

Councilmember Mary M. Cheh

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Councilmember Mary M. Cheh introduced the following bill, which was referred to the Committee on _____.

[DESCRIPTION OF THE BILL].

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the "Open Government Act of 2010".

Title I. Open Records Office.

Sec. 101. Short title.

This title may be cited as the "Open Government Office Establishment Act of 2010".

Sec. 102. Definitions.

For the purposes of this title, the term:

(a) "Freedom of Information Act" means Title II of the District of Columbia Administrative Procedure Act, effective Mar. 25, 1977 (D.C. Law 1-96; D.C. Code § 2-531 *et seq.*).

(b) "Office" means "District of Columbia Open Government Office"

(c) "Searchable FOIA database website" means a website that allows the public at no cost to:

- 1 (1) Search and aggregate information for the following:
- 2 (A) The request's intake number;
- 3 (B) The date of intake;
- 4 (C) The nature of the information requested;
- 5 (D) The agency, if any, to which the information request
- 6 was directed;
- 7 (E) The current status of the request, if open;
- 8 (E) The resolution of the request, including a copy of the
- 9 disclosed information or, if appropriate, the basis upon which the request was denied; and
- 10 (F) The date that the request was closed.

11 (2) Programmatically search and access all data in a serialized

12 machine readable format (such as XML) via a web-services application programming

13 interface.

14 (3) Access any information that must be made public pursuant to

15 section 206(a) of the Freedom of Information Act.

16 Sec. 103. Establishment of the District of Columbia Open Government Office.

17 Pursuant to section 404(b) of the District of Columbia Home Rule Act, approved

18 December 24, 1973 (87 Stat. 787; D.C. Official Code § 1-204.04(b)), the Council

19 establishes the District of Columbia Open Government Office, an independent agency to

20 provide dispute resolution for, monitor the District's compliance with, and provide public

21 assistance with the District of Columbia Freedom of Information Act.

22 Sec. 104. Duties of the District of Columbia Open Government Office.

23 The Office shall:

1 (a) Establish uniform procedures for agencies' handling Freedom of Information
2 Act requests; *provided*, that the procedures include:

3 (1) An intake procedure by which each request received is assigned an
4 individualized tracking number.

5 (2) A screening procedure by which the agency evaluates whether the
6 requested information is either:

7 (A) Already publicly available;

8 (B) Not available for public disclosure, in whole or in part.

9 (3) A mechanism of directing requests to a designated Freedom of
10 Information Officer within the agency and for receipt of the agency's interim and final
11 responses.

12 (4) A closeout procedure by which the Office publishes the resolution of
13 the request on its searchable FOIA database website.

14 (b) Issue advisory opinions to agencies and requesters.

15 (c) Conduct audits of agencies on the implementation of the Freedom of
16 Information Act and issue reports detailing the results of such audits.

17 (d) Make recommendations for legislative or executive action.

18 (e) Provide annual training courses to agencies, officials, and employees related to
19 the Freedom of Information Act.

20 (f) Provide assistance to public requesters and to resolve disputes between
21 requesters and agencies as a non-exclusive alternative to litigation.

22 (g) Conduct a biennial review of fees charged for requests.

23 (h) Maintain a searchable FOIA database website.

1 Sec. 105. Powers of the District of Columbia Open Government Office.

2 (a)(1) The Office shall, pursuant to its rules, have the power to:

Comment [VDZ1]: Subpoena Authority.

3 (A) Require by subpoena the attendance and testimony of
4 witnesses and the production of documents relating to the execution of the Office's
5 duties; and

6 (B) Order that testimony in any proceeding or investigation be
7 taken by deposition before any person who is designated by the Office, and has the power
8 to administer oaths and, in these instances, to compel the attendance and testimony of
9 witnesses and the production of documents by subpoena.

10 (2) The Office may petition the Superior Court of the District of Columbia
11 to enforce the subpoena or order, in the case of a refusal to obey a subpoena or order of
12 the Office issued pursuant to this subsection. Any person failing to obey the Court's order
13 may be held in contempt of court.

