

Legislative Locator

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



**Legislative
Locator**

October 2020

City of Scranton Prevails in Appeal of Act 511 Tax Limitations Challenge

On Monday, the PA Commonwealth Court ruled in favor of the City of Scranton in a case challenging the city's ability to levy taxes in excess of statutory caps set out in Act 511. The Court agreed with the city's argument that as a home rule community, it is not subject to tax limits imposed by state law.

The Pennsylvania Municipal League filed an *amicus brief* in support of the city in this appeal.

A more detailed summary of the case and decision will be provided in the near future.

Legislation on the Governor's Desk

First Class Township Code Rewrite

[House Bill 2073](#) (PN 3052), introduced by Representative Dan Moul, is a comprehensive rewrite of the First Class Township Code. This legislation intends to modernize and recodify the Code by updating archaic language, removing obsolete provisions, consolidating common subjects and incorporating language reflecting current case law and practices. Please find the executive summary [here](#) and view PSATC's PowerPoint [slides](#) or [pdf](#) summarizing the rewrite.

Location: On the Governor's Desk – Last day to Sign, November 1, 2020

Public Works Contractors' Bond Law

[House Bill 885](#) (PN 4075), introduced by Representative Valerie Gaydos, would amend the Public Works Contractors' Bond Law. This bill would remove the flexibility of the contracting body to accept and approve alternative means of financial security, and instead, limit the contracting body to three financial security options: a performance bond; a federal or commonwealth chartered lending institution irrevocable letter of credit; or a restrictive or escrow account in a lending institution.

The contractor would be required to secure two of the financial securities listed above for 100 percent of the contract amount, one as a condition on the performance of the contract and the other to cover the costs of materials and labor.

Location: On the Governor's Desk – Last Day to Sign, October 31, 2020

Emergency Service Omnibus Package

[House Bill 1673 \(PN 4573\)](#), introduced by Representative Frank Farry, was amended becoming a vehicle for a number of priority bills that address SR 6 recommendations. The following bills were amended into the omnibus bill in their entirety:

House Bill 1816 intends to increase loan amounts under the Volunteer Loan Assistance Program. Additionally, it would provide for an inflation adjustment on allowable loan amounts based on the Consumer Price Index for All Urban Consumers in the Northeast Region as reported by the U.S. Department of Labor's Bureau of Labor Statistics.

Senate Bill 908 intends to rename the Volunteer Fire Company, Ambulance Service and Rescue Squad Assistance the Fire and EMS Loan Assistance Program. It also renames the Volunteer Companies Loan Fund the Emergency Services Loan Assistance Fund. Both the loan program and fund would be made available to volunteer and paid emergency companies. An application review committee would be established to review applications and make recommendations, and the committee would be chaired by the State Fire Commissioner. The responsibility of the Fire Relief Program would be transferred from the Auditor General to the State Fire Commissioner, and funds could be used for: recruitment and retention activities; length of service awards; facilities and storage of vehicles, equipment, training and meetings; vehicles and equipment for emergency response; obtaining or renewing commercial licenses to operate emergency vehicles; and stipends to volunteer firefighters not to exceed \$1,500. The legislation would require the Fire Commissioner's Advisory Board to review the distribution formula for fire relief funds and provide a recommendation.

Lastly, the Volunteer Company Loan Sinking Fund would be renamed the Emergency Services Loan Assistance Sinking Fund

House Bill 1448 intends to provide for a ballot referendum to expand the Volunteer Loan Assistance Program to include paid fire and EMS companies for the purposes of modernizing facilities and equipment.

Senate Bill 987 intends to redefine the duties of the State Fire Commissioner to serve as the primary representative for fire services in the state among other expanded duties, including training development, grant administration and data collection. It would also alter the qualifications and appointment of the commissioner, requiring the commissioner to be someone that has served as chief officer or administrative officer of a fire company. The commissioner would be appointed by the governor and approved by a majority of the Senate. The State Fire Safety Advisory Committee would be renamed the State Fire Advisory Board, in which the commissioner would be chair and ten firefighters, along with General Assembly members and relevant stakeholders, would make up the voting and non-voting members of the board.

