

**CITY OF BALTIMORE
COUNCIL BILL 20-0626
(First Reader)**

Introduced by: President Scott, Councilmembers Clarke, Henry, Bullock, Dorsey, Burnett, Sneed,
Middleton, Cohen, Pinkett, Reisinger, Stokes

Introduced and read first time: October 5, 2020

Assigned to: Taxation, Finance and Economic Development Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Public Works, Health
Department, Mayor's Office of Homeless Services, Department of Housing and Community
Development, Office of Inspector General, Department of Finance

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Water Accountability and Equity Act – Modifications**

3 FOR the purpose of clarifying tenants' access to programs at the Department of Public Works;
4 protecting against conflicts of interest by employees at the Office of Water-Customer
5 Advocacy and Appeals and by hearing officers and their overseers at the Environmental
6 Review Board; improving and specifying data collection metrics by the Office of Water-
7 Customer Advocacy and Appeals; clarifying a customer's right to dispute determinations
8 by the Department of Public Works before the Department, the Office, or the ECB; deleting
9 the Director of Public Works or the Director's designee from the list of members of the
10 Committee for Office Oversight and replacing that member with the Mayor or the Mayor's
11 designee; modifying the effective date of the "Water Accountability and Equity Act", as
12 enacted by Ordinance 20-336 and modified in part by this Ordinance; mandating the
13 publication for public comment of all proposed new or amended rules and regulations
14 governing the operations of the Office of Customer Advocacy or ECB hearings or restricting
15 the rights granted customers under the Water Accountability and Equity Act and this
16 Ordinance; suspending water service cut-offs and the imposition of service restoration fees
17 until the Water Accountability and Equity Act, as amended by this Ordinance, is fully
18 effective; correcting and clarifying related provisions; and providing for special effective
19 dates for certain provisions and activities.

20 BY repealing and reordaining, with amendments

21 Article 13 - Housing and Urban Renewal
22 Section 7-3(a-1)(1)
23 Baltimore City Code
24 (Edition 2000)

25 BY adding

26 Article 24 - Water
27 Sections 2-1(e), 2-17(d), and 2-18(e)
28 Baltimore City Code
29 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 BY repealing and reordaining, with amendments
2 Article 24 - Water
3 Section 2-17(c)(3), 2-19, 2-21(a), 2-22, and 2-23(b)
4 Baltimore City Code
5 (Edition 2000)

6 BY repealing and reordaining, with amendments
7 Ordinance 20-336
8 Section 6

9 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
10 Laws of Baltimore City read as follows:

11 **Baltimore City Code**

12 **Article 13. Housing and Urban Renewal**

13 **Subtitle 7. Residential Lease Requirements**

14 **§ 7-3. Information required.**

15 (a-1) *Payment for water and wastewater services.*

16 (1) [Any] IF A property owner or managing operator [who] requires that a tenant pay the
17 costs of water or wastewater services, whether directly to the Department of Public
18 Works or as reimbursement to the owner or managing operator, THE OWNER OR
19 OPERATOR shall:

20 (I) include that requirement in an express provision [of a written lease]
21 ADOPTED BY EXECUTING:

22 (A) A MODIFICATION TO AN EXISTING WRITTEN LEASE; OR

23 (B) A NEWLY FORMED WRITTEN LEASE; and

24 (II) IF THE DWELLING UNIT DESCRIBED IN THE LEASE IS DIRECTLY METERED,
25 REGISTER THE TENANT AS AN ADDITIONAL PARTY ON THE OWNER'S
26 ACCOUNT AT THE DEPARTMENT OF PUBLIC WORKS WITHIN 20 DAYS
27 AFTER THE EXPRESS PROVISION DESCRIBED IN SUBUNIT (I) OF THIS
28 PARAGRAPH IS EXECUTED.

29 **Article 24. Water**

30 **Subtitle 2. Bills**

31 **§ 2-1. Collection.**

32 (E) TENANT-WATER-UTILITY CUSTOMER REQUESTS.

