

Council of the District of Columbia
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY
COMMITTEE REPORT
1350 Pennsylvania Avenue, N.W., Washington, DC 20004

To: Members of the Council of the District of Columbia

From: Councilmember Charles Allen *CA*
Chairperson, Committee on the Judiciary and Public Safety

Date: May 9, 2017

Subject: Report on Bill 22-0197, the "Primary Date Alteration Amendment Act of 2017"

The Committee on the Judiciary and Public Safety, to which Bill 22-0197, the "Primary Date Alteration Amendment Act of 2017", was referred, reports favorably thereon and recommends approval by the Council of the District of Columbia.

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STATEMENT OF PURPOSE AND EFFECT

I. Purpose and Effect

B22-0197, the “Primary Date Alteration Amendment Act of 2017”, was introduced by Councilmember Charles Allen on March 21, 2017, and was referred to the Committee on the Judiciary and Public Safety the same day. The Committee held a public hearing on the bill on April 26, 2017.

The purpose of B22-0197 is to amend the District’s codified primary election date by permanently moving the date of the District’s primary election to the third Tuesday in June, beginning with the 2018 election cycle. The bill also makes three minor amendments: the bill (1) amends the District of Columbia Election Code of 1955 to allow Board of Elections members to hold employment with the federal government; (2) amends the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to remove a redundant pre-primary report of receipts and expenditures filing requirement; and (3) amends the Prohibition on Government Employee Engagement in Political Activity Act of 2010 to make a technical amendment to the definition of “employee”.

II. Committee Reasoning

A. Primary Date Alteration

The 2018 primary election is currently scheduled for September 4, 2018, which is the first Tuesday in September and the day after the Labor Day holiday. The general election is scheduled for November 6, 2018. The Board of Elections (“the Board” or “BOE”) has determined that holding the primary election on September 4, 2018, will make the District out of compliance with a federal law requiring the mailing of overseas ballots no less than 45 days before the general election, which in 2018, would fall on September 22.¹ The Board has explored all possible options to comply with the law without moving the primary date, including requesting a waiver of the 45-day requirement from the Department of Justice, which was not successful. Therefore, the Committee is convinced that, in order to allow the Board time to both complete the processes required after the primary election and to comply with the overseas mailing requirement for the general election, the primary election must be moved to an earlier date.

In the period between a primary and general election, the Board must complete several important tasks. First, the Board must certify the results of the primary election, which involves tabulating all the special ballots, write-ins, challenge ballots, and checking their machines. At the hearing on this bill, Director Alice Miller testified that the certification process takes 9-10 days on average. The longest amount of time it has taken has been 21 days. If, in 2018, the Board were to

¹ In 2009, Congress amended the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”) when it passed the Military and Overseas Voter Empowerment Act (the “MOVE Act”), which included the requirement that states mail absentee ballots to military and overseas voters at least 45 days prior to a scheduled election to allow those voters adequate time to receive, mark, and return their ballots to ensure their ability to participate in federal elections.

certify the results in 9 days—on the fast side of the average timeframe—this process would be complete by September 13, 2018.

Second, once the certification process is complete, District law requires a 7-day window to allow candidates time to request a recount of the votes.² This process entails the Board pulling all of the ballots from the precinct in question, which Director Miller testified takes on average 3 to 4 days after the request for a recount. In 2018, using the same hypothetical timeline above, if there is no recount request, the recount period expires on September 20, 2018 (7 days after the completion of the certification process). One modification the Board could make to attempt to meet the deadline would be to change the recount request period from 7 days to 2 days. However, this would limit voters' due process rights by significantly limiting their opportunity to request a recount. If a candidate did request a recount, there would be no guarantee as to how long it would take the courts to review the recount—this would be out of the Board's control. Thus, shortening the recount timeline would not necessarily ensure the Board had time to comply with the 45-day requirement.

Finally, once the recount period expires, the Board is able to begin preparing the ballots for the general election to mail overseas. Given that the general election is scheduled for November 6, 2018, the Board would have to complete overseas mailing of ballots by September 22, 2018 (45 days prior to November 6) in order to comply with federal law. The preparation of the overseas mailings is significant and takes substantial time: the Board must hold a lottery for positions on the ballot, create the ballot, print the ballot, stuff and seal envelopes, and postmark the envelopes for mailing. At the hearing, Director Miller testified that it usually takes *two weeks* to complete this process. In the above hypothetical with a 9-day processing period and 7-day recount period ending on September 20, 2018, the Board is left with less than *two days* to prepare and mail the overseas ballots. Thus, the above timeline will almost certainly place the Board out of compliance with federal law, even in the best case scenario with no delay in the certification process or challenge to the primary election results.

In light of this impracticable timeline, the primary election must be moved to an earlier date so that the Board has time between the primary and general elections to comply with federal law. The Committee Print designates the third Tuesday in June, which is June 19 in 2018, as the new permanent date for the primary election. This date allows the Board sufficient time to certify results, provides for due process for any challenges to the election results, and leaves ample time for the mailing of overseas ballots within the required 45-day period.

In addition, holding the primary election on the third Tuesday of June has other advantages. The date falls outside of the school year so that school facilities (where a majority of polling takes place in the District) can be used as polling sites without interference from school activities. Director Miller testified at the hearing that the third Tuesday in June is “perfect timing” because the Board would have greater access to the school facilities without interrupting end-of-the-year activities. She also testified that holding the election then has accessibility advantages: when students are present, D.C. Public Schools (“DCPS”) does not allow front doors to remain open. However, if school is not in session, the Board is able to keep doors open, which makes it easier for individuals with disabilities to access the polls.

² D.C. Code § 1-1001.11(a)(1).

The third Tuesday in June also guarantees that the two-week early voting period is not interrupted by the Memorial Day holiday weekend, as it would be if the election were held earlier in June. At the hearing, Director Miller testified that holding the election later in the summer in July or August would depress voter turnout because residents leave the District for the summer holiday. Furthermore, holding the election in the first week of September could present similar problems of depressed turnout resulting from the Labor Day holiday weekend. Additionally, the Committee would be concerned about the heat during the early voting period, particularly if there were lines at the polls.

The Committee also considered and ultimately rejected another option: splitting the two primary elections and holding the federal primary earlier in the year and the local primary in September. At the hearing, Director Miller testified that holding an additional election would cost the District over \$1 million. In addition, Director Miller testified that many voters participate only in national general elections, so holding a separate local primary election could depress voter turnout. Because the District has no voting representation in Congress, it is all the more important to have engaged voters in the District's local elections. Therefore, the Committee will make every effort to facilitate voter participation in the local primary election. The Committee believes that holding the combined local and federal primary elections on the third Tuesday in June best addresses the above-discussed issues.

i. Other Jurisdictions

Our neighboring states, Maryland and Virginia, both have primary elections scheduled for June 2018. Maryland's next primary election is scheduled for June 26, 2018. In presidential election years, Maryland holds its primary on the fourth Tuesday in April. In gubernatorial election years, the election is held on the last Tuesday in June. Virginia's primary election for the November 6, 2018, general election is currently scheduled for June 12, 2018. In 2017, the Virginia primary was scheduled for June 13, and in 2016, it was scheduled for June 14. Other states that have primary elections scheduled for June 2018 are California, Iowa, and South Dakota. This data suggests that holding a primary election in June has been successful in other jurisdictions, including in the states that border the District.

ii. Prior Legislation: the District of Columbia Primary Date Alteration Amendment Act of 2014

Bill 20-0265, the "District of Columbia Primary Date Alteration Amendment Act of 2014", was introduced by Councilmembers Jack Evans, Tommy Wells, Anita Bonds, and Kenyan McDuffie, and Chairman Phil Mendelson on May 1, 2013. A hearing was held by the Committee on Government Operations on May 29, 2013. The bill amended the District's codified primary election date by creating separate primary dates for the presidential and District-wide primary elections. It moved the presidential primary date to the second week of June and the District's primary date to the first Tuesday in September, beginning in 2018.

