

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 3-104

"District of Columbia Funds Control Act of 1980".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 3-169, on first and second readings, June 17, 1980 and July 1, 1980, respectively. Subsequent to the Mayor's disapproval on July 22, 1980, the Council re-enacted Bill No. 3-169 on July 29, 1980 and this legislation was assigned Act No. 3-229. The Act was published in the August 29, 1980, edition of the D.C. Register, (Vol. 27 page 3748) and transmitted to Congress on August 1, 1980 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and, therefore, cites this enactment as D.C. Law 3-104 effective September 26, 1980.



ARRINGTON DIXON
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

August 1, 4, 5, 6, 18, 19, 20, 21, 22, 25, 26, 27, 28

September 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 22, 23, 24, 25

July 22, 1980

TO THE COUNCIL OF THE DISTRICT OF COLUMBIA:

Today, I have disapproved Bill 3-169, the Funds Control Act of 1980. After serious consideration, I have concluded that to acquiesce in the dictates of this bill would be to participate in a serious weakening of this government's ability to confront and resolve many of the difficult problems that we are faced with at this time.

The bill would require the executive branch to prepare two new budgets each year for the approval of the Council. These new budgets would be in addition to the massive budget the executive branch already prepares annually and that is subject to the approval of the Council and the Congress. In addition, the bill would require the Council's approval before the executive branch could even apply for some major federal grants which may become available on short notice. And it would require the Council's approval each time the Mayor used his longstanding authority to borrow money for short periods without interest from the U.S. Treasury. This authority is used not to fund the budget, but to manage the District's cash flow to maintain adequate cash balances in the periods before tax returns and other revenues are received during the year.

As I have stated to the Council previously, I do not object to the Council's desire to be involved in the consideration

of applications for major grants, nor do I object to presenting to the Council a gross budget plan. Indeed, I believe that the Council should be notified and consulted in advance whenever possible on all major financial and budgetary actions. This includes notification of any adjustments in the gross budget plan that result from Congressional action in the appropriations act or from grants awarded after the beginning of the fiscal year. It also includes prompt notification of the need for borrowing. Subsequent to such notification, I would welcome the views of the Council, whether expressed formally or informally.

However, to require the preparation of additional budgets and their approval by act of the Council would contravene the policy and procedure for development and enactment of the budget set forth in the Charter, and subject our financial affairs to further congressional involvement through the congressional legislative review process. In addition, to require approval in each instance of short-term borrowing -- which Congress and all types of enterprises and institutions recognize as an essential financial management tool -- would critically interfere with my responsibilities as chief financial officer of this city and virtually destroy one of the few instruments of financial flexibility Congress has left to us. Moreover, to require that the Council approve by resolution instead of

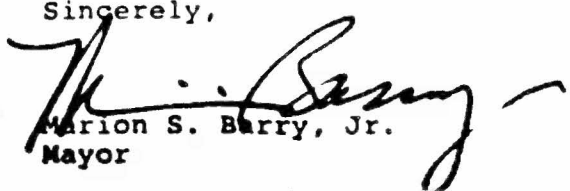
by act, whether approving short-term borrowing or an additional budget, would violate the principle of separation of powers and the Mayor's prerogative to disapprove legislation (See the attached opinion of the Corporation Counsel).

We have had imposed on us by the Congress a uniquely long, cumbersome and inflexible budget process. Moreover, as the Council recognizes, this process in crucial respects deprives us of the full fiscal autonomy that rightfully inheres in true self government. Unfortunately, only Congress can correct this flaw. I believe that Congress will eventually do so, given persistent urging by the people of the District of Columbia, and their elected representatives. I do not believe, however, that the prospect of this eventuality is enhanced, or that the difficulties it causes are mitigated, by local legislation that at one and the same time masks the source and magnifies the effects of the problem.

Accordingly, I have concluded that to accept or to acknowledge the rigidities and constraints of this bill would be bad policy, and bad law.

Finally, I wish to reiterate my desire to foster as much cooperation as possible between the executive and legislative branches of this government, and to discuss with the Council ways to provide additional financial information that Councilmembers believe they need to carry out their duty to legislate responsibly.

Sincerely,


Marion S. Barry, Jr.
Mayor

D.C. LAW 3-104
EFFECTIVE DATE SEP 26 1980

AN ACT

D.C. ACT 3-229

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUL 29 1980

To establish a systematic process for the planned use, application, receipt, budget formulation, and expenditure by agencies of the District of Columbia, of all District revenues, irrespective of funding source; to provide procedures for certain borrowings; and for other purposes.

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

that this act may be cited as the "District of Columbia Funds Control Act of 1980".