Senate Bill 932 intends to redefine "volunteer firefighters' relief association" by including volunteer fire companies or companies that are a combination of volunteer and paid firefighters into the organization's membership.

Senate Bill 910 intends to make the State Fire Commissioner the administrator of the Fire Company Grant Program and the EMS Grant Program instead of the Pennsylvania Emergency Management Agency. The commissioner would be responsible for posting a notice of the grant programs and applications on its website by August 8 each fiscal year. Completed grant applications would be sent to both the commissioner and respective municipality where the emergency service is located. The grant money could be used for community risk reduction, training and other purposes. Additional language states if two or more emergency services companies consolidate, then the interest rate on outstanding balances owed to the Volunteer Companies Loan Fund would be decreased from two percent to one percent. The commissioner would also be responsible for preparing an annual report about the grant programs to be submitted on October 1 of each year.

House Bill 1834 intends to expand the Fire Company Grant Program and the EMS Grant Program to include recruitment and retention initiatives, as well as the volunteer firefighter length of service award. Additionally, a fire company may apply for a grant for up to five years and establish a Construction Savings Account within the State Treasury to be administered by the State Fire Commissioner. A fire company would only be able to access the account at the discretion of the commissioner.

House Bill 1839 intends to authorize counties to provide qualified and active volunteers with a real property tax credit to be applied against the volunteer's property tax liability. The tax credit may not

exceed 100 percent of the volunteer's tax liability.

In addition to the bills above, the original language of House Bill 1673 is included in the omnibus package, establishing the Length of Service Award Program, which would provide tax-deferred income benefits to active members of a fire service. It would also allow for financial assistance to recruit and retain volunteer firefighters.

Location: *On the Governor's Desk – Last day to Sign, November 1, 2020*

Emergency Medical Services Operating Fund Enhancements

House Bill 1838 (PN 3590), introduced by Representative Martin Causer, would amend Title 35 (Health and Safety) requiring 30 percent of Emergency Medical Services Operating Funds (EMSOF) be allocated to specifically provide training to underserved rural areas. No less than 10 percent of this portion of the funds shall be provided to assist with medical purchases for ambulances.

The Legislative Budget and Finance Committee shall review, within one year, court records to ensure the money for the EMSOF is being properly collected and deposited into the fund and provide any appropriate recommendations.

The bill would also amend Title 75 (Vehicles) increasing the ticket surcharge from \$10 to \$20 and the cost from \$25 to \$50 on defendants who participate in Accelerated Rehabilitative Disposition, all of which would be deposited into the EMSOF.

Location: *On the Governor's Desk – Last Day to Sign, October 31, 2020*

Deploying Broadband Services in Rural Areas

House Bill 2438 (PN 4545), introduced by Representative Clint Owlett, would amend Title 68 (Real and Personal Property) further providing for broadband services in rural areas.

This bill includes new definitions and provides for the ability of an electric cooperative or its affiliate to use existing infrastructure through an existing easement owned, held or used by the cooperative to deploy and maintain broadband facilities. The attachment of broadband facilities to existing infrastructure and easements shall not constitute a change to the physical use of the easement, interfere or impair any vested rights of the property owner or place any additional burdens on the property. This bill would not apply to new poles or structures in an existing easement.

Other suppliers (or those that are not a cooperative) may access a cooperative's easement if safety standards are met and if the affiliate provides retail or wholesale of broadband services and the cooperative enters into a written attachment agreement with a supplier. These suppliers shall be permitted to use the easement pursuant to the rates, terms and conditions no less favorable than those offered to an affiliate. A cooperative would provide a 90-day notice to a supplier of the date when an affiliate begins offering retail broadband service.

