

LEGISLATIVE LOCATOR

Your source for legislative reporting and advocacy

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June 2018

Take Action

With House and Senate members home for the summer and in campaign mode, take this opportunity to lobby your legislators. Here are a few suggested issues:

- Local radar authorization – Ask House members to move SB 251 back to the Senate.
- Storm water fee authorization – Ask Senate members to pass HBs 913-917 without further amendments.
- Municipal pension reform – Remind both House and Senate members that the cost of municipal public safety pensions still needs to be addressed.

There are tools on the [PML website](#), including our [Advocacy Toolkit](#) to assist you with these conversations. PML legislative staff is also available to help you prepare. Don't let the opportunity pass for a local conversation about any one of these issues, or all three!

The General Assembly Passes an Early Budget and Goes Home for the Summer

This month, the General Assembly quickly moved House Bill 2121 (PN 3747) to the Governor's desk and the Governor signed the budget on June 22. Act 1A is a \$32.7 billion spending plan with no increased broad-based taxes or fees. There is a \$700 million increase (2%) in spending from last year, in the following areas:

In education spending:

- \$100 million increase (2%) in basic education for a total \$6.1 billion;
- \$25 million increase (11%) in early childhood education for a total \$251 million;
- \$15 million increase (1%) in special education for a total \$1.4 billion;
- \$15 million increase (3%) in PASSHEA spending for a total \$468 million; and
- PreK-education spending increase for a total \$12.3 billion.

An additional \$60 million in off-budget spending is authorized as grant funding for school safety programs.

Human services receive a 6% increase in total spending, with a focus on the opioid crisis, intellectual disabilities and child-care assistance for low income families.

Corrections and Parole receive a \$100 million (8%) increase in spending for a total of \$2.5 billion.

State pensions receive a \$290 million increase (8%) for a total increase of \$4 billion.

The House passed the bill with a vote of 188/10; and the Senate sent it to the Governor with a vote of 47/2.

Positive state revenues and the November election helped move the budget to early passage. Expect a short fall session when the General Assembly returns in September.

The 2017-2018 Legislative Session will end on November 30.

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Legislation Enacted

Act 30 of 2018

Senate Bill 234 (PN 1443)

Signed: June 12, 2018

Effective: 60 days

Act 30 establishes the Property Assessed Clean Energy Program or PACE under Title 12 (Commerce and Trade). This Act 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 shall provide 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 its 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 have the same priority status as a tax imposed by a local government.

Act 31 of 2018

Senate Bill 880 (PN 1431)

Signed: June 12, 2018

Effective: Various dates

Act 31 amends Title 75 (Vehicles) standardizing the maximum width of all vehicles operating on state roads to 102 inches. This change brings PA law in line with federal law and current industry standards. Local governments may still restrict the operation of vehicles on local roads under the guidance of the federal Surface Transportation Assistance Act of 1982. Municipalities

still need to follow PennDOT regulations when wishing to limit travel on local roads for safety reasons.

Act 32 of 2018

House Bill 653 (PN 3613)

Signed: June 19, 2018

Effective: 180 days

Act 32 amends Title 68 (Real and Personal Property) establishing the Vacant and Abandoned Real Estate Foreclosure Act. This Act creates an accelerated foreclosure process for mortgaged properties that have been certified as vacant or abandoned.

Following a creditor's notice to an obligor of a delinquent or defaulted obligation on a mortgaged property, the creditor may contact the municipality to determine if the property is vacant or abandoned. A mortgaged property may be certified as vacant or abandoned by either a municipal code official or through a judicial proceeding as outlined in the bill.

After being certified and where the property owner did not seek review, the mortgaged property moves to foreclosure and is no longer subject to mediation, conciliation, diversion or any other program established to resolve owner-occupied residential foreclosures. The creditor incurs the costs associated with inspection, certification and reporting on the property.

Upon receipt of the accelerated sale fee of \$500, the sheriff shall schedule a sale of the property to be conducted within 60 days after the writ of execution was filed. The sheriff's deed must be recorded within 30 days of the sale of the property. For an additional \$250, the sheriff shall accelerate the writ of possession within 20 days after the writ was filed. The former owner's personal property must be scheduled for removal before the sheriff can accept the additional fee, as appropriate notice of removal is necessary.