Sec. 2. Findings. The Council of the District of Columbia finds:

(a) That there exists a public perception that the District budget approved by the Council, after considerable careful public examination, is the plan which determines the manner in which District funds will be spent.

(b) That the District's new Financial Management System, which became operative in

CODIFICATION
D.C. Code,
title 47,
subchapter VI

D.C. Code,
sec. 47-299.1

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Fiscal Year 1980, provides the Council a new level of budget information.

(c) That questions remain in regard to the role of the Council with respect to ongoing oversight and control of the District budget.

(d) That a large portion of the District's annual expenditures are funded by grants from the federal government and private sources. Although these grant funds are a major portion of the District's program process, to a great extent, planning and allocation of these funds are without public participation through the legislative process.

(e) That under the District's new Financial Management System, the Council will be excluded from approval or review of federal grant funds to District agencies.

(f) That the District does not have a legislative process to address and control all city expenditures from all revenue sources.

(g) That there is a need to clearly define the continuing role of the Council in the budget process in order to resolve those questions critical to the shaping of public policy and the

prudent management of publicly entrusted tax dollars.

Sec. 3. Definitions.

For the purposes of this act, the terms:

D.C. Code,
sec. 47-299.2;
Note, D.C. Code,
secs. 47-225.1 to
225.3

(1) "Agency" means the highest organizational structure of the District at which budgeting data is aggregated.

(2) "Control budget" means the mechanism for the implementation and execution of the District obligational and revenue activities for any given fiscal year.

(3) "Control center" means one (1) or more responsibility centers aggregated for financial controls purposes.

(4) "Council" means the Council of the District of Columbia.

(5) "Days" means calendar days.

(6) "District" means the District of Columbia government.

(7) "Formula grant" means any grant which allocates federal funds to the District in accordance with distribution formulas prescribed by law for activities of a continuing nature not confined to a specific project.

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(8) "Grant" or "grant funds" means all grants-in-aid, block grants, reimbursements, including reimbursement for indirect costs, or other similar programs, the funds, or budgetary authority for which are provided by the federal government, other than through appropriation of revenue funds or any fund required by act of Congress to be treated as a local revenue. The term "Grant funds" also include any private funds voluntarily donated to the District and accepted by it for a specific purpose not connected with the payment of a tax, fee, charge, or other similar legal obligation.

(9) "Grant-making agency" means the federal government or private source of grant funds.

(10) "Gross planning budget" means the planning budget of the District including all anticipated revenue irrespective of source, and all planned expenditures presented at the responsibility center level of detail.

(11) "Non-appropriated budget authority" means the authority of the District to incur obligations and make payments for specified

purposes against funds which are not subject to approval by the Congress in the annual appropriations act for the District.

(12) "Responsibility center" means the primary level at which a budget is established for financial control purposes.

(13) "Revenue funds" mean all funds derived from taxes, fees, charges, miscellaneous receipts, annual Federal payments to the District authorized by law, funds derived from the sale of bonds which are general obligations of the District, General Revenue sharing funds, or any other funds which are not grants funds as defined by this act.

(14) "State plan" means any plan or revision thereto other than an application to be filed with and approved by a grantor as a condition of receiving grant funds.

Sec. 4. Grant Application Procedure.

(a) All grant applications shall be prepared in the name of the Government of the District of Columbia. Any agency, other than those referred to in subsection (b), which desires to receive grant funds or submit a state plan shall request

D.C. Code,
sec. 47-299.3

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approval by the Mayor subject to regulations issued by the Mayor in accordance with the provisions of section 105 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (92 Stat. 1206; D.C. Code, sec. 1-1505).

(b) The Trustees of the University of the District of Columbia, the Board of Education, the D.C. General Hospital Commission, the District of Columbia Court of Appeals, the District of Columbia Court System, the District of Columbia Superior Court, and the Pretrial Services Agency shall submit to the Mayor two (2) copies of the application and completed approval form, as an advisory notice, concurrent with submitting the application and completed approval form to a grant-making agency in accordance with rules and regulations issued pursuant to subsection (c).

(c) Those agencies identified in subsection (b) shall, within one hundred eighty (180) days of the effective date of this act, develop rules and regulations for grant applications review and approval consistent with the responsibilities of the governing bodies of those agencies, and such

rules and regulations shall be issued in accordance with the provisions of section 105 of the District of Columbia Administrative Procedure Act, approved October 21, 1958 (D.C. Code, sec. 1-1505).

sec. 5. (A). Notice to Council of Application for Grant Funds.

