

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Kevin M. Kraus, individually and : CASES CONSOLIDATED
within his official capacity as Sheriff :
of Allegheny County and :
Pennsylvania Sheriffs' Association :

v. :

County Council of the County of :
Allegheny Pennsylvania and :
Allegheny County :

Appeal of: Pennsylvania : No. 1250 C.D. 2026
Sheriffs' Association :

Kevin M. Kraus, individually and :
within his official capacity as Sheriff :
of Allegheny County and :
Pennsylvania Sheriffs' Association :

v. :

County Council of the County :
of Allegheny, Pennsylvania and :
Allegheny County :

Appeal of: Kevin M. Kraus : No. 1251 C.D. 2026

Kevin Kraus, individually and :
within his official capacity as Sheriff :
of Allegheny County and Pennsylvania :
Sheriffs' Association :

v. :

County Council of the County of :
Allegheny, Pennsylvania and :
Allegheny County :

Appeal of: County Council of the : No. 1255 C.D. 2026
County of Allegheny, Pennsylvania : Submitted: September 9, 2026

BEFORE: HONORABLE CHRISTINE FIZZANO CANNON, Judge
HONORABLE LORI A. DUMAS, Judge
HONORABLE BONNIE BRIGANCE LEADBETTER, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE FIZZANO CANNON

FILED: September 11, 2026

In these consolidated appeals,¹ the Pennsylvania Sheriffs' Association (Association), Kevin M. Kraus (Sheriff), and the County Council (Council) of the County of Allegheny, Pennsylvania (County), appeal the August 12, 2026 Order of Court on Declaratory Judgment (Trial Court Order) entered by the Court of Common Pleas of Allegheny County (Trial Court) that granted Declaratory Judgment in favor of the Sheriff, individually and in his official capacity as Sheriff of Allegheny County, and the Association² and declared Allegheny County Ordinance 13808-26 (Ordinance) illegal as violative of the Home Rule Charter and Optional Plans Law (Home Rule Law)³ 53 Pa.C.S. § 2930, and due to its retroactive application. As a

¹ This Court consolidated these appeals *sua sponte* by order dated August 26, 2026.

² We recognize that, as the prevailing parties, the Sheriff and the Association were not required to appeal. *See Basile v. H&R Block, Inc.*, 973 A.2d 417, 422 (Pa. 2009) (quoting the Note to Rule 511 of the Pennsylvania Rules of Appellate Procedure, Pa.R.A.P. 511 Note, which observes that “[a]n appellee should not be required to file a cross[-]appeal because the Court below ruled against it on an issue, as long as the judgment granted Appellee the relief it sought,” and explaining that the prevailing party in the case “was not required to file a protective cross-appeal , , , , although it did”). Notably, however, our Supreme Court did not quash the unnecessary cross-appeal in *Basile*. We, likewise, do not do so here.

³ 53 Pa.C.S. §§ 2901-2984.

result, the Trial Court set aside the referendum questions contained in the Ordinance. Upon review, we affirm on the basis of violation of Section 2930.

I. Background and Procedural Posture

In April of 2026, the Council enacted the Ordinance, which directed that the Allegheny County Board of Elections place three referendum questions (collectively, the Ballot Questions) on the ballot for the November 3, 2026 General Election (General Election) for approval by the registered electors of the County. The Ballot Questions seek to amend the language of the County’s Home Rule Charter to alter or implement term limitations for the County’s Chief Executive, independently elected County officials, and Members of Council. Specifically, the Ordinance states the First Ballot Question as:

Shall Article III, Subsection 5(b) of [the] County’s Home Rule Charter be amended to provide that the Chief Executive shall serve no more than three terms of office, regardless of whether such terms are consecutive?^[4]

Ordinance, Section 2, First Ballot Question. The Second Ballot Question is:

Shall Article III, §5(b) of the Home Rule Charter be amended such that the independently elected County officials (consisting of the County Controller, District Attorney, Sheriff, and Treasurer) shall be limited to a maximum of three terms of office, effective January 1, 2027?

Ordinance, Section 5, Second Ballot Question. The Third Ballot Question asks:

Shall Article III, §5(b) of the Home Rule Charter be amended such that the Members of [] Council shall be limited to a maximum of three terms of office, effective January 1, 2027?

