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# Legislative Locator

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



September 2020

## TAKE ACTION

### Delivery Device Bill Moving Swiftly, Though Local Preemption Remains

[\*\*Senate Bill 1199 \(PN 1952\)\*\*](#), has moved quickly through the Senate and has been taken up just as swiftly in the House. The bill intends to allow for the use of personal delivery devices (PDD) in Pennsylvania's communities, though it preempts most local authority.

The League has repeatedly advocated on behalf of our member municipalities by calling attention to the local preemption measures and the need for an opt-out provision that will keep such devices out of a community until it's ready.

SB 1199, introduced by Senator Ryan Aument, would amend Title 75 (Vehicles) establishing the use of PDDs on state and local roads and sidewalks by authorized entities. The Department of Transportation would be the general and sole regulatory authority over PDDs, and a person seeking to operate a PDD would need to apply for authorization with the Department.

Most notably, the bill would include local preemption measures by prohibiting municipalities from banning the operation of PDDs outright. Local authorities would only be able to regulate the operation of such devices in a manner not inconsistent with the act and Department regulations.

Finally, all authorized entities operating PDDs would be required to maintain insurance including general liability coverage of at least \$100,000 per incident. Please see a full summary of the bill in the Legislation of Interest section below.

Please [contact your House members](#) concerning the issue of local preemption in this bill.

## COSPONSOR MEMOS

### Municipal Police and Firefighter Civil Service Examination Preferences

Representative Peter Schweyer has announced intention to introduce legislation providing preference points on a civil service exam for an individual applying to become a police officer or firefighter in a municipality served by a school district in which she or he successfully graduated.

## LEGISLATION OF INTEREST

### Municipal Open Space Land Maintenance

[House Bill 908 \(PN 1029\)](#), introduced by Representative Jack Rader, would amend the Open Space Law allowing municipalities to use funds from an Open Space Tax on the maintenance of any land designated as open space, not just land acquired with revenue from an Open Space Tax.

**Location:** Second Consideration in the Senate, September 21, 2020

### Sunshine Act: Posting of Meeting Agendas

[House Bill 1069 \(PN 2529\)](#), introduced by Representative Aaron Bernstein, would amend the Sunshine Act requiring the posting of agendas by agencies prior to public meetings wherein official business is conducted.

An agency, if it has a public website, would be required to post a meeting agenda, including items that may or may not be the subject of deliberation or action, at least 24 hours prior to the meeting. An agency would also be required to post the agenda at the meeting location, at its principal office and provide agenda handouts to meeting attendees.

An agency would not be permitted to take action on an item that was not included in the posted agenda except under these circumstances: emergency business relating to a real or potential emergency involving a clear and present danger to life or property regardless of whether public notice was provided; business arising within 24 hours of the meeting that a resident or taxpayer brings to an agency's attention; business arising within 24 hours of the meeting that is *de minimis* and does not involve expenditure of funds or entering into a contract; and business arising during a meeting from a resident or taxpayer that is not on the agenda.

An agency would be allowed to add an item to the agenda by a majority vote of the individuals present and voting, and may subsequently take action on the newly added agenda item. An agency would be required to post the new agenda on its website or at its principal location no later than one business day following the meeting at which the agenda was changed.

**Location:** Second Consideration in the Senate, September 8, 2020

## **Waiver of the Real Estate Tax Penalty for Non-receipt of Tax Notice**

[\*\*House Bill 1647 \(PN 3879\)\*\*](#), introduced by Representative Joe Emrick, would amend the Local Tax Collection Law regarding the waiver of penalties.

A taxing district, by ordinance or resolution, shall require its tax collector to waive a penalty charged for real estate taxes if the taxpayer requests a waiver within a year from the date of transfer of ownership and if the taxpayer attests that a tax notice was never received.

The taxpayer applying for a waiver would need to provide the taxing district with a copy of the deed showing the date of realty property transfer. The taxpayer would also need to pay the remaining real estate tax due when submitting the waiver application.

The Department of Community and Economic Development would develop and make available the application for a taxpayer to request a penalty waiver.

