insurance. The following agencies come within the purview of the Committee on Public Services and Consumer Affairs: (1) the Department of Consumer and Regulatory Affairs; (2) the Office of the Tenant Advocate; (3) Public Service Commission; (4) the Office of the People's Counsel; and (5) the Department of Insurance, Securities and Banking.

On April 1, 2011, Mayor Vincent Gray submitted to the Council of the District of Columbia a proposed operating budget and financial plan for the upcoming 2012 Fiscal Year. The Committee held budget hearings to review the proposed budgets for the agencies under its purview, as follows:

April 11, 2011	Office of the Tenant Advocate Department of Consumer and Regulatory Affairs
April 20, 2011	Public Service Commission Office of People's Counsel Department of Insurance, Securities and Banking

The Committee received important comments from members of the public during these budget oversight roundtables. Copies of witness testimony are included in this report as *Attachments A and B*. A video recording of the hearings can be obtained through the Office of Cable Television or at oct.dc.gov. The Committee always welcomes public input on the agencies and activities within its purview.

While many agencies are experiencing proposed cuts this year, all of the agencies under the Committee's purview have been maintained either at FY 2011 levels or at slightly higher levels. This is due in large part to the nature of these agencies as revenue generators for the District of Columbia government. For example, the Department of Insurance, Securities and Banking is expected to provide millions in funding to the District's General Fund. The Department of Consumer and Regulatory Affairs also generates millions in revenue primarily from the permitting and corporations division. In the case of the Office of the People's Counsel and the Public Service Commission, these independent agencies are funded through an assessment on utility bills and are expected to play critical roles in the year ahead, as the District readies for the deployment of the smart grid.

In the Mayor's FY 2012 budget, the major change for the agencies under the Committee's purview involves the funding the Office of the Tenant Advocate. The funding for OTA will switch from special purpose revenue to local funds. Special purpose revenue funds had previously supported 6.0 FTEs. OTA administrative and operations functions will no longer be partially funded by two special purpose revenue streams: the Condo Conversion Fund and the Residential Accommodation Fee. This was a policy decision made by the Executive because these special purpose revenue streams have proven to be unreliable and they would not be sufficient to sustain OTA at its current funding levels. Establishing a base line level of local funds for OTA in the FY2012 budget provides a foundation of consistent and reliable funding for the agency in future fiscal budgets.

The Committee has examined the Mayor's FY 2012 budget proposal with due regard to the needs of each agency under its purview. The Committee believes that the recommendations contained herein provide each agency with the funds necessary to fulfill the core mission of each agency, and represent the policy priorities that best serve the District of Columbia.

B. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Fiscal Year 2012 Operating Budget, By Revenue Type							
Fund Type	FY 2009 Actual	FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee
Local Funds	17,153	15,499	7,871	9,466	0	9,466	20.3%
Dedicated Taxes	0	0	0	0	0	0	N/A
Special Purpose	16,084	16,752	16,844	15,990	0	15,990	-5.1%
General Fund Total	33,237	32,251	24,715	25,456	0	25,456	3.0%
Federal Payments	0	0	0	0	0	0	N/A
Federal Grant Funds	0	0	0	0	0	0	N/A
Federal Medicaid	0	0	0	0	0	0	N/A
Federal Funds Total	0	0	0	0	0	0	#DIV/0!
Private Grant Funds	2	0	0	0	0	0	N/A
Gross Funds, Less Intra-District	33,239	32,251	24,715	25,456	0	25,456	3.0%
Intra-District	620	436	0	0	0	0	N/A
GROSS FUNDS	33,859	32,687	24,715	25,456	0	25,456	3.0%

(Dollars in Thousands)

Fiscal Year 2012 Full-Time Equivalents, By Revenue Type							
Fund Type	FY 2009 Actual	FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee
Local Funds	119.2	69.0	82.0	95.0	0.0	95.0	15.9%
Dedicated Taxes	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Special Purpose	179.5	185.6	183.0	170.0	0.0	170.0	-7.1%
General Fund Total	298.7	254.6	265.0	265.0	0.0	265.0	0.0%
Federal Payments	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Federal Grant Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Federal Medicaid	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Federal Funds Total	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Private Grant Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Gross Funds, Less Intra-District	298.7	254.6	265.0	265.0	0.0	265.0	0.0%
Intra-District	0.0	0.0	4.0	6.4	0.0	6.4	60.0%
GROSS FUNDS	298.7	254.6	269.0	271.4	0.0	271.4	0.9%

Fiscal Year 2012 Operating Budget, By Comptroller Source Group (Gross Funds)

Comptroller Source Group		FY 2009 Actual	FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY101 Approved to FY12 Committee
11	Regular Pay	19,952	16,032	17,185	17,923	0	17,923	4.3%
12	Regular Pay - Other	248	207	318	149	0	149	-53.1%
13	Additional Gross Pay	962	1,010	0	0	0	0	N/A
14	Fringe Benefits	3,942	3,640	3,353	3,894		3,894	16.1%
15	Overtime Pay	219	267	129	129	0	129	0.0%
Personal Services (PS)		25,323	21,157	20,985	22,095	0	22,095	5.3%
20	Supplies & Materials	152	95	151	141	0	141	-6.6%
30	Utilities	107	28	0	0	0	0	N/A
31	Communications	406	370	0	389	0	389	N/A
32	Rent	4,029	7,454	0	0	0	0	N/A
33	Janitorial	52	0	0	0	0	0	N/A
34	Security	150	269	0	0	0	0	N/A
35	Occupancy Fixed Costs	39	38	0	0	0	0	N/A
40	Other Services & Charges	1,700	1,589	1,124	860	0	860	-23.5%
41	Contractual Services & Other	1,881	1,661	2,434	1,955	0	1,955	N/A
70	Equipment	18	25	21	16	0	16	-23.8%
91	Expense Not Budgeted Others	0	0	0	0	0	0	N/A
Nonpersonal Services (NPS)		8,534	11,530	3,730	3,361	0	3,361	-9.9%
GROSS FUNDS		33,857	32,687	24,715	25,456	0	25,456	3.0%

(Dollars in Thousands)

Fiscal Year 2012 Operating Budget, By Program (Gross Funds)

Agency Program		FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee
1000	Agency Management	13,614	5,010	4,633	0	4,633	-7.5%
1010	Personnel	478	338	225	0	225	-33.0%
1015	Training and Employee Development	89	0	0	0	0	N/A
1020	Contracting and Procurement	585	131	134	0	134	2.0%
1030	Property Management	8,451	176	178	0	0	2.0%
1040	Information Technology	680	1,399	1,520	0	1,520	7.8%
1055	Risk Management	277	400	337	0	337	-15.0%
1060	Legal	180	97	101	0	101	4.1%
1070	Fleet Management	396	181	277	0	277	53.0%
1080	Communications	155	167	0	0	0	-100.0%
1085	Customer Service	977	945	927	0	927	-1.9%

1090	Performance Management	1,347	1,178	933	0	933	-20.7%
100F	Agency Financial Operations	976	1,088	1,098	0	1,098	0.8%
100F	Budget Operations	266	259	270	0	270	4.2%
120F	Accounting Operations	409	437	456	0	456	4.3%
130F	ACFO Operations	301	393	372	0	372	-5.3%
2000	Permitting	4,023	4,315	4,327	0	4,327	0.3%
2020	Plan Review	2,035	3,435	2,379	0	2,379	-1.6%
2025	Homeowner Center	156	150	62	0	62	-58.6%
2030	Development Ambassador	288	261	329	0	329	20.6%
2040	Regulatory Investigations	5	0	0	0	0	N/A
2050	Permits	841	852	868	0	868	1.9%
2060	Surveyor	808	617	689	0	689	11.6%
2090	License and Registration Renewal	(50)	0	0	0	0	N/A
2095	Occupational and Professional Licensing	(60)	0	0	0	0	N/A
3000	Enforcement	2,726	2,061	2,881	0	2,881	39.8%
3020	Scheduling and Enforcement Unit	401	245	267	0	267	8.9%
3025	Vacant Property	293	283	291	0	291	2.8%
3040	Condemnation	45	0	0	0	0	N/A
3045	Regulatory Investigations	918	915	847	0	847	7.4%
3050	Rehabilitation	183	138	1,009	0	1,009	631.0%
3055	Consumer Protection	598	175	175	0	175	0.0%
3060	Weights and Measures	287	306	292	0	292	-4.2%
4000	Inspection	4,656	5,456	5,643	0	5,643	3.4%
3010	Building Inspections Division	2,706	3,145	3,095	0	3,095	-1.6%
3080	Residential Inspections	1,664	2,029	2,239	0	2,239	10.3%
3095 Construction Compliance		287	282	309	0	309	9.6%
6000	Zoning and Construction Compliance	1,158	1,080	1,106	0	1,106	2.4%
6010	Zoning Administrator	1,158	1,080	1,106	0	1,106	2.4%
7000	Licensing	5,534	5,704	5,768	0	5,768	1.1%
2070 Business Service Center		360	398	409	0	409	2.7%
2080	Corporation Division	693	608	629	0	629	3.4%
2090	License and Registration Renewal	1,554	1,313	1,221	0	1,221	-6.9%
2095	Occupational and Professional Licensing	2,927	3,385	3,509	0	3,509	3.6%

GROSS FUNDS	32,687	24,715	25,456	0	25,456	3.0%
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COMMITTEE ANALYSIS AND COMMENTS

a. Agency Mission and Overview

The mission of the Department of Consumer and Regulatory Affairs (DCRA) is to protect the health, safety, economic interests, and quality of life of residents, businesses, and visitors in the District of Columbia by issuing licenses and permits, conducting inspections, enforcing building, housing, and safety codes, regulating land use and development, and providing consumer education and advocacy services. This is an extensive mission that annually sees the agency issue over 35,000 building permits, 4,000 occupancy permits, and 50,000 business and professional licenses. The agency files over 65,000 corporate documents and conducts over 55,000 residential, commercial, and business-related inspections and investigations. DCRA is charged with ensuring that all businesses, professionals, and property owners adhere to District laws and regulations.

b. Mayor's Proposed Fiscal Year 2011 Operating Budget

Proposed Operating Budget Summary

The Mayor's proposed FY2012 budget for DCRA is \$25,455,922, a slight increase of \$741,004 from FY2011, or an increase of 3.0%. There is a proposed increase in local funds of approximately \$1.59 million, or 20.3%. Special purpose revenue funding is proposed to reflect an overall decrease by approximately \$854,000. The FY2012 budget includes authority for 265.0 full times equivalents (FTEs) which is a decrease of 6 FTEs from the FY2011 authority.

Local Funds: The Mayor's budget proposes local funds in the amount of \$9.46 million which is an increase of approximately \$1.59 million, or 20.3% above the FY2011 approved budget of \$7.87 million. The proposed local funding would support 95.0 FTEs, an increase of 13.0 FTEs, or 15.9% from FY2011. The agency's capital budget will be eliminated in FY 2012; therefore the Mayor has proposed that \$828,000 and 8.0 FTEs from the capital budget be transferred to local funds.

Special Purpose Revenue Funds: The proposed FY 2012 budget reflects \$15.9 million in special purpose revenue which is a decrease of \$854,000, or -5.1% from FY2011. This funding supports 170.0 FTEs which is a decrease of 13.0 FTEs, or -7.1% from FY2011.

Committee Analysis and Comments

Inspections: The FY 2012 proposed budget includes an overall increase of the Inspections Division of \$187,000 and a reduction of 1.0 FTE. The Committee has been assured that reduction of 1.0 FTE is for a non-essential administrative function that does not perform inspection functions. The Inspections Division is currently understaffed and

the committee has great concern about the agency's ability to meet its responsibility to handle the demands of inspecting commercial and residential properties quickly and efficiently. There are currently 23.0 vacant inspector positions. During the performance and budget oversight hearings, Director Majett stated that he plans to fill those vacant positions once he has been granted approval from the City Administrator to do so.

