DC BOARD OF ELECTIONS

NOTICE OF PUBLIC HEARING
RECEIPT AND INTENT TO REVIEW INITIATIVE MEASURE

The Board of Elections shall consider in a public hearing whether the proposed measure, "Make All Votes Count Act of 2024," is a proper subject matter for initiative at the Board's regular meeting on <u>Tuesday, July 18, 2023 at 10:30 a.m.</u>, at 1015 Half Street SE, Suite 750, Washington DC 20003.

In making a subject matter determination, the Board does not consider the merits of a proposed measure. Instead, it may consider only whether the proposed measure meets the subject matter requirements set forth in District of Columbia law. Specifically, the Board must reject the proposed measure if it determines that:

- The measure conflicts with or seeks to amend the Title IV of the DC Home Rule Act ("the District Charter");
- The measure conflicts with the U.S. Constitution;
- The measure has not been properly filed;
- The verified statement of contributions (the measure committee's statement of organization and report of receipts and expenditures) was not timely filed;
- The measure would authorize discrimination in violation of the DC Human Rights Act;
- The measure would negate or limit a budgetary act of the DC Council; or
- The measure would appropriate funds

Those who wish to testify at the hearing on the propriety of the proposed measure in light of the above-referenced criteria should contact the Board's Office of the General Counsel at 202-727-2194 or ogc@dcboe.org and provide their name, address, telephone number, and name of the organization represented (if any) by no later than <u>Thursday, July 13, 2023 at 4:45 p.m</u>. Any written testimony or memoranda should be submitted for the record to the Board's Office of the General Counsel, 1015 Half Street SE, Suite 750, Washington, DC 20003 or at ogc@dcboe.org by that date and time as well. Individuals shall be permitted a maximum of three minutes for oral presentations. Representatives of organizations shall be permitted a maximum of five minutes for oral presentations.

The Short Title, Summary Statement, and Legislative Text of the proposed initiative, as submitted to the Board by the proposer(s) of the measure, read as follows:

Make All Votes Count Act of 2024

SUMMARY STATEMENT

If enacted, this Initiative would (i) permit voters not registered with a political party to choose to participate in primary elections of that voter's choice for all offices other than party offices; and (ii) implement ranked choice voting for all DC elections. Under ranked choice voting, voters have the option to rank candidates by preference. After every voter's first choice vote is counted, the candidate receiving the fewest votes will be eliminated, and each voter's ballot shall count for the remaining candidate the voter has ranked highest, until one candidate wins with a majority of the votes.

LEGISLATIVE TEXT

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Make All Votes Count Act of 2024."

--D.C. Code §1-1001.02—

Section 1. Section 2 of the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699, P.L. 84-376; D.C. Official Code §1-1001.02), as amended, is further amended by adding new paragraphs (34) through (43) to read as follows:

"(34) "Active candidate" means a candidate who has not been defeated or elected and has not withdrawn from the race prior to Election Day pursuant to applicable law.

"(35) "Highest ranked active candidate" means the active candidate assigned a higher ranking than any other active candidates.

"(36) "Inactive ballots" means a ballot that does not rank any active candidate, contains an overvote at the highest ranking of active candidates, or contains two or more sequential skipped rankings before its highest ranked active candidate.

"(37) "Overvote" means an instance in which a voter has ranked more than one candidate at the same ranking.

"(38) "Ranked choice voting" means a method of casting and tabulating votes whereby the voters rank candidates according to the order of their choice, and vote counting proceeds in rounds in which candidates are eliminated or elected.

"(39) "Rank" means to assign a number to each candidate for an office corresponding to the voter's preference for that candidate relative to the other active candidates for that office, with the number "1" denoting the highest preference, followed by "2" and then "3" and then "4" and then "5."

"(40) "Ranking" means the number assigned by a voter to a candidate to express the voter's choice for that candidate, with the number "1" denoting the highest ranking, followed by "2" and then "3" and then "4" and then "5".

"(41) "Round" means an instance of the sequence of voting tabulation beginning with section 1-1001.08a(d) for single-winner contests, section 1-1001.08a(e) for general

elections for members of the Council at-large, and section 1-001.8a(f) for applicable presidential preference primary elections.

"(42) "Skipped ranking" means a voter has left a ranking unassigned but ranks a candidate at a subsequent ranking.

"(43) "Threshold for receiving delegates" means the percentage of votes necessary for a candidate to receive delegates in a presidential preference primary election conducted under section 1-1001.08a(f).

"(44) "Undervote" means a ballot that does not contain any candidates at any ranking in a particular contest."

--D.C. Code §1-1001.01 et seq.----

Section 2. The District of Columbia Election Code of 1955, enacted August 12, 1955 (69 Stat. 699, P.L. 84-376; D.C. Official Code §§1-1001.01 et seq.), as amended, is further amended by adding a new section 8a (D.C. Official Code §1-1001.08a) to read as follows:

"Sec. 1-1001.08a. Ranked choice voting.

"(a) Notwithstanding any other provision of this act, beginning with the June 2026 primary election and for all subsequent elections thereafter, ranked choice voting shall be used for each primary, special, and general election involving three or more qualified candidates for electors for President and Vice President of the United States, Mayor, Attorney General, Chairman of the Council, Delegate to the U.S. House of Representatives, members of the Council, members of the State Board of Education, U.S. Senator, U.S. Representative, Advisory Neighborhood Commissioner, or any other elected official as defined in section §1-1001.02(13).

"(b) The ballot shall allow voters to rank up to five candidates, including a write-in candidate, or as many candidates as there are in the race if fewer than five.

"(c) Ballots shall contain instructions informing voters of the following, subject to usability testing and modification by the Board based on ballot design and voting machine capability:

"(1) That the voter may rank candidates in the order of the voter's preference;

"(2) That the voter may rank as many candidates as the voter wishes, up to five candidates;

"(3) How to properly mark the ballot and indicate the voter's candidate rankings;

"(4) That assigning a lower ranking to a candidate will not harm the chances of candidates whom the voter assigned higher rankings; and;

"(5) That the voter should not give more than one candidate the same ranking, rank a candidate more than once, or skip a ranking.

"(d) In any single contest conducted by ranked choice voting other than a general election for members of the Council at-large and any presidential preference primary election conducted under subsection (f), each ballot shall count as one vote for the highest ranked active candidate on that ballot. Tabulation shall proceed in rounds, with each round proceeding sequentially as follows:

"(1) If a candidate has a majority of votes among active candidates in a round of tabulation, that candidate shall be elected or nominated, and the tabulation is complete; or

"(2)   (A) If no candidate has a majority of votes among active candidates in a round of tabulation, the active candidate with the fewest votes shall be defeated;

"(B) Votes for the defeated candidate are transferred to each ballot's next-ranked active candidate; and

"(C) A new round of tabulation begins, pursuant to paragraph (1) of this subsection.

"(e) In any general election contest for members of the Council at-large, in which there shall be two winners, each ballot shall count as one vote for the highest ranked active candidate on that ballot. Tabulation shall proceed in rounds, with each round proceeding sequentially as follows:

"(1) If there are two or fewer active candidates, that candidates shall be elected, and tabulation is complete; or

"(2) If there are more than two active candidates:

"(A) The active candidate with the fewest votes shall be defeated;

"(B) Votes for the defeated candidate are transferred to each ballot's next-ranked active candidate; and

"(C) A new round of tabulation begins with the step set forth in paragraph (1) of this subsection.

"(f) In any presidential preference primary election in which delegates are awarded to multiple candidates on a proportional basis, each ballot shall count as one vote for the highest ranked active candidate on that ballot. Tabulation shall proceed in rounds with each round proceeding sequentially as follows:

"(1) If the percentage of total votes cast for each active candidate is above the party's threshold for receiving delegates, then tabulation is complete; or

"(2) If there are any active candidates whose percentage of the vote total is below the party's threshold for receiving delegates:

"(A) The active candidate with the fewest votes shall be defeated;

"(B) Votes for the defeated candidate are transferred to each ballot's next-ranked active candidate; and

"(C) A new round begins with paragraph (1) of this subsection.

"(g) In any presidential preference primary election that awards delegates to a single candidate on a winner-take-all basis, tabulation shall proceed under subsection (d) of this section.

"(h) Nothing in this section may be construed to preclude a political party from allocating delegates according to its own rules.

"(i) In any round of tabulation in a contest conducted by ranked choice voting:

"(1) An inactive ballot does not count for any candidate.

"(2) An undervote does not count for any candidate.

"(j) If two or more active candidates are tied for the fewest votes and tabulation cannot continue until one such candidate is eliminated, the candidate to be eliminated shall be determined by lot immediately under an automated procedure to be established by the Board. Except as otherwise provided in subsection (l) of this section, if two or more candidates are tied for the greatest number of votes and the tie must be broken to determine the winner or nominee, that tie shall be resolved pursuant to section 1-1001.10(c).

