



## Save the dates:

### Annual Virtual Finance & Business Symposium – July 21, 2020

Topics may include:

- Financial and operational impacts of COVID
- Collections Procedures
- Winter Moratorium on Disconnection
- Responding to the USPS deficiencies in billing and payment delivery
- Owner requests for termination of service to tenant-occupied dwellings

### 2021 PMEA Annual Conference – September 8-10, 2021

Penn Stater Hotel & Conference Center, State College

#### Nominations -

Nominations to the PMEA Board of Directors are currently being accepted. The election for board members and officers will occur at the business meeting during the annual conference in September. To submit a nomination, please contact Diane Bosak, [bosak@papublicpower.org](mailto:bosak@papublicpower.org).

Watch your email and the PMEA website ([www.papublicpower.org](http://www.papublicpower.org)) for updates and registration information.



## Harrisburg Update: State Budget and Constitutional Amendments, Important Issues This Spring

*By: Joseph M. Uliana, Managing Principal, J.M. Uliana & Associates*

Budget issues normally dominate the Spring agenda in Harrisburg because approval of state Budget is required by the June 30<sup>th</sup>. This year things are a little different. The state budget is sharing attention with the May 18<sup>th</sup> primary.

Normally, an off-year primary election is a sleepy affair. A few local races may attract attention, but this primary there are four proposed changes to Pennsylvania's constitution on the ballot. The number of proposed changes and issues addressed makes this a unique and important election. Other states, that have initiative and referendum regularly have several issues on the ballot, but Pennsylvania seldom has one question on the ballot, let alone four.

Two of the proposed changes address a Governor's disaster declaration, which has been an issue during the COVID 19 pandemic. The first proposed amendment allows the state House and Senate to end a Governor's disaster declaration, for any reason, by passing a joint resolution. The resolution needs only a simple majority. Presently, the Governor must approve a joint resolution to end a disaster declaration, passed by the General Assembly.

Under the second proposed constitutional amendment, a disaster declaration would be limited to no more than 21 days. If a governor believes the declaration should last longer, he or she would have to get the approval of the state House and Senate. Under current law, a governor can declare a disaster emergency for a period of up to 90 days and can renew it as often as he or she likes. The third proposed constitutional amendment would add a new section to Article I of the Pennsylvania Constitution creating a constitutional prohibition against restricting or denying an individual's equal rights under Pennsylvania law because of race or ethnicity.

The final constitutional change on the ballot question is especially relevant to local governments. If approved, this constitutional amendment would expand the existing "Emergency Services Loan Assistance Fund" to include municipal fire departments.

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*Harrisburg Update (continued)*

All these issues are good reasons to vote on May 18<sup>th</sup>.

While the primary election may be getting more attention than usual, budget issues are still an important point of consideration in Harrisburg this Spring.

The Commonwealth faces a more than \$2 Billion shortfall. The deficit would normally spark a lot of concern, but the \$1.9 Trillion Federal Aid package, signed into law by President Biden in March, relieves the budget pressure. Pennsylvania will receive \$7.293 billion that can be used over the next three years. These funds should make a potential difficult situation a lot easier, leaving the difficult, long-term financial choices to the future.

The new Federal funding will also be a great help to local governments across Pennsylvania. More than \$6.149 Billion will be allocated across the Commonwealth, with each Pennsylvania community getting some money. The new funding will make a big difference in many municipal power communities.

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**PMEA Solicitor Update – April 2021**

*By: G. Bryan Salzmann, Esq. Salzmann Hughes, P.C. Counsel to PMEA*



2021 continues to bring challenges to PMEA members in numerous areas. The ongoing COVID pandemic has required legislation to be passed to assist with funding deficits at many levels. Among the legislation adopted federally is the American Rescue Plan Act as well as the return of earmarks for community project funding. Also on the table currently is a federal infrastructure and jobs package proposal known as the American Jobs Plan. Details of each are outlined further in this article.

**AMERICAN RESCUE PLAN ACT**

As you should be aware, on March 6, 2021, the U.S. Congress passed the American Rescue Plan Act (the “Act”), which is quite voluminous. Below are some of the provisions of interest to local government.

**Coronavirus Fiscal Recovery Fund.** The Act establishes the Coronavirus Local Fiscal Recovery Fund (the “Fund”). The Fund provides assistance to local government. Funding is to be distributed in two different mechanics. For non-entitlement communities (municipalities with a population less than 50,000) the funds will flow through the state. For entitlement communities and counties, the funds will flow directly to the municipal entity.

*Non entitlement Communities*

**Timing:** US Treasury is to distribute the first tranche of the funds (50% of the funding amount) to the State within 60 days of the date of the passage of the Act and the State has 30 days to distribute the funds to local government. The second tranche will be disbursed not earlier than 12 months after the date that the first tranche was distributed.

*Entitlement Communities*

**Timing:** US Treasury is to distribute the first tranche of the funds (50% of the funding amount) directly to the entitlement community within 60 days of the date of the passage of the Act. The second tranche will be disbursed not earlier than 12 months after the date that the first tranche was distributed.