⁴ The current language of the County’s Home Rule Charter limits the Chief Executive to “three consecutive terms of office.” Allegheny Cnty., Pa., Charter and Admin. Code, Art. III, § 1.3-305(b).

Ordinance, Section 8, Third Ballot Question. The Ordinance also provides contingent amendments to the Home Rule Charter that will immediately become effective upon the Board of Elections' certification of the approval of any or all of the Ballot Questions by the voters of the County. *See* Ordinance at Sections 3-4, 6-7 & 9-10.

On May 29, 2026, the Sheriff filed a Complaint for Declaratory Judgment (Complaint) requesting that the Ordinance be declared illegal and that the Ballot Questions therefore not be placed on the General Election ballot. The Complaint alleges three reasons that the Ordinance is illegal, which the Trial Court viewed as individual counts to the Complaint.⁵ *See* Complaint at 7-8 (pagination supplied). First, the Complaint alleges that the Ballot Questions conflict with Article IX, Section 4 of the Pennsylvania Constitution⁶ by modifying a fundamental aspect

⁵ The Complaint actually contained a single count, styled as "Count 1 – Declaratory Judgment." *See* Complaint at 7-8. Contained within Count 1 of the Complaint are three separate reasons Sheriff claimed the Ordinance is illegal. *See* Complaint at 7-8, ¶ 27. The Trial Court treated each of the individual three reasons as a separate count in the Trial Court Order. *See* Trial Court Order at 1-2.

⁶ Article IX, Section 4 of the Pennsylvania Constitution, entitled "County government," provides:

County officers shall consist of commissioners, controllers or auditors, district attorneys, public defenders, treasurers, sheriffs, registers of wills, recorders of deeds, prothonotaries, clerks of the courts, and such others as may from time to time be provided by law.

County officers, except for public defenders who shall be appointed as shall be provided by law, shall be elected at the municipal elections and shall hold their offices for the term of four years, beginning on the first Monday of January next after their election, and until their successors shall be duly qualified; all vacancies shall be filled in such a manner as may be provided by law.

of the position of Sheriff beyond what is permitted by the Pennsylvania Constitution. *See* Complaint at 7. Second, the Complaint alleges that the Ballot Questions violate Article IX, Section 2 of the Pennsylvania Constitution⁷ by exercising authority

County officers shall be paid only by salary as provided by law for services performed for the county or any other governmental unit. Fees incidental to the conduct of any county office shall be payable directly to the county or the Commonwealth, or as otherwise provided by law.

Three county commissioners shall be elected in each county. In the election of these officers each qualified elector shall vote for no more than two persons, and the three persons receiving the highest number of votes shall be elected.

Provisions for county government in this section shall apply to every county except a county which has adopted a home rule charter or an optional form of government. One of the optional forms of county government provided by law shall include the provisions of this section.

Pa. Const. art. IX, § 4.

⁷ Article IX, Section 2 of the Pennsylvania Constitution, entitled “Home rule,” provides:

Municipalities shall have the right and power to frame and adopt home rule charters. Adoption, amendment or repeal of a home rule charter shall be by referendum. The General Assembly shall provide the procedure by which a home rule charter may be framed and its adoption, amendment or repeal presented to the electors. If the General Assembly does not so provide, a home rule charter or a procedure for framing and presenting a home rule charter may be presented to the electors by initiative or by the governing body of the municipality. A municipality which has a home rule charter may exercise any power or perform any function not denied by this Constitution, by its home rule charter or by the General Assembly at any time.

Pa. Const. art. IX, § 2.

denied by 53 Pa.C.S. § 2926.⁸ *See id.* Third, the Complaint alleges that Ordinance Section 5-201.06(D) – which provides, in pertinent part, that “[a]ny term of office in progress as of January 15, 2027 shall be deemed independently elected County official’s first term for the purposes of computing the term limits applicable to such individual” – illegally retroactively counts the Sheriff’s current term as the first of three allowable terms despite the Sheriff having been elected prior to the enactment of the Ordinance. *See id.* at 7-8. The Complaint names the Council, the County, and Sara Innamorato individually and in her official capacity as County’s Chief Executive (Chief Executive) as defendants. *See id.* at 2.

