

# Legislative Locator

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



December 2021

## Consumer Fireworks Hearing

The League and PSATC provided testimony and participated on the local government panel in a joint Senate and House Agriculture and Rural Affairs Committee hearing to discuss the issues surrounding Act 43 of 2017, the Consumer Fireworks Law. Other panels included police, fire and the fireworks industry. While some testimony advocated for repeal of the law, most testifiers supported greater local control and ability to regulate consumer fireworks amongst other changes, such as increasing the severity of penalties for violating the law. There was also consensus for the need to create the tools and resources necessary to collect data to track fireworks related injuries and incidents. A [recording of the hearing](#) is available to review.

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## 2021: A Legislative Year in Review

More than a year into the pandemic, our local governments continue to be challenged by the ever-changing environment brought on by COVID-19 and its economic, public health and social consequences. Despite these hurdles, The League and its member municipalities remain dedicated to serving its members and constituents.

December 31 will mark the end of the first half of a very active 2021/2022 legislative session. Throughout the year, the General Assembly introduced nearly 3,000 bills, of which The League tracked over 1,000 bills affecting local governments. In addition to bill tracking, The League's Governmental Affairs staff advocated for issues important to our members, such as the local use of radar, advertising modernization and addressing the concerns surrounding consumer fireworks. The League also opposed legislation that would preempt or place burdensome unfunded mandates on local governments. Lastly, The League scored a huge win with the passage of the Small Wireless Facilities Deployment Act, which preserved local zoning and is considered the most municipal friendly small cell legislation in the country.

Please see the list below summarizing some of the bills enacted in 2021, as well as bills we will continue to advocate for and against in the coming year.

### **Enacted Legislation**

- Act 33 of 2021 – Pre-registration of Tax Sale Bidders
- Act 36 of 2021 – Municipal Relief from Duplicative Special Event Requirements

- Act 50 of 2021 – Small Wireless Facilities Deployment Act

### **Bills The League Supports**

- HB 606 and SB 419 – Local Use of Radar
- HB 955 and SB 252 – Advertising Modernization
- HB 1457, SB 312 and SB 552 – Right to Know Commercial and Vexatious Requesters

### **Bills The League Opposes**

- HB 1947 and SB 275 – “Energy Choice”
- HB 1732 and SB 775 – Post-traumatic Stress Injury in First Responders
- HB 979 and SB 448 – Preemption of Local Firearms Control

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## **The League’s 2022 Legislative Priorities**

The League has reaffirmed its legislative priorities to maintain a consistent advocacy message as we move into the second half of the 2021/2022 legislative session. While the priorities remain the same, one priority – Preservation of Local Zoning and Rights-of-Way Management – was modified to express opposition to the broader and increasingly prevalent issue of local preemption. The [2022 Legislative Priorities](#) will serve as the top issues for our advocacy efforts in the next year.

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## **Announcement**

**Amy Sturges has been named Deputy Executive Director – Advocacy**, making her the first woman in League history to serve in this executive level position. Amy will assume her new position as Chief Advocacy Officer (CAO) on January 1, 2022 under John Brenner’s leadership as our new Executive Director.

As Deputy Executive Director – Advocacy, Amy’s elevated position with The League places advocacy and governmental relations as a vitally important top member benefit. Amy will be responsible for reacting to new legislation and being proactive in the promotion of both short-term and long-term solutions to fulfill The League’s mission to strengthen, empower and advocate for effective local government in Pennsylvania. As CAO, she will work with John to manage relationships with outside firms or groups that assist or partner with The League on legislative issues. Under her leadership, the staff coordinated, member driven Legislative Committee and sub-committees will continue to be an important aspect of legislative advocacy and policy development.

Congratulations to Amy on this well-deserved appointment!

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## **Newly Elected Officials Orientation Training Program**

**February 2, 2022 at 8:00 am through February 3, 2022 at 1:00 pm**

Every municipal election cycle presents a chance to reach out to our newly elected officials to introduce them to different topics and issues. Newly elected and incumbent officials are invited to participate in this exceptional personal development and training opportunity.

Please visit our [website](#) for registration information and to find instructions for booking a hotel room. Please register by January 25, 2022.

## On the Governor's Desk

### Municipalities Planning Code Bonds

**Senate Bill 208 (PN 177)**, introduced by Senator DiSanto, would amend the Municipalities Planning Code to clarify that a municipality may not require a developer to post a bond greater than 110% of the costs of improvements. Furthermore, the bill would clarify that a municipality may retain 110% of the remaining costs of improvements prior to completion of the work.

### Pennsylvania Broadband Development Authority

**House Bill 2071 (PN 2518)**, introduced by Representative Martin Causer, would amend Title 64 (Public Authorities and Quasi-Public Corporations) creating the independent Pennsylvania Broadband Development Authority for 10 years in order to make plans for and distribute federal money for the purposes of broadband development and deployment.

