

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2084 – SB 2352

February 29, 2016

SUMMARY OF BILL: Authorizes local government entities to establish a property assessed clean energy (PACE) program to provide financing for a qualified project to an owner of commercial, industrial, or residential real property.

Sets forth the requirements for a local government to establish a PACE program and to designate an area within the local government's jurisdiction as a PACE region. Outlines requirements of the report required to be distributed at the public hearing, included in resolution establishing the PACE program, available on the local government's website and at the office of the local government contract official.

Authorizes local government entities to jointly implement or administer a PACE program. Specifies that a single public hearing held jointly by the cooperating local governments satisfies the public hearing requirement.

Authorizes local government entities to impose an additional property tax to repay the financing of qualified projects on real property located in a designed PACE region after the local government has entered into a written contract with the owner of the applicable property on which qualified PACE improvements will be made. The local government shall provide notice to each lienholder of record of the local government's intent to impose the additional assessment. Requires a local government entity to provide a written notification to the record owner indicating that the owner may be responsible for payment of any remaining principal balance of an assessment upon the refinance or sale of the property.

Authorizes local government entities to administer and finance the program or delegate the administration or financing, or both, to a qualified third party, including other local government entities. Requires a local government entity that elects to delegate administration and/or project financing to enter into a written contract with the party administering or financing a qualified project under the program. Requires the third party to reimburse the local government for any costs associated with monitoring the program, imposing the assessment, billing, and collecting payment on behalf of the third party.

Requires written contracts between property owners and local government entities electing to finance the qualified projects through assessments and outlines items that may be assessed. Requires a local government entity authorizing financing through contractual assessments through a third-party to file written notice of each contractual assessment in the records office of the county register of deeds and specifies information to be included in the notice.

Authorizes a local government entity to enforce an assessment lien in the same manner that a regular property tax lien against real property may be enforced and outlines the process for imposing a lien on the assessment. Specifies that a contractual assessment lien, against residential property that is part of a PACE program, is subordinate to an existing lien against the real property. Specifies that a contractual assessment on commercial property, that is part of a PACE program, shall not be deemed a lien against the commercial property without the consent of the senior lienholder.

Authorizes local government entities to issue bonds or notes secured by payments of contractual assessments on benefited property in designated PACE regions to finance qualified projects through contractual assessments. States a local government pledge of assessments in collection with the issuance of bonds or notes by the local government is a first lien on the assessments pledged.

Authorizes local government entities to assign or sell any public liens imposed under this legislation to another government entity or to a private, public, or quasi-public third-party administrator. Requires the assignees of the liens from such sales to have the same powers and rights at law or in equity as the participating local government and regular local government assessor of property.

Requires a local government entity to establish a residential loss reserve fund. This fund shall be used to protect the first recorded lien holder of a residential mortgage or deed of trust from losses caused by the failure of a property owner, who is not the first recorded lien holder, to fulfill obligations under a PACE assessment on property on which qualifying improvements have been installed..

Requires a local government entity to obtain verification of energy efficiency by the Tennessee Valley Authority or a local power company that the qualified project was property completed and is operating as intended.

ESTIMATED FISCAL IMPACT:

Increase Local Revenue – Exceeds \$5,000/Permissive/Each PACE Project

Increase Local Expenditures – Exceeds \$5,000/Permissive/Each PACE Project

Assumptions:

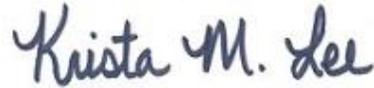
- Based on information from the Department of Environment and Conservation and the Comptroller's Office, this bill will have no fiscal impact on state government.
- Local government entities are authorized, but not required, to establish a PACE program. Therefore, any fiscal impact to local government will be permissive.
- The precise fiscal impact of this bill is dependent upon several unknown factors, including but not limited to: the extent to which any applicable local government will elect to implement a PACE program and assess additional property tax; the number of

PACE projects that are undertaken; where PACE projects are undertaken; the fiscal year in which such projects are undertaken; implementation costs relative to each PACE program; and whether local governments elect to contract with third parties for such programs.

- Given the extent of unknown factors, estimating a precise fiscal impact to local governments is difficult; however, it is reasonable to assume that local governments will have permissive recurring increases in expenditures estimated to exceed \$5,000 for financing of any qualified PACE project. Any such local government will also experience an increase in local property tax revenue on the assessed PACE project property estimated to exceed \$5,000.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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