⁸ Section 2926, titled “Submission of question on form of government,” provides:

If the government study commission recommends that the question of adopting a home rule charter or one of the optional plans of government authorized by this subpart shall be submitted to the electors, the municipal clerk or secretary shall, within five days thereafter, certify a copy of the commission’s report to the county board of elections, which shall cause the question of adoption or rejection to be placed upon the ballot or voting machines at the time as the commission specifies in its report. The commission may cause the question to be submitted to the electors at the next primary, municipal or general election occurring not less than 60 days following the filing of a copy of the commission’s report with the county board of elections, at the time the commission’s report directs. At the election, the question of adopting that form of government recommended by the commission shall be submitted to the electors by the county board of elections in the same manner as other questions are submitted to the electors under the act of June 3, 1937 (P.L. 1333, No. 320), known as the Pennsylvania Election Code. The commission shall frame the question to be placed upon the ballot as provided for in section 2925 (relating to form of question on form of government) and, if it deems appropriate, an interpretative statement to accompany the question.

53 Pa.C.S. § 2926 (footnote omitted).

In response to the Complaint, on June 17, 2026, the Council filed its Preliminary Objections to Declaratory Judgment, arguing legal insufficiency of the claims of the Complaint (Council Preliminary Objections). On June 18, 2026, the Chief Executive likewise filed Preliminary Objections that requested dismissal in both her individual and her official capacities based on redundancy of the claims, no possible recovery, and official immunity (Chief Executive Preliminary Objections) (collectively, Preliminary Objections).

On July 29, 2026, the Trial Court heard argument on the Preliminary Objections,⁹ during which the parties and the Trial Court discussed the implications of Section 2930 of the Home Rule Law and *Pilchesky v. Lackawanna County*, 88 A.3d 954 (Pa. 2014), on the requested declaratory judgment. Following supplemental briefing by the parties, on August 12, 2026, the Trial Court entered the Trial Court Order¹⁰ in which the Trial Court concluded that, while the Council has

⁹ We observe that the Association filed a Petition to Intervene pursuant to Pennsylvania Rules of Civil Procedure 2327 and 2328 on June 6, 2026. The Trial Court conducted argument on June 30, 2026, and granted the Petition to Intervene by order dated July 2, 2026. *See* Trial Court Memorandum Opinion on Intervention filed July 2, 2026.

¹⁰ Specifically, the Trial Court Order provided, in pertinent part, as follows:

ORDER OF COURT ON DECLARATORY JUDGMENT

AND NOW, this 12th day of August 2026, after review of Plaintiff Sheriff Kraus and the Pennsylvania Sheriffs' Association's Complaint for Declaratory Judgment and pursuant to 42 Pa.C.S.[] §§ 7532 & 7538, it is **ORDERED, ADJUDICATED, and DECREED:**

1. I found no cause of action on Count I as the plain text application of Article IX, § 4 and *Wecht v. Roddey*, 815 A.2d 1146 (Pa. [Cmwltth.] 2002) requires and the Ordinance is not unconstitutional as averred in Count I.

the power to propose substantial and fundamental changes in term limitations for independently elected County officers, the Home Rule Law must be followed, including the implementation of a government study commission pursuant to 53 Pa.C.S. §§ 2911-2930 prior to the referendum on term limitations being presented to voters. The Trial Court Order also determined that the Ordinance was illegal due to its retroactive application. Accordingly, the Trial Court Order determined that the Ballot Questions must be set aside and entered declaratory judgment in favor of the Sheriff and the Association.

The parties filed post-trial motions. On August 26, 2026, this Court entered an order requiring the parties to file statements of issues complained of on

2. I found no cause of action on Count II as the Ordinance empowering Council to impose term limits is limited but not in direct conflict with 53 Pa.C.S.[] § 2962; therefore, under 53 Pa.C.S.[] § 2962 the Ordinance is then not in violation of Article IX, § 2 of the PA Constitution.

3. I found a cause of action on Count III and further declare judgment that the Ordinance's retroactive application of term limits is substantive warranting set aside of the three [B]allot [Q]uestions.

4. I declare judgment that the Ordinance is in violation of HRCOPL, 53 Pa.C.S.[] § 2930, and as such violated Article IX, § 2 of the PA Constitution warranting set aside of the three [B]allot [Q]uestions.

