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**SLIP OPINION NO. 2026-OHIO-3406**

**THE STATE EX REL. BLANKENSHIP ET AL. *v.* TRENTON CITY COUNCIL ET AL.**

**[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Blankenship v. Trenton City Council*, Slip Opinion No. 2026-Ohio-3406.]**

*Mandamus—Elections—Writ sought to compel city council to pass ordinance certifying petition to county board of elections and providing for submission of proposed charter amendment for placement on November 2026 general-election ballot—Article XVIII, Sections 8 and 9 of Ohio Constitution, which govern amendments to municipal charters, must be read in pari materia with Article XVIII, Section 14—An amendment petition requires valid signatures equal to 10 percent of electors of municipality based on total number of votes cast at last preceding general municipal election—Relators entitled to order compelling city council to pass ordinance certifying petition to board of elections for submission of proposed charter amendment to electors at a special election within time parameters stated in Article XVIII, Section 8—Limited writ granted and relators' request for*

*attorney fees and court costs denied.*

(No. 2026-1035—Submitted August 28, 2026—Decided September 1, 2026.)

IN MANDAMUS.

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The per curiam opinion below was joined by KENNEDY, C.J., and BRUNNER, DETERS, HAWKINS, and SHANAHAN, JJ. FISCHER and DEWINE, JJ., joined paragraph 12 of the opinion and concurred in the judgment.

**Per Curiam.**

**{¶ 1}** Relators, Barry Blankenship, Lorie Blankenship, Steven Wallace, Lesa DeRosier, and Amy Humbert, filed with the Trenton City Council a petition setting forth a proposed amendment to Trenton's city charter that would prohibit the construction of data centers. Respondents, the individual members of the Trenton City Council (collectively, "the council"),[1] refused to certify the proposed amendment to the Butler County Board of Elections for placement on the November 3, 2026 general-election ballot on the ground that relators' petition did not contain a sufficient number of valid signatures. Relators now seek a writ of mandamus compelling the council to pass an ordinance "certifying [the] petition to the Butler County Board of Elections and providing for the submission of the proposed charter amendment to the electors of the City of Trenton on November 3, 2026." Relators also seek awards of court costs and attorney fees.

**{¶ 2}** For the reasons explained below, we grant a limited writ of mandamus ordering the council to pass an ordinance certifying relators' proposed charter amendment to the board of elections for submission to the electors at a special

1. The named members of the Trenton City Council are Mayor Ryan Perry, Vice Mayor Floyd Croucher, Marci Butts, Sharon Montgomery, Austin Proffitt, Kenneth Roark, and Ray Nichols. The complaint separately names the Trenton City Council as a respondent. However, "[a] city council is not sui juris and therefore cannot sue or be sued in its own right, absent statutory authority." *Cuyahoga Falls v. Robart*, 58 Ohio St.3d 1, 6 (1991).

election within the time frame stated in Article XVIII, Section 8 of the Ohio Constitution. We deny relators' request for awards of court costs and attorney fees.

## I. FACTS AND PROCEDURAL HISTORY

**{¶ 3}** Relators are residents and electors of Trenton and proponents of an amendment to the city's charter. Relators' proposed amendment would add a new section to Article IX of the city charter that would prohibit the construction of data centers in the city. On July 8, 2026, relators filed with the council's clerk a petition setting forth their proposed charter amendment. The clerk transmitted the petition to the board of elections, which determined that the petition contained 336 valid signatures. The board further certified that 1,277 voters in Trenton had cast a ballot in the November 4, 2025 general election and that 8,197 registered voters were in Trenton at the time of that election.

**{¶ 4}** The council convened a special meeting on August 3, at which it adopted Ordinance No. 20-2026. That ordinance did not certify the petition to the board of elections for the submission of the proposed charter amendment to the electors; instead, it set forth the council's conclusion that the petition's 336 signatures were insufficient to require such action. The council reasoned that Trenton Charter § 9.03, which incorporates Article XVIII, Section 9 of the Ohio Constitution, requires a charter-amendment petition to be signed by "ten percent of the electors of the Municipality," Trenton Ord. 20-2026. Interpreting "elector" to mean "a person having the qualifications provided by law to be entitled to vote," *id.*, citing R.C. 3501.01(N), the council determined that the required number of signatures for submission of the proposed charter amendment to the electors was based on the total number of people qualified to vote at the preceding general election, *id.*, citing Trenton Charter § 9.03. The council determined that because 8,197 people were eligible to vote in the November 4, 2025 general election, relators' petition required 820 valid signatures—484 more than the number of signatures validated by the board—for submission to the electors.

