



Metropolitan Nashville and Davidson County, TN

Legislation Text

File #: RS2020-600, **Version:** 1

A resolution expressing the opposition of the Metropolitan Council to the proposed Charter amendment submitted by petition and conditionally scheduled for referendum election on December 15, 2020.

WHEREAS, on August 26, 2020, a petition seeking to submit an amendment to the Charter of the Metropolitan Government of Nashville and Davidson County was submitted to the Metropolitan Clerk (the "Petition"); and

WHEREAS, on September 17, 2020, the Davidson County Election Commission certified to the Metropolitan Clerk that the requisite number of signatures of registered voters in Nashville and Davidson County had been attained, and the Metropolitan Clerk certified the Petition to the Commission on the same day; and

WHEREAS, on September 25, 2020, in response to concerns regarding the legal and constitutional validity of the Petition, the Election Commission voted to seek a declaratory judgment from Davidson County Chancery Court and set a conditional referendum election date of December 15, 2020 (estimated to cost \$800,000.00 to \$1,000,000.00); and

WHEREAS, on September 28, 2020, at the request of Mayor John Cooper and Director of Finance Kevin Crumbo, Director of Law Robert E. Cooper, Jr. issued Legal Opinion No. 2020-01 on behalf of the Department of Law of the Metropolitan Government of Nashville and Davidson County addressing the legal and constitutional sufficiency of the Petition; and

WHEREAS, the Legal Opinion of the Department of Law identified multiple defects in form and legal and constitutional deficits in the Petition, including the following:

- The proposed amendment violates the Tennessee Constitution and state law, which requires taxes to be set by the Metropolitan Council rather than by voter referendums. It also illegally uses the referendum to repeal an ordinance and adjust the tax rate mid-fiscal year.
- The proposed amendment violates state law by requiring voter referendums for bond issues greater than \$15,000,000.
- The proposed amendment violates Article I, § 20 of the Tennessee Constitution which prohibits retroactive laws and laws impairing the obligations of contracts.
- The proposed amendment violates Tennessee's takings and condemnation laws.
- The proposed amendment conflicts with the Tennessee Public Records Act.

WHEREAS, in addition to substantial legal and constitutional deficits, the Petition - crafted to apply retroactively under multiple provisions - would immediately result in an unbalanced operating budget at the fiscal year mid-point, thereby violating state law and forcing immediate, dramatic, and draconian cuts to vital city services and operations.

WHEREAS, the Metropolitan Council strongly believes in the power of the citizens of Nashville and Davidson County to ask by petition for referendum elections to the fullest extent allowed by state law and the Charter.

WHEREAS, the Metropolitan Council will honor whatever decision comes from the court system about whether the Petition is minimally sufficient to be placed on a referendum ballot for consideration by the voters.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. The Metropolitan Council hereby goes on record as respectfully opposing the Petition and further urging all

registered voters in Nashville and Davidson County to vote in opposition to the Petition should the matter be placed on the ballot.

Section 2. This Resolution shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.