

D.C. Tax Revision Commission Policy Options

Policy Option #37: Replace D.C. Water PILOT with a Water Utility Tax

MEMORANDUM

Proposal: Replace the D.C. Water PILOT fee with a utility tax on water and wastewater treatment

Tax Type: Business

Origin: Public

Commission Goal: Broaden the tax base

Current Law

D.C. Water is an independent authority of the District of Columbia government. It is a non-profit organization that funds its operations by charging its customers for water and wastewater treatment (it does not receive any funding from the D.C. government). D.C. Water provides both water and wastewater treatment to D.C. residents, but only provides wastewater treatment to Maryland and Virginia residents (in select jurisdictions).

By law, D.C. Water's income, property and transactions are exempt from D.C. taxes. The D.C. government, however, collects a PILOT (payment in lieu of taxes) from D.C. Water for municipal services such as fire and police protection. D.C. Water passes on the PILOT payment (\$17,576,000 in fiscal year 2012) to its D.C. customers (but not its Maryland or Virginia customers) by charging a PILOT fee \$0.71 per 1,000 gallons (the average residential customer pays \$3.38 per month).

Proposed Change

Replace the D.C. Water PILOT fee with a tax on water and wastewater treatment. The tax would be paid by D.C. Water and passed on to all D.C. Water customers (including those in Maryland and Virginia) and would be based on consumption (per gallon of water and wastewater treatment) similar to the city's utility taxes on electricity and natural gas. The rate would be set to be revenue neutral (i.e., to offset the current PILOT payment), and would therefore be at a lower rate than the city's other utility taxes.

Reason for Change

D.C., Maryland and Virginia residents all benefit from D.C. Water. But only D.C. residents contribute to D.C. Water's PILOT payment to the D.C. government. By replacing the PILOT fee with a tax on water and wastewater treatment the tax burden would be more fairly spread across multiple jurisdictions—and if revenue neutral could lower the tax payment for D.C. residents.

Pros

- Replacing the PILOT fee with a utility tax on water and sewage would make the system fairer by spreading the tax burden to all D.C. Water customers and not just D.C. residents.
- A utility tax, set by the D.C. Council, would be more transparent than the PILOT fee which is set each year by D.C. Water based on its interpretation of a memorandum of understanding with the D.C. Chief Financial Officer.

Cons

- D.C. Water is an independent organization governed by a board of directors, consisting of members from D.C., Maryland and Virginia. All agreements currently in place, including the PILOT fee, have been made in consultation with the governments of each jurisdiction. Making this policy change via legislation could prove politically difficult or jeopardize corresponding agreements that have been made amongst the governments.
- D.C. Water's board of directors has declined to pursue this policy change.

Revenue Impact

There is no revenue estimate from the Office of Revenue Analysis. The new utility tax would be designed to equal the current PILOT fee.