

Submitted on January 12, 2021

Councilmember Walter L Griffith Jr

No 2021- \_\_\_\_\_

**ORDINANCE**

AN ORDINANCE OF THE COUNTY OF LUZERNE COUNTY COUNCIL PLACING A QUESTION ON THE May 18, 2021 PRIMARY BALLOT TO AMEND ARTICLE VIII SECTION 8:04 OF THE LUZERNE COUNTY HOME RULE CHARTER.

**WHEREAS**, Luzerne County is a Third Class County in the Commonwealth of Pennsylvania governed by a Home Rule Charter that became effective January 2012; and

**WHEREAS**, the County Council of the County of Luzerne wishes to place before the residents of Luzerne County a Home Rule Charter amendment question on the ballot for the May 18, 2021 Primary Election; and

**WHEREAS**, the Luzerne County Home Rule Charter at Article VIII, Section 8:04, presently outlines the appointment and members of the Board of Elections and states the following;

*A. The Board of Elections shall be replaced by a reconstituted Board of Elections and Registration that shall exercise all powers and duties now or hereafter conferred on it by this Charter, the Administrative Code, or other County ordinance or resolution, and, to the extent they are not inconsistent with this Charter, those powers and duties now or hereafter conferred by applicable law on boards of elections in counties of Luzerne County's classification functioning without a home rule charter or, in the absence of such laws, by state law applicable to boards of elections in counties having populations closest to that of Luzerne County.*

*B. The reconstituted Board of Elections and Registration shall consist of five registered voters, four of whom shall be appointed by resolution of County Council adopted by an affirmative vote of at least a majority of its current members. For those initially appointed under the terms of this Charter, one member each from the two political parties receiving the highest and second highest number of votes cast in Luzerne County for the office of Governor of Pennsylvania in the most recent general election for that office shall be appointed to serve for terms of two years, and one member each from these political parties shall be appointed to serve for terms of four years. Thereafter, except as may otherwise be provided for in this Charter or applicable law, all terms shall be four years. At the time of their appointment, each member of the Board of Elections and Registration appointed by County Council shall have been a member of the same political party continuously for at least five years and shall remain a member of that party during his/her term of office.*

*C. Within the first 30 days of the year following its initial election, County Council shall appoint the four members of the Board of Elections and Registration it is empowered to appoint. Within 30 days after their appointment, these members shall appoint the fifth member by an affirmative vote of at least a majority of their current members. The person appointed shall serve a term of four years and shall serve as the board's chair.*

*D. If County Council fails to make the initial appointments within the first 30 days of the year following its initial election, or if the four members initially appointed fail to fill the fifth position within 30 days after their appointment, any resident of Luzerne County may petition the Court of Common Pleas to make the appointment(s). In such a case, the Court by majority vote of its members shall make the appointment(s) within 30 days after receiving such petition.*

*E. At the expiration of a term of office of any member subject to appointment by County Council or when any of these positions is declared vacant by County Council pursuant to Section 11.06 of this Charter, County Council, at a regular or special meeting held within 60 days after the expiration of the term or the declaration of the vacancy, shall make the appointment or fill the vacancy by resolution adopted by an affirmative vote of at least a majority of its current members. The person appointed shall be a member of the same political party as the person he/she is to succeed, unless that party is no longer one of the parties that received the highest or second highest number of votes cast in Luzerne County for the office of Governor of Pennsylvania in the most recent general election for that office. In such a case, the person appointed shall be a member of the party that replaced it as one of the two parties receiving the highest number of votes cast in Luzerne County for the office of Governor in the most recent general election for that office. In either case, the person appointed shall have been a member of that party continuously for at least five years prior to the date of appointment. At the expiration of the term of office of the member subject to appointment by the Board of Elections and Registration or when a vacancy in this position is declared by County Council pursuant to Section 11.06 of this Charter, the remaining members of the board shall make the appointment or fill the vacancy within 60 days after the expiration of the term or the declaration of the vacancy by an affirmative vote of at least a majority of its current members.*