**Location:** First Consideration in the Senate, September 8, 2020

## **First Class Township Code Rewrite**

[\*\*House Bill 2073 \(PN 3052\)\*\*](#), introduced by Representative Dan Moul, comprises the First Class Township Code Rewrite. This code modernization was considered for the second time by the full Senate on June 9. On September 21, the bill was reported as committed from the Senate Appropriations Committee and awaits third consideration by the full Senate.

**Location:** Awaiting Third Consideration, September 21, 2020

## **Emergency Tax Anticipation Notes**

[\*\*House Bill 2536 \(PN 4341\)\*\*](#), introduced by Representative Lee James, would amend Chapter 81 of Title 53 (Municipalities Generally) authorizing local governments to obtain tax anticipation notes through December 2021 with a maturity date of the end of fiscal year 2022. This bill would help local governments manage cash flow during the current COVID-19 emergency.

**Location:** Second Consideration in the Senate, September 9, 2020

## **Extension of Act 47 Recovery Plans**

[\*\*House Bill 2548 \(PN 4339\)\*\*](#), introduced by Representative Robert Freeman, would amend Act 47, the Municipal Financial Recovery Act. This bill would correct the recovery plan extension language placed into the Fiscal Code in July 2020. Essentially, municipalities currently in distressed status and following an existing recovery plan would be eligible for an 18-month extension of their plan because of the financial hardships brought about by the pandemic.

**Location:** Passed the House, September 15, 2020

## **Act 111 Arbitration Reform**

[House Bill 2852 \(PN 4344\)](#), introduced by Representative Russ Diamond, would amend Act 111, the Policemen and Firemen Collective Bargaining Act.

New section 3.1 would require a political subdivision to provide public notice of its intention to begin collective bargaining negotiations, and a political subdivision may adopt an ordinance or resolution requiring said public notice. Notices would need to be posted on a municipality's website at least 30 days prior to beginning collective bargaining. If a municipality does not have a website, public notice would be published in a newspaper of general circulation at least four weeks prior to beginning collective bargaining. A public employer would also be required to accept public comments on the upcoming collective bargaining negotiations.

This bill would update the current process for selecting the third neutral arbitrator. The bill would require the president judge of the county court of common pleas to furnish a list of seven attorneys in good standing from which the neutral third arbitrator would be selected. The police officers or fire fighters would be the first to eliminate a name from the list and the parties would alternate eliminations until only one name remains. The individual whose name remains on the list would become the neutral third arbitrator and would serve as the chair of the board of arbitration. The bill would extend the board's deadline to make a determination from 30 to 60 days after the appointment of the neutral third arbitrator.

The bill would expand public access to information regarding the arbitration meetings. A hearing at which evidence of record is presented by a party or witness would be open to the public. This would include all documents and evidence of records being subject to the Right to Know Act and a stenographic record of all meetings, excluding executive sessions or private negotiations outside of the hearing.

Further, the legislation would require that the determination of the board contain specific findings and analyses of facts and conclusions of law based on the evidence provided during the hearing, including:

- the cost of the award to the political subdivision and the impact that the award will have on the finances and services provided by the political subdivision;
- the relationship between projected revenues of the political subdivision and the ability of the political subdivision to pay all the costs of the award, including any cost increases that may result from preexisting terms and conditions of employment that are allowed to continue under the award; and
- the impact of the award on the future financial stability of the political subdivision.

The determination of the board would be a public record. The public employer and the policemen or firemen would bear the costs of their respective arbitrators, witnesses and attorneys, and both parties would divide additional costs incurred by the third arbitrator, stenographer and other reasonable expenses in half.

Lastly, the bill addresses policies and procedures related to the discipline of police officers and collective bargaining and would provide exceptions for a police officer whose conduct constitutes a criminal offense, violates the rights of a person guaranteed under the state and

federal Constitutions and/or constitutes any conduct listed in 44 Ps.C.S § 7311(a)(1) relating to a hiring report. The discipline for the excepted misconduct listed previously would be at the discretion of the employer. A collective bargaining agreement would not prohibit the release of information about a final disciplinary decision of an employer for the infractions listed above to another federal or state law enforcement agency for the purpose of making a hiring decision.