The Committee is pleased with the initial success of the proactive housing inspections program. Under this program the agency is able to identify and rectify housing code violations before they become a danger to the health or safety of tenants. According to Director Majett, DCRA has inspected 1,750 rental units in 565 buildings in every ward across the city.

Proactive Inspection Cycle: Prior to inspections, all buildings are automatically placed on a 5-year inspection cycle. If inspectors find substantial code violations in common areas, exterior premises, or apartment units, the building will be moved to a 2-year inspection cycle. A building can also be moved to the 2-year cycle for the following reasons: basic business license revocation, substantial tenant complaints, or pending enforcement action. *Inspection Process:* Inspections will be scheduled through the existing scheduling unit. If a building meets the minimum criteria (as determined using the International Property Maintenance Code), an inspector will issue a certificate of compliance for the building. For inspectors to issue certificates of compliance, they must have access to the required number of units per building. The required units for a certificate range from 15% to 50% based on the size of the building. If inspectors find egregious violations within the minimum required unit inspections, they reserve the right to request entry to 100% of occupied units.

If a building fails the inspection, it will be automatically placed on a 2-year inspection cycle. Once a building is placed on the 2-year inspection cycle, it cannot move to the 5-year cycle until passing re-certification inspection conducted two years later. Inspectors will write Notice of Violations for all violations and identify a timeframe for the owner to come into compliance. Certificates of Compliance will not be issued to buildings that fail their compliance inspections until violations are abated to the passing level. Mirroring the existing residential inspection process, a re-inspection will be scheduled automatically when inspectors find violations. Inspectors will return to the units with violations to verify code compliance. If violations have not been abated, a Notice of Infraction is written for the violations, and forwarded to the Enforcement and Compliance Division.

Upon the hiring of additional inspectors, the Committee would like to see the number of units inspected under the proactive housing inspections programs to rise significantly so that the agency can identify and rectify more housing code violations to better protect residents.

The Committee recognizes that the inspections division lost 10.0 FTEs in the FY2011 budget. There was also a new agency requirement imposed that mandated that all inspectors were ICC certified in multiple disciplines. Director Majett testified at his

confirmation hearing that he doesn't think that this new requirement has been totally successful. The Committee believes that if this new requirement has not proven highly beneficial or helped to improve the quality of inspections, that it should be reconsidered. As a result of the reduction of inspectors, the scheduling of complaint based inspections can take up to two weeks and this time frame is unacceptable to the committee.

In the past three committee budget reports, it has been recommended that DCRA reclassify two FTE positions as inspection auditors. Inspection auditors would be knowledgeable in all building and inspection codes and would thus be able to examine and monitor the competency and proficiency of inspectors. The Committee believes by reclassifying two FTE positions would provide competent oversight over new inspectors and those that are not ICC certified.

Business Licensing: DCRA licenses and regulates all businesses in the District of Columbia. This licensing is done through the Basic Business License Program, the Occupational and Professional Licensing Division, and the Vending Program. The proposed budget for the division is \$5,768,809 and 46.0 FTEs which represents an increase of \$64,000 and a decrease of 1.0 FTEs from FY2011. According to the testimony of Director Majett, the decrease of 1.0 FTE represents a vacant non-essential administrative position.

The business licensing program has received a great deal of complaints from individuals and business owners regarding the difficulties they have in obtaining and renewing business licenses due to what can at times be burdensome and time consuming requirements. There have also been complaints that licenses were not issued within the referenced timeframes.

In his testimony Director Majett stated that DCRA's goal is "to reduce the time required to review license applications, with the aim of converting more of our license categories into same day issuances." DCRA is currently implanting new policies and procedure that will help to make the licensing process more efficient and customer friendly. One new practice is self-certification for certain license categories that require a building inspection before the issuance of a license. After self-certification and immediate issuance of a license, DCRA would subsequently perform an inspection. DCRA is also making more license applications and renewals available online which allows applicants to avoid having to apply in person.

One major point of concern regarding business licenses is the renewal process, specifically for businesses that require inspections by the Department of Health. The committee has received complaints from businesses regarding the timeliness of renewal notifications being sent to them and the ability for the business to schedule a timely inspection with the Department of Health before the current license expires. The committee recommends that DCRA sends renewal notifications to businesses no less than sixty (60) days prior to the expiration of the current license so that all referenced timelines can be met and so adequate time is provided to schedule inspections with the Department of Health when necessary.

DCRA has also launched its Small Business Resource Center which provides training and consultation services to customers who may need assistance in navigating the licensing, corporate registration, and permitting processes. The Small Business Resource Center will assist small businesses apply for and obtain business licenses by facilitating the application and review process in an efficient and expeditious manner. The center staff will guide the applicant from the preliminary business concept to the application and finally to the issuance of the licenses.

Vending: In July of 2009, the Council approved Bill 18-257, the “Vending Regulation Act of 2009”. That bill represented the culmination of years of work on the part of the government, the Council, vendors, businesses, and residents and was necessary to prevent a return to the unregulated and problematic vending program of years past. The legislation sought to reestablish a vibrant vending program in the District that was fair to vendors and businesses and safe for residents and visitors. The bill was designed to permanently lift the vending moratorium, permit vending only from designated locations, authorize the Mayor to charge fees for permits and licenses, authorize pilot vending programs within designated areas, create a Vending Task Force, provide a lottery preference for vendors at the Nationals Ballpark, and authorize the regulation of public markets. The bill is a thoughtful, necessary measure that remains unimplemented.

The Committee notes, and commends, the efforts of the Vending Task Force. The Task force was convened in late 2009. It consisted of 21 people representing vending, inline business, and community interests. The group met several times and made valuable contributions to, what the committee hopes will soon be a re-energized vending program. DCRA has yet to implement the legislation because it has failed to promulgate regulations. The regulations are necessary to implement the law because, for instance, they are the appropriate vehicle to establish prices for site permit prices, parameters of legal sites, appeals rights, and lottery specifications. Without regulations, the moratorium was, effectively, never lifted and there is no reestablished, vibrant vending program.

The Committee has received dozens of phone calls, e-mails, and letters from individuals with a vested interest in vending in the District who can do nothing but wait for DCRA to promulgate regulations. DCRA has drafted the regulations they have been made available for public comment and according to DCRA, they have received over 2,500 comments. Since the public comment period has closed, both DCRA and the Committee have continued to periodically meet with stakeholders to discuss the lingering issues, including the matters surrounding mobile food vending, baseball stadium vending, roadway vending, and the concerns of brick and mortar businesses. The committee is requesting that the regulations be submitted to the Council for review before July 15, 2011.

Permitting: The Mayor’s FY 2012 budget proposes \$4,327,229 and 52.0 FTEs to this function, which is an increase of about \$12,000 from FY2011 and a decrease of 1.0 FTE. This program encompasses a number of major activities, including permit plan review, a Development Ambassador program to support large scale projects, the Office of

the Surveyor, and all occupational and professional licensing functions. The permitting program is a customer-oriented program that requires a high level of logistical planning, exceptional organization, and a professional customer service team capable of helping residents navigate the difficult process.

However, the permitting division has still received complaints regarding the length of review time for re-submitted applications and the inability to complete the permitting process online. To combat these issues, Director Majett testified that the agency has invested resources in a computerized system called “Project Dox” which is an electronic permit submittal and review system that will assist plan designers and reviewers in expediting the process. This new system will also allow applicant to review their application status online in addition to informing them of what corrections may be needed.

Overall, DCRA has made significant progress within the permitting program and the Committee believes that current funding levels will help to further improve the agency’s efforts to streamline and automate the permitting, licensing, and surveying processes.

Fines and Fees Collection: The Committee continues to be concerned that the agency is not collecting all available fees and fines from property owners. The agency has provided the Committee with an accounting of all civil infractions issued and collected in FY2010 and FY2011, to date.

In FY2010, DCRA issued 1690 civil infractions for a proposed amount of \$3,502,601. However, the agency only collected \$1,377,745, or 39%.

FY10 ADMINISTRATION	# OF NOIs RECEIVED	PROPOSED \$ AMOUNT
<i>ILLEGAL CONSTRUCTION</i>	477	\$1,657,800
<i>RIS</i>	283	\$706,600
<i>BUILDING INSPECTIONS</i>	649	\$821,201
<i>VP</i>	65	\$129,000
<i>WM</i>	8	\$17,500
<i>CONSUMER PROTECTION</i>	7	\$28,000
<i>SUMMARY GRASS</i>	201	\$142,500
<i>Totals</i>	1690	\$3,502,601

In FY2011 to date, DCRA issued 561 civil infractions for a proposed amount of \$1,186,500. However, the agency has only collected \$346,250 to date, or 29%.

FY11 ADMINISTRATION	# OF NOIs RECEIVED	PROPOSED \$ AMOUNT
<i>ILLEGAL CONSTRUCTION</i>	<i>163</i>	<i>\$534,500</i>
<i>RIS</i>	<i>69</i>	<i>\$174,600</i>
<i>BUILDING INSPECTIONS</i>	<i>185</i>	<i>\$291,400</i>
<i>VP</i>	<i>62</i>	<i>\$124,000</i>
<i>WM</i>	<i>6</i>	<i>\$3,000</i>
<i>CONSUMER PROTECTION</i>	<i>N/A</i>	<i>N/A</i>
<i>SUMMARY GRASS</i>	<i>76</i>	<i>\$59,000</i>
<i>TOTALS</i>	<i>561</i>	<i>\$1,186,500</i>

As the District is currently faced with extreme budget challenges, it is critically important that DCRA collects as much as possible from the infractions that it issues.

c. Mayor's Proposed Fiscal Year 2012-2017 Capital Budget

Proposed Capital Budget Summary

There is no capital budget proposed for the FY2012 DCRA budget.

Committee Analysis and Comments

The agency's capital budget was reduced by \$828,500 and 8.0 FTEs as a result of a shift to local funds. According to Director Majett, the decision to shift these funds to local dollars was a policy decision by the Executive.

The capital budget funded the Nuisance Abatement Fund (NAF) and the Comprehensive Property Management System (CPMS). The CPMS is a computerized system that allows DCRA supervisors to manage the workforce more effectively, while also creating virtual offices for inspectors out in the field and giving them access to real-time information from multiple databases.

The Committee is concerned about the NAF and its funding in out years and the management of the fund. Many of the agency's inspection functions are funded through the nuisance abatement fund. The Committee wants to be sure that DCRA will be able to increase its productivity in this program as inspections are vitally important to maintaining the safety of our residents.

2. COMMITTEE RECOMMENDATIONS

a. Fiscal Year 2012 Operating Budget Recommendations

The Committee endorses the Mayor's FY 2012 operating budget request of \$25,455,922 for DCRA.

b. Fiscal Year 2012 Capital Budget Recommendations

The Department of Consumer and Regulatory Affairs has no capital budget funding for FY 2012.

c. Policy Recommendations

1. In the last three Committee Budget Reports, the Committee recommended that DCRA reclassify two FTEs as inspection auditors. These new FTEs would be fluent in all applicable building and safety codes and would perform quality control by spot-checking the competency and professionalism of DCRA inspectors. However, the agency reports that it has not reclassified or otherwise hired inspection auditors. The Committee directs the agency to immediately reclassify two FTEs as inspection auditors.
2. The Committee recommends that DCRA obtains approval from the City Administrator to fill the 23 vacant inspector positions as soon as possible. The Inspections Division is currently understaffed and the committee has great concern about the agency's ability to meet its responsibility to handle the demands of inspecting commercial and residential properties quickly and efficiently.
3. The committee is requesting that the vending regulations be submitted to the Council for review before July 15, 2011. The regulations are necessary to implement Bill 18-257, the "Vending Regulation Act of 2009" because they are the appropriate vehicle to establish prices for site permit prices, parameters of legal sites, appeals rights, and lottery specifications. Without regulations, the moratorium was, effectively, never lifted and there is no reestablished, vibrant vending program.
4. The committee recommends that DCRA sends renewal notifications to businesses no less than sixty (60) days prior to the expiration of the current license so all referenced timelines can be met and so that adequate time is provided to schedule inspections with the Department of Health when necessary.

d. Budget Recommendations not funded in the Committee’s Report

The Committee is unable to fund the “District of Columbia Code Title 29 (Business Organizations) Enactment Act of 2010 (Bill 18-500; D.C. Act 18-724). This legislation is a comprehensive, up-to-date, organization of the Business Organizations Code. Once this legislation becomes effective, the District will have a modern, comprehensive, and user-friendly set of laws for business entities. In its fiscal impact statement dated December 2, 2010, the OCFO stated that funds were not sufficient to implement Bill 18-500. The OCFO found the legislation would have a negative fiscal impact of \$342,000 in FY 2011 and total net negative fiscal impact of \$251,000 over the FY 2011 through FY 2014 budget and financial planning period.² As discussed during its mark-up and vote of its FY 2012 Budget Report, the Committee strongly urges the full Council to fund this legislation.