14 (b) The Office shall have a right of access to all public records, including original
15 electronic records and server copies, back-up tapes, and other records, subject to rules
16 and procedures promulgated by the Office in consultation with the Mayor, the Attorney
17 General, and the Chief Technology Officer.

Comment [DU2]: Access to data

18 (c) The Office shall issue rules to implement the Freedom of Information Act.

Comment [VDZ3]: Rulemaking authority.

19 (d) The Office may, pursuant to its rules, investigate any alleged violation of the
20 Freedom of Information Act and refer any violation to any of the following entities for
21 enforcement: (1) the Mayor; (2) the Attorney General; (3) the Inspector General; (4) the
22 District of Columbia Auditor; (5) the United States Attorney for the District of Columbia;
23 or (6) any other law-enforcement agency.

Comment [VDZ4]: Investigative authority

1 (e)(1) To request any agency to submit in writing any reports and to answer any
2 questions as the Office may prescribe that relate to the administration and enforcement of
3 the Freedom of Information Act; and

Comment [VDZ5]: Injunctive Authority.

4 (2) To bring a civil action in the Superior Court of the District of
5 Columbia for declaratory or injunctive relief with respect to the failure of any agency to
6 comply with the requirements of the Freedom of Information Act.

7 Sec. 106. Director.

8 (a) The Office shall be headed by a Director appointed by the Mayor with the
9 advice and consent of the Council to serve a 5-year term. The Director shall employ staff
10 as needed, in accordance with annual appropriations.

Comment [VDZ6]: Appointment to a 5-year term.

11 (b) The Director may be reappointed, and, if not reappointed, the Director shall
12 serve until his successor has been confirmed.

Comment [VDZ7]: Reappointment/holdover

13 (c) The Director shall not be removed before expiration of the 5-year term except
14 for cause.

Comment [VDZ8]: Removal for cause.

15 Sec. 107. Establishment of the Open Government Fund.

16 (a) There is established as a nonlapsing fund the Open Government Fund
17 (“Fund”), which shall be administered by the Office and used to pay for the operating
18 costs of the Office.

19 (b) All funds deposited into the Fund, and any interest earned on those funds,
20 shall not revert to the unrestricted fund balance of the General Fund of the District of
21 Columbia at the end of a fiscal year, or at any other time, but shall be continually
22 available for the uses and purposes set forth in subsection (a) of this section without
23 regard to fiscal year limitation, subject to authorization by Congress.

1 Sec. 108. Appropriations.

2 There are authorized to be appropriated from the general revenues of the District
3 funds necessary to carry out the purposes of this act.

4 **Title II. Freedom of Information Act Amendments.**

5 Sec. 201. Short title.

6 This title may be cited as the “District of Columbia Freedom of Information
7 Amendment Act of 2010”.

8 Sec. 202. Title II of the District of Columbia Administrative Procedure Act,
9 effective Mar. 25, 1977 (D.C. Law 1-96; D.C. Code § 2-531 *et seq.*) is amended as
10 follows:

11 (a) Section 202 (D.C. Code § 2-532) is amended to read as follows:

12 “ Sec. 2. Right to inspect public records,

13 “(a)(1) Any person has a right to inspect, and at his or her discretion, to copy any
14 public record of a public body, except as otherwise expressly provided by Section 204 of
15 this Act, in accordance with reasonable rules concerning the time and place of access.

Comment [VDZ9]: Right to inspection.

16 “(2) A public body shall make available for inspection and copying any
17 record produced or collected pursuant to a contract with a private contractor to perform a
18 public function, and the public body with programmatic responsibility for the contractor
19 shall be responsible for making such records available to the same extent as if the record
20 were maintained by the public body.

21 “(b) A person may request information from any agency or seek access to a public
22 body’s records by verbal or written request made in person, by mail, by e-mail, by
23 facsimile, or any other electronic means. A written request should identify or describe the

Comment [VDZ10]: Method of request.

1 records sought with sufficient specificity to enable the public body to ascertain which
2 records are being requested.

