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The District is about to declare its independence — from Congress

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When the District sends its \$13 billion budget to Congress this year, it might as well affix a sticky note that reads “Dare you.”

For the first time since the Founding Fathers carved out the nation’s capital from swampland, the District will not ask the federal government for permission to spend its money. Instead, it will use local tax dollars as it sees fit, just as 50 states do.

There is one problem — Congress treats the District as a federal agency, no different from the way it funds the Department of Labor or the Interior. And Congress has warned that an insurrection by the city would violate the Constitution.

So the city’s spending plan will serve a second purpose — a declaration of independence by the District of Columbia. The six-inch-thick city budget will be a clear challenge to the “absolute supremacy” that Congress has wielded over the District since it was created in 1790.

Unlike previous years when the District has been forced to wait for Congress to approve its spending as part of the federal budget, the city will begin spending its money unless federal lawmakers act to stop it.

Mayor Muriel E. Bowser (D) is leading the fight, casting it as a monumental step toward making the District the 51st state. Her effort has been bolstered by a diversifying local economy that is less dependent on federal aid, as well as waves of new, young residents who bristle at second-class citizenship. A record number of D.C. residents want to see the District become a state, according to a Washington Post poll taken in November.

The cause has seeped into popular culture — comedians Stephen Colbert and John Oliver seized on the obscure issue and laid bare its most absurd aspects before millions of TV and YouTube viewers nationwide.

On Friday, the annual D.C. holiday of Emancipation Day to mark the end of slavery, the mayor will convene a gathering of leading civil rights figures to highlight what she calls the country’s “biggest ongoing voting rights violation”: 672,000 U.S. citizens — many of them African Americans — without representation in Congress.

“One hundred and fifty-four years after President Lincoln abolished slavery in the District of Columbia, we remain at the mercy of those we did not elect to office,” Bowser said in a recent citywide address. “It is just not right, and we must stand together until our rights are recognized.”

Bowser, 43, a fifth-generation Washingtonian, said she did not fully realize her home town’s quandary until she reached the mayor’s office. She pointed to a closed-door meeting Wednesday on Capitol Hill between the new head of Metro and senators from Maryland and Virginia.

“The first thing I said to myself is, ‘This is just disgusting’ — the District can’t be in that room,” Bowser said. “When we talk about the fact that we’re not a state, it’s just not us whining or groaning. . . . It’s a matter of us having our full rights as American citizens, certainly. But it’s also about the very practical effects of not having two senators in those meetings.”

In the push for D.C. independence, proponents generally discuss two levels: budget and legislative autonomy, and voting rights in Congress. If the city were to achieve statehood, it would get both.

A spokeswoman for House Speaker Paul D. Ryan (R-Wis.) said Republican leaders are concerned by the city’s attempt to declare fiscal independence and are considering “legislative options.” Last week, House leadership also filed a brief in U.S. District Court attempting to keep alive a separate legal challenge to District budget autonomy, attacking it as “a naked and unabashed effort to strip Congress” of its constitutional powers.

An unwinnable fight?

Roger Pilon, vice president for legal affairs at the libertarian Cato Institute, said that District leaders’ attempt to assert budget autonomy will probably backfire if the ultimate goal is statehood.

“It sounds like a prescription for getting nothing,” Pilon said, adding that it will only intensify the sour relationship between Republicans on Capitol Hill and D.C. officials. “This is one the District is almost certainly to lose.”

Like many Republicans, Pilon believes in individual liberty and limited government. Still, he said the District’s quest for statehood faces not only insurmountable legal hurdles but also a major political impediment. Statehood would give the District two seats in the Senate — something Republicans are loath to grant to the city’s overwhelmingly Democratic electorate.

“Statehood remains a nonstarter,” said former congressman Tom Davis (R-Va.), who tried to pass a measure seven years ago to give the District one voting member in the House. “D.C. has never been a two-party city,” he said, “so you’re not going to find Republicans willing to just give Democrats two Senate seats.”

Residents of the District, which has a larger population than Vermont or Wyoming, lack the most basic American rights: They pay federal taxes and fight and die in foreign conflicts but have no voice in Congress over how that money is spent or whether the country goes to war. Del. Eleanor Holmes Norton (D), the District’s longtime voice in Congress, can vote only in committee and not on final passage of legislation.

The closest the District recently came to voting rights in Congress was in 2009, when Democrats controlled both chambers as well as the White House. A bill was introduced to grant the District one voting member in the House while adding another representative in more conservative Utah. But the effort collapsed after Republicans added amendments to curtail the city's gun laws.

The District's dysfunctional relationship with its federal overseers reaches beyond budgets.

Conservative members of Congress have routinely overturned laws passed by liberal D.C. lawmakers to score points with constituents at home. They have frozen funding for abortion coverage for low-income women, blocked money for a needle-exchange program and even kept the city from counting ballots cast by residents who voted to legalize medical marijuana.

Congressional interference has fractured the District's judicial system and short-circuited the ability of residents to participate in their city government, city officials say. In the process, Congress has essentially marooned the city and its many African American residents as if on an island, with few rights beyond those in faraway federal territories such as Puerto Rico or Guam.

The looming budget battle suggests that frustration in the District with the status quo has reached a level unseen since the civil rights era of the 1960s.