*F. If County Council or the members of the Board of Elections and Registration fail to make any appointment or fill any vacancy within the time allotted, any resident of Luzerne County may petition the Court of Common Pleas to fill the position. In such a case, the Court by majority vote of its members shall fill the position within 30 days after receiving such petition.*

*G. If any member of the Board of Elections and Registration files a petition for nomination or election or becomes a candidate for any elective public office, his/her position shall become vacant, and the vacancy shall be filled in a manner prescribed elsewhere in this Article.*

*H. At the time of his/her appointment, throughout his/her term of office, and for a period of at least four years prior to appointment, no member of the Board of Elections and Registration shall be or have been an elective County official, County employee, member or employee of any other County authority, board, or commission, hold or have held any elective public office or public employment, be or have been employed or compensated by any individual or business serving as a contractor to the County or any County authority, board, or commission, serve or have served as a paid consultant for the County or any County authority, board, or commission, or serve or have served as an officer in a political party. Further, for a period of one year after leaving office, no member of the Board of Elections and Registration shall serve as a County employee, be appointed to or serve as an employee of any County authority, board, or commission except as may specifically be provided for in this Charter, be employed or compensated by any individual or business that served as a contractor to the County or any County authority, board, or commission during the time he/she served as a member of the Board of Elections and Registration, or serve as a paid consultant for the County or any County authority, board, or commission.*

*I. Any three members of the Board of Elections and Registration shall constitute a quorum and shall have the power to perform the functions of the Board of Elections and Registration. and*

**WHEREAS**, Pennsylvania Consolidated Statutes Title 25 Act of 1937 of the General Assembly, Article III County Board of Elections Section 301 (b) states:

(b) In each county of the Commonwealth, the county board of elections shall consist of the county commissioners of such county ex officio, or any officials or board who are performing or may perform the duties of the county commissioners, who shall serve without additional compensation as such. Except in counties of the first class, in counties which have adopted home rule charters or optional plans the board of elections shall consist of the members of the county body which performs legislative functions unless the county charter or optional plan provides for the appointment of the board of elections. In either case, there shall be minority representation on the board. The county body which performs legislative functions shall in the case where the board does not contain minority representation appoint such representation from a list submitted by the county chairman of the minority party; and

**WHEREAS**, the Luzerne County Council for the County of Luzerne wishes to amend the Luzerne County Home Rule Charter at Article VIII, Section 8:04, to change the membership of the reconstituted Luzerne County Board of Elections and Registration from (5) five registered voters to (7) seven registered voters, (4) four registered voters and (3) three County Council representatives.

**NOW, THEREFORE**, be it ordained and enacted by the Luzerne County Council and enacted by the authority of the same as follows:

1. The Luzerne County Council hereby directs that the following question be placed on the ballot for the May 18, 2021 Primary Election:

**SHOULD THE LUZERNE COUNTY HOME RULE CHARTER BE AMENDED AT ARTICLE VIII, SECTION 8:04 changing the appointment and membership of the Board of Elections and Registration to (7) seven members, which consists of (4) four registered voters and (3) three County Council representatives to read as follows:**

*A. The Board of Elections shall be replaced by a reconstituted Board of Elections and Registration that shall exercise all powers and duties now or hereafter conferred on it by this Charter, the Administrative Code, or other County ordinance or resolution, and, to the extent they are not inconsistent with this Charter, those powers and duties now or thereafter conferred by applicable law on boards of elections in counties of Luzerne County's classification functioning without a home rule charter or, in the absence of such laws, by state law applicable to boards of elections in counties having populations closest to that of Luzerne County.*

*B. The reconstituted Board of Elections and Registration shall consist of (7) seven registered voters, which consists of (4) four registered voters and (3) three members of County Council, adopted by an affirmative vote of at least a majority of its current members. For those initially appointed under the terms of this amendment of the Charter, one member each from the two political parties receiving the highest and second highest number of votes cast in Luzerne County for the office of Governor of Pennsylvania in the most recent general election for that office shall be appointed to serve for terms of two years, and one member each from these political parties shall be appointed to serve for terms of four years. Thereafter, except as may otherwise be provided for in this Charter or applicable law, all terms shall be four years. Council members shall be appointed to terms of (2) two years and shall be eligible for reappointment without restriction during their service on Council.*