Lastly, this bill would provide a five-year grace period for an existing written attachment agreement rates between a cooperative and supplier.

Location: *On the Governor's Desk – Last day to Sign, November 1, 2020*

Workers' Compensation Coverage for Integral Emergency Service Members

Senate Bill 94 (PN 2101), introduced by Senator Scott Martin, amends the Workers' Compensation Act by including members of volunteer firefighter departments, fire companies and ambulance corps as eligible for workers' compensation. Additionally, this bill would provide workers' compensation eligibility to certain emergency responders on state game land.

This bill would define "members of volunteer fire departments or volunteer fire companies" as any of the following: an active volunteer firefighter who responds to emergency calls; an individual appointed as special fire police under 35 Pa.C.S. Ch. 74 SubCh. D (relating to special fire police); an officer or director of a volunteer fire department or fire company; or a participating member who provides necessary operational support to the volunteer fire department or fire company, but does

not respond to emergency calls. The term would not include a social member of either a volunteer fire department or fire company.

It would also define “members of volunteer ambulance corps” as any of the following: an active volunteer ambulance corpsman who responds to emergency calls; an officer or director of a volunteer ambulance corps; or a participating member of a volunteer ambulance corps who provides necessary operational support to the volunteer. This term would not include a social member of an ambulance corps.

Lastly, whenever members of volunteer fire departments or fire companies, ambulance corps or rescue and lifesaving squad members are injured while performing their duties on state game land, the members would be deemed employees of the PA Game Commission and thusly eligible for workers’ compensation.

Location: *On the Governor’s Desk – Last day to Sign, November 5, 2020*

Municipal Condemnation Orders

[Senate Bill 940 \(PN 1951\)](#), introduced by Senator John DiSanto, would amend the Municipal Code and Ordinance Act allowing for condemnation orders to be issued against the actual property and requiring all purchasers of the property to be held accountable.

This bill would redefine “condemnation order” to allow the condemnation of the actual property that is deemed unfit for human habitation. The municipality may file the condemnation order with the office of recorder of deeds of the property’s respective county, and this record would serve as a notice to all purchasers who would become responsible for the property. A municipality would be able to recover the costs of recording the condemnation order from the tax sale proceeds or directly from the purchaser.

If a municipality vacates the condemnation order, the municipal officer would be required to file a statement with the office of recorder of deeds within 15 days. A properly recorded condemnation order would be a lien on the property and the validity of the condemnation order would not be affected by an upset, judicial, or repository sale of the property.

Location: *On the Governor’s Desk – Last Day to Sign, October 31, 2020*

Veterans’ Hiring Preference

[Senate Bill 952 \(PN 2043\)](#), introduced by Senator Mike Regan, would amend Title 51 (Military Affairs) providing hiring preference to qualified veterans seeking public employment.

The bill would provide new definitions for “veteran” and “statement of service” among other definitions to determine who is qualified for the hiring preference. Whenever a veteran passes an examination for a civil service appointment at any municipal agency or other public agency, an additional 10 points shall be added to the veteran’s final score. A veteran would not be able to begin or hold a public position for a municipal agency or any other public agency until proof of discharge or separation is provided. Appointing authorities would consider relevant training and education received during the veteran’s service in lieu of formal training and education.

The Office of Administration would be responsible for providing a consolidated report to the Adjunct General; and the Department of Military and Veterans Affairs would be responsible for providing an annual report to the majority and minority chairs of the State Government and Veterans Affairs and Emergency Preparedness Committees of each chamber of the General Assembly.

Location: *On the Governor’s Desk – Last Day to Sign, October 31, 2020*

Personal Delivery Devices

[Senate Bill 1199 \(PN 2042\)](#), 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. 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 PDDs 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.