**{¶ 5}** Relators filed this action on August 6, seeking a writ of mandamus ordering the council to "enact forthwith an ordinance certifying Relators' petition to the Butler County Board of Elections and providing for the submission of the proposed charter amendment to the electors of the City of Trenton on November 3, 2026." Relators contend that under this court's case law, the number of signatures required for submission of the proposed charter amendment to electors is based on the number of votes cast in the previous general election—not the number of electors who were eligible to vote at that election. In other words, relators assert that their petition required only 128 valid signatures, or ten percent of the 1,277 ballots cast in the November 2025 general election. Relators further seek awards of court costs and attorney fees.

**{¶ 6}** Trenton Data Center Campus, L.L.C. ("TDCC"), an entity constructing a data center in Trenton, filed a motion to intervene as respondent, which we granted. 2026-Ohio-3214. In addition, amici curiae Data Center Resistance and Pickaway Informed Voters filed briefs in support of relators, and amici curiae Ohio Chamber of Commerce and Ohio Municipal League ("OML") filed briefs in support of respondents.

## II. ANALYSIS

**{¶ 7}** To be entitled to a writ of mandamus, relators must establish by clear and convincing evidence that (1) they have a clear legal right to the requested relief, (2) respondents have a clear legal duty to provide that relief, and (3) relators lack an adequate remedy in the ordinary course of the law. *State ex rel. Strbich v. Montgomery Cty. Bd. of Elections*, 2024-Ohio-4933, ¶ 11. Relators seek a writ ordering the council to certify their petition to the board of elections for submission of the proposed charter amendment to the electors at the November 3, 2026 general election. Because that election will occur in less than 70 days, relators lack an

adequate remedy in the ordinary course of the law.[2] *See State ex rel. Evans v. Blackwell*, 2006-Ohio-4334, ¶ 42.

**{¶ 8}** To determine whether relators have established that they have a clear legal right to the relief they seek and that respondents have a corresponding clear legal duty to provide that relief, we must consider whether respondents "engaged in fraud, corruption, or abuse of discretion or acted in clear disregard of applicable law." *State ex rel. Tjaden v. Geauga Cty. Bd. of Elections*, 2024-Ohio-3396, ¶ 23.

**A. Relators are entitled to a limited writ of mandamus**

**{¶ 9}** Amendments to municipal charters are governed by Article XVIII, Sections 8 and 9 of the Ohio Constitution. *State ex rel. Maxcy v. Saferin*, 2018-Ohio-4035, ¶ 9. Article XVIII, Section 9 provides that a municipality's legislative authority shall submit a proposed charter amendment to the electors of the municipality "upon petitions signed by ten per centum of the electors of the municipality setting forth any such proposed amendment." The procedures applicable to such submission are in turn governed by the requirements of Article XVIII, Section 8. Ohio Const., art. XVIII, § 9. Article XVIII, Section 8 states that the legislative authority "shall forthwith . . . provide by ordinance for the submission" of the proposed charter amendment "to the electors at the next regular municipal election if one shall occur not less than sixty nor more than one hundred and twenty days" after passage of the ordinance. If no regular municipal election is scheduled within that time frame, the proposed amendment must be submitted to the electors at a special election, which must be "called and held" within the same 60- to 120-day period. Ohio Const., art. XVIII, § 8.

2. The council suggests that relators have an adequate remedy in the ordinary course of the law because the November 3 general election is the wrong benchmark. The council says that relators are entitled to, at most, submission of the proposed amendment to the electors at a special election occurring between 60 and 120 days after passage of the relevant ordinance. *See* Ohio Const., art. XVIII, § 8. We address in Part II(A) whether the council is correct. Regardless, the timetable changes very little.

**{¶ 10}** This court has held that Article XVIII, Sections 8 and 9 of the Ohio Constitution must be read in pari materia with Article XVIII, Section 14. *State ex rel. Huebner v. W. Jefferson Village Council*, 1996-Ohio-303, ¶ 12 ("*Huebner II*"), *rev'g on reconsideration* 1995-Ohio-105 ("*Huebner I*"). Article XVIII, Section 14 provides that "[t]he percentage of electors required to sign any petition provided for [in Article XVIII] shall be based upon the total vote cast at the last preceding general municipal election." Reading this language together with Article XVIII, Sections 8 and 9, this court held that the number of valid petition signatures necessary to establish a right to submit a proposed charter amendment to the electors is equal to "ten percent of the electors of the municipality based upon the total number of votes cast at the last preceding general municipal election," *Huebner II* at ¶ 12, as distinguished from "ten percent of the total number of . . . registered voters," *id.* at ¶ 2.