C. OFFICE OF THE TENANT ADVOCATE

Fiscal Year 2012 Operating Budget, By Revenue Type							
Fund Type	FY 2009 Actual	FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee
Local Funds	840	539	645	1,924	0	1,924	198.3%
Dedicated Taxes	0	0	0	0	0	0	N/A
Special Purpose	1,097	1,780	1,171	0	0	0	N/A
General Fund Total	1,937	2,319	1,816	1,924	0	1,924	5.9%
Federal Payments	0	0	0	0	0	0	N/A
Federal Grant Funds	0	0	0	0	0	0	N/A
Federal Medicaid	0	0	0	0	0	0	N/A
Federal Funds Total	0	0	0	0	0	0	0.0%
Private Grant Funds	2	0	0	0	0	0	N/A
Gross Funds, Less Intra-District	1,939	2,319	1,816	1,924	0	1,924	5.9%
Intra-District	0	0	0	0	0	0	0.0%
GROSS FUNDS	1,939	2,319	1,816	1,924	0	1,924	5.9%

² See Fiscal Impact Statement – “District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2010”, December 2, 2010, found at http://app.cfo.dc.gov/services/fiscal_impact/pdf/spring09/FIS-18-500-DC-Official-Code-Title-29-Business-Organizations-Enactment-Act-of-2010.pdf

Fiscal Year 2012 Full-Time Equivalents, By Revenue Type							
Fund Type	FY 2009 Actual	FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee
Local Funds	6.9	4.3	7.5	13.5	0.0	13.5	80.0%
Dedicated Taxes	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Special Purpose	6.5	9.6	6.0	0.0	0.0	0.0	-100.0%
General Fund Total	13.4	13.9	13.5	13.5	0.0	13.5	0.0%
Federal Payments	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Federal Grant Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Federal Medicaid	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Federal Funds Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
Private Grant Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Gross Funds, Less Intra-District	13.4	13.9	13.5	13.5	0.0	13.5	0.0%
Intra-District	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
GROSS FUNDS	13.4	13.9	13.5	13.5	0.0	13.5	0.0%

Fiscal Year 2011 Operating Budget, By Comptroller Source Group (Gross Funds)								
Comptroller Source Group		FY 2009 Actual	FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee
11	Regular Pay	954	936	911	942	0	942	3.4%
12	Regular Pay - Other	1	27	15	14	0	14	-6.7%
13	Additional Gross Pay	0	21	0	0	0	0	N/A
14	Fringe Benefits	173	224	187	170	0	170	-9.1%
15	Overtime Pay	2	6	0	0	0	0	N/A
Personal Services (PS)		1,131	1,213	1,113	1,126	0	1,126	1.2%
20	Supplies & Materials	18	39	0	22	0	22	N/A
30	Utilities	0	0	0	0	0	0	N/A
31	Communications	17	31	0	38	0	38	N/A
32	Rent	78	171	0	0	0	0	N/A
33	Janitorial	0	0	0	0	0	0	N/A
34	Security	5	0	0	0	0	0	N/A
35	Occupancy Fixed Costs	10	1	0	0	0	0	N/A
40	Other Services & Charges	85	129	573	290	0	290	-49.4%
41	Contractual Services & Other	570	736	130	434	0	434	234.0%
50	Subsidies & Transfers	0	0	0	109	0	109	N/A
60	Land & Building	0	0	0	0	0	0	N/A
70	Equipment	23	0	0	2	2	2	N/A
91	Expense Not Budgeted Others	0	0	0	0	0	0	N/A
Nonpersonal Services (NPS)		806	1,106	703	895	0	895	27.3%

GROSS FUNDS	1,937	2,319	1,816	2,021	0	2,021	11.3%
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(Dollars in Thousands)

Fiscal Year 2012 Operating Budget, By Program (Gross Funds)							
		FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee
1000	Administrative Services	770	392	485	0	485	23.7%
1030	Property Management	202	0	0	0	0	N/A
1040	Information Technology	0	0	38	0	38	N/A
1050	Financial Management	0	0	0	0	0	N/A
1090	Performance Management	568	392	327	0	327	-16.5%
3000	Housing Assistance Community Service Program	835	774	561	0	561	-27.5%
2010	Housing Assistance Community Service Program	835	774	561	0	561	-27.5%
3000	Legal Representation	608	463	660	0	660	42.5%
3010	Housing Assistance	608	463	382	0	382	-17.5%
3020	Scheduling and Enforcement Unit	0	0	50	0	50	N/A
3030	Housing Service Center	0	0	337	0	337	N/A
4000	Legal Advocacy Program	106	187	118	0	118	-36.9%
4010	Legal Advocacy Program	106	187	118	0	118	-36.9%
4020	Research and Development	0	0	19	0	19	N/A
5000	OTA Educational Institute	0	0	100	0	100	N/A
5010	OTA Educational Institute	0	0	100	0	100	N/A
GROSS FUNDS		2,319	1,816	1,924	0	1,924	5.9%

(Dollars in
Thousands)

1. COMMITTEE ANALYSIS AND COMMENTS

a. Agency Mission and Overview

Established as an independent agency effective October 1, 2007, the mission of the Office of the Tenant Advocate (OTA) is to advocate for the rights and interests of the District's tenants, and to educate and inform tenants, tenant organizations, and the people of the District about tenant-related laws, rules, and policy matters. According to the "Office of the Chief Tenant Advocate Establishment Act of 2005", OTA: (1) provides education and outreach to the tenant community about laws, rules and other policy

matters involving rental housing and tenant rights; (2) represents the interests of tenants in legislative, regulatory, and judicial matters; (3) advises tenants on filing complaints and petitions regarding disputes with landlords; and (4) refers tenants who seek representation in administrative or judicial actions to attorneys or legal services and provides funding for representation in certain instances.

Although a small agency in terms of staffing and budget, this mandate is expansive as it affects approximately 60% of the District's residents and crosses into the jurisdictions of several agencies and Council Committees. For instance, the District's rent control laws fall within the purview of the Department of Housing and Community Development, but the health and safety issues fall within the jurisdiction of the Department of Health, DCRA, and even Metropolitan Police, and Fire and Emergency Medical Services. Further, federal housing programs implicate another layer of jurisdiction.

b. Mayor's Proposed Fiscal Year 2011 Operating Budget

Proposed Operating Budget Summary

The Mayor's proposed FY2012 budget for OTA is \$1,923,771, a slight increase of \$107,756, or an increase of 5.9%. There is a proposed increase of local funds in the amount of approximately \$1,279,000, or 198%. Special purpose revenue funding is proposed to reflect a decrease of approximately \$1,171,000 which is a 100% reduction from FY 2011. The FY 2012 budget includes authority for 13.5 FTEs which is equivalent to FY 2011 levels.

Local Funds: The Mayor's budget proposes local funds in the amount of \$1,923,771 which is an increase of 198% from FY 2011. The proposed local funding would support 13.5 FTEs, an increase of 6 FTEs funded with local funds versus FY 2011. Overall, the FY 2012 budget provides the same total FTE level as FY 2011 budget. There was an Executive policy decision made to fully fund OTA with local dollars instead of partial funding from special purpose revenue funds, which the Committee supports.

Special Purpose Revenue Funds: The proposed FY 2012 budget reflects \$0 in special purpose revenue funding which is a decrease of approximately \$1,171,000, or 100% from the FY2011 budget. Special purpose revenue funds had previously supported 6.0 FTEs. OTA administrative and operations functions will no longer be partially funded by two special purpose revenue streams: the Condo Conversion Fund and the Residential Accommodation Fee. This was a policy decision made by the Executive because these special purpose revenue streams have proven to be unreliable and they would not be sufficient to sustain OTA at its current funding levels. Establishing a base line level of local funds for OTA in the FY2012 budget provides a foundation of consistent and reliable funding for the agency in future fiscal budgets.

Committee Analysis and Comments

Legal Service Providers: OTA's mission includes the representation of tenants and tenant organizations in court or administrative proceedings. To supplement the agency's legal staff, the agency has entered into contracts with the following legal service provider vendors for the following amounts for FY11:

Legal Counsel for the Elderly	\$75,000
Jamil Zouaoui, Esq.	<u>\$60,000</u>
	\$135,000

Legal Counsel for the Elderly represents elderly tenants in the Landlord/Tenant Branch of superior Court and the Office of Administrative hearing, in addition to providing social services incidental to representation. Jamil Zouaoui represents tenant associations and handles issues relating to the Tenant Opportunity to Purchase Act, specifically. In FY2010, OTA had agreements with three additional service providers.

The Committee is concerned that in FY2011, because of the protracted and challenging contracting process OTA did not have the same capacity to enter into agreements with legal service providers even though funding was available to do so. OTA has been working with the Office of Contracting and Procurement to reevaluate the process for OTA to contract with outside providers. One of the problems that has plagued this process is the synchronization of contract years and fiscal years. This created a problem for the issuance of purchase orders and timely payment to providers. This has proved to be especially frustrating because the funds are available to enter into agreements but because of the challenges, OTA has not been able to utilize the much needed services of the providers.

Emergency Housing: Another important mission of the agency is to manage and administer the Housing Assistance Fund established by § 42-3403.07. Also known as the Condo Conversion Fee fund, all collections of the condominium or cooperative conversion fee are deposited therein and then expended, for among other purposes, to provide recently displaced tenants with temporary shelter. In FY2010, OTA provided relocation housings assistance to 280 individuals in 95 cases for persons displaced by fire, flood, or government closure.

The guidelines for use of the fund should be clearly defined. By statute, the funds are to be expended for relocation payments including storage, first month's rent, moving expenses and other items incidental to relocation. The amount and method of relocation payments shall be determined by OTA. The Committee recognizes that vague parameters for the use of the fund allow the agency a necessary measure of discretion but too much discretion can lead to questionable spending. In the FY2011 budget report, the Committee directed OTA to issue regulations detailing the use of the Housing Assistance Fund to include a limitation on the number of days that any individual or family may receive funds, total amount of funds that may be expended per individual or family, protocol for determining eligibility for funds, limitations on incidental expenditures, and

procedures for preparing individuals and families to transition from emergency housing to permanent housing. The Committee has been in communication OTA and has been assured that the regulations will be submitted to the Council for review in the coming weeks.

In the FY2012 Budget Support Act (Bill 19-203), Section 937 repeals the “special purpose revenue fund (“Condo Conversion Fund”) established by Section 307 of the Rental Housing Conversion and Sale Act of 1980 (RHCSA), effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code § 42-3403.07). Section 1004 of Bill 19-203 directs that the remaining Condo Conversion Fund balance at the end of FY 2011, and additional local revenue, be deposited into the OTA’s account in order to allow the OTA to continue the EHAP program.

