

LEGISLATIVE LOCATOR

Your source for legislative reporting and advocacy

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July 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 913-916 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.
- Contact your [Federal Congress member](#) and urge opposition to the Preemptive Small Cell Deployment Bill, S. 3157, currently before the Senate Commerce Committee. See the NLC article on page 5 for more information.

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 four!



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Legislation Enacted

Act 57 of 2018

House Bill 1738 (PN 3732)

Signed: June 28, 2018

Effective: 60 days

Act 57 amends Title 42 (Judiciary and Judicial Procedure) expanding the jurisdiction of non-municipal police officers allowing them to enforce Commonwealth laws outside their territorial boundaries. Municipal police currently have this authority. Non-municipal police must have Act 120 training and will be allowed to go beyond their jurisdictions in the following circumstances:

- when in hot pursuit;
- when requested immediately to assist another police power or police department;
- when on official business, the officer views an offense and identifies himself or herself as a police officer and the offense is a felony, a misdemeanor or a breach of the peace that presents a clear and present danger; or
- when an officer witnesses a felony and makes an effort to identify himself or herself as an officer.

Act 57 applies to campus police, railroad police, capitol police, airport police and agents of the office of Attorney General.

Act 62 of 2018

Senate Bill 431 (PN 1872)

Signed: June 28, 2018

Effective: 6 months

Act 62 amends Title 18 (Crimes and Offenses) and Title 75 (Vehicles) regarding penalties for littering.

Title 18 is amended adding the community service of picking up litter to the penalties for a littering conviction. The length of service runs from 5 to 100 hours depending upon whether it is a first or subsequent offense.

Title 75 is amended establishing Litter Enforcement Corridors. Fines are doubled in Litter Enforcement Corridors for convictions of littering; depositing waste on highway, property or water; and failure to secure loads in vehicles. Fines are tripled if the waste originates from a commercial business.

State highways may be designated as Litter Enforcement Corridors by PennDOT. A political subdivision may petition PennDOT to designate a segment of a state highway that is located within its boundaries. A political subdivision also has the ability to designate a local road as a Corridor if it has received complaints about littering and demonstrates a need to make the designation. Additionally, all scenic highways in Pennsylvania are automatically deemed Litter Enforcement Corridors.

Legislation of Interest

Local Option Real Property Tax Collection Alternative

Senate Bill 1099 (PN 1931), introduced by Senator Scott Martin, amends the Local Tax Collection Law providing an alternative Real Estate Tax collection option. This legislation applies to boroughs, towns and townships in counties of the third class. Originally, the bill applied in counties of the third through eighth classes, but it was amended in late June paring it down to just counties of the third class.

A municipality wishing to establish an alternative real property tax collection process must pass an ordinance naming one of the following methods of collection:

county collection; collection by municipal employee; or collection by a third-party agency.

Following adoption of the ordinance, the municipality must notify the taxing districts it serves of the new collector, and the municipality must enter into a professional services agreement with the new collector. If the office of elected tax collector is currently occupied, the agreement will take effect after the term of office has expired. The municipality must notify the County Board of Elections so that the office of tax collector is not placed on the ballot in that municipality. Tax collector education and bonding requirements apply to the new tax collector.

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An alternative tax collection agreement can be reversed and the office of elected tax collector placed back on the ballot. Tax collection through an elected tax collector would resume once a person is elected to fill the office.

In addition, this legislation also authorizes school boards in third class counties and the third class counties themselves to choose alternative tax collection methods for their Real Estate Taxes.

Location: Received First Consideration before the Senate, June 22, 2018

Unlawful Use of Drones

House Bill 1346 (PN 2167), introduced by Representative Jeff Pyle, amends Titles 18 (Crimes and Offenses) and 53 (Municipalities Generally) providing for the offense of the unlawful use of drones and for preemption of local ordinances. The bill prohibits the known or intentional use of unmanned aircraft to: conduct surveillance of another in a private place; create a reasonable fear of bodily injury to another; or deliver or transmit contraband to an inmate. A list of exempted individuals performing their official duties is provided for in the bill. A violation of the above constitutes a summary offense unless the unmanned aircraft is used in the transmission of contraband to inmates, in which case, the offense is a felony of the second degree.

Location: Awaiting Third Consideration before the Senate, June 18, 2018

Senior Citizen Tax Reduction

Incentive Act

House Bill 1925 (PN 2717), introduced by Representative Michael Peifer, establishes the Senior Citizen Tax Reduction Incentive Act, authorizing tax credits to older residents who volunteer with a municipality.

This program is established at the option of a local governing body. It allows residents 60 years old or older, owning real property, to volunteer their time or services in a way that benefits the municipality. Each municipality offering this program may establish guidelines, including who can volunteer and the rate

of the real property tax credit. The tax credit may not exceed the total amount of real taxes owed by a participant. All volunteers are subject to a criminal background check. Public or private funding sources may be used to support a program. A volunteer program may not supplant existing job positions in a municipality.

If enacted, this legislation will take effect immediately.