3 ~~“(c)(1) Consistent with the public body’s rules, the public body shall notify the~~
4 Office that a request has been made to the public body that has custody of the records
5 requested.

Comment [VDZ11]: Procedure, generally.

6 “(2) A public body shall respond to any request within 10 days (except
7 Saturdays, Sundays, and legal public holidays) of the receipt of the request.

8 “(3) In unusual circumstances, the time limit prescribed in subsection
9 (c)(2) of this section may be extended by written notice to the requester setting forth the
10 reasons for extension and expected date for determination. Such extension shall not
11 exceed 10 days (except Saturdays, Sundays, and legal public holidays). The public body
12 shall provide the Office with notice of each extension. For purposes of this subsection,
13 and only to the extent necessary for processing of the particular request, “unusual
14 circumstances” are limited to:

15 “(A) The need to search for, collect, and appropriately examine a
16 voluminous amount of separate and distinct records which are demanded in a single
17 request; or

18 “(B) The need for consultation, which shall be conducted with all
19 practicable speed, with another public body having a substantial interest in the
20 determination of the request or among 2 or more components of a public body having
21 substantial subject-matter interest therein.

22 ~~“(d) In making any record available to a person pursuant to this section, a public~~
23 body shall provide the record in any form or format requested by the person; provided

Comment [VDZ12]: Form of agency response.

1 that the person shall pay the costs of reproducing the record in that form or format;
2 provided further that, if no format is specifically requested, the public body shall provide
3 the document in electronic format.

4 ~~“(e) Any failure on the part of a public body to comply with a request under~~
5 subsection (a) of this section within the time provisions of subsections (c) and (d) of this
6 section shall be deemed a denial of the request, and the person making such request shall
7 be deemed to have exhausted his administrative remedies with respect to such request,
8 unless such person chooses to petition the Mayor pursuant to § 2-537 to review the
9 deemed denial of the request.

Comment [VDZ13]: Constructive denial.

10 ~~“(f)(1) The public body may, by rule, establish and collect fees not to exceed the~~
11 actual cost of searching for, reviewing, and making copies of records. Documents may be
12 furnished without charge or at a reduced charge where the public body determines that
13 waiver or reduction of the fee is in the public interest because it is likely to contribute
14 significantly to the public’s understanding of the operations or activities of the
15 government and is not primarily in the commercial interest of the requester.

Comment [VDZ14]: Fees.

16 “(2) The fee schedules adopted by the public body shall provide that:

17 “(A) Fees shall be limited to reasonable standard charges for
18 document search, duplication, and review when records are requested for commercial
19 use;

20 “(B) Fees shall be limited to reasonable standard charges for
21 document duplication when records are not sought for commercial use and the request is
22 made by an educational or non-commercial scientific institution for scholarly or scientific
23 research, or by a representative of the news media;

1 “(C) For any request for records not described in paragraphs (1) or
2 (2) of this subsection, fees shall be limited to reasonable standard charges for document
3 search and duplication; and

4 “(D) Only the direct costs of search, duplication, or review may be
5 recovered.

6 “(3) Review costs shall include only the direct costs incurred during the
7 initial examination of a document to determine whether the documents must be disclosed
8 or withheld in part as exempt under this section. Review costs may not include costs
9 incurred to determine issues of law or policy related to the request.

10 “(4) The public body may require advance payment of any fee unless the
11 requester has previously failed to pay fees in a timely fashion, or the public body has
12 determined that the fee will exceed \$ 250.

13 “(5) All fees collected pursuant to this subsection shall be deposited in the
14 Open Records Office Fund.

15 “(6) On a quarterly basis, the Office shall reimburse a public body for the
16 direct costs of conducting search; *provided*, that no fee may be collected by the public
17 body if it fails to timely respond to a request.

18 (h) For purposes of this section, the term:

Comment [VDZ15]: Definitions

19 “(1) “Office” means the Open Government Office.

20 “(2) “Reasonable efforts” means that a public body shall not be required to
21 expend more than 8 hours of personnel time to reprogram or reformat records.