At the hearing, the former Director of the Board, Clifford Tatum, testified. He expressed his concern about moving the election date each cycle and the "instability" that created for District

voters. He stated that this instability caused voter apathy, decreased turnout, and general confusion. He testified in favor of creating a permanent, constant date for the election. He also expressed concern that if the election was held during the first part of June, it would interfere with end-of-the-year school activities. As a result, BOE might not have access to school facilities to use as polling places. He also testified that holding two primary elections—in other words, splitting the local and federal elections—would be extremely costly to the District.

Former Attorney General Irvin Nathan also testified at the hearing. He expressed his support for moving the primary from April (when it was held the prior year) to June. He stated that June was good for a presidential primary because it was “as close as feasible to the general election while still permitting ample time to get out absentee ballots for overseas personnel and others.” He also stated that moving the primary election to “mid-June” would be beneficial for mayoral and Council elections.

At the markup by the Committee on Government Operations on November 25, 2014, several councilmembers expressed concern about moving the local primary election to the first Tuesday in September because it conflicted with the Labor Day holiday weekend. Several councilmembers also believed that holding the primary election in July or August would not be advisable given the summer holiday. However, the bill was approved by the Committee and eventually became law, effective May 2, 2015.

The current legislation seeks to address some of the concerns expressed by former Director Tatum, former Attorney General Nathan, and by Committee members, while ensuring the Board’s compliance with federal law. The third Tuesday in June does not overlap with a holiday weekend, and it does not occur in the height of the summer vacation months of July and August. This date also avoids conflicts with school scheduling and facilitates the use of schools as polling places. Furthermore, and most importantly, holding the election in June gives the Board ample time to certify the primary election results and prepare for the overseas mailing 45 days prior to the general election.

B. Removal of the Prohibition on Federal Government Employment for the Board

The Committee Print also amends the District of Columbia Election Code of 1955 to allow Board of Elections members to hold employment with the federal government. At the hearing, the Board’s General Counsel testified that this is an antiquated provision that originated from a time before the passage of the Home Rule Act. He also testified that eliminating the provision would greatly increase the number of qualified candidates for the Board.

C. Elimination of the Duplicative Report of Receipts and Expenditures Filing Requirement

The Committee Print additionally amends the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 by removing a pre-primary date filing requirement made redundant by the change in primary date. Currently, political committees are required to submit a report of receipts and expenditures to the Office of Campaign Finance on June 10, 2018, as well as eight days before the primary election. The Committee Print changes the primary date in 2018 to June 18, thus causing the June 10 report

and the pre-primary report to both be due on June 10, 2018. Therefore, the Committee is eliminating the 8-day pre-primary requirement because filing two reports on the same day is unnecessary and unduly burdensome.

In subsequent years, the third Tuesday in June will be June 15 at the earliest and June 22 at the latest, causing the 8-day pre-primary report to be due between June 7 and June 14. As a result, that report will always be due within 4 days of the June 10 report, making the two reports essentially duplicative as long as the primary election date remains the third Tuesday in June. However, if the primary election is ever moved to a date that does not present a similar reporting redundancy, the Committee recommends amending the statute to reinstate the 8-day pre-primary election filing requirement.

D. Amendment to the Definition of Employee in the “Local Hatch Act”

The Committee Print corrects a technical error made in the Prohibition on Government Employee Engagement in Political Activity Act of 2010 by removing the phrase “(after January 1, 2018)” from the definition of employee, which excludes the Attorney General from coverage under the Act only after that date. In 2010, the Council enacted the “Prohibition on Government Employee Engagement in Political Activity Act of 2010” (or the “Local Hatch Act”), in anticipation of the federal government removing District employees from its purview. In 2012, Congress passed legislation that removed District employees from classification as federal employees. In 2013, the Council passed the “Prohibition on Government Employee Engagement in Political Activity Amendment Act of 2013”, which intended to update the District’s Local Hatch Act and add clarifying definitions for “employee” and “political activity”. One of the definitions of employee excludes the Attorney General from the law’s restrictions “(after January 1, 2018)”. At the time this legislation passed, the Council had voted to postpone the first election of the independent Attorney General until 2018. Therefore, the Attorney General would only need to become “unhatched” on January 1, 2018. However, a lawsuit was filed, and, ultimately, the general election took place in November 2014 without a primary election. On November 4, 2014, District residents elected Karl Racine as the first elected Attorney General for the District of Columbia, and he took office on January 1, 2015. Therefore, the elimination of “(after January 1, 2018)” is made to conform the Local Hatch Act to the intent of the Council that the Attorney General not be “hatched” once the position became an elected official.

LEGISLATIVE HISTORY

March 21, 2017	B22-0197 is introduced by Councilmember Allen.
March 21, 2017	B22-0197 is referred to the Committee on the Judiciary and Public Safety.
March 24, 2017	Notice of Intent to Act on B22-0197 is published in the <i>District of Columbia Register</i> .
March 31, 2017	Notice of Public Hearing on B22-0197 is published in the <i>District of Columbia Register</i> .

April 26, 2017	Public Hearing on B22-0197 is held by the Committee on the Judiciary and Public Safety.
May 9, 2017	Consideration and vote on B22-0197 by the Committee on the Judiciary and Public Safety.

POSITION OF THE EXECUTIVE

The Executive did not take a position on the legislation. The Board of Elections testified in support, as summarized below.

COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

The Committee did not receive comments from Advisory Neighborhood Commissions.

WITNESS LIST AND HEARING RECORD

Lars H. Hydle – D.C. Republican Party

Mr. Hydle testified on behalf of the D.C. Republican Party in favor of the proposed bill, which garnered support from both the Executive Committee and the general membership of the party. He also asked that the Committee reach out to the D.C. Republican Party in advance of the 2020 election cycle regarding the timing of the national conventions. He explained that, last year, District Republicans had to hold their own primary election in March because of the earlier than usual Republican National Convention.

Martin Moulton – D.C. Libertarian Party

Mr. Moulton testified on behalf of the D.C. Libertarian Party in support of the proposed bill. He stated that the adjustment in the primary election date would give greater opportunity and more time for candidates to campaign competitively against other parties' candidates. The Libertarian Party plans to present candidates in the 2018 primary election.

China Dickerson – DC Young Democrats

Ms. Dickerson submitted written testimony in support of the bill. She cited statistics showing that, in 2016, the majority of states (approximately thirty) held their state primary elections before August. With this current bill moving the primary from September to June, the District would thus be following the national trend. She also expressed concern that the District has moved its primary election date numerous times in recent years, making it difficult for voters to establish a routine. She advocated for the new primary election date to become permanent, so that voters could have certainty. She also testified that the Council should ensure that the primary election occurs before the Democratic National Convention in 2020. Overall, Ms. Dickerson and the DC Young Democrats support the bill because they believe that it will encourage residents to participate in the election and give stability and consistency to the process.

