

ENROLLMENT(S)

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ENROLLED ORIGINAL

AN ACT
D.C. ACT 11-389

*Codification
District of
Columbia
Code
1997 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 7, 1996

To establish a public benefit corporation to be known as the District of Columbia Health and Hospitals Public Benefit Corporation to provide comprehensive community centered health care to residents of the District and assume the functions and personnel responsibilities of the D.C. General Hospital and the Commission on Public Health community clinics.

**New Chapter
2A,
Title 32**

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Health and Hospitals Public Benefit Corporation Act of 1996".

TITLE I. Declaration of Policy and Legislative Findings.

Sec. 101. Council declarations and findings.

The Council of the District of Columbia finds and declares the following:

**New Section
32-261.1**

(a) The residents of the District should have access to quality comprehensive community-centered health care and medical services regardless of their ability to pay for such services.

(b) The provision and delivery of comprehensive community-centered health care and medical treatment for residents of the District is of vital concern and importance and is essential to the protection and promotion of the health, safety, and welfare of the inhabitants of the District.

(c) The provision and delivery of comprehensive community-centered health care and medical treatment for residents of the District can be accomplished most efficiently and effectively by a public benefit corporation existing as an independent instrumentality of the District government and having a separate legal existence within the government.

(d) To accomplish this goal of comprehensive community-centered health care, the health care functions presently performed by the D.C. General Hospital and the community clinics of the Commission of Public Health of the Department of Human Services must be transferred to the public benefit corporation. It is the intent of the Council that this transfer be

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carried out without any deleterious effect on the continuity and adequacy of health care services provided to the patients being served.

(e) The establishment of a public benefit corporation will reduce expenditures, promote economy, and increase efficiency in providing health care services to residents of the District. It is the intent of the Council that the public benefit corporation established by this act will gradually assume greater financial responsibility for its operations so that it becomes financially stable and self-supporting without subsidy from the District's general fund.

(f) It is also the intent of the Council that the Mayor examine the extent to which other health and medical services presently provided by the District government can be integrated into the public benefit corporation in the future.

Title II. General Provisions.

Sec. 201. Definitions.

New Section
32-262.1

For the purposes of this act, the term:

(1) "Board" means the Board of Directors of the Corporation appointed pursuant to section 203.

(2) "Bond" or "bonds" means any revenue bond, note, or other obligation (including refunding bonds, notes, or other obligations) used to borrow money to finance, assist in financing, or to refinance undertakings authorized by this act.

(3) "Corporation" means the public benefit corporation established by section 202.

(4) "Dedicated revenues" means those revenues collected pursuant to the rates, fees, and charges imposed by the Corporation for services it renders.

(5) "Health facility" means a building, structure, or unit, or any improvement to real property for the provision of health or medical services to the public, including all necessary and usual attendant and related equipment, facilities or fixtures, or any part or parts thereof, or any combination or combinations thereof, including a general hospital, ambulatory clinic or center, nursing home, extended-care facility, primary care facility, diagnostic and treatment center, dispensary, laboratory, or other related facility.

(6) "General Manager" means the person appointed by the Board as its chief executive officer pursuant to section 204(g).

(7) "Health and medical services" means items or services provided under the supervision of a physician or other person trained or licensed to render health care necessary for the prevention, care, diagnosis, or treatment of human disease, pain, injury, deformity or other physical condition including the following: pre-admission, outpatient, inpatient, and post-discharge care; home care; physician's care; nursing care; medical care provided by interns or residents in training; other paramedical care; ambulance service and care; bed and board; drugs; supplies; appliances; equipment; laboratory services; and any form of diagnostic imaging or therapeutic radiological services.

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(8) "Reimbursement allowances" means any money paid by any government, agency, or subdivision thereof including payments to the Corporation which are authorized by federal law, for the cost of health and medical services furnished by the Corporation directly or through agreement with the District.

Sec. 202. Establishment of the District of Columbia Health and Hospitals Public Benefit Corporation. New Section
32-262.2

(a) There is established as a nonprofit public benefit corporation the District of Columbia Health and Hospitals Public Benefit Corporation which shall have a separate legal existence within the District government.

(b) The primary purpose of the Corporation shall be to provide comprehensive community-centered health care for the benefit of the residents of the District of Columbia.

(c) Except as provided in sections 204(e), 208, and 212, the Corporation shall be subject to all laws applicable to offices, agencies, departments, and instrumentalities of the District government.

(d) In effectuating the purposes of this act, the Corporation shall undertake the following:

- (1) Grant priority to the employment of residents of the District;
- (2) Make reasonable efforts to foster, encourage, and assist public/private partnerships, including managed care, in order to provide quality health and medical services on a cost effective and efficient basis;
- (3) Consult and cooperate with certified employee organizations and bargaining units in order to effectuate a smooth transition from District government employment to the Corporation; and
- (4) Establish procurement policies that encourage competition and utilize businesses that pay District taxes and are located within the District.

Sec. 203. Board of Directors; appointment

(a) The Corporation shall be governed by a Board of Directors consisting of 12 members; 6 members shall be appointed by the Mayor and 5 members shall be appointed by the Council. Members appointed by the Mayor shall be subject to confirmation by the Council. The General Manager shall serve as a nonvoting *ex officio* member. Members shall be individuals with proven business or management expertise in fields including health systems management, integrated care delivery systems, practicing physician, nursing executive, finance, and labor or contract management. Persons with the following expertise may also be represented on the Board: public health/patient advocacy; computer and information systems; legal experience; strategic planning; and philanthropic/foundation involvement. New Section
32-262.3

(b) All members of the Board and the General Manager shall be residents of the District.

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(c) The terms of the initial Board, other than the *ex officio* member shall be as follows: 2 members appointed by the Mayor and 2 members appointed by the Council shall serve a term of 3 years each; 2 members appointed by the Mayor and 2 members appointed by the Council shall serve a term of 2 years each; 2 members appointed by the Mayor and 1 member appointed by the Council shall serve a term of 1 year each.

(d) The Mayor shall submit the names of mayoral Board nominees to the Council within 30 days after the effective date of this act. The Council may approve or disapprove the nomination by resolution within 45 days of the date the nomination is submitted to the Council. If the Council does not adopt a resolution within the 45 days, the nomination shall be deemed approved.