**{¶ 11}** In *Huebner II*, 482 registered voters had voted at the last preceding general municipal election, meaning that the charter-amendment petition at issue in that case required only 49 valid signatures. Because the part-petitions contained 208 valid signatures, this court granted a writ compelling the village council to certify the proposed charter amendment to the local board of elections for placement on the ballot, *id.* at ¶ 17.

**{¶ 12}** Our holding in *Huebner II* makes the resolution of this case fairly straightforward. No one disputes that relators' petition contained 336 valid signatures or that 1,277 electors cast votes at the last preceding general municipal election. Thus, relators' petition required only 128 valid signatures—10 percent of 1,277—which it exceeded by more than 200. Faced with a petition containing a sufficient number of valid signatures, the council had "a 'mandatory constitutional duty' . . . to submit [the] charter amendment initiative[] 'forthwith,'" *State ex rel. Commt. for Charter Amendment Petition v. Maple Hts.*, 2014-Ohio-4097, ¶ 19, quoting *State ex rel. Commt. for Charter Amendment Petition v. Avon*, 1998-Ohio-

598, ¶ 12. And as we have previously stated, "'forthwith' " means "'immediately.'" *Id.*, quoting *Avon* at ¶ 12.

**{¶ 13}** As an initial matter, the council, TDCC, and OML all offer versions of the same argument to explain why we need not apply Article XVIII, Section 14 in accordance with our holding in *Huebner II*. The gist of these arguments is that Trenton's city charter incorporates and is consistent with the charter-amendment procedures of Article XVIII, Section 9 but does not—and, as an exercise of Trenton's home-rule authority, is not required to—incorporate Article XVIII, Section 14. Section 9.03 of the Trenton City Charter provides:

> Any section of this Charter may be amended as provided in Article XVIII, Section 9, of the Ohio Constitution, by submission of proposed amendments to the electors of the Municipality. Such amendments may be initiated either by two-thirds vote of the members of the Council or by petition to the Council by ten percent of the electors of the Municipality.

**{¶ 14}** We considered a similar argument in *State ex rel. Wilen v. Kent*, in which the respondent city argued that its charter required amendment petitions to be signed by 10 percent of "all registered voters" and that its home-rule authority "permit[ted that] language to be given effect." 2015-Ohio-3763, ¶ 7. As we explained, however, when "the amendment procedures spelled out in a municipal charter conflict with the Ohio Constitution, the constitutional provisions will prevail." *Id.*, citing *State ex rel. Commt. for the Charter Amendment, City Trash Collection v. Westlake*, 2002-Ohio-5302, ¶ 30; *see also State ex rel. Hinchliffe v. Gibbons*, 116 Ohio St. 390, 395 (1927) ("[T]he Constitution being the higher authority, it must be regarded, and the charter must be ignored. The paramount authority must prevail over the subordinate authority."). We therefore rejected the

city's position as "contrary to *Huebner* [*II*]" and determined that the relators had submitted sufficient signatures. *Wilen* at ¶ 7.

**{¶ 15}** To be sure, the language of the charter in *Wilen*[3] conflicted more directly with the Ohio Constitution's charter-amendment provisions than the language of Trenton's charter does—that is, Trenton's charter is consistent with the constitutional language. But this is a distinction without a difference. The council is not free to interpret its charter in a manner inconsistent with the Ohio Constitution as a purported exercise of home-rule authority merely because the charter does not explicitly refer to Article XVIII, Section 14. *See Bazell v. Cincinnati*, 13 Ohio St.2d 63 (1968), paragraph one of the syllabus (a municipality's powers of local self-government are bounded by the Constitution and by constitutionally authorized statutory limitations). Rather, Trenton's charter must be interpreted in light of this court's holding in *Huebner II* and, as we determined in *Wilen*, that holding establishes that relators here have submitted a sufficient number of valid signatures.

