

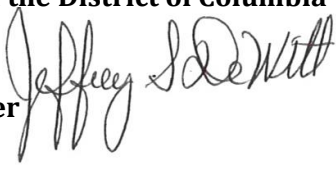
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: November 23, 2020

SUBJECT: Fiscal Impact Statement – Initiative and Referendum Process
Improvement Amendment Act of 2020

REFERENCE: Bill 23-165, Draft Committee Print as circulated on November 20, 2020

Conclusion

Funds are not sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill. The Board of Elections (Board) requires \$100,000 in fiscal year 2022 and \$200,000 over the four-year financial plan period.

The bill's provision requiring polling places at Department of Corrections (DOC) facilities is subject to the required resources being included in an approved budget and financial plan. The bill's remaining provisions can be implemented beginning on the bill's effective date.

Background

The bill makes permanent several election changes made in 2020 during the public health emergency. First, the bill includes vote centers, which allow any eligible resident to vote regardless of their neighborhood precinct location, as polling places. Next, the bill maintains a 2020 requirement that the Board operates polling places for incarcerated individuals at the DOC's Central Detention Facility and the Correctional Treatment Facility.¹ The bill also makes permanent an alternative method for a candidate to be listed on a presidential primary ballot. If a candidate complies with the rules of their political party, the political party can certify to the Board; the window for this

¹ General Election Preparations Temporary Amendment Act of 2020, enacted October 28, 2020 (D.C. Act 23-442; 67 DCR 13022).

certification is no later than 24 hours after the date that is 90 days before the primary election.² Lastly, the bill makes permanent that District government employees who are not District residents or qualified District electors can be election workers.³

The bill requires the District's voter registration agencies to regularly promote election-related information on social media platforms, including information on how to register to vote and how to vote.⁴

The bill affirms that petition sheets circulated to qualify a candidate for the ballot must be submitted in hard copy to the Board, but allows the Board to provide the petition sheets to a candidate in electronic form. A candidate is allowed to provide petition sheets to the qualified petition circulators in electronic form. The bill also establishes that a petition sheet cannot be invalidated if a signer of the petition is also the qualified petition circulator.

The District allows a write-in candidate to be eligible for elected office in the District if they meet the qualifications for the office and declare their candidacy within three days of the date of the election on forms prescribed by the Board. The bill extends the amount of time a candidate must declare their candidacy from three days to seven days.

Currently, any person is prohibited from intentionally removing, defacing, damaging, or destroying a billboard, poster, or sign related to a candidate, referendum, initiative, or recall election beginning 30 days prior to an election through four days following the election-related activity.⁵ The bill eliminates the 30-day starting point for committing this civil infraction, making it an infraction to commit these acts at any point through four days after the election-related activity.

The bill enhances the initiative and referendum measure processes in the District. The bill requires the Board to request an advisory opinion from the Attorney General and the General Counsel of the Council for every initiative and referendum to ensure the subject matter is the proper subject of an initiative or referendum. The advisory opinions must be requested on the day an initiative or referendum is received and the Attorney General and Council's General Counsel must provide the opinion within 15 business days for an initiative and five business days for a referendum. The bill clarifies that the Board statement accepting an initiative or referendum must be written in plain language. The bill requires the Board to request, and the Chief Financial Officer (CFO) to issue, a fiscal impact statement on an initiative measure. The CFO must issue the fiscal impact statement within 15 business days of the Board's request.

The Board is required to adopt the summary statement, short title, and legislative form for an initiative or referendum measure at a public meeting. The bill requires that the Board notify the

² Primary Election Filing Requirement Temporary Amendment Act of 2020, effective March 19, 2020 (D.C. Law 23-69; 67 DCR 4176).

³ Election Worker Residency Requirement Waiver Temporary Amendment Act of 2020, enacted October 28, 2020 (D.C. Act 23-445; 67 DCR 13214).

⁴ COVID-19 Response Supplemental Temporary Amendment Act of 2020, effective October 9, 2020 (D.C. Law 23-129; 67 DCR 12235).

