

AN AMENDMENT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DATE: November 6, 2007

Amendment offered by Councilmember Evans to: Bill 17-159, the Southeast Water and Sewer Improvement Special Assessment Authorization Act of 2007”.

P.R. No. _____
Bill No. 17-159
Other _____

Version: Introduced
Committee Print
First Reading
Amended First Reading
Engrossed (Amended) X
Enrolled _____
Unidentified _____
Emergency Legislation _____

1. Amendment-In-The-Nature-Of-A-Substitute (attached)

Rationale:

In working with the Office of the Chief Financial Officer and the Office of the Deputy Mayor for Planning and Economic Development, these changes are recommended by them to improve the administration of this program. Changes to the legislation include:

- Provide for a one-time assessment notice and annual billing due every June 30th. The assessment notices are expected to be sent on or before March 1, and may be appealed by April 1, 2008.
- Clarify the special assessments by inserting into the bill the actual assessment factors derived from the economic validity and methodology report.
- Simplify the definition of “gross building area” to exclude transfer development rights or bonus development rights.

- Provide that a possessory interest only triggers the special assessment when the land is ground-leased and the improvement is privately owned.
- Make applicable to October 1, 2007, which will make clear the assessment commences in FY2008.

BILL 17- 159
AMENDMENT-IN-THE-NATURE-OF-A-SUBSTITUTE
NOVEMBER 6, 2007

A BILL

17-159

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Chapter 8 of Title 47 of the District of Columbia Official Code to establish the Southeast Water and Sewer Improvement Benefit District, to authorize a special assessment on properties located within the improvement area that are specially benefited by the improvements and upgrades to the water and sewer and storm drainage systems, to authorize the District government to collect the special assessments in the same manner as real property taxes, and to authorize revenues collected to be used to pay the principal of, interest on, and other repayment amounts related to bonds, notes, obligations, expenditures, or other outlays which are used to pay costs of the Southeast Water and Sewer Improvement Project.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Southeast Water and Sewer Improvement Special Assessment Authorization Act of 2007”.

Sec. 2. Chapter 8 of Title 47 of the District of Columbia Code is amended as follows:

(a) The table of contents is amended by adding a new Subchapter VI to read as follows:

“Subchapter VI. Southeast Water and Sewer Improvement Special Assessment District.

“Sec.

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“47-891. Definitions. 1

“47-892. Establishment of special assessment district. 2

“47-893. Levy of special assessment; protest; termination of levy. 3

“47-894. Application of assessment.”. 4

(b) A new subchapter VI is added to read as follows: 5

“Subchapter VI. Southeast Water and Sewer Improvement Special Assessment District. 6

“§ 47-891. Definitions. 7

“For the purposes of this subchapter, the term: 8

 “(1) “Chief Financial Officer” means the Chief Financial Officer of the District of 9
Columbia established by D.C. Official Code § 1-204.24a. 10

 “(2) “District” means the District of Columbia. 11

 “(3) “Gross building area” means, with respect to a ~~lot~~ real property, the product 12
of the land area of the ~~lot~~ real property multiplied by the maximum floor area ratio allowable 13
under its zoning category as of January 1, 2007 without including transfer development rights or 14
bonus development rights; provided that in the case of real property formerly owned by the 15
United States of America after January 1, 2007, “gross building area” shall mean the foregoing as 16
of the date the real property was first legally zoned under District law. 17

 “(4) “Land area” means, with respect to a ~~lot~~ real property, the ground square 18
footage of the ~~lot~~ real property . 19

~~“(5) “Lot” means a tax lot, record lot, or other division of real property used to assess real property.~~ 1
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~~“(6) “Special Assessment Annual Collection Amount” means the amount established under § 47-893.~~ 3
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~~“(7) “Special Assessment Factor” means the Special Assessment Annual Collection Amount divided by the aggregate assessed value of real property subject to this subchapter, as determined and adjusted under § 47-893.~~ 5
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~~“(8) “Special Assessment Total Collection Amount” means the aggregate amount of collections under this subchapter established under § 47-893.~~ 8
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~~“(9)-(5) “Southeast Water and Sewer Improvement Benefit District” means the special assessment district established by § 47-892.~~ 10
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~~“(10)-(6) (A) “Southeast Water and Sewer Improvement Project” means the improvements and upgrades to the storm drainage and water and sewer systems scheduled to be performed starting on or about May 1, 2007, and scheduled to be completed on or about February 15, 2008, on the following streets: Potomac Avenue, S.E., from South Capitol Street to First Street, SE; First Street, S.E., from Potomac Avenue, S.E., to I Street, SE; N Street, S.E., from South Capitol Street to First Street, SE; I Street, S.E., from South Capitol Street to First Street, S.E.; and South Capitol Street from N Street to O Street, S.E.~~ 12
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~~“(B) The scheduled starting and completion dates set forth in subparagraph (A) of this paragraph are set forth for descriptive purposes only and shall not limit the costs that may be included in the special assessment total collection amount determined under~~ 19
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§ 47-893(c) based solely on the fact that the costs were incurred before the scheduled starting date 1
or after the scheduled completion date. 2