"We're sick and tired of the way we've been treated, and we've come to a critical point where we need to stand up for ourselves," said Josh Burch, a 38-year-old D.C. resident who became an activist for statehood five years ago when his daughter was born. He has helped organize a protest march to the Capitol, also planned for Friday.

Congressional intervention in the District's budgeting process explains a large part of why life in the capital is different from that in the 50 states.

The new economics of D.C.

When Congress carved out the District from Maryland and Virginia, it created a neutral zone where one state could not exert undue influence on federal lawmakers.

Even as the population quickly grew, Congress repeatedly defended its control over the city, saying that the federal government was the city's economic engine.

Congress voted in 1973 to allow the District to elect its own mayor and council but retained ultimate control over the local budget and legislation.

That interference continues today, even though the D.C. economy has dramatically evolved. It has a larger share of jobs in high tech than anywhere except San Francisco or Seattle. The District's economy is bigger, per capita, than those of 16 states. District real estate prices are soaring, the city reserves have swelled to the billions of dollars, and 1,000 residents move to the city each month.

Meanwhile, its reliance on federal spending is shrinking, accounting for about 40 percent of the city's total economic activity.

Ranked another way, the share of federal funds that the District relies on to balance its budget is smaller than that of 30 states. That places the District among Massachusetts, New York and

California — “donor states” that pay more in federal taxes each year than they receive in services.

In Congress, representatives from states that contribute far less per person to the federal government decide not only how the District can spend the \$4 billion it pays in federal income taxes but the more than \$7 billion that the city raises through local property, sales and other taxes.

Here is how it works: In the 50 states, governors draft budget proposals and, after debate, state legislatures vote the spending plans into law. End of story.

The District’s process begins the same way but ends differently. The District’s mayor proposes a budget, and its 13-member D.C. Council amends and votes on it. But from there, the District must forward its budget plan to the White House for inclusion in the federal budget, like a proposal for military spending or environmental protection.

And when the plan goes to Congress, members can — and do — add restrictions. Interference is often most intense when Republicans control both chambers.

This year, for example, Congress has again barred the city from spending its own money for District-run insurance programs that help offset the cost of abortions for low-income residents.

Last year, the House also voted to block the city from enforcing a new provision of its human rights law, although the Senate did not take up the measure. That law bars employers from firing women for personal reproductive decisions, which some religiously affiliated employers say is their prerogative.

Congress has also prohibited the District from carrying out a ballot measure that voters approved overwhelmingly in 2014 to legalize recreational use of marijuana. That ban prevents the District from spending money to write rules governing the sale of the drug, as Colorado and Washington state do. Pot is legal in the District, but there is no legal way to buy it, robbing the city of millions of dollars in tax revenue and fueling a black market for sales.

The mere requirement that the District submit to a gridlocked federal legislature has made it challenging to keep the city running.

Because the federal budget year begins Oct. 1, the city must often borrow money and pay interest for schools to open when the academic year starts in August.

And when Congress reaches a budget stalemate, the District must switch to the equivalent of austerity spending, funding agencies only at the level of the previous year. Last year, that contributed to delays in hiring social workers to help homeless families and in finalizing contracts for affordable-housing projects.

The risk of having to shutter like any other federal agency during a government shutdown has weighed down the District’s bond ratings, increasing borrowing costs for major projects such as new schools and libraries.

Before the last major federal government shutdown, in 2013, city officials began working on a bold plan to financially sever the District from the federal government.

They struck a requirement from the city charter that the District must submit its budget to the House and Senate for appropriation, and the D.C. Council unanimously adopted a budget autonomy amendment. The council brought it to D.C. voters, who overwhelmingly ratified it in April 2012. President Obama agreed with them, urging federal lawmakers to respect the city's self-declared financial independence.

The amendment says the District no longer must wait for Congress to pass the federal budget to spend its own money.

Instead, the city can treat its spending plan the way it handles local legislation by submitting it to Congress for approval or rejection within 30 days. Rejection is relatively difficult to accomplish; both chambers must vote it down, and the president must sign off. It has been accomplished only three times in the past 40 years.

The budget autonomy amendment has been challenged in the courts, with mixed results. A U.S. District Court judge ruled that the charter amendment was invalid and could not change the city's relationship with Congress.

But last month, D.C. Superior Court Judge Brian F. Holeman ruled in favor of the District, saying that the city had the right to control dollars raised by local taxes and fees. Holeman's decision is key to the District's renewed push for independence.

How Congress will react to the city's budget insurrection is uncertain. It could take actions that would throw the District into a financial tailspin or prosecute city officials for violating laws against spending government funds without authorization. Or Congress could quietly allow some of the financial independence the District seeks.

Davis, the former congressman, calls it a "quandary" for Congress but sees no harm in allowing the District to spend its own money — as long as the District remains a federal territory and not a state.

"If they do something that Congress finds offensive, they can always step in later," he said.

But Bowser and others said that budget autonomy is a first step and that they will not be satisfied until a 51st star is added to the U.S. flag.

Sen. Thomas R. Carper (D-Del.), who introduced a bill last year to grant statehood to the District, said the country needs to confront the injustice in the nation's capital. "When it comes to having a vote in Congress, these men and women really do not count, at least not in the same way. And in truth, they never have," he said in 2014 in the first congressional hearing on D.C. statehood in 20 years.

"It's not fair, it's not consistent with our values as a country, and most importantly, it violates the golden rule," he said. "No American should be treated like this, and my hope is we restart the conversation about ending this injustice."