22 “(3) “Representative of the news media” means any person or entity that
23 gathers information of potential interest to a segment of the public, uses its editorial skills

1 to turn the raw materials into a distinct work, and distributes that work to an audience. In
2 this clause, the term “news” means information that is about current events or that would
3 be of current interest to the public. Examples of news-media entities are television or
4 radio stations broadcasting to the public at large and publishers of periodicals (but only if
5 such entities qualify as disseminators of “news”) who make their products available for
6 purchase by or subscription by or free distribution to the general public. These examples
7 are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the
8 adoption of the electronic dissemination of newspapers through telecommunications
9 services), such alternative media shall be considered to be news-media entities. A
10 freelance journalist shall be regarded as working for a news-media entity if the journalist
11 can demonstrate a solid basis for expecting publication through that entity, whether or not
12 the journalist is actually employed by the entity. A publication contract would present a
13 solid basis for such an expectation; the Government may also consider the past
14 publication record of the requester in making such a determination.

15 “(4) “Request” means a single demand for any number of documents
16 made at one time to an individual public body.

17 “(5) “Search” means to review manually or by automated means, public
18 records for the purpose of locating those records which are responsive to a request.

19 Sec. 203. Section 203(b) (D.C. Code § 2-533(b)) is amended to read follows:

20 “(b) A public body shall maintain a file of all letters of denial of requests for
21 public records. This file shall be made available to any person on request for purposes of
22 inspection or copying. The public body shall also post the file, including all information
23 required by subsection (a) of this section, on its website.”.

1 Sec. 204. Section 206(a)(9) (D.C. Code § 2-536(a)(9)) is amended by striking the
2 phrase “and which, because of the nature of their subject matter, the public body
3 determines have become or are likely to become the subject of subsequent requests for
4 substantially the same records” in its entirety.

5 Sec. 205. Section 207 (D.C. Code § 2-537) is amended as follows:

6 (a) A new subsection (a-2) is added to read as follows:

7 “(a-2)(1) Any person denied the right to inspect a public record may request that
8 the Office review the public body’s response for compliance with this Act. In its
9 discretion, if the Office finds that the public body’s response does not comply with the
10 Act, the Office may issue an order enjoining the public body from withholding the record
11 and to compel the production of the requested record.

12 “(2) If the public body refuses to comply with the Office’s order, the
13 Office may petition the Superior Court for the District of Columbia for a contempt order,
14 or for injunctive or declaratory relief.

15 “(3) This subsection shall not be construed to limit in any way the ability
16 of a person to seek relief in the Superior Court pursuant to subsections (a) or (a-1) of this
17 section.”.

18 (b) Subsection (c) is amended to read as follows:

19 “(c) If a person seeking the right to inspect or to receive a copy of a public record
20 substantially prevails in such suit, he or she may be awarded reasonable attorney fees and
21 other costs of litigation. For purposes of this section, a person has substantially prevailed
22 if the person has obtained relief through either—

1 (1) A narrative description of efforts to improve public access to the public
2 body's decisionmaking and actions;

3 (2) A statement of its compliance with public records maintenance and
4 disclosure obligations under District and federal law; and

5 (3) A strategic plan to inventory the agency's high-value information, to
6 improve the use of this information to increase public knowledge and promote public
7 scrutiny of the agency's services; to identify high-value information not yet available;
8 and which establishes a reasonable timeline for publication online in open data formats.”

9 (d) For the purposes of this section, the term:

10 (1) “High-value information” means information that can be used to
11 increase agency accountability and responsiveness, improve public knowledge of the
12 agency and its operations, further the core mission of the agency; create economic
13 opportunity; or respond to need and demand as identified through public consultation.

14 (2) “Open data format” means a format that is platform-independent,
15 machine-readable, and made available to the public without restrictions that would
16 impede the re-use of information. Any information made available should be capable of
17 being retrieved, downloaded, indexed, and searched by commonly used web-search
18 applications.

19 Sec. 303. Agency data disclosure.

20 For all databases procured in an amount greater than \$100,000, the District shall
21 ensure the inclusion of a public-facing component or module that allows the public to
22 access public records contained within the database.