AND NOW, as the proposed referendum questions in the Ordinance violate the PA Constitution and HRCOPL and also for the separate reason of retroactive application, it is **ORDERED** that all referendum questions must be set aside and removed from the PA November 3rd, 2026 election.

See my **OPINION ON PRELIMINARY OBJECTIONS AND DECLARATORY JUDGMENT**.

Trial Court Order at 1-2 (pagination supplied).

appeal pursuant to Pennsylvania Rule of Appellate Procedure 1925(b) and a briefing schedule prior to the Trial Court addressing the post-trial motions.

The Council filed a motion for post-trial relief alleging that the Sheriff and the Association waived the possible application of 53 Pa.C.S. § 2930 and that the Trial Court improperly raised *sua sponte* the study commission issue and the application of *Pilchesky* to that issue. Alternatively, the Council argued that *Pilchesky* does not apply to the facts here because the imposition of term limits is not as extensive an amendment to the Home Rule Charter as the amendments at issue in *Pilchesky*. The Council also reraised several constitutional arguments.

The Sheriff and the Association filed a post-trial motion arguing that that the Ordinance was contrary to Article IX, Section 4 of the Pennsylvania Constitution. The Sheriff and Association repeated their earlier assertion that the constitutional provisions regarding county officers should be read to mandate allowing unlimited reelections.

The Trial Court rejected all post-trial motions and reiterated its previous analysis and holdings. Appeals by the Sherriff, the Association, and the Council followed.

II. Issues

On appeal,¹¹ the Council argues that the Trial Court should not have raised Section 2930 and the application of *Pilchesky* where the Sheriff did not plead the issue of a study commission in his complaint. The Council alternatively repeats its argument that Section 2930 and *Pilchesky* do not apply to require a study commission in this case.

¹¹ These consolidated appeals present questions of law over which our standard of review is *de novo* and our scope of review is plenary. See *City of Clairton v. Zoning Hearing Bd. of Clairton*, 246 A.3d 890, 896 n.8 (Pa. Cmwlth. 2021).

The Sheriff and the Association jointly contend that the Trial Court should have ruled that the Ballot Questions violated Article IX, Section 2 of the Pennsylvania Constitution, governing amendment of a home rule charter by referendum, and Article IX, Section 4, governing rights to pursue reelection. The Sheriff and Association also maintain that the Trial Court should have found that the Ordinance violated the Home Rule Law and the County's Home Rule Charter.

In response to the Sheriff and Association's arguments on appeal, the Council argues that Article IX, Section 4 of the Pennsylvania Constitution does not prevent the imposition of term limits and that the Ordinance is not impermissibly retroactive in effect.

Although multiple issues have been raised by the parties, we have determined that the issue of a mandatory study commission process is dispositive.

III. Discussion

The Trial Court concluded that the Ballot Questions propose fundamental changes in the County's government and therefore require a study commission to engage in a review process before placement of the Ballot Questions on the General Election ballot. The Council asserts that the Sheriff failed to raise this argument in the Complaint and that the Trial Court erred by raising it *sua sponte*. Accordingly, we address the Council's assertion before reaching the merits of the study commission issue.

It is true that the Complaint did not expressly plead the failure to appoint a study commission among the legal theories supporting the requested declaratory relief. However, the Complaint did assert that the Council "exercise[d] an authority denied by Section 2926 of the Home Rule Law," which, by its very title, relates to "[s]ubmission of [a] question on form of government," and which requires

consideration of a study commission recommendation. 53 Pa.C.S. § 2926; *see* Original Record (O.R.) at 157.¹² At worst, the study commission issue was an additional legal theory continuing development of the issue raised in the Complaint relating to Section 2926 in support of the requested relief. It was not a new cause of action. A court does not act impermissibly in raising, *sua sponte*, a new legal theory that may apply to the facts raised in support of a request for relief. *See Land Acquisition Servs., Inc. v. Clarion Cnty. Bd. of Comm'rs*, 605 A.2d 465, 467 n.1 (Pa. Cmwlth. 1992) (observing that “there is a distinction between issues that have not been raised and resolving the issues that have properly been raised based upon a legal theory that the parties have not considered”).

