

# Legislative Locator

*The Legislative Locator is a Monthly Publication of The Pennsylvania Municipal League*



July 2020

## TAKE ACTION

### Send an Op-Ed to your local paper asking for repeal of the Consumer Fireworks Law

On Monday, July 20, the Board of Directors decided to adjust the League's position on consumer fireworks to one calling for repeal, rather than offering ways to improve the law.

Their decision rested on the fact that Pennsylvania is experiencing its third summer with expanded fireworks and previous calls for more local control have gone unanswered by the General Assembly.

In mid-July, the Senate passed SB 932 providing relief to a few municipalities by allowing them to pass ordinances prohibiting fireworks within their borders. This is not enough. As has been demonstrated over the last three years in communities where use of fireworks is illegal, illegal use is not a deterrent. Therefore, the League now believes the best course is repeal of the law.

Please visit the new [Consumer Fireworks tab](#) on our website. We have posted a sample op-ed that you can modify by adding local data and submit to your local newspaper. We ask that each member municipality submit an op-ed if you have not already done so on your own. Additionally, please be sure to contact your House and Senate members directly and urge repeal.

Links to the current consumer fireworks legislation, as well as our 2019 testimony before the House Agriculture Committee, are also posted on our website.

As we move beyond the July 4th holiday, we must keep pressure on the General Assembly to act. Let's not allow another July 4th holiday to come and go without legislative action to repeal this dangerous and costly expansion of fireworks.

## COSPONSOR MEMOS

### Limitations of Prescriptive Easements for Public Use

Representative Donna Oberlander has announced intention to introduce legislation to clarify that only public entities (commonwealth and local government entities) would be able to pursue prescriptive easements for the benefit of the public.

### Monument Protection Legislation

Senator Doug Mastriano has announced intention to introduce legislation to withhold state support from municipalities and local governments, including grant funding, that officially refuse to uphold federal, state and local laws protecting public monuments, memorials and statues from destruction or vandalism.

### Increasing Weight Limits for Municipally Hauled Solid Waste

Senator Scott Martin has announced intention to introduce legislation to increase the maximum allowable weight for transporting municipal trash hauled by a municipality.

## ENACTED LEGISLATION

#### **Act 57 of 2020**

#### **House Bill 1841**

**Signed: July 14, 2020**

**Effective: Immediately with implementation in 1 year**

[Act 57](#) amends Title 44 (Law and Justice) establishing new Chapter 73 for law enforcement background investigations and employment information. Law enforcement agencies are required to conduct thorough background investigations on applicants, including employment and separation records. Law enforcement agencies are required to disclose information about an applicant upon request, and if an agency fails to provide this information, the requesting law enforcement agency can petition the Commonwealth Court. Additionally, law enforcement agencies are immune from civil liability for employment information released to a prospective employing agency.

This act also requires the Municipal Police Officers' Education and Training Commission (MPOETC) to maintain a database with any disciplinary actions, civil or ethical complaints and/or criminal charges against an officer, as well as reasons for the officer's separation from their previous agency. Law enforcement agencies that hire an employee with certain disciplinary or criminal offenses as specified in the bill are required to file a report with MPOETC indicating the agency's rationale for hiring.

**Act 58 of 2020****House Bill 1860****Signed: July 14, 2020****Effective: September 12, 2020**

[Act 58](#) amends the Urban Redevelopment Law to allow municipalities of any type and population to create a redevelopment authority.

**Act 59 of 2020****House Bill 1910****Signed: July 14, 2020****Effective: Immediately with implementation in 1 year**

[Act 59](#) amends Title 42 (Judiciary and Judicial Procedure), Title 44 (Law and Justice) and Title 53 (Municipalities Generally). This act requires magisterial judges to take at least one continuing education course in the identification and reporting of suspected child abuse.

The act also requires a law enforcement officer to undergo a mental health evaluation for post-traumatic stress disorder by a licensed mental health professional as a condition of continued employment upon the request of the law enforcement officer, upon the recommendation of a supervising law enforcement officer or within 30 days of an incident of use of lethal force while on duty.