“§ 47-892. Establishment of special assessment district. 3

“ There is established as a special assessment district the Southeast Water and Sewer 4
Improvement Benefit District, which shall be comprised of those ~~lots~~ real properties served by or 5
otherwise specially benefiting from the Southeast Water and Sewer Improvement Project, more 6
particularly described as all real properties ~~lots~~-included in the following squares or portions of 7
squares: 0695, 0695W, 0695NW, 0696, 0697N, 0699, 0699N, 0700, 0701, 0707, the portions of 8
0708 and 0708E east of South Capitol Street (as South Capitol Street existed on June 1, 2007), 9
0738, 0740, 0743N, 0744S, and 0744SS, and any future subdivisions of these squares and lots. 10

“§ 47-893. Levy of special assessment; protest; termination of levy. 11

“(a) Beginning with tax year 2008, there is levied a special assessment upon each ~~lot~~ real 12
property located within the Southeast Water and Sewer Improvement Benefit District, except the 13
following: 14

“(1) ~~Lots~~ Real properties owned by the District of Columbia, except an 15
independent instrumentality or authority of the District of Columbia, the United States, or the 16
Washington Metropolitan Area Transit Authority; provided, if an interest in or use of the land of 17
~~on~~ such a ~~lot~~ real property is subject to taxation under § 47-1005.01, because of a ground lease 18
and the improvement is privately owned, then the interest or use of the land and the improvement 19
shall be subject to the special assessment imposed by this subchapter based on the land area ~~and~~ 20
~~gross building area~~ of the interest and the actual gross building area of the improvement (if not 21

subject to District zoning) or the gross building area of the improvement (if subject to District zoning) ; provided further, if the ~~lot~~ real property becomes owned by an entity other than the District of Columbia, the United States, or the Washington Metropolitan Area Transit Authority, then the provisions of this paragraph shall not exempt the ~~lot~~ real property from the special assessment imposed by this subchapter;

“(2) ~~Lots~~ Real properties on which, on June 1, 2007, occupied residential ~~buildings~~ were located; provided, that after June 1, 2007, if the ~~lot~~ real property is redeveloped for nonresidential uses, or if the ~~lot~~ real property becomes part of a development project that may include a condominium regime, that consists of 5 or more dwelling units, the provisions of this paragraph shall not exempt the ~~lot~~ real property or subdivisions thereof from the special assessment imposed by this subchapter;

“(3) ~~Lots~~ Real properties on which, on June 1, 2007, an active house of worship with a tax-exempt status was located; provided, that after June 1, 2007, if the ~~lot~~ real property is later used for a purpose other than as a house of worship, the provisions of this paragraph shall not exempt the ~~lot~~ real property from the special assessment imposed by this subchapter; or

“(4) ~~Lots~~ Real properties that received a certificate of occupancy for a building of over 10,000 square feet between January 1, 2003, and June 1, 2007, or which had a utility plan related to a building permit approved by the District of Columbia Water and Sewer Authority between January 1, 2006, and October 31, 2006.

~~“(b)(1) Within 120 days after the effective date of this subchapter, the Chief Financial Officer shall determine:~~

~~“(A) The total projected costs of the Southeast Water and Sewer Improvement Project (“total projected costs”);~~

~~“(B) The adjusted water and sewer systems costs, which shall be equal to the portion of the total projected costs attributable to the water and sewer systems minus \$2,000,000;~~

~~“(C) The adjusted storm drainage system costs, which shall be equal to the portion of the total projected costs attributable to the storm drainage systems minus \$1,000,000;~~

~~“(D) The storm drainage debt service amount, which shall be equal to the total debt service or repayment amount that would have been paid for the storm drainage system costs, from bond issuance through maturity, if the storm drainage system portion of the Southeast Water and Sewer Improvement Project had been financed through tax exempt bonds issued at par with a fixed rate of 4.5% annual interest, payable in equal annual debt service payments (level debt service) over a 30 year period;~~

~~“(E) The water and sewer systems debt service amount, which shall be equal to the total debt service or repayment amount that would have been paid for the water and sewer system costs, from bond issuance through maturity, if the water and sewer system costs of the Southeast Water and Sewer Improvement Project had been financed through tax exempt bonds issued at par with a fixed rate of 4.5% annual interest, payable in equal annual debt service payments (level debt service) over a 30 year period~~

