

SENATE BILL No. 259

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7-15.8; IC 36-9-44.5.

Synopsis: Local wastewater and clean energy districts. Authorizes the metropolitan development commission of a consolidated city or city plan commission of a city other than a consolidated city (commission), following a written recommendation from the board of public works or board of public works and safety (works board) of the city, and subject to the approval of the city legislative body, to adopt a resolution designating a wastewater facility improvement district (district) as an allocation area for purposes of the allocation and distribution of property taxes, allowing incremental property tax revenue to be captured to connect properties in the district to the municipal sewer system. Provides that, before making a recommendation to the commission to establish a district, a works board must: (1) establish the boundaries of the district; (2) identify the owners of property in the district; (3) create a proposed plan; and (4) hold a public hearing. Requires the establishment of a wastewater facility improvement fund (fund) for each wastewater facility improvement district and requires the commission to administer the fund. Provides that the incremental property tax revenue from a district shall be deposited in the fund and may be used only to connect properties in the district to the municipal sewer system. Authorizes the issuance of bonds payable from the fund. Requires the commission to make an annual report on each district to the fiscal body of the city and the department of local government finance. Authorizes a local governmental unit (or two or more local governmental units) to: (1) designate an area as a clean energy improvement financing district; (2) establish a voluntary property
(Continued next page)

Effective: Upon passage; July 1, 2024.

Qaddoura

January 16, 2024, read first time and referred to Committee on Tax and Fiscal Policy.



assessed clean energy program in the district under which qualified clean energy improvements will be made in eligible properties to lower utility costs to consumers through efficient generation and consumption of energy or generate energy through local sources such as community solar facilities; (3) designate a clean energy improvement financing district; and (4) authorize within the financing district the financing of qualified clean energy improvements. Defines "qualified clean energy improvement". Defines "eligible property" as including commercial, industrial, and agricultural property, school buildings, and local government buildings, and provides that a residential property may also be an eligible property for the purposes of connecting the property to a sanitary sewer system. Makes property owner participation in a clean energy improvement program voluntary. Provides for property owners to pay for qualified clean energy improvements to their properties through assessments. Allows liens to be imposed for unpaid assessments. Allows the funding of a clean energy improvement program by the issuance of bonds or through commercial lenders, federal or state grants and loans, or local government sources. Requires the Indiana utility regulatory commission to establish technical guidelines for the administration of clean energy improvement programs.



Introduced

Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

SENATE BILL No. 259



A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-7-15.8 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]:
4 **Chapter 15.8. Wastewater Facility Improvement Districts in**
5 **Cities**
6 **Sec. 1. This chapter applies to all cities.**
7 **Sec. 2. As used in this chapter, "base assessed value" means the**
8 **net assessed value of all the taxable property located in a**
9 **wastewater facility improvement district as finally determined for**
10 **the assessment date immediately preceding the effective date of the**
11 **resolution adopted under this chapter establishing the particular**
12 **district.**
13 **Sec. 3. As used in this chapter, "commission" refers to:**
14 **(1) the metropolitan development commission of a**
15 **consolidated city acting as the redevelopment commission of**



