

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL**



**Brian Schwalb
Attorney General**

April 29, 2025

ADVISORY OPINION OF THE ATTORNEY GENERAL

Re: Proposed Initiative, “The District of Columbia Time Stability Act”

Ms. Terri Stroud
General Counsel
Board of Elections
1015 Half Street, S.E.
Washington, D.C. 20003
ogc@dcboe.org

Dear Ms. Stroud:

This memorandum responds to your April 14, 2025 request, on behalf of the Board of Elections (“Board”), that the Office of the Attorney General (the “Office”) provide an advisory opinion on whether the proposed initiative, “The District of Columbia Time Stability Act” (“Proposed Initiative”), is a proper subject of initiative in the District of Columbia, pursuant to D.C. Official Code § 1-1001.16(b)(1A)(B)(i). For the reasons set forth in this letter, the Proposed Initiative is a proper subject of initiative. In the event that the Board accepts the Proposed Initiative, we have attached drafting recommendations to ensure that it is prepared in the proper legislative form.

STATUTORY BACKGROUND

The District Charter (“Charter”) establishes the right of initiative, which allows District electors to “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 Charter requires that the Board submit an initiative to the voters “without alteration.”² Pursuant to the Charter, the Council has adopted an implementing statute detailing the initiative process.³ Under this statute, any registered qualified elector may begin the initiative process by filing the full text of the proposed measure, a summary statement of not more than 100 words, and a short title with the Board.⁴ After receiving a proposed initiative, the Board must refuse to accept it if the Board determines that it is not a “proper subject” of initiative.⁵

¹ D.C. Official Code § 1-204.101(a).

² *Id.* § 1-204.103.

³ *Id.* § 1-204.107.

⁴ *Id.* § 1-1001.16(a)(1).

⁵ *Id.* § 1-1001.16(b)(1).

A proposed initiative is not a proper subject for initiative if it does not propose a law, is not in the proper form, or if it would:

- Appropriate funds;
- Violate or seek to amend the Home Rule Act;
- Violate the U.S. Constitution;
- Authorize or have the effect of authorizing discrimination prohibited under the Human Rights Act of 1977; or
- Negate or limit an act of the Council enacted pursuant to section 446 of the Home Rule Act.⁶

If the Board determines that a proposed initiative is a proper subject of initiative, it must accept the measure and, within 20 calendar days, prepare and adopt a true and impartial summary statement, prepare a short title, prepare the proposed initiative in the proper legislative form, and request a fiscal impact statement from the Office of the Chief Financial Officer.⁷ The Board must then adopt the summary statement, short title, and legislative form at a public meeting.⁸ Within 24 hours after adoption, the Board must publish its formulation and the fiscal impact statement.⁹ If no registered qualified elector objects to the Board's formulation by seeking review in Superior Court within 10 days after publication in the *District of Columbia Register*, the Board must certify the measure and provide the proposer with a petition form for use in securing the required signatures to place the proposed initiative on the ballot at an election.¹⁰ The Board must then submit the initiative "without alteration" at the next primary, general, or city-wide special election held at least 90 days after it certifies the measure.¹¹

FACTUAL BACKGROUND

The Proposed Initiative's purpose "is to exempt Washington D.C. from observing Daylight Saving Time (DST) and establish Permanent Standard Time year-round."¹² Its stated intent is "to improve safety, health, and quality of life for DC residents by eliminating bi-annual time changes and providing a stable time zone."¹³ The Proposed Initiative would require the District to "opt out of observing Daylight Saving Time (DST) as permitted by the Uniform Time Act, and shall establish Permanent Standard Time, equivalent to Eastern Standard Time (EST), year-round."¹⁴ It would further provide that "[t]he District of Columbia government shall implement Permanent Standard Time on Sunday, November 1, 2026, at 2:00 a.m., when the rest of the country sets clocks back to Standard Time, thereby opting out of future Daylight Saving Time changes."¹⁵

⁶ *Id.* §§ 1-204.101(a); 1-1001.16(b)(1); 3 DCMR § 1000.5.

⁷ D.C. Official Code § 1-1001.16(c).

⁸ *Id.* § 1-1001.16(d)(1).

⁹ *Id.* § 1-1001.16(d)(2).

¹⁰ *Id.* § 1-1001.16(e)–(i); *see also id.* § 1-204.102(a) (requiring, under the District Charter, an initiative petition to be signed by 5 percent of the registered electors in the District, including 5 percent of registered electors in each of five or more wards).

¹¹ *Id.* §§ 1-204.103, 1-1001.16(p)(1).

¹² Proposed Initiative § 1.

¹³ *Id.* § 5.

¹⁴ *Id.* § 2.

¹⁵ *Id.* § 3.

ANALYSIS

The federal Uniform Time Act of 1966 (“Uniform Time Act”)¹⁶ establishes standard time and daylight saving time and permits states, including the District, to exempt themselves from daylight saving time. The Proposed Initiative would exempt the District from daylight saving time. Further, the Proposed Initiative would not appropriate funds. Accordingly, the Proposed Initiative is a proper subject.

The right of initiative “is a power of direct legislation by the electorate.”¹⁷ This right must be construed “liberally,” and “only those limitations expressed in the law or clear[ly] and compelling[ly] implied” may be imposed on that right.¹⁸ As the District of Columbia Court of Appeals has explained, “the power of the electorate to act by initiative is coextensive with the legislative power.”¹⁹ The District’s legislative power is limited by the Constitution and the Home Rule Act.²⁰ Additionally, an initiative may not propose a “law[] appropriating funds.”²¹

The relevant constitutional provision here is the Supremacy Clause of the Constitution, which provides that “the Laws of the United States . . . shall be the supreme Law of the Land,”²² meaning that “state [or District] laws that conflict with federal law are ‘without effect.’”²³ The Proposed Initiative implicates a federal law: the Uniform Time Act. Under this Act, Congress declared “[t]he policy of the United States to promote the adoption and observance of uniform time within the standard time zones prescribed” by its relevant provisions.²⁴ It establishes the “standard time of the United States” for each time zone as a baseline requirement.²⁵ It also establishes what is commonly known as daylight saving time by requiring the “standard time” to be advanced one hour from the first Sunday in March to the first Sunday in November.²⁶ However, a state—defined to include the District of Columbia²⁷—“may by law exempt itself” from this requirement “if that law provides that the entire State . . . shall observe the standard time otherwise applicable during that period[]”²⁸ Currently, the District by statute observes daylight saving time in accordance with the Uniform Time Act.²⁹

The Proposed Initiative is not preempted by the Uniform Time Act—it falls directly within the Act’s express authorization for the District to exempt itself from daylight saving time. Under the Proposed Initiative, beginning November 1, 2026, the District would be required to implement year-round standard time. Thus, through the Proposed Initiative the District would “by law exempt itself” from daylight saving time and observe standard time from March to November, which is the very exemption that the Uniform Time Act authorizes.

¹⁶ Approved April 13, 1966 (80 Stat. 107; 15 U.S.C. § 260 *et seq.*).

¹⁷ *Convention Ctr. Referendum Comm. v. D.C. Bd. of Elections & Ethics*, 441 A.2d 889, 897 (D.C. 1981) (en banc) (internal citations and quotations omitted).

¹⁸ *Id.* at 913 (internal citations and quotations omitted).

¹⁹ *Hessey v. Burden*, 615 A.2d 562, 578 (D.C. 1992) (quoting *Convention Ctr.*, 441 A.2d at 907)).

²⁰ D.C. Official Code § 1-203.02.

²¹ *Id.* § 1-204.101(a).

²² U.S. Const. art. VI, cl. 2.

²³ *Altria Grp., Inc. v. Good*, 555 U.S. 70, 76 (2008) (quoting *Maryland v. Louisiana*, 451 U.S. 725, 746 (1981)).

²⁴ 15 U.S.C. § 260.

²⁵ *Id.* § 261(a).

²⁶ *Id.* § 260a(a).

²⁷ *Id.* § 267.

²⁸ *Id.* § 260a(a).

²⁹ D.C. Official Code § 28-2711.