If the property is not sold, or the execution of sale is stayed, canceled or withdrawn, the sheriff will not receive commission. Reasonable attorney fees that are incurred by the lender may be charged to the residential mortgage debtor.

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Act 33 of 2018

Senate Bill 667 (PN 1794)

Signed: June 19, 2018

Effective: 60 days

Act 33 amends the Land Bank Act of 2012 by giving redevelopment authorities the same powers as land banks in all counties except Philadelphia and Allegheny.

Under the Act, an authorized land bank jurisdiction may pass an ordinance allowing 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 an authority's operation as a land bank must be kept separate. Essentially, once designated, an authority has the same powers and duties as a land bank.

Act 34 of 2018

House Bill 352 (PN 364)

Signed: June 19, 2018

Effective: One year

Act 34 amends the Judicial Code (Title 42) by adding a section providing for the acquisition of title to real property by adverse possession after 10 years, rather than the current time frame of 21 years. This bill is limited to adverse possession of property less than one-half acre and single-family dwellings. The 10-year period must be actual, continuous, exclusive and visible, possession of the real property. When seeking title through adverse possession, the individual must commence a quiet title action with the Supreme Court. The owner of record has one year to respond.

Act 38 of 2018

Senate Bill 851 (PN 1795)

Signed: June 19, 2018

Effective: 60 days

Act 38 amends the Real Estate Tax Sale Law to clarify that a property in the delinquent tax sale process shall remain the responsibility of the last owner of record, even when the property is exposed to, but 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 the costs associated with nuisance remediation. Those expenses will fall on the owner of record.

In addition, Act 38 allows for an owner of a property exposed to but not sold at upset sale to pay all delinquent taxes and any additional costs, fees, expenses or interest accrued on the property subsequent to the upset sale. This payment must be in full and will remove the property from further exposure to a tax sale.

This Act stems from a 2002 Commonwealth Court case that found a tax claim bureau becomes a trustee of a delinquent property exposed to but not sold at a tax sale. This resulted in property owners of record asserting that they were not liable for the violations. The provisions of this Act apply to sales conducted on or after the effective date of the legislation.

Act 45 of 2018

House Bill 2468 (PN 3803)

Signed: June 24, 2018

Effective: Immediately

Act 45 amends Title 26 (Eminent Domain), adding restrictions to a taking of land that is subject to a conservation easement.

Act 45 requires a political subdivision, authority, public utility or any other body having or exercising the power of eminent domain, to receive approval from the County Orphans' Court in which land subject to a conservation easement is located before there may be a declaration of taking. The Orphans' Court must be notified at least 30 days prior to a declaration of taking.

Concerning land deemed blighted, the Orphans' Court shall determine whether the land in question is blighted and may approve the condemnation if there is no reasonable or prudent alternative to the utilization of the land subject to the conservation easement.

Emergency projects where the taking is reasonably necessary for the protection of life or property, condemnations by an agency of the Commonwealth for any purpose, and public utility projects approved by the PUC or a federal agency, are exempt from review by the Orphans' Court.

Approval by the Orphans' Court shall apply to declarations of taking filed after December 31, 2017.

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Legislation of Interest

Local Services Tax Collection Consolidation Option

Senate Bill 653 (PN 1905), introduced by Senator Pat Browne, amends Act 511 of 1965, the Local Tax Enabling Act.

Initially, this bill mandated collection of all of the Act 511 taxes under the existing Act 32 consolidated collection process. As it passed the Senate, the bill was amended to allow an opt-out of consolidated collection for the Business Privilege Tax. The bill was then amended significantly by the House Local Government Committee on June 21 to consolidate collection of the Local Services Tax (LST) only. An opt-out provision remains, if a political subdivision wants to keep control over LST collection.

The bill requires a Tax Collection Committee (TCC) to notify in writing every political subdivision and the elected tax collectors thereof within 120 days of the effective date of this legislation (January 1, 2020), giving the political subdivision the option to retain its tax collection authority over the LST. A political subdivision can opt-out of the LST collection mandate by a TCC by passing a resolution stating that it will continue to collect the LST locally at least 90 days prior to the effective date of the bill. The local taxing authority can make the decision to collect locally by passing a resolution no less than 90 days before January 1 of the following year or any year thereafter.