**Location:** House Labor and Industry Committee, September 9, 2020

## State Highway Law Revision

[\*\*Senate Bill 101 \(PN 73\)\*\*](#), introduced by Senator Scott Hutchinson, would amend the State Highway Law requiring the Department of Transportation, at the expense of the commonwealth, to construct and maintain all surface and subsurface drainage facilities connected to state highways within a borough or incorporated town that has a population of 2,500 or fewer citizens based on the most recent census.

**Location:** Second Consideration in the Senate, September 21, 2020

## Prevailing Wage Opt-Out

[\*\*Senate Bill 1303 \(PN 1957\)\*\*](#), introduced by Senator Kristin Phillips-Hill, would allow for a temporary municipal opt-out of the existing prevailing wage requirements.

This bill intends to provide relief to local governments that have experienced a significant decline in tax revenue due to the COVID-19 pandemic. Under this bill, a municipality, local authority or school entity would have the option to opt-out of the prevailing wage requirements until December 31, 2022.

**Location:** Senate Labor and Industry Committee, September 18, 2020

## Personal Delivery Devices

[\*\*Senate Bill 1199 \(PN 1952\)\*\*](#), introduced by Senator Ryan Aument, would amend Title 75 (Vehicles) establishing the use of personal delivery devices (PDD) on state and local roads and sidewalks by authorized entities. The entirety of the bill was amended and reported out of the House Transportation Committee on September 17.

PDDs would be regulated as pedestrians and would be defined as a device that:

- is manufactured for transporting cargo or goods;
- is operated by an automated driving system or a driving system that allows remote operation, or both; and
- weighs 550 or less pounds without cargo or goods.

This bill would generally prohibit a person from operating a PDD unless that person is an authorized entity, meaning the person holds a PDD authorization issued by the Department of

Transportation. The Department would have general and sole regulatory authority over PDDs and authorized entities, including the approval, renewal, revocation and suspension of PDD authorizations. The Department would also make a list of authorized entities, PDD policies and standards and a process to report violations or accidents publicly available on their website. Lastly, the Department would be able to prohibit PDDs on any state roadway if the Secretary determines it would constitute a hazard.

A person or entity would file an application for PDD authorization with the Department. The applicant would have to provide a general operation plan, anticipated roadways to use for transport, description of goods intended to transport and other information and procedures required by the bill. Applicants would also need to attest that they would temporarily cease or restrict the operation of PDDs due to a weather emergency or other hazardous event as defined by the Department or municipality, as well as detailing an educational campaign to bring awareness of PDDs to municipalities and the general public. Each PDD authorization would be valid for one year.

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. Local authorities may regulate the operation of such devices in a manner not inconsistent with the act and promulgated regulations, but would not be able to prohibit their operation outright. Authorized authorities would also be required to notify the governing body of the municipality of its intent to operate PPDs within the municipality's jurisdiction no less than 30 days prior to commencing operations.

Further, the bill would establish operation and equipment requirements for the PDDs themselves. It would initially allow authorized entities to operate personal delivery devices under phase one with an operator within 30 feet of the device, and within 90 to 180 days after beginning phase one, an authorized entity may transition to phase two with remote operation.

Finally, all authorized entities operating PDDs would be required to maintain insurance including general liability coverage of at least \$100,000 per incident.

***Location:*** First Consideration in the House, September 17, 2020



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## NATIONAL LEAGUE OF CITIES UPDATE

### Cities Face \$14 Billion Funding Gap for Spending on Housing

Long before the COVID-19 pandemic, America's cities were experiencing a crisis in housing, with residents increasingly having to pay more for insufficient housing while wages remain largely stagnant. The COVID-19 pandemic has only exacerbated America's housing problem.

[Read More](#)

## HOUSE AND SENATE SESSION DAYS 2020

**House:**

October 1, 19-21

**Senate:**

October 5-7, 19-21