

# Legislative Locator

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



September 2021

## Request a Consumer Fireworks Hearing

As the legislative session resumes in Harrisburg, we must keep the pressure on when it comes to consumer fireworks. Your advocacy is needed to keep the dangerous and often illegal use of consumer fireworks at the forefront of legislators' minds as we move into the fall and further away from the peak fireworks season.

Consumer fireworks were authorized for general use and sale under Act 43 of 2017. Unfortunately, since the law's enactment, the use of consumer fireworks has deteriorated the quality of life in communities across the Commonwealth and has disproportionately affected animals, the elderly and veterans. Despite their best efforts, local governments have struggled to enforce the law. Additionally, the law created an unfunded mandate on local governments. Precious public safety resources should not be spent responding to complaints and cleaning up after irresponsible users.

The General Assembly passed an unenforceable and expensive law that has negatively impacted Pennsylvania's residents. The best step toward changing the law is for the Senate and House Agriculture and Rural Affairs Committees to hold a hearing to vet the issues.

Please [contact](#) your Senate and House Members to ask them to request the Senate and House Agriculture and Rural Affairs Committees to hold a joint hearing on the impacts of consumer fireworks. Please use the reasons stated above to make your case for a hearing.

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## PTSI Bill Moves Out of Senate Labor and Industry Committee

*On September 28, the Senate Labor and Industry Committee voted 9-2 to move Senate Bill 775 out of Committee. Senators Dush and Mensch voted against the bill empathizing with municipal concerns over the costs and lack of safeguards in place with regards to post-traumatic stress injury (PTSI) claims in the current version of the bill. Chairwoman Bartolotta stated the need to advance the bill out of Committee while also verbally committing to continuing conversations and dialogue with all stakeholders to address the concerns municipal groups and the dissenting Senators have with the bill. Although, in a surprise move, the bill advanced again on September 29 and received second consideration in the Senate. A recording of the meeting's proceedings can be viewed [here](#). The League will continue to advocate on our members' behalf to ensure first responders PTSI benefits are fiscally responsible.*

[Senate Bill 775 \(PN 913\)](#) and [House Bill 1732 \(PN 1962\)](#), introduced by Senator Camera Bartolotta and Representative Frank Ryan respectively, would amend the Workers' Compensation Law providing first responders with a benefit for a PTSI if it is established by a preponderance of the evidence that the injury resulted from a normal or abnormal working condition and sustained in the course and scope of the individual's employment.

Under this bill, injuries must be based on an examination and diagnosis by a licensed psychologist or psychiatrist. Claims must be filed within three years of the date of diagnosis. Injuries diagnosed after the last date of employment shall not prohibit a claim against the employer at the time of first responder's direct exposure. Finally, a PTSI caused by an employment action would not be compensable.

First responders would be defined as professional or volunteer firefighters, members of a volunteer ambulance corps, members of volunteer rescue squads, emergency medical services employees, paramedics, Pennsylvania State Police officers and peace officers.

*Location: SB 775 – Second Consideration in the Senate, September 29, 2021*

*HB 1732 – House Labor and Industry Committee, July 21, 2021*

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## 2021 Local Government Symposium

Join the Local Government Commission virtually or in-person on Thursday, October 21 from 8:00 a.m. to 3:00 p.m. for their inaugural Local Government Symposium.

Hear from researchers, policymakers and practitioners about improving the effectiveness and efficiency in Pennsylvania local government in a post-COVID world. [Click here](#) to view the Symposium's flyer.

Register

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## Cosponsor Memos

Senators Chris Gebhard and Michele Brooks have announced intention to introduce legislation providing a state tax credit to aid communities with the recruitment and retention of certified Emergency Medical Technicians (EMTs).

Senators Daniel Laughlin and Jay Costa have announced intention to introduce legislation establishing a local and voluntary solar program while ensuring adequate ratepayer protection.