(e) When a vacancy occurs by reason of expiration of a member's term, the appointing authority, pursuant to subsection (a) of this section, shall submit to the Council the name of a nominee to fill the vacancy not less than 60 days prior to the occurrence of the vacancy. Whenever a vacancy occurs by reason of death, resignation, or otherwise removal, the appointing authority shall submit the name of the nominee within 30 days following the occurrence of the vacancy. With regard to mayor appointments, the Council may approve or disapprove or disapprove the nomination by resolution within 45 days of the date the nomination is submitted to the Council. If the Council does not adopt a resolution within the 45-day period of review, the nomination shall be deemed approved.

(f) A Board member whose term has expired may continue to serve until a new member is appointed, but in no event longer than 180 days from the date of expiration of the term.

(g) The Board of Directors shall elect a chairperson from among the members to serve a term of 2 years.

(h) A Board member shall not be entitled to compensation for the Board member's service but shall be reimbursed for actual and necessary expenses incurred by the Board member in the performance of the Board member's official duties. A Board member may engage in private employment or in a profession or business unless otherwise prohibited by law.

(i) No Board member may be held personally liable for any action taken in the course of his or her official duties and responsibilities as set forth in this act.

(j) The Mayor shall remove any Board member from office for misconduct or neglect of duty (as defined by the Board in the Corporation's by-laws), failure to maintain District residency, or for other good cause, after notice to the Board member and the Board.

(k) If a Board member is charged with a misdemeanor or felony, the Board member shall be immediately suspended. If the Board member is found guilty, the term of the Board member shall be automatically terminated.

(l) The Board shall maintain regular contact with the Commissioner of Public Health (or the director of the entity that succeeds the Commission of Public Health). The Board shall meet with the Commissioner upon the Commissioner's request.

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Sec. 204. Governance of the Corporation.

**New Section
32-262.4**

(a) The powers of the Corporation shall be vested in and exercised by the Board.

Action of the Board may be taken at a meeting duly held at a time fixed in accordance with the bylaws. The Board shall adopt internal rules for conduct of Board meetings.

(b) The presence of 6 voting Board members shall constitute a quorum of the Board for purposes of conducting meetings and no action of the Board shall be taken except by a favorable vote of at least a majority of the Board members present at a meeting at which a quorum is in attendance.

(c) The Board shall hold an annual meeting, upon published notice to the public, at which time the board shall receive its annual report from the General Manager. The Board shall inform the public about its programs and plans at the annual meeting.

(d) The Board shall meet no less than once per month, at least 10 months each year. All board meetings shall be subject to the provisions of section 742 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 831; D.C. Code § 1-1504).

(e) The Corporation shall be subject to the District of Columbia Freedom of Information Act, approved October 21, 1968 (Public Law 90-614; D.C. Code § 1-1521 *et seq.*), except that the Corporation shall not be compelled to provide access to records, or any part of a record, that concern the initiation or modification of patient care programs or other potentially commercially valuable plans, analyses, evaluations, or programs, or to any other information which may be of competitive advantage in the operation of the Corporation if disclosure is likely to give an unfair competitive or bargaining advantage to any other person or entity.

(f) The fiscal year of the Corporation shall coincide with the fiscal year of the District government.

(g) The Board shall appoint a General Manager to be in charge of the day-to-day affairs of the Corporation. The Board shall conduct, within 120 days of the first meeting of the Board pursuant to subsection (h) of this section, a national search to fill the position of General Manager. The General Manager shall serve at the pleasure of the Board. The General Manager shall be the chief executive officer of the Corporation and *ex officio* member of the board of directors with full voice but no vote. The General Manager shall perform other duties as determined by the Board.

(h) The Board shall hold its first meeting no later than 15 days from the date of appointment of at least 8 Board members in accordance with section 203(d).

Sec. 205. Powers of the Corporation.

**New Section
32-262.5**

In addition to the power to issue obligations pursuant to section 215, the Corporation shall have the following powers:

(a) To do any and all things necessary and proper to carry out its corporate purposes, and for the exercise of the powers given to it in this act;

(b) To sue and be sued in its corporate name;

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- (c) To adopt a corporate seal and alter the seal at its pleasure;
- (d) To adopt, amend and repeal bylaws, rules, and regulations governing the manner in which it may conduct business and how the powers vested in it may be exercised;
- (e) To borrow money for any of its corporate purposes and to provide for the payment of the same, as may be permitted under the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 777; D.C. Code § 1-201 *passim*) and the laws of the District;
- (f) To issue regulations and establish policies for contracting and procurement which are consistent with principles of competitive procurement and to make and execute contracts, leases and all other agreements or instruments necessary and appropriate for the exercise of its powers and the fulfillment of its corporate purposes;
- (g) Except with respect to those assets made available for the Corporation's use under section 207(a), to acquire, construct, and dispose of real or personal property of every kind and character, including a health facility, or any interest therein for its corporate purposes and shall seek public comment before leasing, acquiring, or disposing of property for other than health care purposes;
- (h) To operate, manage, superintend, maintain, repair, equip, and control any health facility under its jurisdiction and to establish and collect fees, rentals or other charges, including reimbursement allowances, for the sale, lease, or sublease of any such health facility;
- (i) To provide health and medical services to the public directly or by agreement with any person, firm, or private or public corporation or association, to establish policies governing admissions and health and medical services, and to establish and collect fees and other charges, including reimbursement allowances, for the provision of the health and medical services the Corporation provides;
- (j) To provide and maintain resident physician and intern medical services and to sponsor and conduct research, development, planning, evaluation, educational, and training programs;
- (k) To provide additional services consistent with its corporate purposes, including an ambulance service to transport patients, and to adopt a schedule of appropriate charges for additional services and to provide for the collection thereof;
- (l) To determine the conditions under which health care professionals may be extended the privilege of practicing within a health facility under the jurisdiction of the Corporation and to promulgate reasonable policies and procedures for the conduct of all persons within any staff facility consistent with District law;
- (m) To employ officers, executives, and management personnel, who formulate or participate in the formulation of the plans, policies, and standards, or who administer, manage, or operate the Corporation, to fix their qualifications, prescribe their duties and other terms of employment, compensation, and benefits; except, that such personnel shall be excluded from collective bargaining representation;

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(n) To employ such other employees as may be necessary and to develop policies and procedures that are based on merit and that relate to terms and conditions of employment, compensation, and benefits;

(o) To apply for and to receive any gifts or grants of money, real or personal property, services or other aid, including any reimbursement allowance for use by the Corporation in carrying out its corporate purposes and in the exercise of its powers and to negotiate for the same upon such conditions as the Corporation may determine to be necessary, convenient, or desirable;

(p) To invest any funds in accordance with District law;

(q) To procure insurance, or obtain indemnification, against any loss in connection with the assets of the Corporation or any liability in connection with the activities of the Corporation, such insurance or indemnification to be procured or obtained in such amounts, and from such sources, as the Corporation deems to be appropriate;

(r) To enter into agreements with any organization, public or private, including any local, state, regional, or federal agency, for goods and services as needed to achieve its purposes; except, that:

(1) Prior to the Corporation contracting out to a private entity a service or activity performed by employees of the Corporation, through established standards developed by rules and regulations, the Corporation shall establish that the contracting out will achieve increased efficiencies and cost savings to the Corporation; and

(2) The Corporation shall establish procedures for permitting employees to submit bids or proposals to contract with the Corporation as appropriate and in accordance with this act;

(s) To retain or employ auditors, engineers, and private consultants on a contract basis, or otherwise, for rendering professional, management, or technical services and advice;

(t) To engage in joint ventures, or to participate in networks, alliances, consortia, pools, and other cooperative arrangements with any public or private entity; and

(u) To issue revenue bonds pursuant to section 215.

