

Legislative Locator

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



April 2022

League Capitol Conference

June 8 - 9, 2022

Hilton Harrisburg

League/PSATC Member Registration Fee: \$25

Non-Member Registration Fee: \$100

Speakers:

- Governor Tom Wolf**
- Dr. G. Terry Madonna, Senior Fellow, Millersville University**

Topics:

- Local Impact of Highly Autonomous Vehicle Testing
- The Prevalence of State Legislation Preempting Local Government
- Local Government's Role in New Efforts to Deploy Broadband
- Remote and Recorded Meetings Post-COVID
- Local Use of Radar Lobbying
- Impact of COVID on PA Downtowns

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House Committee Adopts Changes to the Fireworks Law

This week, the House Agriculture Committee met to consider amendments to [House Bill 2157](#), introduced by Representative Frank Farry, that address the illegal use of consumer fireworks.

This action was in response to the December 2021 public hearing where The League and PSATC called on the General Assembly to address the public safety and quality of life concerns that have plagued communities since the legalization of consumer fireworks in 2017. In January,

Committee Chair Dan Moul agreed to work toward a solution; and last week draft language was circulated for stakeholder input.

At Wednesday's Committee meeting, two amendments were offered and adopted unanimously. The amended bill also received a unanimous vote to pass it out of Committee to the full House.

The amended bill moves the fireworks law from the Tax Code back to Title 3 (Agriculture) where it was housed prior to the 2017 legalization of consumer fireworks. While much of the underlying law remains unchanged, there are positive changes aimed at curbing the illegal use of consumer fireworks. Following is a list of these new provisions.

- The bill adds clarifying language to prohibition of use on public property by enumerating examples of public property. The bill also clarifies that the 150-foot clearance rule is from any structure (not just unoccupied structures) or vehicle including a structure or vehicle owned by the user.
- In dense municipalities where the 150-foot clearance rule makes discharging fireworks illegal throughout, the bill contains clear language that a municipality can pass an ordinance prohibiting use.
- The bill allows municipalities to permit the use of consumer fireworks and charge a reasonable fee. There is an exception to permitting outlined in the bill for the July 4, December 31, Labor Day and Memorial Day holidays.
- Consumer fireworks use is curbed on most days of the year with language prohibiting use between the hours of 10 p.m. and 10 a.m. There is an exception for July 4 and December 31 when use is allowed until 1 a.m. When July 4 falls mid-week, use is allowed until 1 a.m. on the immediately preceding and following Friday and Saturday.
- The bill adds a conditional use provision of no less than 150 feet from an animal housing facility or fenced area for livestock. The owner or manager of the livestock must be given written notice 72 hours in advance of a neighbor using consumer fireworks.
- The bill authorizes municipalities to enact limitations on the sale or use of consumer fireworks that do not conflict with the law. Pending solicitor guidance, possible limitations could include regulations through noise and nuisance ordinances.
- The bill authorizes confiscation of any unused fireworks if being used in violation of the law.
- The bill requires sellers to conspicuously post or provide notice to purchasers of the prohibitions on use including notice that individual municipalities may have additional restrictions.
- The bill increases the penalty to no more than \$500 for a first offense. For subsequent offenses within three years of a prior conviction, the fine is increased to no more than \$1000. There is also an increase in fines and penalties for illegal sales.
- The bill updates the definition of consumer fireworks to match the American Pyrotechnics Association 2018 Standard.
- Finally, the full 12% tax collected on consumer fireworks will be directed annually to public safety as opposed to the \$2 million cap in current law. In fiscal year 2020/2021, revenue was \$14 million. The revenue would be distributed as follows:
 - \$1.5 million for Emergency Medical Service Grants;
 - \$250,000 for the Online Training Educator and Training Reimbursement Account for delivering, developing and sustaining training programs for both volunteer and career firefighters. This was previously limited to volunteer firefighters only;

- \$1 million for PA Higher Education Assistance Agency to provide loan forgiveness and tuition assistance to students or graduates who are active volunteers;
- \$1 million for the Department of Health to train EMS personnel;
- \$500,000 for the Office of the State Fire Commissioner to provide emergency services training center capital grants;
- \$500,000 for the Office of the State Fire Commissioner to provide career fire department capital grants;
- \$250,000 for the Office of the State Fire Commissioner to provide for a public education and safety campaign around the safe use of consumer fireworks; and
- Any remaining money shall be divided equally, 50 percent for the Emergency Medical Services Grant Program and 50 percent for the Fire Company Grant Program.