## Legislation of Interest

### Interior Designer Registration Act

[House Bill 1258](#) (PN 1332), introduced by Representative Kathleen Tomlinson, would establish a voluntary registration program within the Bureau of Consumer Protection of the Office of Attorney General for interior designers.

The bill would allow registered interior designers to affix a signature and registration number to construction documents certifying compliance with applicable building codes, ordinances, laws and regulations for the purpose of obtaining a construction permit. It would also prohibit political subdivisions from regulating registered interior designers, such as requiring a local registration or licensing fee. Additionally, municipalities would not be able to require a registered interior designer to practice under the stamp and signature of a licensed architect or professional engineer.

*Location: House Consumer Affairs Committee, April 21*

### Municipal Property Maintenance Code Assistance

[House Bill 1827](#) (PN 2070), introduced by Representative Robert Merski, would amend Title 53 (Municipalities Generally) adding a new subchapter to create a grant program for municipalities

to establish code enforcement programs and hire code enforcement personnel.

The Department of Community and Economic Development (DCED) would issue competitive grants of no more than \$100,000 to municipalities with or without an existing code enforcement program or personnel from the Municipal Property Maintenance Code Assistance Fund. Competitive grants would be awarded to municipalities based on the following: the benefit to the municipality to have a fully funded and staffed code enforcement department; the extent to which the municipality's code enforcement department demonstrates an ability to work cooperatively with other local code enforcement offices, health departments and local prosecutorial agencies; the extent to which the municipality demonstrates a financial need for the grant; and the overall condition of the real property within the municipality.

Local code enforcement officials shall impose a \$250 surcharge on a real property owner in violation of one or more municipal codes for which the owner was previously cited for violating and failed to remedy within 90 days of the original inspection. The municipality would then remit the surcharge money collected to DCED to fund the grant program. DCED would be required to provide annual reports regarding the fund to both the House and Senate Urban Affairs Committees.

Municipalities would need to provide its own funds as a match to the grant, and grants would not be provided to the same recipient for more than three consecutive years. Lastly, grants may only be used to pay the salary of trained and certified code officials.

*Location: House Urban Affairs Committee, September 1, 2021*

## **Municipal and Community Association Agreements**

[House Bill 1839](#) (PN 2085), introduced by Representative Brian Smith, would amend Title 53 (Municipalities Generally) allowing municipalities to enter into agreements with community associations, or common interest owned communities.

A municipality would be able to enter into a joint agreement with a community association, by ordinance or resolution, to purchase materials, supplies, equipment and for other purposes. The municipal ordinance or resolution shall require the community association be bound by the terms and conditions the municipality prescribes, and the community association shall make direct payments to vendors under each purchase contract.

For agreements authorizing joint purchases or contracts for the construction, repair or maintenance of public and private streets, real property, stormwater facilities or utilities, all of the following shall apply:

- purchases under the agreement shall be exempt from any existing competitive bidding requirements;
- costs shall be reasonably shared between the municipality and community association based on the benefit provided; and
- if the agreement places a majority of the cost of construction, repair or maintenance on the community association, the entire project shall not constitute a public work for the purposes of the PA Prevailing Wage Act.

*Location: First Consideration in the House, September 28, 2021*

## **Municipal Care of Neglected Burial Grounds**

[House Bill 1841](#) (PN 2087), introduced by Representative Gerald Mullery, would amend Title 53 (Municipalities Generally) regarding care of neglected burial grounds and cemeteries.

If a burial ground located in a municipality becomes a nuisance as a result of neglect and upon a petition signed and filed by at least 25 residents residing within 5 miles of the burial ground, the respective county court of common pleas may direct the burial ground be placed into the municipality's care. The municipality shall ensure the good condition and maintenance of the burial ground at least twice annually before May 30 and before August 15.

The maximum annual costs for municipalities to spend on any one burial ground would be increased from \$30 to no more than \$5,000. Lastly, this bill would exclude second class

townships.