Moreover, a search of the Trial Court record reveals that issue was, in fact, repeatedly raised and discussed by the parties. The Council raised and argued the issue in its reply brief in support of its Preliminary Objections. O.R. at 214. The Council discussed the issue further in its supplemental brief in support of its Preliminary Objections. *Id.* at 354-55. The Sheriff expressly raised it in his motion for an emergency stay of the Ballot Questions from appearing on the ballot, as well as in his supporting brief. *Id.* at 263 & 293-96. The Sheriff also addressed the issue in his supplemental brief opposing the Council’s Preliminary Objections. *Id.* at 322-25. Additionally, the issue was discussed at oral argument on the Preliminary Objections and extensively at oral argument on the motion for stay. Transcript of Proceedings, 7/29/26 at 53-62; Transcript of Proceedings, 8/7/26 at 13-18 & 36-50. The parties’ extensive discussions of the issues in the Preliminary Objections, the motion for stay, the various briefs, and both oral arguments clearly indicate that everyone was well aware that the need for a study commission was a major issue in

¹² Citations to the original record refer to electronic pagination.

the case, and everyone had ample opportunity to address that issue. In these circumstances, we decline to find either that the Sheriff and the Association waived the issue or that the Trial Court erred in considering it. *See Nader v. Hughes*, 643 A.2d 747, 750-51 (Pa. Cmwlth. 1994) (holding that a trial court properly raised an issue *sua sponte* where it allowed the parties to brief the issue before deciding it; distinguishing *Wiegand v. Wiegand*, 337 A.2d 256 (Pa. 1975), in which a court’s *sua sponte* consideration of issues deprived counsel of the opportunity to brief and argue those issues).

Turning to the merits of the study commission issue, we observe that the Trial Court, citing 53 Pa.C.S. §§ 2941(b) and 2930, as well as *Pilchesky*, determined that, in addition to impermissible retroactive effect, “there may be a different legal basis for declaratory judgment” because the Ballot Questions had not been subjected to consideration by a study commission before being placed on the ballot. *Kraus v. Cnty. Council of Cnty. of Allegheny* (C.P. No. GD-26-5663, filed Aug. 31, 2026), Opinion on Preliminary Objections and Declaratory Judgment (Trial Ct. Op.) at 3.¹³ Several provisions of law, as well as our Supreme Court’s decision in *Pilchesky*, are pertinent to the issue of study commission requirements.

Section 2961 of the Home Rule Law provides as a general rule:

A municipality which has adopted a home rule charter may exercise any powers and perform any function not denied by the Constitution of Pennsylvania, by statute or by its home rule charter. All grants of municipal power to municipalities governed by a home rule charter under this subchapter, whether in the form of specific enumeration or general terms, shall be liberally construed in favor of the municipality.

¹³ We observe that upon raising the study commission issue, the Trial Court allowed the parties to file “supplementary briefs of unlimited page number” addressing both retroactivity and the effect of *Pilchesky v. Lackawanna County*, 88 A.3d 954 (Pa. 2014).

53 Pa.C.S. § 2961. The General Assembly provided the procedure for home rule charter amendments in Subchapter C of the Home Rule Law. Specifically, Section 2941(a) authorizes the amendment of an existing Home Rule Charter by initiative procedure and referendum or, as here, by ordinance of the governing body. 53 Pa. C.S. § 2941(a).

Section 2930 of the Home Rule Law states, however:

For the purposes of this subpart, each of the optional forms of government provided by this subpart and each of those optional forms *as modified by any available provisions concerning* size of council, *election of municipal officials* and the basis for electing councilmen *is hereby declared to be a complete and separate form of government provided by the General Assembly for submission to the electors.*

53 Pa.C.S. § 2930 (emphasis added).

Where an amendment would create a separate form of government as defined by Section 2930, Section 2911(a) of the Home Rule Law provides:

Whenever authorized by ordinance of the governing body or upon petition of the electors to the county board of electors of the county wherein the municipality is located, an election shall be held upon one of the following questions:

Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality, to consider the advisability of the adoption of an optional form of government and to recommend whether or not an optional plan of government should be adopted?

Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality, to consider the advisability of the adoption of a home rule charter and, if advisable, to draft and to recommend a home rule charter?