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1 THE DEPARTMENT MAY NOT DENY A TENANT-WATER-UTILITY CUSTOMER’S REQUEST FOR
2 A DISCOUNT, PAYMENT AGREEMENT, BILL ADJUSTMENT, OR OTHER AGENCY ACTION IF THE
3 TENANT-WATER-UTILITY CUSTOMER DEMONSTRATES THAT THE PROPERTY OWNER OR
4 MANAGING OPERATOR WAS NOTIFIED OF THE REQUEST AND THEREAFTER WITHHELD ITS
5 PARTICIPATION IN THE REQUEST.

6 **§ 2-17. Office of Water-Customer Advocacy and Appeals – Office established; Nature,**
7 **purposes; Primary functions.**

8 (c) *Primary functions.*

9 The Office serves the following three primary functions:

10 . . .
11 (3) reporting at least semi-annually to the Committee for Office Oversight
12 established under [§ 2-24] § 2-23 {“Office ... - Committee for Office Oversight”}
13 of this subtitle, on:

14 (i) Office operations and activities, including:

15 (A) data on the Office’s customer-advocacy investigation and problem-
16 solving efforts and its appeals function AS SET FORTH IN § 2-17(D)
17 OF THIS SUBTITLE; and

18 (B) examples of common customer complaints, the methods by
19 which the Department of Public Works addresses those complaints,
20 an assessment of those methods, and recommendations for
21 alternative approaches; and

22 (ii) recommendations that the Office has for:

23 (A) changes to the department’s rules, regulations, policies, or
24 procedures that will promote fairness to customers and
25 resolve customer concerns;

26 (B) task forces and additional Office staff; and

27 (C) any other options for promoting fairness to customers and
28 resolving customer concerns.

29 (D) **DATA AND METRICS.**

30 (1) DATA AND METRICS SHALL BE USED TO ENABLE:

31 (I) AN UNDERSTANDING OF THE PROBLEMS EXPERIENCED BY CUSTOMERS
32 AND BY DPW;

33 (II) THE DESIGN OF WORKABLE SOLUTIONS; AND

34 (III) THE EVALUATION OF WHETHER REFORMS IMPLEMENTED ARE SUCCESSFUL.

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1 (2) SIGNIFICANT DATA SHALL BE COLLECTED FROM INDIVIDUALS PARTICIPATING IN THE
2 VARIOUS DISPUTE RESOLUTION PROCESSES UNDER THIS SUBTITLE, WHICH WILL REDUCE
3 DATA COLLECTION COSTS AND EMPHASIZE CUSTOMERS' DIRECT EXPERIENCES.

4 (3) DATA SHALL BE COLLECTED THAT REVEALS THE NATURE AND FREQUENCY OF:

5 (I) CUSTOMER CONCERNS RAISED ON MATTERS OF ALL KINDS;

6 (II) METHODS USED BY OFFICE ADVOCATES TO INVESTIGATE PROBLEMS, TO ASSESS
7 DPW'S RESPONSES, AND TO CREATE SOLUTIONS PROMOTING CUSTOMER
8 FAIRNESS;

9 (III) DISPUTE RESOLUTION OUTCOMES AND JUSTIFICATIONS, INCLUDING BILL
10 ADJUSTMENT DOLLAR AMOUNTS, ORDERS REGARDING ENROLLMENT IN
11 DISCOUNT AND AFFORDABILITY PROGRAMS, REFERRALS TO SOCIAL SERVICE
12 AGENCIES, COMPLAINTS LEFT UNADDRESSED, AND OTHER OUTCOME ES;

13 (IV) DECISIONS OF THE PUBLIC WORKS DIRECTOR THAT OVERRULE AN OFFICE
14 ADVOCATE OR THE ECB;

15 (V) COMMUNICATIONS AMONG BILLING ANALYSTS, THE OFFICE, THE ECB, AND
16 CUSTOMERS;

17 (VI) DATA COLLECTION EFFORTS;

18 (VII) CUSTOMER FEEDBACK (FROM CUSTOMERS BOTH PARTICIPATING IN DISPUTE
19 RESOLUTION SYSTEMS AND NOT PARTICIPATING IN THEM);

20 (VIII) IDEAS SOLICITED FROM CUSTOMERS ABOUT POTENTIAL CAUSES OF
21 PROBLEMS AND POTENTIAL SOLUTIONS THAT WOULD PROMOTE CUSTOMER
22 FAIRNESS;