D.C. Code,
sec. 47-299.4

The Mayor shall monthly give notice to the Council of every proposed application for grant funds or state plan approved by the Mayor. In giving notice to the Council, the Mayor shall provide a summary of a grant application's major provisions including, but not limited to:

- (1) The grant-making agency to whom the application is made;
- (2) The period of the proposed grant;
- (3) Whether the proposed grant is new or a request for a renewal or revision of an existing grant;
- (4) A statement summarizing the purpose of the grant, and indicating its relationship to any proposed or adopted state plan, if appropriate;

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(5) A statement as to whether or not the function for which the grant is sought is already being performed by the District or within the private sector and, if so, how the grant will affect service delivery;

(6) The amount to be received by fiscal year;

(7) The amount of District appropriated funds, by fiscal year, to be used as a match, or the dollar equivalent and type of in-kind services to be used as a match by fiscal year and the impact on the agency budget providing the match;

(8) A statement indicating the agency which shall administer the grant and any sub-grantees including other District agencies, private organizations, or individuals;

(9) A planning budget at the control center level for the grant, and the match, if any, including the number of employees by program structures, grade, position, and title who may be employed as a result of the grant;

(10) A statement setting forth the quantitative and qualitative measures to be employed, if any, to judge the effectiveness and

efficiency of the program in meeting its stated goals;

(11) A statement describing the public participation, if any, in the formulation of the grant request;

(12) A statement indicating whether or not an audit is to be made during the life of the grant or at its expiration, and if so, by whom and the scope of the audit to be performed;

(13) A statement as to whether or not an environmental impact statement is required or planned;

(14) A statement as to how the objectives of the grant will be performed or funded, if at all, when the grant expires, and any proposed commitment to continue meeting the objectives at the end of the grant period with District appropriated funds or other grant funds, including an estimate of the annual cost of that commitment; and

(15) A statement of the amount of indirect cost charged to the grants, and where appropriate, a statement of grant-making agency policy or legislation for indirect costs.

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recoveries which are different from negotiated agreements; and the proposed allocation of indirect costs recovered on the grant.

(b) Public Notice of Application for Grant Funds. The Mayor shall monthly provide public notice of grant applications in the D.C. Register in accordance with the provisions of the District of Columbia Administrative Procedure Act, approved October 1, 1968 (D.C. Code, sec. 1-1505); and such public notice shall also be provided by the presiding officer of the governing bodies of those agencies identified in section 4(b); and such notice shall include but not be limited to a summary of the information required pursuant to section 5(a).

Sec. 6. Procedure for Council Consent to Certain Grant Applications and State Plans.

D.C. Code,
sec. 47-299.5

(a) Applications and State Plans Requiring Council Consent.

In addition to the notice required by section 5, the terms and conditions of each grant application or state plan which provides for or requests any of the following shall be approved by

consent of the Council prior to submission to the federal grant-making agency:

(1) Any formula grant of more than \$5,000,000;

(2) Any grant or state plan requiring the obligation of more than \$100,000 in matching funds or in-kind contributions in any fiscal year; or

(3) Any other grant funded program which, in the Mayor's reasonable expectations, will require future annual funding of \$100,000 or more out of District revenue funds after the termination of the proposed grant.

(b) Procedures for Submission to and Consent by the Council.

(1) The Mayor, five (5) days before approving any grant application or state plan meeting any of the criterion of subsection (a), shall submit a copy of such application or state plan to the Chairman of the Council, along with such information as required by section 5(a) and including copies of any state plans which are required as a condition of a grant.

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The Chairman of the Council shall circulate such application or state plan to the Members of the Council with a notice labeling it as requiring Council consent for submission to a grant-making agency.

The Mayor shall cause to be published in the D.C. Register public notice of such submission. The notice shall include a statement that Council consent is required pursuant to section 5.

(2) The Council shall consider such application or state plan according to its rules. Should no written notice of disapproval of such application or state plan be filed by any member of the Council within fourteen (14) days of the receipt of such application from the Mayor, the consent of the Council to the application shall be deemed to be given. Should notice of disapproval be filed during such initial fourteen (14) day period, the Council shall dispose of such notice of disapproval within thirty (30) days of the initial receipt of the application from the Mayor, or Council consent to the application shall be deemed to be given: PROVIDED, That nothing in this subsection shall be construed to waive any

requirement for affirmative Council approval by the grant-making agency.

(3) No applications or state plans may be submitted to the Chairman of the Council during such time as the Council is on recess, according to its rules, nor shall any time period provided in this section continue to run during such time as the Council is on recess.

(c) Procedure for Reconsideration by the Council.

If the Council withholds its consent to a grant application, the Mayor may, on a clear showing of changed circumstances, new information, or additional administrative hardship, ask for a reconsideration of the previous action of the Council. The Council may at its discretion reconsider its previous action.

(d) Exemptions.

The grants submitted by agencies identified in section 4(b) are exempt from the provisions of this section.

