

ENROLLED ORIGINAL

**AN ACT
D.C. ACT 20-329**

**IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
MAY 22, 2014**

To amend, on an emergency basis, the Health Benefit Exchange Authority Establishment Act of 2011 to provide for the financial sustainability of the Health Benefit Exchange Authority.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Health Benefit Exchange Authority Financial Sustainability Emergency Amendment Act of 2014”.

Sec. 2. The Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-94; D.C. Official Code § 31-3171.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 31-3171.01) is amended as follows:

(1) A new paragraph (3A) is added to read as follows:

“(3A) “Direct gross receipts” means all policy and membership fees and net premium receipts or consideration received in a calendar year on all health insurance carrier risks originating in or from the District of Columbia.”.

(2) A new paragraph (8C) is added to read as follows:

“(8C) “Net premium receipts or consideration received” means gross premiums or consideration received less the sum of premiums received for reinsurance assumed and premiums or consideration returned on policies or contracts canceled or not taken.”.

(b) Section 4 (D.C. Official Code § 31-3171.03) is amended by adding a new subsection (f) to read as follows:

“(f)(1) The Authority shall annually assess, through a “Notice of Assessment,” each health carrier doing business in the District with direct gross receipts of \$50,000 or greater in the preceding calendar year an amount based on a percentage of its direct gross receipts for the preceding calendar year. These assessments shall be deposited in the Fund.

“(2) The Authority shall adjust the assessment rate in each assessable year. The amount assessed shall not exceed reasonable projections regarding the amount necessary to support the operations of the Authority.

“(3) Each health carrier shall pay to the Authority the amount stated in the Notice of Assessment within 30 business days of receipt of the Notice of Assessment.

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“(4) Any failure to pay the assessment shall subject the health carrier to section 5 of the Insurance Regulatory Trust Fund Act of 1993, effective October 21, 1993 (D.C. Law 10-40; D.C. Official Code § 31-1204).”.

Sec. 3. Fiscal impact statement.

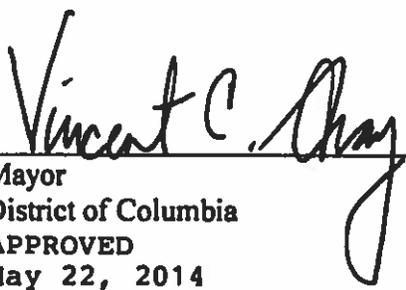
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act 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), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
May 22, 2014

**COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington D.C. 20004**

Memorandum

To : Members of the Council

From : Nyasha Smith, Secretary to the Council
Date : May 01, 2014
Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on Monday, April 28, 2014. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Health Benefit Exchange Authority Financial Sustainability Emergency Amendment Act of 2014", B20-0775

INTRODUCED BY: Chairman Mendelson at the request of the Mayor

Retained by the Council with comments from the Committee on Health.

Attachment

cc: General Counsel
Budget Director
Legislative Services



VINCENT C. GRAY
MAYOR

BY HAND

May 6, 2014

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania, NW, Suite 504
Washington, DC 20004

Dear Chairman Mendelson:

I write to communicate the Administration's position on legislation that will be before the Council for vote at the May 6, 2014 Legislative Meeting.

***READING AND VOTE ON EMERGENCY LEGISLATION
AT THE REQUEST OF THE MAYOR***

PR20-725, "Educator Evaluation Data Collection Emergency Declaration Resolution of 2014", Bill 20-0747, "Educator Evaluation Data Collection Emergency Amendment Act of 2014" and Bill 20-748, "Educator Evaluation Data Collection Temporary Amendment Act of 2014"

I urge the Council to approve the *Education Evaluation Data Collection Emergency Amendment Act of 2014*, its accompanying declaration and temporary bill. This legislation authorizes the collection and ensures the protection, of individual educator evaluation data by the Office of the State Superintendent of Education (OSSE). Currently, the District of Columbia and most of our Local Education Agencies (LEAs) are working under a "Race to the Top" grant requirement regarding the implementation of a teacher preparation program system. This system is required to be based, at least in part, on educator evaluation data. To fulfill this requirement, OSSE must be able to collect this data; however, many LEAs are hesitant to share the information in fear that it will be inappropriately accessed and publicized. The emergency legislation was drafted by OSSE, in consultation with LEAs, and other stakeholders, to meet the commitments of "Race to the Top" grants while maintaining the data security requested by LEAs.

Bill 20-775, "Health Benefit Exchange Authority Financial Sustainability Emergency Amendment Act of 2014;" and PR 20-744, "Health Benefit Exchange Authority Financial Sustainability Temporary Amendment Act of 2014"

I urge the Council to support this legislation to provide a solid financial footing for the Health Benefit Exchange, which is vital to continuing the successful operation of DC Health Link.

Both federal and District law require that the HBX be financially self-sustaining by January 1, 2015. Recognizing the importance of meeting this deadline, HBX Executive Board began working on this issue early in 2013. Its public deliberations were open to all interested stakeholders, and had a diverse membership of stakeholders and District residents. The working group reached a consensus policy and recommended a broad-based assessment across all health carriers. This option was chosen because the working group concluded it was the best way to guarantee the funds needed for financial sustainability in a fair manner that didn't overly impact any one sector – and importantly, would have minimal effect on premiums. In addition, this assessment was based on an existing approach in the District. The Ombudsman Program is funded through a similar broad-based assessment on health insurance carriers.