The bipartisan, unanimous approval of the bill as it exited Committee signals that these updates to the law will continue to move forward.

Policy Resolutions Shape the League's Legislative Agenda

As a member driven organization, it is important The League hears from you to accurately represent your municipality's needs with the General Assembly. Each spring, League members receive the opportunity to submit policy suggestions through resolutions, shaping The League's policy agenda. Resolutions adopted at the district level will go to the Annual Municipal Leadership Summit for consideration by the Resolutions Committee and full League membership. This is a very important process because it sets the future policy priorities and positions of The League.

Please submit your policy resolutions to [Kaitlin Errickson](#), Governmental Affairs Representative, by May 10 for consideration by your district during the May 17 virtual district meeting.

2022 League Virtual District Meeting | May 17

Upcoming Federal Funding Opportunities
Bipartisan Infrastructure Law

Carolyn Berndt, Legislative Director for Sustainability, National League of Cities
Brittany Kohler, Legislative Director for Transportation and Infrastructure, National League of Cities

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Bills Vetoed by the Governor

Borough Code Updates

House Bill 1184

Vetoed: April 19, 2022

[House Bill 1184 \(PN 2928\)](#), introduced by Representative Dan Moul, would have updated and modernized the Borough Code. While the updates to the Borough code were beneficial, the bill was amended late in the legislative process to make it possible to create a new borough from any area of any municipality by petitioning the court of common pleas to break from its current municipality.

The Governor vetoed the bill due to the addition of this amendment. Pennsylvania is third in the nation for the number of local government units, and such a provision would promote more fragmentation. Additionally, creating a new borough would increase costs for taxpayers of both the new and exited municipality. The provision of local services would also be negatively impacted.

Read Governor Wolf's veto message [here](#).

Enacted Legislation

Act 15 of 2022

House Bill 221

Signed: April 19, 2022

Effective: June 18, 2022

[Act 15](#) amends the Open Space Law allowing municipalities to use 25 percent of 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.

Act 17 of 2022

House Bill 2058

Signed: April 19, 2022

Effective: Immediately

[Act 17](#) amends the Local Tax Enabling Act so that the filing date for local Earned Income or Net Profit Taxes coincides with the filing date for state Income Tax returns.

Act 18 of 2022

Senate Bill 478

Signed: April 19, 2022

Effective: June 18, 2022

[Act 18](#) amends Act 78 of 1979 providing a procedure for municipalities that do not receive bids after advertising for services.

A municipality, municipal authority or transportation authority seeking a contract for services, and upon receiving zero bids the first time, may advertise for bids a second time. If no bids are received within 15 days of the second advertisement, the municipality or authority may initiate negotiations for a contract for services with any provider not otherwise disqualified by law or policy of the local government. Prior to enacting the contract, the municipality or authority is required to publicly announce the identity of the parties, proposed contract price and summary of other terms related to the contract to prove consistency with those previously advertised.

The Act also specifies that the misuse of the provisions of this act to evade advertising and bidding requirements would subject a member of the governing body of a municipality or authority who votes for the transaction to civil or criminal penalties, surcharges or other liabilities.

Act 19 of 2022

Senate Bill 479

Signed: April 19, 2022

Effective: June 18, 2022

[Act 19](#) amends the Municipalities Financial Recovery Act bringing appointed coordinators, who work directly with financially distressed municipalities on behalf of the Department of Community and Economic Development (DCED), in compliance with existing ethical standards.

A coordinator may not engage in conduct prohibited by the Ethics Act and the State Adverse Interests Act, which requires individuals to avoid conflict of interest relating to ethics standards and financial disclosures. Coordinators and receivers are prohibited from receiving any compensation, fee or commission from a financially distressed municipality or any sale or lease of property or other financial transaction involving the financially distressed municipality or an authority directly or indirectly controlled by the municipality. A violation of the Act's ethics provisions would constitute grounds for termination of the coordinator's contract with DCED.

The Act clarifies that it is not a conflict of interest for a person to be appointed as a coordinator who has previously contracted with a municipality as a coordinator, receiver, financial consultant, legal counsel or through a contract under the early intervention program.

Cosponsor Memos

Representative Karen Boback announced intention to introduce legislation amending the County Code to allow counties to enact and enforce property maintenance codes when a municipality does not have the means or fails to enforce code ordinances.

