

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

In Re:	Administrative Hearing No. 26-006
“District of Columbia Living Wage for All Amendment Act of 2026”	Acceptance of Proposed Initiative Measure

MEMORANDUM OPINION AND ORDER

This matter came before the Board of Elections (“the Board”) at a hearing convened on Wednesday, March 4, 2026, to determine whether a proposed initiative measure, the “District of Columbia Living Wage for All Amendment Act of 2026” (“the Measure”), presents a proper subject for initiative under applicable District of Columbia law. Board Chairman Gary Thompson and Board member Karyn Greenfield ruled on the proper subject question. The Board’s General Counsel, Terri Stroud, and Darrin Hurwitz, counsel for the Measure’s proposer, were also present.

Statement of Facts

On December 9, 2025, an earlier version of this initiative was submitted to the Board. The Office of the Attorney General (“OAG”) and the General Counsel for the Council of the District of Columbia (“CGC”) issued advisory opinions that it was not a proper subject matter for an initiative because it required the allocation of additional revenue to implement.¹ Specifically, both letters found that the initiative did not clearly exempt District employees and contractors from the new minimum wage requirements.² The initiative was subsequently withdrawn on January 12, 2026.

¹ Brian Schwalb, Attorney General for the District of Columbia, Letter to Terri Stroud, General Counsel, Board of Elections, at p. 5-6 (January 2, 2026) (“Jan. 2026 OAG Letter”); Nicole Streeter, General Counsel, Council of the District of Columbia, Letter to Terri Stroud, General Counsel, Board of Elections at p. 3 (January 2, 2026) (“Jan. 2026 CGC Letter”). The CGC opinion also noted that the proposed initiative did not contain a subject-to-appropriations clause. Jan. 2026 CGC Letter at 3.

² Jan. 2026 OAG Letter at p. 4; Jan. 2026 CGC Letter at p. 3.

On February 2, 2026, Ashley Kalinda (“the Proposer”), a D.C. registered voter, filed the current Measure and supporting documents at the Board’s offices. According to the summary statement, the Measure would increase the minimum wage to \$25.00 per hour by July 1, 2029. The Measure would also increase the tipped minimum wage until July 1, 2031, when the mandatory base wage for tipped workers would match the regular minimum wage. It intends to eliminate a credit for tips received by tipped workers. Under the Measure, service charges collected by tipped worker employers from customers will belong to the employees.

On February 3, 2026, the Board’s Office of General Counsel sought advisory opinions from the OAG and the CGC as to whether the Measure satisfies proper subject requirements such that it should be accepted by the Board.³ 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.

On February 25, 2026, both the OAG and the CGC provided advisory opinions to the Board on the living wage initiative submitted on February 2, 2026.⁴ The OAG concluded that the Measure was a proper subject for initiative, because it addressed the deficiency the OAG had

³ D.C. Official Code § 1-1001.16(b)(1A)(B)(i) (requiring that advisory opinions from the OAG and the CGC be sought).

⁴ Brian Schwalb, Attorney General for the District of Columbia, Letter to Terri Stroud, General Counsel, Board of Elections (February 25, 2026) (“Feb. 2026 OAG Letter”); Nicole Streeter, General Counsel, Council of the District of Columbia, Letter to Terri Stroud, General Counsel, Board of Elections (February 25, 2026) (“Feb. 2026 CGC Letter”).

identified in the previous version of the initiative. Specifically, the OAG found that the new language “expressly exempts employees of the District and its contractors from future increases in the tipped minimum wage. Accordingly, the [Measure] is a proper subject.”⁵

The CGC also found that the Measure was a proper subject for an initiative. Specifically, the CGC said that the Measure “does not block the expenditure of funds requested or appropriated, directly appropriate funds, require the allocation of revenues to new or existing purposes, establish a special fund, create an entitlement enforceable by private right of action, or directly address and eliminate a source of revenue.”⁶ The CGC further concluded that the Measure did not violate any other requirements for being a proper subject matter.⁷

During the hearing held on the matter on March 4, 2026,⁸ the Board’s General Counsel explained the purpose of the proceeding was to determine whether the Measure constitutes a proper subject for an initiative in the District of Columbia. The General Counsel also described the conclusions reached in the advisory opinions and noted that the Board had not received written comments from the public on the Measure. The Chair then offered any opponent of the Measure an opportunity to speak, and no person opposing the Measure came forward. The Board then heard briefly from counsel for the Proposer. Counsel agreed with the conclusions of the OAG and CGC that the Measure was a proper subject of initiative.

Board Chair Thompson then requested that the General Counsel provide her recommendation as to whether the Measure met proper subject requirements. The General

⁵ Feb. 2026 OAG Letter at 5.

⁶ Feb. 2026 CGC Letter at 3.

⁷ *Id.*

⁸ Notice of the public hearing was duly published in the D.C. Register, *see* 73 D.C. Reg. 001479 (February 13, 2026).

Counsel recommended that the Board accept the Measure. The Board Chair made a motion that the Measure be accepted as a proper subject for an initiative. The motion was duly seconded and passed unanimously.

