



Legislation Details (With Text)

File #: 20-0626 **Version:** 0 **Name:** Water Accountability and Equity Act - Modifications
Type: Ordinance **Status:** Enacted
File created: 10/5/2020 **In control:** City Council
On agenda: **Final action:** 12/7/2020
Enactment date: **Enactment #:** 20-468

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

Sponsors: Mayor Brandon M. Scott, Mary Pat Clarke, Bill Henry, John T. Bullock, Ryan Dorsey, Kristerfer Burnett, Shannon Sneed, Sharon Green Middleton, Zeke Cohen, Leon F. Pinkett, III, Edward Reisinger, Robert Stokes, Sr.

Indexes: Equity, Modifications, Water Accountability

Code sections:

Attachments: 1. 20-0626~1st Reader, 2. Meeting Agenda - 20-0626, 3. Law 20-0626, 4. HCD 20-0626, 5. Finance 20-0626, 6. LDF Testimony 20-0626, 7. CB 20-0626 WAEA Updates Infosheet, 8. _20-0626 Testimony - WAEA Implementation - 2020 (1), 9. DPW Amendments 20-0626, 10. DPW Report 20-0626, 11. Health 20-0626, 12. BRTWC Testimony-support-20-0626-2020-11-12, 13. Coalition Response to Law Department -20-0626, 14. PJC - 20-0626 WAEA Modifications - testimony, 15. Meeting Minutes - 20-0626, 16. Council Bill 20-0626 - Water Accountability and Equity Act - Modification, 17. Taxation - Hearing Notes Bill 20-0626, 18. 2nd Reader Amendments 20-0626~1st(Comm), 19. 20-0626~3rd Reader, 20. Signed Ordinance 20-0626

Date	Ver.	Action By	Action	Result
12/7/2020	0	Mayor	Signed by Mayor	
11/16/2020	0	City Council	Advanced to 3rd Reader on same day	
11/16/2020	0	City Council	Approved and Sent to the Mayor	
11/16/2020	0	Taxation, Finance and Economic Development Committee	Recommended Favorably with Amendment	
11/12/2020	0	Taxation, Finance and Economic Development Committee	Recommended Favorably with Amendment	Pass
11/2/2020	0	Taxation, Finance and Economic Development Committee	Scheduled for a Public Hearing	
10/8/2020	0	The City Council	Refer to Dept. of Finance	

10/8/2020	0	The City Council	Refer to Dept. of Health
10/8/2020	0	The City Council	Refer to Mayor's Office of Human Services
10/8/2020	0	The City Council	Refer to Dept. of Housing and Community Development
10/8/2020	0	The City Council	Refer to Inspector General
10/8/2020	0	The City Council	Refer to City Solicitor
10/8/2020	0	The City Council	Refer to Dept. of Public Works
10/5/2020	0	City Council	Assigned
10/5/2020	0	City Council	Introduced

Explanation: Capitals indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

* **Warning:** This is an unofficial, introductory copy of the bill.
The official copy considered by the City Council is the first reader copy.

Introductory*

City of Baltimore Council Bill

Introduced by: President Brandon Scott

A Bill Entitled

An Ordinance concerning

Water Accountability and Equity Act - Modifications

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

By repealing and reordaining, with amendments

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

By adding

Article 24 - Housing and Urban Renewal
Sections 2-1(e), 2-17(d), and 2-18(e)
Baltimore City Code
(Edition 2000)

By repealing and reordaining, with amendments

Article 24 - Housing and Urban Renewal
Section 2-17(c)(3), 2-19, 2-21(a), 2-22, and 2-23(b)
Baltimore City Code
(Edition 2000)

By repealing and reordaining, with amendments

Ordinance 20-336
Section 6

Section 1. Be it ordained by the Mayor and City Council of Baltimore, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 13. Housing and Urban Renewal

Subtitle 7. Residential Lease Requirements

§ 7-3. Information required.

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

(1) [Any] If a property owner or managing operator [who] requires that a tenant pay the costs of water or wastewater services, whether directly to the Department of Public Works or as reimbursement to the owner or managing operator, the owner or operator shall:

(i) include that requirement in an express provision [of a written lease] adopted by executing:

(A) a modification to an existing written lease; or

(B) a newly formed written lease; and

(ii) if the dwelling unit described in the lease is directly metered, register the tenant as an additional party on the owner's account at the Department of Public Works within 20 days after the express provision described in subunit (i) of this paragraph is executed.

Article 24. Water

Subtitle 2. Bills

§ 2-1. Collection.

(e) Tenant-water-utility customer requests.

The Department may not deny a tenant-water-utility customer's request for a discount, payment agreement, bill adjustment, or other agency action if the tenant-water-utility customer demonstrates that the property owner or managing operator was notified of the request and thereafter withheld its participation in the request.

