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First D.C. Statehood Bill in 20 Years Gets a Senate Hearing

Its chances are all but impossible, but supporters of full statehood for the District of Columbia argue there's never been a better time to grant it.

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The last time Congress considered legislation to change the District of Columbia's status as a non-voting federal jurisdiction, it was only a partial measure and Democrats controlled both chambers as well as the White House. But in an environment where even [2009's halfway measure](#) looks highly unlikely -- if not impossible -- supporters are pushing for full statehood.

"The issue is the change in status," said Anne Anderson, a clinical social worker with the group Neighbors United for DC Statehood. "We have to be equal to the other 50 states, or we're vulnerable."

Anderson was one of at least 50 activists packed into a Senate overflow room on Monday watching a televised hearing going on two floors below, where D.C. officials and legal scholars debated whether or not admitting the District by an act of Congress is constitutional or wise. Sen. Tom Carper, a Democrat from Delaware who chairs the Homeland Security and Governmental Affairs Committee, started off by noting that the United Nations actually considers D.C.'s lack of voting representation a [human rights violation](#).

The unique status of the District represents the only such arrangement for capital cities in the Democratic world. "Not one of 100, not one of 10 -- the only one," Carper said.

D.C. is a city of 632,000 where every piece of legislation from its 13-member Council and the annual budget needs to go through Congress. The 23rd Amendment, ratified in 1961, grants D.C. three votes for president in the Electoral College. But the District has limited voting representation in Congress, aside from Del. Eleanor Holmes Norton and "shadow Senator" Paul Strauss, both of whom spoke at the hearing. As a delegate, Holmes can vote in committees but not in floor votes that decide the fate of legislation. Strauss isn't officially sworn in, doesn't have an office in the Senate and has no voting power at all.

The most recent effort to address D.C.'s peculiar constitutional status, in 2009, would have granted the District one voting member of the House of Representatives while adding another representative in Utah, a more reliably conservative place than D.C., where President Obama won 90 percent of the vote in 2012. The bill, which languished after Republicans added amendments to curtail D.C.'s relatively strict gun laws, wouldn't have given the District senators or more power to govern itself.

Even that effort had detractors who questioned its legality because the Constitution holds that representatives are elected by the "people of the several states," and D.C. has been the official seat of federal government since 1790, a special district over which Congress has "exclusive" legislative authority through the Constitution.

Congress last took up a measure offering full statehood -- and self-governance -- in 1993, but the bill was [easily defeated](#). Before that, an effort in 1978 to give the District full representation without self-governance was put through the Constitutional process but failed to meet the 38-state threshold needed.

Supporters are no longer interested in trying that route, which would still have to go through Congress. Instead, the measure that has amassed record numbers of sponsors in the House and Senate -- according to supporters -- would create a state called New Columbia, consisting of all of the current District land with the exception of major monuments and government buildings, which would remain with the federally administered District of Columbia.

Given that New Columbia representatives would likely be among the most stalwart liberals in Congress, Republicans aren't likely to support this plan. But even with only weeks before Congress breaks for the mid-term elections and the prospects of losing even more support if Republicans take over the Senate, advocates say there's never been a better time to consider statehood.

Consider the District's economic health, officials and supporters say. Once noted for its financial troubles, the District has built a \$1.75 billion surplus. Its economy is growing faster than every state sans North Dakota; it's now larger than 16 other states in terms of gross domestic product, according to Alice Rivlin, a Brookings Institution fellow who once headed the financial oversight board created during the District's days of budgetary mismanagement.

And the federal shutdown last year laid bare the problems of Congressional budget authority, forcing the District to eat into reserves. But beyond that, say Council members, routine legislation is often delayed months ([or squelched entirely](#), a distinct possibility with marijuana legalization), and only three budgets have received approval before the start of the fiscal year since 1990.

"This delays implementation of our laws by weeks and sometimes months because of the vagaries of the Congressional calendar," said Mayor Vincent Gray during the hearing.

But the thorniest issues beyond partisan opposition are about legality and public policy. The divide among legal scholars was on display at Monday's hearing. Viet Dinh, a distinguished

lecturer of law at Georgetown University, [argued](#) at the hearing that the courts would likely avoid weighing in on the constitutional “merits” in the first place, as they did when the District returned Alexandria and Arlington to Virginia in 1847. But even if the courts did weigh in, Dinh argued, Congress has both “sweeping” authority to alter the size of the District and authority over admitting states. And the concerns of Maryland -- typically brought up as a stumbling block because its land forms the present-day District -- is irrelevant because the Constitution only requires consent when a new state is created from existing state land, Dinh argued. The land hasn’t been part of Maryland since 1790.

“While the Act presents a handful of other concerns -- e.g., New Columbia would have a uniquely federal character and influence, it would have an outsized influence in the Senate, and it would lack the sort of internal diversity of interests that most view as an ideal characteristic of statehood -- those are policy issues for Congress’ consideration,” Dinh included in his written testimony.

Those are some of the concerns raised at the hearing by Roger Pilon, a legal scholar at the Cato Institute, a conservative think tank. He took issue with the wording in the Constitution’s District Clause, and argued that the framers intended federal authorities to have control over not just the seat of government but the district surrounding it. He further argued that the courts’ refusal to rule on the constitutionality of returning District land to Virginia doesn’t make the concept of retrocession constitutional, and a long line of Justice Department officials have reached similar conclusions. Beyond the other legal arguments (he also disagrees about the need for Maryland’s consent and immediate repeal of the 23rd Amendment), James Madison raised practical considerations in portions of the Federalist Papers.

For one, Pilon [argued](#), the remaining District of Columbia would be totally dependent on New Columbia, potentially ceding undue influence to the new state, which in Madison’s view wouldn’t even constitute a proper state because it’s a “one-industry town dependent on the federal government” and not a “multiplicity of interests” able to provide for itself.

The “one-industry town” remark drew hackles from the audience, and as shadow Sen. Strauss took the microphone he called it “ludicrous” to argue a new state would have undue influence when it can hardly be argued that Virginia has excessive control over the Pentagon and other major government installations in its borders. Other capital cities and even New York play host to embassies all over the world without the need of special federal designation, he added. As for Strauss, like for so many others in attendance, anything less than full statehood doesn’t go far enough.

“*This. Is. The. Solution.*,” he said.