Alice Miller – Director of the Board of Elections

Director Miller testified in support of the bill. She explained that federal law requires that the Board mail overseas ballots 45 days prior to the general election, and she stated that the currently set September primary date places an “extreme burden” on the Board. She walked the Committee through the timeline that occurs post-primary election, which made it clear that the Board would be unable to meet the federal mailing requirement in 2018 if the primary date was not moved. She then testified that the proposed third Tuesday in June would be an ideal new date for the primary election. She explained that this date, rather than, for example, the second Tuesday in June, would alleviate challenges the Board faces with using schools as polling places. The Board could access schools for set-up purposes on the day before the election and on Election Day without interrupting end-of-year events and activities.

Upon questioning from Chairman Allen, Director Miller outlined in more detail the hurdles the Board faces in meeting the 45-day requirement. She stated that one modification the Board could make to attempt to meet the deadline would be to change the recount request period from 7 days to 2 days. However, this would limit voters’ due process rights by significantly limiting their opportunity to request a recount. She also noted that, if someone did request a recount, there is no guarantee how long it would take the courts to review the recount—this would be out of the Board’s control. Thus, shortening the recount timeline would not necessarily ensure the Board had time to comply with the 45-day requirement.

Director Miller further testified that the third Tuesday in June was, in fact, “perfect timing” for the primary election. She reiterated concerns about access to schools as polling places during the school year, as well as concerns about depressed voter turnout if the election were held later in the summer. She testified about voter confusion resulting from the continued change of dates for the election and advocated for the third Tuesday in June to become permanent.

In response to Chairman Allen’s questioning, Director Miller testified that if this bill is passed the Board will have time to implement the changes for the June 2018 primary. She stated that the Board already has ready a draft calendar with the new timeline leading up to June 19, 2018, which could be posted online immediately. She assured the Committee that the Board will use all methods of messaging to communicate with residents about the new primary date and associated deadlines.

Lastly, Director Miller testified that holding the primary election on the third Tuesday in June will likely be cost-saving. She stated that there may be minor costs for school security on Election Day associated with the new date. However, she believes these costs would be greatly offset by overtime costs saved from not having to enforce an “all hands on deck” period to meet the federal requirement with the current September primary date.

IMPACT ON EXISTING LAW

Bill 22-0179 would amend the District of Columbia Election Code of 1955 to require the Board of Elections to permanently move the primary election date to the third Tuesday in June and to allow members of the Board of Elections to hold employment in the federal government. The

bill would also amend the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to remove the eight day pre-primary election report of receipts and expenditures requirement. Lastly, the bill would amend the Prohibition on Government Employee Engagement in Political Activity Act of 2010 to clarify the definition of “employee” and reverse the technical error of excluding the Attorney General in this definition only after January 1, 2018.

FISCAL IMPACT

The Committee adopts the fiscal impact statement of the District’s Chief Financial Officer.

SECTION-BY-SECTION ANALYSIS

- | | |
|-------------------------|---|
| <u>Section 1</u> | Provides the long and short titles of the legislation. |
| <u>Section 2</u> | Amends the District of Columbia Election Code of 1955 to remove the restriction on employment in the federal government for Board of Elections members and to permanently change the date of the primary election to the third Tuesday in June. |
| <u>Section 3</u> | Amends the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to remove the redundant report of receipts and expenditures filing requirement prior to the primary election. |
| <u>Section 4</u> | Amends the Prohibition on Government Employee Engagement in Political Activity Act of 2010 to clarify the definition of “employee” as it relates to the Attorney General. |
| <u>Section 5</u> | Contains the fiscal impact statement. |
| <u>Section 6</u> | Contains the effective date. |

COMMITTEE ACTION

On May 9, 2017, the Committee on the Judiciary and Public Safety held a markup to consider B22-0197, the “Primary Date Alteration Amendment Act of 2017”. The meeting was called to order at 4:07 p.m. Chairperson Charles Allen recognized a quorum consisting of himself and Councilmembers Anita Bonds, Mary M. Cheh, and David Grosso. Councilmember Bonds expressed her support for the bill and thanked Chairperson for selecting a permanent date for the District’s primary election. She agreed that an April primary date is unsuitable due to potential inclement weather and depressed voter turnout. Chairperson Allen, without objection, moved the Committee Report and Print for B22-0197 en bloc with leave for staff to make technical and conforming changes. The Committee then voted 4-0 to approve the Committee Report and Print with the members voting as follows:

YES: Chairperson Allen, Councilmembers Bonds, Cheh, and Grosso

NO: None

PRESENT: None

ABSENT: Councilmember Vincent Gray

LIST OF ATTACHMENTS

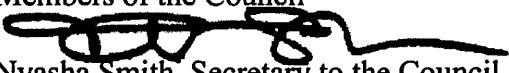
- (A) B22-0197, as introduced
- (B) Notice of Public Hearing, as published in the *District of Columbia Register*
- (C) Agenda and Witness List
- (D) Witness Testimony
- (E) Fiscal Impact Statement
- (F) Legal Sufficiency Determination
- (G) Comparative Print of B22-0197
- (H) Committee Print of B22-0197

ATTACHMENT A

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington D.C. 20004

Memorandum

To : Members of the Council

From : 
Nyasha Smith, Secretary to the Council

Date : March 21, 2017

Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Committee of the Whole on Tuesday, March 21, 2017. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Primary Date Alteration Amendment Act of 2017", B22-0197

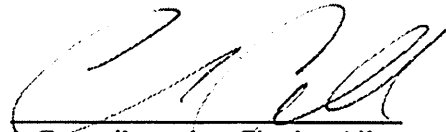
INTRODUCED BY: Councilmember Allen

CO-SPONSORED BY: Councilmembers Evans and Grosso

The Chairman is referring this legislation to the Committee on Judiciary and Public Safety.

Attachment

cc: General Counsel
Budget Director
Legislative Services


Councilmember Charles Allen

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Election Code of 1955 to comply with federal law by changing the date of District of Columbia primary elections.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Primary Date Alteration Amendment Act of 2017".

Sec. 2. The District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.01 *et seq.*), is amended as follows:

(a) Section 5 (D.C. Official Code § 1-1001.05) is amended as follows:

(1) Subsection (b)(1) is amended by striking the phrase "2nd Tuesday in June" and inserting the phrase "3rd Tuesday in June" in its place.

(b) Section 10(a) (D.C. Official Code § 1-1001.10(a)) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase "2nd Tuesday in June" and inserting the phrase "3rd Tuesday in June" in its place.

(2) Paragraph (3) is amended as follows:

(A) Subparagraph (A) is amended by striking the phrase "2nd Tuesday in June of 2016 and the 1st Tuesday in September of each even-numbered year thereafter;" and inserting the phrase "3rd Tuesday in June of each even-numbered year" in its place.

(B) Subparagraph (B) is amended by striking the phrase "2nd Tuesday in June of 2016 and the 1st Tuesday in September of each even-numbered year thereafter," and inserting the phrase "3rd Tuesday in June of each even-numbered year" in its place.

