



OFFICE OF COUNCILMEMBER ANITA BONDS
CHAIR, COMMITTEE ON EXECUTIVE ADMINISTRATION AND LABOR
THE JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004

April 9, 2024

Nyasha Smith, Secretary
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

Dear Secretary Smith,

Today, I am introducing the **“Rulemaking Public Comment Modernization Amendment Act of 2024.”** Please find enclosed a signed copy of the legislation amending Title 2 of the District of Columbia Official Code to require the Mayor and independent agencies to accept electronic submission of public comments prior to the adoption of or amendment to any rule.

This legislation addresses two issues related to the public’s ability to participate in the rulemaking process. First, it prevents agencies from inadvertently discouraging or limiting public participation by requiring written comments be submitted through a single method. Second, it allows members of the public to more easily identify proposed rules that are open for public comment.

Public discourse is invaluable to the rulemaking process. By encouraging public comment, the government avoids unintended outcomes and ensures that the rules being created are not overly burdensome to members of the public. Furthermore, if the rules are ambiguous, the comment period provides an opportunity for the agency to revise its rulemaking to eliminate any confusion. This leads to the creation of rules that are clear, comprehensive, and easy to understand.

The value provided by the rulemaking public comment period is reflected in revisions made to proposed rules. Many agencies, recognizing this benefit, readily accept public comments made both orally and in writing, through various methods through such means as electronic submission to the DC Register website and by phone, email, or mail. An agency can, however, require that written comments be submitted by mail. This creates an additional cost to the public and may be inconvenient or impose an unnecessary burden. In addition, requiring submission of written

comments by mail increases the likelihood that a comment will be inadvertently lost or delayed beyond the period of time in which public comment is allowed.

This legislation would require that an agency accept both oral and written comments, ensuring at least two avenues for public participation. Furthermore, an agency must accept electronic submission of written comments, either by email or through the electronic submission system offered by the Office of Documents and Administrative Issuances (ODAI). The result will be a more accessible rulemaking comment period that encourages public participation, while still allowing the agency to accept comments by mail if it chooses.

In addition, the legislation requires that ODAI maintain a publicly available list of all proposed rulemaking that is currently open for public comment. ODAI already maintains a list of proposed rulemaking open for electronic public comment on the website for the District of Columbia Register at dcregs.dc.gov. This is available on the main page under “Proposed Rulemaking Open for Public Comment.” Currently, however, the listing only includes proposed rulemaking that is available for electronic public comment – excluding any proposed rulemaking that is open for public comment by postal mail. The distinction is not clearly communicated to the public and leaves no way for a member of the public to see all rulemaking that is open for public comment. This legislation would correct that issue, modernizing the rulemaking process by increasing transparency and facilitating public participation.

Should you have any questions about this legislation, please contact Elspeth Callahan at ecallahan@dccouncil.gov.

Thank you,

A handwritten signature in black ink, appearing to read 'ANB', is positioned above the name Anita Bonds.

Anita Bonds

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Administrative Procedure Act to require that the Office of Documents and Administrative Issuances accept submission of comments in electronic form for all documents published in the District of Columbia Register which require a public comment period.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Rulemaking Public Comment Modernization Amendment Act of 2024”.

Sec. 2. The District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code Section § 2–501 *et seq.*), is amended as follows:

(a) Section 105(a) (D.C. Official Code § 2-505(a)) is amended by striking the phrase “in such notice.” and inserting the phrase “both orally and in writing, as may be specified in such notice; provided, that the notice shall permit electronic submission of written data and views in all instances.”.

(b) Section 303 (D.C. Official Code § 2–553) is amended by adding a new subsection (j) to read as follows:

“(j) The District of Columbia Office of Documents shall publish and maintain an electronic directory of all proposed rules open for public comment under this act.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975,

30 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

31 Sec. 4. Effective date.

32 This act shall take effect following approval by the Mayor (or in the event of veto by the
33 Mayor, action by the Council to override the veto), and a 30-day period of congressional review
34 as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
35 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)).