23 **Title IV. Administrative Procedures Act.**

24 Sec. 401. Short title.

1 This title may be cited as the “District of Columbia Administrative Procedure
2 Amendment Act of 2010”.

3 Sec. 402. Section 6 of District of Columbia Administrative Procedure Act,
4 approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-505) is amended to
5 read as follows:

6 (a) The Mayor and each independent agency shall, no later than 30 days before
7 the adoption, amendment, or repeal of any rule, publish in the District of Columbia
8 Register notice of the proposed action. The notice shall, at a minimum, include the
9 following:

10 (1) A short explanation of the purpose of the proposed action;

11 (2) A citation or reference to the specific legal authority authorizing the
12 proposed action;

13 (3) The text of any rule proposed to be adopted, amended, or repealed;

14 (4) How a copy of the full text of the regulatory analysis of any rule
15 proposed to be adopted, amended, or repealed may be obtained;

16 (5) Where, when, and how a person may comment on the proposed action
17 and request a hearing;

18 (6) A citation to and summary of each scientific or statistical study,
19 report, or analysis that served as a basis for the proposed rulemaking, together with an
20 indication of how the full text may be obtained; and

21 (b)(1) The Mayor and each independent agency shall publish in the District of
22 Columbia Register and on the agency’s website any guidance document without need for
23 notice and comment as required in subsections (a), (d), (e), (f), and (g).

Comment [VDZ16]: Guidance documents.

1 (2) An agency that proposes to rely on a guidance document to the
2 detriment of a person in any administrative proceeding must afford the person a fair
3 opportunity to contest the legality or wisdom of positions taken in the document. The
4 agency may not use a guidance document to foreclose consideration of issues raised in
5 the document.

6 (3) A guidance document may contain binding instructions to agency staff
7 members if at an appropriate stage in the administrative process, the agency's procedures
8 provide affected persons an adequate opportunity to contest positions taken in the
9 document.

10 (4) If an agency proposes to act in an adjudication at variance with a
11 position expressed in a guidance document, it shall provide a reasonable explanation for
12 the variance. If an affected person in an adjudication may have reasonably relied on the
13 agency's position, the explanation must include a reasonable justification for the agency's
14 conclusion that the need for the variance outweighs the affected person's reliance
15 interests.

16 (5) An agency shall maintain an index of all of its currently effective
17 guidance documents, publish the index on its website, make all guidance documents
18 available to the public and file the index with the District of Columbia Register annually.
19 The agency may not rely on a guidance document or cite it as precedent against any party
20 to a proceeding, unless the guidance document is published on the agency website.

21 (6) A guidance document may be considered by a presiding officer or final
22 decision maker in an agency adjudication but it does not bind the presiding officer and
23 the final decision maker in the exercise of discretion.

1 (7) A person may petition an agency under subsection (i) to adopt a rule in
2 place of a guidance document.

3 (8) A person may petition an agency to revise or repeal a guidance
4 document. Not later than 60 days after submission of the petition, the agency shall:

5 (A) revise or repeal the guidance document;

6 (B) initiate a proceeding for the purpose of considering a revision
7 or repeal; or

8 (C) deny the petition in a record and state its reasons for the
9 denial.

10 (9) For the purposes of this subsection, the term “guidance document”
11 shall mean any “statement of the general course and method by which its functions are
12 channeled and determined, including the nature and requirements of all formal and
13 informal procedures available, and any substantive rule of general applicability adopted
14 as authorized by law, and statement of general policy or interpretations of general
15 applicability formulated and adopted by the agency.”

16 (c)(1) The Mayor and each independent agency shall maintain an indexed
17 rulemaking docket that contains a list of all pending rulemaking proceedings. The Mayor
18 and each independent agency shall maintain a record for each proposed adoption,
19 amendment, or repeal of a rule that contains:

20 (A) A copy of all publications in the District of Columbia Register
21 relating to the rule or the proceeding upon which the rule is based;

Comment [VDZ17]: Rulemaking docket and proposed rulemaking record.