As a result of this repeal, OTA’s authority to administer the EHAP program would in effect be eliminated. So in order to keep the Emergency Housing Assistance program running, the Committee will submit a new subtitle to the Budget Support Act titled the “Office of the Tenant Advocate Amendment Act of 2011” that will amend Title 42 of the District of Columbia Code to clarify that the Office of the Tenant Advocate has continued authority to operate the Emergency Housing Assistance Program even in the absence of the Condo Conversion Fund.

Staff and Office Space: The Committee is pleased to report that OTA has finally moved into adequate office space that meets the demanding needs of the agency. In March 2011, OTA relocated to the 3rd floor of Reeves Center located at 2000 14th Street, NW. Committee staff has toured the new facilities and believes that OTA now has the physical resources to better serve the District’s tenant population.

OTA has a relatively small staff with just 13.5 FTEs. The FY2012 proposed budget gives authority for an FTE level that is equal to the FY2011 levels. While OTA is confident that they can meet all of its statutory mandates and fulfill its mission to serve tenants, the Committee believes that OTA needs budget authority for an additional 2.5 FTEs. OTA needs the authority to hire two more attorney positions and one legislative position. OTA has added an additional attorney to its staff in each of the past two (2) fiscal years to help tenants dealing with eviction actions in Landlord and Tenant Court, rent increase cases before the Office of Administrative Hearings, and TOPA rights.

As Director Shreve testified at the April 11, 2011 budget oversight hearing, “Over the past three (3) fiscal years, our client intake has more than doubled to include over 2,200 cases and over 9,000 individuals in the last fiscal year alone.” During the Committee’s performance and budget oversight hearings, numerous public witnesses testified to the effectiveness and quality of work that OTA provides, however, they felt that the agency needs more manpower to meet their ever increasing demands. There are more tenant issues remediable only through litigation than there are staff attorneys to handle them. OTA can provide litigation support only in limited circumstances, typically when a tenant or association is in dire need or when the outcome of the case might have profound precedential effect. Without legal representation, tenants must overcome

landlords who are more experienced in landlord-tenant matters, better-financed, and often assisted by law firm counsel. The Committee recognizes the need for more attorney staff but regrets that it has been unable to identify additional funding for additional staff in the FY2012 budget.

c. Mayor's Proposed Fiscal Year 2012-2017 Capital Budget

Proposed Capital Budget Summary

The Office of the Tenant Advocate has no capital budget funding.

2. COMMITTEE RECOMMENDATIONS

a. Fiscal Year 2012 Operating Budget Recommendations

The Committee endorses the Mayor's FY 2012 operating budget request of \$1,923,771 for OTA.

b. Fiscal Year 2012 Capital Budget Recommendations

The Committee has no capital budget recommendations.

c. Policy Recommendations

The Committee directs the agency to publish within 60 days regulations detailing the use of the Housing Assistance Fund to include a limitation on the number of days that any individual or family may receive funds, total amount of funds that may be expended per individual or family, protocol for determining eligibility for funds, limitations on incidental expenditures, and procedures for preparing individuals and families to transition from emergency housing to permanent housing. The Committee also directs the agency to avoid co-mingling Housing Assistance Funds designated for emergency housing and those designated for administration of the agency.

D. PUBLIC SERVICE COMMISSION

Fiscal Year 2012 Operating Budget, By Revenue Type							
Fund Type	FY 2009 Actual	FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee
Special Purpose	9,201	9,561	9,453	9,901	0	9,901	0.0%
General Fund Total	9,201	9,561	9,453	9,901	0	9,901	4.7%
Federal Grant Funds	125	220	402	475	0	475	18.2%
Intra-District	0	70	0	0	0	0	-0.1%
GROSS FUNDS	9,326	9,851	9,856	10,376	0	10,376	5.3%

Fiscal Year 2012 Full-Time Equivalents, By Revenue Type							
Fund Type	FY 2009 Actual	FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee
Special Purpose	57.4	64.8	67.1	67.2	0	67.2	0.1%
General Fund Total	57.4	64.8	67.1	67.2	0	67.2	0.1%
Federal Grant Funds	1.0	1.1	5.5	5.4	0.0	5.4	-1.3%
Federal Funds Total	1.0	1.1	5.5	5.4	0.0	5.4	-1.3%
GROSS FUNDS	58.4	65.9	72.6	72.6	0.0	72.6	0.0%

Fiscal Year 2012 Operating Budget, By Comptroller Source Group (Gross Funds)							
Comptroller Source Group	FY 2009 Actual	FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee
11 Regular Pay	4,599	4,927	5,061	5,309	0	5,309	4.9%
12 Regular Pay - Other	979	1,008	1,149	1,229	0	1,229	7.0%
13 Additional Gross Pay	3	25	0	0	0	0	N/A
14 Fringe Benefits	969	1,079	1,120	1,301	0	1,301	16.2%
15 Overtime Pay	0	0	0	0	0	0	N/A
Personal Services (PS)	6,550	7,039	7,330	7,839	0	7,839	6.9%
20 Supplies & Materials	46	43	36	40	0	40	12.3%
30 Energy, Comm. and Bldg Rentals	1	2	2	2	0	2	0.0%
31 Communications	82	76	69	80	0	80	15.9%
32 Rent	1,789	1,517	1,607	1,671	0	1,671	N/A

33	Janitorial	0	0	0	2	0	2	N/A
35	Occupancy Fixed Costs	0	9	0	8	0	8	N/A
40	Other Services & Charges	262	383	264	347	0	347	31.4%
41	Contractual Services & Other	348	601	418	204	0	204	-51.1%
70	Equipment	248	181	130	182	0	182	39.7%
Nonpersonal Services (NPS)		2,776	2,812	2,526	2,537	0	2,537	-1.7%
GROSS FUNDS		9,326	9,851	9,856	10,376	0	10,376	5.2%

Fiscal Year 2011 Operating Budget, By Program (Gross Funds)							
Agency Program		FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee
1000	Agency Management	3,536	3,399	3,836	0	3,836	12.9%
100F	Agency Financial Operations	270	263	277	0	277	5.3%
2000	Pipeline Safety	332	540	258	0	258	-37.8%
3000	Utility Regulation	5,625	5,654	5,669	0	5,669	0.0%
4000	Electricity Regulation - ARRA	0	0	336	0	336	100.0%
7000	Broadband Mapping	70	0	0	0	0	0.0%
8000	Public Service Commission	18	0	0	0	0	0.0%
GROSS FUNDS		9,851	9,856	10,376	0	10,376	5.3%

1. COMMITTEE ANALYSIS AND COMMENTS

a. Agency Mission and Overview

The Public Service Commission (PSC) is an independent quasi-judicial body whose mission is to serve the public interest by ensuring that financially healthy electric, natural gas, and telecommunications companies provide safe, reliable, and quality services at reasonable rates for District of Columbia residential, business, and government customers. The PSC is funded by an assessment made on utilities, energy suppliers, and competitive local exchange carriers operating in the District of Columbia.

b. Mayor's Proposed Fiscal Year 2012 Operating Budget

Proposed Operating Budget Summary

The Mayor's proposed gross funds budget is \$10,375,515, an increase of \$519,584 from the FY 2011 revised budget of \$9,855,931. This funding supports 72.6 FTEs, of which 2.6 positions are in the Office of the Chief Financial Officer.

Special Purpose Revenue Funds: The proposed budget is \$9,901,000, an increase of \$447,000 from the FY 2011 revised budget.

Federal Grant Funds: The proposed budget is \$475,000, an increase of \$73,000 from the FY 2011 revised budget. This increase in federal funds reflects two federally funded grants, one from the U.S. Department of Transportation ("USDOT") to support the Natural Gas Pipeline Safety Program and the other from the U.S. Department of Energy ("USDOE") to support the Commission's electricity docket.

Committee Analysis and Comments

The Committee finds that the PSC's budget request is quite similar to its current FY2011 budget. The requested budget increase is primarily based in the Commission's personal services. Specifically, \$36,000 is attributed to the restoration of step increases, \$115,000 restores the 4 furlough days taken in FY 2011, \$135,000 reflects higher District government-wide fringe benefit cost increases, \$172,352 is attributed to right-sizing the costs of personal services for underfunded positions, and \$50,000 restores money deducted by the Mayor's office after the Council passed the FY 2011 budget.

Formal Rate Cases: Continuing the achievement of last year, the Commission was able to meet its goal of making a timely decision in Pepco's rate case in less than 90 days from the close of the record. By approving a moderate \$19.8 million in an electric distribution rate increase, the Commission approved less than half of Pepco's request for \$44.5 million in rate increase. Additionally, the Commission put Pepco on notice that it might consider reliability as an issue in the next rate case.

Website Enhancements: The Commission enhanced its website to include a new homepage that focuses on educating consumers about customer choice; adding historical records to the Commission's electronic filing system, eDocket; and adding a new Advanced Metering Infrastructure (AMI) section to the website so electricity customers can be informed about smart meters and track when they will be installed in their neighborhoods. The Commission projected 12,000 hits from changing the website; the actual number exceeded 150,000.

Underground Wiring: There has been much debate as to whether undergrounding electric wires would help prevent many of the outages that occur in this area. As a result, the Commission paired with Shaw Consultants to help complete an

independent study regarding the feasibility and reliability of undergrounding Pepco's overhead lines.

ARRA-funded Positions: The Commission filled all five of the ARRA-funded positions by the end of the fiscal year. The positions included a law clerk, electrical engineer, economist, program analyst and consumer specialist. All of the positions are term positions.

Timely Licensing Requests: The Commission has acted on all licensing requests in a timely manner, completing them within 45 calendar days for alternative electricity suppliers, within 20 calendar days for alternative commodity gas suppliers and within 15 business days for all local telecommunications service providers.

Manhole Inspections: An independent consultant was hired by the Commission to inspect more than 200 Pepco manholes. All manholes found with deficiencies were referred to Pepco and the problems were resolved.

Community Outreach: The Commission participated in an impressive ninety-eight community outreach events throughout the city in FY 2010. These programs center around topics such as Smart Meters, energy efficiency, and consumer support.

Current Performance Plan Initiatives/Rate Cases: The Commission is exploring dynamic pricing options for electricity customers. In F.C. No. 1056, the Commission has prepared an order on Pepco's dynamic pricing options for standard default service customers. The Commission has opened another proceeding to address policy issues such as cyber-security and data access, how to persuade third-party suppliers to provide dynamic pricing options, and rate design options to support distributed generation and plug-in electric vehicles. The Commission has issued a request to engage one or more consultants to address these issues.

AMI Taskforce: An Advanced Metering Infrastructure (AMI) Task Force has been established by the Commission to help develop and implement a customer education campaign. The Task Force is comprised of members of the Public Service Commission, the Office of the People's Counsel and Pepco. The Task Force submitted its proposed plan on March 1st. Initial comments were due on March 30th and reply comments were due on April 11th.

Pepco Reliability: Pepco's reliability, and the Commission's actions regarding Pepco's reliability, has been a major concern of the Committee. In October 2010, the Commission started the process of revising the reliability benchmarks by tasking the Productivity Improvement Working Group (PIWG) with the job of creating proposals for the Commission to take under consideration. In January 2011, a series of storms in the District resulted in widespread electrical outages. Public disappointment prompted the Commission to expedite the process by issuing a Notice of Proposed Rulemaking ("NOPR") on March 11, 2011. The NOPR contains specific annual benchmarks for Pepco to achieve through 2020.

c. **Mayor’s Proposed Fiscal Year 2012-2017 Capital Budget**

Proposed Capital Budget Summary

The Public Service Commission has no Capital Budget funding.

2. **COMMITTEE RECOMMENDATIONS**

a. **Fiscal Year 2012 Operating Budget Recommendations**

The Committee directs the agency to either fill the “Deputy General Counsel” position or direct the money allotted to the position be used in another essential area. This position has been vacant for more than two and a half years. The Committee believes it is not an essential position requiring the \$103,000 allotment that it currently receives.

b. **Fiscal Year 2012 Capital Budget Recommendations**

The Committee has no capital budget recommendations.