*Location: House Local Government Committee, September 8, 2021*

## **Constitutional Amendment for Property Tax Relief**

**House Bill 1851 (PN 2093)**, introduced by Representative Robert Freeman, would propose a Constitutional amendment allowing the General Assembly to establish standards and qualifications to exempt a taxpayer from the payment of the portion of real property tax levied by a local taxing authority that exceeds a percentage threshold amount of the household income of the taxpayer. Constitutional amendments require approval in two consecutive legislative sessions and then approval by the voters through a referendum.

*Location: House Finance Committee, September 9, 2021*

## **Municipal Boundary Changes and Procedures**

**House Bill 1877 (PN 2128)**, introduced by Representative Robert Freeman, would amend Title 53 (Municipalities Generally) providing for municipal boundary changes, procedures, clarifications and making related repeals.

Two or more abutting municipalities, upon the adoption of an ordinance, may transfer or exchange territory or clarify territorial boundaries between municipal corporations. No boundary change may result in territory not incorporated in any municipal corporation. Within 15 days of enacting such an ordinance, a municipality would be required to: assign, for reference, a distinctive designation to any impacted territory; file the ordinance and plot with the clerk of court and commissioners of each impacted county; and notify the record owner of each impacted property in writing.

Residents would be able to file a petition with the municipal corporation to suspend the boundary change. At least 20 percent of registered electors of a municipal corporation or at least one owner of an impacted property must sign the petition. The petition would need to be filed no later than the 20th day after the municipality files the ordinance and plot with the county. Upon receiving a successful petition, the governing body of each municipal corporation must call for a referendum to bring the question of changing municipal boundaries to the voters in the next general election.

The bill would also provide for a process to establish disputed municipal boundaries through judicial ascertainment. Judicial ascertainment would be triggered by a written petition filed with the Court of Common Pleas by either one or more owners of an impacted property or ten or more residents of any municipal corporation impacted by the boundary dispute. The bill would further outline the procedure for judicial ascertainment.

Within 15 days after a boundary change has taken effect, the municipal governing bodies shall file a final report of the boundary change and other required information with the County Board of Elections, the Department of Community and Economic Development, the Department of Transportation, the Department of Education, the State Tax Equalization Board and the Governor's Office of Policy Development.

If the adopted ordinance does not already include an agreement, impacted municipal corporations may enter into agreements prior to the boundary change's effective date to fully resolve the sharing of costs, transfers of funds and indebtedness related to the impacted territory, sharing or division of any tax or fee revenues associated with the impacted territory and resolving any other matters, rights or issues incident to the transfer of territory.

All taxes assessed and levied against a property impacted by the boundary change prior to the effective date shall be paid to the municipality which levied the tax, and the collection and enforcement of taxes shall be as though the boundary change had not taken place.

If a municipal boundary is altered that the municipal corporation lies partly in one or more counties, the territory within the municipal corporation shall, for county purposes, be and remain a part of the county in which the territory is physically located. Lastly, the bill would clarify that middle of the stream would be the boundary between two municipal corporations bounded by the same stream.

## **Right to Know Vexatious Requesters**

**Senate Bill 552 (PN 579)**, introduced by Senator Cris Dush, would amend the Right to Know Law creating a process for municipalities to seek relief from an alleged vexatious requester.

A municipality may petition the Office of Open Records (OOR) for relief from an individual alleged to be a vexatiousness requester. The petition must include the reason for alleging vexatiousness, including but not limited to the number and scope of requests filed, intent to harass the municipality and placing unreasonable burdens on the municipality.

The Executive Director of the OOR or a designee would need to notify the requester alleged to be vexatious within five business days of receiving the petition and that the requester may file a preliminary response to the petition within 10 business days. The OOR must, within 15 business days, inform the municipality whether pending and new requests from the alleged vexatious requester should continue to be processed or should be stayed pending a resolution of the proceedings.