Representative Lori Mizgorski announced intention to introduce legislation amending Act 45 of 1999 requiring the Department of Labor and Industry to promulgate regulations adopting Appendix Q “Tiny Houses” of the 2018 International Residential Code. This would only apply in a municipality that elects to adopt Appendix Q by ordinance.

Legislation of Interest

Right to Know Law Clarifications

[House Bill 978 \(PN 989\)](#), introduced by Representative Brett Miller, would amend the Right to Know Law further clarifying exceptions for public records.

The bill would expand the definition of “personal financial information” to include employees’ personal banking or other financial institution account information, account passwords, W2 and other tax information as well as pension contributions. “Personal financial information” is confidential and not considered a public record under the Right to Know Law. It would also clarify that the number, names and ages of an employee’s children are not considered public record.

Lastly, an agency’s banking account numbers, routing numbers and credit card numbers would not be considered public information and would be redacted information.

Location: Passed the House, April 27, 2022

Uniform Construction Code Permit Compliance Notifications

[House Bill 1790 \(PN 2897\)](#), introduced by Representative Jason Silvis, would amend the Uniform Construction Code. The bill would require a permit denial to include written notification of the specific references to the applicable codes that the application must be in compliance with before it can be approved.

Inspections shall only be conducted during normal business hours unless the permit holder requests otherwise. A written description must be provided within one business day to the permit holder describing all items that are not in compliance, including specific references to the applicable codes that require remedial action. If the permit holder waives the inclusion of the applicable codes, then the written description must be provided within two hours.

Municipalities must ensure permit applications include notifications regarding information to file a complaint against a code administrator. It also authorizes the Department of Labor and Industry to initiate action against a code administrator or refuse to issue certification for various incidents as listed in the bill. Lastly, the bill would provide for a decertification hearing and appeal process, as well as the ability for the Department to take corrective action against a code administrator.

New Tools for Blight Remediation

House Bill 1791 (PN 2975), introduced by Representative Tim Twardzik, would amend the Neighborhood Blight Reclamation and Revitalization Act within Title 53 (Municipalities Generally) adding an optional local vacant and blighted property registration program; and by adding two new subchapters providing funds for code enforcement and a registry for code violations. House Bill 1791 was amended in the House Urban Affairs Committee incorporating two democratic bills – House Bill 1827 (Merski) and House Bill 2428 (Sturla).

House Bill 1791 would add new Section 6141 to the Neighborhood Blight Reclamation and Revitalization Act. The legislation would provide municipalities with the authority to develop vacant and blighted property registration programs and impose a fee. A municipality that elects to pass an ordinance and impose and collect a fee shall compile and maintain a list of vacant and blighted properties. The registry must be submitted to the county assessment office within six months of adopting the ordinance, and the registry would be required to be updated and resubmitted on an annual basis. An appeals process must be available to property owners.

Under the legislation, a registration fee shall be imposed for each year that a vacant and blighted property is not in compliance with the municipal code. A fee schedule is provided in the legislation and fees increase each year from \$500 in the first year to \$5,000 after year nine of being listed on the registry. The bill lists several exemptions from fees, such as government properties, those under active rehabilitation and those where the property owner shows economic hardship.

A property owner that fails to comply with the registration requirements would be penalized \$25 a day for residential properties and \$50 a day for commercial properties for each day the property owner fails to register his property. The amount of any unpaid fee shall constitute a lien against the property.

Municipalities would be required to use collected registry fees to fund blight remediation efforts including acquiring tax delinquent and foreclosed properties; donating to a land bank; funding conservatorship projects; remediating blighted conditions; and educating residents of the dangers of blight. Up to five percent of the fund may be used to carry out the administration of the program.

Lastly, municipalities with existing vacant and blighted property registration ordinances may continue to operate without any limitations.

Subchapter B.1 – Municipal Property Maintenance Code Assistance Fund

The purpose of this new tool would be to provide municipalities, councils of governments and multi-municipal enforcement entities with funds to prevent or eradicate blight through additional enforcement efforts. Enactment of this subchapter would establish a competitive, matching funds grant program within the Department of Community and Economic Development (DCED) to support the establishment of code enforcement programs and the hiring of staff in municipalities without an existing program. Where code enforcement programs already exist, special code enforcement programs may be funded. DCED would be charged with establishing an application process and awarding grants, which may not exceed \$100,000, may not be provided to the same recipient for more than three years and may not be used to pay for code enforcement personnel unless they are certified. Authorized uses of the funds include: protecting the health, safety and welfare of the general public, including individuals using public buildings and facilities;

encouraging homeowners, landlords and tenants to maintain the appearance and value of their dwellings; and reducing crime in neighborhoods. The funds for this grant program would come from a one-time transfer of \$10 million from the state's Realty Transfer Tax revenue. Additionally, municipalities would have the option to levy and remit a surcharge on unabated serious code violations that would only go into the fund.