In addition to not being preempted by federal law, the Proposed Initiative does not run afoul of the District Charter requirement that a proposed initiative not “appropriat[e] funds.”³⁰ An initiative violates this prohibition if it “intrude[s] upon the discretion of the Council to allocate District government revenues in the budget process.”³¹ Thus, the D.C. Court of Appeals has determined that a measure that compels the allocation of funds to carry out mandatory provisions is a law appropriating funds and not a proper subject of initiative.³²

Although the Proposed Initiative provides that “[t]he District government shall implement Permanent Standard Time,” under the Uniform Time Act, we do not think the District would have to take any steps to “implement” permanent standard time other than repealing D.C. Official Code § 28-2711, which currently provides that the District observes daylight saving time. That repeal can be done through a conforming amendment in the Proposed Initiative, which we suggest the Board insert when it prepares the proper legislative form. In other words, we read the Proposed Initiative simply to mean that the District as a jurisdiction must “observe the standard time otherwise applicable during” the daylight saving time period.³³ Thus, while the Office of the Chief Financial Officer’s fiscal impact statement (which will not be available to the Board until after the proper subject determination) will definitively answer whether the Proposed Initiative would have a negative fiscal impact,³⁴ nothing in the available record indicates that the District would “be unable to comply with the[] mandatory dut[y]” to observe standard time year-round, rather than November to March, “in the absence of funding.”³⁵ Consequently, we cannot say as a matter of law that the Proposed Initiative would appropriate funds.

CONCLUSION

It is the opinion of this Office that the *District of Columbia Time Stability Act* is a proper subject of initiative. The Proposed Initiative falls within the exemption authorized by the federal Uniform Time Act, and it would not appropriate funds.

Sincerely,



Brian L. Schwalb
Attorney General for the District of Columbia

Attachment

³⁰ *Id.* § 1-204.101(a).

³¹ *D.C. Bd. of Elections & Ethics v. District of Columbia*, 866 A.2d 788, 794 (D.C. 2005) (quoting *Hessey v. D.C. Bd. of Elections & Ethics*, 601 A.2d 3, 20 (D.C. 1991) (en banc)) (“*Campaign for Treatment*”).

³² *Id.* at 795–796.

³³ 15 U.S.C. § 260a(a) (emphasis added).

³⁴ D.C. Official Code § 1-1001.16(c)(4).

³⁵ *See Campaign for Treatment*, 866 A.2d at 796.

SHORT TITLE

Time Stability Act of 2025

SUMMARY STATEMENT

If enacted, this Initiative would exempt the District from observing daylight saving time (DST), as permitted by the federal Uniform Time Act, and establish permanent standard time, equivalent to eastern standard time (EST), year-round, beginning Sunday, November 1, 2026 at 2:00 a.m.

LEGISLATIVE TEXT

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Time Stability Act of 2025”.

Sec. 2. Subchapter II of Chapter 27 of Title 28 of the District of Columbia Official Code is amended as follows:

(a) Section 28-2711 is repealed.

(b) A new section 28-2712 is added to read as follows:

“Sec. 28-2712. Time stability.

“(a) The purpose of this section is to exempt the District from observing daylight saving time and establish permanent standard time year-round.

“(b) The intent of this section is to improve safety, health, and quality of life for District residents by eliminating biannual time changes and providing a stable time zone.

“(c) The District shall opt out of observing daylight saving time as permitted by section 3(a) of the Uniform Time Act of 1966, approved April 13, 1966 (80 Stat. 107; 15 U.S.C. § 260a(a)), and shall establish permanent standard time, equivalent to eastern standard time, year-round, in accordance with subsection (d) of this section.

“(d) The District government shall implement permanent standard time on Sunday, November 1, 2026, at 2:00 a.m., thereby opting out of future daylight saving time changes.”.

Section 3. Effective Date.

This act shall take effect following a 30-day period of congressional review as provided in section 16(r)(1) of the District of Columbia Election Code of 1955, effective June 7, 1979 (D.C. Law 3-1; D.C. Official Code § 1-1001.16(r)(1)).