- 1 the consolidated city under IC 36-7-15.1; or
 2 (2) the city plan commission of a city other than a
 3 consolidated city.
- 4 **Sec. 4.** As used in this chapter, "district" refers to a wastewater
 5 facility improvement district established under this chapter.
- 6 **Sec. 5.** As used in this chapter, "fund" refers to a wastewater
 7 facility improvement fund established under section 14 of this
 8 chapter.
- 9 **Sec. 6.** As used in this chapter, "works board" refers to:
 10 (1) the board of public works of a consolidated city; or
 11 (2) the:
 12 (A) board of public works; or
 13 (B) board of public works and safety;
 14 of a city other than a consolidated city.
- 15 **Sec. 7. (a)** A unit's works board may propose the establishment
 16 of a wastewater facility improvement district under this chapter.
- 17 **(b)** A works board that proposes to establish a district must do
 18 the following:
 19 (1) Establish the boundaries of the district, subject to section
 20 8 of this chapter.
 21 (2) Identify the owner or owners of each parcel of property in
 22 the district.
 23 (3) Create a proposed plan for connecting properties within
 24 the district to the municipal sewer system subject to the
 25 requirements of this chapter.
- 26 **(c)** The works board shall hold a public hearing on a proposal
 27 to establish a district under this section. The hearing shall be
 28 conducted in accordance with IC 5-14-1.5, and notice of the
 29 hearing shall be published in accordance with IC 5-3-1. In addition,
 30 the works board shall mail a copy of the notice to each owner of
 31 property within the proposed district. The notice must include:
 32 (1) a description of the boundaries of the proposed district;
 33 (2) a description and location of the sewer system extensions
 34 to be constructed within the district; and
 35 (3) the date of the hearing.
- 36 **(d)** At the public hearing under subsection (c), the works board
 37 shall hear all owners of real property in the proposed district who
 38 appear and request to be heard on the questions of:
 39 (1) the inclusion of the owner's property in the district;
 40 (2) the boundaries of the district; and
 41 (3) the utility and benefit of connecting properties in the
 42 district to the municipal sewer system.



1 The works board shall consider all evidence and objections
 2 presented at the hearing and may modify the boundaries of the
 3 proposed district, subject to the requirements of this chapter.

4 (e) After conducting a public hearing under this section, the
 5 works board may submit a written recommendation to the
 6 commission to establish a district within the boundaries of the unit.
 7 A recommendation submitted to the commission under this
 8 subsection must include:

- 9 (1) the geographic boundaries of the district; and
 10 (2) the proposed plan for connecting properties in the district
 11 to the municipal sewer system.

12 (f) If the works board submits a written recommendation to the
 13 commission under subsection (e) to establish a district within the
 14 boundaries of the unit, the works board shall:

- 15 (1) notify each owner of property within the proposed district
 16 of its recommendation; and
 17 (2) include with the notification a statement of the manner in
 18 which each owner of property may participate in public
 19 hearings held by the commission, as set forth in section 9 of
 20 this chapter regarding the designation of a district.

21 **Sec. 8. (a)** A district established under this chapter must consist
 22 at least primarily of properties that are not connected to the
 23 municipal sewer system. However, a district may include
 24 properties that are already connected to the municipal sewer
 25 system if:

- 26 (1) it is expected that connecting the other properties in the
 27 district to the municipal sewer system will increase the value
 28 of the properties already connected to the municipal sewer
 29 system; and
 30 (2) the inclusion in the district of the properties already
 31 connected to the municipal sewer system is considered
 32 essential or favorable to the success of the district.

33 (b) A district may not include any parcel or area of land that is
 34 already included in an allocation area under IC 8-22-3.5,
 35 IC 36-7-14, IC 36-7-15.1, IC 36-7-30, IC 36-7-30.5, or
 36 IC 36-7-32-15.

37 **Sec. 9. (a)** The commission shall review a recommendation
 38 submitted by the works board under section 7(e) of this chapter to
 39 establish a district within the boundaries of the unit.

40 (b) If the commission finds that connecting properties in the
 41 district to the municipal sewer system is necessary for the general
 42 welfare, safety, and security of an area and its inhabitants, the



1 commission may adopt a resolution described in subsection (c).

2 (c) Subject to the approval of the legislative body of the unit that
3 established the commission, the commission may adopt a resolution
4 designating one (1) or more districts as an allocation area for
5 purposes of the allocation and distribution of property taxes.

6 (d) After adoption of the resolution under subsection (c), the
7 commission shall:

8 (1) publish notice of the adoption and substance of the
9 resolution in accordance with IC 5-3-1; and

10 (2) file the following information with each taxing unit that
11 has authority to levy property taxes in the geographic area
12 where the district is located:

13 (A) A copy of the notice required by subdivision (1).