All authorized entities operating PDDs would be required to maintain insurance including general liability coverage of at least \$100,000 per incident. Finally, the bill would provide that government entities are immune from suit by authorized entities and the owners of cargo; and governments would not have a duty to make roadways and other real estate safe for PDD operations.

Location: *On the Governor's Desk – Last Day to Sign, October 31, 2020*

Legislation of Interest

Provisional Hiring Standards

[House Bill 2503 \(PN 3925\)](#), introduced by Representative Brett Miller, would amend Title 23 (Domestic Relations) allowing an employer to hire an employee on a provisional basis not to exceed 45 days while background checks and clearances are obtained. A child day-care center, group day-care home or family child-care home would be able to employ an applicant on a provisional basis for a single period not to exceed 45 days only if, upon request, the Department of Human Services would grant a waiver. Employees seeking provisional employment would have to meet standards specified in the bill.

Location: *Second Consideration in the Senate, October 19, 2020*

Limitations on Prescriptive Easements for Public Use

[House Bill 2724 \(PN 4197\)](#), introduced by Representative Donna Oberlander, would amend the Recreational Use of Land and Water Act clarifying that only public entities, either the commonwealth, political subdivision or local agency, may pursue prescriptive easements for the benefit of the public.

Location: *Passed the House; Senate Environmental Resources and Energy Committee, October 26, 2020*

Medal Program Honoring Police Officers

[Senate Bill 1246 \(PN 1999\)](#), introduced by Senator Mike Regan, would establish a statewide medal program to honor police officers.

The Municipal Police Officers' Education and Training Commission (MPOETC) shall assist the Governor in the administration of the program and in developing the program qualifications. MPOETC would review the applications and provide the qualified applications to the Governor to issue a final decision.

The cost of the medals shall be paid by the employer – the PA State Police, county sheriff's departments or municipalities.

Location: *Passed the Senate; House Veterans Affairs and Emergency Preparedness Committee, October 22, 2020*

Property Designated for Redevelopment in Fourth Class Counties

[Senate Bill 1296 \(PN 2068\)](#), introduced by Senator David Argall, would amend the County Code prohibiting commissioners in a county of the fourth class from purchasing property designated for redevelopment in a third class city's redevelopment plan which would remove the property from the tax rolls of the city, unless the city and school district pass resolutions approving the purchase.

Eight cities of the third class would be affected:

- Aliquippa (Beaver)
- Beaver Falls (Beaver)
- Butler (Butler)
- Johnstown (Cambria)
- Washington (Washington)
- Monongahela (Washington)
- Pottsville (Schuylkill)
- Uniontown (Fayette)

Location: *Passed the Senate; House Local Government Committee, October 8, 2020*

Third Class City Nominating Petition Amendment

[Senate Bill 1336 \(PN 2026\)](#), introduced by Senator Scott Hutchinson, would amend Title 11 (Cities) to create uniform language among the municipal codes regarding nominating petitions and filing fees. The third class city code currently requires 100 signatures on a nominating petition for candidates running in a primary for public or party offices and a \$25 fee for filing the nominating petition. The amendment would bring the code in line with the borough, township and town codes by decreasing the number of signatures from 100 to 10 and removing the filing fee requirement.

Location: *Second Consideration in the Senate, October 6, 2020*



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SCOTUS and the Seismic Shift: What Might it Mean for State and Local Governments?

**By: Lisa Soronen, Executive Director of the State and Local Legal Center
Speaker at the 2020 Virtual Municipal Leadership Summit**

For the last 50 years the Supreme Court has leaned right. But there has always been an unreliable conservative “swing” Justice at the center of the Court. First, Justice Powell, then Justice O’Connor, next Justice Kennedy, and most recently (and very briefly) Chief Justice Roberts.

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HOUSE AND SENATE SESSION DAYS 2020

House:
November 10

Senate:
November 10

**reminder - session dates are subject to change*



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Pennsylvania Municipal League

414 N. 2nd St, Harrisburg
Pennsylvania 17101 United States

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