

**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE ON HUMAN SERVICES**



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**COUNCIL OF THE DISTRICT OF COLUMBIA**

**PUBLIC HEARING**

**BILL 24-706, THE “BOARD OF ETHICS AND GOVERNMENT  
ACCOUNTABILITY DELINQUENT DEBT RECOVERY AMENDMENT  
ACT OF 2022”**

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**Testimony of Niquelle M. Allen, Esq.  
Director of Open Government  
Board of Ethics and Government Accountability**

**Wednesday, April 6, 2022  
3:00 p.m.  
Virtual Meeting Platform  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004**

Good afternoon, Chairperson Nadeau and members of the Committee. I am Niquelle Allen, Director of Open Government. Thank you for the opportunity to testify on the Board of Ethics and Government Accountability Delinquent Debt Recovery Amendment Act of 2022.

As you know, the Office of Open Government (OOG) is an office within the Board of Ethics and Government Accountability (BEGA). OOG's mission is to ensure that government operations at every level are transparent, open to the public, and promote civic engagement, by enforcing the Open Meetings Act (OMA) and providing guidance and assistance in implementing the District's Freedom of Information Act.

I am testifying today in *support* of this bill. It would allow OOG to concentrate on its central mission by allowing BEGA to refer the collection of fines and costs to the Central Collection Unit (CCU).

As a preliminary matter, I will briefly review the basis for the Open Government Fund ("Fund").

OOG may bring a lawsuit in Superior Court to enforce the OMA, which may result in the imposition of a civil fine.<sup>1</sup> As I have mentioned in previous testimony, OOG sees litigation as a last resort, in cases where an advisory opinion or training would not suffice to correct a public body's violations of the OMA. OOG may pursue declaratory and injunctive relief for OMA violations in D.C. Superior Court. If a public body improperly closes a meeting to the public, a monetary fine may attach—up to \$250 per violation.<sup>2</sup>

Originally, such civil fines were directed to the General Fund. So, in order to redirect fines specifically to "the operations and personnel of" OOG, the D.C. Council created the Open Government Fund through the Fiscal Year 2019 Budget

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<sup>1</sup> D.C. Official Code § 2-579(a).

<sup>2</sup> D.C. Official Code § 2-579(e) provides that as the result of OOG's lawsuit, the D.C. Superior Court may impose a civil fine against "a member of a public body [who] engages in a pattern or practice of willfully participating in . . . closed meetings" that violate the OMA.

Support Acts.<sup>3</sup> The Fund’s balance consists of “[r]evenue from all fines collected pursuant to section 409 of the [OMA].”<sup>4</sup>

Today’s proposed legislation would permit BEGA to refer delinquent debts (including civil fines and settlement proceeds) to the CCU. Then, the recovered debt conveys to the Open Government Fund.

I support this bill because it would help deter violations while also permitting OOG to focus its resources on its primary mission. However, I conclude with a suggestion for a revision: the Open Government Fund should receive not just the fines themselves, but also the reasonable, and generally moderate, *costs* of litigation.

For OOG to pursue litigation under the OMA involves typical miscellaneous litigation-related expenses such as fees for notaries, process servers, and transcripts. I am pleased that this bill calls for the CCU to collect not just the underlying civil fine itself, but also those collected debts that are “*associated with*” the fine, “*net of costs and fees.*”<sup>5</sup> But I urge this Committee to add a corresponding amendment to section 210a(b) of the Ethics Act such that “[r]evenue from all fines, costs, and fees collected pursuant to section 409 of the Open Meetings Act shall be deposited in the Fund.”<sup>6</sup> I am proposing to add the terms “costs and fees” to the text of the proposed bill. (Proposed new language is underlined.) This conforming amendment is a slight change that will ensure that the Fund receives not only *delinquent* costs and fees, but also those costs and fees that are paid timely and therefore never referred to CCU in the first place.

Thank you for your time and attention to the Board of Ethics and Government Accountability Delinquent Debt Recovery Amendment Act of 2022. I am pleased to answer any questions from you or the Committee.

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<sup>3</sup> D.C. Act 22-434, July 30, 2018, § 1083(*l*) (emergency); D.C. Act 22-458, Oct. 3, 2018, § 1083(*l*) (emergency); D.C. Act 22-442 (D.C. Law 22-168), Oct. 30, 2018, § 1083(*l*).

<sup>4</sup> See D.C. Official Code § 1-1162.10a(b).

<sup>5</sup> B24-0706 (as introduced), p.2, *ll.*42, 45 (emphasis added).

<sup>6</sup> *Cf.* D.C. Official Code § 1-1162.10a(b).