

# Legislative Locator

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



**Legislative  
Locator**

**November 2021**

## **Energy Choice Legislation May Equal Local Preemption**

Legislation posing as “energy choice” is moving through the General Assembly with speed and could result in the preemption of local autonomy if enacted.

Senate Bill 275 has passed the Senate and is now in the House Local Government Committee. Additionally, House Bill 1947, companion legislation introduced by Representative Tim O’Neal, has received first consideration on the House Floor. These bills would preempt local authority and decision making by prohibiting municipalities from taking action through policies that restrict or prohibit, or have the effect of restricting or prohibiting, the connection or reconnection of a utility service based on the type or source of energy. The bills would also prohibit a municipality from discriminating against a utility service based on the type or source of energy. The Public Utility Commission has jurisdiction over local governments when it comes to regulating utilities, making the bills unnecessary.

Additionally, the preemptive language and ambiguously defined terms in both bills makes this legislation dangerous for local governments and taxpayers alike. If enacted, this legislation would expose local governments to litigation. Communities with climate and energy incentives or policies would be especially susceptible to claims of discrimination under this bill.

For these reasons, The League strongly opposes both bills. We ask that you help in our advocacy efforts and [send this email](#) to your Representative to express your opposition to this unnecessary and overreaching bill.

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## **Newly Elected Official Affidavits of Residency**

Prior to taking the Oath of Office, each newly elected official in a third class city, borough or first class township must present a signed affidavit to the city clerk, secretary or manager attesting to continuous residency for one year preceding the individual’s election. This affidavit is a qualification for office.

Please see the following sections of the codes:

- [Section 11001](#) of the Third Class City Code
- [Section 501](#) of the First Class Township Code
- [Section 801](#) and [Section 901](#) of the Borough Code

Each municipality should reach out to its newly elected officials and provide notice of this requirement well in advance of January's swearing-in ceremonies. [Click here](#) for a sample residency affidavit. Your solicitor should approve prior to its use.

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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)

**PA** pennsylvania  
DEPARTMENT OF COMMUNITY  
& ECONOMIC DEVELOPMENT

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## Cosponsor Memos

Representative Joseph Hamm has announced intention to introduce legislation permanently waiving regulations requiring at least an EMR and an EMT or two EMTs are on board for trained firefighters and other certified emergency response volunteers to drive an ambulance.

Senator Joe Pittman has announced intention to introduce legislation authorizing EMS agencies to apply for ARPA funds to cover financial losses from March 1, 2020 through December 31, 2020 when compared to the same timeframe in 2019.

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## Legislation of Interest

### Borough Code Updates

[House Bill 1350 \(PN 1465\)](#) and [Senate Bill 674 \(PN 745\)](#), introduced by Representative Lee James and Senator Tim Kearney respectively, would amend the Borough Code in several ways. A new subsection would be added to Section 1059.3 (Surcharge by Auditors) providing that elected and appointed officials who act in good faith on the opinion of the borough solicitor shall not be surcharged. Section 1141 regarding borough managers would be amended authorizing the appointment of a partnership, limited partnership, association or professional corporation to the office. Section 1174 would provide that the civil service commission shall meet and organize within 30 days of the first Monday of each even-numbered year, rather than on the first Monday in even-numbered years. Section 130 would remove the 30-day requirement to make a proposed budget available for inspection prior to the adoption of the budget.

## **Second Class Township Code Updates**

[House Bill 1351 \(PN 1466\)](#) and [Senate Bill 673 \(PN 742\)](#), introduced by Representative Jerry Knowles and Senator Cris Dush respectively, would amend the Second Class Township Code. A new subsection would be added to Section 907 (Surcharge by Auditors) providing that elected and appointed officials who act in good faith on the opinion of the township solicitor shall not be surcharged. Section 1301 regarding township managers would be amended authorizing the appointment of a partnership, limited partnership, association or professional corporation to the office.

*Location: HB 1351: First Consideration in the House, June 16, 2021*  
*SB 673: House Local Government Committee, September 28, 2021*

## **Tattoo Practice Act**

[House Bill 1975 \(PN 2265\)](#), introduced by Representative Rosemary Brown, would create the Tattoo Practice Act within the Department of Health. This bill would require for practicing tattoo artists, as well as tattoo establishments, to obtain licenses to practice within the Commonwealth. The bill would provide for the license application standards, including the necessary training and knowledge required of each licensee.

All tattoo establishments, whether temporary or permanent, would be required to comply with all state and local health laws, regulations and ordinances, maintain sanitary conditions at all times, display their license and allow for the Department to inspect the establishment among other requirements. The Department would be responsible for inspecting tattoo establishments for its compliance with this bill at least once before a tattoo establishment opens for business and the Department shall randomly inspect 20 percent of establishments annually.

Nothing in this bill would preempt local governments from enacting an ordinance or regulation imposing stricter requirements on tattoo artists and establishments.

*Location: House Professional Licensure Committee, October 18, 2021*

## **Local Tax Deadline Consolidation**

[House Bill 2058 \(PN 2365\)](#), introduced by Representative Zachary Mako, would amend the Local Tax Enabling Act consolidating existing statute to coincide the filing for all political subdivisions levying a local Earned Income Tax and Net Profit Tax under the Act with the state Personal Income Tax filing deadline.

*Location: Second Consideration in the House, November 17, 2021*

## **Preemption of Local Firearms Control**

[Senate Bill 448 \(PN 1164\)](#), introduced by Senator Wayne Langerholc, would amend Titles 18 (Crimes and Offenses) and Title 53 (Municipalities Generally) preempting local regulation of firearms. A municipality would be prohibited from imposing firearm regulations in a more restrictive manner than state law. In addition to this preemptive language, a third party individual or member organization adversely affected by such an ordinance would be able to seek relief. If the court rules in favor of the third party individual or member organization, the municipality would be responsible for paying their reasonable expenses, including but not limited to attorney fees, expert witness fees, court costs and compensation for loss of income.