14 (B) A statement disclosing the following:

15 (i) The necessity for connecting properties in the district
16 to the municipal sewer system.

17 (ii) The general plan for expanding the municipal sewer
18 system to connect the system to properties in the district.

19 (iii) The estimated economic benefits and costs incurred
20 by the district, as measured by anticipated growth of real
21 property assessed values.

22 (iv) The anticipated impact on tax revenues of each
23 taxing unit.

24 The notice must state the general boundaries of the district and
25 must state that written remonstrances may be filed with the
26 commission until the time designated for the hearing. The notice
27 must also name the place, date, and time when the commission will
28 receive and hear remonstrances and objections from persons
29 interested in or affected by the proceedings pertaining to the
30 proposed allocation area and will determine the public utility and
31 benefit of the proposed allocation area. The commission shall file
32 the information required by subdivision (2) with the officers of the
33 taxing unit who are authorized to fix budgets, tax rates, and tax
34 levies under IC 6-1.1-17-5 at least ten (10) days before the date of
35 the public hearing. All persons affected in any manner by the
36 hearing, including all taxpayers within the taxing district of the
37 commission, shall be considered notified of the pendency of the
38 hearing and of subsequent acts, hearings, adjournments, and
39 orders of the commission affecting the allocation area if the
40 commission gives the notice required by this section.

41 (e) At the hearing, which may be recessed and reconvened
42 periodically, the commission shall hear all persons interested in the



1 proceedings and shall consider all written remonstrances and
 2 objections that have been filed. After considering the evidence
 3 presented, the commission shall take final action determining the
 4 public utility and benefit of the proposed allocation area and
 5 confirming, modifying and confirming, or rescinding the
 6 resolution. The final action taken by the commission shall be
 7 recorded and is final and conclusive, except that an appeal may be
 8 taken in the manner prescribed by section 10 of this chapter.

9 **Sec. 10. (a)** A person who files a written remonstrance with the
 10 commission under section 9 of this chapter and who is aggrieved by
 11 the final action taken may, within ten (10) days after the final
 12 action, file with the office of the clerk of the circuit or superior
 13 court of the county a copy of the commission's resolution and the
 14 person's remonstrance against the resolution, together with the
 15 person's bond as provided by IC 34-13-5-7.

16 **(b)** An appeal under this section shall be promptly heard by the
 17 court without a jury. All remonstrances upon which an appeal has
 18 been taken shall be consolidated and heard and determined within
 19 thirty (30) days after the time of filing of the appeal. The court
 20 shall decide the appeal based on the record and evidence before the
 21 commission, not by trial de novo, and may confirm the final action
 22 of the commission or sustain the remonstrances. The judgment of
 23 the court is final and conclusive, unless an appeal is taken as in
 24 other civil actions.

25 **Sec. 11. (a)** An allocation provision adopted under this chapter
 26 must:

- 27 (1) apply to the entire district; and
 28 (2) require that any property tax on taxable property
 29 subsequently levied by or for the benefit of any public body
 30 entitled to a distribution of property taxes in the district be
 31 allocated and distributed as provided in subsections (b) and
 32 (c).

33 **(b)** Except as otherwise provided in this section:

- 34 (1) the proceeds of the taxes attributable to the lesser of:
 35 (A) the assessed value of the taxable property for the
 36 assessment date with respect to which the allocation and
 37 distribution is made; or
 38 (B) the base assessed value;
 39 shall be allocated and, when collected, paid into the funds of
 40 the respective taxing units; and
 41 (2) the proceeds of the property taxes imposed for the
 42 assessment date with respect to which the allocation and



1 distribution is made that are attributable to taxes imposed
 2 after being approved by the voters in a referendum or local
 3 public question and not otherwise included in subdivision (1),
 4 shall be allocated to and, when collected, paid into the funds
 5 of the taxing unit for which a referendum or local public
 6 question was conducted.