1 (B) A copy or an index of written factual material, studies, and
2 reports relied on or consulted by agency personnel in formulating the proposed or final
3 rule;

4 (C) Any official transcript, audiovisual copy, or summary of oral
5 presentations made in the proceeding upon which the rule is based;

6 (D) A copy of the rule and notice described in paragraph (a); and

7 (E) All petitions for action on the rule.

8 (2) The Mayor and each independent agency shall publish the rulemaking
9 docket and the record for each rule on the internet and shall make them available for
10 public inspection, or, upon request, provide copies to individuals at a reasonable cost.

11 (d) To the greatest extent possible, the Mayor shall notify the public of the
12 proposed changes in the rules, and encourage participation in the rulemaking process. An
13 agency proposing the adoption, amendment, or repeal of a rule shall specify a public
14 comment period of at least 30 days after publication of the notice of proposed rulemaking
15 during which a person may submit information and comment on the rule proposed for
16 adoption, amendment, or repeal.

Comment [VDZ18]: Public participation.

17 (e) Not later than one year after the notice of proposed rulemaking, the agency
18 shall adopt, amend, or repeal the rule pursuant to the rulemaking proceeding or terminate
19 the proceeding by publication of a notice of termination in the Register; provided, that the
20 agency may extend the period of time for adopting, amending or repealing the rule for an
21 additional period of 6 months by filing a statement of good cause for the extension in the
22 rulemaking record, but must provide for additional comment period of at least 30 days
23 before adopting, amending or repealing the rule.

Comment [VDZ19]: Time to complete rulemaking.

1 (f) An agency may not take action on a rule proposed to be adopted, amended, or
2 repealed that differs from the action proposed in the notice of proposed rulemaking on
3 which the rule is based unless the action is the logical outgrowth of the action proposed in
4 the notice.

Comment [VDZ20]: Variance between proposed and final rule

5 (g) At the time it adopts, amends, or repeals a rule, an agency shall issue a concise
6 explanatory statement containing:

Comment [VDZ21]: Explanatory statement.

7 (1) The agency's reasons for the action, including the agency's reasons for
8 not accepting substantial arguments made in testimony and comments; and

9 (2) Subject to subsection (f) of this section, the reasons for any change
10 between the text of the proposed adopted or amended rule contained in the published
11 notice of the proposed adoption or amendment of the rule and the text of the rule as
12 finally adopted.

13 (h)(1) An agency may gather information relevant to the subject matter of
14 rulemaking and may solicit comments and recommendations from the public by
15 publishing a notice of intent to propose rulemaking in the Register and indicating where,
16 when, and how persons may comment.

Comment [VDZ22]: Negotiated Rulemaking.

17 (2) An agency may engage in negotiated rulemaking by appointing a
18 committee to comment or make recommendations on the subject matter of a rulemaking
19 under active consideration within the agency. The committee, in consultation with one or
20 more agency representatives, may attempt to reach a consensus on the terms or substance
21 of a proposed rule. The agency shall publish a list of all committees with their
22 membership in the Register. Notice of a meeting of a committee appointed under this

1 subsection must be published in the Register at least 10 days before the meeting. A
2 meeting of a committee appointed under this section is open to the public.

3 (3) This subsection shall not be construed to prohibit an agency from
4 obtaining information and opinions from members of the public on the subject of the
5 rulemaking by any other method or procedure used in rulemaking.

6 (i) Any person may petition the Mayor or an independent agency to adopt, amend,
7 or repeal any rule. The Mayor and each independent agency shall prescribe by rule the
8 form for such petitions, and the procedure for their submission, consideration, and
9 disposition. Not later than 60 days after submission of a petition, the agency shall:

Comment [VDZ23]: Petition for rulemaking

10 (1) Deny the petition in a record and state its reasons for the denial; or

11 (2) Initiate rulemaking proceedings in accordance with this Act.