(C) Subparagraph (C) is amended by striking the phrase "2nd Tuesday of June of 2016 and the 1st Tuesday of September of every 4th year thereafter," and inserting the phrase "3rd Tuesday in June of 2018 and every 4th year thereafter" in its place.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

ATTACHMENT B

**Council of the District of Columbia
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

**COUNCILMEMBER CHARLES ALLEN, CHAIRPERSON
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY**

ANNOUNCES A PUBLIC HEARING ON

BILL 22-0197, THE “PRIMARY DATE ALTERATION AMENDMENT ACT OF 2017”

**Wednesday, April 26, 2017, 3 p.m.
Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Wednesday, April 26, 2017, Councilmember Charles Allen, Chairperson of the Committee on the Judiciary and Public Safety, will hold a public hearing on Bill 22-0197, the “Primary Date Alteration Amendment Act of 2017”. The hearing will take place in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 3 p.m.

The stated purpose of Bill 22-0197, the “Primary Date Alteration Amendment Act of 2017”, is to amend the District of Columbia Election Code of 1955 to comply with federal law by changing the date of the District of Columbia primary elections to the third Tuesday in June.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact the Committee via email at judiciary@dccouncil.us or at (202) 727-8275, and provide their name, telephone number, organizational affiliation, and title (if any), by **close of business Friday, April 21**. Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witnesses are encouraged to bring **twenty single-sided copies** of their written testimony and, if possible, also submit a copy of their testimony electronically in advance to judiciary@dccouncil.us.

For witnesses who are unable to testify at the hearing, written statements will be made part of the official record. Copies of written statements should be submitted either to the Committee at judiciary@dccouncil.us or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. **The record will close at the end of the business day on April 26.**

ATTACHMENT C

**Council of the District of Columbia
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY
AGENDA & WITNESS LIST
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

**COUNCILMEMBER CHARLES ALLEN, CHAIRPERSON
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY**

ANNOUNCES A PUBLIC HEARING ON

BILL 22-0197, THE “PRIMARY DATE ALTERATION AMENDMENT ACT OF 2017”

**Wednesday, April 26, 2017, 3 p.m.
Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

AGENDA

- I. CALL TO ORDER**
- II. OPENING REMARKS**
- III. WITNESS TESTIMONY**
 - i. Public Witnesses
 - 1. China Dickerson, Executive Director, D.C. Young Democrats
 - 2. Lars H. Hyde, D.C. Republican Committee
 - 3. Martin Moulton, Member, D.C. Libertarian Party
 - ii. Government Witness
 - 1. Alice Miller, Executive Director, Board of Elections
- IV. ADJOURNMENT**

ATTACHMENT D

From: larshhydle <larshhydle@aol.com>

To: judiciary <judiciary@dccouncil.us>

Subject: Testimony of Lars H. Hyde, DC Republican Committee, on Bill 22-0197

Date: Tue, Apr 25, 2017 6:21 pm

Thank you for allowing me the opportunity to testify before you today on this legislation to change the date of the 2018 District of Columbia Primary. I would like to thank Chairman Allen for holding this public hearing to listen to all sides. My name is Lars H. Hyde, here on behalf of the DC Republican Committee as a longtime member and as past Chairman of the 2016 DC Republican Party Platform Committee. Our Executive Director, Patrick Mara, is unable to attend today as he must pick up his child from a DC Public School.

Mr. Chairman and members of the committee, I am here today to voice the DC Republican Committee's support for Bill 22-0197, the "Primary Date Alteration Amendment Act of 2017." The legislation received the approval of both the Executive Committee and the General Membership of the DC Republican Committee. Members of our party agree that it is essential that those District of Columbia residents stationed overseas who are veterans, Foreign Service professionals or otherwise situated in a foreign country deserve the right to fully vote in our elections. As a former Foreign Service Officer often stationed overseas, I cannot stress enough the importance of allowing overseas District residents the opportunity to participate in our democracy.

I also want to take the opportunity to encourage the DC Council to reach out to the DC Republican Committee in advance of the 2020 election cycle. As you know, the late June 2016 city primary and the earlier than usual Republican National Convention (July 2016) forced DC Republicans to hold our own stand-alone primary separate from the city in March 2016. While we had thousands who participated in our primary we were forced to organize it at great expense. In addition, security concerns made us hold the event at a private venue. Obviously, elections held at individual precincts would increase participation. A Presidential primary planned in a bipartisan fashion would allow us to maximize participation and highlight the District of Columbia at a national level. Please reach out to us in advance of the 2020 election cycle so we can work together.

As I mentioned earlier, I was the Chairman of the DC GOP 2016 Platform Committee. As part of our local Platform we called for nonpartisan elections in DC. Of the 30 most populous cities in the United States (DC is number 27), 22 hold nonpartisan elections and only 8, including DC hold partisan elections. The DC GOP hopes the DC Council, the Mayor and the U.S. Congress would consider nonpartisan elections here. Nonpartisan elections would provide a greater diversity of viewpoints within our local government and would likely expedite any solution to DC's lack of Congressional representation.

Our 2016 platform also called for transferring the power to redistrict Ward council seats from the Council itself to an independent body.

Again, thank you for holding this informative hearing. We support the bill.

Lars H. Hyde
larshhydle@aol.com
202-333-4970

Bill 22-0197, the "Primary Date Alteration Amendment Act of 2017"
Councilmember Charles Allen, Chairperson
Committee on the Judiciary & Public Safety

3pm, Wednesday, 26 April 2017
Room 123, John A. Wilson Building
1350 Pennsylvania Avenue NW, Washington, DC 20004

T LIBERTARIAN
Party of the District of Columbia

Chair
John Vaught LaBeaume

Treasurer
Wes Johnson

Contact
libertarianpartyofdc@gmail.com

Dear Chairman Allen, Members of the committee and staff:

My name is Martin Moulton and I'm a Ward 6 resident and member and previous candidate of the Libertarian Party. The DC Libertarian Party is committed to advancing freedom from destructive and counter-productive government policies and creating an environment for greater prosperity for all residents and businesses owners alike.

We espouse religious freedom as well as the rights of those from diverse communities to conduct their lives as they choose as long as they refrain from hurting anyone else or taking others' stuff. We firmly believe that ending the disastrous war on drugs in todo will eliminate the lion's share of illegal gun violence in the city we love, allowing more of our neighbors to live in peace, and that the rights of private lawful gun owners do not threaten public safety. We also embrace liberal immigration policies that support a diverse and robust workforce.

Furthermore, the DC Libertarian Party adamantly opposes current inhumane, deadly, undemocratic, illogical, immoral, illegal, unconstitutional, and astronomically costly international US wars (including the oft-overlooked drug war with Mexico). These wars have been consistently promoted by candidates from Democrat and Republican parties over three decades — forcing 'democracy' on those who reject it at gunpoint — at the expense of effectively and efficiently —

- advancing democracy for US citizens in the District through DC Statehood,
- promoting international peace,
- protecting the environment,
- ensuring personal privacy,
- nurturing a high-quality and low-cost competitive healthcare market,
- providing top-quality education — preschool through college, and
- developing world-class US infrastructure serving all residents.

We appreciate your holding today's hearing and inviting us to submit our opinion.

Eliminating the existing District of Columbia September primary date and altering the Second Tuesday to the Third Tuesday in June are changes we support. These adjustments should give greater opportunity and more time for candidates vetted by their party to campaign competitively with the other parties' candidates and be properly recognized in the media and public forums.

