



Legislation Details (With Text)

File #: 2143-2019 **Version:** 1

Type: Ordinance **Status:** Passed

File created: 7/26/2019 **In control:** Rules & Reference Committee

On agenda: 7/29/2019 **Final action:** 7/31/2019

Title: To repeal Ordinance No. 2007-2019, passed on July 15, 2019; to find not legally sufficient a petition for a proposed ordinance, titled "To authorize and direct the City Auditor to establish an Energy Conservation and Energy Efficiency Fund, a Clean Energy Education and Training Fund, a Minority Business Enterprise Clean Energy Development fund and to transfer \$5,000,000.00 to each of these funds for a total of \$15,000,000.00 for the appropriate purposes; to establish a Columbus Clean Energy Partnership Fund and to authorize the expenditure of \$42,000,000.00 for the purpose of funding a electricity subsidy program for residents of the City of Columbus; to establish a transparency and accountability reporting requirement for the City Auditor for all uses of funds in section 1,2,3, and 4; to waive the competitive bidding provisions of the Columbus City Codes"; and to declare an emergency.

Sponsors:

Indexes:

Code sections:

Attachments: 1. legal sufficiency memo (revised) 7.26.19

Date	Ver.	Action By	Action	Result
7/31/2019	1	CITY CLERK	Attest	
7/30/2019	1	MAYOR	Signed	
7/29/2019	1	COUNCIL PRESIDENT	Signed	
7/29/2019	1	Columbus City Council	Approved	Pass

BACKGROUND

On June 18, 2018, petitioners Christina L. Gonzaga, Tyrone Spence, Udell Hollins, Dolores A. Williams, Irene Gil Llamas, Jabaridiki Gregg, and Charles Dickerson filed with the City Clerk a pre-circulation copy of a petition for a proposed ordinance, titled "To authorize and direct the City Auditor to establish an Energy Conservation and Energy Efficiency Fund, a Clean Energy Education and Training Fund, a Minority Business Enterprise Clean Energy Development fund and to transfer \$5,000,000 to each of these funds for a total of \$15,000,000 for the appropriate purposes; to establish a Columbus Clean Energy Partnership Fund and to authorize the expenditure of \$42,000,000 for the purpose of funding a electricity subsidy program for residents of the City of Columbus; to establish a transparency and accountability reporting requirement for the City Auditor for all uses of funds in section 1,2,3, and 4; to waive the competitive bidding provisions of the Columbus City Codes." Following this, on June 12, 2019, petitioners filed with the City Clerk a petition for said ordinance. Petitioners filed 633 part-petitions containing 14,948 signatures.

On June 27, 2019, the City Attorney's office advised this Council that the subject petition appeared to comply with Section 42-2 of the City Charter, which sets forth the requirements as to form for each petition for a proposal initiated by a citizen. In addition, on June 28, 2019, the Franklin County Board of Elections certified its examination of the part-petitions, as required by Section 42-9 of the City Charter. The Board of Elections reported to the City Clerk that the total number of valid signatures exceeds the standard as defined in Section 43 of the Charter ("equal to not less than five percent of the total vote cast at the last preceding municipal election for mayor"). Relying on both the City Attorney's

memorandum and the Board of Elections' report, City Council passed Ordinance No. 2007-2019 on July 15, 2019 finding the petition legally sufficient.

However, on July 26, the City Attorney's office submitted a revised memorandum to City Council regarding the legal sufficiency of the petition in which the City Attorney advised that due to an error in reviewing a prior version of the petition, the opinion set forth in the June 27, 2019 memorandum was inaccurate due to it being premised on a different petition than the one currently being considered by City Council. In that revised memorandum, the City Attorney concluded that the petition contains several errors that result in its noncompliance with the form requirements set forth in Section 42-2 of the City Charter. Accordingly, the City Attorney has recommended that Ordinance No. 2007-2019 be repealed and that a new ordinance be passed to declare the petition not legally sufficient.

To repeal Ordinance No. 2007-2019, passed on July 15, 2019; to find not legally sufficient a petition for a proposed ordinance, titled "To authorize and direct the City Auditor to establish an Energy Conservation and Energy Efficiency Fund, a Clean Energy Education and Training Fund, a Minority Business Enterprise Clean Energy Development fund and to transfer \$5,000,000.00 to each of these funds for a total of \$15,000,000.00 for the appropriate purposes; to establish a Columbus Clean Energy Partnership Fund and to authorize the expenditure of \$42,000,000.00 for the purpose of funding a electricity subsidy program for residents of the City of Columbus; to establish a transparency and accountability reporting requirement for the City Auditor for all uses of funds in section 1,2,3, and 4; to waive the competitive bidding provisions of the Columbus City Codes"; and to declare an emergency.

