



Legislation Details (With Text)

File #: 2299-2021 **Version:** 1

Type: Ordinance **Status:** Passed

File created: 9/1/2021 **In control:** Criminal Justice & Judiciary Committee

On agenda: 9/27/2021 **Final action:** 9/29/2021

Title: To approve the settlement in the case of the Cities of Cincinnati and Columbus v. First Energy, et al., Case No. 20-cv-7005 and to accept a deposit of \$35,750.00 to be deposited into the General Fund.

Sponsors:

Indexes:

Code sections:

Attachments:

| Date | Ver. | Action By | Action | Result |
|-----------|------|-----------------------|-------------------------|--------|
| 9/29/2021 | 1 | CITY CLERK | Attest | |
| 9/28/2021 | 1 | MAYOR | Signed | |
| 9/27/2021 | 1 | COUNCIL PRESIDENT | Signed | |
| 9/27/2021 | 1 | Columbus City Council | Approved | Pass |
| 9/20/2021 | 1 | Columbus City Council | Read for the First Time | |

HB 6 was passed by the 133rd General Assembly and signed into law. It included a rider on all electrical bills that would be paid to First Energy for a period starting January 1, 2021 and ending in 2027. On July 21, 2020, the United States Attorney for the Southern District of Ohio unsealed an indictment against then House Speaker Larry Householder and lobbyists Matt Borges, Juan Cespedes, Neil Clark, and Jeffrey Longstreth alleging a bribery scheme and violations of the federal RICO (Racketeer Influenced and Corrupt Practices Act). Specifically, the US Attorney alleged that Householder and entities controlled by him were paid \$61 million in bribes in order to pass HB 6.

The Ohio Attorney General initially filed suit asking that First Energy be enjoined from lobbying against the repeal of HB 6. The Franklin County Common Pleas Court denied the AG's TRO request. As a result, the City of Columbus, in partnership with the City of Cincinnati, filed a lawsuit against First Energy. The cities of Columbus and Cincinnati worked with Edelson PC in bringing this litigation. As trial counsel, Edelson agreed to represent the cities in the litigation and not charge the cities an hourly fee. If the cities recovered any money as a result of the litigation, Edelson agreed to take 10% of any such recovery, pending approval by Council.

The litigation that Columbus filed included a claim that First Energy violated the State's Racketeer Influenced and Corrupt Practices Act (State RICO). The litigation included a claim for attorneys' fees.

After the cities filed their RICO case, the Attorney General filed a second lawsuit in which he claimed a violation of State RICO laws. Over the Attorney General's objections, the Franklin County Common Pleas Court consolidated the three actions against First Energy and its related entities. Prior to the electric bill rider taking effect, the Common Pleas Court granted Columbus' motion for a preliminary injunction. As a result, no rate payers in the State of Ohio were required to pay First Energy the rate payer money it attempted to obtain through bribes.

The parties have attempted to reach a global settlement of their claims against First Energy and its subsidiaries and pursued mediation. During the mediation, First Energy and its subsidiaries have reached a settlement with the cities

of Columbus and Cincinnati pending approval by Council.

The settlement provides \$240,000 in attorneys' fees for settlement. By agreement between Cincinnati, Columbus, and Edelson, \$35,750 would go to Columbus for the time its attorneys spent on the case, that same amount would go to Cincinnati, and the rest would be payable to Edelson for its time on the case. Columbus and Cincinnati would then dismiss all claims against First Energy and its subsidiaries.

FISCAL IMPACT: This ordinance authorizes a deposit of \$35,750.00 to be accepted by the Treasurer and deposited into Fund 1000, General Fund.

To approve the settlement in the case of the *Cities of Cincinnati and Columbus v. First Energy, et al.*, Case No. 20-cv-7005 and to accept a deposit of \$35,750.00 to be deposited into the General Fund.

WHEREAS, the City filed a lawsuit titled *Cities of Cincinnati and Columbus v. First Energy, et al.*, Case No. 20-cv-7005 against First Energy in the Franklin County Court of Common Pleas alleging a civil violation of RC 2923.34; and

WHEREAS, the City obtained a Preliminary Injunction against the nuclear energy rider that would have been placed on every electric bill in the State due to the passage of HB 6; and

WHEREAS, the United States Attorney for the Southern District of Ohio has indicted former Speaker Larry Householder and lobbyists Neil Clark, Matt Borges, Juan Cepedes, and Jeffrey Longstreth for their actions in making or accepting bribes for the passage of HB 6; and

WHEREAS, First Energy has reached a different prosecution agreement with the United States Attorney for the Southern District of Ohio for its actions in bribing public officials in order to pass HB 6; and

WHEREAS, the Ohio General Assembly has subsequently repealed the rider from HB 6; and

WHEREAS, settlement of the lawsuit filed by the City serves the best interests of the citizens of the City of Columbus,
NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1: That City Council hereby accepts the recommendation of the City Attorney and the Special Counsel and authorizes approval of the settlement of the *Cities of Cincinnati and Columbus v. First Energy* Case No. 20-cv- 7005 in the Franklin County Court of Common Pleas.

SECTION 2: That the Special Counsel, through the City Attorney, is hereby authorized and directed to sign the settlement agreement that will provide attorneys' fees in the amount of \$35,750.00 for the City of Columbus for the time the attorneys from the City Attorney's office spent working on that litigation.

SECTION 3: That the City Attorney is hereby authorized to take all steps necessary to resolve these matters in accordance with the terms of the Settlement.

SECTION 4: That the City Attorney is hereby authorized to make all future settlement decisions and take all future steps necessary to settle any and all remaining claims arising out of or associated with *Cities of Cincinnati and Columbus v. First Energy*, Case No. 20-cv-7005.

SECTION 5. That the Treasurer's Office is hereby authorized and directed to accept and deposit \$33, 750.00 into the General Fund.

SECTION 5: That this ordinance shall take effect and be in force from and after the earliest period allowed by law.