Shall a government study commission of (seven, nine or eleven) members be elected to study the existing form of government of the municipality, to consider the advisability of the adoption of an optional form of government or a home rule charter, to recommend the adoption of an optional form of government or to draft and recommend a home rule charter?

53 Pa.C.S. § 2911(a).

Section 2918 of the Home Rule Law sets forth the function of such a study commission as follows:

The government study commission shall study the form of government of the municipality to compare it with other available forms under the laws of this Commonwealth and determine whether or not in its judgment the government could be strengthened or made more clearly responsible or accountable to the people or whether its operation could become more economical or efficient under a changed form of government.

53 Pa.C.S. § 2918.

In *Pilchesky*, the Board of Commissioners of Lackawanna County sought, by an ordinance placed on an election ballot as a referendum, “to abolish the elected offices of Sheriff, Clerk of Judicial Records, Recorder of Deeds and Register of Wills, and to redefine the duties that had been assigned to those positions as legislative powers.” 88 A.3d at 956. A challenge was filed seeking removal of the referendum from the ballot on the basis that the enabling ordinance “direct[ed] a ballot question that propose[d] a change in the form of government rather than an amendment to the [Home Rule] Charter and that such a change can be effected only by petition or ordinance seeking election of a government study commission[] under

53 Pa.C.S. § 2911.” *Id.* at 957 (footnote omitted).¹⁴ In analyzing this issue, our Supreme Court explained:

The governing body, or electors, may authorize a government study commission no earlier than every four years. *See* 53 Pa.C.S. § 2927. The government study commission is to hold hearings and to recommend one of four enumerated actions, *i.e.*[,] a referendum on whether a home rule charter or an optional plan of government should be adopted, that the form of government should remain unchanged, or any other action consistent with its functions. *See* 53 Pa.C.S. §§ 2920, 2923. The form of government may be changed no earlier than every five years. *See* 53 Pa.C.S. § 2929. Notably, ***Section 2930 defines the status of forms of government for the balance of the Home Rule Law.***

Id. at 966 (emphasis added).

Relying on Section 2930, the Supreme Court held that “any modification of provisions concerning the ‘election of municipal officials’ produces a separate form of government for the purposes of the Home Rule Law.” 88 A.3d at 966. Therefore, any such change “is subject to the procedure of electing a government study commission and subsequent referendum. . . .” *Id.* (citing 53 Pa.C.S. § 2911(a)); *see also Rosato v. Slifko* (Pa. Cmwlth., No. 1630 C.D. 2014, filed Oct. 10, 2014),¹⁵ slip op. at 5 (quoting *Pilchesky*’s holding that “any modification of provisions concerning the ‘election of municipal officials’ produces a separate form

¹⁴ Although no similar issue was raised here, we note that in *Pilchesky*, the trial court granted an alternative request in the petition that contended a single referendum could not include amendments affecting four separate offices. 88 A.3d at 958. Here, the Second Ballot Question similarly affects several separate County offices – the Chief Executive, Council Members, County Controller, District Attorney, Sheriff, and Treasurer. *See* Ordinance 13808-26 § 2.

¹⁵ Unreported opinions of this Court issued after January 15, 2008 may be cited for their persuasive value pursuant to Section 414(a) of this Court’s Internal Operating Procedures. *See* 210 Pa. Code § 69.414(a).

of government for purposes of the Home Rule Law” and concluding that a proposed referendum to remove some powers from a city mayor and shift them to an appointed city manager required election of a study commission and attending review and hearing before the referendum question could be placed on the ballot).

In *Pilchesky*, the proposed amendment to the home rule charter related to the provisions governing election of several county officers. 88 A.3d at 967. The county commissioners, through their amendatory ordinance providing for a ballot question, “sought to alter provisions of the [c]harter which provided for the election of the[] enumerated municipal officers.” *Id.* Accordingly, our Supreme Court held that “under the plain language of Section 2930, the modification of the [c]harter in this respect equate[d] to the adoption of ‘a complete and separate form of government’” that required engaging in the study commission process. *Id.*

