

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

In Re:

“Referendum on the Tipped Minimum Wage
Time Amendment Act of 2025”

Administrative Hearing
No. 25-016

MEMORANDUM OPINION AND ORDER

This matter came before the Board of Elections (“the Board”) at a hearing convened on Wednesday, October 22, 2025 to determine whether the proposed referendum measure, “Referendum on the Tipped Minimum Wage Time Amendment Act of 2025,” (“the Measure”) presents a proper subject for referendum under applicable District of Columbia law. Board Chairman Gary Thompson and Board member Karyn Greenfield presided over the hearing. The Board’s General Counsel, Terri Stroud, the referendum proposer, Trupti Patel (“the Proposer”), and counsel for the proposer, Joseph Sandler, were also present.

Statement of Facts

On October 1, 2025, the Proposer, a D.C. registered voter, submitted the Measure in the proper form in accordance with D.C. Official Code § 1-1001.16(a), including the full text, a short title, a summary statement, and a verified statement of contributions. The proposed referendum measure seeks to allow voters in the District of Columbia to decide whether to approve or reject the “Tipped Minimum Wage Timeline Amendment Act of 2025” (“the Act”). The Act, passed by the D.C. Council, changes the timeline and structure of wage increases for tipped workers. Specifically, it freezes the tipped minimum wage at \$10/hour until July 1, 2026, and then gradually raises it to seventy-five percent of the regular minimum wage by 2034, rather than

reaching one hundred percent of the minimum wage by 2027 as previously enacted by Initiative Measure No. 82.¹

On October 2, 2025, the Board’s Office of General Counsel requested advisory opinions regarding the propriety of the Measure from the Office of the Attorney General for the District of Columbia (“the OAG”) and General Counsel for the Council of the District of Columbia (“the CGC”).²

On October 9, 2025, both the OAG³ and CGC⁴ provided advisory opinions concluding that the Measure is a proper subject for referendum under District law.

The OAG advised that the Measure does not appropriate funds, violate or seek to amend the District of Columbia Home Rule Act, violate the U.S. Constitution, authorize 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. The CGC similarly found that the Measure complies with all statutory requirements, does not authorize discrimination, and does not improperly negate or limit a budgetary act of the Council.

During the hearing⁵ held on the matter on October 22, 2025, the Board’s General Counsel explained that the purpose of the proceeding was to determine whether the Measure constitutes a proper subject for referendum in the District of Columbia pursuant to D.C. Official Code § 1-1001.16. The General Counsel outlined that, upon receipt of a proposed measure, the Board is

¹ D.C. Law 9-248; D.C. Official Code § 32-1001 et seq.; *see also* Initiative 82, D.C. Law 24-281.

² D.C. Official Code § 1-1001.16(b)(1A)(b)(i) requires the OAG and CGC to provide advisory opinions regarding the propriety of proposed initiative measures.

³ Brian Schwalb, Attorney General for the District of Columbia, Letter to Terri D. Stroud, General Counsel, Board of Elections (October 9, 2025).

⁴ Nicole L. Streeter, General Counsel, Council of the District of Columbia, Letter to Terri D. Stroud, General Counsel, Board of Elections (October 9, 2025).

⁵ Notice of the public hearing was duly published 72 D.C. Reg 11492 (October 17, 2025).

required to refuse acceptance if it finds that the measure conflicts with or seeks to amend Title IV of the District of Columbia Home Rule Act, conflicts with the United States Constitution, has not been properly filed, including the timely submission of the verified statement of contributions, authorizes discrimination in violation of the D.C. Human Rights Act, would negate or limit a budgetary act of the D.C. Council, or would impermissibly appropriate funds under applicable D.C. Court of Appeals precedent.⁶ The General Counsel emphasized that the Board's review is confined to these statutory criteria and does not extend to the merits of the proposed measure.

The Board first invited testimony from opponents of the Measure. Christopher LaFon, counsel for the Restaurant Association Metropolitan Washington, argued that the Measure is not a proper subject for referendum because the Act allegedly touches on the budget and the allocation or appropriation of funds, which is prohibited for referenda. Mr. LaFon further contended that the requirement for reports by the Office of the Chief Financial Officer constitutes an appropriation of funds, and that the inclusion of the Act in the Budget Support Act arguably makes it a supplement to the budget under D.C. Official Code § 1-204.46, rendering it ineligible for referendum. No written submissions were provided by Mr. LaFon or other opponents.

The Board then heard from proponents. The proposer, Trupti Patel, testified regarding the importance of Initiative Measure No. 82 to tipped workers and the will of the voters. Counsel for the proposer, Joseph Sandler, argued that the Measure is a proper subject for referendum for the reasons set forth in the advisory opinions of the OAG and the CGC, emphasizing that the Measure does not appropriate funds, does not negate or limit a budget act, and does not violate the Home Rule Act or the United States Constitution. Mr. Sandler also addressed Mr. LaFon's

⁶ D.C. Official Code § 1-1001.16(b)(1)

arguments, noting that the OAG specifically found that the reporting requirement imposed on the Office of the Chief Financial Officer was determined to have no fiscal impact and that inclusion in the Budget Support Act does not convert ordinary legislation into a budget act under D.C. Official Code § 1-204.46.⁷

The OGC presented the General Counsel’s analysis, addressing the arguments raised and confirming that while the Act at issue is a subtitle of the Budget Support Act, it is nonetheless ordinary legislation and not a budget act under D.C. Official Code § 1-204.46. Further, the requirement to pay increased wages applies only to private employers, not the District government or its contractors, and thus does not compel the allocation of public funds. The reporting requirement imposed on the Office of the Chief Financial Officer does not compel the allocation of funds, as it was determined to have no fiscal impact.⁸ The Measure does not appropriate funds, require the allocation of revenues, or otherwise intrude upon the Council’s budgetary discretion. The Measure does not authorize discrimination, negate or limit a budget act, or violate the Home Rule Act or the United States Constitution.