~~“(F) The storm drainage system annual collection amount, which shall be equal to the storm drainage debt service amount divided by 30.~~

~~“(G) The water and sewer systems annual collection amount, which shall be equal to the water and sewer systems debt service amount divided by 30.~~

~~“(2) The sum of the adjusted water and sewer systems costs plus the adjusted storm drainage system costs plus \$3 million shall be equal to the total projected costs.”~~

~~“(e) Within 120 days after the effective date of this subchapter, the Chief Financial Officer shall determine each lot that is subject to the special assessment under subsection (a) of this section (“non-exempt lot”), each lot that is exempt from the special assessment (“exempt lot”) under subsection (a) of this section, the land area of each exempt and non-exempt lot, and the gross building area of each exempt and non-exempt lot.~~

~~“(d) Within 120 days after the effective date of this subchapter, the Chief Financial Officer shall determine the:~~

~~“(1) The storm drainage Special Assessment Factor, which shall be computed by dividing the storm drainage annual collection amount by the sum of the land area of all non-exempt and exempt lots, as determined under subsection (e) of this section; provided, the Chief Financial Officer may increase the storm drainage Special Assessment Factor at any time by the amount that the Chief Financial Officer determines to be necessary to ensure that the special assessments collected under this section shall be equal to the storm drainage annual collection amount in each year; and~~

~~“(2) The water and sewer system Special Assessment Factor, which shall be computed by dividing the water and sewer system annual collection amount by the aggregate gross building area of all non-exempt and exempt lots, as determined under subsection (e) of this~~

~~section; provided, the Chief Financial Officer may increase the water and sewer system Special Assessment Factor at any time by the amount that the Chief Financial Officer determines to be necessary to ensure that the special assessments collected under this section shall be equal to the water and sewer system annual collection amount in each year.~~

~~“(e) (b) The special assessment applicable to a lot real property shall be equal to the sum of:~~

~~“(1) The storm drainage assessment factor of 0.118 multiplied by the land area of the lot real property or interest therein; and~~

~~“(2) The water and sewer assessment factor of 0.0346 multiplied by the gross building area of the lot real property .~~

~~“(f)(c) (1) Within 180 days after the effective date of this act for tax year 2008, and annually by March 1 preceding each tax year thereafter, the Chief Financial Officer shall determine each lot real property that is subject to the special assessment under this subchapter and give notice of the special assessment to the owner, as shown on the real property tax records of the District. The notice shall state the amount of the proposed special assessment and the procedure for appeal set forth in subsection (i) (e) of this section. The notice required by this paragraph may be included as part of the annual real property assessment notice issued under D.C. Official Code § 47-824. The Chief Financial Officer shall not recalculate the storm drainage Special Assessment Factor or the water and sewer Special Assessment Factor based on a determination that either factor because an additional lot real property has become subject to the special~~

assessment after the first determination under this paragraph. No further notice shall be required for future tax years.

“(2) If a ~~lot~~ real property becomes subject to the special assessment imposed by this subchapter after the effective date of this act, the Chief Financial Officer shall give notice of the special assessment to the owner, as shown on the real property tax records of the District, of such ~~lot~~ real property within ~~60~~90 days after the Chief Financial Officer determines the ~~lot~~ real property has become subject to the special assessment ~~and annually thereafter on the date that notice is provided to other owners under paragraph (1) of this subsection.~~ The notice shall state the amount of the proposed special assessment and the procedure for appeal set forth in subsection ~~(i)~~ (e) of this section. Such real property shall become liable for the special assessment as of the beginning of the next succeeding tax year from the date on which such real property became subject to the special assessment. No further notice shall be required for future tax years.

“(3) The owner of a ~~lot~~ real property may elect at least once annually and upon the sale of a ~~lot~~real property , under procedures established by the Chief Financial Officer, to pay in a lump sum payment equal to the present value ~~as calculated~~ as of the next succeeding June 30th at an annual discount rate of 4.5% of the total amount of all future annual special assessments ~~that to~~ which the Chief Financial Officer determines the ~~lot~~ real property is subject ~~to~~ under this subchapter. If the owner makes such a lump sum payment, within 30 days from the date of the special assessment bill from the Chief Financial Officer, the ~~lot~~ real property shall not be subject to future annual special assessments under this subchapter.

~~“(g)~~ (d) If the Chief Financial Officer learns that a ~~lot~~ real property subject to the special assessment has been omitted from the special assessment for any previous tax year or tax years,

the Chief Financial Officer shall provide notice ~~to the owner~~ under subsection ~~(f)(2)~~ (e) of this section to the owner for the succeeding, current and prior tax years, and shall collect the special assessment amount ~~so~~ in arrear , including penalty and interest from the date the special assessment should have been paid ; provided, that no ~~lot~~ real property that has escaped the special assessment shall be liable under this section for a period of more than 3 prior tax years, ~~except in the case of property involved in litigation~~. No further notice shall be required for future tax years.