Here, the Ballot Questions propose less extensive changes to the Home Rule Charter than those at issue in either *Pilchesky* or *Rosato*. Nevertheless, the Ballot Questions would alter provisions of the Home Rule Charter that provide for the election of the designated municipal officers. Facially, such alterations fall within the parameters of the rule stated by our Supreme Court in *Pilchesky*. The Trial Court concluded that a lesser alteration still requires engaging in the study commission process before putting the Ballot Questions before the voters. We agree. Section 2930 paints with a broad brush, mandating that a home rule charter “as modified by *any available provisions concerning . . . election of municipal officials . . . is . . . a complete and separate form of government . . .*” 53 Pa.C.S. § 2930 (emphasis added). Thus, by its plain language, Section 2930 applies to “any” modification of the provisions of a home rule charter that “concern[s]” the “election

of municipal officials.” *Id.* The broad language in *Pilchesky* is consistent with the broad language in Section 2930.

The Ordinance is a modification of the County’s Home Rule Charter and consists entirely of provisions concerning the election of municipal officials. *See* 53 Pa.C.S. § 2930. Therefore, by definition, the Ordinance provides for a complete and separate form of government. *See id.* The Ordinance is, accordingly, subject to the study commission requirements of the Home Rule Law before it can appear in the form of the Ballot Questions.

The Council argues that *City Council of Bethlehem v. Marcincin*, 515 A.2d 1320 (Pa. 1986), supports a different result. We disagree. *Marcincin* concerned a city ordinance imposing a two-term limit on the office of mayor. An incumbent mayor who was first elected several years after enactment of the ordinance sought to invalidate the ordinance at the end of his second term in order to run for a third term of office. Our Supreme Court held that enactment of the ordinance had been within the scope of the city’s power under its home rule charter as authorized by the legislature. *Id.* at 1326. Nothing in *Marcincin* addressed whether the ordinance was or should have been presented as a ballot question at the time of its enactment. *See generally id.* There was, perforce, no indication that the need for a study commission prior to placement of a question on an election ballot was ever at issue in *Marcincin*. *See generally id.* *Marcincin*, therefore, does not speak to the need for a study commission which is at issue here, where the Council apparently concedes that the term limits in question must be presented to voters as a referendum. *Marcincin* presents no conflict with *Pilchesky*.

For the reasons above, the Trial Court did not err in concluding that the Council is required to follow the study commission procedure for submitting the

Ballot Questions as referenda. Because we dispose of the appeal based on interpretation of the relevant statutory provisions, we do not reach the constitutional arguments asserted by the parties. *See Newman v. Pa. Dep't of Corr.*, 349 A.3d 1030, 1039 (Pa. Cmwlth. 2025) (explaining that “Pennsylvania law is well settled . . . that ‘[w]hen a case raises both a constitutional and a non-constitutional issue, a court should not reach the constitutional issue if the case can properly be decided on non-constitutional grounds’”) (first quoting *P.J.S. v. Pa. State Ethics Comm’n*, 723 A.2d 174, 176 (Pa. 1999); and then citing *Mt. Lebanon v. Cnty. Bd. of Elections*, 368 A.2d 648, 650 (Pa. 1977)).

IV. Conclusion

Based on the foregoing discussion, the Trial Court Order is affirmed.

CHRISTINE FIZZANO CANNON, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Kevin M. Kraus, individually and : CASES CONSOLIDATED
within his official capacity as Sheriff :
of Allegheny County and :
Pennsylvania Sheriffs' Association :

v. :

County Council of the County of :
Allegheny Pennsylvania and :
Allegheny County :

Appeal of: Pennsylvania : No. 1250 C.D. 2026
Sheriffs' Association :

Kevin M. Kraus, individually and :
within his official capacity as Sheriff :
of Allegheny County and :
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v. :

County Council of the County :
of Allegheny, Pennsylvania and :
Allegheny County :

Appeal of: Kevin M. Kraus : No. 1251 C.D. 2026

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within his official capacity as Sheriff :
of Allegheny County and Pennsylvania :
Sheriffs' Association :

v. :

County Council of the County of :
Allegheny, Pennsylvania and :
Allegheny County :

Appeal of: County Council of the : No. 1255 C.D. 2026
County of Allegheny, Pennsylvania :

ORDER

AND NOW, this 11th day of September 2026, the August 12, 2026 order
of the Court of Common Pleas of Allegheny County is AFFIRMED.

CHRISTINE FIZZANO CANNON, Judge