The bill outlines the makeup of the Board of Directors of the Authority, as well as its duties, which would include adopting a statewide broadband plan and awarding grants. The statewide broadband plan would be developed in collaboration with local and regional entities focusing on unserved or underserved areas and in a manner to avoid overbuilding in areas already served by broadband. Municipalities would receive the opportunity to comment on the initial statewide broadband plan, which would need to be developed within one year of the bill's enactment.

The Authority would also be responsible for disbursing grants to eligible applicants for the development and deployment of broadband. "Applicants" would be defined as any applicant that submits an application for a grant including, but not limited to, a cooperative, non-profit organization, public-private partnership, private company, public or private utility, public utility district or local government. The application period would be between 60 and 120 days to be determined by the Authority, and grants would be awarded on a scoring system based on the criteria set forth in the bill. The Authority would also be responsible for setting minimum grant match requirement amounts.

Projects that result in an overbuild of broadband infrastructure and services would not be eligible for the grant. The Authority would be required to establish a process for local governments, non-profits or broadband service providers to challenge a project on the grounds that it would lead to an overbuild.

Projects funded through these grants must begin providing customers with broadband services no later than four years after receiving the grant. If the grantee fails to meet this deadline, or does not receive an extension by the Authority, then the Authority may request a refund or claw back of the grant.

Lastly, the Authority may create best practices for municipalities to assist in streamlining zoning processes to expedite broadband deployment.

## Legislation of Interest

### **Protecting Local Governments from a Newspaper's Failure to Advertise**

[House Bill 2148 \(PN 2537\)](#), introduced by Representative Brett Miller, would amend Titles 45 (Legal Notices) and 65 (Public Officials) regarding the satisfaction of the legal advertising requirement.

This bill would consider a municipality that submits an advertisement to a newspaper of general circulation and simultaneously posts a duplicate advertisement on their municipal website to have met the legal advertising requirements in the event the newspaper fails to publish the public notice. A municipality that holds a meeting under a duplicate advertisement shall enter into record a copy of the advertisement provided to the newspaper and proof that the municipality purchased the advertisement in a timely fashion.

*Location: First Consideration in the House, December 15, 2021*

### **Municipal Police Technology Fund**

[House Bill 2011 \(PN 2311\)](#), introduced by Representative Jason Silvis, would Amend Title 75 (Vehicles) creating the Municipal Police Technology Fund through establishing a booting device surcharge.

A municipality that adopts a booting ordinance for any unpaid parking or traffic violations would be required to assess an additional \$25 fee prior to the removal of the booting device in addition to the fine assessed under the booting ordinance. Municipalities shall collect this fee and remit it to the State Treasury for deposit into the Municipal Police Technology Fund. Municipalities with eligible police departments would be able to apply for money from the Fund, which would be appropriated to the Pennsylvania Commission on Crime and Delinquency on a continuing basis for the purpose of issuing technology grants. Eligible police departments would be defined as a municipal or regional police department that: is authorized by one or more townships, boroughs or incorporated towns; provides patrol and investigative services; and reports its activities monthly to the Pennsylvania State Police in accordance with the Uniform Crime Reporting System.

Grants would be able to be used to purchase telecommunication devices and technologies, body cameras and any associated hardware, software or devices necessary to ensure the proper functioning of their technology.

If a municipality would fail to comply with the requirements in this bill, a court of competent jurisdiction may notify the Department of Transportation (PennDOT) of the municipality's failure to comply unless a timely appeal has been filed with the court. Failure to comply would result in the municipality's suspension of: unobligated capital expenditures for bridges and highways; allocation of Liquid Fuels Funds; allocation to the municipality under Section 9010(c) relating to disposition and use of tax; and expenditures from the special fund into which allocations under the Liquid Fuels Tax Municipal Allocation Law are deposited for work in the municipality, unless a

contract has been fully executed or moneys have been otherwise obligated. All sanctions against the municipality would be immediately ended and all suspended funds would be returned upon PennDOT's notification of the municipality's compliance.

*Location: House Local Government Committee, October 26, 2021*

## **Decommissioning of Alternative Energy Facilities**

[House Bill 2104 \(PN 2443\)](#), introduced by Representative Kathy Rapp, would amend Title 27 (Environmental Resources) providing for the decommissioning of alternative energy facilities, such as solar panels and wind turbines.

This bill would require all alternative energy agreements allowing for the lease of land to operate an alternative energy facility to include a section stating that the owner of the facility is responsible for the facility's decommissioning no later than 18 months after the facility ceases producing electricity. The decommissioning plan must be submitted, along with proof of financial assurance through either a bond or escrow account, to the county recorder of deeds no later than 30 days before beginning construction. The owner of the facility would be required to provide updates regarding the decommissioning plan and financial assurance every five years until the agreement expires.

