Office of the District of Columbia Auditor

Testimony of

The Hon. Kathy Patterson
D.C. Auditor

Before the

Council of the District of Columbia
Committee of the Whole

On

Bill 21-377, The Repeal of Outdated and Unnecessary Audit Mandates Amendment Act of 2015

February 8, 2016

John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington D.C. 20004

Good morning, Mr. Chairman. I am Kathy Patterson, D.C. Auditor. I greatly appreciate the opportunity to be here today to discuss Bill 21-377, the legislation before the Committee of the Whole (COW). I am grateful for your willingness to consider reducing the number of audits that the Office of the D.C. Auditor is statutorily required to perform. I see this as part of a joint effort by the Council and the Auditor to significantly improve our ability to provide you with the kind of analysis that is most useful and conducive to strong and effective Council oversight.

As you know, the audits and program evaluations that we conduct are initiated for one of three reasons: they are required by law, they are requested by individual Councilmembers, or they are undertaken at the Auditor's discretion based either on our formal annual risk assessment, or on our awareness of issues that have become, or likely will become, priorities for the Council and/or the public.

Because of the large number of statutorily required audits, and the length of time that many of these audits have taken, they have restricted our ability to take on additional analyses that may have greater currency or higher priority. The amendments and repeals included in the bill before the COW will provide the office with far greater flexibility to be responsive to Council requests and to exercise the discretion of the Auditor to begin and complete high priority audits and program evaluations.

Other steps we are taking, consistent with the partnership to improve our effectiveness, include building a program evaluation unit and more frequent direct exchanges with Councilmembers and members of Council staffs. I anticipate discussing our progress more fully one month from today in our annual performance hearing.

Attached to my testimony is a chart that outlines the current audits that are required by law, and how they would be impacted by the legislation – whether repealed, or the frequency of the requirement is lessened, or not impacted at all. In many instances, at outlined in the chart, the legislation would repeal provisions that are already out of date, and in a few cases, have been out of date for many years.

I would like to walk through this chart and comment on several of the statutory provisions, including requesting that the legislation be amended to add a few additional changes to our statutory requirements.

Number 5 on the chart is a requirement for quarterly summaries of the expenditures of District agencies with Certified Business Enterprises. I would like to request that this be made an annual summary rather than quarterly.

As you will note, several of the statutory requirements relate to the financial status of Advisory Neighborhood Commissions. Receiving and recording quarterly financial reports from each ANC takes a significant amount of staff time and effort, not to mention the time it requires of individual Commissioners and Commission officers, even though they are now filed electronically. As the Council considers legislation to amend the ANC statute, I would ask that a major goal be the overall reduction in the time now required both by ANCs and by my office to monitor commission finances. Commissioners are elected officials who now manage a total of approximately $600,000 in D.C. tax dollars each year, and I would guess that the amount of staff time required by everyone to monitor and report on these expenditures would tally up to more than that annual allocation. One thing to consider might be annual rather than quarterly financial reporting for the ANCs. I am not recommending that these issues be addressed in this legislation, just noting that this list of statutorily-required audits does not address the full range of activities the Auditor's office is now tasked with related to ANCs.

One annual audit requirement that I would recommend we leave in place is number nine, an audit of selected agency performance plans and performance reports. Because by its own language this requirement provides significant flexibility, and because performance reporting is an important part of the Council's oversight, I believe this annual requirement continues to make sense, so I would not recommend making it less frequent or repealing it outright.

Number 14 is another annual requirement that I would, now, recommend be amended to say "at least once every five years." My office is actually out of compliance with this requirement at the moment, and when we begin an audit to comply with the requirement over the next few weeks, we will cover two fiscal years rather than one to meet the letter of the law. The reason: we have had two other, major audits underway with the Metropolitan Police Department, one of which was released two weeks ago. Our audits do require time on the part of agency officials to meet our requests for documents and interviews. I held off initiating what would have been a third audit, reflected here, of the investigations involving First Amendment activities. We generally try to have no more than one audit ongoing with an individual agency because of the resource demands, and if there is an annual audit requirement it has a tendency to limit what other kinds of reviews we initiate with a particular agency.

When the Council enacted the First Amendment Rights and Police Standards Act of 2004 two oversight mechanisms were built into the statute. The Office of Police Complaints was tasked with oversight of police handling of demonstrations. And the ODCA was tasked with reviewing the department's handling of investigations into political organizations including surveillance.

These were important aspects of the law and I believe they have been successful in helping to ensure that the department remains vigilant in protecting the First Amendment rights of residents and visitors. With regard to the annual audit requirement, I believe the same purpose could be met with less frequent reviews, and so recommend language to make the requirement at least every five years.

