


**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS AND ETHICS**

In Re:)	
)	
DC/Citizens to Elect the Next Chief of Police)	Administrative Hearing
)	No. 04-24
)	
)	


This matter came before the District of Columbia Board of Elections and Ethics (hereinafter “the Board”) on August 10, 2004. The Board concluded that the “DC/Citizens to Elect the Next Chief of Police Initiative of 2004” (“the Proposed Measure”) does not meet the “proper subject” requirements set forth in the District of Columbia’s law governing initiatives because it is inconsistent with title IV of the District of Columbia Home Rule Act, and it was not submitted in the proper form. Accordingly, the Proposed Measure was not accepted by the Board.

The presiding Board Members were Chairman Wilma A. Lewis, Dr. Lenora A. Cole and Charles R. Lowery, Jr. Mr. James Johnson, the proposer of the Proposed Measure, appeared *pro se*.

D.C. Code § 1-1001.16(b)(1)(A) provides that the Board “shall refuse to accept [an initiative] measure if the Board finds that it is not a proper subject of initiative ... under the terms of title IV of the District of Columbia Home Rule Act, or because “[t]he petition is not in the proper form established in [D.C. Code § 1-1001.16(a)][.]” D.C. Code § 1-1001.16(a), in turn, provides that initiative measure proponents “shall file with the Board 5 printed or typewritten copies of the full text of the measure, a summary statement of not more than 100 words, and a short title of the measure to be proposed”.




The Proposed Measure fails to satisfy either of these components of the proper subject determination.



First, the Proposed Measure is contrary to the terms of title IV of the District of Columbia Home Rule Act. Title IV is codified in sections 1-204.01 through 1-204.115 of the D.C. Code, and includes section 1-204.22, which outlines the powers and duties of the Mayor of the District of Columbia. A primary duty of the Mayor is to “administer all laws relating to the *appointment*, promotion, discipline, separation, and other conditions of employment of personnel in the Office of the Mayor, personnel in executive departments of the District, and members of [certain] boards, commissions, and other agencies[.]” D.C. CODE § 1-204.22(2) (emphasis added). D.C. Code § 5-105.1 makes clear that the position of Chief of the Metropolitan Police Department is included among those for which the Mayor exerts appointing authority. Specifically, the law provides that “the Mayor shall appoint to office ... all officers and members of [the] Metropolitan police force[.]” Because the Proposed Measure seeks to transfer the responsibility for selecting the Chief of the Metropolitan Police Department from the Mayor to the electorate, it is necessarily contrary to, and would therefore impermissibly contravene, the terms of title IV of the District of Columbia Home Rule Act.¹

Moreover, as with laws proposed by the District of Columbia Council,² the text of each proposed initiative measure must include a short title, an enacting clause, substantive sections prescribing standards of conduct, and an effective date clause. *See*

¹ This is not to say that title IV of the D.C. Home Rule Act cannot be amended. However, it may not be amended by the electorate through the initiative process, but rather by the D.C. Council through the statutorily-prescribed charter amending procedures which are set forth in title III of the Home Rule Act and codified at D.C. Code § 1-203.03.

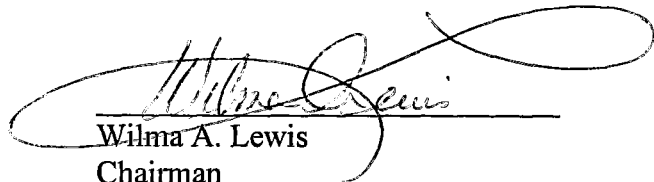


² The power of initiative is co-existent with the power of the D.C. Council to enact legislative acts except that it is not as extensive, because initiative measures may not propose laws appropriating funds. One manner in which initiative measures must resemble Council acts is in terms of drafting requirements.

Legislative Drafting Manual, Council of the District of Columbia (November 2001). The Proposed Measure, which was submitted in the form of a letter, does not contain either an enacting clause or an effective date clause and, accordingly, does not contain all of the requirements of a proposed law. Therefore, it was not submitted in the proper form.

Accordingly, it is hereby

ORDERED that the “DC/Citizens to Elect the Next Chief of Police Initiative of 2004” be rejected on the grounds that it is not a proper subject for an initiative because it is inconsistent with title IV of the District of Columbia Home Rule Act and it was not submitted in the proper form.

A handwritten signature in black ink, appearing to read "Wilma A. Lewis", is written over a horizontal line. The signature is fluid and cursive.

Wilma A. Lewis
Chairman
D.C. Board of Elections and Ethics

Dr. Lenora A. Cole
Member, D.C. Board of Elections and Ethics

Charles R. Lowery, Jr.
Member, D.C. Board of Elections and Ethics

September 27, 2004