



Councilmember Charles Allen

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency with respect to the need to amend the Freedom of Information Act of 1976 to exempt from disclosure critical infrastructure information or plans that contain critical infrastructure information for the critical infrastructures of the District of Columbia Water and Sewer Authority.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “DC Water Critical Infrastructure Freedom of Information Clarification Emergency Declaration Resolution of 2024”.

Sec. 2. (a) Section 204(a)(15) of the Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-534(a)(15)) (“Act”), exempts from disclosure critical infrastructure information or plans that contain critical infrastructure information of companies that are regulated by the Public Service Commission of the District of Columbia (“PSC”).

(b) The District of Columbia Water and Sewer Authority (“DC Water”) is not regulated by the PSC and, therefore, is not covered by the exemption in the Act or any similar exemption. As a result, under current law, DC Water could be required to disclose information that could jeopardize the security of the District’s critical water and sewer infrastructure.

33 (c) On September 19, 2023, the Council passed the DC Water Critical Infrastructure
34 Freedom of Information Clarification Temporary Amendment Act of 2023, effective November
35 28, 2023 (D.C. Law 25-78; 70 DCR 15613 (“temporary legislation”). The temporary legislation
36 clarified that the critical infrastructure exemption applies to DC Water, as well as entities
37 regulated by the PSC. Like other utilities, DC Water is party to information related to critical
38 infrastructure that should not be widely available to the public upon a Freedom of Information
39 Act request. The temporary legislation is set to expire on July 10, 2024.

40 (d) B25-0424, the DC Water Critical Infrastructure Freedom of Information Clarification
41 Amendment Act of 2023, is a permanent bill that is substantially similar to the temporary
42 legislation. The Committee on Transportation and the Environment held a public hearing on the
43 B25-0424 on March 4, 2024, but has not yet scheduled a time to consider and vote on the bill.

44 (e) This emergency legislation is necessary to prevent a gap in the law between expiration
45 of the temporary legislation and approval of B25-0425.

46 Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute
47 emergency circumstances making it necessary that the DC Water Critical Infrastructure Freedom
48 of Information Clarification Emergency Amendment Act of 2024 be adopted after a single
49 reading.

50 Sec. 4. This resolution shall take effect immediately.