§ 2-17. Office of Water-Customer Advocacy and Appeals - Office established; Nature, purposes;

Primary functions.

(c) *Primary functions.*

The Office serves the following three primary functions:

- (3) reporting at least semi-annually to the Committee for Office Oversight established under [§ 2-24] § 2-23 {“Office ... - Committee for Office Oversight”} of this subtitle, on:
 - (i) Office operations and activities, including:
 - (A) data on the Office’s customer-advocacy investigation and problem-solving efforts and its appeals function as set forth in § 2-17(d) of this subtitle; and
 - (B) examples of common customer complaints, the methods by which the Department of Public Works addresses those complaints, an assessment of those methods, and recommendations for alternative approaches; and
 - (ii) recommendations that the Office has for:
 - (A) changes to the department’s rules, regulations, policies, or procedures that will promote fairness to customers and resolve customer concerns;
 - (B) task forces and additional Office staff; and
 - (C) any other options for promoting fairness to customers and resolving customer concerns.

(d) *Data and Metrics.*

(1) Data and metrics shall be used to enable:

- (i) an understanding of the problems experienced by customers and by DPW;
- (ii) the design of workable solutions; and
- (iii) the evaluation of whether reforms implemented are successful.

(2) Significant data shall be collected from individuals participating in the various dispute resolution processes under this subtitle, which will reduce data collection costs and emphasize customers’ direct experiences.

(3) Data shall be collected that reveals the nature and frequency of:

- (i) customer concerns raised on matters of all kinds;
- (ii) methods used by Office Advocates to investigate problems, to assess DPW’s responses, and to create solutions promoting customer fairness;
- (iii) dispute resolution outcomes and justifications, including bill adjustment dollar amounts, orders regarding enrollment in discount and affordability programs, referrals to social service agencies, complaints left unaddressed, and other outcome es;
- (iv) decisions of the Public Works Director that overrule an Office Advocate or the ECB;

- (v) communications among billing analysts, the Office, the ECB, and customers;
 - (vi) data collection efforts;
 - (vii) customer feedback (from customers both participating in dispute resolution systems and not participating in them);
 - (viii) ideas solicited from customers about potential causes of problems and potential solutions that would promote customer fairness;
 - (ix) customer demographics relevant to the mandate of customer fairness, if volunteered (e.g., income, neighborhood, race, family status, age, tenant/homeowner, commercial/residential, primary language, etc.);
 - (x) input from social service organizations that serve customers; and
 - (xi) with respect to discount and affordability programs, application and enrollment numbers compared to the anticipated number of eligible customers, reasons for denials, and the relative success of different outreach methods.
- (4) When reporting to the Committee for Office Oversight, the Office shall explain how data derived directly from customer experiences was given great weight in designing reform proposals that promote customer fairness, and shall define metrics to be used to measure the effectiveness of the future reforms. As reforms are implemented, additional data shall be collected to evaluate the effectiveness of the reforms, and the Office shall, as appropriate, propose further improvements to the reforms or to the metrics to be used to assess them.

§ 2-18. Office of Customer Advocacy . . . - Administration.

(e) Office employees.

Office employees:

- (1) may not be made to suffer any adverse employment action without cause;
- (2) shall have offices physically separated from DPW; and
- (3) to avoid even the appearance of a conflict of interest:
 - (i) may not be hired into the Office from DPW;
 - (ii) may not be required to get prior approval from DPW officials or employees for Office reviews, reports, or recommendations; and
 - (iii) shall have only limited communications with DPW employees, as needed to fulfill the Office's customer fairness mandate.

§ 2-19. Office of Customer Advocacy . . . - Request for assistance; Right to dispute.

(a) *Request for assistance.*

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

notice of billing-related issues.

(b) *Right to dispute determinations.*

The right to dispute a determination by the Department before the Department, the Office, or the ECB may not be limited, except as otherwise stated in this article or in case of an abuse of process. Thus, a customer may not be required by the Department, the Office, or the ECB to do any of the following as a prerequisite to having the customer's appeal heard:

- a. pay money to any party, including a plumber;
- b. prove that DPW equipment is faulty; or
- c. pay bills that are being challenged by the customer.

(c) *Inaction does not bar review.*

Customers may seek Office assistance or appeal to the ECB at any time. A lack of DPW determination as to a customer dispute does not prevent the customer from seeking Office assistance. A lack of DPW determination or of Office assistance as to a customer dispute does not prevent the customer from appealing to the ECB.

(d) *Publishing rules and regulations for public comment.*

All proposed new or modified rules and regulations that govern or affect the operations of the Office or ECB or that delimit rights granted customers by this article shall be published for public comment and shall be posted online in both draft and final form.

§ 2-21. Office of Customer Advocacy . . . - Appeals.