The HBX offered stakeholders multiple opportunities to participate throughout this process. Staff drafted the proposed rule pursuant to the policy and received public input before presenting the rule to the Board. Prior to the Board voting on the rule, the Board received additional public comments and made changes based on those comments.

HBX believes that the Council should codify its rule to have clear authority to assess broadly. The proposed bill would incorporate the standards in the rule into the DC Code. This is necessary to help avoid costly litigation challenging HBX's authority. The broad based assessment would be approximately 1% of health premiums if our proposed budget is approved by the Council. The proposed legislation will help minimize the risk of court action and will ensure that HBX has a dedicated reliable funding source, and I urge the Council to support it.

"Contract DHCF-2013-C-0003-A02 Modification Approval and Payment Authorization Emergency Act of 2014" (with AmeriHealth District of Columbia, Inc.)

I urge the Council to approve this contract which provides healthcare services to the District's Medicaid eligible population enrolled in the District of Columbia Healthy Families Program and the DC Health Care Alliance Program. The base term was awarded to AmeriHealth District of Columbia, Inc., for the period from May 1, 2013 through April 30, 2014. On April 30, 2014, DHCF exercised option year one for the period from May 1, 2014 through April 30, 2015 in the amount of \$737,041,491. Emergency approval is necessary to allow continuation of these vital services and because they are in excess of \$1,000,000 for option year one.

Bill 20-778, "Modification to Contract No. DCHBX-2013-0003 Approval and Payment Authorization Emergency Act of 2014" (with Enlightened, Inc.); and Bill 20-780, "Modification to Contract No. DCHBX-2013-0003(b) Approval and Payment Authorization Emergency Act of 2014" (with New Light Technology, Inc.)

I urge the Council to approve these contracts to provide IT technical support for the Health Benefit Exchange Authority to operate and maintain the Health Link Software System. This system allows individuals and small businesses to review, browse, register and purchase affordable health care in accordance with the Affordable Care Act (ACA) requirements through the District of Columbia Health Benefit Exchange.

An emergency Indefinite Delivery/Indefinite Quantity solicitation was issued on April 29, 2013 to three CBEs and the responses indicated that the vendors were capable of performing the contract. DCHBX entered into a contract with with Enlightened, Inc. to provide technical information and support services not to exceed \$408,000 from April 30, 2013 through April 29, 2014 with four one-year option periods. It also entered into a contract with New Light Technologies, Inc. to provide technical information technology support in an amount not to exceed \$488,000 from April 30, 2013 through April 29, 2014 with four one-year option periods. The last modification for each contract occurred on October 10, 2013 and increased the respective ceiling amounts to \$1,800,000, and \$2,184,000.

Council approval is necessary since the anticipated contract amounts are greater than \$1,000,000.00 during a 12-month period, and to allow continuation of these services.

Bill 20-736, "Option Period Three of Memorandum of Understanding with the Defense Logistics Agency, Defense Supply Center Philadelphia Approval and Payment Authorization Emergency Act of 2014"

I urge the Council to approve payment to the Defense Logistics Agency, Defense Supply Center Philadelphia (DSCP), for Option Year 3 of the District's approved Memorandum of Understanding with the Defense Supply Center Philadelphia. DSCP has provided pharmaceuticals for the HIV/AIDS Drug Assistance Program and other Department of Health indigent care programs requiring pharmaceuticals since 2005. This allows the Department of Health to meet the prescription drug needs of low-income individuals not covered under the State Medicaid program, another third-party payer, or whose State Medicaid program does not provide coverage for an individual's particular drug. This contract would approve payment to DSCP in the amount of \$144,332,292 which covers payments for FY13, FY14, and FY15. Option period 3 began on October 1, 2012, and ends on March 21, 2015.

"Vending Regulations Emergency Declaration Resolution of 2014;" and "Vending Regulations Emergency Amendment Act of 2014"

I urge the Council to approve the *Vending Regulations Emergency Amendment Act of 2014* and its emergency declaration. There exists an immediate need to establish criminal penalty provisions for violations of the "Vending Regulation Act of 2009." Criminal penalties are needed to ensure that the Metropolitan Police Department and U.S. Park Police can conduct on-the-spot action to enforce the regulations against vendors.

When the Executive and Council modernized the rules regulating vending in the District, provisions that provided for criminal penalties were inadvertently removed. In order to permit complete enforcement of vending violations occurring in the District of Columbia, and thereby avoid disruption of proper vending operations, it is necessary to adopt emergency legislation re-establishing criminal penalty provisions for violations of regulations.