The bill would further provide for the standards and procedures for a hearing and mediation if the OOR deems such proceedings are warranted. The OOR would need to provide a final opinion granting or denying the petition within 90 calendar days. If a petition were granted, the OOR would provide the municipality with the appropriate relief, which would not last more than one year.

Any party aggrieved by the OOR's final opinion would be able to appeal the decision to the Commonwealth Court within 15 calendar days.

*Location: Passed the Senate; House State Government Committee, September 23, 2021*

## **UCC Third-Party Inspectors**

**Senate Bill 634 (PN 707)**, introduced by Senator Daniel Laughlin, would amend the Pennsylvania Construction Code (UCC) Act concerning the use of third-party inspection agencies.

The bill would clarify that a municipality designating an employee to serve as its municipal code official may use a third-party inspector to supplement its current program and to perform plan review and inspections in categories where the program does not possess the necessary personnel.

For municipalities or groups of municipalities that exclusively use third-party inspectors, the bill would require the retention of two or more agencies starting January 1, 2022.

Further, the services of third-party agencies must be performed under a written professional services contract. When entering into a contract with a third party, the bill would mandate that a municipality consider: the qualifications of the third party; the fee schedule; the availability of services; and the input of affected stakeholders. Third-parties contracting with a municipality may not be affiliated with one another. One of the third-party agencies shall be designated as the code enforcement agent for the municipality, and a professional services contract may not exceed three years. A permit applicant shall choose from the third-party agencies approved and contracted by the municipality.

A waiver of the minimum of two agencies mandate would be allowed if a municipality is unable to fulfill the mandate. The bill would provide a process to apply for and demonstrate the need for a waiver with the Department of Labor and Industry.

Finally, municipalities using third-party agencies must ensure the following notifications are on their building permit application forms:

- the third-party agency is acting on behalf of the municipality;
- the applicant may inform the governing body of complaints related to the performance or service of a third-party agency including failure to abide by time periods specified, unprofessionalism, or bias against the applicant;
- the Department of Labor and Industry certifies third-party agencies and investigates complaints; and

- the form for filing a complaint can be found on the Department of Labor and Industry's website.

Municipalities must keep a record of any complaints against third-party agencies.

*Location: Senate Labor and Industry Committee, May 4, 2021*

## Fire and Emergency Services Loan Program

**Senate Bill 739 (PN 1089)**, introduced by Senator Patrick Stefano, would amend Title 35 (Health and Safety) regarding the Fire and Emergency Services Loan Program.

On May 18, Pennsylvanian voters approved a ballot question permitting career fire and EMS companies to participate in the loan program, which has historically been limited to volunteer companies only.

This bill would implement the ballot question by redefining "fire company" as a volunteer non-profit chartered fire company or municipal-owned fire company or department. Lastly, the bill would name representatives of the Pennsylvania Professional Fire Fighters Association and Career Fire Chiefs Association, as well as the Secretaries of the Department of Community and Economic Development and Department of Conservation and Natural Resources to the loan program's application review committee.

*Location: Passed the Senate; House Veterans Affairs and Emergency Preparedness Committee, September 23, 2021*

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**The Summit is Right Around the Corner! Join Us  
in Person or Virtually – Either Way, [Register Today!](#)**



## NATIONAL LEAGUE OF CITIES UPDATE

### Bipartisan Infrastructure Bill Includes Water Infrastructure Priorities

Through NLC's *Ready to Rebuild* report and the transportation, water and broadband stories local leaders share, we know that investments in our nation's infrastructure can't wait. From lead pipe replacement to stormwater management, cities, towns and villages face a long list of water infrastructure challenges and capital investment needs – at staggering costs.

[Read More](#)

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## HOUSE AND SENATE SESSION DAYS 2021

### House:

October 4-6, 25-27  
November 8-10, 15-17  
December 13-15

### Senate:

October 18-20, 25-27  
November 15-17  
December 13-15

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



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### Pennsylvania Municipal League

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