(v) To establish a community advisory board pursuant to section 209.

Sec. 206. Health and Hospitals Public Benefit Corporation Fund.

**New Section
32-262.6**

(a) There is established the District of Columbia Health and Hospital Public Benefit Corporation Fund ("Fund") to be operated by the Corporation.

(b) The monies in the Fund shall not be a part of, nor lapse into, the General Fund of the District or any other fund of the District.

(c) Beginning on the date of transfer pursuant to section 207(a), any and all dedicated revenues collected by the Mayor as agent for the Corporation shall be deposited in the Fund on a monthly basis for the payment of all expenses incurred by the Corporation.

(d) Any pledge by the Corporation of any funds on deposit in the Fund shall be effective, valid, perfected, and binding from the time the pledge is made with or without the

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delivery of any funds, and with or without any further action. Such pledge shall be effective, valid, perfected, and binding whether or not any statement, document, or instrument relating to such pledge is recorded or filed. The pledged revenues shall be immediately subject to the lien of the pledge, whether or not there has been any physical delivery. The lien of any pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against any person receiving the distribution of revenues, whether or not the parties have notice of the pledge.

Sec. 207. Transfer of functions to the Corporation.

New Section
32-262.7

(a) As expeditiously as possible but no later than 6 months from the date of the first meeting of the Board held pursuant to section 204(h):

(1) The Board shall develop and prepare an operational and organizational plan to carry out its responsibilities pursuant to this act, which shall be submitted to the Council for review and approval.

(2) The Board shall promulgate policies, practices, and procedures relating to terms and conditions of employment of personnel employed by the Corporation.

(3) The Board shall issue regulations governing contracting and procurement.

(4) After Council approval, the Mayor shall transfer to the Corporation's management and control the functions, assets, property, records, and obligations of the following:

(A) The District of Columbia General Hospital, established pursuant to Organization Order No. 141, effective February 11, 1964, and subsumed under the administration of the D.C. General Hospital Commission pursuant to section 201 of the D.C. General Hospital Commission Act, effective May 13, 1977 (D.C. Law 1-134; D.C. Code § 32-211); and

(B) The community health clinics, Bureau of Dental Health Services, Bureau of Maternal and Child Health Services, the Bureau of Laboratories of the Ambulatory Health Care Administration, and in-home medical, nursing care and social services referrals for the chronically ill provided by the Long-Term Care Administration of the Commission of Public Health of the Department of Human Services, established under Reorganization Plan No. 2 of 1979, effective February 21, 1980.

(5) The Mayor shall transfer to the Fund established by section 206 the unexpended balances of appropriations, allocations, and other funds of the following:

(A) The District of Columbia General Hospital, established pursuant to Organization Order No. 141, effective February 11, 1964, and subsumed under the administration of the D.C. General Hospital Commission pursuant to section 201 of the D.C. General Hospital Commission Act, effective May 13, 1977 (D.C. Law 1-134; D.C. Code § 32-211); and

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(B) The community health clinics, Bureau of Dental Health Services, Bureau of Maternal and Child Health Services, the Bureau of Laboratories of the Ambulatory Health Care Administration, and in-home medical, nursing care and social services referrals for the chronically ill provided by the Long-Term Care Administration of the Commission of Public Health of the Department of Human Services, established under Reorganization Plan No. 2 of 1979, effective February 21, 1980.

(6) The District and the Board shall enter into an agreement to delineate how the expenses allocated to the continuation of employees benefits pursuant to section 208 shall be allocated between the District and the Corporation.

(b) The District government shall retain full legal title to, and a complete equitable interest in, all assets made available for the Corporation's use pursuant to subsection (a) of this section.

(c) The Corporation shall provide the services formerly provided by the District of Columbia General Hospital and those components of the Commission of Public Health transferred pursuant to subsection (a) of this section, beginning on that date.

(d) The District shall enter into an annual agreement to compensate the Corporation for (1) health and medical services provided to individuals who are wards of the District or for whom the District is required by law to pay, (2) uncompensated services provided to District residents, and (3) other services specified in the agreement. The annual agreement shall require specific performance measures to be submitted by the Corporation to the Mayor. The annual agreement shall delineate the standards of performance and quality health care required by the Corporation and its contractors.

(e) On the date of the Board's first meeting pursuant to section 204(h), the Mayor shall transfer all funds in the D.C. General Hospital Fund established pursuant to section 402 of the D.C. General Hospital Commission Act, effective May 13, 1977 (D.C. Law 1-134; D.C. Code § 32-242), for both operating and capital expenses, to the Fund established by section 206.

Sec. 208. Personnel Administration.

**New Section
32-262.8**

(a) Except as provided by subsections (b) and (c) of this section, no provision of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1978 (D.C. Law 2-139; D.C. Code § 1-601.1 *et seq.*) ("CMPA"), shall apply to employees of the Corporation, except as follows:

(1) Titles V and XVII shall apply to all employees of the Corporation; and

(2) Titles XII, XXI, XXII, and XXVI shall apply to employees transferred to the Corporation who are covered under the Civil Service Retirement System and the District of Columbia Defined Contribution Pension Plan; provided, that all Corporation employees continuously employed by the District government since December 31, 1979, shall be guaranteed rights and benefits at least equal to those currently applicable to such persons under provisions of law and rules and regulations in force prior to the effective date of this act.

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(b) The salary cap on the rate of pay applicable under title XVII of the CMPA shall not apply to employees of the Corporation. The Corporation shall have sole authority with respect to the development and approval of compensation agreements.