Additionally, the Municipal Police Officers' Education and Training Commission (MPOETC) is responsible for providing training on interacting with individuals of diverse racial, ethnic and economic background; and for providing instruction on recognizing child abuse and mandated reporting.

**Act 61 of 2020****Senate Bill 352****Signed: July 14, 2020****Effective: September 12, 2020**

[Act 61](#) establishes the Tax Exemption and Mixed-Use Program Act. The act allows local taxing authorities to provide tax incentives for new construction and improvements on industrial, commercial, business and residential properties in deteriorated areas designated by a community with emphasis on mixed-use housing and development.

The act authorizes taxing authorities to, by ordinance or resolution, exempt from real property tax the assessed value of improvements on blighted property or construction in a deteriorated area. A taxing authority may designate an area as deteriorated and must hold a public hearing to determine that area's boundaries. Adjacent municipalities and taxing authorities may collaborate to determine boundaries or implement similar tax exemption schedules. The yearly tax

abatement schedule terminates after 10 years, and the tax exemption does not terminate with the sale or exchange of the property.

Additionally, a taxing authority may rescind an ordinance or resolution designating an area as deteriorated if the improvements or construction has accomplished the goal of revitalizing the deteriorated area. If a serious violation exists on a property within five years following the completion of the new construction, that is not corrected, the taxing authority is entitled to receive a proportional amount of taxes.

**Act 66 of 2020****House Bill 732****Signed: July 23, 2020****Effective: Immediately**

**Act 66** amends the Tax Reform Code of 1971 by expanding the exemption from the Real Estate Tax to the transfer of any real estate to or by a volunteer EMS company, fire company or rescue company. The previous provisions limited these exemptions to real estate transfers between specific entities and under certain conditions.

The act also establishes a local resource manufacturing credit to qualified tax paying companies that use carbon capture and sequestration technology, or similar technologies, at the company's respective project facility.

**Act 69 of 2020****House Bill 1459****Signed: July 23, 2020****Effective: Immediately**

**Act 69** establishes a new chapter within Title 35 (Health and Safety) providing for an emergency responder mental wellness and stress management program within the Department of Health.

The department is responsible for developing mental health and stress management guidelines to assist emergency responders who suffer from post-traumatic stress injury or traumatic brain injury as a result of their employment and for those exposed to critical incidents. Regional peer to peer support programs and a toll-free confidential helpline with a trained operator are required services. Additionally, the act establishes a Critical Incident Stress Management Program, as well as a trauma and suicide awareness training program, which is required continuing education for EMS providers.

The act amends Section 7704 regarding immunity from civil liability. As a general rule, commonwealth agencies are added to the commonwealth and political subdivision as entities not liable for death or injury. Additionally, gross negligence, recklessness or bad faith are added to the list of actions that would negate civil immunity. Finally, a person, agent or employee who is temporarily deployed in response to a mutual aid request shall be granted immunity except in cases of willful misconduct, gross negligence, recklessness or bad faith and shall not be liable

for death or injury to persons or for damage to loss of property. No immunity shall be granted to persons under this section unless deployed by the commonwealth.

**Act 76 of 2020****Senate Bill 1188****Signed: July 23, 2020****Effective: September 21, 2020**

**Act 76** amends Act 511, the Local Tax Enabling Act, clarifying that the calculation of the aggregate amount of all taxes under Section 320 of Act 511 excludes any revenues derived from taxes authorized by the Municipalities Financial Recovery Act, the Municipal Pension Plan Funding Standard and Recovery Act and a home rule municipality's taxing authority.

This act also prohibits any local authority in the commonwealth from levying, assessing or collecting an Amusement or Admissions Tax under the Local Tax Enabling Act on a passenger charge by a for-profit railroad that offers both freight and passenger service, while the majority of the railroad's transport consists of freight carloads.

## LEGISLATION OF INTEREST

### Public Works Contractors' Bond Law

**House Bill 885 (PN 4075)**, introduced by Representative Valerie Gaydos, would amend the Public Works Contractors' Bond Law. This bill would remove the flexibility of the contracting body to accept and approve alternative means of financial security, and instead, limit the contracting body to three financial security options: a performance bond, a federal or commonwealth chartered lending institution irrevocable letter of credit; or a restrictive or escrow account in a lending institution.