E. OFFICE OF THE PEOPLE’S COUNSEL

Fiscal Year 2011 Operating Budget, By Revenue Type							
Fund Type	FY 2009 Actual	FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee
Special Purpose	4,708	4,723	5,170	5,447	0	5,447	5.4%
General Fund Total	4,708	4,723	5,170	5,447	0	5,447	5.4%
GROSS FUNDS	9,326	9,851	9,856	10,376	0	10,376	5.3%

Fiscal Year 2011 Full-Time Equivalents, By Revenue Type							
Fund Type	FY 2009 Actual	FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee
Special Purpose	31.5	32.5	33.4	33.4	0.0	33.4	0.0%
General Fund Total	31.5	32.5	33.4	33.4	0.0	33.4	0.0%
GROSS FUNDS	31.5	32.5	33.4	33.4	0.0	33.4	0.0%

Fiscal Year 2011 Operating Budget, By Comptroller Source Group (Gross Funds)								
Comptroller Source Group	FY 2009 Actual	FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee	
11	Regular Pay	2,833	2,793	3,038	3,241	0	3,241	6.7%
13	Additional Gross Pay	123	65	0	0	0	0	N/A
14	Fringe Benefits	438	446	499	587	0	587	17.6%
Personal Services (PS)		3,394	3,304	3,537	3,828	0	3,828	8.2%
20	Supplies & Materials	52	51	33	40	0	40	12.3%
30	Energy, and Bldg Rentals	0	0	1	0	0	0	-100.0%
31	Communications	15	118	32	17	0	17	-46.9%
32	Rent - Land and Structures	682	605	836	796	0	796	N/A
33	Janitorial	0	0	0	2	0	2	N/A
35	Occupancy Fixed Costs	0	5	0	8	0	8	N/A
40	Other Services & Charges	331	367	353	325	0	347	-1.7%
41	Contractual Services & Other	162	144	300	242	0	242	-51.1%
70	Equipment	72	129	78	189	0	189	39.7%
Nonpersonal Services (NPS)		1,314	1,419	1,633	1,619	0	1,619	-0.9%
GROSS FUNDS		4,708	4,723	5,170	5,447	0	5,447	5.4%

Fiscal Year 2011 Operating Budget, By Program (Gross Funds)							
Agency Program	FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee	
1000	Agency Management Program	1,869	1,777	1,890	0	1,890	6.4%
100F	Agency Financial Operations	141	166	172	0	172	3.6%
2000	Office of People's Counsel	2,712	3,227	3,385	0	3,385	4.9%
GROSS FUNDS		4,722	5,170	5,447	0	5,447	5.4%

1. COMMITTEE ANALYSIS AND COMMENTS

a. Agency Mission and Overview

The Office of the People's Counsel (OPC) is an independent advocacy agency whose mission is to provide education, outreach, and advocacy to District utility consumers and ratepayers to ensure they receive safe, adequate, and reliable utility services at rates that are just, reasonable, and nondiscriminatory. The People's Counsel participates in proceedings in front of the District of Columbia Public Service Commission (PSC) and the Federal Energy Regulatory Commission as the ratepayers advocate. OPC is funded by an assessment made on utilities, energy suppliers, and competitive local exchange carriers operating in the District of Columbia.

b. Mayor's Proposed Fiscal Year 2012 Operating Budget

Proposed Operating Budget Summary

The Mayor's proposed gross funds budget is \$5,447,184, an increase of \$724,011, or 5.4% over the FY 2011 budget of \$5,170,198. This funding supports 33.4 FTEs, unchanged from the FY 2011 approved level. There are no program enhancements in the proposed budget.

Special Purpose Revenue Funds: The proposed budget is \$5,447,000, an increase of \$277,000 from the FY 2011 revised budget. The proposed budget includes a \$290,000 increase in personal services to pay for mandated increases in regular pay, restoration of furlough days, and gap closing.

Committee Analysis and Comments

The Committee notes that the OPC's budget is revenue neutral to the District's budget and tax base. Additionally, the OPC has several vacancies that are currently available. Interviews for each of these vacancies are currently taking place.

Leadership Transition: The Committee notes that the OPC is undergoing a leadership transition. The Mayor has recently appointed a permanent nominee for the new People's Counsel. The Interim People's Counsel has vacated the position and the new Acting People's Counsel is currently awaiting confirmation from the District Council.

The Acting People's Counsel is an experienced litigator, adjudicator and professional manager of personnel, government operations and budgets. She has served

the Office of the People's Counsel as Deputy People's Counsel for over 15 years prior to appointment.³

Consumer Education: The Committee applauds the OPC for its dedication to providing education to ratepayers. The OPC has worked to inform consumers about their rights and obligations concerning utility services and current issues impacting utility services. Additionally, OPC's staff uses the agency's outreach and education programs as a means to receive information from consumers regarding problems and issues they may have with their utility service.

OPC has created several informative workshops, but one of immediate need was the workshop dedicated to Smart Meter education. The District's Advanced Metering Infrastructure ("AMI") deployment and implementation undertaken by the Potomac Electric Power Company ("PEPCO"), is one of the biggest changes in the delivery and pricing of electricity for District consumers. OPC held a number of Smart Meter Education forums that were designed to introduce District consumers to the new smart meters PEPCO was deploying. To date, OPC has sponsored seven (7) forums presenting detailed information on the deployment of smart meters in the District. OPC will continue to inform the community as AMI deployment persists.

In addition to the AMI workshops, OPC has held workshops on FiOS – Verizon's fiber optic broadband system, energy efficiency, and multi-family housing energy efficiency.

Washington Gas' Revenue Decoupling Proposal Language: OPC secured a victory for the District when it was able to successfully convince the Public Service Commission to reject Washington Gas' request for a decoupling mechanism, which is designed to retroactively change consumer bills on a monthly basis so that revenues reflect the effects of weather and conservation. OPC advocated for the rejection of such changes on the basis that Washington Gas failed to demonstrate that its proposal is just or reasonable. As a result, the PSC rejected Washington Gas' request to adopt this mechanism after deciding it was best to consider the request in the context of a fully litigated base rate proceeding. The PSC decision is a victory for District consumers and ratepayers who will not see any increase in their home heating bills.

Sustainable Energy Utility: The OPC is a statutory member of the Sustainable Energy Utility Advisory Board. As a member, the OPC has advocated on behalf of District consumers, explaining that the millions of dollars received in the Sustainable Energy Trust Fund, which is funded by District ratepayers, needs to be properly allocated for its intended purpose so that the Distract can begin to utilize its own savings.

PEPCO's Management Audit: The OPC requested the PSC conduct a full-scale management and operations audit of PEPCO. As a result, the PSC has required PEPCO to procure the services of a contractor to conduct a comprehensive audit of PEPCO which will examine executive management and corporate governance, organizational structure,

³ OPC Press Release, April 20, 2011. www.opc-dc.gov/news-room/news/569.

strategic planning, finance, accounting and property records, distribution and operations management, human resources, customer service, and external controls.

c. Mayor’s Proposed Fiscal Year 2012-2017 Capital Budget

Proposed Capital Budget Summary

OPC has no Capital Budget funding.

2. COMMITTEE RECOMMENDATIONS

a. Fiscal Year 2012 Operating Budget Recommendations

The Committee endorses the Mayor’s proposed Fiscal Year 2012 operating budget request of \$5,447,184 for the OPC.

b. Fiscal Year 2012 Capital Budget Recommendations

The Committee has no capital budget recommendations.

F. DEPARTMENT OF INSURANCE, SECURITIES AND BANKING

Fiscal Year 2012 Operating Budget, By Revenue Type							
Fund Type	FY 2009 Actual	FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee
Local Funds	0	0	0	0	0	0	N/A
Dedicated Taxes	0	0	0	0	0	0	N/A
Special Purpose	15,204	14,953	15,088	17,042	0	17,042	13.0%
General Fund Total	15,204	14,953	15,088	17,042	0	17,042	13.0%
Federal Payments	0	0	0	0	0	0	N/A
Federal Grant Funds	0	0	0	0	0	0	N/A
Federal Medicaid	0	0	0	0	0	0	N/A
Federal Funds Total	0	0	0	0	0	0	N/A
Private Grant Funds	0	0	0	0	0	0	N/A
Gross Funds, Less Intra-District	15,204	14,953	15,088	17,042	0	17,042	13.0%
Intra-District	60	60	0	0	0	0	N/A
GROSS FUNDS	15,264	15,013	15,088	17,042	0	17,042	13.0%

(Dollars in Thousands)

Fiscal Year 2012 Full-Time Equivalents, By Revenue Type							
Fund Type	FY 2009 Actual	FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee
Local Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Dedicated Taxes	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Special Purpose	98.5	92.4	101.8	111.8	0.0	111.8	9.8%
General Fund Total	98.5	92.4	101.8	111.8	0.0	111.8	9.8%
Federal Payments	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Federal Grant Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Federal Medicaid	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Federal Funds Total	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Private Grant Funds	0.0	0.0	0.0	0.0	0.0	0.0	N/A
Gross Funds, Less Intra-District	98.5	92.4	101.8	111.8	0.0	111.8	9.8%
Intra-District	0.0	0.0	0.0	0.0	0.0	0.0	N/A
GROSS FUNDS	98.5	92.4	101.8	111.8	0.0	111.8	9.8%

Fiscal Year 2012 Operating Budget, By Comptroller Source Group (Gross Funds)								
Comptroller Source Group		FY 2009 Actual	FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee
11	Regular Pay	8,551	8,324	8,173	9,304	0	9,304	13.8%
12	Regular Pay - Other	261	389	361	252	0	252	-30.2%
13	Additional Gross Pay	209	251	113	113	0	113	0.0%
14	Fringe Benefits	1,617	1,675	1,561	1,934	0	1,934	23.9%
15	Overtime Pay	11	1	21	21	0	21	0.0%
Personal Services (PS)		10,649	10,640	10,229	11,624	0	11,624	13.6%
20	Supplies & Materials	54	38	75	75	0	75	0.0%
31	Communications	72	72	85	85	0	85	0.0%
32	Rentals - Land & Structures	1,930	2,013	1,621	1,763	0	1,763	8.8%
33	Janitorial	0	0	0	23	0	23	N/A
35	Occupancy Fixed Costs	0	7	0	0	0	0	N/A
40	Other Services & Charges	971	823	1,297	1,334	0	1,334	2.9%
41	Contractual Services - Other	88	10	81	200	0	200	146.9%
50	Subsidies & Transfers	984	1,072	1,097	1,337	0	1,337	21.9%
70	Equipment	516	338	602	602	0	602	0.0%
Nonpersonal Services (NPS)		4,615	4,372	4,858	5,418	0	5,418	11.5%
GROSS FUNDS		15,264	15,012	15,087	17,042	0	17,042	13.0%

(Dollars in Thousands)

Fiscal Year 2012 Operating Budget, By Program (Gross Funds)