(c) Within 6 months of the first meeting of the Board in accordance with section 204(h) the Corporation shall promulgate policies, practices, and procedures relating to terms and conditions of employment for personnel employed by the Corporation. Until the Corporation establishes a personnel system, consistent with the scope of bargaining as prescribed in title XVII of the CMPA, the CMPA and its implementing rules and regulations shall continue to apply to the Corporation.

(d) Every employee who is an employee of the District within a department or agency whose functions are transferred to the Corporation pursuant to this act shall:

(1) Be transferred to the Corporation in the same classification held at the time of the transfer; and

(2) Retain all rights and privileges which relate to the employee's retirement status, so long as continuously employed by the Corporation without a break in service.

(e) If the Mayor determines that it is in the financial interest of the Corporation, the Mayor may offer an early out retirement, easy out retirement, or voluntary severance incentive program to employees whose functions are being transferred. Any program offered by the Mayor shall meet the requirements of sections 403, 404, and 405. The Mayor shall request early out retirement authorization from the United States Office of Personnel Management.

(f) An employee of the Corporation who is covered under the District of Columbia Defined Contribution Pension Plan, who meets the minimum requirements for participation in a retirement plan established by the Corporation, may upon written notice to the Corporation, elect, instead, to be covered by the Corporation's plan.

(g)(1) An employee who is involuntarily separated for nondisciplinary reasons from the Corporation within 6 months after the effective date of this act shall be entitled to priority reemployment consideration by the District government.

(2) An employee who is involuntarily separated for nondisciplinary reasons from District government health services employment within 6 months before the effective date of this act and within 6 months after completion of the transfer of employees to the Corporation pursuant to section 207, shall also be given priority reemployment rights under the employee's respective collective bargaining agreement. In addition, any employee who is displaced within 12 months of the date of transfer under section 207, due to the creation, expansion, or reduction of the Corporation, shall have 12 months priority reemployment consideration following the date of displacement.

(h) The Corporation shall assume and be bound by all existing collective bargaining agreements with labor organizations that have been duly certified by the District of Columbia Public Employee Relations Board to represent employees transferred to the Corporation until successor agreements have been negotiated. Negotiations between the Corporation and the

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labor organizations that have been certified to represent its employees shall commence not later than 180 days after the first meeting of the Board.

(i) This section shall not be construed to limit the right of the Corporation to reorganize, restructure, reclassify, or eliminate positions.

(j) Nothing in this section or title XVII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code §§ 1-618.1 through 1-618.17), shall preclude the establishment of an appropriate bargaining unit, within the Corporation, by the District of Columbia Public Employee Relations Board. Within 120 days of the first meeting of the Board, in accordance with section 204(h), the District of Columbia Public Employee Relations Board shall investigate and render determinations regarding the establishment of the appropriate units for working conditions and compensation within the Corporation and, pursuant to applicable statutory and regulatory provisions, certify labor organizations as the exclusive bargaining agents for these units.

Sec. 209. Advisory board establishment.

**New Section
32-262.9**

The Corporation shall establish a community advisory board, representative of the community served by the Corporation, to consider and advise the Corporation upon matters concerning plans and programs of the Corporation. The community advisory board shall include one member who is a representative from the District's private nonprofit community health clinics. No member of such advisory board shall receive compensation or allowance for services rendered on such board, except that members of community advisory boards may be reimbursed for necessary expenses as approved by the Board.

Sec. 210. Submission of budgets.

**New Section
32-262.10**

The Board shall submit the Fiscal Year 1998 operating budget and all subsequent operating budgets for the Corporation to the Mayor on the date that other District departments and agencies are required to submit their budgets to the Mayor.

Sec. 211. Conflict of interest.

**New Section
32-262.11**

(a) The personnel system developed by the Corporation and the General Manager, shall include rules that require that no employee shall engage in outside employment or private business activity or have any direct or indirect financial interest that conflicts, or would appear to conflict, with the fair, impartial, and objective performance of the employee's assigned duties and responsibilities.

(b) No member of the Board shall be in any manner interested, directly or indirectly, as principal, surety, or otherwise in a contract, where the expense or consideration of the contract is payable out of the funds of the Corporation.

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Sec. 212. Procurement law inapplicable.

**New Section
32-262.12**

The District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code § 1-1181.1 *et seq.*), shall not apply to the Corporation.

Sec. 213. Exemption from taxation.

**New Section
32-262.13**

The assets and income of the Corporation shall be exempt from taxation.

Sec. 214. Delegation of Council authority to issue bonds.

**New Section
32-262.14**

The Council delegates to the Corporation the power of the Council under section 490 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 809; D.C. Code § 47-334), to issue revenue bonds, notes, and other obligations to finance, refinance, or assist in the financing or refinancing of any undertakings of the Corporation pursuant to this act.

Sec. 215. Power of the Corporation to issue bonds, notes, and other obligations.

**New Section
32-262.15**

(a) The Corporation may at any time, and from time to time, issue bonds and notes or other obligations (including refunding bonds, notes, or other obligations), by resolution, in one or more series to finance or refinance the cost of acquiring or leasing property and of establishing, constructing, erecting, altering, improving, and modernizing health care facilities. The resolution shall name the chairman of the Board or the chairman's designee as the authorized delegate to execute all documents related to the bond financings or refinancings. In addition, the Corporation may issue notes to renew notes and bonds to pay notes, including the interest thereon. Whenever expedient, the Corporation may refund bonds by the issuance of new bonds.

(b) Bonds of the Corporation are obligations payable from revenues of the Corporation from whatever source derived, including certain dedicated revenues, earnings on the Fund, and any other funds available to the Corporation which may lawfully be used for these purposes.

(c) Regardless of their form or character, bonds of the Corporation are negotiable instruments for all purposes of the Uniform Commercial Code of the District of Columbia, approved December 30, 1963 (77 Stat. 631; D.C. Code § 28: 1-101 *et seq.*), subject only to the provisions of the bonds and notes for registration.

(d) No official, employee, or agent of the Corporation shall be held personally liable solely because a bond or note is issued.

(e) The issuance and performance of bonds, notes, and other obligations by the Corporation as contemplated in this act and the adoption of resolutions authorizing such bonds, notes, and other obligations shall be done in compliance with the requirements of this act, but shall not be subject to the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code § 1-1501 *et seq.*).

(f) The Corporation shall have the power to borrow money and to issue revenue bonds, notes, and other obligations regardless of whether or not the interest payable by the Corporation

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incident to such loans, notes, and other obligations or revenue bonds or the income derived by the holders of the evidence of such indebtedness or revenue bonds notes, and other obligations is, for the purposes of federal taxation, includable in the taxable income of the recipients of these payments or is otherwise not exempt from the imposition of taxation on the recipients.