Our party plans to present candidates in upcoming June primaries to advance liberty and more options for District voters. We urge you to encourage the DC Board of Elections and Ethics to expeditiously update its website and mobile app to give citizens the option to register as Libertarians and acknowledge their own desire for greater individual freedom.

Thank you very much for your time and consideration.

Monday, May 01, 2017

Committee, DC Young Democrats would like to thank Councilmember Charles Allen and the rest of the Committee on Judiciary and Public Safety for their work on this issue and for the opportunity to submit testimony in support of Bill 22-0197, the "Primary Date Alteration Amendment Act of 2017."

The District of Columbia Young Democrats is an official state unit of the Young Democrats of America, and we work with the DC Democratic State Committee and the Democratic National Committee to encourage political movement among young voters and those approaching voting age in the District of Columbia. This bill helps to advance these ideals.

Bill 22-0197 will change the date of DC primary elections to the third Tuesday in June. The purpose of this bill is to make DC compliant with a federal law that requires that overseas voters receive General election ballots at least forty-five days before General Election Day.

In 2016, the majority of states (approximately thirty) held their state primary elections before August, with the earliest being March and the latest, November. The previous year, twenty-five states held their state primary elections before August, with the earliest being February. The last two District of Columbia Primary Elections were held on April 2014 and June 2016. Under current law, the next DC primary election will be held on September 4, 2018. Bill 22-0197 would move that to an earlier date: June 19, 2018. With the majority of states holding primary elections before August, DC would be following the national trend if Bill 22-0197 were to become law, allowing the District to comply with federal guidelines.

Some critics of the bill express that DC has recently changed its election date several times, making it difficult for voters to establish a routine for voting. DC Young Democrats shares this concern, so with the passage of this bill we insist, as the bill provides, that it be the permanent date for subsequent primary elections.

Lastly, we must make sure, as a unit of the Democratic National Committee, that the June election date does not occur after the Democratic National Convention typically held in June every four years. We ask that the Committee guarantee that we hold elections before the Convention so that we may have effective representation at the Convention.

In summary, the District of Columbia Young Democrats supports this bill, because we believe that this measure will make the voter registration process more efficient and encourage more residents to participate in the democratic process afforded to each American. If passed, this bill will establish a permanent election date, giving much needed stability and consistency to the process. Therefore, we strongly urge this body to refrain from adjusting the date of the primary henceforth. This law places our election on a viable date before August, preventing potential federal violations and occurring during a time of the year most compatible with campaign-related activities, like voter outreach and community gatherings.

Committee, we urge you to approve Bill 22-0197. Thank you for your time.

District of Columbia's Young Democrats

Washington D.C.

***TESTIMONY BEFORE THE COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY***

ON

THE PRIMARY DATE ALTERATION ACT OF 2017

**Wednesday, April 26, 2017
Room 123, John A. Wilson Building
1350 Pennsylvania Ave., N.W.
Washington, D.C. 20004**

**Executive Director Alice P. Miller
D.C. Board of Elections**

Good afternoon, Chairman Allen, members of the Committee on the Judiciary, and staff supporting the Committee. My name is Alice Miller, and I am the Executive Director of the D.C. Board of Elections (“the Board”). I am joined today by the Board’s General Counsel, Ken McGhie. On behalf of the Board, we would like to thank you for the opportunity to provide testimony regarding the Primary Date Alteration Act of 2017 (“the Act”).

The Act would change the date of each District of Columbia primary election - local, federal, and presidential preference – to the 3rd Tuesday in June. Under current law, the local/federal primary would be held on the 1st Tuesday in September in even-numbered years, and the presidential preference primary would be held on the 2nd Tuesday in June in presidential election years.

The Act adequately addresses concerns regarding a September primary election. By way of background, in 2009, Congress enacted the Military and Overseas Voter Empowerment Act (“MOVE Act”). A primary provision in the MOVE Act established that states, including the District, must transmit validly requested absentee ballots to uniformed and overseas voters no later than 45 days before a federal election when the request for the absentee ballot has been

received by that date. By way of example, this means that, for the November 6, 2018 General Election, the Board must transmit validly requested absentee ballots to uniformed and overseas voters by no later than Friday, September 21, 2018.

At the time the MOVE Act was passed, District law required that the Board's federal primary election be held on the 1st Tuesday after the 2nd Monday in September of each even-numbered year, a date that was not conducive to compliance with the 45-day ballot transmission requirement. In light of the MOVE Act, in 2010, the Council unanimously adopted the "Sense of the Council Primary Election Timing Resolution of 2010 ("the Resolution")," in which it expressed its understanding that, in order to comply with the MOVE Act, "the District government [would] need to move the date of its primary elections for federal offices to a date no later than the Tuesday of the first full week of August" beginning in 2012. Subsequently, the Council enacted the "District of Columbia Board of Elections and Ethics Primary Date Alteration Amendment Act of 2011," which changed the date of the District's federal and local primary election from the 1st Tuesday after the second Monday in September to the 1st Tuesday in April in election years. However, in 2015, the Council enacted the "District of Columbia Primary Date Alteration Amendment Act of 2014," which reinstated a September primary election beginning in 2018.

A cursory examination of the Board's required post-election activities makes clear that a September primary election places an extreme burden on the Board's ability to transmit full ballots to the District's uniformed and overseas voters in advance of the general election. After each election, the Board must make determinations regarding special ballots cast. (Special ballots are ballots cast by individuals whose eligibility to vote is in doubt.) First, the Board issues preliminary determinations regarding the special ballots. Next, individuals whose special ballots

are preliminarily rejected may appeal that determination before the Board. Unsuccessful administrative appellants may then seek recourse in the D.C. Court of Appeals. This special ballot resolution process can take up to four days. Under a best case scenario, the earliest that the Board could certify election results after the primary would be four business days after the primary. Using 2018 as an example, under current law, the earliest that the Board could certify the results of the primary election, which would be held on September 4th, would be September 10th. The deadline to seek judicial review of or a recount of a contest in that election would be September 17th. Any recount requested on September 17th could not *commence* until September 20th - a day before September 21st, the deadline to transmit validly requested UOCAVA ballots for the November 2018 General Election.

By changing the date of the primary election to the 3rd Tuesday in June, the Act addresses this problem, and enhances the Board's ability to allow uniformed and overseas voters sufficient time to vote in federal elections. Again using 2018 as an example, under the Act, the primary election would be held on June 19th. Any post-election judicial review or recount for such election would, in all likelihood, be completed no later than the 3rd week in July. Assuming the primary election post-election wrap-up is completed on the outside date of Friday, July 20th, that would leave the Board with nearly two full months to meet the 45-day ballot transmission deadline for the November 2018 General Election. The Board has prepared draft calendars that illustrate the differences between the current and proposed primary dates in terms of impact on the Board's ability to comply with the MOVE Act.

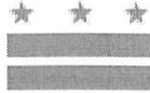
It is also important to note that by setting the primary election on the 3rd Tuesday in June, rather than the 2nd Tuesday in June, as was the case in 2016, would alleviate the challenges the Board faced in 2016 with not being able to access schools that were serving as polling places for

set-up purposes on the day before Election Day due to end-of-year events, such as graduation ceremonies, as the school year would be completed prior to the week of the election.