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

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

(2) Hearing officers and individuals conducting or overseeing these independent reviews:

- (i) may not be made to suffer any adverse employment action without cause;
- (ii) shall have offices physically separated from DPW; and
- (iii) to avoid even the appearance of a conflict of interest:
 - (A) may not be hired from DPW;
 - (B) may not engage in any ex parte communication involving a matter pending before the ECB; and
 - (C) may not communicate with any DPW official or employee about preferences for the outcome of a matter that might come before the ECB.

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

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

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

(b) *Composition.*

The Committee comprises the following 7 members:

- (1) the Inspector General or the Inspector General's designee;
- (2) the City Auditor or the City Auditor's designee;
- (3) the [Director of Public Works] Mayor or the [Director's] Mayor's designee;
- (4) the City Council President or the President's designee; and
- (5) 3 City Councilmembers, appointed by the City Council President.

Section 2. And be it further ordained, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

Section 3. And be it further ordained, That the Laws of Baltimore City read as follows:

Ordinance 20-336

Section 6. And be it further ordained, That, except as provided by Section 4 of this Ordinance, this Ordinance takes effect [6 months after the date it is enacted] on July 1, 2021.

Section 4. And be it further ordained, That Section 3 of this Ordinance takes effect on the date that this Ordinance is enacted, retroactive to January 13, 2020 (the date on which Ordinance 20-336 was enacted).

Section 5. And be it further ordained, That the Water Accountability and Equity Act, as enacted by Ordinance 20-336 and modified in part by this Ordinance, takes effect on July 1, 2021, subject, however, to the following interim effective dates and requirements:

- (a) (1) Effective on the date that this Ordinance is enacted, the Department of Public Works shall recommence preparation of rules and regulations to administer the Water-for-All Discount Program (Art. 24, § 2-6 through § 2-15).
- (2) On or before April 1, 2021, the Department of Public Works shall publish for public comment its proposed set of those rules and regulations for the Water-for-All Discount Program.
- (b) (1) On the date that this Ordinance is enacted, the tenant protections provided in Art. 13, § 7-3(a-1), and Art. 24, § 2-1(d) and (e), take effect.
- (2) Within 10 business days after this Ordinance is enacted, the Department of Public Works shall notify existing customers of these protections.
- (c) (1) On the date that this Ordinance is enacted, the Department of Public Works shall continue to finalize proposed rules and regulations governing the criteria by which to assess whether a bill adjustment is warranted under varying circumstances.

- (2) At least 2 weeks before the first meeting of the Committee for Office Oversight, as scheduled under subsection (f) of this Section 5, the Department of Public Works shall publish for public comment those proposed rules and regulations.
- (3) A final version of the rules and regulations, with or without revisions, must be adopted and become effective no later than 1 month after the first meeting of the Committee.
- (d) On or before December 1, 2020, the ECB shall publish for public comment proposed rules and regulations governing ECB hearings (Art. 24, § 2-19(b), (c), and (d) and § 2-21), including simplified rules for hearings in which customers are not represented by legal counsel.
- (e) Effective on January 13, 2021:
 - (1) ECB shall begin hearings under Art. 24, § 2-19(b), (c), and (d) and § 2-21;
 - (2) DPW shall begin the collection of data, as specified in Art. 24, § 2-17(d), as added by this Ordinance, and shall provide all collected data to the Office (or to its Oversight Committee) as soon as possible and, in any event, no later than July 1, 2021;
 - (3) DPW shall implement and abide by Art. 24, § 2-22 {"Continued service, rights pending reviews, etc."}, as amended by this Ordinance;
 - (3) DPW and the Finance Department shall implement and abide by Art. 24, § 4-5 {"Installment payment agreement"}, as amended by Ordinance 20-336; and
 - (4) DPW shall implement the exception in Art. 28, § 4-4 {"Warning of lien and potential foreclosure"}, as added by Ordinance 20-336.
- (f)
 - (1) On January 15, 2021, the Committee for Office Oversight shall be activated and effective for the purpose of coordinating with and overseeing DPW's preparations for and implementation of the Water Accountability and Equity Act, as enacted by Ordinance 20-336 and modified in part by this Ordinance.
 - (2) The first hearing of the Committee shall take place no later than February 15, 2021; a second hearing shall take place no later than May 1, 2021; and hearings thereafter shall be scheduled at approximately 6-month intervals.
- (g) On or before March 1, 2021, the Department of Public Works shall publish for public comment proposed rules and regulations to govern the Department's coordination with social services agencies pursuant to Art. 24, § 2-17(c)(1)(iii).
- (h) The Department of Public Works may not exercise its authority to cut-off a water supply for default or arrearage under Art. 24, § 2-1(c) or § 2-3 and may not impose either service restoration fees or late fees for any individual who is enrolled in any discount program until July 1, 2021, when all provisions of the Water Equity and Accountability Act, as enacted by Ordinance 20-336 and modified in part by this Ordinance, will have taken effect, as provided at the outset of this Section 5.