(g) The Corporation shall have the power to contract with the holders of its notes or bonds as to the custody, collection, securing, investment, and payment of any monies of the Corporation and of any monies held in trust or otherwise for the payment of notes or bonds.

Sec. 216. Terms for sale of bonds; additional bond and note provisions.

New Section
32-262.16

(a) The Corporation may stipulate by resolution the terms for sale of its bonds in accordance with this act, including the following:

- (1) The date a note or bond bears;
- (2) The date a bond or note matures; provided, that notes shall not mature later than 10 years from the date of original issuance and bonds shall not mature later than 50 years from the date of original issuance;
- (3) Whether bonds are issued as serial bonds, as term bonds, or a combination of the two;
- (4) The denomination;
- (5) Any interest rate or rates, or variable rate or rates changing from time to time, or premium or discount applicable;
- (6) The registration privileges;
- (7) The medium and method for payment; and
- (8) The terms of redemption.

(b) The Corporation may sell its bonds at public or private sale and may determine the price for sale.

(c) A resolution authorizing the sale of bonds may contain any of the following provisions, in which case these provisions shall be made part of the contract with holders of the bonds:

- (1) The proposed custody, security, expenditure, or application of proceeds of the sale of bonds or notes of the Authority ("proceeds"), a pledge of the proceeds to secure payment, and the rank or priority of the pledge, subject to preexisting agreements with holders of the bonds;
- (2) A pledge of Corporation revenues to secure payment and the rank or priority of the pledge, subject to preexisting agreements with holders of the bonds;
- (3) A pledge of assets of the Corporation other than those assets which the Mayor allows the Corporation to use through an intra-District transfer, including mortgages and obligations securing mortgages, to secure payment, and the rank or priority of the pledge, subject to preexisting agreements with holders of the bonds;
- (4) The proposed use of gross income from any mortgages owned by the Corporation and payment of principal of mortgages owned by the Corporation;

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(5) The proposed use of reserves or sinking funds;

(6) The proposed use of proceeds from the sale of bonds or notes and a pledge of proceeds to secure payment;

(7) Any limitations on the issuance of bonds or notes, including terms of issuance and security, and the refunding of outstanding or other bonds;

(8) Procedures for amendment or abrogation of a contract with holders of the bonds, the amount of bonds or notes, the holders of which must consent to the amendment, and the manner in which consent may be given;

(9) Any vesting in a trustee of property, power, and duties, which may include the power and duties of a trustee appointed by holders of the bonds;

(10) Limitations or abrogations of the right of holders of the bonds to appoint a trustee;

(11) A defining of the nature of default in the obligations of the Corporation to the holders of the bonds and providing the rights and remedies of holders of the bonds in the event of default, including the right to the appointment of a receiver, in accordance with the laws of the District; and

(12) Any other provisions of like or different character that affect the security of holders of the bonds.

(d) A pledge of the Corporation is binding from the time it is made. Any funds or property pledged are subject to the lien of a pledge without physical delivery. The lien of a pledge is binding as against parties having any tort, contract, or other claim against the Corporation regardless of notice. Neither the resolution nor any other instrument creating a pledge need be recorded.

(e) The signature of any officer of the Corporation which appears on a bond remains valid if that person ceases to hold office.

(f) The Corporation may secure bonds by a trust indenture between the Corporation and a corporate trustee which has trust company powers within the District.

(g) A trust indenture of the Corporation may contain provisions for protecting and enforcing the rights and remedies of holders of the bonds in accordance with the provisions of the resolution authorizing the sale of bonds.

(h) Subject to preexisting agreements with the holders of the bonds or notes, the Corporation may purchase its own bonds which may then be cancelled. The price the Corporation pays in purchasing its own bonds cannot exceed the following limits:

(1) If the bonds are redeemable, the price cannot exceed the redemption price then applicable plus accrued interest to the next interest payment; or

(2) If the bonds are not redeemable, the price cannot exceed the redemption price applicable on the first date after the purchase upon which the bonds or notes become subject to redemption plus accrued interest to that date.

(i) The Corporation may establish special or reserve accounts in furtherance of its authority under this act. Notwithstanding subsections (a) and (b) of this section and other

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applicable District law, and subject to agreements with holders of the bonds, the Corporation shall manage its own funds, and may invest funds not required for disbursement in a manner consistent with industry practices.

(j) The bonds of the Corporation are legal instruments in which public officers and public bodies of the District, insurance companies, insurance company associations, and other persons carrying on an insurance business, banks, bankers, banking institutions, including savings and loan associations, building and loan associations, trust companies, savings banks, savings associations, investment companies, and other persons carrying on a banking business, administrators, guardians, executors, trustees, and other fiduciaries, and other persons authorized to invest in bonds or in other obligations of the District, may legally invest funds, including capital, in their control. The bonds are also securities which legally may be deposited with and received by public officers and public bodies of the District or any agency of the District for any purpose for which the deposit of bonds or other obligations of the District is authorized by law.

(k) Obligations issued under the provisions of this act do not constitute an obligation of the District, but are payable solely from the revenues of the Corporation. Each obligation issued under this act must contain on its face a statement that the Corporation is not obligated to pay principal or interest except from the revenues pledged and that neither the faith and credit nor the taxing power of the District is pledged to the payment of the principal or interest on an obligation.

Sec. 217. District pledges.

**New Section
32-262.17**

The District pledges to the Corporation and any holders of bonds that the District will not limit or alter rights vested in the Corporation to fulfill agreements made with holders of the bonds, or in any way impair the rights and remedies of the holders of the bonds until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders of the bonds are fully met and discharged. The Corporation is authorized to include this pledge of the District in any agreement with the holders of the bonds.

Sec. 218. Reports of the Corporation.

**New Section
32-262.18**

Within 90 days after the end of each fiscal year the Corporation shall submit to the Mayor a report setting forth its operations and accomplishments during the fiscal year, revenues and expenses for the fiscal year, assets and liabilities at the end of the fiscal year including a schedule of its bonds, notes or other obligations and the status of reserves, depreciation, and special, sinking, or other funds.

Sec. 219. Representation and indemnification.

**New Section
32-262.19**

(a) The officers and employees of the Corporation shall be considered to be District government employees for purposes of the District of Columbia Employee Non-liability Act,

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approved July 14, 1960 (74 Stat. 519; D.C. Code § 1-1211 *et seq.*), except that beginning 2 years from the date of the Board's first meeting under section 204(h) all settlements and judgments shall be payable out of the monies of the Corporation.