Agency Program		FY 2010 Actual	FY 2011 Approved	FY 2012 Mayor	Committee Variance	FY 2012 Committee	Percent Growth FY11 Approved to FY12 Committee
1000	Agency Management Program						
1010	Personnel	0	85	98	0	98	15.3%
1017	Labor Partnership	74	67	70	0	70	4.5%
1040	Office of IT & Support	979	955	922	0	922	-3.5%
1055	Risk Management	532	260	248	0	248	-4.6%
1080	Public Affairs	425	317	325	0	325	2.5%
1090	Performance Management	407	427	569	0	569	33.3%
1095	Consumer Protection	0	259	0	0	0	-100.0%
100F	Agency Financial Operations						
110F	Budget Operation	152	121	127	0	127	5.0%
120F	Accounting Operation	365	379	386	0	386	1.8%
130F	ACFO	161	165	173	0	173	4.8%
2000	Insurance Program					0	
2010	Insurance Products	3,041	0	0	0	0	N/A
2020	Consumer & Prof. Licensing	1,154	0	0	0	0	N/A
2030	Financial Examination	886	0	0	0	0	N/A
2040	Forms Analysis	0	2,753	3,149	0	3,149	14.4%
2045	Market Conduct	0	170	177	0	177	4.1%
2050	HMO	450	464	623	0	623	34.3%
2055	Consumer Services	0	666	1,071	0	1,071	60.8%
2060	Professional Services	0	362	521	0	521	43.9%
2065	Financial Regulatory	0	617	683	0	683	10.7%
2070	Actuarial Analysis	0	296	379	0	379	28.0%
3000	Securities Program					0	
3010	Corporate Finance	1,427	1,391	0	0	0	-100.0%
3020	Securities Examination	585	552	0	0	0	-100.0%
3030	Securities Licensing	433	397	0	0	0	-100.0%
4000	Enforcement Program					0	
4010	Compliance	196	0	0	0	0	N/A
4020	Investigative	695	0	0	0	0	N/A
4050	Enforcement	0	301	207	0	207	-31.2%
4060	Investigations	0	699	821	0	821	17.5%
5000	Banking					0	
5010	Depository	609	0	0	0	0	N/A
5020	Non Depository	1,130	0	0	0	0	N/A
5055	Examination	0	1,680	0	0	0	-100.0%
5060	Licensing	0	426	0	0	0	-100.0%
6000	Risk Finance					0	
6010	Compliance	714	0	0	0	0	N/A

6020	Financial Analysis	597	1,277	1,511	0	1,511	18.3%
7000	Securities and Banking					0	
7010	Corporate Finance	0	0	2,951	0	2,951	N/A
7020	Securities and Banking Examination	0	0	1,226	0	1,226	N/A
7030	Securities and Banking Licensing	0	0	805	0	805	N/A
GROSS FUNDS		15,012	15,086	17,042	0	17,042	13.0%

(Dollars in Thousands)

1. COMMITTEE ANALYSIS AND COMMENTS

a. Agency Mission and Overview

The Department of Insurance, Securities and Banking (“DISB” or “Department”) was established in 2004 by legislation which merged the Department of Banking and Financial Institutions and the Department of Insurance and Securities Regulation into a unified agency.

The mission of DISB is (1) to provide thorough, efficient, and prompt regulatory supervision of the financial services operating in the District of Columbia for the protection of the residents in the District; and (2) to create conditions that will attract and retain financial services firms to the District of Columbia. DISB regulates the following financial services entities: (1) insurance companies, insurance providers, health maintenance organizations, captive insurance companies and risk retention groups; (2) investment advisers, investment advisor representatives, broker-dealers, broker-dealer agents, securities offerings, issuers, and agents of issuers; and (3) District and state-chartered banks, mortgage lenders and brokers, mortgage loan originators, check cashers, money transmitters, consumer-sales-finance companies, money lenders, and consumer-credit-service organizations.

DISB’s current organizational structure includes five operating bureaus – (1) Insurance, (2) Securities, (3) Banking, (4) Risk Finance, (5) Enforcement and Investigations. DISB was required by law to merge the Banking Bureau and the Securities Bureau.⁴ The Mayor’s proposed FY 2012 budget will complete this merger.

b. Mayor’s Proposed Fiscal Year 2012 Operating Budget

Proposed Operating Budget Summary

The Mayor’s proposed gross funds budget is \$17,042,318, an increase of \$1,954,722 or 13% from the FY 2011 approved budget of \$15,087,596. DISB’s

⁴ FY 2011 Budget Support Act of 2010, (D.C. Act 18-462; D.C. Law 18-223)

operating budget consists entirely of special purpose revenue funds generated from DISB's licensing fees and other revenue generated through regulation. DISB's operating budget does not contain any local funds or other funds.

Special Purpose Revenue Funds: The Mayor's proposed budget is 17,042,318, an increase of \$1,954,722 over the FY 2011 approved budget of \$15,087,596. This funding supports 111.8 FTEs, which is an increase of 10 FTEs above the FY 2011 approved level. The change reflects an additional 12 FTEs needed for the agency's increased workload resulting from federal legislation. These positions include positions related to consumer protection advocates, insurance, captive insurance, economic development, and a policy analyst. DISB will also transfer 2 FTEs from the agency to the Office of the Attorney General.

The following dedicated taxes and special purpose revenue comprise the entirety of DISB's operating budget for FY 2012⁵:

Revenue Source Name	Description	Fee and How it is Set	Who Pays?	Amount generated (FY 2012 projected)	Expenditures (FY 2012 projected)	Balance (expected balance at end of FY 2012)
HMO Assessment	An assessment on health care organizations	.03% of premium	Health Insurance Companies	\$859,553	\$859,553	\$0
Insurance Assessment	A fee to operate as a mutual company	.03% of premium	Insurance Companies	\$7,817,583	\$7,682,126	\$135,457
Securities Broker/Dealer Licenses	A license to operate as a broker/dealer in the District (reverts to general fund at FY end)	\$45 for B/D rep and \$250 for the B/D firm	Securities B/D	\$7,957,082	\$6,556,900	\$1,400,182
Securities Investment Advisors Fees	A license to operate as a securities investment advisor in the District (reverts to general fund at FY end)	\$45 for B/D rep and \$250 for B/D firm	Securities B/D	\$460,706	\$0	\$460,706
Securities Registration Fees	Fees that are required by D.C. Code associated with the registration and notice filing sale of securities in	1/10 of 1% of gross securities sale in the District	Investment Companies	\$8,832,402	\$0	\$8,832,402

⁵ Source: DISB, "Dedicated Taxes and Special Purpose Revenue", Attachment #5, agency responses to Committee's budget hearing questions for April 20, 2011 budget hearing.

	the District (revert to general fund and FY end)					
Captive Premium Tax	Premium Taxes, a license to engage in business offers	⁶ See below	Licensed captive insurance companies	\$2,277,249	\$1,943,739	\$333,510
Banking Licenses/Assessments & Fees	A license to engage in mortgage, lending & broker, and check cashing business	Fees governed by legislation and regulation	Mortgage lender brokers, check cashiers, money lenders, sales finance, ATMs, and banks	\$0	\$0	\$0
Total				\$28,204,575	\$17,042,318	\$11,162,257

Committee Analysis and Comments

The Committee believes that the Mayor’s proposed FY 2012 budget is appropriate in order to equip DISB with the resources necessary to protect consumers who may be harmed by insufficient regulation of the financial services and insurance industries. The proposed FY 2012 budget will allow DISB to maintain and improve its existing regulatory functions. All of DISB’s funding comes from special purpose revenue, which also generates revenue that is deposited into the general fund.

It is crucial for the District that DISB regulates effectively so that it can generate fees for the District. In FY 2010, DISB generated total revenue of \$27,963,827 and had a budget of \$15,000,864. Most of the difference between DISB’s generated revenue and the Department’s expenditure reverted to the General Fund.⁷ The Committee believes that it is important to enable DISB to maintain and extend its role as both a consumer advocate and a revenue generator for the District. The Committee notes that any further deterioration in the economy will require an increased focus on areas managed by DISB, including the affordability and availability of health insurance, lending to individuals and small businesses, and access to mortgages.

Health Reform: The Patient Protection and Affordable Care Act, Pub. L. No. 111-148, and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152 (collectively, “Federal Health Care Reform Acts” or “Acts”) signed into law by President Obama in March 2010 will have a significant impact on health insurance in the District of Columbia. While the private insurance market and the oversight work of DISB comprise

⁶ .0025 x \$0 to \$25 million; .0015 x \$25 to \$50 million; .0005 x > \$50 million; max annual tax = \$100,000; min. tax = \$7,500 or \$15,000 depending on type of company.

⁷ Surplus revenue from (1) Securities Broker/Dealer Licenses; (2) Securities Investment Advisors Fees; and (3) Securities Registration Fees revert to the District’s general fund. In FY 2010, this amounted to \$12,807,476 – Source – Attachment # 5 from Department’s responses for April 20, 2011 budget oversight hearing.

a large focus of the Acts, there are also provisions of the Acts that will impact the work of multiple District of Columbia agencies and impact the District's public health programs including Medicaid & Medicare, long term care, health care workforce development, and small businesses among other areas.

The health insurance reforms of the Acts aims to expand health insurance coverage to millions of Americans. Over the next four years, our insurance markets will see changes in the method and manner that coverage is sold and provided, in the manner that coverage is financed, and also in the manner that covered services are paid for by insurers. These changes will require a large number of modifications to health insurance products and the regulations that govern them. By 2014, the District must establish a health insurance exchange to assist consumers in obtaining coverage. In this same year, individuals who can afford coverage will be required to maintain health insurance coverage or pay a fine to the federal government.

On May 4, 2011, Mayor Gray announced the creation of the "Mayor's Health Reform Implementation Committee." The committee will advise and make recommendations to the Mayor's office on the implementation of the 2010 federal healthcare reform acts. The committee will be chaired by Wayne Turnage, Director of the Department of Health Care Finance and co-chaired by Department of Health Director Dr. Mohammad Akhter and DISB Acting Commissioner William White. It will direct the work of subcommittees on Eligibility and Medicaid Expansion; Insurance; and Health Delivery System and is designed to ensure smooth and rapid implementation of the new legislation. The Committee looks forward to working *collaboratively* with the Executive and other stakeholders to effectively implement federal healthcare legislation. The Committee will do its part to ensure that any necessary legislative changes that fall under its purview will receive *thoughtful and careful review*.

Dodd Frank Act: On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act ("the Act"). The Act made major changes to the supervision and regulation of financial services. One major impact of the Act is that the Department will see an increase in the number of investment advisers licensed by the Department because the Act increased the assets under management threshold from \$25 million to \$100 million for those investment advisers that will have to register with the Securities and Exchange Commission. There are other provisions of the Act that will impact on the activities, policies, and procedures of brokers, dealers and investment advisers. The Act also may increase the authority of the District over national banking institutions as a result of the Act's limitation on federal preemption with respect to federal banks. Consequently, DISB will need to focus on:

- ***Increasing collaboration with federal agencies:*** The role of the newly constituted Consumer Financial Protection Bureau ("CFPB"), the establishment of the Financial Stability Oversight Council and the increased role of the Federal Reserve Board necessitate the need to coordinate with these agencies to address various consumer protection issues. The impact of the legislation is already visible. For instance, on January 4, 2011, CFBP executed a Memorandum of

Understanding (“MOU”) with the Conference of State Banking Supervisors (“CSBS”), a banking regulators’ trade association to which DISB belongs. The MOU seeks to promote consistent examination procedures and effective enforcement of state and federal consumer laws and to minimize regulatory burden and efficiently deploy supervisory resources. The MOU also provides that state regulators and the CFPB will consult each other regarding the standards, procedures, and practices used by state regulators and the CFPB to conduct compliance examinations of providers of consumer financial products and services, including non-depository mortgage lenders, mortgage servicers, private student lenders, and payday lenders. It is anticipated that the other state banking regulatory trade associations as well as state banking departments will execute similar agreements in the near future. DISB is reviewing the document to determine its implications and the next steps, and the Committee will continue to follow-up with DISB regarding this issue.

- *Enhancing its regulatory framework and supervisory guidance:* The Act includes provisions that impose new restrictions on mortgage origination, mortgage servicing, loan underwriting, and appraisals, among other things. Pursuant to these provisions, a number of regulations to implement these requirements have already been enacted while others still need to be finalized. These rules, which are aimed at strengthening DISB’s efforts to license and appropriately supervise these service providers, will positively impact the Department’s ability to examine them. Further, by requiring certain non-bank financial institutions and their subsidiaries to be supervised by the Federal Reserve in the same manner and to the same extent as if they were a bank holding company, it removes several loop holes that previously allowed certain non-bank entities to avoid direct supervision by any regulator. This is expected to enhance DISB’s consumer protection efforts.
- *Strengthening its enforcement capabilities:* The Act clarifies a number of preemption issues, including the ability of states to enforce laws against national banks and thrifts and the ability of a state attorney general to enforce a state law against a national bank. The Act also allows a state attorney general that has jurisdiction over a defendant to bring a civil action in that state to enforce the provisions of the Act or any regulations issued there under. As part of this expanded enforcement framework, DISB has joined other state regulators, acting at the behest of all the states attorneys general, to conduct examinations of certain large mortgage servicers to identify servicing/foreclosure related misconduct.

