



Advisory Neighborhood Commission 2A

“Serving the Foggy Bottom and West End communities of Washington, D.C.”

March 26, 2024

Anita Bonds, At-Large Council Member of the District of Columbia
Chairperson, Committee on Executive Administration and Labor
1350 Pennsylvania Avenue, NW
The Wilson Building
Washington D.C. 20004

RE: A Resolution Regarding the Initiative Amendment Act of 2023.

Dear Chairperson Bonds,

At its regular meeting on March 20, 2024, Advisory Neighborhood Commission 2A (“ANC 2A” or “Commission”) considered the above-referenced matter. With six of nine commissioners present, a quorum at a duly-noticed public meeting, the Commission, after a motion made by Commissioner Patel and seconded by Commissioner Comer, adopted the following resolution (CR-24-013) by unanimous consent:

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”; and

WHEREAS, The proposed Act seeks to restrict the right of initiative by codifying an interpretation of the Home Rule Act’s exclusion of “laws appropriating funds” that would disallow all “proposals that would have a fiscal cost” of any sort; and

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

WHEREAS, The District of Columbia Court of Appeals has interpreted the “laws appropriating funds” exception on multiple occasions, finding that “[a]ll that the ‘laws appropriating funds’ exception actually means, in the concrete, is that the people may not seek, through the initiative, to propose and pass an actual budget request act ... as the Council’s deliberations on the Charter Amendments make clear”; and

WHEREAS, The District of Columbia Court of Appeals has further found that the “legislative history of the exception ... shows that the Council did not exclude a matter from the initiative right because of its prospective fiscal impact,” and that “to construe the exception in [such a] manner ... would be to effectively write the initiative process out of existence”; and

WHEREAS, The proposed Act, by so construing the exception, would in fact “effectively write the initiative process out of existence”; therefore



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WHEREAS, The voters of the District of Columbia enjoy 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; and

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

WHEREAS, The right of initiative has served since that time as “a safeguard against the concentration of political power in the hands of a few” and “a means of putting new ideas on the political agenda”; and

WHEREAS, The proposed Act, by so construing the exception, would in fact “effectively write the initiative process out of existence”; therefore

THEREFORE BE IT RESOLVED, ANC 2A opposes the proposed Initiative Amendment Act of 2023 (B25-0475) and urges 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.

Commissioners Trupti Patel (2A03@anc.dc.gov) and Jim Malec (2A02@anc.dc.gov) are the Commission’s representatives in this matter.

ON BEHALF OF THE COMMISSION.

Sincerely,

Jim Malec
Chairperson

CC:

Brooke Pinto, Ward 2 Councilmember of the District of Columbia
Matthew Frumin, Ward 3 Councilmember of the District of Columbia
Janese Lewis George, Ward 4 Councilmember of the District of Columbia
Trayon White, Ward 8 Councilmember of the District of Columbia
Kenyan McDuffie, At-Large Councilmember of the District of Columbia
Phil Mendelson, Chairperson of the District of Columbia
Christopher Powell, Ward 2 Liaison, Mayor’s Office of Community Relations and Services