

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

In Re:	Administrative Hearing No. 26-002
“Prohibiting Force-Feeding of Birds Act of 2026”	Acceptance of Proposed Initiative Measure

MEMORANDUM OPINION AND ORDER

This matter came before the Board of Elections (“the Board”) during a public meeting convened on Wednesday, January 14, 2026. It concerns whether a proposed initiative measure, the “Prohibiting Force-Feeding of Birds Act of 2026” (“the Measure”), presents a proper subject for initiative under applicable District of Columbia law. Board Chairman Gary Thompson and Board member Karyn Greenfield ruled on the proper subject question. The Board’s General Counsel, Terri Stroud, and the initiative proposer, Cady Witt (“the Proposer”), were also present.

Statement of Facts

On December 11, 2025, the Proposer, a D.C. registered voter, filed the Measure and supporting documents at the Board’s offices. The Measure is identical to another proposal filed by the Proposer (Initiative Measure No. 85, the “Prohibiting Force-Feeding of Birds Act”), except that it has added language that makes any funding needed to implement it subject to such costs being covered by a Council budget.¹ Just as is the case with Initiative Measure No. 85, the instant

¹ In fact, the Measure is the third iteration of proposals to prohibit the force-feeding of birds. The first filing was promptly withdrawn by the Proposer and the second iteration (what is now Initiative Measure No. 85) was filed by her to replace the first filing. In a written order and memorandum opinion in BOE Case No. 25-018 (issued 11/6/2025), we concluded that the second iteration met proper subject requirements. One of the proper subject requirements discussed in that prior opinion was whether the proposal would run afoul of a requirement that initiatives not interfere with the Council’s power of the purse. We concluded that we could not reject the prior proposal and deny voters the opportunity to consider a measure where, as was the case there, no evidence of a budget impact had been presented to us. We did not, at the time of issuing our proper subject determination as to Initiative Measure No. 85, have the benefit of a Chief Financial Officer (“CFO”) fiscal impact statement (“FIS”) on that prior proposal because the statute provides that a

Measure seeks to “[p]rohibit any person from force-feeding a bird for the purpose of enlarging the bird’s liver beyond normal size; and ... ban the sale or distribution of any product resulting from force-feeding a bird[.]” The Measure also repeats Initiative Measure No. 85’s civil penalty provisions for violations of its requirements and likewise mandates that the Department of Energy and Environment (“DOEE”) undertake enforcement of its requirements.

On December 12, 2025, the Board’s Office of General Counsel requested advisory opinions as to whether the Measure satisfies proper subject requirements such that it should be accepted by the Board. The Board must reject the proposed measure if it determines that:

- The measure conflicts with or seeks to amend the Title IV of the DC Home Rule Act (“the District Charter”);
- The measure conflicts with the U.S. Constitution;
- The measure has not been properly filed;
- The verified statement of contributions (the measure committee’s statement of organization and report of receipts and expenditures) was not timely filed;
- The measure would authorize discrimination in violation of the DC Human Rights Act;
- The measure would negate or limit a budgetary act of the DC Council; or
- The measure would appropriate funds.²

The statute provides that the Board seek advisory opinions on the proper subject issue 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”).³

FIS be sought *after* the Board makes a proper subject determination. *See* D.C. Official Code §1-1001.16(c)(4). Accordingly, subsequent to issuance of our written order in Case No. 25-018, a FIS was duly sought from the CFO and that FIS when later provided concluded that implementing Initiative Measure No. 85 would require appropriated funds. The Proposer responded by filing the instant Measure that includes subject-to-appropriations type language and then, on January 13, 2026, withdrawing Initiative Measure No. 85.

² These proper subject requirements are listed in 3 DCMR §1000.5.

³ D.C. Official Code § 1-1001.16(b)(1A)(b)(i).

On January 6, 2026, both the OAG and the CGC provided advisory opinions to the Board. Given that the OAG had previously found that Initiative Measure No. 85 met proper subject requirements, the OAG also concluded that the instant Measure satisfied such requirements. With respect to Initiative Measure No. 85, however, the CGC had previously indicated that a FIS would be needed to determine whether that proposal violated the proper subject requirement that requires that voter initiatives not interfere with the Council's budget authority. Given that the FIS with respect to Initiative Measure No. 85 concluded that implementing that predecessor legislation prohibiting the force-feeding of birds would require appropriated funds and the Proposer has, with respect to the pending Measure, added language to the initial proposal to make the instant Measure's implementation subject to appropriation by the Council (*see* footnote 1, *supra*), the CGC concluded: "The Proposed Initiative does not constitute a 'law appropriating funds' because it contains a subject-to-appropriations clause[.]"

During the duly noticed public meeting held on the matter on January 14, 2026, the Board's General Counsel described the conclusions reached in the advisory opinions and submitted the opinions for the record. The Chair noted that written comments from the public on the Measure had been provided to and reviewed by the Board. The Chair then offered any opponent of the Measure an opportunity to speak. As was the case in the proper subject meeting on what is now Initiative Measure No. 85, no person opposing the Measure came forward. The Board then heard from the supporters of the Measure and its Proposer. These individuals reiterated that the Measure should be found to be a proper subject of initiative.

After hearing the comments on the Measure, Board Chair Thompson requested that the General Counsel provide her recommendation as to whether the Measure met proper subject

requirements. The General Counsel recommended that the Board accept the Measure. The Board Chair made a motion that the Measure be accepted as a proper subject for an initiative. The motion was duly seconded and passed unanimously.

Analysis

As noted above, we must reject an initiative proposal if the measure does not present a proper subject for initiative. Notably, proper subject restrictions include that the measure not negate or limit a budgetary act of the DC Council or appropriate funds. In that regard, the CFO has found that the instant Measure's predecessor, Initiative Measure No. 85, would require appropriations to fund Initiative Measure No. 85's activities. That fact would, other things being equal, require our rejection of the instant Measure as it requires undertaking the very activities that are mandated by Initiative Measure No. 85. Unlike Initiative Measure No. 85, however, the instant Measure includes subject-to-appropriations type language. We have previously concluded that the inclusion of subject-to-appropriations type language will resolve a budgetary/appropriations-related proper subject concern.⁴ Accordingly, we find that the instant Measure does not violate proper subject restrictions on proposals that interfere with the Council's power of the purse.

In addition, as was the case with Initiative Measure No. 85, the instant Measure does not violate the U.S. Constitution, the Home Rule Act, or the D.C. Human Rights Act, and the Proposer complied with the campaign finance-related filing requirements and submitted her proposal in the proper form. As to these other proper subject issues, we incorporate by reference our findings and reasoning in our written opinion in Case No. 25-018.

⁴ *In re: Make All Votes Count Act of 2024*, BOE Case No. 23-007 at p. 7 and cases cited at fn. 11 (issued 7/25/2023).

Conclusion

For the foregoing reasons, the “Prohibiting Force-Feeding of Birds Act of 2026” presents a proper subject for an initiative. Accordingly, it is hereby:

ORDERED that the “Prohibiting Force-Feeding of Birds Act of 2026” is **ACCEPTED** pursuant to D.C. Official Code § 1-1001.16(b)(2). The Board issues this written order today, which is consistent with its oral ruling rendered on January 14, 2026.

Dated: January 20, 2026



Gary Thompson
Chair
Board of Elections