Small Business Jobs Act: The Small Business Jobs Act of 2010 was signed by President Obama on September 27, 2010. This law created the State Small Business

Credit Initiative and appropriated \$1.5 billion to the Department of the Treasury to be provided to the States and the District to increase credit for small businesses. In Council Period 18, the Council passed the Capital Access Program Act of 2010⁸ (“Cap Act”) to ensure that the District would be able to receive its share of these funds. The District is currently working on its application to secure its share of the funds, which will equal at least \$13.5 million. DISB has informed the Committee that the Cap Act may need to be amended in order to participate in the program. Specifically, Section 7(d) of the Act requires the Mayor to match the lender’s and borrower’s contributions up to 200% if certain conditions are satisfied. The Treasury, however, will not allow DC to use federal matching dollars to exceed 100% of the sum of the contributions made by the borrower and the lender. The Fiscal Impact Statement contemplated that no local funds would be used to fund the Capital Access Program. Accordingly, the law may need to be amended to address this problem. Alternatively, local funds must be appropriated to fund any amounts that exceed the sum of 100% of the borrowers’ and lenders’ contributions. At the request of DISB, the Committee has postponed introducing the bill to amend the Cap Act, and will continue to work with the Department to ensure that the District receives its share of the funds.

Mortgage Regulation and Foreclosure Mitigation: In its FY 2011 Budget Report, the Committee (then chaired by Councilmember Bowser) made note of the central importance of mortgage regulation by DISB. The Committee believes that maintenance of the DISB budget at FY 2011 levels is important to both assist foreclosure victims and to re-engineer financial regulation to avoid future crises. As shown by the table below, the foreclosure crisis continues to affect every ward in the District:

No. of Single-Family Homes and Condo Units with Notices of Foreclosure Sale⁹

Year	District	Ward 1	Ward 2	Ward 3	Ward 4	Ward 5	Ward 6	Ward 7	Ward 8
2006	1069	107	59	29	185	229	115	214	131
2007	1681	143	116	53	285	339	218	342	185
2009	2774	222	156	81	558	553	341	544	319
2009	4056	349	252	511	706	687	384	722	445
2010	3513	261	194	118	571	605	778	599	387

No. of Single-Family Homes & Condo Units with Notices of Trustees Deed Sale¹⁰

Year	District	Ward 1	Ward 2	Ward 3	Ward 4	Ward 5	Ward 6	Ward 7	Ward 8
2006	112	11	8	6	14	28	16	16	13
2007	394	47	25	11	65	100	43	68	35
2008	924	70	54	22	169	198	115	222	74
2009	1025	92	74	28	191	175	110	212	143
2010	1396	65	56	26	156	180	559	215	139

⁸ D.C. Law 18-322.

⁹ *Source:* D.C. Recorder of Deeds and Real Property, data tabulated by Neighborhood Info DC, compiled March 23, 2011.

¹⁰ *Id.*

DISB has taken many steps to mitigate the foreclosure crisis in the District. DISB created a Foreclosure Mitigation Kit. The kit is a step-by-step guide for consumers facing foreclosure. In easy-to-understand language, it describes what happens during the pre-foreclosure and foreclosure phases, loan refinancing, how to prevent foreclosure, and what to do after the home has been saved. The kit also includes several pieces of materials from federal government agencies such as the Department of Housing and Urban Development and the Federal Reserve Board. The Committee is pleased with DISB's efforts to-date to mitigate the foreclosure crisis in the District, but recognizes that more must be done.

During Council Period 18, the Council passed the Saving D.C. Homes from Foreclosure Act of 2010 ("Act"). The purpose of the Act is to require a residential mortgage lender to provide a residential mortgage borrower with a Notice of Default on a residential mortgage and to provide the residential mortgage borrower with the right to elect to engage in mediation prior to the initiation of a foreclosure or a residential mortgage. The Act also establishes a new Foreclosure Mediation Program in the District and charges DISB with the responsibility of administering the Act and the mediation program. DISB has researched other state foreclosure mediation programs to assist in the development of proposed rules to implement this act. The Department has worked with representatives from the foreclosure community, including foreclosure legal counsel, consumer advocates, auctioneers, title insurers, and real estate professionals to obtain information regarding the District's foreclosure process to assist in the formulation of rules to implement the Act. The Department completed a draft of the rules at the end of January 2011. The rules were revised and began the approval process in early February. During the review process, the Department received additional input from stakeholders which may make further amendments to the draft rules necessary prior to obtaining final approval for publication. The Department promulgated the proposal on April 8, 2011 and the rules went into effect 10 days later.

Simultaneously with the development of rules, the Department has been working to set up the Foreclosure Mediation Program that will provide the mediation services to borrowers and lenders. The Department is in the process of appointing personnel to staff the office of the Mediation Administrator. While the Department plans to enter into a Memorandum of Understanding with the Office of Administrative Hearings for mediators, the Department will need to procure additional mediators to handle the backlog of foreclosure proceedings and mortgage defaults that was created when the Act was enacted on an emergency basis. To facilitate this process, on April 1, 2011 DISB issued a Request for Qualifications ("RFQ"), seeking law firms interested in providing foreclosure mediation services. In addition to issuing the RFQ, on April 12, 2011 the Department posted the job description for, and is currently in the process of hiring a Foreclosure Mediation Administrator. The Foreclosure Mediation Administrator will review detailed mediation reports submitted by private mediators to make a determination as to whether the parties negotiated in good faith in accordance with the Saving D.C. Homes from Foreclosure Amendment Act of 2010. The Committee will

continue to hold DISB accountable for implementing the Act and will regularly track the Department's progress.

CareFirst Surplus Review: The Committee continues to closely monitor the surplus review issue involving Group Hospitalization and Medical Services, Inc. ("GHMSI" or "CareFirst"). In its FY 2011 Budget Report, the Committee stated that it was concerned with "DISB's long delay in making a determination regarding CareFirst's surplus." As part of the original CareFirst bill, DISB was required to review whether CareFirst reserves were "unreasonably large," as defined by law. Originally, DISB was to announce its findings Sept. 30, 2009, but sought additional time to weigh all the information from hearings held earlier that month. Due the change in leadership during the surplus review process, the Council approved an emergency extension to give DISB 60 more days, which would have placed the deadline at the end of November 2009. As that deadline neared, DISB issued an order extending the time for a decision until December 31, 2009. When the Committee considered the FY 2011 budget, it was still awaiting a final determination on DISB's CareFirst surplus review. DISB completed its review and issued its order on October 29, 2010. Among other findings, DISB stated that "GHMSI's surplus of approximately \$687 million, as of December 31, 2008, is not unreasonably large or inconsistent with the corporation's obligation under section 6a of the HMSCR Act (D.C. Official Code § 31-3505.01), and thus, is not excessive under the HMSCR Act."

In early 2011, Councilmember Cheh (former chair and current member of the Committee) wrote a letter to DISB concerned with the Department's surplus review determination, especially in light of the 2010 surplus level (41% higher than the 2008 level previously reviewed by the Department). In her letter, Councilmember Cheh stated that section 2(c) of the Medical Insurance Empowerment Amendment Act of 2008 (MIEAA) establishes a specific statutory standard for determining excess surplus, requiring all non-profit hospital and medical services corporations to engage in community health reinvestment to the maximum feasible extent, consistent with financial soundness and efficiency. Cheh stated that DISB's decision "focuses entirely on whether the surplus is unreasonably large, but does not recognize that this determination must consider GHMSI's obligation to engage in community health reinvestment to the maximum feasible extent" and that the determination is inconsistent with the requirement of the MIEAA, and that "further consideration is necessary to ensure that the Department's decision is consistent with the statute's intent."

Commissioner White has stated that he is awaiting CareFirst's report on its surplus position (which he has told CareFirst he wants before the required June 1, 2011 deadline). This report will provide part of the information DISB will use to determine the basis for a new surplus review. At present time, Chairperson Alexander does not believe that additional legislation is necessary to require DISB to review its October 29, 2010 decision. Chairperson Alexander has met with CareFirst and has had numerous discussions with Acting Commissioner White regarding the surplus issue. She is highly confident that Acting Commissioner White, as the recently appointed Commissioner of

the Department, will give this matter all of the attention it deserves. If he does not, Chairperson Alexander will re-examine the need for additional legislation at a later date.

Captive Insurance: In its FY 2011 Budget Report, the Committee noted that it appeared that the captive insurance program had started to function effectively as a revenue generator for the District, remarking that in FY 2009, the Captive Insurance Division had a net intake of \$40,000. As of March 2011, the District has attracted and domiciled approximately 136 captive insurance companies and risk retention groups. By the end of FY 2011 the Captive Insurance Division is projected to have a net intake of \$344,527 and a projected net intake of \$333,510 by the end of FY 2012. DISB has succeeded in enhancing the attraction among captives to the District relative to other jurisdictions. The Committee continues to be encouraged with the growth of the captive program in the District and will regularly follow-up with DISB to ensure effective oversight of this program.

CAPCOs: During Council Period 18, the Council passed the “Certified Capital Companies Improvement Amendment Act of 2010” in response to the need to improve the CAPCO program. The new law will require that the CAPCOs invest 100% of the \$50 million in certified capital within 10 years of the allocation date of the tax credits. The law eliminates the ability of the Commissioner of DISB to issue a permanent waiver of the qualified business criteria. The CAPCOs must certify in affidavits that the businesses that they are investing in will comply with the requirements of the law and DISB’s oversight of the CAPCO program is strengthened by requiring the submission of additional documents from both the CAPCOs and the businesses seeking investments. The businesses seeking CAPCO funding will be required to annually provide crucial information relating to employment data, tax information, and financial relationships within the District. DISB will be required to conduct an economic impact study to assess the success of the CAPCO program in promoting economic development in the District.

In response to the Committee’s March 2011 inquiry regarding the progress of the economic impact study, DISB responded that the Office of Contracting and Procurement advised DISB that a Request for Proposal would have to be prepared to retain a consultant to perform the Economic Impact Study, even though no District dollars will be used to pay the study. The costs of the study are to be paid by the CAPCOs. DISB has been working with OCP since summer 2010 to retain a contractor to conduct the study. DISB stated that a contractor was retained in March 2011, and the 2009 and 2010 studies will be completed around June 2011. The Committee will closely monitor DISB’s management and oversight of the CAPCO program in order to ensure that the Department executes and enforces the legislation.

c. Mayor’s Proposed Fiscal Year 2012-2017 Capital Budget

Proposed Capital Budget Summary

DISB has no Capital Budget funding.

2. COMMITTEE RECOMMENDATIONS

a. Fiscal Year 2012 Operating Budget Recommendations

The Committee endorses the Mayor's FY 2012 operating budget request of \$17,042,318 for DISB. All of DISB's funding is from special purpose revenue.

b. Fiscal Year 2012 Capital Budget Recommendations

The Committee has no Capital Budget recommendations.

c. Policy Recommendations

The Committee has no policy recommendations.

III. FISCAL YEAR 2012 BUDGET REQUEST ACT APPROPRIATION LANGUAGE RECOMMENDATIONS

On Friday, April 01, 2011, Chairman Brown introduced, on behalf of the Mayor, the "Fiscal Year 2012 Budget Request Act of 2011" (Bill 19-202). The Committee makes no recommendations adding language to the Fiscal Year 2012 Budget Request Act of 2011.

