



Richard C. Pfeiffer, Jr.

CITY ATTORNEY

CITY ATTORNEY'S OFFICE • COLUMBUS OHIO

MEMORANDUM

TO: Andrea Blevins, CMC, City Clerk
FROM: Richard C. Pfeiffer, Jr., City Attorney *REC/ATC*
DATE: May 13, 2016
RE: Legal Sufficiency Review of Charter Amendment Petition Filing

On May 4, 2016, you forwarded to my office for review a copy of a charter amendment petition filed with your office on May 3, 2016, entitled by the petitioners as "To Amend the Charter to Create City Council Districts, Provide for Election of Council Members from Districts, and Change the Number of Council Members Elected At Large to Three." As required by Section 42-9 of the City Charter, upon the filing of a charter amendment petition, the City Clerk is required to "forward the [part] petitions to the elections authorities to validate the signatures on the petition and to the city attorney to advise on the legal sufficiency of the petition, based upon any applicable local, state or federal laws, rules or regulations." Further, Section 42-11 provides that "[n]o city officer may consider the subject matter of a petition when determining the legal sufficiency thereof, except as required to assure compliance with applicable provisions of this charter, general laws of the state, or ordinance of council." A city council's constitutional authority to review the sufficiency of petitions is limited to matters of form, not substance. *Morris v. City Council of Macedonia*, 71 Ohio St. 3d 52, 55 (1994).

I have previously reviewed the pre-circulation copy of this petition pursuant to Section 42-5 of the City Charter and concluded that it addresses a single subject and meets the requirements as to form set forth in Section 42-2 of the City Charter. A copy of that September 18, 2015 memorandum is attached hereto. Having reviewed the petition as filed with your office on May 3, 2016, I find no legal defect or alteration to the petition form from the pre-circulation copy that would cause me to change my previous opinion as to its compliance with the applicable requirements as to form.

Accordingly, it is my opinion, and City Council and the City Clerk are so advised, that the charter amendment petition entitled by the petitioners as "To Amend the Charter to Create City Council Districts, Provide for Election of Council Members from Districts, and Change the Number of Council Members Elected At Large to Three" and filed with the City Clerk on May 3, 2016 is legally sufficient, provided the Franklin County Board of Elections determines that it contains the requisite number of valid elector signatures as set forth in Section 45 of the City Charter and Article XVIII, Section 9 of the Ohio Constitution.

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MEMORANDUM

TO: Andrea Blevins, CMC, City Clerk
All Members of City Council

FROM: Richard C. Pfeiffer, Jr., City Attorney *RCP/STC*

DATE: September 17, 2015

RE: Initial Review of Pre-Circulation Charter Amendment Petition Filing

The City Clerk has forwarded to my office for review the pre-circulation copy of a charter amendment petition filed with her office on September 11, 2015, entitled by the petitioners as "To Amend the Charter to Create City Council Districts, Provide for Election of Council Members from Districts, and Change the Number of Council Members Elected At Large to Three."¹ The scope of my review at this stage is quite limited. As required by Section 42-5 of the City Charter, upon the petitioners' pre-circulation filing of a certified copy of a petition, "[t]he city attorney shall determine if the petition addresses a single subject and meets the requirements as to form herein, and shall report the same to the city clerk and the members of council."

Addressing first the single subject requirement, City Charter Section 42-2(d) provides that "[a] petition may only contain one proposal, which shall not address multiple or unrelated subject matters or questions of law." As I have previously noted, this Charter provision is similar to the state statute dealing with statewide initiative petitions, R.C. 3519.01(A), which provides, in pertinent part, that "[o]nly one proposal of law or constitutional amendment to be proposed by initiative petition shall be contained in an initiative petition to enable the voters to vote on that proposal separately." In construing this separate-petition requirement, the Ohio Supreme Court looked to its precedent with respect to the similar separate-vote requirement imposed on the General Assembly in the Ohio Constitution as instructive. *State ex rel. Ohio Liberty Council v. Brunner*, 125 Ohio St. 3d 315, 2010-Ohio-1845. The Court had previously set forth the following test for determining satisfaction of the separate-vote requirement:

¹ I have been advised by the City Clerk that this is the third petition filed with her office on this same subject matter since September 2, 2015. While to date neither of the previous two versions has been withdrawn by the petitioners in conformance with Section 42-8 of the City Charter, my review here will be limited to the September 11, 2015 petition since it is the most recent filing by the same petitioners on the same subject.

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"[T]he applicable test for determining compliance with the separate-vote requirement of Section 1, Article XVI is that 'a proposal consists of one amendment to the Constitution only so long as each of its subjects bears some reasonable relationship to a single general object or purpose.' (Emphasis sic.) 'Thus, where an amendment to the Constitution relates to a single purpose or object and all else contained therein is incidental and reasonably necessary to effectuate the purpose of the amendment, such amendment is not violative of the provisions of Section 1, Article XVI'. Courts have generally taken a 'liberal [view] in interpreting what such a single general purpose or object may be.'"

Id. at ¶42, quoting *State ex rel. Willke v. Taft*, 107 Ohio St. 3d 1, 2005-Ohio-5303, at ¶34 (internal citations omitted).

In applying this general guidance on the single subject rule to the initiative petition before me for initial review, it is my opinion that this petition complies with the City Charter's single subject requirement.

The requirements as to form in addition to the single subject requirement are set forth in Section 42-2 of the City Charter. Upon review of the petition, it appears to comply with those additional requirements.

In sum, it is my opinion, and City Council and the City Clerk are so advised, that the charter amendment petition entitled by the petitioners as "To Amend the Charter to Create City Council Districts, Provide for Election of Council Members from Districts, and Change the Number of Council Members Elected At Large to Three" and filed with the City Clerk on September 11, 2015 addresses a single subject and meets the requirements as to form set forth in Section 42-2 of the City Charter. As noted above, this opinion is limited in scope to the determinations required of me in Section 42-5 and I render no opinion at this time as to the substance of the petition or otherwise as to the petition's legal sufficiency.