Thank you for allowing us the opportunity to testify and we are prepared to respond to any questions you may have at this time.

ATTACHMENT E


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: May 8, 2017

SUBJECT: Fiscal Impact Statement – Primary Date Alteration Amendment Act of 2017

REFERENCE: Bill 22-197, Draft Committee Print as shared with the Office of Revenue Analysis on May 8, 2017

Conclusion

Funds are sufficient in the fiscal year 2017 budget and the proposed fiscal year 2018 through fiscal year 2021 budget and financial plan to implement the bill. The bill's implementation will cost the District of Columbia Board of Elections (BOE) an additional \$10,000 to \$15,000 per primary election, which the agency can absorb.

Background

The bill changes the primary election dates in the District to the third Tuesday in June for all local and federal elections. Currently, primary elections are held on the second Tuesday in June during presidential election years¹ and on the first Tuesday in September during other years.²

The bill eliminates a restriction that a Board of Elections board member cannot be a federal employee. The bill also alters the definition of who is a government employee for purposes of employee engagement in political activities to exclude the Attorney General.³

¹ This primary applies to the president, presidential electors, House of Representatives, and some Councilmembers.

² This primary applies to the Mayor, Chairman of the Council, Attorney General, and the remaining Councilmember seats.

³ Under current law, the Attorney General would not be considered an employee beginning on January 1, 2018 (Prohibition on Government Employee Engagement in Political Activity Act of 2010, effective March 31, 2011 (D.C. Law 18-335; D.C. Official Code § 1-1171.01(3)(A)(iii))).

The Honorable Phil Mendelson

FIS: Bill 22-197, "Primary Date Alteration Amendment Act of 2017," Draft Committee Print as shared with the Office of Revenue Analysis on May 8, 2017

Financial Plan Impact

Funds are sufficient in the fiscal year 2017 budget and the proposed fiscal year 2018 through fiscal year 2021 budget and financial plan to implement the bill. The bill moves all primary elections to the third Tuesday in June. BOE costs will increase by \$10,000 to \$15,000 per primary election to cover additional security and custodial costs at District of Columbia Public School locations when school is not in session. BOE can absorb these costs within its existing resources.

ATTACHMENT F



OFFICE OF THE GENERAL COUNSEL

Council of the District of Columbia
1350 Pennsylvania Avenue NW, Suite 4
Washington, DC 20004
(202) 724-8026

MEMORANDUM

TO: Councilmember Charles Allen

FROM: Ellen Efros, General Counsel *EAC*

DATE: May 8, 2017

RE: Legal sufficiency determination for Bill 22-197, the
Primary Date Alteration Amendment Act of 2017

This measure is legally and technically sufficient for Council consideration.

This bill amends:

(1) The District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.01 *et seq.*), to:

(A) Permit members of the Board of Elections to hold federal employment; and

(B) Change the date of primary elections to the 3rd Tuesday in June;

(2) Section 309 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.09(b)), to modify the 8-day pre-election reporting requirement to apply only to special and general elections; and

(3) Section 2(3)(A)(iii) of the Prohibition on Government Employee Engagement in Political Activity Act of 2010, effective March 31, 2011 (D.C. Law 18-335; D.C. Official Code § 1-1171.01(3)(A)(iii)), to strike the date January 1, 2018, to exclude the Attorney General from the definition of "employee".

I am available if you have any questions.

ATTACHMENT G

**Comparative Committee Print
B22-0197
Committee on the Judiciary and Public Safety
May 9, 2017**

Section 2

D.C. Code § 1-1001.04. Board of Elections — Qualifications; prohibited activities; compensation; removal; time for filling vacancy.

(a) When appointing a member of the Board, the Mayor and Council shall consider whether the individual possesses demonstrated integrity, independence, and public credibility and whether the individual has particular knowledge, training, or experience in government ethics or in elections law and procedure. A person shall not be a member of the Board unless he or she:

- (1) Is a duly registered voter;
- (2) Has resided in the District continuously since the beginning of the 3-year period ending on the day he or she is appointed; and
- (3) Holds no other paid office or employment in the District government ~~and no active office, position, or employment in the federal government.~~

(b) No person, while a member of the Board, shall:

- (1) Campaign for any other public office;
- (2) Hold any office in any political party or political committee;
- (3) Participate in or contribute to any political campaign of any candidate in any election held under this subchapter;
- (3A) Be an officer or a director of an organization receiving District funds, or an employee of an organization receiving District funds, who has managerial or discretionary responsibilities with respect to those funds;
- (4) Act in his or her capacity as a member, to directly or indirectly attempt to influence any decision of a District government agency, department, or instrumentality relating to any action which is beyond the jurisdiction of the Board; or
- (5) Be convicted of having committed a felony in the District of Columbia; or if the crime is committed elsewhere, conviction of such offense as would be a felony in the District of Columbia.

[...]

D.C. Code § 1-1001.05. Board of Elections — Duties.

[...]

(b)(1) The Board shall, on the ~~2nd Tuesday in June~~ 3rd Tuesday in June of each presidential election year, conduct a presidential preference primary election within the District of Columbia in which the registered qualified voters therein may express their preference for candidates of each political party of the District of Columbia for nomination for President.

(2) No person shall be listed on the ballot as a candidate for nomination for President in such primary unless there shall have been filed with the Board no later than 90 days before the date of such presidential primary election a petition on behalf of his or her candidacy signed by at least 1,000, or 1%, whichever is less, of the qualified electors of the District of Columbia who are registered under § 1-1001.07, and of the same political party as the nominee.

(3)(A) Candidates for delegate and alternates where permitted by political party rules to a particular political party national convention convened to nominate that party's candidate for President shall be listed on the ballot of the presidential preference primary held under this subchapter as:

(i) Full slates of candidates for delegates supporting a candidate for nomination for President if there shall have been filed with the Board, no later than 90 days before the date of such presidential primary, a petition on behalf of such slate's candidacy signed by the candidates on the slate, and by at least 1,000, or 1%, whichever is less, of the qualified electors of the District of Columbia who are registered under § 1-1001.07 and are of the same political party as the candidates on such slate;

(ii) Full slates of candidates for delegates not committed to support any named candidate for nomination for President if there shall have been filed with the Board, no later than 90 days before the date of such presidential primary, a petition on behalf of such slate's candidacy, signed by the candidates on the slate and by at least 1,000, or 1%, whichever is less, of the qualified electors of the District of Columbia who have registered under § 1-1001.07 and are of the same political party as the candidates on such slate;

(iii) An individual candidate for delegate supporting a candidate for nomination for President if there shall have been filed with the Board, no later than 90 days before the date of such presidential primary, a petition on behalf of such candidate, signed by the candidate and by at least 1,000, or 1%, whichever is less, of the qualified electors of the District of Columbia who have registered under § 1-1001.07 and are of the same political party as the candidate; or

(iv) An individual not committed to support any named candidate for nomination for President if there shall have been filed with the Board, no later than 90 days before the date of such presidential primary, a petition on behalf of such candidate, signed by the candidate and by at least 1,000, or 1%, whichever is less, of the qualified electors of the District of Columbia who have registered under § 1-1001.07 and are of the same political party as the candidate.

(B) No candidate for delegate or alternate may be listed on the ballot unless such candidate was properly selected according to the rules of his political party relating to the nomination of candidates for delegate or alternate.