**{¶ 16}** The council gives two other reasons why we should nevertheless decline to issue a writ of mandamus. Neither argument has merit. First, the council argues that relators have no clear legal right to have the proposed amendment placed on the upcoming November 3 general-election ballot, because that election is a regular *state* election, not a regular municipal election. *See* R.C. 3501.01(B) ("'Regular municipal election' means the election held on the first Tuesday after the first Monday in November in each odd-numbered year."); R.C. 3501.01(C) ("'Regular state election' means the election held on the first Tuesday after the first Monday in November in each even-numbered year."). As the council correctly notes, if no regular municipal election will occur within 60 to 120 days after passage of the ordinance certifying the amendment to the board of elections for submission

3. The charter in *Wilen* stated that "'[a]t least 10 percent of the *qualified* electors of the City *registered to vote at the next preceding regular Municipal election* must sign the initiative petitions for Charter change.'" (Emphasis added.) *Wilen* at ¶ 6, quoting Kent City Charter § 7A.

to the electors, Article XVIII, Section 8 of the Ohio Constitution provides that the issue must be submitted at a special election called and held within the same period.

**{¶ 17}** Relators do not dispute this understanding of Article XVIII, Section 8. However, they argue that they are at least entitled to a limited writ compelling the council to call a special election within the 60- to 120-day period as articulated by the Constitution. We agree. Considering a similar issue in *State ex rel. Sanduskians for Sandusky v. Sandusky*, this court explained that the relators were not entitled to an order compelling placement of a charter-amendment proposal on the forthcoming election's ballot, because that election was a regular state election, rather than a regular municipal election. 2022-Ohio-3362, ¶ 34-35. However, the relators were "entitled to an order compelling the city commissioners to call a special election within the time parameters stated in . . . Article XVIII, Section 8 of the Ohio Constitution." *Id.* at ¶ 35. Relators here are entitled to the same relief here.

**{¶ 18}** Second, the council argues that it does not have the authority to provide the relief that relators seek. Specifically, the council says in its merit brief that the county board of elections, not the council, "examin[es] petitions, prepar[es] the ballot, approv[es] ballot language, and conduct[s] the election." The council argues that because relators failed to name the Butler County Board of Elections as a respondent, their request for mandamus relief must fail. However, this argument misconstrues the relief that relators seek: relators ask only for a writ of mandamus compelling the council to pass an ordinance providing for the submission of the charter-amendment proposal—which is a constitutional duty imposed on the council as Trenton's municipal legislative authority and one that is enforceable against the council in mandamus. *See* Ohio Const., art. XVIII, § 9; *Westlake*, 2002-Ohio-5302, at ¶ 39 ("When a municipal legislative authority erroneously fails to submit a charter amendment when it is presented with a legally sufficient petition, extraordinary relief in mandamus is available to order placement on the pertinent

election ballot."). Relators are not asking for relief that the council is unable to provide.

**{¶ 19}** In sum, relators have shown by clear and convincing evidence that the council disregarded applicable law. Thus, relators are entitled to a limited writ of mandamus ordering the council to pass an ordinance certifying the petition to the board of elections for submission of the proposed charter amendment to electors at a special election within the time frame stated in Article XVIII, Section 8 of the Ohio Constitution. *See Sanduskians* at ¶ 35.

### B. We decline to overrule *Huebner II*

**{¶ 20}** The council, TDCC, and OML alternatively argue that we should overrule *Huebner II*, which was issued upon the granting of a motion for reconsideration, 1996-Ohio-303, at ¶ 17, and readopt the holding of *Huebner I*, 1995-Ohio-105.

**{¶ 21}** This court held in *Huebner I* that a municipal legislative authority does not have a duty to submit a proposed charter amendment to the electors unless the petition setting forth that proposed amendment has been signed by 10 percent of the total number of registered voters of the municipality. *Huebner I* at ¶ 16. In that decision, the court determined the following: (1) the charter-amendment provisions in a municipal charter prevail over conflicting constitutional provisions based on the home-rule authority provided in Article XVIII, Section 3 of the Ohio Constitution, *id.* at ¶ 12; (2) Article XVIII, Sections 9 and 14 of the Ohio Constitution are "irreconcilably in conflict," *id.* at ¶ 16; and (3) given this conflict, Article XVIII, Section 9, as a provision that "specifically addresses" charter-amendment petitions, prevails over the more "general[]" Article XVIII, Section 14, *id.* at ¶ 16.

**{¶ 22}** On reconsideration, this court reversed course, first finding that the proposition that municipal charter provisions may prevail over conflicting constitutional provisions is "contrary to established precedent" and was

unsupported by the citations offered in support thereof. *Huebner II* at ¶ 9; *see also State ex rel. Bedford v. Cuyahoga Cty. Bd. of Elections*, 62 Ohio St.3d 17, 22 (1991) ("we . . . hold that procedures may be added to the constitutional charter amendment process *if the additions do not conflict with the Ohio Constitution*" [emphasis added]). Second, the court determined that Article XVIII, Sections 9 and 14 of the Ohio Constitution are not irreconcilable but, rather, must be read in pari materia and concluded that Article XVIII, Section 14 serves to explain that the percentage of electors referred to in Article XVIII, Section 9 is "based upon the total number of votes cast at the last preceding general municipal election." *Huebner II* at ¶ 12.