The funds can be used for the following purposes:

1. To respond to the coronavirus health impacts or economic impacts including assistance to households, small businesses, nonprofits, and impacted industries including hospitality, travel, and tourism.
2. By providing premium pay for essential workers up to \$13 an hour with an annual cap of \$25,000.
3. To cover for lost revenue in providing services (reduction in receipts due to COVID, not fee or tax decreases).
4. To make investments in water, sewer or broadband infrastructure.

*Treasury has not released guidelines yet regarding the use of the funds. Similar to the CARES funding, Treasury will provide guidelines and FAQs that provide details regarding eligible expenditure. Watch for further guidance once the guidelines and FAQs become available and contact your local solicitor or Salzmann Hughes, P.C. if you need assistance.*

Funds cannot be used to cover lost revenues if the losses were due to a tax cut. Funds cannot be used to cover pension shortfalls. The deadline to spend the funds is December 31, 2024. The Act does allow for the transfer of funds to a special –purpose unit of State or local government (a municipal authority).

**Coronavirus Capital Projects Fund.** This is a \$10 Billion Fund that is to be used for capital projects to carry out “critical capital projects directly enabling work, education and health monitoring, including remote options, in response to the public health emergency.” *The Treasury Secretary is to establish an application process within 60 days of the effective date of the Act.* \$100 Million is to be allocated to each state, with the balance allocated based on considerations in the Act (population, population in rural areas, and population of persons below 150% of the poverty line).

In addition, the Act allocated \$50 Billion to FEMA and defining coronavirus as eligible for disaster funding. Local governments can seek reimbursement for eligible COVID expenditures from FEMA.

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## Solicitor Update (continued)

**Credits for Paid Sick Leave & Family Leave.** Under the Families First Coronavirus Response Act (“FFCRA”), which included provisions for the payment of Emergency Paid Sick Leave (“EPSL”) and Emergency Family & Medical Leave (“EFML”), private employers were able to receive tax credits for EPSL and EFML wages for employees who required time off for COVID-19-related issues. Public employers like local governments were expressly excluded under the FFCRA from qualifying for those tax credits. However, under the American Rescue Plan Act, local governments are no longer excluded from receiving tax credits for paid EPSL and EFML. Note that the FFCRA has expired, but employers, including local governments, are permitted to continue providing EPSL and EFML. Employers may receive tax credits under the Act for the full amount of EPSL and EFML payments made from April 1, 2021 through September 30, 2021. The tax credits count against an employer’s Medicare taxes paid on employees’ wages.

An employee’s eligibility for EPSL and EFML remains the same as the eligibility requirements in place under the FFCRA, **with a few significant additions and modifications.**

1. Emergency Paid Sick Leave (EPSL) — qualifying criteria:
    - The employee is seeking or awaiting the results of a diagnostic test or medical diagnosis of COVID-19, *and* the employee has been exposed to COVID-19 or the employer has requested the test/diagnosis (daily pay capped at \$511).
    - The employee is obtaining immunization related to COVID-19 (daily pay capped at \$511).
    - The employee is recovering from any injury, disability, illness, or condition related to said immunization (daily pay capped at \$511).
    - Any of the qualifying criteria for EPSL under the FFCRA, which included:
      - The employee is subject to a quarantine order (daily pay capped at \$511).
      - The employee has been advised by a health care provider to quarantine (daily pay capped at \$511);
      - The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis (daily pay capped at \$511);
      - The employee is caring for an individual who is subject to a quarantine order or advisement (daily pay capped at \$200);
      - The employee is caring for their son/daughter if the school or place of care is unavailable due to COVID-19 (daily pay capped at \$200);
      - The employee is experiencing a condition specified by the secretary of health (daily pay capped at \$200).
  2. Emergency Family & Medical Leave (EFML) — qualifying criteria:
    - Any of the qualifying criteria for EPSL under the American Rescue Plan Act (listed directly above).
    - Any of the qualifying criteria for EPSL under the FFCRA (also listed directly above).
    - The employee is unable to work or telework due to a need to care for a son/daughter under 18 if the child’s school or place of care has been closed due to COVID-19.
- Note that EFML wages paid cannot exceed \$200 per day or \$12,000 in the aggregate.

*Municipalities may want to revisit their FFCRA or COVID Admin Leave policies to bring them into conformity with the voluntary FFCRA provisions so that the cost of providing such leave can be recouped through payroll tax credits.*

**Fully Subsidized COBRA Coverage.** The Act provides for 100% premium assistance to certain qualified beneficiaries for continuation coverage under COBRA for periods of coverage beginning on or after April 21, 2021 and ending September 30, 2021. The Act allows eligible individuals to not pay COBRA premiums but be deemed to have made full payment. That means the employer pays on their behalf. Employers are then able to claim employment tax credits to offset the amount.

