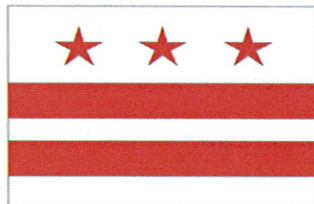




TESTIMONY OF
VINCENT GRAY
CHAIRMAN
COUNCIL OF THE DISTRICT OF COLUMBIA
BEFORE
THE SUBCOMMITTEE
ON
FEDERAL WORKFORCE, POSTAL SERVICE
AND THE
DISTRICT OF COLUMBIA

NOVEMBER 18, 2009



Introduction

I want to thank you Chairman Lynch for holding this hearing on two important pieces of legislation, H.R.1045, the “District of Columbia Budget Autonomy Act of 2009” and H.R. 960, the “District of Columbia Legislative Autonomy Act of 2009.” I also want to thank Congresswoman Eleanor Holmes Norton for introducing both of these bills on behalf of the District of Columbia. These two bills, along with the “District of Columbia House Voting Rights Act of 2009” currently pending in the House, would provide the first real advancement of home rule in the District since the congressional enactment of the limited Home Rule Act over 30 years ago. I will divide my testimony between the discussion of budget autonomy and legislative autonomy.

Budget Autonomy

The District must develop its budget in a timeframe that complies with the complicated and lengthy federal appropriations process. The federal appropriations process forces the District to develop its budget months in advance of the timeframe needed by the city. In fact, the District has had to adopt the federal fiscal year of October 1 - September 30, when another fiscal year may be more appropriate for the city. The congressional appropriations schedule prevents the District from using more current revenue estimates and expenditure needs that would lead to a budget based on better and more complete data. Because an affirmative congressional approval is required the District’s appropriation is often caught up in national policy disputes that typically

delay our local budget enactment and that do not have anything to do with the District. These disputes are often costly to the city and delay new initiatives, prevent organizational reforms and create uncertainty about the implementation of important and necessary programs. Complying with the federal appropriations process disrupts service delivery in several troublesome ways:

1. It lengthens the time period between identifying a service need and implementing a solution.
2. Service improvements are further hindered by federal delays in the budget approval process. The average congressional delay since 1996 has been almost three months.
3. Mid-year budget reallocations require an act of Congress, and disrupt service delivery.
4. Delays negatively affect marketability of District bonds.
5. Program managers must 'use or lose' funding at the end of each fiscal year.

In the over 30 years since the enactment of Home Rule the District has made many changes and reforms, and improved its financial operations. The city has even overcome its financial difficulties of the late 90's. It was able to remove the Financial Control Board earlier than originally planned and has built reserves well exceeding most other cities in this country. The District has presented balanced budgets for the last 11 years and received a clean audit for all of those years. These facts along with the fiscal management provided by the city's Chief Financial Officer has earned the District elevations in its bond ratings:

A1 – Moody's, A+ - Standard and Poor's and A+ - Fitch, thus indicating the city's strong financial position. In spite of these accomplishments the District is still subject to the same budget oversight process of 30 years ago.

Over the past several years Congress has not changed the District's allocation of local funds in its budget. In fact, in the last several years Congress has granted approval of the District's local budget by the beginning of the fiscal year without approving federal appropriations. But that timely approval is not guaranteed for every year. The approval of H.R. 1045 would, however, provide that guarantee by removing the approval of the District's local budget by the Congress. Under the proposed legislation Congress would still maintain its oversight authority as provided for in the Constitution.

I would like to provide some examples of how the District suffers from the delays in the appropriation process that make timely modifications to our local budget impossible:

- In FY 2004: The District needed to reallocate funds to support the movement of children from foster care to adoption. This transfer of funding could not be completed for months until a supplemental appropriation bill moved through Congress.
- In FY 2005: The District had to wait for a supplemental appropriation to add additional authority to carry out critically important lead services program activities in the District of Columbia. The lead services program directly involved roughly 24,000 residences. An increase in appropriation authority was required to conduct water filter

replacement and cartridge distribution, and to provide community public education, risk communication and health advice.

- In FY 2007: The District enacted the Community Access to Health Care Omnibus Amendment Act of 2006, which would fund both operating and capital expenditures to improve health care in the District. The District had to wait for congressional action through an amendment to the Continuing Resolution to adjust the District's budget to fund the healthcare initiatives detailed in the Act.

Granting the District budget autonomy would provide the following benefits:

- Allow for better budgeting by not having to start the process four months earlier than would be required if the District managed its own budget.
- Provide increased financial flexibility that would allow the city to react quickly to changes in program and financial conditions.
- It would remove the uncertainties of the current budget process that the bond rating agencies take into account when assessing the District's finances, thus providing the city with an opportunity to save money.

No local government can operate effectively without the ability to respond quickly to changing public needs. As the primary deliverer of services, local governments must be able to respond quickly to varying circumstances by changing programs and services in a timely and responsive manner. All other

state governments in our nation have this flexibility. They control their own programs and budget allocations without approval by Congress. I think all would agree the best group to determine budget allocations to services and programs is the government entity closest to the provision of those services. The local government entity can better assess the needs of its jurisdiction and how to allocate the costs to programs and services provided by the city. I believe that is one reason Congress has not found the need to second guess the District by trying to change its local budget allocations.

It is a fact that half of our total budget is funded by local dollars. For FY 2010 the total budget is \$10.1 billion, of which \$5.2 billion is the local budget. The local budget is funded by locally earned revenue, not federal dollars. This reason alone gives justification for why the District should be allowed to determine and approve its own budget. The programs and services provided by the city through its local budget also benefit the federal government. The federal appropriation is generally the smaller portion of our total budget. It supports certain programs and services that benefit the operation of the city and the federal government. It also, supports programs that the federal government is interested in having the city implement. It would therefore be appropriate to allow the District to determine how its locally raised revenue should be allocated for the operation of the city without congressional approval, like every other city in this country, and continue Congress' analysis and approval of the expenditure of federal dollars related to the federal appropriation to the District.

