

LEGISLATIVE LOCATOR

Your source for legislative reporting and advocacy

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May 2018

Local Use of Radar

From prior newsletters, you know we are following legislation offering two different approaches to the authorization to use local radar – Senate Bill 251 and House Bill 2148. **Please see the [comparison chart posted on our website](#).**

PML and PSATC have been advocating for passage of SB 251 (PN 1316) which passed the Senate in November by an almost unanimous vote. Senate Bill 251 (PN 1316) allows all municipal police to use radar while still putting in place a variety of motorist protections. House Bill 2148, on the other hand, limits radar use substantially. The most limiting provisions of HB 2148 are: use by full-time police only and only by accredited police departments. There are currently 117 accredited departments in the state.

On May 24, the House Transportation Committee stripped SB 251 of its language and replaced it with language nearly identical to HB 2148. The local government associations and the Radar Coalition vigorously opposed this action. Even more striking than stripping SB 251 however, was the Committee's 22 to 2 vote in favor of replacing the language.

We are evaluating our next steps in light of this vote. Clearly, the message from the House Transportation Committee members is that they only support a very limited expansion of radar.

Take Action:

If your municipal police department is not accredited and you think your municipality will want to utilize radar, please reach out to your House member and express your concerns with the new version of Senate Bill 251.

LEGISLATIVE LOCATOR

Legislation Enacted

Act 18 of 2018

House Bill 866 (PN 972)

Signed: May 4, 2018

Effective: 60 days

Act 18 amends the Local Tax Enabling Act (Act 511) concerning earned income and net profits taxes, their levy and collection. Following are the substantive changes:

- Gives DCED oversight of all tax collection committees (TCCs), tax collectors and tax collection officers including the promulgation of uniform forms, policies and procedures. DCED forms and policies must be in effect at the TCC level by January 1, 2020.
- Requires audits of TCC's records to be performed on a calendar year basis.
- Requires DCED to provide an avenue to the public for reporting tax collection concerns/issues.
- Provides a threshold payment or “safe harbor” for taxpayers estimating Net Profits Taxes owed.
- Clarifies withholding rules for employees on temporary job assignments using less than 90 days of consecutive work as the threshold for temporary assignments. If an employee works less than 90 consecutive days at a location, the employer withholds the greater of the employee’s resident tax or the employee’s non-resident tax, which is based on the permanent home office of the employer. If the employee works 90 consecutive days or more, the employer withholds the greater of the employee’s resident tax or non-resident tax based on the permanent home office of the employer. Employees working in Philadelphia are exempt from this provision.
- The definition of earned income is amended. For collection and crediting purposes, earned income shall include all taxes on earned income and net profits whether authorized by Act 511 or another law. The change requires full credit be given against tax liability for income tax payments made to any state or political subdivision.
- Prohibits the use of contingency fee audits in the collection of delinquent per capita, occupation, occupational privilege, local services and income taxes.

Legislation of Interest

Property Assessed Clean Energy Programs

Senate Bill 234 (PN 1443), introduced by Senator John Blake, establishes the Property Assessed Clean Energy Program (PACE) under Title 12 (Commerce and Trade).

This legislation authorizes counties and municipalities to establish clean energy programs, water conservation projects or alternative energy systems through an assessment added to a property owner’s real-estate tax. An ordinance or resolution must be adopted that defines the specific area where the program will be offered and provides operational standards and guidelines for the program.

PACE Programs are voluntary for property owners and

can be applied to agricultural, commercial or industrial property within the designated area. After a property owner expresses interest in an approved clean energy project, all mortgage holders on the property must be notified and give consent to the project and assessment. A municipality or a county that establishes a program must post online, and make available to the public, a notice of each qualified project financed through an assessment.

Assessments are to be collected by the municipality or county using their existing tax collection process. Assessment proceeds may only be used to fund program financing. Delinquent assessment installments shall incur penalties and interest in the same manner as delinquent property taxes. Delinquent assessments also

LEGISLATIVE LOCATOR

have the same priority status as a tax imposed by a local government.

If enacted, this legislation shall take effect in 60 days.

Location: *Passed Senate; Final Passage in the House, May 24, 2018*

Land Banks

Senate Bill 667 (PN 1794), introduced by Senator Patrick Stefano, amends the Land Bank Act of 2012 giving redevelopment authorities the same powers as land banks in all counties except Philadelphia and Allegheny.

Under this legislation, an authorized land bank jurisdiction may pass an ordinance authorizing its existing redevelopment authority to also operate as a land bank. The ordinance must comply with the Act's requirements for the creation of a land bank. The designation of an authority as a land bank does not affect the organizational process or membership of its Board of Directors. All finances relating to the authority's operation as a land bank must be kept separate. Once designated, an authority shall have the same powers and duties as a land bank.

If enacted, this legislation will take effect in 60 days.

Location: *Passed Senate; Received First Consideration before the House, May 23, 2018*

Responsibility for Tax Delinquent Property

Senate Bill 851 (PN 1795), introduced by Senator David Argall, amends the Real Estate Tax Sale Law to clarify that a property in the delinquent tax sale process shall remain under ownership of the last owner of record, even when the property is not sold at upset sale. The County Tax Claim Bureau will act as trustee of the property, but will not be responsible for the cost of maintaining the property or costs associated with nuisance remediation. Those expenses will fall on the owner of record.

In addition, the bill allows for an owner to re-purchase the property that was exposed to but not sold at upset sale by remitting payment of all delinquent taxes returned to the Tax Claim Bureau, and any additional

tax claim liens, tax judgements filed against the property, any costs, fees, expenses or interest accrued on the property subsequent to the upset sale.

