



## Legislation Text

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**File #:** 0261X-2015, **Version:** 1

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**BACKGROUND:** Chapter 1710 of the Ohio Revised Code allows property owners to petition the municipal corporation within which their property is located for the creation of an energy special improvement district, the purpose of which is to provide “special energy improvement projects,” as defined in Section 1710.01 of the Ohio Revised Code. Section 1710.02 of the Ohio Revised Code requires such property owners also to submit articles of incorporation for a nonprofit corporation, the board of directors of which shall govern the energy special improvement district, to the municipal corporation with the petition. Section 1710.02(F) of the Ohio Revised Code also allows such property owners to submit an initial plan of services for approval with the petition. Upon receipt of a petition, articles of incorporation, and an initial plan submitted by the owners 100% of the properties requesting to be included in the energy special improvement district, the municipal corporation may approve the petition, cause the formation of the energy special improvement district, and proceed to levy special assessments to pay the costs of the special energy improvement projects to be completed pursuant to the petition and the initial plan.

NC Plaza LLC, the owner of certain parcels of real property within the City of Columbus (more commonly known as PNC Plaza and Galleria), has submitted a petition, articles of incorporation, and initial plan to the Council, requesting that the Council approve the petition, articles of incorporation, and initial plan, cause the creation of the Columbus Regional Energy Special Improvement District, and levy special assessments on its property to pay the costs of the special energy improvement project to be provided on its property.

NC Plaza LLC is working in cooperation with the Columbus-Franklin County Finance Authority to issue securities secured by the special assessments requested in the petition, the proceeds of which securities will be used to pay the costs of the special energy improvement projects described in the petition.

Emergency action is required to allow the Columbus Regional Energy Special Improvement District to be formed and special assessments to be levied in a timely manner in order to facilitate financing for the projects by the Columbus-Franklin County Finance Authority.

**FISCAL IMPACT:** No funding is required for this legislation.

To approve the petition, articles of incorporation and initial plan for the creation and governance of the Columbus Regional Energy Special Improvement District, an energy special improvement district under Ohio Revised Code Chapter 1710; and to declare an emergency.

**WHEREAS,** as set forth in Ohio Revised Code Chapter 1710, the Ohio General Assembly has authorized property owners to create energy special improvement districts (“ESIDs”) upon a petition to a municipal corporation or township, which ESIDs are voluntary organizations of property owners who undertake special energy improvement projects for their properties and finance such special energy improvement projects by way of voluntary special assessments; and

**WHEREAS,** pursuant to Ohio Revised Code Section 1710.02, the property owner petitioning for the creation of an ESID is authorized to propose an initial plan setting forth certain special energy improvement projects that the ESID will undertake, which plan may outline the area in which such projects will be provided, the method of special assessment to be used with respect to the projects, the period of time during which any such special assessments are to be levied, the

procedures by which additional territory may be added to the ESID, and such other provisions that the ESID shall deem appropriate, and the legislative authority of the municipal corporation to which such plan is submitted is authorized to approve the plan along with the petition; and

**WHEREAS**, NC Plaza LLC, a property owner, has identified the property commonly known as PNC Plaza and Galleria and consisting of the commonly used mailing addresses 155 East Broad Street, Columbus, Ohio 43215 and 20 South Third Street, Columbus, Ohio 43215 (the “Property”) in the City of Columbus, Ohio (the “City”), as an appropriate property for a special energy improvement project; and

**WHEREAS**, on November 6, 2015, pursuant to Ohio Revised Code Section 1710.02, NC Plaza LLC submitted (1) a petition entitled *Petition for Creation of Energy Special Improvement District and for Special Assessments for Special Energy Improvement Projects* (the “Petition”), (2) an initial plan entitled *Columbus Regional Energy Special Improvement District Program Plan* (the “Plan”), and (3) *Articles of Incorporation of the Columbus Regional Energy Special Improvement District, Inc.* (the “Articles”) to this Council of the City (the “Council”) and to the Mayor of the City, and said Petition, Plan, and Articles are on file with the City Clerk ; and

**WHEREAS**, said Petition, Plan, and Articles are for the purpose of developing and implementing special energy improvement projects in furtherance of the purposes set forth in Section 2o of Article VIII of the Ohio Constitution, including, without limitation, the special energy improvement project to be located at the Property; and