Location: Received First Consideration before the House, June 13, 2018

Publication of Annual Audit Reports

Two identical bill packages, **Senate Bills 771, 772 and 773**, introduced by Senator Thomas McGarrigle and **House Bills 1573, 1574 and 1575**, introduced by Representative Kate Harper, amend Titles 8 (Boroughs) and 11 (Cities), the First Class Township Code and the Incorporated Towns law providing for concise publication of required annual financial information in a newspaper of general circulation. These bills aim to establish a uniform method among local governments for the review of annual financial reports and data that by law must be made available to the public, without having to publish the entire, lengthy report. Second class townships currently have this authority.

These bills provide that the municipal financial information published must be approved by the auditors that have reviewed it and the published information must be consistent with the audited financial statements. All other financial information shall be contained in a larger report which must be made available for public inspection. The published financial notice must contain information about where the full report will be available for public inspection within the municipality. A copy of the full report shall be supplied to the publishing newspaper at the time the request for publication of the notice is submitted.

If enacted, these bills will take effect in 60 days.

Location: Senate Bills 771, 772 and 773
Received First Consideration before the House, June 20, 2018

House Bills 1573, 1574 and 1575,
Received Second Consideration before the House, July 10, 2017

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Cosponsor Memos to Watch

Requiring the Attendance of Elected Officials in Local Government

Senator Patrick Stefano put out a [cosponsor memo](#) to garner support for legislation that will amend the State Constitution to allow an elected official to be removed from office by the electorate through a petition to the Court of Common Pleas. Following three consecutive absences from three consecutive public meetings, a petition for removal may be filed with the Court, who may then remove the official from office.

Other News

State Collection of Earned Income Tax

House Resolution 291 (PN 3173) 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. House Resolution 291 instructs the Department to produce its report by December 31, 2018.

Local officials are welcome to reply to a short survey on the proposal of statewide collection.

Please [click here](#) for the survey.

House and Senate Session Days:

Senate: September: 24, 25, 26
October: 1, 2, 3, 15, 16, 17
November: 14

House: September: 12, 13, 24, 25, 26
October: 1 (NV), 2 (NV), 9, 10, 15, 16, 17
November: 13

Session dates are subject to change.

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](#).

Senators Introduce Preemptive Small Cell Deployment Bill

Recently, Senators John Thune (R-SD) and Brian Schatz (D-HI) introduced the “Streamlining the Rapid Evolution and Modernization of Leading-edge Infrastructure Necessary to Enhance (STREAMLINE) Small Cell Deployment Act ([S. 3157](#)).” The bill is focused, much like the recent FCC rulemaking efforts, on limiting the actions local governments can take on small cell wireless facility siting in an effort to make deployments cheaper, faster and more consistent across jurisdictions.

However, while the FCC’s statutory authority to take these actions is debatable and can be more easily challenged in court, congressional action to limit local authority would be permanently damaging. This bill severely limits the ability of local governments in states without preemptive state small cell laws to govern wireless siting and complicates implementation of new small cell laws in states that have passed them.

Despite urging from NLC and other local government advocates during the bill’s drafting phase, many preemptive provisions remain in the bill. Senator Thune said that he intends to hold a hearing on this bill. We need local leaders to [send your Members of Congress a letter today](#) urging opposition to this harmful legislation.

In addition to preempting local authority, this bill makes some major changes to current federal requirements for small cell siting by carving out a new category of “small personal wireless facilities” with new requirements, separate from existing wireless siting law:

- It limits local consideration of small personal wireless facilities (defined as “a personal wireless service facility in which each antenna is not more than 3 cubic feet in volume; and does not include a wireline backhaul facility”) to “objective and reasonable” “structural engineering standards based on generally applicable codes; safety requirements; or aesthetic or concealment requirements.”
- Modifies the application shot clock to be 60 days for collocations, and 90 days for new sites. Cities have ten days to notify applicants in writing if their application is incomplete. The bill also explicitly prohibits moratoria/tolling to lengthen these shot clocks.
- Special shot clock carve outs for small cities, defined as fewer than 50,000 residents:
 - » 90 days for collocations if the provider has filed 50 or fewer applications in a 30-day period, or 120 days if the provider has filed more than 50 applications in 30 days
 - » 120 days for new sites if the provider has filed 50 or fewer applications in a 30-day period, or 150 days if the provider has filed more than 50 applications in 30 days
- Allows local governments to request a one-time, 30-day waiver from the FCC.
- Includes a deemed granted provision for applications not acted upon by the local government in the stated period.
- Limits “fees,” which the bill defines as “a fee to consider an application for the placement, construction or modification of a small personal wireless facility, or to use a right-of-way or a facility in a right-of-way owned or managed by the state or local government for the placement, construction or modification of a small personal wireless facility.” This includes not only application fees but also recurring rents for usage of public property.
- Fees must be “competitively neutral, technology neutral and nondiscriminatory; publicly disclosed; and based on actual and direct costs.” This would eliminate market-based rents for small cell facility installations.
- Finally, the bill orders a GAO study on broadband deployment on tribal land.

The bill does not provide for the grandfathering of any extant agreements between cities and providers or tower companies, and it would appear to preclude agreements such as those recently struck by the City of San Jose, Calif. with AT&T and Verizon [lauded by Commissioner Rosenworcel](#) as an example other local governments could use.

Cities should [contact their Members of Congress](#), particularly those who sit on the [Senate Commerce Committee](#), and urge opposition to the bill.