Requirements included as numbers 19 and 20 (concerning the Sick and Safe Leave Act and Fair Criminal Record Screening Act) point to an ongoing issue of "mission creep" with regard to the mission of the Office of the D.C. Auditor. Our mission, outlined in the Home Rule Charter, is to conduct reviews of D.C. government agencies and to promote their effectiveness as well as the efficient use of taxpayer dollars. We do not have a mandate that relates to the private sector. The Sick and Safe Leave Act was obviously an important initiative and has had welcome impact on our community, and on the public health of workers and customers. We undertook an initial report on the implementation of the law in 2013 and a second, published in 2015, which included a survey of businesses and it was difficult to ensure significant participation on the part of restaurants and other D.C. businesses in the survey. We will undertake a similar survey of private businesses to meet the one-time audit requirement of the Fair Criminal Record Screening Act but, again, will be challenged by the fact that private businesses are essentially outside the jurisdiction and mission of the D.C. Auditor.

I recommend that the Council consider developing a protocol that would provide guidance on circumstances that merit any new statutory audit requirements. You could adopt a Council rule to require that any new audits mandated in law be consistent with the mission of the Office of the D.C. Auditor which would in the future preclude a requirement that we audit private businesses. I would be happy to work with you and other Councilmembers on language that could be considered.

With regard to number 28 – audits of the school modernization program – what was initially envisioned in the legislation in 2006 was an audit requirement that would last as long as the $1 billion, 10-year rebuilding effort. Specifically, the statute calls for reports "until the completion of all projects designated in the Facilities Master Plan." As our report last summer noted, there is no comprehensive Facilities Master Plan as was envisioned in the legislation. And as we know, the dollar value has clearly exceeded nearly four-fold what had been envisioned as a huge influx of cash in 2006.

The Office of the D.C. Auditor has published two of these audits since the law was enacted in 2006, one covering fiscal years 2008 and 2009 and the one released in July covering four fiscal years, 2010 through 2013. We have two audits underway now, and are discussing the scope of a third, to fulfil the requirements for fiscal years 2014, 2015 and 2016, respectively. The legislation before the committee does not alter the language of this requirement, but I would encourage you to consider changing the annual requirement to every three or five years. Another alternative would be to amend an annual audit requirement to refer to one or more capital projects without specifying that they be school modernization projects.

That concludes my prepared testimony, Mr. Chairman, and I would be happy to discuss any of the other elements of the proposed legislation or answer any other questions. Again, my staff and I greatly appreciate the committee's consideration of this proposal which would greatly improve our flexibility to devote greater time and attention to the Council's current priorities.

Office of the District of Columbia Auditor
Legislatively Mandated Audits, Reports, and Miscellaneous Requirements

	DC Code	Description	Frequency	Repeal Bill as Introduced
1	§1-206.03	Certification of revenue estimates in support of general obligation bonds or Treasury capital project loans	Upon notification by CFO of bond issuance	
2	§1-301.181	Audit of former NCRC/AWC properties	Annually and/or at project completion	**REPEAL § 1-301(b)(1), (c) AND (d).** Per DMPED, the remaining real estate development transactions, agreements, or parcels receiving government previously managed by the dissolved NCRC and AWC and placed under DMPED, will be sold to private developers. As such, performing the remaining audits may not provide the Council with information that would be particularly relevant to the original intent of the mandate. Our audit of affordable housing mandates for the NCRC/AWC properties resulted in 9 recommendations. We have and will continue to follow up on these recommendations. As of July 1, 2014, the 9 recommendations were in progress.
3	§1-301.182	Powers of the Unit (Compliance Unit)	no audit requirement	**REPEAL** §1-301.182 (a) and (b). The bill repeals these sections which state how ODCA compliance unit should analyze the projects specified in §1-301.181. The repeal bill leaves in place ODCA's authority to review any contracts, accounts, etc.
4	§1-301.183	Summarize Private Developer SBE expenditures	ANNUALLY	**REPEAL.** The bill repeals the requirement to audit each of the projects specified in §1-301.181.
5	§1-301.184	Summarize DC Agencies' quarterly SBE expenditures	QUARTERLY	
6	§1-309.13	Consolidated ANC annual report	ANNUALLY	
7	§1-309.13	Audit of certain ANCs	discretionary	
8	§1-309.14*	ANC Security Fund (Annual financial report filed in DC Register . *DC Code does not specify who prepares report. Auditor has prepared historically and is in the best position to prepare.)	ANNUALLY no later than 90 days after end of each fiscal year	
9	§1-614.14	Audit of selected Agency Performance Plans and Performance Reports	ANNUALLY	
10	§2-218.53	Agency Certified Small Business Enterprise Expenditures	EACH agency annually	