12 Nothing in this subchapter shall make it mandatory that the Mayor or any agency
13 promulgate, amend, or repeal any rule pursuant to a petition therefor submitted in
14 accordance with this section.

15 (k) Notwithstanding any other provision of this section, the Mayor or an
16 independent agency may, without prior notice or hearing or upon any abbreviated notice
17 and hearing that it finds practicable, adopt, amend, or repeal any rule if, the adoption,
18 amendment, or repeal of a rule is necessary for the immediate preservation of the public
19 peace, health, safety, or welfare, including the imminent loss of federal funding for a
20 specific program, and if the Mayor or such independent agency states its reasons for that
21 finding. . No such adoption, amendment, or repeal of a rule made under this subsection
22 shall remain in effect longer than 120 days after the date of its adoption. The adoption,
23 amendment, or repeal under this subsection does not otherwise preclude the adoption or

Comment [VDZ24]: Emergency rulemaking.

1 amendment of an identical rule, or the repeal of the rule. The Mayor or independent
2 agency shall publish in the District of Columbia Register the rule adopted, amended, or
3 repealed under this subsection as soon as practicable given the nature of the emergency,
4 shall publish the rule on its website, and shall notify persons who have requested notice
5 of rules related to that subject matter. Nothing in this section prohibits the adoption of a
6 new rule under this subsection if at the end of the effective period of the original rule
7 made under this subsection, the Mayor or independent agency finds that need for the
8 immediate preservation of the public peace, welfare, health, safety, or welfare still exists.

9 **Title VI. Lobbyist Disclosure Amendment Act.**

10 Sec. 601. Short title.

11 This title may be cited as the “Lobbyist Disclosure Amendment Act of 2010”.

12 Sec. 602. Increased lobbyist disclosure.

13 An Act to regulate certain political campaign finance practices in the District of
14 Columbia, and for other purposes, effective Aug. 14, 1974 (Pub. L. No. 93-376; D.C.
15 Official Code § 1-1105.01 *et seq.*) is amended as follows:

16 (a) Section 504 (D.C. Official Code § 1-1105.04) is amended by striking the
17 phrase “January 15th” and inserting the phrase “January 30th”.

18 (b) Section 505(a) (D.C. Official Code § 1-1105.05(a)) is amended to read as
19 follows:

20 “(a) Each registrant shall file with the Director on the 1st of each month a report
21 signed under oath concerning his or her lobbying activities during the previous month
22 period. If the registrant is not an individual, an authorized officer or agent of the
23 registrant shall sign the form. A registrant must file a separate activity report for each

1 person from whom he or she receives compensation. Such reports shall be public
2 documents, and shall be posted on the Office’s website, and shall be on a form prescribed
3 by the Director and shall include the following

4 “(1) A complete and current statement of the information required to be
5 supplied pursuant to § 1-1105.04;

6 “(2)(A) Total expenditures on lobbying broken down into the following
7 categories:

8 “(i) Office expenses;

9 “(ii) Advertising and publications;

10 “(iii) Compensation to others;

11 “(iv) Personal sustenance, lodging, and travel, if
12 compensated;

13 “(v) Other expenses;

14 “(B) Each expenditure of \$ 50 or more shall also be itemized by
15 the date, name, and address of the recipient, and the amount and purpose of such
16 expenditure;

17 “(3) Each political expenditure, loan, gift, honorarium, or contribution of \$
18 50 or more made by the registrant or anyone acting on behalf of the registrant to benefit
19 an official in the legislative or executive branch, a member of his or her staff or
20 household or a campaign or testimonial committee established for the benefit of the
21 official, and shall be itemized by date, beneficiary, amount, and circumstances of the
22 transaction; including the aggregate of all such expenditures that are less than \$ 50;

1 “(4) All contributions made by any third person directly or indirectly to or
2 for the benefit of an official in the legislative or executive branch, a member of his or her
3 staff or household or a campaign or testimonial committee established for the benefit of
4 the official, and shall be itemized by date, beneficiary, amount, and circumstances of the
5 transaction; including the aggregate of all such expenditures that are less than \$ 50, which
6 are in any way earmarked, encumbered, or otherwise directed through the registrant;