23 (IX) CUSTOMER DEMOGRAPHICS RELEVANT TO THE MANDATE OF CUSTOMER
24 FAIRNESS, IF VOLUNTEERED (E.G., INCOME, NEIGHBORHOOD, RACE, FAMILY
25 STATUS, AGE, TENANT/HOMEOWNER, COMMERCIAL/RESIDENTIAL, PRIMARY
26 LANGUAGE, ETC.);

27 (X) INPUT FROM SOCIAL SERVICE ORGANIZATIONS THAT SERVE CUSTOMERS; AND

28 (XI) WITH RESPECT TO DISCOUNT AND AFFORDABILITY PROGRAMS, APPLICATION
29 AND ENROLLMENT NUMBERS COMPARED TO THE ANTICIPATED NUMBER OF
30 ELIGIBLE CUSTOMERS, REASONS FOR DENIALS, AND THE RELATIVE SUCCESS
31 OF DIFFERENT OUTREACH METHODS.

32 (4) WHEN REPORTING TO THE COMMITTEE FOR OFFICE OVERSIGHT, THE OFFICE SHALL
33 EXPLAIN HOW DATA DERIVED DIRECTLY FROM CUSTOMER EXPERIENCES WAS GIVEN
34 GREAT WEIGHT IN DESIGNING REFORM PROPOSALS THAT PROMOTE CUSTOMER
35 FAIRNESS, AND SHALL DEFINE METRICS TO BE USED TO MEASURE THE EFFECTIVENESS
36 OF THE FUTURE REFORMS. AS REFORMS ARE IMPLEMENTED, ADDITIONAL DATA SHALL
37 BE COLLECTED TO EVALUATE THE EFFECTIVENESS OF THE REFORMS, AND THE OFFICE

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1 SHALL, AS APPROPRIATE, PROPOSE FURTHER IMPROVEMENTS TO THE REFORMS OR TO
2 THE METRICS TO BE USED TO ASSESS THEM.

3 **§ 2-18. Office of Customer Advocacy . . . – Administration.**

4 **(E) OFFICE EMPLOYEES.**

5 OFFICE EMPLOYEES:

6 (1) MAY NOT BE MADE TO SUFFER ANY ADVERSE EMPLOYMENT ACTION WITHOUT
7 CAUSE;

8 (2) SHALL HAVE OFFICES PHYSICALLY SEPARATED FROM DPW; AND

9 (3) TO AVOID EVEN THE APPEARANCE OF A CONFLICT OF INTEREST:

10 (I) MAY NOT BE HIRED INTO THE OFFICE FROM DPW;

11 (II) MAY NOT BE REQUIRED TO GET PRIOR APPROVAL FROM DPW OFFICIALS
12 OR EMPLOYEES FOR OFFICE REVIEWS, REPORTS, OR RECOMMENDATIONS;
13 AND

14 (III) SHALL HAVE ONLY LIMITED COMMUNICATIONS WITH DPW EMPLOYEES,
15 AS NEEDED TO FULFILL THE OFFICE’S CUSTOMER FAIRNESS MANDATE.

16 **§ 2-19. Office of Customer Advocacy . . . – Request for assistance; RIGHT TO DISPUTE.**

17 (A) *REQUEST FOR ASSISTANCE.*

18 A customer may seek Office assistance by submitting a written or oral request to the
19 Department or to the Office within 90 calendar days of any disputed Water-for-All
20 Discount Program determination or other Department action or decision related to water
21 and wastewater billing, service cut-offs, or lack of notice of billing-related issues.

22 (B) *RIGHT TO DISPUTE DETERMINATIONS.*

23 THE RIGHT TO DISPUTE A DETERMINATION BY THE DEPARTMENT BEFORE THE
24 DEPARTMENT, THE OFFICE, OR THE ECB MAY NOT BE LIMITED, EXCEPT AS OTHERWISE
25 STATED IN THIS ARTICLE OR IN CASE OF AN ABUSE OF PROCESS. THUS, A CUSTOMERS MAY
26 NOT BE REQUIRED BY THE DEPARTMENT, THE OFFICE, OR THE ECB TO DO ANY OF THE
27 FOLLOWING AS A PREREQUISITE TO HAVING THE CUSTOMER’S APPEAL HEARD:

28 A. PAY MONEY TO ANY PARTY, INCLUDING A PLUMBER;

29 B. PROVE THAT DPW EQUIPMENT IS FAULTY; OR

30 C. PAY BILLS THAT ARE BEING CHALLENGED BY THE CUSTOMER.

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1 (C) *INACTION DOES NOT BAR REVIEW.*

2 CUSTOMERS MAY SEEK OFFICE ASSISTANCE OR APPEAL TO THE ECB AT ANY TIME. A
3 LACK OF DPW DETERMINATION AS TO A CUSTOMER DISPUTE DOES NOT PREVENT THE
4 CUSTOMER FROM SEEKING OFFICE ASSISTANCE. A LACK OF DPW DETERMINATION OR
5 OF OFFICE ASSISTANCE AS TO A CUSTOMER DISPUTE DOES NOT PREVENT THE CUSTOMER
6 FROM APPEALING TO THE ECB.

7 (D) *PUBLISHING RULES AND REGULATIONS FOR PUBLIC COMMENT.*

8 ALL PROPOSED NEW OR MODIFIED RULES AND REGULATIONS THAT GOVERN OR AFFECT
9 THE OPERATIONS OF THE OFFICE OR ECB OR THAT DELIMIT RIGHTS GRANTED CUSTOMERS
10 BY THIS ARTICLE SHALL BE PUBLISHED FOR PUBLIC COMMENT AND SHALL BE POSTED
11 ONLINE IN BOTH DRAFT AND FINAL FORM.

12 **§ 2-21. Office of Customer Advocacy . . . – Appeals.**

13 (a) *Independent review by third-party hearing officer.*

14 (1) DPW shall contract with the Environmental Control Board to make available
15 hearing officers to provide an independent review of customer appeals from a
16 Customer Advocate’s investigative report.

17 (2) HEARING OFFICERS AND INDIVIDUALS CONDUCTING OR OVERSEEING THESE
18 INDEPENDENT REVIEWS:

19 (I) MAY NOT BE MADE TO SUFFER ANY ADVERSE EMPLOYMENT ACTION
20 WITHOUT CAUSE;

21 (II) SHALL HAVE OFFICES PHYSICALLY SEPARATED FROM DPW; AND

22 (III) TO AVOID EVEN THE APPEARANCE OF A CONFLICT OF INTEREST:

23 (A) MAY NOT BE HIRED FROM DPW;

24 (B) MAY NOT ENGAGE IN ANY EX PARTE COMMUNICATION INVOLVING
25 A MATTER PENDING BEFORE THE ECB; AND

26 (C) MAY NOT COMMUNICATE WITH ANY DPW OFFICIAL OR EMPLOYEE
27 ABOUT PREFERENCES FOR THE OUTCOME OF A MATTER THAT MIGHT
28 COME BEFORE THE ECB.

29 **§ 2-22. Office of Customer Advocacy . . . – Continued service, rights pending reviews, etc.**

30 Notwithstanding any other provision of this article, the Department may not cut off water or
31 wastewater service because of a delinquency or arrearage that is the subject of a pending
32 request, made in good faith, for [Office] investigation, review, or appeal, or for judicial or
33 appellate review of a billing dispute.

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1 **§ 2-23. Office of Customer Advocacy . . . – Committee for Office Oversight.**

2 (b) *Composition.*

3 The Committee comprises the following 7 members:

- 4 (1) the Inspector General or the Inspector General’s designee;
- 5 (2) the City Auditor or the City Auditor’s designee;
- 6 (3) the [Director of Public Works] MAYOR or the [Director’s] MAYOR’S designee;
- 7 (4) the City Council President or the President’s designee; and
- 8 (5) 3 City Councilmembers, appointed by the City Council President.

9 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
10 are not law and may not be considered to have been enacted as a part of this or any prior
11 Ordinance.

12 **SECTION 3. AND BE IT FURTHER ORDAINED,** That the Laws of Baltimore City read as
13 follows:

14 **Ordinance 20-336**

15 SECTION 6. AND BE IT FURTHER ORDAINED, That, except as provided
16 by Section 4 of this Ordinance, this Ordinance takes effect [6 months after
17 the date it is enacted] ON JULY 1, 2021.