**{¶ 23}** Echoing the court's reasoning in *Huebner I*, the council, TDCC, and OML urge us to hold that Article XVIII, Section 9 of the Ohio Constitution conflicts with Article XVIII, Section 14 and that Section 9 prevails—i.e., 10 percent of "electors" must therefore mean 10 percent of "persons eligible to vote." But this court unanimously reaffirmed the holding in *Huebner II* in two subsequent cases: *Westlake*, 2002-Ohio-5302, at ¶ 24, and *Wilen*, 2015-Ohio-3763, at ¶ 5. In *Wilen*, we confronted an argument very similar to the one presented here—indeed, an argument advanced by OML, which also submitted an amicus brief in support of the respondent in *Wilen*, *Wilen* at ¶ 8-9.

**{¶ 24}** In that case, we declined OML's invitation to overrule *Huebner II*. *Wilen* at ¶ 8. We explained:

> [OML] argues that by making Article XVIII, Section 9 subject to Article XVIII, Section 14, the decision on reconsideration in *Huebner* [*II*] created internal inconsistencies: the word "electors" now means different things in different sentences of the Ohio Constitution. But Article XVIII, Section 14 does not redefine the word "electors"; it merely serves to explain the signature requirement in Section 9 and elsewhere. [OML]'s resolution of the

> alleged conflict is to interpret the Ohio Constitution as if Article XVIII, Section 14 does not exist, which is precisely the result we ultimately rejected in *Huebner* [*II*].

*Id.* at ¶ 9. The arguments advanced here are largely identical to—and are otherwise logical outgrowths of—the argument this court unanimously rejected in *Wilen*. We therefore decline to revisit our holding in *Huebner II* now for the same reasons we gave then.

**C. Relator's request for awards of court costs and attorney fees**

**{¶ 25}** In addition to a writ of mandamus, relators seek awards of court costs and attorney fees. As for the latter, "'[t]he general rule in Ohio is that, absent a statutory provision allowing attorney fees as costs, the prevailing party is not entitled to an award of attorney fees unless the party against whom the fees are taxed was found to have acted in bad faith.'" (Citations omitted.) *State ex rel. Kabatek v. Stackhouse*, 6 Ohio St.3d 55, 55-56 (1983), quoting *State ex rel. Crockett v. Robinson*, 67 Ohio St.2d 363, 369 (1981). Relators point to no statute affirmatively providing for a fee award, instead arguing that the council's conduct evinces its bad faith. A finding of bad faith requires more than negligence or bad judgment on the part of the opposing party; it connotes a dishonest purpose, moral obliquity, conscious wrongdoing, or some ulterior motive or ill will. *State ex rel. Summit Cty. Republican Party Executive Commt. v. LaRose*, 2023-Ohio-1165, ¶ 2.

**{¶ 26}** Relators argue that the council must have acted in bad faith because, before the council's passing Ordinance No. 20-2026, relators provided the council with "written correspondence setting forth the existing, governing Ohio law on these issues" and yet the council failed to enact an ordinance providing for the submission of the proposed amendment to the electors in accordance with that law. However, this evinces, at most, the council's disregard of applicable law. And, as the council points out, it promptly passed an ordinance explaining its reasoning—

an action it was otherwise not required to take. Under these circumstances, and in the absence of any additional evidence showing that the council's actions rose to the level of dishonest purpose or moral obliquity, we deny relators' request for an award of attorney fees predicated on the council's alleged bad faith. *See id.* at ¶ 4.

**{¶ 27}** Relators do not make any explicit argument regarding court costs in their merit brief. They have therefore waived that request and we consequently deny it. *See State ex rel. Shamro v. Delaware Cty. Bd. of Elections*, 2025-Ohio-941, ¶ 21. And because we grant a limited writ of mandamus, "the parties shall bear their respective costs," S.Ct.Prac.R. 18.05(A)(2)(d).

## III. CONCLUSION

**{¶ 28}** For the foregoing reasons, we grant a limited writ of mandamus ordering the council to pass an ordinance certifying the petition to the Butler County Board of Elections for submission of the proposed charter amendment to electors at a special election within the time parameters stated in Article XVIII, Section 8 of the Ohio Constitution. We deny relators' requests for awards of court costs and attorney fees.

Limited writ granted.

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