7 “(5) Each official in the executive or legislative branch and any member of
8 such official’s staff who receives compensation in any manner by the registrant shall be
9 identified by name and nature of his or her employment with the registrant;

10 “(6) Each official in the executive or legislative branch with whom the
11 registrant has had written or oral communications (during the reporting period) related to
12 lobbying activities conducted by the registrant shall also be included in such report,
13 identifying the official with whom the communication was made, the date of such
14 communication, and the nature of such communication, including, to the maximum
15 extent practicable, a list of bill numbers and references to specific executive branch
16 actions; and

17 “(7) Each person whom the registrant has given compensation to lobby on
18 his or her behalf shall also be listed in such report.”.

19 (c) A new section 506a is added to read as follows:

20 “Sec. 506a. Disclosure of client.

21 “Any lobbyist who has made written or oral communications with a public
22 official shall, on the request of the official at the time of the communication, state

1 whether the lobbyist is registered under this Act and identify the client on whose behalf
2 the communication is made.”.

3 **Title VII. Financial Disclosure Amendment Act.**

4 Sec. 701. Short title.

5 This title may be cited as the “Financial Disclosure Amendment Act of 2010”.

6 Sec. 702. Section 602(a) of the District of Columbia Campaign Finance Reform
7 and Conflict of Interest Act, approved August 14, 1974 (88 Stat. 446; D.C. Official Code
8 § 1-1106.02(a)) is amended as follows:

9 (a) Paragraph (1) is amended as follows

10 (1) By striking the phrase “the name of each business entity” and inserting
11 the phrase “name, address, title, and job description

12 **Title VIII. Spending transparency.**

13 Sec. 801. Short title.

14 This title may be cited as the “Spending Transparency Reform Act of 2010”.

15 Sec. 802. Spending transparency website.

16 (a) For the purposes of this section, the term “searchable budget database
17 website” means a website that allows the public at no cost to:

18 (1) Search and aggregate information for the following:

19 (A) The name and principal location or residence of the
20 entity or recipient of funds;

21 (B) The amount of funds expended;

22 (C) The funding and expending agency;

23 (D) The funding source of the revenue expended;

- 1 (E) The budget program/activity of the expenditure;
- 2 (F) A descriptive purpose for the funding action or
3 expenditure;
- 4 (G) The expected performance outcome for the funding
5 action or expenditure;
- 6 (H) The past performance outcomes achieved for the
7 funding action or expenditure;
- 8 (I) Any District audit or report relating to the entity or
9 recipient of funds or the budget program/activity or agency; and
- 10 (J) Any reports provided to the District by recipients of
11 funds; and
- 12 (K) Any other relevant information specified by the Chief
13 Financial Officer.
- 14 (2) Programmatically search and access all data in a serialized machine
15 readable format (such as XML) via a web-services application programming interface.”
- 16 (b) By October 1, 2011, the Chief Financial Officer shall develop and make
17 publicly available a single, searchable budget database website including the required
18 data for the 2012 Fiscal Year. Each District agency shall include a link on the front page
19 of its website to the budget database website.
- 20 (c) The Chief Financial Officer shall update the budget database website as new
21 data becomes available, but no later than 30 days upon receipt of data from the agency.
- 22 (d) The Chief Financial Officer shall ensure that all data added to the searchable
23 budget database website remains accessible to the public for a minimum of 10 years.

1 **TITLE IX. CONFORMING LANGUAGE**

2 Sec. 901. Fiscal impact statement.

3 The Council adopts the fiscal impact statement in the committee report as the
4 fiscal impact statement required by section 602(c)(3) of the District of Columbia Home
5 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
6 206.02(c)(3)).

7 Sec. 902. Effective date.

8 This act shall take effect following approval by the Mayor (or in the event of veto
9 by the Mayor, action by the Council to override the veto), a 30-day period of
10 Congressional review as provided in section 602(c)(1) of the District of Columbia Home
11 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
12 206.02(c)(1)), and publication in the District of Columbia Register.