**WHEREAS**, in accordance with Ohio Revised Code Section 1710.02, the Petition requests that this Council create the Columbus Regional Energy Special Improvement District (the “District”), which District is to be governed by the Columbus Regional Energy Special Improvement District, Inc., an Ohio nonprofit corporation, in accordance with Ohio Revised Code Chapters 1710 and 1702 and in accordance with the Articles; and

**WHEREAS**, the Petition and Articles set forth that the members of the District will be the property owners who voluntarily include their properties in the District; and

**WHEREAS**, pursuant to Ohio Revised Code Section 1710.04 and the Petition and Articles, the members of the board of directors of the District will include at least three representatives of one or more property owners who have voluntarily included their properties in the District, one representative appointed by the Council, as the City’s legislative authority, and the Mayor, as the City’s municipal executive, or a person whom the Mayor designates to serve in his stead and who is an employee of the City and involved with the City’s planning or economic development functions; and

**WHEREAS**, the Plan defines the special energy improvement project to be completed at the Property and identifies the amount and length of special assessments for the special energy improvement project, and such special assessments shall require formal authorization from this Council pursuant to Ohio Revised Code Chapters 727 and 1710; and

**WHEREAS**, this Council, as mandated by Ohio Revised Code Section 1710.02(E), must approve or disapprove the Petition, the Plan, and the Articles within 60 days of the submission of the Petition, Plan, and Articles; and

**WHEREAS**, this Council has determined to approve the Petition, Plan, and Articles and thereby create the District and cause the Columbus Regional Energy Special Improvement District, Inc. to be established; and

**WHEREAS**, this Council, pursuant to Ohio Revised Code Section 1710.02(G)(4), has determined that the energy special improvement project to be constructed and implemented on the Property is not required to be owned exclusively by the City for its purposes, for uses determined by this Council, as the legislative authority of the City as those that will promote the welfare of the people of the City; to improve the quality of life and the general and economic well-being of the people of City; to better ensure the public health, safety, and welfare; to protect water and other natural resources; to provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization; to control, prevent, minimize, clean up, or mediate certain contamination of or pollution from lands in the state and water contamination or pollution; or to provide for safe and

natural areas and resources; and

**WHEREAS**, an emergency exists in the usual daily operation of the Department of Development in that it is necessary for that this Resolution take effect at the earliest possible date in order to allow the District to be formed, NC Plaza LLC to begin work on the special energy improvement project on the Property, and the District to take advantage of financing available to it for a limited time and for the immediate preservation of public peace, property, health and safety; **NOW, THEREFORE**,

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** This Council approves the Petition, the Plan, and the Articles, all in substantially the forms now on file with the City Clerk.

**SECTION 2.** The City Clerk is directed to file or cause to be filed a copy of the Articles and a copy of this Resolution with the Ohio Secretary of State.

**SECTION 3.** Pursuant to Ohio Revised Code Section 1710.04, this Council will appoint a person, and the Mayor will appoint a person to serve on the board of directors of the Columbus Regional Energy Special Improvement District, Inc.

**SECTION 4.** Pursuant to Ohio Revised Code Section 1710.02(G)(4), this Council determines that the energy special improvement project to be constructed and implemented on the Property is not required to be owned exclusively by the City for its purposes, for uses determined by this Council, as the legislative authority of the City, as those that will promote the welfare of the people of such participating political subdivision; to improve the quality of life and the general and economic well-being of the people of the City; to better ensure the public health, safety, and welfare; to protect water and other natural resources; to provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization; to control, prevent, minimize, clean up, or mediate certain contamination of or pollution from lands in the state and water contamination or pollution; or to provide for safe and natural areas and resources. This Council accordingly authorizes the board of directors of the Columbus Regional Energy Special Improvement District, Inc. to act as its agent to sell, transfer, lease, or convey the special energy improvement project to be constructed and implemented on the Property. The consideration the board of directors of the Columbus Regional Energy Special Improvement District, Inc. must obtain from any sale, transfer, lease, or conveyance of the special energy improvement project on the Property is any consideration greater than or equal to \$1.00.

**SECTION 5.** That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this Resolution is hereby declared to be an emergency measure and shall take effect and be in force from and after its adoption and approval by the Mayor or ten days after adoption if the Mayor neither approves nor vetoes the same.