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January 2, 2026

Terri D. Stroud
General Counsel
District of Columbia Board of Elections
1015 Half Street, S.E., Suite 750
Washington, D.C. 20003

Re: Proposed Initiative, the “District of Columbia Living Wage for All Amendment Act of 2025”

Dear Ms. Stroud:

D.C. Official Code § 1-1001.16(b)(1A) requires that the General Counsel of the Council of the District of Columbia provide an advisory opinion to the District of Columbia Board of Elections (“Board”) as to whether a proposed initiative is a proper subject of initiative. I have reviewed the “District of Columbia Living Wage for All Amendment Act of 2025” (“Proposed Initiative”) for compliance with the requirements of District law, and based on my review, the Proposed Initiative is not the proper subject of initiative.

I. Applicable Law

The term “initiative” means “the process by which the electors of the District of Columbia may propose laws (except laws appropriating funds) and present such proposed laws directly to the registered qualified electors of the District of Columbia for their approval or disapproval.”¹ The Board may not accept a proposed initiative if it finds that the measure is not a proper subject of initiative under the terms of Title IV of the District of Columbia Home Rule Act or upon any of the following grounds:

- The verified statement of contributions has not been filed pursuant to D.C. Official Code §§ 1-1163.07 and 1-1163.09;
- The petition is not in the proper form established in D.C. Official Code § 1-1001.16(a);

¹ D.C. Official Code § 1-204.101(a).

- The measure authorizes, or would have the effect of authorizing, discrimination prohibited under Chapter 14 of Title 2 of the D.C. Official Code; or
- The measure presented would negate or limit an act of the Council of the District of Columbia pursuant to D.C. Official Code § 1-204.46.²

The District of Columbia Court of Appeals (“Court”) has interpreted the prohibition on the use of the initiative process to propose “laws appropriating funds” very broadly, holding that it “extend[s] . . . to the full measure of the Council’s role in the District’s budget process . . .”³ Accordingly, the Court has deemed unlawful any initiative that (1) blocks the expenditure of funds requested or appropriated,⁴ (2) directly appropriates funds,⁵ (3) requires the allocation of revenues to new or existing purposes,⁶ (4) establishes a special fund,⁷ (5) creates an entitlement, enforceable by private right of action,⁸ or (6) directly addresses and eliminates a source of revenue.⁹

II. The Proposed Initiative

The Proposed Initiative would amend the Minimum Wage Act Revision Act of 1992 to increase the minimum wage to \$20 per hour by July 1, 2026, \$21.75 per hour by July 1, 2027, \$23.50 per hour by July 1, 2028, and \$25 per hour by July 1, 2029. The Proposed Initiative would increase the tipped minimum wage, such that the tipped minimum wage would match the regular minimum wage by July 1, 2030. The Proposed Initiative would also provide that all gratuities, tips, or service charges collected by an employer from a customer shall be remitted to the employees who provided services to the customer.

III. The Proposed Initiative is Not a Proper Subject of Initiative

² D.C. Official Code § 1-1001.16(b)(1).

³ *Dorsey v. District of Columbia Bd. of Elections & Ethics* (“Dorsey”), 648 A.2d 675, 677 (D.C. 1994) (quoting *Hessey v. District of Columbia Bd. of Elections & Ethics* (“Hessey”), 601 A.2d 3, 20 (D.C. 1991)).

⁴ *Convention Center Referendum Committee v. District of Columbia Bd. of Elections & Ethics*, 441 A.2d 889, 913-14 (D.C. 1981).

⁵ *District of Columbia Bd. of Elections & Ethics v. Jones* (“Jones”), 481 A.2d 456, 460 (D.C. 1984).

⁶ *Hessey*, 601 A.2d at 19-20.

⁷ *Id.*

⁸ *Id.* at 20 n. 34.

⁹ *Dorsey*, 648 A.2d at 677.

The Proposed Initiative would raise the minimum wage on all employees in the District to \$25 per hour by July 1, 2029. Unlike past proposed initiatives that made changes to the minimum wage, which contained express exemptions for employees of the District government, the Proposed Initiative would apply to all employees in the District without any exception for District government employees. As a result, the Proposed Initiative would require the allocation of additional revenues to implement. Because the Proposed Initiative would have a cost to implement but does not contain a subject-to-appropriations clause, the Proposed Initiative is not the proper subject of initiative.

Finally, I would note what appears to be a minor drafting error with the Proposed Initiative. The existing minimum-wage law expressly exempts employees of the District government from the tipped minimum wage, *see D.C. Official Code § 32-1003(i)*, and the amendments to D.C. Official Code § 32-1003(f) contained in the Proposed Initiative expressly recognize that the changes they would make to the tipped minimum wage are likewise subject to that exemption, stating that the tipped minimum wage rates shall apply “[e]xcept as provided in subsection[] . . . (i) of this section.” Accordingly, the Proposed Initiative should also make a conforming amendment to the first sentence in D.C. Official Code § 32-1003(i), to make clear that the existing exemption applies to the new provisions of D.C. Official Code § 32-1003(f) that would be added by the Proposed Initiative.

I am available if you have any questions.

Sincerely,

Nicole L. Streeter

Nicole L. Streeter
General Counsel, Council of the District of Columbia