Sec. 7. Approval of the Gross Planning Budget of the District. Pursuant to sections 448(3) and 403(c) & (1) of the District of Columbia Self-

D.C. Code,
Sec. 47-225.1

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Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 801; D.C. Code, secs. 47-226 & -229(c) & (d)), the Mayor shall annually and prior to transmittal of the budget of the District to the President of the United States, submit to the Council, a Gross Planning Budget for the District, which shall include, but not be limited to the amount of estimated revenue by source, including all sources, and the planned obligation of all revenue presented at responsibility center detail. The Gross Planning Budget shall be approved by resolution of the Council.

Sec. 8. Approval of the Control Budget of the District.

(a) Within fourteen (14) days of Congressional approval of the appropriated budget of the District, the Mayor shall submit to the Council an act to establish the control budget of the District, including all revenue sources, which shall be presented in responsibility center detail: PROVIDED, That nothing in this section may be construed as giving the Council the power

D.C. Code,
sec. 47-225.2

to modify any action taken by the Congress in the appropriations act for the District.

(b) Prior to the obligation during the fiscal year of any grant funds awarded subsequent to the start of the fiscal year, the Mayor shall submit to the Council an act to establish such grant award as part of the control budget of the District, and such grant award shall be submitted in responsibility center detail.

Sec. 9. Establishment of Budget Structure.

D.C. Code,
sec. 47-225.3

(a) Within thirty (30) days of the Mayor's first call with respect to the preparation of the budget for Fiscal Year 1982, and any subsequent fiscal year, the Mayor shall submit to the Council a resolution to establish the budget structure, including but not limited to designating control centers and responsibility centers, and a designation of all those entities as they are proposed for financial management purposes within the gross planning budget.

(b) The Council shall consider such resolution according to its rules. Should no written notice of disapproval of such resolution be filed by any Member of the Council with the

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Secretary to the Council within fourteen (14) days of the receipt of such resolution from the Mayor, the resolution shall be deemed to be approved. Should notice of disapproval be filed during such initial fourteen (14) day period, the Council shall dispose of such notice of disapproval within thirty (30) days of the initial receipt of the resolution from the Mayor, or the resolution to establish the budget structure shall be deemed to be approved.

(c) No such resolution may be submitted to the Council during such time as the Council is on recess, according to its rules nor shall any time period provided in this section continue to run during such time as the Council is in process.

(d) If the Council disapproves such resolution, the Mayor may, on a clear showing of changed circumstance new information, or additional administrative hardship, ask for a reconsideration of the previous action of the Council. The Council may in its discretion reconsider its previous action.


Sec. 10. Approval of Mayoral Borrowing of Funds.

D.C. Code,
sec. 47-255

The Mayor is authorized to borrow funds from the United States Treasury in anticipation of the collection or receipt of revenues: PROVIDED, that each such borrowing is approved by the Council in advance of such borrowing by resolution.

Sec. 11. Effective Date.

This act shall take effect after a thirty (30) day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 502(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 413; D.C. Code, sec. 1-147(c)(1)).


Chairman
Council of the District of Columbia

DISAPPROVED

Mayor
District of Columbia

July 22, 1980

COUNCIL OF THE DISTRICT OF COLUMBIA

RECORD OF OFFICIAL COUNCIL ACTION

DOCKET NO: B 3-169

ACTION: Adopted First Reading 6-17-80

VOICE VOTE: Majority

Absent: Moore, Spaulding and Rav

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.Y.	A.B.	COUNCIL MEMBER	AYE	NAY	N.Y.	A.B.	COUNCIL MEMBER	AYE	NAY	N.Y.	A.B.
DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE					WILSON				
HARDY					RAY									
HARVEY					ROTARK									

CERTIFICATION OF RECORD

John P. Brown
Secretary to the Council

ACTION: Adopted Final Reading 7-1-80

VOICE VOTE: Majority

Absent: Wilson

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.Y.	A.B.	COUNCIL MEMBER	AYE	NAY	N.Y.	A.B.	COUNCIL MEMBER	AYE	NAY	N.Y.	A.B.
DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE					WILSON				
HARDY					RAY									
HARVEY					ROTARK									

CERTIFICATION OF RECORD

John P. Brown
Secretary to the Council

ACTION: Council Override 7-29-80

VOICE VOTE: _____

Absent: _____

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.Y.	A.B.	COUNCIL MEMBER	AYE	NAY	N.Y.	A.B.	COUNCIL MEMBER	AYE	NAY	N.Y.	A.B.
DIXON	X				KANE	X				SHACKLETON	X			
WINTER		X			MASON	X				SPAULDING	X			
CLARKE			X		MOORE				X	WILSON	X			
HARDY	X				RAY		X							
HARVEY	X				ROTARK	X								

CERTIFICATION OF RECORD

John P. Brown
Secretary to the Council