The contractor would be required to secure two of the financial securities listed above for 100 percent of the contract amount, one as a condition on the performance of the contract and the other to cover the costs of materials and labor.

Senator John DiSanto has also introduced a companion bill, Senate Bill 207; it awaits second consideration in the Senate.

**Location:** *Passed the House; Senate Local Government Committee, July 13, 2020*

### Optional Abolishment of the Office of Elected Auditor

**House Bill 1582 (PN 2577)**, introduced by Representative Keith Greiner, would amend the Second Class Township Code providing the option to eliminate the position of elected auditor and replace it with an independent auditor.

The township supervisors would be able to decide, by ordinance, to abolish the position of elected auditor and instead appoint an independent auditor. The appointed auditor would need to be either a certified public accountant, a firm of certified public accountants, a competent public accountant or a competent public accountant firm. The auditor would be appointed annually by resolution at the close of each fiscal year.

The independent auditor would exercise the same powers as the elected auditor except for setting salaries for supervisors that hold employment with the township. The setting of salaries for such supervisors would be done through ordinance, which would take effect after the next municipal election, and salaries would not be adjustable for six years.

The bill would provide for the procedure to reinstate the office of elected auditor in the future.

**Location:** *Passed the House; Senate Local Government Committee, July 13, 2020*

## **Borough Regulation of Waste and Recycling**

**House Bill 2122 (PN 4080)**, introduced by Representative Dan Moul, would amend Title 8 (Boroughs and Incorporated Towns) creating a new Chapter 25B regarding solid waste collection and disposition and other technical changes.

In Chapter 25B, the definition of “municipal waste” would be cross referenced with the Municipal Waste Planning, Recycling and Waste Reduction Act to align with provisions in other municipal codes. The bill would regulate accumulation of waste; collection and disposal of waste and recyclables, including contracts with refuse haulers; and rates and charges, as well as acquisition of property and facilities for methods of waste disposal.

The bill would make further technical amendments and modernizations for clarification purposes.

**Location:** *Passed the House, July 13, 2020*

## **Borough Employment of Elected Officials**

**House Bill 2571 (PN 3888)**, introduced by Representative Bill Kortz, would amend Title 8 (Boroughs and Incorporated Towns) increasing the borough population threshold from a population of 3,000 to 4,000 in regards to borough employment of elected officials. This bill would prohibit an elected official of a borough with 4,000 or more residents from serving as an employee. The bill would exempt an elected official serving as a borough employee prior to the certification of the most recent federal decennial census if the census indicates the borough’s population increased to 4,000 or more residents.

**Location:** *Passed the House, July 13, 2020*

## **Volunteer Firefighters’ Relief Associations and Consumer Fireworks**

**Senate Bill 932 (PN 1856)**, introduced by Senator Lisa Boscola, would amend Title 35 (Health and Safety) redefining volunteer firefighters' relief associations by clarifying that membership may contain one or more volunteer fire companies or a combination of volunteer and paid departments.

Additionally, an amendment was added in the Senate that would authorize nine municipalities to prohibit consumer fireworks within their jurisdictions. The nine communities are Philadelphia, Pittsburgh, Scranton, Allentown, Erie, Reading, Bethlehem, Lancaster and Bensalem Township. The amendment would also increase penalties for improper use of fireworks to \$500 for the first offense and \$1,000 for the second offense. An ordinance or resolution must be adopted locally to enforce the prohibition and fine moneys would remain local. Prior to final passage, the Senate added another amendment prohibiting the intentional discharge of consumer fireworks within 150 feet of a train or vehicle hauling combustible liquids.

**Location:** *Passed the Senate, July 15, 2020*

## Local Government Advertising Flexibility

**Senate Bill 1222 (PN 1829)**, introduced by Senator John DiSanto, would amend Title 45 (Legal Notices) providing local governments with various methods of advertising.