Who is an eligible individual? Anyone who, due to an involuntary termination of employment or reduction in hours, become eligible for or already have effective COBRA continuation coverage during the period that begins April 1, 2021 and ends September 30, 2021. **This means that individuals who started COBRA coverage as far back as November 2019 could qualify for assistance.** COBRA Administrators are required to notify qualified beneficiaries that COBRA premium assistance is available. The notice (which can be an amendment of the existing notice or a supplement form) should clearly state:

- What is necessary to establish COBRA premium assistance eligibility;
- Contact information for administrator responsible for premium assistance;
- Explains the extended election period available to EQBs (defined below);
- Notify the individual that they must notify the plan if they become eligible for other group coverage or Medicare and a failure to do so may result in a \$250 fine;
- Describes the right to subsidized coverage as well as any conditions on receiving subsidized coverage.

The Act does not mandate that the DOL provide model language covering the above notice.

**Special Extended Election Rule.** If an individual was eligible to elect COBRA continuation coverage due to involuntary termination or reduction in hours but who had not yet elected as of April 1, 2021, or who had such coverage but discontinued it prior to April 1, 2021, they are an Extended Qualified Beneficiary (“EQB”). COBRA administrators should issue a new notice no later than May 31, 2021 (the DOL is to post model notices no later than April 10, 2021) alerting Extended Qualified Beneficiaries that they may qualify for COBRA assistance. The EQB must make their election within 60 days after receipt of the notice.

Premium assistance is not required for individuals who voluntarily resigned or reduced their hours. There are also notice requirements prior to premium assistance expiration. The DOL and IRS is expected to provide guidance regarding the COBRA premium assistance.

*Municipalities should make sure that their COBRA Administrators are providing the requisite notice. Municipalities should remain aware of the requirement to provide the assistance and familiarize themselves with the process of seeking reimbursement through employment tax credits.*

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Solicitor Update (continued)

**Emergency Rental Assistance Program.** The Act provides an additional \$21.6 Billion in ERAP funding.

**Low Income Home Energy Assistance Program.** The Act provides an additional \$4.5 Billion in emergency LIHEAP funding.

AMERICAN JOBS PLAN

This \$2 trillion proposal is designed to create jobs through the revitalization of infrastructure throughout the country. The covered infrastructure is to include transportation, home care services, manufacturing, housing, water systems, and schools. Much work is being done to include public electricity as part of this proposal. Unfortunately, at this time, there is a lot of speculation but not many facts. Stay tuned.

EARMARKS

Earmarks, also known now as community project funding, have been reinstated after being ended in 2011 at the federal level. Guidelines have been put into place to require transparency, mandatory audits, and evidence of community support. There will most likely be limits to funding amounts as well as a maximum number of requests permitted per lawmaker and/or region.

*We continue to monitor other matters as well for the PMEA Board and its members. As always, it continues to be my privilege to serve the PMEA. If you need to discuss any matter with me either under the PMEA membership benefits or beyond, I can be reached at [gbsalzmann@salzmannahughes.com](mailto:gbsalzmann@salzmannahughes.com) or at (717) 263-2121. Thank you.*

Chambersburg Line Crew’s Recent Project

The Borough of Chambersburg’s line crew has been busy with a key project. The crew is replacing poles as part of a project to build a new feeder out of one of their substations. These new feeders will pick up feeders from another substation and be converted from 4kV to 12kV. New poles will be 70’ in height to allow a second distribution circuit along the pole line. The plan will be to



change 10 poles along the line prior to constructing the new distribution circuit.

Within the same week, the crew was working within hot 12 kV primary to replace 69 kV transmission poles. They are also assisting in substation reconfiguration to interconnect solar generation, assisting in fiber pathway installation for traffic signal communications, replacing a damaged decorative street light fixture along Wilson College frontage, and working with the County on downtown electrification, among various other tasks.



Associate Member Spotlight

PowerSecure

PowerSecure, is a nationwide leader in providing innovative energy solutions, including distributed generation, energy storage, renewables, and energy efficiency. For over 20 years, PowerSecure has supported public

power and our commitment to public power is second to none. We are your Hometown Connections Partner for distributed generation solutions and look forward to talking with you. Visit [www.hometownconnections.com/engineering-operations/powersecure/](http://www.hometownconnections.com/engineering-operations/powersecure/) for more information about PowerSecure or contact Robert Tugwell at [rtugwell@powersecure.com](mailto:rtugwell@powersecure.com).

# Are You Public Power Proud?



In your annual dues packet sent in early April, you should have received the magnets, clings, and stickers for our public power communities.

Show your pride in public power by attaching these magnets or door/window clings to your vehicles, offices, etc. We have extras! If you need additional items, please contact PMEA.

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## We Want to Hear From You

Please share with us your exciting projects and photos for future newsletters. Your submissions should be sent to [bosak@papublicpower.org](mailto:bosak@papublicpower.org) at any time and we will use them in upcoming editions.

### Pennsylvania Municipal Electric Association

112 Market St., 8th Floor,  
Harrisburg, PA 17101

Tel: 717-489-2088

[info@papublicpower.org](mailto:info@papublicpower.org)