

Legislative Locator

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



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June 2022

Take Action: Now is the Time for the House to Pass Local Use of Radar

With just weeks left in the legislative session and with a new momentum within the General Assembly, now is the time to keep the pressure on the PA House to pass local use of radar.

The League joined the PA Radar Coalition for a Local Use of Radar Rally at the Capitol on the morning of June 9, where many League members were in attendance. Additionally, there was a substantial law enforcement presence, including the State Police, in support of bringing the House Bill 606 to the Floor for a final vote before summer recess.

With both the increase of speed-related fatalities in Pennsylvania and the dwindling number of non-radar speed timing devices, the “perfect storm” public safety crisis looms over the Commonwealth. In 2022, it is time we trust our municipal police with radar. The General Assembly must act to authorize the local use of radar.

House Bill 606 has been stalled in the House Appropriations Committee for over a year. Support our advocacy efforts by [sending a letter](#) to your Representative today requesting that they ask House Leadership to move House Bill 606 to the Floor for a final vote.

2022 Legislative Capitol Conference

The League hosted members at our annual Legislative Capitol Conference held in Harrisburg, June 8-9.

The packed Conference agenda welcomed experts to present on several pertinent legislative issues arising from the 2021/2022 legislative session. Sessions included presentations on local guidance for the deployment of autonomous vehicles through Senate Bill 965 and House Bill 2398; national and state trends of legislation preempting local government; what role local governments play in broadband deployment according to Act 96 of 2021; and how the pandemic has impacted downtowns throughout the Commonwealth.

Throughout the Conference, attendees engaged in meaningful dialogue and discussion with the speakers and their peers about the issues impacting local governments. In addition to the speaker program, Conference attendees joined the PA Radar Coalition for a Local Use of Radar Rally at the Capitol on the morning of June 9th.

Mayor Danene Sorace, City of Lancaster and League President, and John Jablowski, Councilmember, Wilkes-Barre Township and PSATC Second Vice President, spoke during the rally urging the PA House of Representatives to pass House Bill 606 authorizing local use of radar. Many League and PSATC members were also in attendance. Additionally, there was a substantial law enforcement presence, including the State Police, in support of bringing the bill to the House Floor for a final vote before summer recess. View highlights from the rally [here](#).

The Conference closed with keynote speaker Dr. Terry Madonna providing an analysis of the 2022 primary and detailing how the anticipated November election may impact local governments in the

short and long-term.



[View Capitol Conference Photos](#)

[View Radar Rally Photos](#)

Office of the State Fire Commissioner Recruitment and Retention Resource

There have been significant changes in fire and emergency services and with the continued decline in volunteers, Title 35 was amended requiring the Office of the State Fire Commissioner (OSFC) to assist with statewide recruitment and retention efforts.

The OSFC is working on ways to educate fire departments, county and local elected officials on why the office exists and what services they can provide to fire and emergency services personnel.


Please view the OSFC [fact sheet](#) and visit the OSFC Recruitment and Retention [webpage](#), which hosts several resources and contact information for the Recruitment and Retention Program.

National Electric Vehicle Infrastructure (NEVI) Plan Survey Closes July 8

If you haven't taken PennDOT's survey on key components of the Draft NEVI Plan yet, PennDot would still love to hear from you.

[Take Survey](#)

Municipal Leadership Summit

PITTSBURGH  OCTOBER 6-9, 2022



Hotel booking and registration are now available.
[Click here for more information.](#)

#StrengthThroughEngagement

Cosponsor Memos

Senator Jim Brewster announced intention to introduce legislation creating a publicly accessible database detailing repair and maintenance schedules for all bridges in the Commonwealth maintained with federal, state, county or municipal funds.

Senator Wayne Langerholc announced intention to introduce a resolution creating a bipartisan, bicameral legislative commission to provide recommendations for the recruitment and retention of law enforcement officers and prosecutors.

Legislation of Interest

Municipal Recreation Programs

[House Bill 1155 \(PN 3020\)](#), introduced by Representative Barry Jozwiak, would amend the Human Services Code clarifying that the term “child care center” does not include a municipal recreation program that is operated under an ordinance or resolution complying with the health and safety standards of the PA Recreation and Park Society Protocol for Public Preschool Recreation Programs.

Location: Passed the House; Senate Aging and Youth Committee, June 7, 2022

Protecting Local Governments from a Newspaper’s Failure to Advertise

[House Bill 2148 \(PN 2586\)](#), introduced by Representative Brett Miller, would amend Titles 45 (Legal Notices) and 65 (Public Officials) regarding the satisfaction of the legal advertising requirement.

Under this legislation, a political subdivision or municipal authority that submits an advertisement to a newspaper of general circulation and simultaneously posts a duplicate advertisement on its website would meet the legal advertising requirements in the event the newspaper fails to publish the public notice as requested. A political subdivision or municipal authority holding a meeting under the duplicate advertisement would be required to enter into the record a copy of the advertisement and proof that the advertisement was purchased in a timely fashion.

Location: First Consideration in the Senate, June 14, 2022

Consumer Fireworks Amendments

[House Bill 2157 \(PN 3277\)](#), introduced by Representative Frank Farry, addresses the illegal use of consumer fireworks.

At an April House Agriculture and Rural Affairs Committee meeting, two amendments were offered to House Bill 2157 and adopted unanimously. 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 stating no person may use consumer fireworks within 150 feet of 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 within 150 to 300 feet of the animal facility.
- 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 volunteer firefighters and EMS personnel;
 - \$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.

Location: Second Consideration in the Senate, June 28, 2022

Continuous Maintenance Permit

House Bill 2404 (PN 3204), introduced by Representative Owlett, would amend the Dam Safety and Encroachments Act creating an optional continuous maintenance permit that can be requested by a municipality.