7 (c) Except as provided in section 18 of this chapter and as
 8 provided in subsection (d), all of the property tax proceeds that
 9 exceed those described in subsection (b) shall be allocated to the
 10 commission, when collected, and paid into the fund established for
 11 the district under section 14 of this chapter.

12 (d) Before July 15 of each year, the commission shall do the
 13 following:

14 (1) Determine the amount, if any, by which the property tax
 15 proceeds to be deposited in the fund will exceed the amount of
 16 assessed value needed to provide the property taxes necessary
 17 to make, when due, principal and interest payments on bonds
 18 described in section 15 of this chapter, or on bonds described
 19 in section 17(a) of this chapter, whichever is applicable, plus
 20 the amount necessary for other purposes described in section
 21 15 of this chapter.

22 (2) Provide a written notice to the county auditor, the
 23 legislative body of the unit that established the commission,
 24 and the officers who are authorized to fix budgets, tax rates,
 25 and tax levies under IC 6-1.1-17-5 for each of the other taxing
 26 units that are wholly or partly located within the allocation
 27 area. The notice must:

28 (A) state the amount, if any, of excess tax proceeds that the
 29 commission has determined may be allocated to the
 30 respective taxing units in the manner prescribed in
 31 subsection (c); or

32 (B) state that the commission has determined that there is
 33 no excess assessed value that may be allocated to the
 34 respective taxing units in the manner prescribed in
 35 subdivision (1).

36 The county auditor shall allocate to the respective taxing units
 37 the amount, if any, of excess assessed value determined by the
 38 commission. The commission may not authorize an allocation
 39 of property tax proceeds under this subdivision if to do so
 40 would endanger the interests of the holders of bonds
 41 described in section 15 of this chapter.

42 (e) If the amount of excess assessed value determined by the



1 commission is expected to generate more than two hundred percent
2 (200%) of the amount of allocated tax proceeds:

3 (1) necessary to make, when due, principal and interest
4 payments on bonds described in section 15 of this chapter, or
5 on bonds described in section 17(a) of this chapter, whichever
6 is applicable; or

7 (2) necessary to maintain and repair the municipal sewer
8 system;

9 the commission shall submit to the legislative body of the unit its
10 determination of the excess assessed value that the commission
11 proposes to allocate to the respective taxing units in the manner
12 prescribed in subsection (b). The legislative body of the unit may
13 approve the commission's determination or modify the amount of
14 the excess assessed value that will be allocated to the respective
15 taxing units in the manner prescribed in subsection (b).

16 (f) Notwithstanding any other law, the assessed value of all
17 taxable property in the district, for purposes of tax limitation,
18 property tax replacement, and formulation of the budget, tax rate,
19 and tax levy for each political subdivision in which the property is
20 located, is the lesser of:

21 (1) the assessed value of the taxable property as valued
22 without regard to this section; or

23 (2) the base assessed value.

24 **Sec. 12.** The commission may enter into a written agreement
25 with a taxpayer who owns, or is otherwise obligated to pay
26 property taxes on, tangible property that is or will be located in an
27 allocation area established under this chapter in which the
28 taxpayer waives review of any assessment of the taxpayer's
29 tangible property that is located in the allocation area for an
30 assessment date that occurs during the term of any specified bond
31 obligations that are payable from property taxes in accordance
32 with an allocation provision for the allocation area and any
33 applicable statute, ordinance, or resolution. An agreement
34 described in this section may precede the establishment of the
35 allocation area or the determination to issue bonds payable from
36 the allocated property taxes.

37 **Sec. 13.** The commission may enter into a written agreement
38 with a taxpayer that owns real property located in an allocation
39 area of the district that is exempt from property tax assessment in
40 which the taxpayer agrees that, in lieu of property taxes, the
41 taxpayer will pay to the unit authorized to levy property taxes the
42 amount that would be assessed as taxes on real property of the



1 taxpayer if the property were otherwise subject to valuation and
 2 assessment. Such payments in lieu of taxes shall be due and shall
 3 bear interest if unpaid, as in the cases of taxes on other property.
 4 Payments in lieu of taxes made under this section shall be treated
 5 in the same manner as taxes for purposes of all procedural and
 6 substantive provisions of law.