When an advertisement is required by law, a local government would be able to choose from a menu of advertising options, including: a county newspaper of general circulation; a newspaper printed in the local government unit; a legal newspaper designated by the rules of the county court; the public website of the local government; the public website of a newspaper; and a locally circulated printed publication that is at least four pages long. In addition to the required publication, a local government would be required to post a copy of the advertisement at its principal office or building in which they meet. If a local government is unable to post the advertisement at their principal office or meeting location, the county would provide a space where the local government would be responsible for posting the advertisement.

Local governments would also be required to adopt a resolution declaring their intent to use one or more advertising methods listed in the bill. The local government would provide public notice regarding the passage of the resolution and intent to use alternative advertising methods in one or more newspapers of general circulation within the jurisdiction of the local government.

**Location:** *Senate Local Government Committee, June 30, 2020*

## Personal Delivery Devices

**Senate Bill 1199 (PN 1823)**, introduced by Senator Ryan Aument, would amend Title 75 (Vehicles) establishing the use of personal delivery devices on state and local roads and sidewalks by businesses. Personal delivery devices would be regulated as pedestrians and would be defined as a device that:

- is manufactured for transporting goods in a pedestrian area, traffic way or berm of a highway or roadway;
- is equipped with an automated driving system;
- is not capable of speeds over 12 miles per hour in a pedestrian area or traffic way;
- is not capable of speeds over 25 miles per hour on a berm or shoulder of a highway or roadway; and
- weighs less than 550 pounds without cargo.

On local roads, the bill would allow local authorities to permit the use of such devices where the posted speed is greater than 25 miles per hour, but not greater than 35 miles per hour. On roadways and in pedestrian areas, local authorities would be able to prohibit use, after consultation with the business entity operating the device, if the device would constitute a hazard. In either case, the local action must be by ordinance or resolution. Other than when considered a hazard, local authorities would not be able to regulate the operation of such devices in a manner inconsistent with the act, including not being able to prohibit their operation outright. The Secretary of Transportation would have the authority to determine use on state highways.

The bill would initially allow business entities to operate personal delivery devices with an operator within 30 feet of the device. Beginning in 2022, the operation may be remote. The bill would establish operation and equipment requirements for the devices themselves.

Business entities operating personal delivery devices would be required to maintain insurance including general liability coverage of at least \$100,000.

Finally, the bill would establish the Department of Transportation as the lead agency on personal delivery devices and require business entities to file an annual plan for general operation.

Representative Meghan Schroeder introduced a similar bill, House Bill 2699, which was referred to the House Transportation Committee on July 20.

**Location:** *Passed the Senate; House Transportation Committee, July 8, 2020*

## Late Workers' Compensation Solvency Fee Payments

[House Bill 2708 \(PN 4156\)](#), introduced by Representative David Delloso, would allow for the late payment of solvency fees to the Department of Labor and Industry. Employers would have a window of 30 days to make the payments.

**Location:** *House Labor and Industry Committee, July 22, 2020*

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## Federal Advocacy:

### Aid to America's Hometowns Left Out of Senate Proposal

## URGENT ACTION NEEDED!

The Senate has released the proposal for the next coronavirus relief package, the [HEALS Act](#). This version **does not include additional funds for state and local governments**. Our communities cannot recover without additional federal support and **flexibility is not enough**. We cannot let another federal legislative package reach the President's desk without providing aid directly to cities, townships and boroughs, where it will make the greatest difference for America's recovery.

**There is still time to negotiate but [we need YOU to call your Senators](#) and tell them that the direct aid to all local governments MUST be part of any emergency assistance package. **The future of America's 19,000 hometowns depends on it.****

TAKE ACTION

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On July 16, the Independent Fiscal Office (IFO) released a report on local government revenue loss due to the pandemic. This study was requested by the chairmen of the House and Senate Local Government Committees at the behest of the municipal associations.

For 2020-2021, the IFO projects municipal Earned Income Tax to decline by 3.4 percent which translates into a revenue loss of \$115 to \$130 million. Municipal Property Tax collections are also expected to be reduced by \$41 million or 1.4 percent.

**Read the Report**

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## HOUSE AND SENATE SESSION DAYS 2020

### House:

September 15-17, 29-30