	DC Code	Description	Frequency	Repeal Bill as Introduced
11	§3-310	Certify D.C. Armory Board financial statement accuracy	certify financial statement prior to submission to Congress in July of each year	**REPEAL.** All non-military fundtions of the Armory Board were transfered to the Sports Commission (now Events DC) in 1994 via the Omnibus Sports Consolidation Act of 1994 (D.C. Law 10-152). Events DC is required to undergo an annual financial statement audit by an outside auditor. Additionally, the repeal bill would required OCFO to perform an annual certification of revenues for Events DC. (THIS CERTIFICATION IS CURRENTLY DONE BY ODCA.) Any irregularities would likely be identified in those annual certifications. Further, per ODCA conversations with Armory staff, the Armory has not submitted a budget to Congress in over a decade.
12	§3-607(f)	Audit of Boxing and Wrestling Commission operations	Every THREE years	**REPEAL.** This is not a resource (cost or time)-effective audit. Prior audits had numerous findings which the Commission has taken steps to improve. Our most recent audit of the Boxing and Wrestling Commission (issued June 2013) resulted in 16 recommendations upon which we will continue to follow up. As of July 1, 2014, 8 recommendations were implemented, 6 recommendations were in progress, and 2 recommendations will not be implemented.
13	§3-1319	Audit of Lottery and Charitable Games Control Board accounts and transactions with respect to the operation of lottery and daily numbers games	"regular"ly	ODCA originally requested (in July 2014 memo to Chair) that this mandate be amended. We now withdraw that request. Leave this as-is.
14	§5-333.12	Audit MPD files and records concerning preliminary inquiries and investigations involving First Amendment activities.	ANNUALLY	

	DC Code	Description	Frequency	Repeal Bill as Introduced
15	§7-2071.03	Independent evaluation of Health Care Ombudsman Program (DOH selects evaluator, may not be ODCA)	Every TWO years -- DOH selects evaluator (may not be ODCA)	
16	§10-1203.05(a)	Audit of accounts and operations of Washington Convention Center (Events DC)	Every THREE years	**REPEAL.** This audit is currently underway. This is not a resource-effective audit. Events DC is required to undergo an annual financial statement audit by an outside auditor. Additionally, ODCA performs an annual certification of revenues for Events DC. Any irregularities would likely be identified in those annual and certification audits.
17	§10-1203.05(b)	Certification of revenues for Washington Convention and Sports Authority (Events DC)	ANNUALLY (before July 15)	**AMEND.** Subsection (b) is amended to required OCFO, rather than ODCA, to prepare annual certification.
18	§22-3226.14(d)	Audit of Fraud Prevention Fund	ANNUAL	**REPEAL.** In our FY2013 and FY2015 audit reports, ODCA noted that the Fraud Prevention Fund had not been established.

	DC Code	Description	Frequency	Repeal Bill as Introduced
19	§32-131.15	Audit to determine compliance and impact of with Sick and Safe Leave	ANNUAL	**AMEND. THE AMENDMENT TRANSFERS THE REPORT REQUIREMENT TO THE DEPT. OF EMPLOYMENT SERVICES.** This legislative mandate requires ODCA to prepare an annual report of the law's economic impact on the private sector. As part of the report, ODCA audits a sample of DC businesses to determine: o The compliance level of businesses with the posting requirements; and o Whether companies are utilizing staffing patterns to circumvent the intention of the Act. ODCA is currently in the process of completing our 2nd Sick and Safe report, covering FY 2013. The first report, issued in June 2013, covered FY2008 through November 2012. This requirement is primarily an impact study to determine the law's effect on the private sector. The law went into effect in 2008. A study of economic impact is generally done once, after a particular policy is enacted. It has been 7 years since this law went into effect. Additionally, this economic impact analysis is more of a social science analysis, not an audit that ODCA is currently well suited to conduct. If this mandate continues, funding should be provided to hire an outside consultant to perform this analysis. Our report of the Sick and Safe Leave Act resulted in 4 recommendations. We have and will continue to follow up on these recommendations. As of July 1, 2014, the 4 recommendations were in progress.
20	§32-1345(c)	Reporting requirements (for Fair Criminal Record Screening)	ONE TIME 18 months after effective date Of Dec 17, 2014 (June 2016)	Requires ODCA to provide Council with a report on the hiring of applicants with criminal backgrounds by employers and the impact of this subchapter on employers.