7 Sec. 14. (a) The fiscal officer of the unit shall establish a
 8 wastewater facility improvement fund for each district that is
 9 established within the jurisdiction of the unit.

10 (b) The fiscal officer of the unit shall deposit in the fund of a
 11 district:

12 (1) property tax proceeds allocated from the district to the
 13 fund under section 11 of this chapter; and

14 (2) proceeds from the sale of bonds under section 15 of this
 15 chapter to connect properties within the boundaries of the
 16 district for which the fund is established to the municipal
 17 sewer system.

18 (c) The commission shall administer the fund.

19 (d) Money in a fund must be used only for connecting properties
 20 within the boundaries of the district for which the fund was
 21 established to the municipal sewer system, as set forth in this
 22 chapter.

23 (e) Money in a fund may be transferred or expended for the
 24 purposes set forth in this chapter without further appropriation by
 25 the fiscal body of the unit.

26 (f) Any money remaining in a fund after the expiration of the
 27 wastewater facility improvement district under section 18(a) of this
 28 chapter shall be transferred to the storm water fund of the unit to
 29 be used exclusively to connect properties within the wastewater
 30 facility improvement district to the municipal sewer system after
 31 its expiration.

32 Sec. 15. (a) The commission may issue bonds for the purpose of
 33 connecting properties within a district established under this
 34 chapter to the municipal sewer system, including to reimburse a
 35 unit for expenditures made from the unit's storm water fund prior
 36 to the bond issuance as set forth in subsection (g)(11).

37 (b) The bonds are payable solely from:

38 (1) property tax proceeds allocated to the district's fund under
 39 section 11 of this chapter;

40 (2) other funds available to the commission;

41 (3) a combination of the methods specified in subdivisions (1)
 42 and (2); or



- 1 (4) to the extent that the revenues under subdivisions (1)
 2 through (3) are insufficient to pay the debt service on the
 3 bonds, from any other revenues available to the unit that
 4 established the commission.
- 5 (c) The bonds shall be authorized by a resolution of the
 6 commission.
- 7 (d) The terms and form of the bonds shall be set out either in the
 8 resolution or in a form of trust indenture approved by the
 9 resolution.
- 10 (e) The bonds must mature within twenty-five (25) years.
- 11 (f) The commission shall sell the bonds at public or private sale
 12 upon such terms as determined by the commission.
- 13 (g) All money received from any bonds issued under this
 14 chapter shall be applied solely to the payment or reimbursement
 15 of the cost of connecting properties within the district for which the
 16 bonds were issued to the municipal sewer system, or to the cost of
 17 refunding or refinancing outstanding bonds, for which the bonds
 18 are issued. The cost may include:
- 19 (1) planning and development;
 - 20 (2) acquisition of a site and clearing and preparing the site for
 21 construction;
 - 22 (3) equipment, facilities, structures, and improvements that
 23 are necessary or desirable;
 - 24 (4) architectural, engineering, consultant, and attorney's fees;
 - 25 (5) incidental expenses in connection with the issuance and
 26 sale of bonds;
 - 27 (6) reserves for principal and interest;
 - 28 (7) interest during construction and for a period thereafter
 29 determined by the commission;
 - 30 (8) financial advisory fees;
 - 31 (9) insurance during construction;
 - 32 (10) municipal bond insurance, debt service reserve
 33 insurance, letters of credit, or other credit enhancement;
 - 34 (11) reimbursement to the city that established the
 35 commission for expenditures made from the city's storm
 36 water fund for any or all of the purposes in subdivisions (1)
 37 through (10) prior to the bond issuance; and
 - 38 (12) in the case of refunding or refinancing, payment of the
 39 principal of, redemption premiums, if any, for, and interest
 40 on, the bonds being refunded or refinanced.
- 41 Sec. 16. All bonds issued under this chapter, together with the
 42 interest on them, are exempt from taxation.