(b) The District shall assume the responsibility for all settlements and judgements that result from acts or occurrences which transpired prior to the date upon which the Corporation assumes responsibility for settlements and judgements under subsection (a) of this section.

Sec. 220. Pending administrative proceedings.

New Section
32-262.20

(a) No administrative action or proceeding lawfully commenced shall abate solely by reason of the taking effect of any provision of this act.

(b) Administrative adjudications occurring after an employee is transferred under this act but relating to his or her employment in the Department of Human Services prior to transfer shall not be the responsibility of the Corporation.

Title III. Self-Government Act Amendments.

Sec. 301. The Council requests that the United States Congress enact the following amendments to the District of Columbia Self-Government and Governmental Reorganization Act:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE. - This Act may be cited as the "District of Columbia Government Revenue Bond Delegation Authority Act of 1996".

(b) REFERENCES IN ACT. - Whenever in this Act an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to that section or other provision of the District of Columbia Self-Government and Governmental Reorganization Act.

SECTION 2. REVENUE BONDS AND OTHER OBLIGATIONS ON BEHALF OF DISTRICT ENTITIES AND OTHER QUALIFIED ENTITIES.

(a) PAYMENTS ON BONDS. - Section 490(a)(3) (D.C. Code, sec. 47-334(a)(3)) is amended to read as follows:

"(a)(3) Any revenue bond, note, or other obligation issued under paragraph (1) of this subsection shall be paid and secured (as to principal, interest, and any premium) as provided by the act of the Council authorizing the issuance of such bond, note, or other obligation. Subject to subsection (c) of this section, any act of the Council authorizing the issuance of such bond, note, or other obligation may provide for:

(A) The payment of such bond, note, or other obligation from any available revenues, including District of Columbia Health and Hospital Public Benefit Corporation fund revenues, assets, or property dedicated for the purposes set forth in paragraph (1) of this subsection; and

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(B) The securing of such bond, note, or other obligation by the mortgage of real property or the creation of any security interest in available revenues, including District of Columbia Health and Hospital Public Benefit Corporation fund revenues, assets, or property dedicated for the purposes set forth in paragraph (1) of this subsection."

(b) NO PLEDGE OF THE DISTRICT'S FAITH AND CREDIT; EXEMPTION FROM DEBT CEILING. - Section 490(c) (D.C. Code, sec. 47-334(c)) is amended to read as follows:

"(c) Any and all such bonds, notes, or other obligations shall not be general obligations of the District and shall not be a pledge of or involve the faith and credit or the taxing power of the District, shall not constitute a debt of the District, shall not constitute lending of the public credit for private undertakings as contained in section 602(a)(2), and shall not constitute debt for the purposes of section 603."

(c) AUTHORIZATION TO DELEGATE AUTHORITY. - Section 490(g) (D.C. Code, sec. 47-334(g)) is amended by adding a new paragraph (2), by renumbering the remaining paragraphs and amending them to read as follows:

"(g)(2) The Council may delegate to the District of Columbia Health and Hospitals Public Benefit Corporation established by it (whether established before or after the date of the enactment of this subsection), the authority of the Council under subsection (a) of this section to issue taxable or tax-exempt revenue bonds, notes and other obligations to borrow money to finance, refinance, or to assist in the financing or refinancing of undertakings in the area of health care facilities and medical services, and development affecting health and medical services. The Corporation may exercise authority delegated to it by the Council as described in the first sentence of this paragraph (whether such delegation is made before or after the date of the enactment of this subsection) only in accordance with this subsection.

"(g)(3) Revenue bonds, notes, and other obligations issued by any agency or entity described in subsection (g)(1) or (g)(2) under a delegation of authority described in subsection (g)(1) or (g)(2) shall be issued by resolution of the agency or entity, and any such resolution shall not be considered to be an act of the Council.

"(g)(4) The fourth sentence of section 446 shall not apply to:

"(A) Any amount (including the amount of any accrued interest or premium) obligated or expended from the proceeds of the sale of any revenue bond, note, or other obligation issued under subsection (g)(1) or (g)(2);

"(B) Any amount obligated or expended for the payment of the principal of, interest on, or any premium for any revenue bond, note, or other obligation issued under subsection (g)(1) or (g)(2);

"(C) Any amount obligated or expended to secure any revenue bond, note, or other obligation issued under subsection (g)(1) or (g)(2); and

"(D) Any amount obligated or expended for repair, maintenance, and capital improvements to facilities financed pursuant to subsection (g)(1) or (g)(2)."

(d) APPROPRIATION EXCEPTION; CONFORMING AMENDMENT. - Section 446 (D.C. Code, sec. 47-304) is amended by changing the fourth sentence to read:

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"Except as provided in section 467(d), section 471(c), section 472(d)(2), section 483(d), and subsections (f) and (g)(4) of section 490, no amount may be obligated or expended by any officer or employee of the District of Columbia government unless such amount has been approved by Act of Congress, and then only according to such Act."

(e) AUTHORIZATION FOR EXPENDITURES. - Section 467(d) (D.C. Code, sec. 47-326.1(d)) is amended to read:

"The fourth sentence of section 446 shall not apply to any obligation or expenditure of any District revenues to secure any general obligation bond under subsection (a) of this section or any revenue bond or other obligation under section 490(a) and 490(g) or for repair, maintenance, and capital improvements to facilities financed pursuant to section 490(a) and 490(g)."

SECTION 3. EXCLUSION OF PLEDGED REVENUES.

Section 603(b)(1), (2), and (3)(A) (D.C. Code, sec. 47-313(b)(1), (2), and (3)(A)) are amended to read as follows:

"(b)(1) No general obligation bonds (other than bonds to refund outstanding indebtedness) or Treasury capital project loans shall be issued during any fiscal year in an amount which would cause the amount of principal and interest required to be paid, both serially and into a sinking fund in any fiscal year on the aggregate amounts of all outstanding general obligation bonds and such Treasury loans, to exceed 14 percentum of the District revenues (less court fees, any fees or revenues directed to servicing or securing revenue bonds, any revenues, charges or fees dedicated for the purposes set forth in subsection (a) of section 490, retirement contributions, revenues from retirement systems, and revenues derived from such Treasury loans and the sale of general obligation or revenue bonds) which the Mayor estimates, and the District of Columbia Auditor certifies, will be credited to the District during the fiscal year in which the bonds will be issued. Treasury capital project loans include all borrowing from the United States Treasury, except those funds advanced to the District by the Secretary of the Treasury under the provisions of section 2501, title 47 of the District of Columbia Code, as amended.