Subchapter C.1 – State Blight Data Collection System

This new subchapter would create the Property Maintenance Code Violations Registry administered by DCED in order to track blighted, noncompliant properties and provide code and other violation information to municipalities processing permit applications.

Municipalities would have the option to file property maintenance code violation reports with DCED on property owners whose property has serious, unabated code violations for 120 days or more. Additionally, municipalities may request free registry reports when considering permit applications, which DCED would provide to the requesting municipality in 10 business days. A municipality would be required to inform the property owner of a permit denial if the denial is based on the registry report's information. The property owner would have the right to appeal to DCED. If a municipality files a report, it would also be responsible for providing the property owner with a letter of code compliance when the property is declared to be in compliance. The property owner would be responsible for providing DCED with the letter of compliance which shall then become part of the official record in the registry.

The legislation would also provide that the Attorney General may assist municipalities seeking code compliance from out of state property owners by writing the property owner a warning letter or by filing a court proceeding on the municipality's behalf.

An appropriation of \$1 million from the state's general fund would help pay for DCED's implementation of the registry. Municipalities may also collect a \$500 surcharge for each municipal inspection that finds one or more code violations from the property owner whose property has been in violation of the code and has not attempted to remediate the violation after 120 days. If municipalities levy a surcharge, it would be remitted to DCED on a quarterly basis to fund the registry and judicial training regarding deteriorated property.

Location: Second Consideration in the House, April 25, 2022

Temporary Low-Impact Home-Based Businesses

[House Bill 2286 \(PN 2674\)](#), introduced by Representative Tracy Pennycuick, would amend the Municipalities Planning Code to allow low-impact home-based businesses by right in residential zones on a temporary basis. The triggers for this authorization are a disaster emergency declaration that renders the operation of a business unsafe or impossible or the loss or damage to a business location by a natural disaster that renders regular business operations unsafe or impossible. The right to operate a business under either scenario would be limited to the duration of the emergency declaration or 180 days in the case of a natural disaster.

The bill would define a low-impact home-based business as a secondary accessory use. However, the provisions are subjective and not necessarily low-impact, including: employing no more than two employees other than family members; retail operations may occur between 8 a.m. and 8 p.m.; temporary parking, signs and lights are permitted; and business processes involving noise, vibration, glare, fumes or odors may only occur Monday through Friday 8 a.m. to 8 p.m.

Any local permitting process is prohibited and a business owner planning to use their residence as a temporary location only needs to provide written notification to the municipality of the intent. A municipality's ability to regulate public nuisances is specifically mentioned as not being limited.

Location: First Consideration in the House, April 13, 2022

Treasury Updated FAQs

The Department of Treasury recently published a [set of answers to frequently asked questions](#) related to State and Local Fiscal Recovery Funds, authorized under the American Rescue Plan Act.

[This document](#) is designed to help recipients understand and apply the final rule. This document addresses many of the questions received by the Department since the Final Rule was released and also includes many FAQs that were available in connection with the interim final rule (although numbering may have changed) because they remain applicable under the final rule. Answers to frequently asked questions that are unique to the interim final rule remain available at [Interim Final Rule: Frequently Asked Questions](#). Treasury anticipates updating this document as additional guidance is developed. Treasury appreciates you sharing this announcement with others in your government and with members of your community as appropriate.



NATIONAL LEAGUE OF CITIES UPDATE

Local Government Priorities in the Federal Budget

On March 28, 2022, President Biden released his proposed budget for Fiscal Year 2023 (FY23). The President's Budget communicates the Administration's spending priorities to Congress, which is the first step in the federal budget and appropriations process. This budget is not set in stone but a roadmap for funding the federal government. Now, it is up to Congress to negotiate spending caps for the 12 federal appropriations bills for FY23 and determine final funding levels before the start of FY23 on October 1.

[Read More](#)

HOUSE AND SENATE SESSION DAYS 2022

House:

Senate: