Referendum Ordinance No. 5622

A REFERENDUM ORDINANCE AMENDING ARTICLE 65, SECTIONS 691 AND 693 OF THE CHARTER OF THE CITY OF MEMPHIS, SAME BEING CHAPTER 11 OF THE ACTS OF 1879, PURSUANT TO THE PROVISIONS OF ARTICLE 11 SECTION 9 OF THE CONSTITUTION OF THE STATE OF TENNESSEE HOME RULE AMENDMENT RELATIVE TO DISTRIBUTION OF PAYMENTS IN LIEU OF TAXES BY MLGW TO THE CITY OF MEMPHIS

Whereas, the Tennessee Court of Appeals upheld an order of the Chancery Court of Shelby County repealing Sections 691(4) and 693(4) of the City's Charter pertaining to payments in lieu of taxes by the City's Electric and Gas Systems to the general fund of the City;

Whereas, the Council desires to amend the City's Charter to reinstate Charter provisions relating distribution of payment in lieu of taxes to the City and to address and authorize the distribution of payments in lieu of taxes by the City's Electric and Gas Systems to the general fund of the City, as permitted by state law and/or agreements with the Tennessee Valley Authority or bondholders.

Section 1. Proposed Amendment

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS and submitted by the City of Memphis to its qualified voters at the first general state election, which shall be held in the City of Memphis on November 8, 2016, and which shall be held at least sixty (60) days after such publication:

QUESTION:

Shall the Charter of the City of Memphis, Tennessee be amended to require distribution only to the general fund of the City from any Electric or Gas Tax Equivalent Payment calculated and determined by the Council under state law or agreement with the Tennessee Valley Authority before any other distributions of tax equivalents a sum equal in amount to the City taxes assessed and levied on the fair market value of properties of the electric or gas division situated within the corporate limits of the City of Memphis

in the same manner and as if said properties were privately owned?

Section 2. Publication of Home Rule Amendment

BE IT FURTHER ORDAINED, That the Comptroller is hereby directed to cause the Ordinance to be published pursuant to provisions of Article 11, Section 9 of the Constitution of the State of Tennessee.

Section 3. Delivery to Election Commission

BE IT FURTHER ORDAINED, That the Comptroller of the City of Memphis shall certify adoption of this Ordinance to the Shelby County Election Commission in charge of holding the general State election on November 8, 2016, and request that this proposed amendment to the Home Rule Charter of the City of Memphis be placed on the ballot.

Section 4. Proposal and preference

BE IT FURTHER ORDAINED, That the Comptroller of the City of Memphis is hereby directed to deliver a copy of this Ordinance to the Shelby County Election Commission, together with a suggested proposal and the following form of preference to be placed on the ballot in an election to be held on the 8th day of November 2016:

Said ordinance of the City of Memphis was adopted on the _____ day of _____, 2016, to provide for referendum vote on a Home Rule amendment to the Charter of the City of Memphis, to read as follows:

Shall the Charter of the City of Memphis, Tennessee be amended to require distribution only to the general fund of the City, from any Electric or Gas Tax Equivalent Payments calculated and determined by the Council under state law or agreement with the Tennessee Valley Authority before any other distributions of tax equivalents, a sum equal in amount to the City taxes assessed and levied on the fair market value of properties of the electric or gas division situated within the corporate limits of the City of Memphis in the same manner and as if said properties were privately owned?

FOR (YES) _____

AGAINST (NO) _____

Section 5. Effective Date of Charter Amendment

BE IT FURTHER ORDAINED, That this Ordinance shall take effect for the purposes set forth herein sixty (60) days after approval by a majority of the qualified voters voting thereon in an election to be held on the 8th day of November, 2016, the public welfare, requiring it.

Section 6. Certification of Results

BE IT FURTHER ORDAINED, That the Shelby County Election Commission certify the result of said election to the Comptroller of the City of Memphis, who shall see that said result is made a part of the Minutes of the Council of the City of Memphis.

Section 7. Nonconflicting - Conflicting Laws

BE IT FURTHER ORDAINED, That upon adoption of this Home Rule Amendment, all laws constituting the present Charter of the City of Memphis, not in conflict with this amendatory Home Rule Ordinance, be and the same are here continued in full force and effect, and all laws in conflict therewith are hereby repealed.

Section 8. Severability

BE IT FURTHER ORDAINED, that if any clause, section, paragraph, sentence or part of this Ordinance shall be held or declared to be unconstitutional and void, it shall not effect the remaining parts of this ordinance, it being hereby declared to be the legislative intent to have passed the remainder of this ordinance notwithstanding the parts so held to be invalid, if any.

Section 9. Publication

BE IT FURTHER ORDAINED, that this ordinance shall be published immediately after the adoption hereof.

Section 10. Enactment of City Ordinance

BE IT FURTHER ORDAINED, that this ordinance shall take effect from and after the date it shall have passed by the Council signed by the Chairman of the Council, certified

and delivered to the office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

Sponsor:
Edmund Ford, Jr.

KEMP CONRAD
Chairman of Council