The bill would require the Department of Environmental Protection (DEP) to develop a 10-year continuous maintenance permit that allows municipalities as permittees to accept responsibility to maintain, inspect and monitor watercourses, water obstructions, appurtenant works and encroachments. Once approval is granted, the permittee would not be required to seek preapproval or authorization from DEP for maintenance conducted under the permit. Work must be performed in a manner consistent with prepared plans as signed and certified by a registered professional engineer. Work performed under such plans would not be considered a permit violation.

Permittees would be required to provide annual reports to DEP of work undertaken. House Bill 2404 is part of a larger package of legislation dealing with stream maintenance.

Location: Passed the House; Senate Environmental Resources and Energy Committee, June 14, 2022

Right to Know Law

House Bill 2524 (PN 3235), introduced by Representative Lou Schmitt, would amend the Right to Know Law making several updates, including the addition of commercial requesters, vexatious requesters and clarifying exceptions for public record. The local government associations have worked to seek relief from both commercial and vexatious requesters over the last few legislative sessions. However, this bill is not helpful and the associations opposed House passage because it narrows the instances in which a municipality may seek relief and creates burdensome procedures.

Commercial Requests

This bill defines “commercial purpose” as the use of a record for commercial solicitation or the use of a record for direct sale or resale. It also includes numerous exceptions for educational or non-commercial scientific institutions; attorneys on behalf of a client; real estate records for real estate purposes; insurance entities or their contracted partners; and entities enforcing public safety.

A municipality or other agency that responds to a commercial request may charge the requester additional fees for search, retrieval, review, redaction and duplication of records. The additional fees would be calculated based on the hourly wage of the lowest paid employee of the municipality or agency that is capable of obtaining the requested information. Prior to fulfilling the request, the municipality or agency would be required to provide the requester with the estimated cost to grant the request. A municipality or agency may enter into a contract, memorandum of understanding or other agreement providing for an alternative fee arrangement.

Vexatious Requesters

This bill defines “vexatious requester” as a person who, by their conduct, demonstrates an intent to annoy or harass an agency, and the person cannot be found to be vexatious solely based on the number of requests submitted.

A municipality may petition the Office of Open Records (OOR) for relief from an individual alleged to be a vexatious requester. The municipality must provide clear and convincing evidence demonstrating the alleged vexatiousness. Additionally, the petition must include the reason for alleging a vexatious request, including but not limited to the number and scope of requests filed,

intent to harass the municipality and placing unreasonable burdens on the municipality. A municipality may not petition OOR for relief against an employee of a newspaper or magazine or a person contracted by a newspaper or magazine for the purpose of reporting the news. All other deadlines and proceedings would be stayed upon the filing of the petition with OOR.

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. 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 and the municipality may also seek a civil penalty.

Any party aggrieved by the OOR's final opinion would be able to appeal the decision to Commonwealth Court within 15 calendar days. If a municipality's appeal were denied, the municipality may not file another petition alleging vexatiousness for at least 12 months.

Public Record Clarifications

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 clarify that the number, names and ages of an employee's children are not considered public record. A draft ordinance, resolution or policy that has yet to go in front of the public for deliberation would not be considered public record. Lastly, an agency's banking account numbers, routing numbers and credit card numbers would not be considered public information.

Other Provisions

Other provisions of the bill include standards for the retention of records, inmate access to records and providing for a process to file an appeal.

Location: Passed the House; Senate State Government Committee, June 15, 2022

Pension Credit for Prior Law Enforcement Service

[Senate Bill 669 \(PN 1674\)](#), introduced by Senator Mike Regan, would amend Title 53 (Municipalities Generally) requiring municipalities to provide full-time vested police officers the option to purchase up to five years of their previous part-time or full-time employment for pension benefit purposes. This bill would not apply to cities of the first class.

The bill would provide for the calculation to determine the purchased pension benefit amount. Lastly, police officers would be ineligible to receive this benefit if the officer receives or is entitled to receive a pension benefit from another fund, or if the officer's military service credits when combined with past police service credits exceeds five years.

Location: Passed the Senate; House Local Government Committee, June 16, 2022

Forfeiture of All-Terrain Vehicles

[Senate Bill 1183 \(PN 1782\)](#), introduced by Senator Patrick Browne, would amend Title 42 (Judiciary and Judicial Procedure) and Title 75 (Vehicles) prohibiting the operation of an ATV or dirt bike on a highway or its shoulder, a sidewalk or bike lane in any First Class, Second Class, Second Class A or Third Class City or Borough in the Commonwealth. An individual in violation of this bill would commit a summary offense, with the first offense resulting in a \$50 to \$200 fine or 10 days imprisonment for failure to pay the fine. All subsequent offenses would result in a \$100 to \$300 fine or 30 days imprisonment for failure to pay the fine. Additionally, the individual's ATV or dirt bike operated illegally would be seized and forfeited.

Lastly, this bill would add definitions for "dirt bike," "dual sport motorcycle" and "electric pedalcycle."

How Cities Will 'Buy America' with Federal Dollars

You may have heard the term "Buy America" used regarding federal infrastructure programs and be wondering what this means for your city, town or village's infrastructure project plans. While further guidance is forthcoming from individual federal agencies, initial information is now available as a starting point for local governments to begin considering the impacts of this requirement on future infrastructure projects.

[Read More](#)

HOUSE AND SENATE SESSION DAYS 2022

House:

July – Summer Recess
August – Summer Recess
September – 12-14, 19-21

Senate:

July – Summer Recess
August – Summer Recess
September – 19-21

**reminder - session dates are subject to change*



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Pennsylvania Municipal League
414 N. 2nd St, Harrisburg
Pennsylvania 17101-1342 United States

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