The decommissioning plan shall include the removal of all non-utility owned equipment and structures, removal of access roads and restoration of the property to a condition reasonably similar to that which existed before construction, including replacing topsoil or reseeded. Overall, no more than 20 percent of the total combined mass of an alternative energy facility may end up in a landfill as part of the decommissioning plan.

Lastly, any county, municipal or local government ordinance or regulation that materially impedes the purposes of this bill shall be preempted and shall be without force and effect.

*Location: House Environmental Resources and Energy Committee, November 23, 2021*

## **Municipal Stormwater Assistance Program**

[House Bill 2153 \(PN 2500\)](#), introduced by Representative Karen Boback, would amend Title 32 (Environmental Resources).

This bill would establish the Municipal Stormwater Assistance Program and Fund within the Department of Environmental Protection (DEP) by appropriating \$300,000,000 from the state's American Recue Plan funds to provide financial assistance to counties, municipalities and municipal authorities for the following:

- planning for stormwater management under the Stormwater Management Act;
- adopting performance standards for the administration and oversight of the program, including procedures for public participation;
- establishing a system of program evaluation and quality control;
- adopting written and publicly available criteria for ranking of applications and determination of priority based on the criteria set forth in the bill;
- assessing the program annually and producing a report tracking the number and types of projects and their outcomes to be provided to officials in the General Assembly; and
- creating a system to collect and report data.

Any money remaining in the fund, including interest at the end of the fiscal year, shall remain in the fund and would not revert back to the General Fund. Lastly, DEP may dedicate no more than five percent of available program funds for administrative costs.

*Location: House Environmental Resources and Energy Committee, December 10, 2021*

## **Permit Application Process for Burdened Communities**

**House Bill 2043 (PN 2351)**, introduced by Representative Donna Bullock, would amend Title 27 (Environmental Resources) regarding the issuance of permits to build facilities in burdened communities.

Within 120 days of this bill's enactment, the Department of Environmental Protection (DEP) shall adopt a list of burdened communities. A burdened community would be defined as a census tract, as delineated in the most recent Federal decennial census, that is ranked in the bottom 33% of census tracts in this Commonwealth for median annual household income.

No later than 60 days after a burdened community is designated, the respective municipality, in consultation with community groups, shall appoint a representative of the burdened community. Under this bill, DEP would not be able to grant a permit for a new facility or expansion of a facility, such as a landfill or incinerator, in a burdened community unless the applicant produces an environmental assessment report and holds a public hearing.

The permit applicant would be required to prepare an environmental assessment of the facility, including cumulative and adverse impacts on the community's health and environmental effects. The report would need to be transmitted to DEP, the governing body of the municipality and the municipal clerk and the representative of the burdened community at least 30 days before the public hearing. The permit applicant would be required to organize and advertise a public hearing in two newspapers no less than 21 days before the hearing, and a copy of the notice would also need to be provided to DEP, the governing body of the municipality and the municipal clerk and the representative of the burdened community. The permit applicant would conduct the public hearing in a location as convenient as possible to all interested parties.

DEP would not be authorized to issue a decision on a permit until at least 60 days after the public hearing and should take public support, or lack thereof, as well as any municipal ordinances or resolutions adopted, into account when considering the permit. A permit may be denied if the facility would impose unreasonable health risks on the residents and environment within the burdened community.

*Location: House Environmental Resources and Energy Committee, November 3, 2021*

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## **2022 Governor's Awards For Local Government Excellence**



**KNOW SOMEONE**  
**WHO'S MAKING A DIFFERENCE**  
**IN LOCAL GOVERNMENT?**

Submit Your Nomination by January 3, 2022  
[dced.pa.gov/lgawards](https://dced.pa.gov/lgawards)



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DEPARTMENT OF COMMUNITY  
& ECONOMIC DEVELOPMENT



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## NATIONAL LEAGUE OF CITIES UPDATE

### **New Federal Guidance for Auditing ARPA SLFRF Funds**

On December 3, the Office of Management and Budget (OMB) issued Compliance Supplement Addendum 1, which contains guidance for independent auditors who perform audits under the Single Audit Act when the auditee has expended funds made available under the State and Local Fiscal Recovery Fund (SLFRF). The SLFRF is administered at the federal level by the U.S. Treasury Department. The single audit requirement is triggered by expenditure of \$750,000 or more federal financial assistance received as direct federal awards or passed through other recipients such as state agencies or county governments during the auditee's fiscal year. SLFRF expenditures during that fiscal year, regardless of the amount, count against the \$750,000 threshold. The Supplement Addendum applies to recipient fiscal years ending on June 30, 2021 and after.

[Read More](#)

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**HOUSE AND SENATE SESSION DAYS 2022**

**House:**

January 4, 10-12, 24-26

February 7-9

March 21-23, 28-30

**Senate:**

January 4, 18-19, 24-26

February 7-9

March 28-30

*\*reminder - session dates are subject to change*



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