"(b)(2) Obligations incurred pursuant to the authority contained in the District of Columbia Stadium Act of 1957 (71 Stat. 619; D.C. Code, title 2, chapter 17, subchapter II), and obligations incurred by the agencies transferred or established by section 207 of the Health and Hospital Public Benefit Corporation Act of 1996, whether incurred before or after such transfer or establishment, and revenue bonds, notes, or other obligations issued by the District of Columbia Health and Hospitals Public Benefit Corporation pursuant to subsection (a) of section 490, shall not be included in determining the aggregate amount of all outstanding obligations subject to the limitation specified in the preceding subsection."

"(b)(3) The 14 percentum limitation specified in paragraph (1) shall be calculated in the following manner:

"(A) Determine the dollar amount equivalent to 14 percent of the District revenues (less court fees, any fees or revenues directed to servicing or securing revenue bonds,

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any revenues dedicated for the purposes set forth in subsection (a) of section 490, retirement contributions, revenues from retirement systems, and revenues derived from such Treasury loans and the sale of general obligation or revenue bonds) which the Mayor estimates, and the District of Columbia Auditor certifies, will be credited to the District during the fiscal year for which the bonds will be issued."

SECTION 4. CORPORATION BUDGET.

(a) Section 442(b) (D.C. Code, sec. 47-301(b)) is amended to read:

"The budget prepared and submitted by the Mayor shall include, but not be limited to, recommended expenditures at a reasonable level for the forthcoming fiscal year for the Council, the District of Columbia Auditor, the District of Columbia Board of Elections and Ethics, the District of Columbia Judicial Nomination Commission, the Zoning Commission of the District of Columbia, the Public Service Commission, the Armory Board, the Commission Judicial Disabilities and Tenure, and the District of Columbia Health and Hospitals Public Benefit Corporation."

(b) A new section 445a is added to read as follows:

"Annual estimates of the expenditures and appropriations necessary for the operation of the District of Columbia Public Health and Hospitals Public Benefit Corporation established by the District of Columbia Public Health and Hospitals Public Benefit Corporation Act of 1996, which are included in the budget of the Corporation shall be forwarded by the Mayor to the Council for its action pursuant to sections 446 and 603(c) without revision but subject to recommendations. Notwithstanding any other provision of this Act, the Council may comment or make recommendations concerning such estimates, but shall only have authority to revise the annual estimates of the compensation paid by the District to the Corporation pursuant to section 207(d) of the Health and Hospital Public Benefit Corporation Act of 1996."

SECTION 5. APPROVAL OF CERTAIN CONTRACTS.

Section 451(b)(1) (D.C. Code § 1-1130(b)(1)) is amended by inserting ", except contracts entered into by the Health and Hospitals Public Benefit Corporation and," after "12-month period".

Title IV. Miscellaneous Provisions.

Sec. 401. Amendment to Fee Authority

The first two sentences of section 2(a) of the Fees for Clinical Services and Asbestos Abatement Act of 1984, effective March 15, 1985 (D.C. Law 5-173; D.C. Code § 32-119.1(a)), is amended to read as follows:

"A fee, based on rates to be established by the Mayor, shall be charged to each person who is not indigent for all clinical services provided at District of Columbia health clinics. The Mayor's authority to set such fees at D.C. General Hospital and for those services provided at the Ambulatory Health Care Administration community health clinics shall terminate on the date that the Board of Directors of the District of Columbia Health and Hospitals Public Benefit

**Section
32-119.1**

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Corporation has its first meeting in accordance with section 204(h) of the Health and Hospitals Public Benefit Corporations Act of 1996."

Sec. 402. Repealer.

The D.C. General Hospital Commission Act, effective May 13, 1977 (D.C. Law 1-134; D.C. Code § 32-201 *et seq.*), is repealed.

**Sections
32-201
through
32-257**

Sec. 403. Easy out retirement incentive program and early out retirement incentive program.

**New Section
32-263.1**

(a) Pursuant to section 1106 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code § 1-612.6), the Council of the District of Columbia approves the proposed changes to the Career and Excepted Service compensation system under section 1104(e) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code § 1-612.4(e)), to authorize the Mayor to establish retirement incentive programs for certain employees subject to transfer to the Corporation.

(b) The changes to the compensation system provide that:

(1) The Mayor is authorized to establish retirement incentive programs ("programs") which shall apply to eligible employees subject to transfer to the Corporation.

(2) Any such program shall be effective for any period or periods established by the Mayor prior to the establishment of the Corporation's own personnel system.

(3) The Mayor may exclude positions from or limit participation in these programs based on the needs of the government.

(4) The easy out retirement incentive program shall be limited to employees retiring under the optional retirement provisions of 5 U.S.C. 8336(a), (b), or (f).

(5) The early out retirement incentive program shall be limited to employees retiring under the voluntary early retirement provisions of 5 U.S.C. 8336(d)(2).

(6) Each program shall offer a retirement incentive of 50% of an employee's annual rate of basic pay from the employee's salary or pay schedule which was in effect on the first day of the fiscal year in which the program is in effect, not to exceed \$24,000, to be paid within one year of the employee's retirement.

(7) Retirement incentive payments shall be prorated in the case of a part-time employee.

(8) An employee otherwise eligible to retire under 5 U.S.C. 8336(a), (b), (f), or (d)(2) who elects the retirement incentive, may be retained in service by the Director of Personnel upon written determination that the services of the eligible employee are essential and required after the date elected by the employee, provided that the Director of Personnel specifies the date after which the employee's services will no longer be needed, which may be no later than the effective date of the Corporation's own personnel system and the employee retires after

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the last day on which his or her services are required, but not later than the effective date of the Corporation's own personnel system.

(9) Retirement incentive payments shall not be considered basic pay for computing retirement entitlement, insurance entitlement, any category of premium pay entitlement, lump-sum leave, or any other entitlement that is computed on basic pay.

(10) No incentive payments shall be paid to :

(A) An employee retiring under the discontinued service/involuntary retirement provisions of 5 U.S.C. 8336(d)(1), or the disability retirement provisions of 5 U.S.C. 8337;

(B) A person employed as a reemployed annuitant under the provisions of 5 U.S.C. 8344 who separates from District service, whether or not he or she applies for a recomputation of his or her annuity;

(C) An employee who is receiving disability compensation under section 2316 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code § 1-624.16), who retires and who elects to remain on disability compensation in lieu of a retirement annuity;

(D) An employee who receives a proposal or a final decision notice of removal for cause;

(E) An employee whose services have been determined as essential by the Director of Personnel if the employee retires before the date specified in writing by the Director of Personnel as the date after which the employee's services are no longer needed;

(F) An employee who is under indictment for or who is charged by information with, or who has been convicted of, a felony related to his or her employment duties, except that any employee who is ultimately acquitted or cleared of any charge which caused his or her ineligibility shall be eligible for all benefits as if that employee had never been indicted for or charged by information with a felony; or

(G) An employee who, based on conduct related to his or her employment duties, has been convicted of a misdemeanor or who pleads guilty or who is convicted after a plea of *nolo contendere* to a misdemeanor.