⁵ D.C. Official Code § 1-1001.14.

proposer of the measure via email within 24 hours of the Board's adoption and include the summary statement, short title, legislative form, and fiscal impact statement, if applicable. The bill also requires the Board to publish these documents in one newspaper of general circulation and on its website, in addition to the currently required District of Columbia Register.

The bill eliminates a 20-signature limit on one page of a petition for an initiative or referendum. The bill also authorizes the same new allowance on the electronic transmission of petition sheets from the Board to a measure proposer and from a measure proposer to a qualified petition circulator for an initiative or referendum measure as it does for a candidate for elected office.⁶

The bill also makes permanent deadline flexibilities afforded the Board of Ethics and Government Accountability (BEGA) and other agencies during the 2020 public health emergency.⁷ Public officials are required to file financial disclosure reports either annually or semiannually⁸ with BEGA by May 15th and November 15th. BEGA must also publish in the District of Columbia Register the names of all public officials and whether they have filed the required report, requested an extension, or failed to file the report by June 15th and December 15th depending on whether the official is an annual or semi-annual filer. The bill allows BEGA to change the filing dates and publishing dates at its discretion if the Mayor declares a public health emergency.⁹ All employees and Council employees who work in positions that could create a conflict of interest or the appearance of a conflict of interest must file an annual financial disclosure report by May 15th and have that report reviewed by their respective personnel authorities by June 1st. The bill also allows these filers and report reviewers to change the filing and review dates if the Mayor declares a public health emergency. The bill also allows BEGA to amend the filing dates of the quarterly lobbyist activity reports if the Mayor declares a public health emergency.¹⁰

The bill authorizes a candidate for public office and the treasurer of any political committee to attend the required campaign finance law training with the Director of Campaign Finance online rather than in-person if the Mayor has declared a public health emergency.

The bill clarifies that a candidate seeking participation in the Fair Elections program needs to affirm that they have paid all fines and penalties assessed, including delinquent fines. The bill makes permanent that the second half of the base payment and the matching payments under the Fair Elections program should be made within five business days, where it is currently five calendar days.¹¹

⁶ The bill also affirms that a petition sheet is valid if it contains the signature of the qualified petition circulator.

⁷ COVID-19 Response Supplemental Temporary Amendment Act of 2020, effective October 9, 2020 (D.C. Law 23-129; 67 DCR 12235).

⁸ Councilmembers are required to file semiannually while other public officials are only required to file annually.

⁹ As authorized by the District of Columbia Public Emergency Act of 1980, effective March 5, 1981 (D.C. Law 3-149; D.C. Official Code § 7-2304.01).

¹⁰ COVID-19 Response Supplemental Temporary Amendment Act of 2020, effective October 9, 2020 (D.C. Law 23-129; 67 DCR 12235)

¹¹ COVID-19 Response Supplemental Temporary Amendment Act of 2020, effective October 9, 2020 (D.C. Law 23-129; 67 DCR 12235).

The Honorable Phil Mendelson

FIS: Bill 23-165, "Initiative and Referendum Process Improvement Amendment Act of 2020," Draft Committee
Print as circulated on November 20, 2020

Financial Plan Impact

Funds are not sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill. The Board requires \$100,000 in fiscal year 2022 and \$200,000 over the four-year financial plan period.

The Board ran polling places at DOC facilities during the 2020 elections as required under emergency and temporary legislation during the public health emergency. However, the Board requires additional resources to continue to run polling places at DOC facilities on a permanent basis. This requires a one-time purchase of election equipment at a cost of \$50,000 in fiscal year to 2022. It also requires \$50,000 annually, beginning in fiscal year 2022, to operate the polling places and \$150,000 over the four-year financial plan period. There are no costs for the Board or other agencies for the initiative and referendum process changes; there are likewise no costs for the voter registration changes and candidate petition changes.

BEGA implemented the filing deadline delays during the 2020 public health emergency and can continue to implement delayed deadlines under any future public health emergencies with the agency's existing budgeted resources. The Office of Campaign Finance can offer virtual trainings for candidates and treasurers and can implement the bill's requirements for public health emergencies with its existing budgeted resources.