	DC Code	Description	Frequency	Repeal Bill as Introduced
21	§34-912(a)(6)	Audit of deposits and disbursements for the Public Service Commission Agency Fund	Every TWO years	**REPEAL. This repeals the requirement to audit the fund.** PSC is required to submit an annual report to Council. Now that PSC is automated, info on deposits and disbursements could be included in the Council report. Recent audits have shown that timely payments are not a problem and in the past several years, ODCA has noted significant improvements. The ongoing cost of conducting these audts outweigh any findings at this point. Our most recent audit of the PSC Fund resulted in 4 recommendations and as of July 1, 2014, the 4 recommendations were implemented.
22	§34-912(a)(6)	Audit of deposits and disbursements for the Office of the People's Counsel Agency Fund	Every TWO years	**REPEAL. This repeals the requirement to audit the fund.** Same as explanation for PSC. Our audit of the OPC Fund resulted in 4 recommendations and as of July 1, 2014, the 4 recommendations were in progress.
23	§34-2202.09	Sufficiency Review of D.C. Water Revenue to borrow, issue bonds or notes	Upon notification by DC Water of bond issuance or debt service payable	

	DC Code	Description	Frequency	Repeal Bill as Introduced
24	§37-103(c)	Audit of Eastern Market Enterprise Fund	Every TWO years	**REPEAL.** The cost of conducting this audit outweighs any findings. DGS has our most recent recommendations and should follow through on implementation. Additionally, our most recent recommendations will be included in our FY15 Status Report on Implementation of District of Columbia Auditor Recommendations, and will be subject to ODCA follow-up.
25	§38-193	Public Education Reform (comprehensive 5-year report)	September 30, 2014	COMPLETE.
26	§38-807	Audit of Department of Food Services (public schools) accounts	QUARTERLY	**REPEAL.** Under this 1951 provision, the Department of Food Services was under the direction and control of the Board of Education, which was authorized to conduct a centralized system of public school cafeterias. The delivery of food services to DCPS has changed organizationally since this mandate. As such, this audit mandate is outdated and not relevant to the current structure of food services provided to DCPS.
27	§38-1231.01	Audit of UDC Endowment Fund	Every TWO years (by Feb 1)	**REPEAL.** The cost of this audit outweighs any findings. Additionally, our most recent recommendations will be included in our FY15 Status Report on Implementation of District of Columbia Auditor Recommendations, and will be subject to ODCA follow-up.
28	§38-2973.05	Annual report on the use of capital funds used for Capital Improvement Projects by DCPS	ANNUAL (until completion of all projects designated in the Facilities Master Plan)	

	DC Code	Description	Frequency	Repeal Bill as Introduced
29	§47-111	Disbursing Officer is authorized to pay DC employees, such payments shall be made upon payrolls or other vouchers audited and approved by the Auditor and certified by the Mayor	ongoing	**REPEAL OF ALL REFERENCES TO DC AUDITOR IN TITLE 47, CHAPTER 1-4**: These provisions date back to the late 1800s and early 1900s. The organization and financial operations of the District government have changed significantly since this time and as such, these anachronistic requirements are no longer applicable or relevant to the current structure and process of DC's financial operations. For example, the DC OCFO no longer requires the bonding of certifying officials for vouchers. In addition to this discountinued practice, many of the duties require the Auditor to perform work that is currently perfomed as part of the District's annual financial statement audit (CAFR).
30	§47-112	Nonliability for overpayments on government bills of lading or transportation requests		
31	§47-116	Suspension of items in Disbursing Officer's accounts		
32	§47-120	requirements for Auditor who certifies vouchers		
33	§47-122	Auditor shall continue to prepare and countersign all checks issued by the Disbursing Officer, and no check…shall be valid unless countersigned by the Auditor.		
34	§47-123	Chief Clerk in Auditor's Office shall in absence or inability of Auditor, perform Auditor's duties without additional compensation…may be required to give bond		
35	§47-124	All accounts for the disbursement of appropriations shall be audited by the Auditor before being transmitted to GAO.		
36	§47-409	Audit and Approval of disbursement of taxes and appropriations		
37	§47-410	Account for all Mayoral Certified Disbursements to GAO		
38	§47-411	Duty of Auditor to keep separate accounts with each depositor for all trust fund deposits received and deposited by the Collector of Taxes of DC.		
39	§47-825.01a	Real Property Tax Appeals Commission (management audit of Commission activities)	Every THREE years	
40	§47-2851.17	Basic Business Licensing Program at DCRA to examine program cost and effectiveness	ONE TIME not later than April 29, 2003	**REPEAL.** This audit was terminated. BBL program is being re-evaluated/revamped. ODCA does not plan to restart audit.

	DC Code	Description	Frequency	Repeal Bill as Introduced
41	DC Council Rules of Organization and Procedure §733	COUNCIL PERIODS 20 & 21: Earmarked grant recipients will be randomly be audited. (Exact section of rules not yet confirmed for CP21.)	**PER COUNCIL BUDGET DIRECTOR AND GENERAL COUNSEL: THERE ARE NO EARMARKED GRANTS FOR FY 15**. March 1st of FY immediately following year for which grant was awarded	