IV. FISCAL YEAR 2012 BUDGET SUPPORT ACT RECOMMENDATIONS

On Friday, April 01, 2011, Chairman Brown introduced, on behalf of the Mayor, the "Fiscal Year 2012 Budget Support Act of 2011" (Bill 19-203). The bill contained no subtitles referred to the Committee. However, the Committee recommends new subtitles, which are discussed below in Section "B."

A. RECOMMENDATIONS ON BUDGET SUPPORT ACT SUBTITLES PROPOSED BY THE MAYOR

The Committee provides no comments on the subtitles in the "Fiscal Year 2012 Budget Support Act of 2011", as submitted by the Mayor.

B. RECOMMENDATIONS FOR NEW BUDGET SUPPORT ACT SUBTITLES

The Committee on Public Services and Consumer Affairs recommends the following new subtitles to be added to the “Fiscal Year 2012 Budget Support Act of 2011”:

1. Office of the Tenant Advocate Establishment Amendment Act of 2011
2. Public Service Commission Amendment Act of 2011

1. Office of the Tenant Advocate Establishment Amendment Act of 2011

a. Purpose, Effect, and Impact on Existing Law

The purpose of this amendment is to clarify that the Office of the Tenant Advocate (OTA) has continued authority to operate the “Emergency Housing Assistance Program” (EHAP). Under the EHAP program, the OTA provides emergency housing and tenant relocation assistance to tenants displaced from rental accommodations by events such as fires and government building closures.

b. Committee Reasoning

Section 937 of Bill 19-203 repeals the “special purpose revenue fund (“Condo Conversion Fund”) established by Section 307 of the Rental Housing Conversion and Sale Act of 1980 (RHCSA), effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code § 42-3403.07). Section 1004 of Bill 19-203 directs that the remaining Condo Conversion Fund balance at the end of FY 2011, and additional local revenue, be deposited into the OTA’s account in order to allow the OTA to continue the EHAP program.

The problem is that by eliminating Section 307 of the RHCSA, section 937 of the bill would also eliminate the OTA’s authority to continue the EHAP program. This amendment resolves the problem by amending the OTA’s establishment act to include the specific authority to continue the EHAP program.

c. Section-by-Section Analysis

Sec. XX01. Short Title

Sec. XX02. Amends Chapter 35 of Title 42 of the District of Columbia Code to clarify that the Office of the Tenant Advocate (OTA) has continued authority to operate the “Emergency Housing Assistance Program” (EHAP).

Sec. XX03. Adopts the fiscal impact statement as provided by the Chief Financial Officer.

d. Legislative Recommendations for Committee of the Whole

SUBTITLE XX. OFFICE OF THE CHIEF TENANT ADVOCATE AMENDMENT.

Long Title: To amend Section 2067(6A) of the Fiscal Year 2006 Budget Support Act of 2005 to authorize the Office the Tenant Advocate to provide emergency housing and relocation assistance to qualified tenants.

Sec. XXX. Short title.

This subtitle may be cited as the “Office of the Chief Tenant Advocate

Establishment Amendment Act of 2011”.

Sec. XX02. Section 2067(6A) of the Fiscal Year 2006 Budget Support Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 42-3531.07(6A)), is amended to read as follows:

“(6A) Provide emergency housing and relocation assistance to qualified tenants, as determined by the Office, including payments for:

“(A) The short-term relocation of tenants to hotels, motels, or other appropriate accommodations;

“(B) The moving and storage of personal property;

“(C) Rental application fees, security deposits, and utility deposits; and

“(D) The first month’s rent.”.

2. Public Service Commission Amendment Act of 2011

a. Purpose, Effect, and Impact on Existing Law

This proposed legislation would give the Public Service Commission the authority to (1) impose stronger civil penalties and forfeitures on utility companies so to serve as a more effective enforcement tool, (2) prevent the Commission from using resources to collect *de minimis* fees valued lower than the cost to the Commission to collect them and (3) exempt Competitive Local Exchange Carriers (CLEC) from the \$25,000 first year assessment so to lift the barrier to entry. First, the proposed subtitle will add a new

subsection that will allow the Commission to impose penalties of up to \$100,000 for a utility's violation of reliability standards. Second, it will delete a paragraph that requires CLECs to pay \$25,000 in their first year of operation, when revenues are typically low. Third, the proposed subtitle will add a provision that will allow the Commission to exempt CLECs and VoIP providers from the contribution requirement if the amount they would be required to contribute would be *de minimis*. In some cases, the amounts to be collected are so small that it costs the Commission more to collect than the amount that would be collected.

b. Committee Reasoning

This legislation allows the Public Service Commission to effectively achieve the aims set forth in its mission statement. The Commission ensures that financially healthy utility companies provide safe, reliable and quality services for District of Columbia customers. In the past year, the reliability and restoration efforts of certain utility companies have come under intense scrutiny. Immediately, scrutiny shifted towards the Commission, and its ability to regulate these companies was questioned. The first subtitle is a result of the relatively minor fine that is presently in place. Under present law, violation of the Commission's rules subject utilities to a \$10,000 fine for each offense. This amount does not provide an adequate incentive. The Commission seeks to create a more effective enforcement tool and permit the Public Service Commission to impose penalties of up to \$100,000. This fine would be limited to the violation of performance-based regulations.

The second amendment seeks to lift the burden on CLEC's that wish to be active in the District. Under current law, small CLECs must pay \$25,000 in their first year of operation, when revenues are typically low. For many, this is a considerable hardship. This amendment would allow CLECs to be treated, for assessment purposes, like first year electricity and natural gas suppliers who do not have to pay such fees. Relieving such a hardship could help ease entry into the District.

The third amendment seeks to change present law, which requires the Commission to calculate the amount that LECs and VoIP providers must pay into the Universal Service Trust Fund based upon each carrier's revenues. In some cases, the amounts to be collected are so small that the cost of collection is more than the actual amount to be collected. The Committee believes that it is an obvious waste of time and resources to expend more money than the Commission will receive. **The Committee recommends adoption of this proposed subtitle.**

c. Section-by-Section Analysis

Sec. XX01. Short title.

Sec. XX02. Amends Chapter 7 of Title 34 of the District of the Columbia Official Code to permit the Public Service Commission to impose penalties of up to \$100,000 for a utility company's violation of the Public Service

Commission's reliability standards and amends Chapter 9 of Title 34 of the District of the Columbia Official Code to eliminate the \$25,000 first year assessment for Competitive Local Exchange Carriers.

Sec. XX03. Amends Chapter 20 of Title 34 of the District of the Columbia Official Code to exempt any local exchange carrier or Voice over Internet Protocol (VoIP) service provider whose share of total local telecommunications service revenues is determined to be *de minimis* from having to contribute to the D.C. Universal Service Trust Fund.

d. Legislative Recommendations for Committee of the Whole

SUBTITLE XX. PUBLIC SERVICE COMMISSION AMENDMENTS

Long Title: To amend An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, to allow the Public Service Commission to issue civil penalties of up to \$100,000 for a public utility company's violation of the Public Service Commission's performance standards, and to delete the provision requiring Competitive Local Exchange Carriers to pay a first year assessment fee of \$25,000; and to amend the Telecommunications Competition Act of 1996 to add a provision allowing the Public Service Commission to exempt Local Exchange Carriers or Voice over Internet Protocol Service Providers from having to pay into the Universal Service Trust Fund when their share of the total universal service subsidy is determined to be *de minimis*.

Sec. XX01. Short title.

This subtitle may be cited as the "Public Service Commission Amendment Act of 2011".

Sec. XX02. Section 8 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 974; scattered sections of the D.C. Official Code), is amended as follows:

(a) Paragraph 85 (D.C. Official Code § 34-706) is amended by adding a new subsection (e) to read as follows:

"(e)(1) Any public utility that fails to comply with regulations establishing specific performance standards may be subject to a civil penalty of up to \$100,000 for each offense.

"(2) In determining the amount of a penalty, the Commission may consider the:

"(A) Public utility's Previous violations, including their:

"(i) Gravity;

"(ii) Duration; and

"(iii) Number.

“(B) Gravity and duration of the current violation; and
“(C) Public utility’s good faith attempt to achieve compliance.”.

(b) Paragraph 42(b)(4) (D.C. Official Code § 34-912(b)(4)) is repealed.

Sec. XX03. Section 4(b) of the Telecommunications Competition Act of 1996, effective Sept. 9, 1996 (D.C. Law 11-154; D.C. Official Code § 34-2003(4)(b)), is amended as follows:

(a) Designate the existing text as paragraph (1).

(b) The newly designation paragraph (1) is amended by striking the phrase “exchange carriers and Voice Over” and inserting the phrase “exchange carriers (“LEC”) and Voice Over” in its place.

(c) A new paragraph (2) is added to read as follows:

“(2) The Commission may exempt from the requirements of this subsection any LEC or Voice over Internet Protocol Service provider whose share of the total universal service subsidy the Public Service Commission determines to be de minimis.”.

V. COMMITTEE ACTION AND VOTE

On Tuesday, May 10, 2011, at 2:20 p.m. in Room 120 of the John A. Wilson Building, the Committee on Public Services and Consumer Affairs met to consider and vote on the report and recommendations of the Committee on the Fiscal Year 2012 budget for agencies under its purview. Chairperson Yvette Alexander determined the presence of a quorum consisting of herself and Councilmembers Bowser, Cheh, and Mendelson. Councilmember Graham was absent from the vote.

Chairperson Alexander first discussed the Committee’s budget and policy recommendations for each agency. Councilmember Bowser asked whether there was funding for Bill 18-500, “District of Columbia Code Title 29 (Business Organizations) Enactment Act of 2010. The Council passed this legislation in Council Period 18; however the December 2, 2010 fiscal impact statement concluded that funds were not sufficient to implement the legislation. The OCFO concluded that the legislation would have a negative fiscal impact of \$342,000 in FY 2011 and total net negative fiscal impact of \$251,000 over the FY 2011 through FY 2014 budget and financial planning period. Chairperson Alexander agreed that it was important for the Council to fund this legislation and included the priority of funding the legislation as a “budget recommendation not funded in the Committee’s report.” The Committee members agreed that they would seek to have the entire Council fund Bill 18-500.

Councilmember Bowser also asked about the Public Service Commission’s budget and asked about the agency’s increase (excluding federal funds) for FY 2012 versus 2011. She raised this question due to the PSC’s size versus its counterparts in surrounding jurisdictions. Councilmember Cheh agreed with Councilmember Bowser’s assessment, further adding that the District’s PSC is “top heavy” relative to other

commissions. Chairperson Alexander agreed that in the future she would seek to have done an assessment of the needs of the PSC and whether the commission should decrease in size.

After discussing the Committee's budget and policy recommendations for each agency under its purview, Chairperson Alexander discussed the proposed BSA subtitles. Regarding the "Public Service Commission Amendment Act of 2011", Chairperson Alexander made clear that the amount of the civil penalty in Section XX02 of the legislation was "up to" \$100,000. Councilmember Cheh stated that she wanted to ensure that the legislation was clear that any civil penalty levied by the PSC must be paid out of the offending party's profits and not be passed on to the rate payer. Chairperson Alexander agreed with this intent and agreed to move an amendment to the BSA at a later time to clarify the point.

Chairperson Alexander asked if there was further discussion. Hearing none, she called for a vote on the Committee's Fiscal Year 2012 budget report and recommendations, with leave for staff to make technical, editorial, and conforming changes to reflect the Committee's actions. The Committee's FY 2012 budget report was approved unanimously (Chairperson Alexander, and Councilmembers Bowser, Cheh, and Mendelson voting "aye." Councilmember Graham was absent.).

Chairperson Alexander adjourned the meeting at 2:50 p.m.

VI. ATTACHMENTS

- A. Monday, April 11, 2011 Fiscal Year 2012 Budget Oversight Hearing Witness List and Testimony.
- B. Wednesday, April 20, 2011 Fiscal Year 2012 Budget Oversight Hearing Witness List and Testimony.