Analysis

The Board’s authority to accept or reject a proposed referendum⁹ is governed by D.C. Official Code § 1-1001.16(b)(1), which provides that the Board must refuse to accept a measure if it conflicts with or seeks to amend Title IV of the District of Columbia Home Rule Act (the

⁷ Jacob Bugtong was present in support of the Proposer but did not provide substantive testimony.

⁸ Advisory Opinion of the Attorney General, October 9, 2025, at 4–5; Fiscal Impact Statement, Councilmember Christina Henderson Amendment to B26-265, Fiscal Year 2026 Budget Support Act of 2025, Office of the Budget Director, Council of the Dist. of Columbia (July 28, 2025),

<https://lims.dccouncil.gov/downloads/LIMS/57846/Meeting3/Amendment/B26-0265-Amendment8.pdf?Id=218148>.

⁹ See D.C. Official Code § 1-204.101 (The term “referendum” means the process by which the registered qualified electors of the District of Columbia may suspend acts of the Council of the District of Columbia (except emergency acts, acts levying taxes, or acts appropriating funds for the general operation budget) until such acts have been presented to the registered qualified electors of the District of Columbia for their approval or rejection.)

"District Charter"), conflicts with the United States Constitution, has not been properly filed, including the timely filing of the verified statement of contributions, authorizes or would have the effect of authorizing discrimination prohibited under the D.C. Human Rights Act, would negate or limit an act of the Council enacted pursuant to D.C. Official Code § 1-204.46 (budget acts), or would impermissibly appropriate funds under applicable D.C. Court of Appeals precedent. The Board's review is limited to these criteria and does not extend to the merits or policy wisdom of the proposed measure.

A proposed referendum, then, cannot be accepted by the Board unless it meets all of the aforementioned requirements.

The Measure at issue proposes to suspend the implementation of the Act, which made changes to the Minimum Wage Act Revision Act of 1992, relating to the tipped minimum wage.¹⁰ Specifically, the Act maintained the tipped minimum wage at \$10 until July 1, 2026, after which the tipped minimum wage would gradually increase to seventy-five percent of the regular minimum wage by 2034.

The Act is a subtitle of the Budget Support Act, which is ordinary legislation adopted by the Council. Thus, it is not passed pursuant to section 446 of the Home Rule Act and comports with the requirements of D.C. Official Code § 1-1001.16(b)(1)(D).

As the Fiscal Impact Statement for the Act¹¹ shows, the provision requiring the Office of the Chief Financial Officer (OCFO) to issue a report does not compel the allocation of funds, as

¹⁰ D.C. Law 9-248; D.C. Official Code § 32-1001 et seq.

¹¹ Fiscal Impact Statement, Councilmember Christina Henderson Amendment to B26-265, Fiscal Year 2026 Budget Support Act of 2025, Office of the Budget Director, Council of the Dist. of Columbia (July 28, 2025), <https://lims.dccouncil.gov/downloads/LIMS/57846/Meeting3/Amendment/B26-0265-Amendment8.pdf?Id=218148>.

the Council's Office of the Budget Director determined that this provision will have no fiscal impact.

Analogous to the Board's reasoning in Board Order 21-001 (In re: DC Full Minimum Wage for Tipped Workers Amendment Act of 2022), the Board finds that the requirement to pay increased wages applies only to private employers, not to the District government or its contractors. Therefore, it does not compel the District to allocate any public funds.

The Measure does not appropriate funds, require the allocation of revenues, or otherwise intrude upon the Council's budgetary discretion.

Further, the Measure does not authorize, nor would it have the effect of authorizing, discrimination prohibited under District law. It does not negate or limit an act of the Council enacted pursuant to section 446 of the Home Rule Act, nor does it violate or seek to amend the Home Rule Act or the U.S. Constitution. The Board finds no express or implied limitation that would preclude the Measure from being submitted to the voters.

Accordingly, the Board concludes that Measure is a proper subject of referendum under District law.

Conclusion

For the foregoing reasons, the Board finds that the "Referendum on the Tipped Minimum Wage Time Amendment Act of 2025" does present a proper subject for a referendum. Accordingly, it is hereby:

ORDERED that the Measure is **ACCEPTED** as a proper subject of referendum, and the Board's staff is directed to proceed with preparation of the short title, summary statement, and proper legislative form of the Measure, in accordance with D.C. Official Code § 1-1001.16(c).

The Board issues this written order today, which is consistent with its oral ruling rendered on October 22, 2025.

Dated: October 28, 2025



Gary Thompson
Chair
Board of Elections