WHEREAS, on June 18, 2018, petitioners Christina L. Gonzaga, Tyrone Spence, Udell Hollins, Dolores A. Williams, Irene Gil Llamas, Jabarisdiki Gregg, and Charles Dickerson (collectively, the petition committee) filed with the City Clerk a pre-circulation copy of a petition for a proposed ordinance, titled "To authorize and direct the City Auditor to establish an Energy Conservation and Energy Efficiency Fund, a Clean Energy Education and Training Fund, a Minority Business Enterprise Clean Energy Development fund and to transfer \$5,000,000 to each of these funds for a total of \$15,000,000 for the appropriate purposes; to establish a Columbus Clean Energy Partnership Fund and to authorize the expenditure of \$42,000,000 for the purpose of funding a electricity subsidy program for residents of the City of Columbus; to establish a transparency and accountability reporting requirement for the City Auditor for all uses of funds in section 1,2,3, and 4; to waive the competitive bidding provisions of the Columbus City Codes"; and

WHEREAS, petitioners are responsible for meeting all applicable requirements of the Ohio Constitution, the Charter of the City of Columbus, and the Ohio Revised Code in seeking to exercise the right to initiate an ordinance by petition; and

WHEREAS, on June 12, 2019, petitioners filed 633 part-petitions containing 14,948 signatures for the aforementioned petition; and

WHEREAS, in reliance on a June 27, 2019 memorandum from the City Attorney regarding the legal sufficiency of the petition and a June 28, 2019 report from the Franklin County Board of Elections regarding the number of valid signatures on the petition, and as required by Section 42-9 of the City Charter, this Council passed Ordinance No. 2007-2019 on July 15, 2019 determining that the aforementioned petition was legally sufficient; and

WHEREAS, on July 26, 2019, the City Attorney submitted a revised memorandum to City Council regarding the legal sufficiency of the petition in which the City Attorney advised that due to an error in reviewing a prior version of the petition, the opinion set forth in the June 27, 2019 memorandum to City Council was inaccurate due to it being premised on a different petition than the one currently being considered by City Council; and

WHEREAS, in the revised memorandum, the City Attorney concluded that the petition contains several errors that result in its noncompliance with the form requirements set forth in Section 42-29(e) of the City Charter; and

WHEREAS, in the revised memorandum, the City Attorney also recommended that Ordinance No. 2007-2019 be

repealed and that a new ordinance be passed to declare the petition not legally sufficient due to the aforementioned noncompliance; and

WHEREAS, Section 42-11 of the City Charter provides, in pertinent part, that “[a]ny petition and any signatures upon the part-petitions thereof found to be sufficient as provided herein shall be presumed to be in all respects sufficient, unless not later than forty-five days before the election, it shall be otherwise proven”; and

WHEREAS, this Council has the duty to determine the sufficiency of a petition under the City Charter and need not submit it to the Board of Elections for placement on the ballot unless satisfied of the sufficiency of the petition and that all statutory requirements are fairly met; and

WHEREAS, the petition filed with the City Clerk on June 12, 2019 is still under consideration by this Council and has not been submitted to the Board of Elections for placement on the ballot; and

WHEREAS, having again reviewed the petition filed with the City Clerk on June 12, 2019 in light of the revised memorandum from the City Attorney dated July 26, 2019, this Council finds that the petition does not comply with the requirements set forth in Section 42-2(e) of the City Charter for the reasons set forth in the City Attorney’s revised memorandum; 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 City Charter; now, therefore,

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

SECTION 1. That Ordinance No. 2007-2019, passed by this Council on July 15, 2019, is hereby repealed.

SECTION 2. That this Council finds that the petition for a proposed ordinance, titled “To authorize and direct the City Auditor to establish an Energy Conservation and Energy Efficiency Fund, a Clean Energy Education and Training Fund, a Minority Business Enterprise Clean Energy Development fund and to transfer \$5,000,000 to each of these funds for a total of \$15,000,000 for the appropriate purposes; to establish a Columbus Clean Energy Partnership Fund and to authorize the expenditure of \$42,000,000 for the purpose of funding a electricity subsidy program for residents of the City of Columbus; to establish a transparency and accountability reporting requirement for the City Auditor for all uses of funds in section 1,2,3, and 4; to waive the competitive bidding provisions of the Columbus City Codes” and filed with the City Clerk on June 12, 2019 by petitioners Christina L. Gonzaga, Tyrone Spence, Udell Hollins, Dolores A. Williams, Irene Gil Llamas, Jabarisdiki Gregg, and Charles Dickerson, does not meet the mandatory minimum legal requirements established by the people in the Charter of the City of Columbus.

SECTION 3. That based upon the findings in Section 2, this Council finds that the aforementioned petition is not legally sufficient.

SECTION 4. That the City Clerk be and hereby is authorized and directed to forthwith mail a copy of this ordinance to the aforementioned petition committee at the addresses listed in the petition filed with the City Clerk on June 12, 2019.

SECTION 5. 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 approval by the Mayor or ten days after passage if the Mayor neither approves nor vetoes the same.