Location: *Passed Senate; Received First Consideration before the House, June 21, 2018*

Resolution to Study State Collection of Earned Income Tax

House Resolution 291 (PN 3173), introduced by Representative Michael Peifer, directs the Department of Revenue in consultation with DCED and the Independent Fiscal Office (IFO) along with input from local governments, to study the feasibility and cost savings of a statewide collection of the local Earned Income Tax, with a statewide collection method domiciled in the Department of Revenue.

The Department of Revenue is reaching out to local governments for comment.

Location: *Adopted in the House (188/0), March 14, 2018*

Local Preemption

House Bill 861 (PN 967), introduced by Representative Seth Grove, amends Title 53 (Municipalities Generally), prohibiting a municipality from regulating employer policies or practices. A municipality may not enact an ordinance or enforce any rule or policy which affects any of the following employer policies and practices:

- wages, other compensation or benefits;
- hiring or termination of employees;
- the workplace;
- the relationship between employers and employees; and
- sick and vacation leave time for employees.

The preemption does not apply to a mandate affecting employees of the municipality itself or any ordinance, rule or policy enacted before January 1, 2015. Persons adversely affected by a local ordinance, rule or policy are authorized to seek declaratory or injunctive relief under this legislation.

A public hearing was held on this bill by the House Labor and Industry Committee on June 13.

If enacted, this legislation will take effect immediately.

Location: *House Labor and Industry Committee, March 16, 2017*

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Items on Local Agendas

House Bill 1531 (PN 3660), introduced by Representative Jim Christiana, amends Title 65 (Public Officials) requiring agencies, including local governments, to post their meeting agenda 24 hours in advance of a meeting if they have a publicly accessible website. The agenda must include a list of each matter of business that will or may be a subject of deliberation or official action at the meeting, as well as the location of the meeting. Copies of the agenda shall also be available for those in attendance at the meeting.

The bill limits deviation from the posted agenda to:

- emergency business relating to a clear and present danger to life or property; and
- matters arising within the 24-hour period that are *de minimis* in nature and not involving the expenditure of funds or entering into a contract.

Business arising during the course of a meeting by a taxpayer or resident may be referred to agency staff. Or, if *de minimis* in nature, the governing body may take official action.

Location: *Received First Consideration before the House, June 11, 2018*

Volunteer Firefighters Workers' Compensation Trust

House Bill 2522 (PN 3791), introduced by Representative Frank Farry, amends the Workers' Compensation Act requiring the Department of Labor and Industry to promulgate regulations to authorize and govern the establishment of municipal self-insurance groups to provide workers' compensation insurance to volunteer fire companies.

Under HB 2522, excess reserves maintained by the State Workers' Insurance Fund (SWIF) for a volunteer fire company that it insures, shall be transferred to a municipal self-insurance group, if the host municipality opts to enter into the group coverage. The Department may require that self-insurance groups accept responsibility for the administration of existing claims associated with the members of a municipality opting into the group.

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

Location: *House Veterans Affairs and Emergency Preparedness Committee, June 21, 2018*

Cosponsor Memos to Watch

Representative Frank Farry issued cosponsor memo [HC03484](#) to garner support for legislation which would allow for the regulation of small-cell wireless facilities to improve the deployment of high-speed wireless broadband service throughout the Commonwealth.

LEGISLATIVE LOCATOR | NLC Update

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](#).

State and Local Groups Respond to Supreme Court's South Dakota v. Wayfair Decision

The leading organizations that represent state and local governments – The Council of State Governments, International City/County Management Association, National Association of Counties, National Conference of State Legislatures, National Governors Association, National League of Cities and the U.S. Conference of Mayors – joined by the Government Finance Officers Association, released the following statement regarding the U.S. Supreme Court's ruling in *South Dakota v. Wayfair*, which overturned the outdated physical presence test:

“State and local organizations applaud the U.S. Supreme Court's decision recognizing that the 1992 *Quill* ruling put Main Street retailers at a competitive disadvantage to remote sellers and the efforts by states to simplify the sales tax collection process and giving those states remote sales tax collection authority. For 26 years Congress has failed to act and through the efforts of Justice Anthony Kennedy, the federal government has finally recognized the changing nature of commerce and state efforts to simplify the collection process.”

A webinar on this issue will take place on July 12, 2018 at 1:00 p.m., EDT. [Click here](#) to register.

