City of Columbus

Office of City Clerk
90 West Broad Street
Columbus OH 43215-9015
columbuscitycouncil.org

Legislation Text

File #: 3051-2014, **Version:** 2

On April 15, 2014, petitioners Robert J. Fitrakis, Willis E. Brown, Denise A. Benning-Adeduge, Suzanne M. Patzer, and Jonathan C. Beard filed a pre-circulation copy of a petition to propose an initiated ordinance to amend prior ordinance ~~1596-2012~~ **1596-2011**. The copy was filed with the City Clerk. Petitioners also filed a pre-circulation copy of a separate petition to propose an initiated ordinance regarding public financing of political campaigns with the same office on the same day. No pre-circulation copy of either petition was filed with the City Auditor.

Petitioners filed petitions for the proposed initiated ordinance regarding public financing of political campaigns on July 15, 2014. At that time, the City Clerk requested a legal opinion from the City Attorney's office regarding petitioners' failure to file a pre-circulation copy of the petition with the City Auditor. The City Clerk was advised that petitioner's failure to follow the mandatory requirements of R.C.731.32 was fatal to their petition. Thus, the petition was rejected.

Petitioners then filed a mandamus action with the Ohio Supreme Court, *State ex rel. Columbus Coalition for Responsive Govt. v. Blevins,* 140 Ohio St.3d 294, 2014-Ohio-3745. The Ohio Supreme Court denied the writ and upheld the city's determination that the petition was fatally flawed.

On November 25, 2014, petitioners filed with the City Clerk a petition for an initiated ordinance to amend prior ordinance ~~1596-2012~~ **1596-2011**. Petitioners purported to file 487 part-petitions containing approximately 14,100 signatures.

While the Columbus City Charter has been amended between the aforementioned court decision and the filing of the current petition, the City Attorney's office has advised this Council that the law then in force controls for the pre-circulation filing requirements. R.C.731.32, the law in effect on April 15, 2014, reads as follows:

> "Whoever seeks to propose an ordinance … in a municipal corporation by initiative petition or files a referendum petition against any ordinance or measure shall, before circulating such petition, file a certified copy of the proposed ordinance or measure with the city auditor..."

Based on the foregoing, this Council finds that petitioners' failure to file a pre-circulation copy of the aforementioned petition with the City Auditor is fatal to the petition. As such, this Council finds that the petition for an initiated ordinance to amend prior ordinance ~~1596-2012~~ **1596-2011**, filed on November 25, 2014 with the City Clerk, is not legally sufficient and shall not be placed on the ballot.

To find not legally sufficient a petition for an initiated ordinance to amend prior ordinance ~~1596-2012~~ **1596-2011**; and to declare an emergency.

WHEREAS, The Charter of the City of Columbus vests with the people of the city of Columbus the right to initiate ordinances by petition; and

WHEREAS, Petitioners are vested with the responsibility to meet all applicable requirements of the Ohio Constitution, the Charter of the City of Columbus, and the Ohio Revised Code in seeking to exercise the aforementioned right; and

WHEREAS, The Columbus City Council is required to place a proposed initiated ordinance on the ballot if the Council finds that a citizen-initiated ordinance petition contains sufficient valid signatures and if the Council is satisfied of the

legal sufficiency of the petition; and

WHEREAS, On April 15, 2014, petitioners Robert J. Fitrakis, Willis E. Brown, Denise A. Benning-Adeduge, Suzanne M. Patzer, and Jonathan C. Beard filed with the City Clerk a pre-circulation copy of a petition to propose an initiated ordinance to amend prior ordinance ~~1596-2012~~ **1596-2011**; and

WHEREAS, November 25, 2014, petitioners purported to file 487 part-petitions containing approximately 14,100 signatures for the aforementioned petition; and

WHEREAS, After a thorough, timely review of the part-petitions, the City Attorney has advised this Council that the aforementioned petition is not sufficient as a matter of law because petitioners failed to follow the mandatory requirements of R.C.731.32; and

WHEREAS, The Ohio Supreme Court previously upheld the city's determination that a petition was fatally flawed and thus insufficient, following the same set of facts as the present petition; and

WHEREAS, An emergency exists in the usual daily operation of the City of Columbus in that determination of the sufficiency of the petition is required by the Columbus City Charter; **NOW, THEREFORE**

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

SECTION 1. That this Council finds that the petition for an initiated ordinance to amend prior ordinance ~~1596-2012~~ **1596-2011**, filed with the City Clerk on November 25, 2014 by petitioners Robert J. Fitrakis, Willis E. Brown, Denise A. Benning-Adeduge, Suzanne M. Patzer, and Jonathan C. Beard, fails to meet the mandatory minimum legal requirements established by the people in the Ohio Constitution, the Ohio Revised Code and the Charter of the City of Columbus.

SECTION 2. That based upon the findings in Section 1, this Council finds that the aforementioned petition is not legally sufficient and shall not be submitted to the electors of the City of Columbus.

SECTION 3. That the City Clerk be and hereby is authorized and directed to forthwith mail a copy of this ordinance to the aforementioned petitioners at the addresses listed in the petition filed with the City Clerk on November 25, 2014.

SECTION 4. That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall go into effect and be in force from and after the date of passage; and pursuant to the Charter of the City of Columbus Section 42-12, this ordinance shall not be submitted to or require the mayor's signature, or be subject to the mayor's veto; nor shall such ordinance be subject to the referendum.