18 **SECTION 4. AND BE IT FURTHER ORDAINED,** That Section 3 of this Ordinance takes effect on
19 the date that this Ordinance is enacted, retroactive to January 13, 2020 (the date on which
20 Ordinance 20-336 was enacted).

21 **SECTION 5. AND BE IT FURTHER ORDAINED,** That the Water Accountability and Equity Act,
22 as enacted by Ordinance 20-336 and modified in part by this Ordinance, takes effect on July 1,
23 2021, subject, however, to the following interim effective dates and requirements:

- 24 (a) (1) Effective on the date that this Ordinance is enacted, the Department of Public Works
25 shall recommence preparation of rules and regulations to administer the Water-for-All
26 Discount Program (Art. 24, § 2-6 through § 2-15).
- 27 (2) On or before April 1, 2021, the Department of Public Works shall publish for public
28 comment its proposed set of those rules and regulations for the Water-for-All
29 Discount Program.

- 30 (b) (1) On the date that this Ordinance is enacted, the tenant protections provided in Art. 13,
31 § 7-3(a-1), and Art. 24, § 2-1(d) and (e), take effect.

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- 1 (2) Within 10 business days after this Ordinance is enacted, the Department of Public
2 Works shall notify existing customers of these protections.
- 3 (c) (1) On the date that this Ordinance is enacted, the Department of Public Works shall
4 continue to finalize proposed rules and regulations governing the criteria by which
5 to assess whether a bill adjustment is warranted under varying circumstances.
- 6 (2) At least 2 weeks before the first meeting of the Committee for Office Oversight, as
7 scheduled under subsection (f) of this Section 5, the Department of Public Works
8 shall publish for public comment those proposed rules and regulations.
- 9 (3) A final version of the rules and regulations, with or without revisions, must be
10 adopted and become effective no later than 1 month after the first meeting of the
11 Committee.
- 12 (d) On or before December 1, 2020, the ECB shall publish for public comment proposed
13 rules and regulations governing ECB hearings (Art. 24, § 2-19(b), (c), and (d) and
14 § 2 21), including simplified rules for hearings in which customers are not represented
15 by legal counsel.
- 16 (e) Effective on January 13, 2021:
- 17 (1) ECB shall begin hearings under Art. 24, § 2-19(b), (c), and (d) and § 2-21;
- 18 (2) DPW shall begin the collection of data, as specified in Art. 24, § 2-17(d), as
19 added by this Ordinance, and shall provide all collected data to the Office (or to
20 its Oversight Committee) as soon as possible and, in any event, no later than July
21 1, 2021;
- 22 (3) DPW shall implement and abide by Art. 24, § 2-22 {"Continued service, rights
23 pending reviews, etc."}, as amended by this Ordinance;
- 24 (4) DPW and the Finance Department shall implement and abide by Art. 24, § 4-5
25 {"Installment payment agreement"}, as amended by Ordinance 20-336; and
- 26 (5) DPW shall implement the exception in Art. 28, § 4-4 {"Warning of lien and
27 potential foreclosure"}, as added by Ordinance 20-336.
- 28 (f) (1) On January 15, 2021, the Committee for Office Oversight shall be activated and
29 effective for the purpose of coordinating with and overseeing DPW's preparations
30 for and implementation of the Water Accountability and Equity Act, as enacted by
31 Ordinance 20-336 and modified in part by this Ordinance.
- 32 (2) The first hearing of the Committee shall take place no later than February 15, 2021;
33 a second hearing shall take place no later than May 1, 2021; and hearings thereafter
34 shall be scheduled at approximately 6-month intervals.
- 35 (g) On or before March 1, 2021, the Department of Public Works shall publish for public
36 comment proposed rules and regulations to govern the Department's coordination with
37 social services agencies pursuant to Art. 24, § 2-17(c)(1)(iii).

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1 (h) The Department of Public Works may not exercise its authority to cut-off a water supply
2 for default or arrearage under Art. 24, § 2-1(c) or § 2-3 and may not impose either service
3 restoration fees or late fees for any individual who is enrolled in any discount program
4 until July 1, 2021, when all provisions of the Water Equity and Accountability Act, as
5 enacted by Ordinance 20-336 and modified in part by this Ordinance, will have taken
6 effect, as provided at the outset of this Section 5.