[House Bill 979](#), introduced by Representative Matthew Dowling, is identical companion legislation currently awaiting consideration in the Senate Judiciary Committee.

*Location: House Judiciary Committee, November 10, 2021*

## **Prohibition of Local and State COVID Vaccine Mandates**

[Senate Bill 471 \(PN 1211\)](#), introduced by Senator Doug Mastriano, would establish the Medical Freedom Act prohibiting the state or any political subdivision from enacting a rule, ordinance, order or other similar policy mandating a COVID-19 vaccine. It would also prohibit the state or a political subdivision from taking an action that would require an individual to provide proof of COVID-19 vaccination as a condition of employment, access to education, ability to travel, entry to a public place or contracting with the state or political municipality. All employers would also be prohibited from taking any adverse action against employees that decline a COVID-19 vaccine and any aggrieved employee would have the right to apply for unemployment benefits.

Lastly, any communication from the state or a political subdivision to receive the COVID-19 vaccine must include a notice stating that the recommendation is not mandatory.

*Location: First Consideration in the Senate, November 8, 2021*

## **Municipal Planning Code Modernization: Electronic Transmittals**

[Senate Bill 755 \(PN 943\)](#), introduced by Senator Tim Kearney, would amend the Municipalities Planning Code specifically authorizing for digital and electronic transmittals of certain documents. Municipalities would be authorized to forward, send or submit a proposed comprehensive plan or amendment, a proposed land use ordinance or amendment or an adopted comprehensive plan, land use ordinance or amendment electronically. Municipalities would be required to make a good faith effort to submit all documentation to the reasonable appropriate electronic contacts while maintaining a written or electronic record of every transmittal, comment and recommendation.

*Location: Passed the Senate, November 10, 2021*

## **ARPA Funds Dedicated to Water, Sewer and Stormwater Infrastructure**

[Senate Bill 916 \(PN 1194\)](#), introduced by Senator Lindsey Williams, would amend the Fiscal Code to establish the American Rescue Plan (ARPA) Water, Sewer and Storm Water Assistance Grant Program.

This bill would appropriate \$350,000,000 of the federal money, received through ARPA, from the Coronavirus State Fiscal Recovery Fund to the grant program. The Pennsylvania Infrastructure Investment Authority shall award grants to municipalities for projects authorized under the Pennsylvania Infrastructure Investment Authority Act, as well as for projects authorized under the Small Water Systems Assistance Act. Each project would also be required to align with the Clean Water State Revolving Fund and Drinking Water State Revolving Fund.

The amount of grant funds awarded to a municipality shall be matched by federal or local money at a ratio of 3.50 grant dollars to one Federal or local dollar, and any associated administrative costs by a municipality may not exceed 10% of the total amount of grant funds.

Municipalities that receive a grant would have the power and duty to:

- utilize grant funds for the improvement of water, sewer and wastewater infrastructure in accordance with this bill, federal law and guidance from the Authority;
- establish or maintain, in agreement with another municipality, local collaborative arrangements for the improvement of water, sewer and wastewater infrastructure; and
- submit monthly reports, which shall include identified excess or insufficient funding and an itemization of expenditures for administrative costs to the Authority, and the reports shall be subject to audit as determined by the Authority.

Additionally, municipalities would be responsible for providing the Authority with the appropriate reports necessary for compliance with ARPA. It would provide further responsibilities and duties of the Authority and reporting requirements.

This bill, if enacted, would expire on June 30, 2024 coinciding with the ARPA deadline.

*Location: Senate Local Government Committee, November 1, 2021*

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# Envision 2032 Reminder

## The League's 10-Year Visioning Initiative

The League is engaging municipalities from throughout Pennsylvania in a vitally important 10-year visioning initiative.

We are requesting your opinion on which priorities will be most important to address in the next ten years. We also want to understand your municipality's current priorities.

**All municipalities will benefit from participating!** Following a series of forums, the initiative will culminate in the Fall of 2022 with the release of a publication that will contain valuable insights and reference points that can be applied to future planning and decision-making by municipal leaders and elected and appointed officials at all levels of Pennsylvania's government.

Multiple individuals from each municipality are encouraged to respond so that we hear a wide range of perspectives.

**Please take a few minutes to provide your input by December 6 by clicking on the button below.** All responses are confidential.

[Click Here](#)

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## NATIONAL LEAGUE OF CITIES UPDATE

### SCOTUS to Hear Major Climate Change Case

In [West Virginia v. EPA](#) the U.S. Supreme Court will decide whether the U.S. Environmental Protection Agency (EPA) had the authority to issue the Clean Power Plan (CPP) Rule. While the Clean Power Plan hasn't been on the books for a number of years, whatever the Court holds in this case will likely be relevant to other rules adopted under the Clean Air Act or other statutes.

[Read More](#)

### NLC Local Fiscal Recovery Funds Playbook

NLC released a new ARPA resource last week during their annual conference for municipal leaders called the "[Local Fiscal Recovery Funds Playbook](#)." This guide centralizes all the information and recommendations NLC has released on SLFRF grants over the last several months and organizes them by the program's eligible expenditure categories. It also organizes the Treasury's key guidance resources by format. It's a user-friendly, curated guide that includes hyperlinks to all the resources.

[Click Here for Playbook](#)

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# HOUSE AND SENATE SESSION DAYS 2021

**House:**

December 13-15

**Senate:**

December 13-15

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



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