(C) The governing body of each eligible party shall file with the Board, no later than 180 days prior to the presidential preference primary election:

(i) Notification of that party's intent to conduct a presidential preference primary; and

(ii) A plan for the election detailing the procedures to be followed in the selection of individual delegates and alternates to the convention of that party, including procedures for the selection of committed and uncommitted delegates.

(4) The Board shall:

(A) Arrange the ballot for the presidential preference primary so as to enable each voter to indicate his or her choice for presidential nominee and for the slate of delegates and alternates pledged to support that prospective nominee with 1 mark, and provide an alternative to vote for individual delegates or uncommitted slates of delegates; and

(B) Clearly indicate on the ballot the candidate for nomination for President which a slate or candidate for delegate supports, or name of the person who shall manage an uncommitted slate of delegates.

(5) The delegates and alternates, of each political party in the District of Columbia to the national convention of that party convened for the nomination of that party for President, elected in accordance with this subchapter, shall only be obliged to vote for the candidate whom he or she has been selected to represent in accordance with properly promulgated rules of the political party, on the 1st ballot cast at the convention for nominees for President, or until such time as such candidate to whom the delegate is committed withdraws his candidacy, whichever 1st occurs.

[...]

D.C. Code § 1-1001.10. Dates for holding elections; votes cast for President and Vice President counted as votes for presidential electors; voting hours; tie votes; filling vacancy where elected official dies, resigns, or becomes unable to serve.

(a)(1) The elections of the officials referred to in § 1-1001.01(1), (2), (3), or (4) shall be held, at the request of the party, during a primary election already scheduled for other purposes on the date requested; provided, that it does not interfere or conflict with applicable national party rules. The primary under § 1-1001.05(b) shall be held on the ~~2nd Tuesday in June~~ 3rd Tuesday of June each presidential election year.

(2) The electors of President and Vice President of the United States shall be elected on the Tuesday next after the 1st Monday in November in every 4th year succeeding every election of a President and Vice President of the United States. Each vote cast for a candidate for President or Vice President whose name appears on the general election ballot shall be counted as a vote cast for the candidates for presidential electors of the party supporting such presidential and vice presidential candidate. Candidates receiving the highest number of votes in such election shall be declared the winners, except that in the case of a tie it shall be resolved in the same manner as is provided in subsection (c) of this section.

(3)(A) Except as otherwise provided in the case of special elections under this subchapter or § 206(a) of the District of Columbia Delegate Act, primary elections of each political party for the office of Delegate to the House of Representatives shall be held on the ~~2nd Tuesday in June of 2016 and the 1st Tuesday in September of each even-numbered year thereafter~~ 3rd Tuesday in June of each even-numbered year; and general elections for such office shall be held on the Tuesday next after the 1st Monday in November of each even-numbered year.

(B) Except as otherwise provided in the case of special elections under this subchapter primary elections of each political party for the office of member of the Council shall be held on the ~~2nd Tuesday in June of 2016 and the 1st Tuesday in September of each even-numbered year thereafter~~ 3rd Tuesday in June of each even-numbered year, and general election for such offices shall be held on the 1st Tuesday after the 1st Monday in November in 1974 and every 2nd year thereafter.

(C) Except as otherwise provided in the case of a special election under this subchapter or by § 1-204.35(b), primary elections of each political party for the office of Chairman of the Council, Mayor and Attorney General shall be held on the ~~2nd Tuesday in June of 2016 and the 1st Tuesday in September of every 4th year thereafter~~ 3rd Tuesday in June of 2018 and every 4th year thereafter and the general election for such office shall be held on the 1st Tuesday after the 1st Monday in November in 1974 and every 4th year thereafter.

(4) With respect to special elections required or authorized by this subchapter or by § 1-204.35(b), the Board may establish the dates on which such special elections are to be held and prescribe such other terms and conditions as may, in the Board's opinion, be necessary or appropriate for the conduct of such elections in a manner comparable to that prescribed for other elections held pursuant to this subchapter.

(5) General elections of members of the State Board of Education shall be held on the 1st Tuesday after the 1st Monday in November of each odd-numbered calendar year through 1987, and thereafter in each even-numbered calendar year, on the same day and month.

[...]

Section 3

D.C. Code § 1-1163.09. Reporting.

(a) The following individuals shall file with the Director of Campaign Finance, and with the principal campaign committee, if applicable, reports of receipts and expenditures on forms to be prescribed or approved by the Director of Campaign Finance:

- (1) The treasurer of each political committee;
- (2) The treasurer of each political action committee; and
- (3) The treasurer of each independent expenditure committee.

(b) The reports required by subsection (a) of this section shall be filed on the 10th day of March, June, August, October, and December in the 7 months preceding the date on which, and in each year during which, an election is held for the office sought, and ~~8 days before an election~~ 8 days before a special or general election, and also by the 31st day of January of each year. In addition, the reports shall be filed on the 31st day of July of each year in which there is no election. The reports shall be complete as of the date prescribed by the Director of Campaign Finance, which shall not be more than 5 days before the date of filing, except that any contribution of \$200 or more received after the closing date prescribed by the Director of Campaign Finance for the last report required to be filed before the election shall be reported within 24 hours after its receipt.

(c) Each report under this section shall disclose:

- (1) The amount of cash on hand at the beginning of the reporting period;
- (2) The full name and mailing address, including the occupation and the principal place of business, if any, of each person who has made one or more contributions to or for a committee or candidate, including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events, within the calendar year in an aggregate amount or value in excess of \$50 or more, together with the amount and date of the contributions;

(2A) For each contribution by a business contributor, any information provided by that business contributor in accordance with § 1-1163.13(b);

(3) The total sum of individual contributions made to or for a committee or candidate during the reporting period and not reported under paragraph (2) of this subsection;

(4) Each loan to or from any person within the calendar year in an aggregate amount or values of \$50 or more, together with the full names and mailing addresses (including the occupation and the principal place of business, if any) of the lender and endorsers, if any, and the date and amount of the loans; and

(5) The net amount of proceeds from:

(A) The sale of tickets to each dinner, luncheon, rally, and other fundraising events organized by a committee;

(B) Mass collections made at the events; and

(C) Sales by a committee of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(6) Each contribution, rebate, refund, or other receipt of \$50 or more not otherwise listed under paragraphs (2) through (5) of this subsection;

(7) The total sum of all receipts by or for a committee or candidate during the reporting period;

(8) The full name and mailing address (including the occupation and the principal place of business, if any) of each person to whom expenditures have been made by a committee or on behalf of a committee or candidate within the calendar year in an aggregate amount or value of \$10 or more, the amount, date, and purpose of each expenditure, and the name and address of, and office sought by, each candidate on whose behalf the expenditure was made;

(9) The total sum of expenditures made by a committee or candidate during the calendar year;

(10) The amount and nature of debts and obligations owed by or to the committee, in a form as the Director of Campaign Finance may prescribe, and a continuous reporting of its debts and obligations after the election when the Director of Campaign Finance may require until the debts and obligations are extinguished; and

(11) Other information as may be required by the Director of Campaign Finance.

(d) The reports to be filed under subsection (a) of this section shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during the year, only the unchanged amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the committee or candidate shall file a statement to that effect.