~~“(h)-(e)~~ The owner of a lot real property subject to special assessment under this subchapter, when first provided notice of a special assessment under this subchapter, may petition for administrative review, and appeal from a final determination made upon administrative review, of the amount of a special assessment, or the imposition of the special assessment, on the real property or interest therein in the same manner and to the same extent as set forth in § 47-825.01(f-1) as if the owner were a new property owner ~~.Beginning with the second notice of special assessment provided under this subchapter, the owner may petition for administrative review, and appeal from a final determination made upon administrative review, of the amount of a special assessment, or the imposition of the special assessment, on the real property in the same manner and to the same extent as set forth in § 47-825.01(f-1) as if the owner were an existing property owner.~~; provided that for purposes of the new owner appeal, the date of transfer shall be deemed the date of the notice and the tax year shall be deemed the last tax year included in the notice; provided further that notwithstanding the foregoing, the notice under subsection (c)(1) of this section shall be mailed on or before March 1,2008 and the owner may petition for an administrative review on or before April 1, 2008 and appeal therefrom to the same extent and

under the same conditions as a real property owner may appeal his tax year 2009 real property tax assessment. 1
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~~“(i)(f) Beginning with tax year 2008, § special assessments levied under this subchapter shall be levied annually and shall be collected at the same time and in the same manner as real property taxes under this chapter are collected. due on June 30 of the tax year. The owner shall have 30 days to pay the special assessment bill before the bill is due.~~ 3
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~~“(j)(g)(1) Except as provided in paragraph (2) of this subsection, an unpaid special assessment shall be subject to the same penalty and interest provisions as a delinquent real property tax under this chapter. A lien for an unpaid special assessment, including penalty and interest, shall attach to the real property in the same manner as, and with a priority immediately junior to, a lien for delinquent real property tax under Chapter 13A. The unpaid special assessment shall be collected in the same manner and under the same conditions and subject to the same penalty as for unpaid real property taxes.~~ 7
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~~“(2) If an interest in or use on of the land of a ~~lot~~ real property is subject to the special assessment because it is subject to taxation under § 47-1005.01, then an unpaid special assessment on such an interest or use shall be subject to the same penalty and interest provisions as a delinquent tax imposed under § 47-1005.01, and the unpaid special assessment shall be collected in the same manner and under the same conditions and subject to the same penalty as for an unpaid tax imposed under § 47-1005.01.~~ 14
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~~“(k) (h)~~ The levy of special assessments under this subchapter shall terminate on the date 1
on which the special assessment total collection amount has been received by the District, as 2
certified by the Chief Financial Officer. 3

~~“(l) (i)~~ A special assessment imposed under this subchapter shall not be required to be 4
certified for the purposes of Chapter 13A. 5

~~“(m) (j)~~ Each special assessment shall be made part of the public record. 6

~~“(n) (k)~~ The total collection amount from the ~~Special Assessment~~ Southeast Water and 7
Sewer Improvement Benefit District shall not exceed the amount required to pay the debt service 8
on a total amount of \$12.45 million of borrowing authority, which shall represent the ~~S~~special 9
~~A~~assessment ~~T~~total ~~C~~collection ~~A~~amount of the properties subject to the assessment under this 10
subchapter. 11

“§ 47-894. Application of assessment. 12

“The Chief Financial Officer shall establish the Southeast Water and Sewer Improvement 13
Benefit District Account within the General Fund of the District of Columbia for the deposit and 14
application of special assessment revenues collected under this subchapter. Subject to lien 15
priority, ~~F~~unds in the Southeast Water and Sewer Improvement Benefit District Account shall be 16
used to pay the principal of, interest on, or other repayment amounts related to the general 17
obligation bonds, notes, other obligations, expenditures, or outlays used to finance or pay for the 18
Southwest Water and Sewer Improvement Project or any other then outstanding District of 19
Columbia general obligation bonds, notes, or other obligations. After the termination of the 20
special assessment under § 47-893~~(l)~~(h), any unexpended funds in the Southeast Water and 21

Sewer Improvement Benefit District Account shall be transferred to the Economic Development Special Account or its successor or, if the Economic Development Special Account or a successor to the Economic Development Special Account no longer exists, the unexpended funds shall be transferred to the General Fund.”.

Sec. 3. Applicability.

Section 2 shall apply as of October 1, 2007.

Sec. 34 . Fiscal impact statement.

The Council adopts the attached fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 45. Effective date.

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