(11) For the purposes of subparagraph (10)(F) of this subsection, "felony" means an offense that is punishable by term of imprisonment that exceeds one year.

(c) Employees shall have 30 days from the date of transfer under section 207 in which to exercise options under this section.

Sec. 404. Voluntary severance incentive program.

(a) Pursuant to section 1106 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code § 1-612.6), the Council of the District of Columbia approves the proposed changes to the Career and Excepted Service compensation system under section 1104(e) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law

**New Section
32-263.2**

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2-139; D.C. Code § 1-612.4(e)), to authorize the Mayor to establish a voluntary severance incentive program for certain employees subject to transfer to the Corporation.

(b) The changes to the compensation system provide that:

(1) The Mayor is authorized to establish a voluntary severance incentive program ("program") which shall apply to eligible employees subject to transfer to the Corporation who choose to voluntarily sever employment with the District of Columbia government.

(2) Any such program shall be effective for any period or periods established by the personnel authority prior to the effective date of this act.

(3) The Mayor may exclude positions from or limit participation in this program based on the needs of the government.

(4) The voluntary severance incentive program shall offer a severance incentive in a lump sum to be paid within one year of the employee's separation, according to the following schedule:

<u>Length of Service</u>	<u>Benefit</u>
2 years up to 5 years	Greater of \$5,000 or 5 weeks of pay
5 years up to 7 years	Greater of \$7,000 or 6 weeks of pay
7 years up to 10 years	Greater of \$8,500 or 8 weeks of pay
Over 10 years	\$10,000.

(5) In no case shall the amount of the voluntary severance incentive exceed \$10,000.

(6) The voluntary severance incentive shall not be available to part-time employees.

(7) The voluntary severance incentive shall extend to any full-time employee subject to transfer to the Corporation who is covered by the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code § 1-601.1 *et seq.*), who has been continuously employed with the District of Columbia government without a break in service for the period commencing two years prior to the beginning of any voluntary severance incentive program implemented under this authority.

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(8) Voluntary severance incentive payments shall not be considered basic pay for computing retirement entitlement, insurance entitlement, any category of premium pay entitlement, lump-sum leave, or any other entitlement that is computed on basic pay.

(9) No incentive payments shall be paid to:

(A) An employee appointed to the Excepted Service under § 903(a)(1) or (2) or § 908 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code §§ 1-610.3(a)(1) and (2) and § 1-610.8);

(B) An employee appointed to the Executive Service under § 1001 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code § 1-611.1);

(C) An employee who works a part-time tour of duty;

(D) An employee who is in a time-limited appointment, i.e., temporary or term;

(E) An employee who receives a proposal or a final decision notice of removal for cause;

(F) An employee retiring under the discontinued service/involuntary retirement provisions of 5 U.S.C. 8336(d)(1), or the disability retirement provisions of 5 U.S.C. 8337;

(G) An employee who is a reemployed annuitant under the provisions of 5 U.S.C. 8344;

(H) An employee who has received a notice of separation from the District government pursuant to reduction-in-force procedures;

(I) An employee who is under indictment for or who is charged by information with, or who has been convicted of, a felony related to his or her employment duties, except that any employee who is ultimately acquitted or cleared of any charge which caused his or her ineligibility shall be eligible for all benefits as if that employee had never been indicted for or charged by information with a felony; or

(J) An employee who, based on conduct related to his or her employment duties, has been convicted of a misdemeanor or who pleads guilty or who is convicted after a pleas of *nolo contendere* to a misdemeanor.

(10) For the purposes of subparagraph (9)(I) of this subsection, "felony" means an offense that is punishable by a term of imprisonment that exceeds one year.

(c) Employees shall have 30 days from the date of transfer under section 207 in which to exercise options under this section.

Sec. 405. Prohibition on reemployment with the District government.

An employee who receives an incentive payment pursuant to either section 403 or 404 shall not be eligible for reemployment with the District government for 5 years from the date of

New Section
32-263.3

retirement, or hired or retained as sole source consultant or personal services contractor for 5 years from the date of retirement.

Sec. 406. Fiscal Impact Statement

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Title V. - Effective Dates.

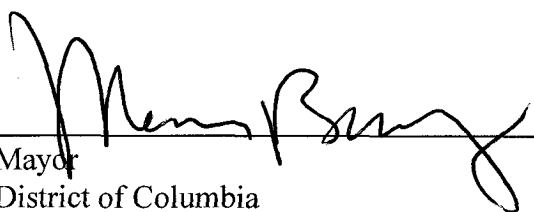
Sec. 501. (a) This act, with the exception of sections 214 through 217, shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), and a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.

(b) Sections 214 through 217 of this act shall take effect upon the enactment by Congress of the legislation proposed in Title III of this act, or of substantially similar legislation.

(c) Section 402 shall become effective upon the first meeting of the Board pursuant to section 204(h).



Chairman Pro Tempore
Council of the District of Columbia



Mayor
District of Columbia

Approved: August 7, 1996



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD ELEVEN

RECORD OF OFFICIAL COUNCIL VOTE

B11-604

Docket No. _____

[] ITEM ON CONSENT CALENDAR

[X] ACTION & DATE

ADOPTED FIRST READING, 6-4-96

[X] VOICE VOTE

APPROVED

RECORDED VOTE ON REQUEST

BRAZIL, CHAVOUS, JARVIS, LIGHTFOOT AND SMITH

ABSENT _____

[] ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

[Signature]

Secretary to the Council

July 26, 1996

Date

[] ITEM ON CONSENT CALENDAR

[X] ACTION & DATE

ADOPTED FINAL READING, 7-17-96

[X] VOICE VOTE

APPROVED

RECORDED VOTE ON REQUEST

BRAZIL AND CHAVOUS

ABSENT _____

[] ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X-indicates no

AB-Absent

NV-Present not voting

CERTIFICATION RECORD

[Signature]

Secretary to the Council

July 26, 1996

Date

[] ITEM ON CONSENT CALENDAR

[] ACTION & DATE

[] VOICE VOTE

RECORDED VOTE ON REQUEST

ABSENT _____

[] ROLL CALL VOTE - Result _____

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date