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RESOLUTION OF ADVISORY NEIGHBORHOOD COMMISSION 4D OPPOSING THE PROPOSED INITIATIVE AMENDMENT ACT OF 2023¹

Advisory Neighborhood Commission 4D takes note of the following:

1. **WHEREAS** voters in the District of Columbia lack many basic democratic rights in the United States, such as full home rule or the rights to elect voting representatives to the House of Representatives or the Senate;
2. **WHEREAS** one of the key rights that voters in the District of Columbia do currently retain is the right of initiative, i.e., the ability 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,” as guaranteed in the Home Rule Act of 1973, as amended;²
3. **WHEREAS** the right of initiative in the United States is an important legacy of the Progressive Era, when reformers established the initiative process and used it to implement landmark democratic policies, such as primary elections, direct election of United States senators, home rule for

¹ [B25-0475](#).

² D.C. Code § 1–204.101(a).

municipalities, permanent voter registration, fair apportionment, labor rights and protections, women’s suffrage, elimination of poll taxes, and environmental protection, inter alia;³

4. **WHEREAS** the right of initiative is not enjoyed by citizens in all jurisdictions in the United States, with roughly one-half of states offering their voters no ability to participate in direct democracy through the mechanisms of initiative or referendum;
5. **WHEREAS** the right of initiative, in many jurisdictions where it does exist, has been under sustained attack by officials and vested interests, as “part of a larger antidemocracy blueprint” to “suppress the will of voters and undermine democratic processes,” including but not limited to efforts to impose additional requirements for ballot qualification, to raise the approval percentage for adoption, to require passage in multiple successive elections, to levy filing fees, to limit initiatives to a single subject, to empower state officials to unilaterally block initiatives from appearing on the ballot, and to restrict judicial interpretation of laws passed by initiative;⁴
6. **WHEREAS** on September 18, 2023, Councilmembers Phil Mendelson and Anita Bonds introduced in the Council of the District of Columbia a bill entitled “Initiative Amendment Act of 2023” (B25-0475), hereinafter “the proposed Act”;
7. **WHEREAS** the proposed Act seeks to restrict the right of initiative by disallowing all “proposals that would have a fiscal cost” of any sort,⁵
8. **WHEREAS** nearly any new law can be construed to entail a fiscal cost in the course of its implementation, such as the expenditures for outreach and education that typically accompany a change in public policy, and the result

³ David D. Schmidt, *Citizen Lawmakers: The Ballot Initiative Revolution* (Philadelphia: Temple University Press, 1989), 15–20.

⁴ Sara Carter, Alice Clapman, and Alexi Comella, “Politicians Take Aim at Ballot Initiatives,” Brennan Center for Justice, January 16, 2024, <https://www.brennancenter.org/our-work/research-reports/politicians-take-aim-ballot-initiatives>.

⁵ Phil Mendelson, “Statement of Introduction,” September 18, 2023, <https://lms.dccouncil.gov/downloads/LIMS/53793/Introduction/B25-0475-Introduction.pdf?Id=174940>.

of the proposed Act would be to effectively eliminate the right of initiative;

9. WHEREAS the District of Columbia Court of Appeals has interpreted the “laws appropriating funds” exception on multiple occasions, concluding that an initiative’s “prospective fiscal impact” is not sufficient to deem an initiative a law appropriating funds, because to do so (as the proposed Act would do) “would be to effectively write the initiative process out of existence;”⁶

10. WHEREAS the District’s ballot initiatives today remain subject to appropriation and implementation by the D.C. Council, which retains the ability to shape the enactment of ballot initiatives that they may have concerns about;

THEREFORE, BE IT RESOLVED That Advisory Neighborhood Commission 4D:

- 1. Opposes** the proposed Initiative Amendment Act of 2023 (B25-0475) and urges the Council of the District of Columbia to do the same; and
- 2. Calls upon** the Council of the District of Columbia to protect and defend the right of initiative as a fundamental democratic right of the people of the District of Columbia to participate in the making of laws to which they are bound.

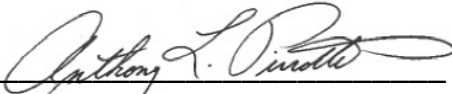
BE IT FURTHER RESOLVED that Commissioner George is hereby authorized to represent the commission in all matters relating to this resolution.

This Resolution of Advisory Neighborhood Commission 4D opposing the Initiative Amendment Act of 2023 was considered on April 17, 2024 before ANC 4D at a duly noticed meeting of the Commission in the presence of a quorum. The vote of the Commission was 6 in favor, 0 against, and 0 abstentions. The resolution is hereby adopted as resolution number 4D-2024-05.

⁶ See *D.C. Board of Elections & Ethics v. D.C.*, 520 A.2d 671, 674, 676 (D.C. 1986).

Signed by:

Dated: 29 April 2024



Anthony Pirrotti, ANC 4D Chair