"(k)

(1) If there are fewer than three qualified candidates on the ballot in a primary, general, or special election for electors for President and Vice President of the United States, Mayor, Attorney General, Chairman of the Council, Delegate to the U.S. House of Representatives, members of the Council other than those covered by paragraph (2) of this subsection, members of the State Board of Education, U.S. Senator, U.S. Representative, Advisory Neighborhood Commissioner, or any other elected official as defined in section §1-1001.02(13), that election shall not be conducted by ranked choice voting. Except as otherwise provided subsection (l) of this section, in such elections, the ballot shall allow

voters to select a single candidate, and the candidate receiving the most votes shall be nominated or elected.

"(2) If there are fewer than three qualified candidates on the ballot in a general election for members of the Council at-large, that election shall not be conducted by ranked choice voting. In such elections, the ballot shall allow voters to select two candidates and the two qualified candidates receiving the most votes shall be elected.

"(l) If the appointment of presidential electors following any general election for President of the United States is governed by the National Popular Vote Interstate Agreement Act of 2010, effective December 7, 2010 (D.C. Law 18-274; D.C. Official Code §1-1051.01), then, in any general election for President and Vice-President of the United Staters using ranked choice voting:

"(1) The certification of the appointment of electors shall be made in accordance with the provisions of such Act;

"(2) The final determination of the presidential vote count reported and certified to the States that have enacted such Act, for purposes of that Act, shall be:

"(A) In an election using ranked choice voting pursuant to subsection (d) of this section, the votes received in the final round of tabulation by each slate of candidates for the offices of President and Vice President of the United States that received votes in the final round of tabulation; or

"(B) In an election not using ranked choice voting pursuant to subsection (k) of this section, the votes received by each slate of candidates for the offices of President and Vice President of the United States; and

"(3) If two or more slates of candidates for the offices of President and Vice President are tied for the greatest number of votes, the tie shall remain unresolved.

"(m) The Board shall issue such regulations as are necessary to conduct elections using ranked choice voting."

–D.C. Code § 1–1001.05–

Section 3. Section 5 of the District of Columbia Election Code of 1955, enacted August 12, 1955 (69 Stat. 699, P.L. 84-376; D.C. Official Code §1-1001.05), as amended, is further amended as follows:

(a) Paragraph (12) of subsection (a) is amended as follows:
   (1) Subparagraph (B) is amended by striking the phrase '"information" and inserting the phrase "information; and" in its place.
   (2) A new subparagraph (C) is added to read as follows:

   "(C) Notifying all voters not registered with a political party and who have not previously requested an absentee ballot for any primary election, of the ability to make such request and of the means for doing so;".

(b) Paragraph (4) of subsection (b) is amended to read as follows:
   "(4) The Board shall:
      "(A) Arrange the ballot for the presidential preference primary so as to enable each voter to indicate the voter's rankings for presidential nominee or for uncommitted presidential preference (if provided for by applicable party rule);

and for the slate of delegates and alternates pledged to support each presidential or uncommitted preference; and

"(B) Clearly indicate on the ballot the candidate for nomination for President which a slate or candidate for delegate supports or name of the person who shall manage an uncommitted slate of delegates."

--D.C. Code §1-1001.09—

Section 4. Section 9 of the District of Columbia Election Code of 1955, enacted August 12, 1955 (69 Stat. 699, P.L. 84-376; D.C. Official Code §1-1001.09), as amended, is further amended as follows:

(a) Paragraph (2) of Subsection (b) is amended to read as follows:

"(2) The Board shall permit any duly registered voter to vote by absentee ballot, for any reason, under such rules as the Board may issue. The Board shall permit a voter not registered with a political party to vote by absentee ballot in a primary election if such voter has requested such a ballot for a specific primary election held by a political party or for that specific election and all future elections in which the voter may be eligible to vote, in accordance with such rules as the Board may issue."

(b) Subsection (g) is amended to read as follows:

"(g)

"(1) No person shall vote more than once in any election.

"(2) A duly registered voter who is not registered as affiliated with any political party shall be permitted to vote in a primary election held by a single political party of that voter's choice, for all offices other than:

"(A) National committeemen and national committeewomen;

" (B) Delegates to conventions and conferences of political parties other than delegates to nominate candidates for the Presidency and Vice Presidency of the United States;

"(C) Alternates to the officials referred to in paragraphs (1) and (2) of this section, where permitted by political party rules; and

"(D) Such members and officials of local committees of political parties as may be designated by the duly authorized local committees of such parties for election at large or by ward in the District of Columbia.

"(3) A name written on a ballot in any election shall not be counted as valid unless the individual whose name is written on the ballot has complied with the requirements of §1-1001.08(r)."

Section 5. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan and provide notice to the Budget Director of the Council of the certification.

(c) (1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Section 6. Effective date.

This act shall take effect after a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-Government and Government Reorganization Act (Home Rule Act), approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)).