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October 9, 2025

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

Re: Proposed Referendum on the Tipped Minimum Wage Timeline
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 referendum measure is a proper subject of referendum. I have reviewed the proposed Referendum on the Tipped Minimum Wage Timeline Amendment Act of 2025 (“Proposed Referendum”) for compliance with the requirements of District law, and based on my review, it is my opinion that the Proposed Referendum is a proper subject of referendum.

I. Applicable Law

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.”¹ The Board may not accept a proposed referendum if it finds that the measure is not a proper subject of referendum 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;

¹ D.C. Official Code § 1-204.101(b).

- The petition is not in the proper form established in D.C. Official Code § 1-1001.16(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

II. The Proposed Referendum

The Proposed Referendum would suspend the Tipped Minimum Wage Timeline Amendment Act of 2025, Title II, Subtitle W of the Fiscal Year 2026 Budget Support Act of 2025, enacted on September 4, 2025 (D.C. Act 26-148; 72 DCR 9825) (“Subtitle W”), which made changes to provisions of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1001 *et seq.*), relating to the tipped minimum wage. Specifically, Subtitle W maintained the tipped minimum wage at \$10 until July 1, 2026, after which the tipped minimum wage would gradually increase to 75% of the regular minimum wage by 2034.

III. The Proposed Referendum is a Proper Subject of Referendum

The Proposed Referendum would not negate or limit an act of the Council pursuant to D.C. Official Code § 1-204.46.³ The fiscal impact statement for Subtitle W stated that funds were sufficient in the budget to absorb any costs related to the subtitle.⁴ In addition, the Proposed Referendum otherwise conforms with both the District Charter and the U.S. Constitution. The Proposed Referendum does not authorize or have the effect of authorizing any form of discrimination.

Accordingly, the Proposed Referendum is a proper subject of referendum.

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

³ The Proposed Referendum would suspend a subtitle of the Budget Support Act, which is passed along with the Local Budget Act during the Council’s budget process. However, the Budget Support Act is ordinary legislation adopted by the Council and is not passed pursuant to D.C. Official Code § 1-204.46.

⁴ See Fiscal Impact Statement of the Office of the Budget Director of the Council of the District of Columbia for the Tipped Minimum Wage Timeline Amendment Act of 2025, available at <https://lims.dccouncil.gov/downloads/LIMS/57846/Meeting3/Amendment/B26-0265-Amendment8.pdf?Id=218148>.

I am available if you have any questions.

Sincerely,

Nicole L. Streeter/DPG

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