(e)(1) A report or statement required by this part shall be verified by the oath or affirmation of the person filing the report or statement.

(2) The oath or affirmation required under this subsection shall be given under penalty of perjury and shall state that the filer has used all reasonable diligence in the preparation of the report or statement and the report or statement is true and complete to the best of the filer's knowledge.

(3) An oath or affirmation by a candidate shall also state that the candidate has used all reasonable diligence to ensure that:

(A) The candidate and the candidate's political committees are in compliance with this part; and

(B) The candidate's political committees have advised their contributors of the obligations imposed on those contributors by this subchapter.

(4) The Elections Board shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. The regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in the regulations shall not be considered until actual payment is made.

(f) Each political committee (including principal campaign, inaugural, transition, and exploratory committees) shall, in a separate schedule of its report to be filed under subsection (a) of this section, disclose the:

- (1) Name, address, and employer of each person reasonably known by the committee to have bundled in excess of \$10,000 during the reporting period; and
- (2) For each person, the total of the bundling.

Section 4

D.C. Code § 1-1171.01. Definitions.

For the purposes of this chapter, the term:

(1) “Board” means the District of Columbia Board of Ethics and Government Accountability established by § 1-1162.02.

(2) “Candidate” means an individual who seeks nomination or election to any elective office in the District whether or not the person is elected. An individual is deemed to be a candidate if the individual has received political contributions or made expenditures or has consented to another person receiving contributions or making expenditures with a view to bringing about the individual’s nomination or election.

(3) “Employee” means:

(A) Any individual paid by the District government from grant or appropriated funds for his or her services or holding office in the District of Columbia, other than the following (if not otherwise employed by the District):

- (i) Employees of the courts of the District of Columbia;
- (ii) The Mayor;
- (iii) The Attorney General, ~~after January 1, 2018~~;
- (iv) The members of the Council;
- (v) Advisory Neighborhood Commissioners;
- (vi) Members of the State Board of Education; or
- (vii) Members of the District of Columbia Statehood Delegation;

(B) A member of a board or commission who is nominated for a position pursuant to § 1-523.01(e); and

(C) A member of a board or commission who is nominated for a position pursuant to § 1-523.01(f), when the member is engaged in political activity that relates to the subject matter that the member’s board or commission regulates.

(4) “On duty” means the time period when an employee is:

(A) In a pay status other than paid leave, compensatory time off, credit hours, time off as an incentive award, or excused or authorized absence (including leave without pay); or

(B) Representing any agency or instrumentality of the District government in an official capacity.

(5) “Partisan” when used as an adjective means related to a political party.

(6) “Partisan political group” means any committee, club, or other organization that is regulated by the District and that is affiliated with a political party or candidate for public office in a partisan election, or organized for a partisan purpose, or which engages in partisan political activity.

(7) “Partisan political office” means any office in the District government for which any candidate is nominated or elected as representing a party any of whose candidates for Presidential

elector received votes in the last preceding election at which Presidential electors were selected, but shall exclude any office or position within a political party or affiliated organization.

(8)(A) "Political activity" means any activity that is regulated by the District directed toward the success or failure of a political party, candidate for partisan political office, partisan political group, ballot initiative, or referendum. For the purposes of § 1-1171.03, political activity is not limited to activities regulated by the District.

(B)(i) The Board may, by rule, define certain basic activities as nonpolitical activities.

(ii) The term "nonpolitical activities" shall include:

- (I) Media inquiries;
- (II) Answering questionnaires; and
- (III) Scheduling.

(9)(A) "Political contribution" means:

(i) A gift, subscription, loan, advance, or deposit of money, or anything of value, made for any political purpose;

(ii) A contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any political purpose;

(iii) A payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to any candidate or political party or affiliated organization without charge for any political purpose; and

(iv) The provision of personal services, paid or unpaid, for any political purpose.

(B) The term "political contribution" shall not include the value of services provided without compensation by any individual on behalf of any candidate, campaign, political party, or partisan political group.

(10) "Political party" means a national political party, a State political party, or an affiliated organization that is regulated by the District.

(11) "Political purpose" means an objective of promoting or opposing a political party, candidate for partisan political office, or partisan political group that is regulated by the District.

ATTACHMENT H

1 **Committee Print**
2 **B22-0197**
3 **Committee on the Judiciary & Public Safety**
4 **May 9, 2017**

5
6 **A BILL**
7
8
9

10
11 **IN THE COUNCIL OF THE DISTRICT OF COLUMBIA**
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16 To amend the District of Columbia Election Code of 1955 to allow members of the Board of
17 Elections to hold employment in the federal government and to change the date of primary
18 elections to ensure compliance with federal law; to amend the Board of Ethics and
19 Government Accountability Establishment and Comprehensive Ethics Reform
20 Amendment Act of 2011 to remove the redundant 8 day pre-primary election filing date;
21 and to amend the Prohibition on Government Employee Engagement in Political Activity
22 Act of 2010 to clarify the definition of “employee”.
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24 **BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this**
25 **act may be cited as the “Primary Date Alteration Amendment Act of 2017”.**

26 **Sec. 2. The District of Columbia Election Code of 1955, approved August 12, 1955 (69**
27 **Stat. 699; D.C. Official Code § 1-1001.01 *et seq.*), is amended as follows:**

28 **(a) Section 4(a)(3) (D.C. Code § 1-1001.04(a)(3)) is amended by striking the phrase “and**
29 **no active office, position, or employment in the federal government”.**

30 **(b) Section 5(b)(1) (D.C. Official Code § 1-1001.05(b)(1)) is amended by striking the**
31 **phrase “2nd Tuesday in June” and inserting the phrase “3rd Tuesday in June” in its place.**

32 **(c) Section 10(a) (D.C. Official Code § 1-1001.10(a)) is amended as follows:**

33 **(1) Paragraph (1) is amended by striking the phrase “2nd Tuesday in June” and**
34 **inserting the phrase “3rd Tuesday in June” in its place.**

35 **(2) Paragraph (3) is amended as follows:**

(A) Subparagraph (A) is amended by striking the phrase “2nd Tuesday in June of 2016 and the 1st Tuesday in September of each even-numbered year thereafter;” and inserting the phrase “3rd Tuesday in June of each even-numbered year” in its place.

(B) Subparagraph (B) is amended by striking the phrase “2nd Tuesday in June of 2016 and the 1st Tuesday in September of each even-numbered year thereafter,” and inserting the phrase “3rd Tuesday in June of each even-numbered year” in its place.

(C) Subparagraph (C) is amended by striking the phrase “2nd Tuesday of June of 2016 and the 1st Tuesday of September of every 4th year thereafter,” and inserting the phrase “3rd Tuesday in June of 2018 and every 4th year thereafter” in its place.

Sec. 3. Section 309(b) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.09(b)), is amended by striking the phrase “8 days before an election.” and inserting the phrase “8 days before a special or general election” in its place.

Sec. 4. Section 2(3)(A)(iii) of the Prohibition on Government Employee Engagement in Political Activity Act of 2010, effective March 31, 2011 (D.C. Law 18-335; D.C. Official Code § 1-1171.01(3)(A)(iii)), is amended by striking the phrase “after January 1, 2018”.

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 6. Effective date.

58 This act shall take effect following approval by the Mayor (or in the event of veto by the
59 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
60 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,
61 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
62 Columbia Register.