Analysis

Pursuant to amendments to the Home Rule Act (also known as the District’s Charter), District of Columbia voters may propose laws,⁹ and present such proposed laws through an election ballot for approval or disapproval by the voting residents of D.C.¹⁰ This right of initiative, however, has several limitations, including that the proposed law or measure meet certain “proper subject matter” and filing requirements. As stated in the Board’s regulations:

A measure does not present a proper subject for initiative or referendum, and must be refused by the Board, if:

- (a) The measure presented would violate the Home Rule Act;
- (b) The measure presented seeks to amend the Home Rule Act;
- (c) The measure presented would appropriate funds;
- (d) The measure presented would violate the U.S. Constitution;
- (e) The statement of organization and the report(s) of receipts and expenditures have not been filed with the Office of Campaign Finance;
- (f) The form of the measure does not include legislative text, a short title, or a summary statement containing no more than one hundred (100) words;
- (g) The measure authorizes or would have the effect of authorizing discrimination prohibited under the Human Rights Act of 1977 or any subsequent amendments; or

⁹ Under D.C. Official Code §§ 1-204.101 and 1-1001.02(10), “[t]he term ‘initiative’ means the process by which the electors of the District of Columbia may propose laws[.]”.

¹⁰ D.C. Official Code § 1-1001.02(10)-(12) (codifying the Initiative, Referendum, and Recall Charter Amendments Act of 1977).

- (h) The measure would negate or limit an act of the Council enacted pursuant to § 446 of the Home Rule Act [“Enactment of local budget by Council”].¹¹

3 DCMR § 1000.5. In applying these restrictions on initiative proposals, “[w]e are required to construe the right of initiative liberally . . . and may impose on the right only those limitations expressed in the law or clearly and compellingly implied.”¹² We will not, therefore, interfere with the right of initiative based on speculative concerns.¹³

The Charter for the District of Columbia granted to D.C. voters the ability to propose laws “except laws appropriating funds.”¹⁴ A measure is deemed to appropriate funds if it “would intrude upon the discretion of the Council to allocate District government revenues in the budget process[.]”¹⁵ In order for an initiative measure to pass muster with respect to the prohibition on laws appropriating fund, the measure must not: block the expenditure of funds requested or appropriated; directly appropriate funds; require the allocation of revenues to new or existing purposes; establish a special fund; create an entitlement enforceable by private right of action; or directly address and eliminate any revenue source.

As explained below, the instant Measure satisfies these requirements. The Proposer has remedied the defect found in the earlier version, by exempting District employees and contractors from the new standards and by maintaining current law, as enacted by the Council, on what the minimum wage will be for those categories of employees and contractors.

¹¹ D.C. Official Code §§ 1-204.101(a) and 1-1001.02(10) and D.C. Official Code § 1-1001.16(b)(1)(D) require that a measure not negate or limit a budgetary measure of the Council enacted under D.C. Official Code § 1-204.46.

¹² *Hessey v. Burden*, 584 A.2d 1, 3 (D.C. 1990), *remanded*, 615 A.2d 562 (D.C. 1992) (citations and quotations omitted).

¹³ *In re: “Make All Votes Count Act of 2024,”* BOE Case No. 23-007 at p. 9 (issued July 25, 2023).

¹⁴ This Charter provision is now codified at D.C. Official Code § 1-204.101.

¹⁵ *Hessey v. D.C. Board of Elections and Ethics, et al.*, 601 A.2d 3, 19 (D.C. 1991).

The instant Measure is similar to Initiative Measure No. 82, which also sought to increase wages for tipped workers. In concluding that Initiative Measure No. 82 did not interfere with the Council’s power of the purse, a critical fact was that the wage adjustments required by that legislation did not apply to D.C. government employees and contractors. As the OAG noted with respect to that earlier measure, “[t]hat carve-out of District employees and contractors prevents this Measure from being an improper subject of initiative because it prevents it from being impermissible ‘law appropriating funds.’”¹⁶

Here, the instant Measure carves out District government employees and contractors from its wage adjustments. Just as the OAG and the CGC recognized, the Measure therefore does not violate the prohibition on initiatives that appropriate funds.

In addition, we find that the Measure is proper in all other respects. There is no misalignment between the Measure and either the District Charter or U.S. Constitution. The Measure is facially neutral and does not authorize or have the effect of authorizing any form of discrimination. It was submitted in the proper form and its Proposer timely filed the supporting verified statement of contributions.

Conclusion

In conclusion, the Board finds that the “District of Columbia Living Wage for All Amendment Act of 2026” presents a proper subject for initiative. Accordingly, it is hereby:

ORDERED that the Initiative, the “District of Columbia Living Wage for All Amendment Act of 2026,” is **ACCEPTED** pursuant to D.C. Code § 1-1001.16(b)(1). The Board

¹⁶ Karl Racine, Attorney General for the District of Columbia, Letter to Terri Stroud, General Counsel, Board of Elections, at p. 2 (July 6, 2021).

issues this written order today, which is consistent with its oral ruling rendered on March 4, 2026.

Date: March 5, 2026



Gary Thompson
Chairman
Board of Elections