

FILE OF CITY COUNCIL

BILL NO. 51 -2020

INTRODUCED BY COUNCIL

July 15, 2020

AN ORDINANCE

DIRECTING THE LEHIGH COUNTY BOARD OF ELECTIONS TO PLACE A REFERENDUM QUESTION BEFORE THE CITY OF ALLENTOWN VOTERS ON THE NOVEMBER 3, 2020 GENERAL ELECTION BALLOT TO AMEND THE CITY OF ALLENTOWN HOME RULE CHARTER TO REQUIRE APPROVAL BY CITY COUNCIL OF ALL COLLECTIVE BARGAINING AGREEMENTS PRIOR TO THE MAYOR EXECUTING EACH AGREEMENT.

Whereas, Article IX, Section 2 of the Pennsylvania Constitution provides that municipalities shall have the right and power to frame and adopt Home Rule Charters; and

Whereas, the voters of the City of Allentown adopted a Home Rule Charter on April 23, 1996, which became effective in January 1997; and

Whereas, Section 1103 of the City of Allentown Home Rule Charter authorizes City Council to initiate amendments to the Home Rule Charter through the referendum process; and

Whereas, Article III (The Executive Branch), Section 308 of the HRC addresses the “Powers and Duties of the Mayor”;

Whereas, one of the powers given, in Section 308, subsection H. reads “Supervise and direct the negotiation and administration of any collective bargaining agreements with City employees.”

Whereas, Section 130.16 of the City of Allentown Administrative Code provides that “Contract administration for the City including but not limited to authority as to preparation of specifications, letting of bids, award of contracts and payment of bills, shall be vested in the Mayor and the Department of Finance to be exercised in accordance with procedures adopted by the Mayor, on file with City Council, and consistent with the requirements set forth herein. (12497 §1 1/20/82).”;

Whereas the Court of Common Pleas of Lehigh County determined that this section of the HRC in conjunction with Section 130.16 of the administrative Code, “Taken together ... provides that the representative of the ‘City’ for purposes of the collective bargaining is the Mayor and his administration” Allentown City Council v. FOP Queen City Lodge No. 10 (Lehigh CCP 2004-C-2340 at 4)(decided December 22, 2004);

Whereas, appellate precedent discussing Third Class Cities that do not have Home Rule Charters have noted that city councils are responsible for approving collective bargaining agreements, See, e.g., Capital City Lodge No. 12 v. Pa. Labor Rels. Bd., 30 A3d 1241 (Pa. Cmwlth. 2011); Moore v. Reed, 559 A.2d 602 (Pa. Cmwlth. 1989);

Whereas, Section 2942 of the Home Rule Charter and Optional Plans Law, 53 Pa. C.S. §2942, authorizes the governing body of a Home Rule municipality to initiate a referendum to amend its Home Rule Charter by the enactment of an Ordinance; and

Whereas, the City Council of the City of Allentown seeks an amendment to the Home Rule Charter to be voted upon by the City of Allentown electorate through referendum to authorize City Council to review all Collective Bargaining Agreements, and to require City Council approval as a precondition for the Mayor to execute all Collective Bargaining Agreements,

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN

SECTION ONE: The Lehigh County Board of Elections is directed to place the following referendum question to the voters of the City of Allentown on the November 3, 2020 election ballot:

“Shall Section 308, Subsection H of the City of Allentown Home Rule Charter be amended to authorize City Council to review Collective Bargaining Agreements negotiated by the Mayor, and further require Council approval by resolution before the Mayor may execute a collective bargaining agreement.

SECTION TWO: Section 308. H of the Home Rule Charter shall be amended to read as follows:

#### **SECTION 308 POWERS AND DUTIES OF THE MAYOR**

The Mayor shall have the following powers and duties:

H. Supervise and direct the negotiation and administration of any collective bargaining agreements with City employees. City Council approval is required before the Mayor is authorized to execute a collective bargaining agreement. City Council approval of a collective bargaining agreement will be by resolution.

SECTION THREE: This Ordinance shall take effect ten (10) days after final passage.

SECTION FOUR: All Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

SECTION FIVE: Pursuant to the Home Rule Charter, if adopted by the voters of the City of Allentown, this provision shall be considered adopted and effective upon certification by the Lehigh County Election Board.