This legislation stems from a 2002 Commonwealth Court case that found a tax claim bureau becomes a trustee of a delinquent property when it concludes an upset tax sale. This resulted in property owners of record asserting that they're not liable for violations since transfer of legal title.

The provisions of Senate Bill 851 apply to sales conducted on or after the effective date of the legislation.

If enacted, this legislation will take effect in 60 days.

Location: *Passed Senate; Received First Consideration before the House, May 23, 2018*

Expanding the Use of Public Private Partnerships

Senate Bill 1163 (PN 1740), introduced by Senator Thomas Killion, establishes the Public-Private Partnership Infrastructure Act.

This legislation authorizes infrastructure projects in a similar way to Act 88 of 2012, which authorized public-private transportation projects, or P3s.

Senate Bill 1163 creates a 7-member, Public-Private Partnership Infrastructure Board (Board), chaired by the Secretary of DCED. Additional members include the Secretary of the Budget, four members appointed by the General Assembly and one member appointed by the Governor, and the Board shall establish procedures for the submission, evaluation and approval of public entity requests for a public-private project or a private entity submission of a proposal for a public-private project. Political subdivisions are considered public entities under the bill. DCED shall provide all necessary legal, financial and technical assistance to the Board and public entities receiving approval to procure a public-private project.

The Board will consult the Department of Transportation to obtain best practices from the Public-Private Transportation Partnership Board.

This legislation further authorizes a public-private account to be established as a restricted account in the

LEGISLATIVE LOCATOR

General Fund. Moneys received by the Department related to public-private projects shall be deposited into this account and may be used as reimbursements or funding.

If enacted, this legislation shall take effect in 60 days.

Location: *Senate Community, Economic and Recreational Development Committee, May 7, 2018*

Preemption of Soda Tax Levy

House Bill 2241 (PN 3290), introduced by Representative Mark Mustio, amends Title 53 (Municipalities Generally) preempting political subdivisions from levying a fee, surcharge, sales tax, gross receipts tax or excise tax on food and beverages, food and beverage containers, the supply or distribution of food or beverages. Any current levies would expire upon the effective date of this legislation which is immediately upon passage. Philadelphia is currently the only municipality levying a Soda Tax.

If enacted, this legislation will take effect immediately.

Location: *Received First Consideration in the House, May 1, 2018*

Philadelphia Wage Tax

House Bill 2414 (PN 3518), introduced by Representative Todd Stephens, amends the Sterling Act to provide wage tax reimbursement to a wage earner's resident municipality at a rate equivalent to that which would have been collected by the resident municipality.

If enacted, this legislation will take effect in 60 days.

Location: *House Finance Committee, May 9, 2018*

House and Senate Session Days:

Senate: June: 4, 5, 6, 11, 12, 13, 18, 19, 20, 25, 26, 27, 28, 29

House: June: 4, 5, 6, 11, 12, 13, 18, 19, 20, 21, 25, 26, 27, 28, 29, 30

**reminder: session dates are subject to change*

LEGISLATIVE LOCATOR

Report Issued on Cost of Implementing the Right-to-Know Law

Last year, House Resolution 50 directed the Legislative Budget and Finance Committee to conduct a study on the cost to local governments and Commonwealth agencies to implement the Right-to-Know Law, Act 3 of 2008. The Committee issued its report in February.

This month, the House Local Government Committee held a hearing to discuss the findings of the report and to present its recommendations. The Report makes the following recommendations to the General Assembly to improve compliance:

- Require agencies to provide their Open Records Officer's contact information to the state Office of Open Records annually and when there is a change in the information.
- Require agencies to prominently post the currently required Right-to-Know Law information, as well as the contact information for their Open Records Officers.
- Require all state and local Open Records Officers to attend an annual training course.
- Authorize the Office of Open Records to establish reasonable hourly fees for the processing of commercial and other exceeding time-consuming requests.

The full Report can be accessed [here](#).

Approximately twice a month, the [National League of Cities](#) issues a Federal Advocacy Update to let you know what is happening at the national level. You can catch these updates on our website [here](#).

What the Senate Net Neutrality Vote Means for Cities

After months of protest by state governments and delays, the Senate voted 52/47 on May 16 in favor of a Congressional Review Act resolution to overturn the FCC's December Restoring Internet Freedom Order, an action by the Agency to eliminate net neutrality regulations. The vote was supported by all Senate Democrats, as well as Republican Senators Lisa Murkowski (AK), Susan Collins (ME) and John Kennedy (LA). The FCC's action remains in place and will go into effect in June, unless the House also passes the resolution and it is signed by the President – currently an unlikely scenario.

The vote was intended to restore the 2015 net neutrality framework, which was overturned in December 2017, in a move that [NLC opposed](#). Elimination of net neutrality regulations [opens cities and consumers](#) to the possibility of blocking, throttling and the paid prioritization of internet traffic, and preempts state and local governments from enacting their own net neutrality requirements. Thus far, 23 state attorneys general have joined a lawsuit to block the rollback of net neutrality, and a number of states have introduced or passed legislation or executive orders to preserve some degree of net neutrality in their states, in defiance of the FCC rulings' preemptive measures.

The FCC's regulatory rollback is set to go into effect in June, after several months of delay in publication of the final order. Congresswoman Marsha Blackburn (TN-7) has introduced the Internet Freedom Act ([H.R. 4070](#)) which partially moves net neutrality principles into statute, but falls short of prohibiting paid prioritization of internet traffic by ISPs, and has failed to gain bipartisan support. The legal challenges brought by states and the anticipated actions by internet service providers could take months or years to unfold, but in the intervening time, some cities, such as [Fort Collins, Colo.](#), have elected to create their own municipal broadband networks to ensure residents' access to free and open internet traffic is protected.