*C. Within the first 30 days of the year following the amendment of the Charter, County Council shall appoint the (7) seven members of the Board of Elections and Registration.*

*D. On the first Monday of February, in the even-numbered year following the election of County Council members, the Board of Elections shall reorganize and choose the Chairperson, Vice Chairperson and such other officers as desired from among its members, these officers shall serve at the pleasure of the Board of Elections and Registration.*

*E. If County Council fails to make the initial appointments within the first 30 days of the year following the amendment of the Charter, any resident of Luzerne County may petition the Court of Common Pleas to make the appointment(s). In such a case, the Court by majority vote of its members shall make the appointment(s) within 30 days after receiving such petition.*

*F. At the expiration of a term of office of any member subject to appointment by County Council or when any of these positions is declared vacant by County Council pursuant to Section 11.06 of this Charter, County Council, at a regular or special meeting held within 60 days after the expiration of the term or the declaration of the vacancy, shall make the appointment or fill the vacancy by resolution adopted by an affirmative vote of at least a majority of its current members. The person appointed shall be a member of the same political party as the person he/she is to succeed, unless that party is no longer one of the parties that received the highest or second highest number of votes cast in Luzerne County for the office of Governor of Pennsylvania in the most recent general election for that office. In such a case, the person appointed shall be a member of the party that replaced it as one of the two parties receiving the highest number of votes cast in Luzerne County for the office of Governor in the most recent general election for that office. At the expiration of the term of office of any member of the Board of Elections and Registration or when a vacancy in this position is declared by County Council pursuant to Section 11.06 of this Charter, the Luzerne County Council shall make the appointment or fill the vacancy within 60 days after the expiration of the term or the declaration of the vacancy by an affirmative vote of at least a majority of its current members.*

*G. If County Council fail to fill any vacancy within the time allotted, any resident of Luzerne County may petition the Court of Common Pleas to fill the position. In such a case, the Court by majority vote of its members shall fill the position within 30 days after receiving such petition.*

*H. Any (4) members of the Board of Elections and Registration shall constitute a quorum and shall have the power to perform the functions of the Board of Elections and Registration.*

2. Pursuant to 53 Pa C.S A. 2943 (a) of the Home Rule Charter and Optional Plans Law, County Council Clerk is directed to file a certified copy of this ordinance with the Luzerne County Board of Elections in anticipation of the May 18, 2021 Primary Election not later than Tuesday February 16, 2021 and;
  
3. Pursuant to 53 Pa C.S A. 2952 of the Home Rule and Optional Plans Law, the Clerk to County Council is hereby directed give at least 30 days' notice of the ordinance proposing the amendment to the Home Rule Charter. A Notice of the Election of the Question of Amending the Home Rule Charter shall be posted in each polling place on the day of election and the Clerk to County Council shall publish a Notice in at least one newspaper of general circulation in Luzerne County once a week for three consecutive weeks during the period of 30 days prior to the May 18, 2021 Primary Election. and;
  
4. The County Solicitor, County Manager and the Clerk to Luzerne County Council are authorized and directed to take all actions necessary in order to carry out the directives set forth in items 1 through 3 above in this ordinance. and;
  
5. This ordinance shall take effect fifteen (15) days from the date of proper execution by the Chairperson of Luzerne County Council.

**Enacted and Ordained at a meeting of Luzerne County Council held on the \_\_\_\_\_ day of \_\_\_\_\_ 2021**

**Voted as Follows:**

	YEA:	Nays:
Griffith	_____	_____
Houck	_____	_____
Haas	_____	_____
McDermott	_____	_____
McGinley	_____	_____
Perry	_____	_____
Radle	_____	_____
Saidman	_____	_____
Schnee	_____	_____
Urban	_____	_____
Vough	_____	_____

**County Council Chairperson**  
 \_\_\_\_\_  
**Date:**

**Attests:**  
**County Council Clerk**

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**Date:**

**Luzerne County Manager**

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**Date:**

**Approve \_\_\_\_\_ Reconsider\_\_\_\_\_**