I believe the District has clearly demonstrated that we have earned the right to budget autonomy. We have come out from under the authority of the Financial Control Board, we have maintained a strong financial position with substantial cash reserves, we have received clean audits for the last 10 years, the bond agencies have continually increased our ratings and we have established internal financial controls that maintain balanced budgets.

Legislative Autonomy

Legislative Autonomy is another concept whose time has come. The District of Columbia has operated under the current legislative process since the implementation of Home Rule in 1974. Most things in life should be periodically reviewed and updated. After thirty-five years the process for enacting laws in the District needs to be revised. This process, once again, denies the citizens of the United States who happen to reside in the District of Columbia the basic right granted to all other U.S. citizens, the right to enact their own local laws. What is even more insulting is the fact that the four territories are allowed to enact their own laws without congressional review.

The current process involves a review period of thirty legislative days for civil laws and sixty legislative days for criminal laws. Because the actual legislative days depend on when Congress is in session and not calendar days, the enactment of many District laws are delayed beyond the thirty or sixty days. This prevents the city from enacting laws in a timely manner that are important to addressing the continuous and often changing needs of the city. This creates

procedural and operational problems for the District Government as well. An example of this was the enactment by the Council of an update in terminology found in the D.C. Official Code which changed the word “handicap” to “disability.” The congressional review for this change was nine months because the language was contained in a criminal code provision and Congress had adjourned sine die, necessitating that the congressional review period begin anew with the 110th Congress. That situation is not atypical, it generally happens every two years, and to a lesser degree during the August recess.

In order to address the needs of government, the Council must utilize a Byzantine process of passing laws on an emergency, temporary and permanent basis. A bill passed on an emergency basis is enacted for only 90 calendar days (three months). Because many pieces of legislation passed by the Council do not complete their congressional review during the emergency enactment period, the Council must also pass temporary laws that are in effect for 225 days following the end of the emergency enactment period. In addition, the Council must pass the permanent bill so that ultimately there is a final law that becomes part of the D.C. Code. For example, in order to prevent a lapse in certain criminal laws the Council had to pass emergency, temporary and permanent bills to maintain the impact of the existing law. So, in many cases the Council must pass three pieces of legislation, often referred to as gap fillers, to enact one law. In fact, in most of the years between 1997 – 2008 emergency and temporary legislation have amounted to over 50% of the bills enacted by the Council (See

Exhibit 1 attached). I am sure you will agree this complicated and cumbersome process is unnecessary, time consuming and should be eliminated.

This process is also costly to the city. The delay in enactment may cause the city not to receive funding in a timely manner. The inability to implement a law at the time of passage by the Council may increase implementation costs. Costs may also increase when the city gears up to implement a law on an emergency and/or temporary basis while awaiting the end of the review period for the permanent law. Another cost is the amount of staff effort and time spent in the Council, the Mayor's office and the Congress. In addition, to preparing the duplicative legislative measures, Council staff must spend time manually counting the actual legislative days. It must be done manually because all congressional adjournments, work periods and recess days cannot always be predicted in advance. Instead of spending time and effort on this time consuming and cumbersome process both the local government and the federal government can better use their funds, time and staff for the work they are charged to perform on behalf of their respective constituencies.

The role of the Council is to identify and address the needs of the city that require legislative action. Once the necessary research and evaluation of the legislation is complete the Council votes to approve the law. Once the Council has made its determination and the Mayor has signed it, the District is prevented from implementing the needed law while it resides in Congress for several months until the required review period has expired. In the years since the enactment of the Home Rule Act there have been only three resolutions of

disapproval by the Congress. Two of these resolutions involved a distinct federal interest. The Congress has over the years changed its approach to reviewing laws passed by the Council. Instead of seeking a resolution of disapproval or drafting a bill that requires processing in the House and the Senate, members have used the more efficient processes of placing provisions in appropriations bills or attachments to other bills. So, in effect the Congress has eliminated the review period and the need for the current process.

Congresswoman Norton's legislative autonomy bill would eliminate a formal review system, thus ending a time consuming and inefficient process for both the District Government and the Congress. Enacting legislative autonomy for the District would relieve the Congress of the time and efforts associated with processing the review of the city's laws and allow it to focus time and attention on federal issues for which the Congress is responsible. Congress does not lose its oversight authority because Article I, Section 8, of the Constitution gives Congress permanent, plenary authority over the District. The Congress will still be able to enact legislation addressing issues for the District or add amendments or provisions to other pieces of legislation on issues related to the District.

Conclusion

The fundamental right of a representative democracy is self-determination. Indeed to be governed by the consent of the governed is the founding principle of the United States.

Now is the time to grant the District its right to self-determination – budget autonomy, legislative autonomy and the supreme right of voting representation. I ask you Chairman Lynch and the other members of this subcommittee to grant the District Government the self-determination that all other governments in our country have and give its residents the opportunity to achieve the full citizenship, provided for in our Constitution.

As the Home Rule Act has been amended, bills with a negative fiscal impact cannot be implemented. Measures that violate the Constitution, federal law, or the Home Rule Act cannot be approved, and the Congress retains the authority to repeal or amend any law passed by the Council for any reason, at any time. Therefore, the oversight and constitutional authority of the Congress remains in place even with a grant of budget and legislative autonomy.

I look forward to working with you on these two pieces of legislation. I am available to answer any questions you may have.

**Exhibit 1: Percentage of Emergency and Temporary Acts
versus Permanent Laws: 1997 - 2008**