PR 20-717, "Compensation Award for the Collective Bargaining Agreement between the Government of the District of Columbia Department of Health, Department of Youth Rehabilitation Services, Department on Disability Services, Department of Health Care Finance, Child and Family Services Agency and the Office of the Chief Medical Examiner (Compensation Unit 13) and the District of Columbia Nurses Association Emergency Approval Resolution of 2014"

I urge the Council to support the Compensation Unit 13 Award. The award establishes the compensation for certain District of Columbia employees who are registered nurses employed in agencies under the personnel authority of the Mayor for Fiscal Year 2010 through Fiscal Year 2014. The award provides that there will be 1) no wage increases covering the period FY 2010- FY 2012; 2) a two percent (2%) pay increase in FY 2013; and 3) a three percent (3%) wage increase in FY 2014. The Award maintains benefits to bargaining unit employees, which to a great extent are the same as those provided for employees in Compensation Units 1 and 2 and employees under the Mayor's authority whose pay is established at the discretion of the Mayor. The award also includes benefits that are unique to registered nurses, such as a \$500 bonus for nurses who attain additional nationally recognized certifications, a \$350 uniform allowance, and \$750 provided annually for education and training.

PR 20-723, "Compensation Collective Bargaining Agreement between the District of Columbia Department of Behavioral Health and Public Service Employees Local 572, Laborers International Union of North America (LIUNA), affiliated with AFL-CIO, Emergency Approval Resolution of 2014"

I urge the Council to approve this negotiated compensation collective bargaining agreement. This agreement establishes compensation during fiscal year 2013 through fiscal year 2017 for employees of the District of Columbia Government Department of Behavioral Health, who are represented by Public Service Employees Union Local 572, Laborers International Union of North America (LIUNA), affiliated with AFL-CIO.

The Compensation Agreement provides: Three percent (3%) wage increase effective April 1, 2013; Three percent (3%) wage increase effective October 1, 2014; Three percent (3%) wage increase effective October 1, 2015; and Three percent (3%) wage increase effective October 1, 2016. The Agreement also provides a variety of benefits including differential pay, a \$25 monthly metro/commuter benefit, and hazardous duty pay.

“Settlements and Interest Arbitration Award between the District of Columbia Government and the Fraternal Order of Police MPD Labor Committee (Compensation Unit 3) Emergency Approval Resolution of 2014”

I urge the Council to approve the Interest Arbitration Award and Settlements establishing compensation and working conditions for Fiscal Years 2013 through 2017 for employees of the District of Columbia Government who are represented by Compensation Unit 3. The Parties' efforts to negotiate a successor agreement to the collective bargaining agreement which expired in 2008 resulted in impasse regarding certain terms of the new agreement. In order to resolve their differences, the Parties entered into an interest arbitration proceeding wherein compensation, compensation-related issues and non-compensation issues were considered and decided.

Consistent with D.C. Official Code §1-617.17, this measure approves the Settlements and Interest Arbitration Award that was issued on February 3, 2014. The Settlements include articles initialed at the bargaining table and Articles 15, 38 and 39 that were agreed to as part of the last best offers. The Interest Arbitration Award and Settlements provide that commencing the first day of the first full pay period beginning on or after April 1, 2013, the salary schedules of employees employed in the bargaining unit certified by the Public Employee Relations Board as Compensation Unit 3, shall be adjusted by four percent (4%). This adjustment will be followed by a three percent (3%) wage increase effective October 1, 2014, a three percent (3%) wage increase effective October 1, 2015, and a three percent (3%) wage increase effective October 1, 2016.

FIRST READING ON PROPOSED LEGISLATION

Bill 20-671, “Wage Theft Prevention Amendment Act of 2014”

I thank the Council for its work on the *Wage Theft Prevention Amendment Act of 2014*. This legislation would dramatically improve the ability of District workers to collect unpaid wages by establishing a formal process for wage recovery and will add additional protections to ensure workplace security and economic stability for District workers. The amended version of the bill will complement the efforts currently being taken by my administration to be more proactive in providing services to and protecting District wage earners.

I am aware of several amendments to the Committee Print which may be introduced on behalf of stakeholders on all sides of this issue. If this legislation is approved today, I look forward to working with the Council between now and Final Reading to pass a bill that protects workers and is fair to all affected parties.

Bill 20-344, the “Special Event Waste Diversion Act of 2013”

I support Bill 20-344, the *Special Event Waste Diversion Act of 2013*. The measure would ensure that all special events of one hundred or more people would be required to provide recycling services. Large special events in the District represent significant opportunities to divert recyclables from our waste stream. I support the intent of the legislation, as well as efforts to enhance access to recycling for District residents, and I look forward to working with the Council to develop smart methods and procedures to increase the diversion rate at special events.

My Administration has been in discussions with Councilmember McDuffie, Chair of the Committee on Government Operations, and I appreciate his willingness to address this pressing problem. Moreover, I commit to identifying a nominee with exemplary experience and ability for Council approval. Unfortunately, without this needed amendment, our search may be limited to an extremely narrow pool of candidates. By realigning our Investigator General requirements with the federal standards, the District can identify the best candidate available.

Thank you for the opportunity to express the Administration's views on these pieces of legislation.

Sincerely,

A handwritten signature in black ink that reads "Vincent C. Gray". The signature is written in a cursive, flowing style.

Vincent C. Gray

cc: Members of the Council of the District of Columbia