1 **Sec. 17. (a) In lieu of issuing bonds under section 15 of this**
2 **chapter, the fiscal body of the unit that established the commission**
3 **may adopt an ordinance to authorize money in a fund of a district**
4 **to be applied to reimburse debt service payments on bonds made**
5 **from the unit's storm water fund if the following apply:**

6 **(1) The unit has issued bonds for which revenue from the**
7 **unit's storm water fund is pledged or assigned.**

8 **(2) The bonds described in subdivision (1) were issued solely**
9 **for the purpose of connecting properties located within the**
10 **district for which the fund was established to the municipal**
11 **sewer system.**

12 **(3) All money received from the bonds described in**
13 **subdivision (1) is applied solely to the payment of costs of**
14 **connecting properties located within the district for which the**
15 **fund was established to the municipal sewer system.**

16 **(4) The bonds described in subdivision (1) must mature within**
17 **twenty-five (25) years.**

18 **(5) Money from the fund must be applied only to reimburse**
19 **debt service payments made on the bonds described in**
20 **subdivisions (1) through (4).**

21 **(b) Before adopting an ordinance under this section, the fiscal**
22 **body of the unit must hold at least one (1) public hearing at which**
23 **testimony about the adoption of the ordinance is allowed.**

24 **(c) No reimbursement payments may be made from the fund**
25 **under this section after the maturity date of the bonds described in**
26 **subsection (a).**

27 **(d) The fiscal body of the unit may not adopt an ordinance to**
28 **authorize money in the fund of a district to be used for any other**
29 **purposes not specified in this chapter.**

30 **Sec. 18. (a) Beginning the day after the maturity date of the**
31 **bonds issued under section 15 of this chapter, or the bonds**
32 **described in section 17(a) of this chapter, whichever is applicable,**
33 **the allocation and distribution provisions under section 11 of this**
34 **chapter do not apply, and property taxes shall not be allocated and**
35 **paid into the fund unless the following requirements are met:**

36 **(1) Not later than thirty (30) days before the maturity date of**
37 **the bonds issued under section 15 of this chapter, or the bonds**
38 **described in section 17(a) of this chapter, the fiscal body of the**
39 **unit that established the commission adopts an ordinance to**
40 **continue the allocation and distribution of property taxes in**
41 **the district as provided in section 11 of this chapter.**

42 **(2) The ordinance adopted under subdivision (1) must specify**



1 that property tax proceeds allocated to the fund after the
2 maturity date of the bonds issued under section 15 of this
3 chapter, or the bonds described in section 17(a) of this
4 chapter, must be used solely to connect properties within the
5 district to the municipal sewer system.

6 (3) The ordinance adopted under subdivision (1) must expire
7 on the date that is one (1) year after the maturity date of the
8 bonds issued under section 15 of this chapter, or the bonds
9 described in section 17(a) of this chapter, whichever is
10 applicable.

11 (b) Subject to subsection (c), if the fiscal body of a unit adopts
12 an ordinance under subsection (a) to continue the allocation and
13 distribution of property taxes in the district for one (1) year, the
14 fiscal body of the unit may adopt a substantially similar ordinance
15 in the following year or any subsequent year thereafter to continue
16 the allocation and distribution of property taxes in the district
17 according to the same requirements set forth in subsection (a).

18 (c) The fiscal body of a unit may not adopt an ordinance to
19 continue the allocation and distribution of property taxes in a
20 district after the date that is fifty (50) years after the maturity date
21 of the bonds issued under section 15 of this chapter, or the bonds
22 described in section 17(a) of this chapter, whichever is applicable.

23 (d) A commission shall not issue or reissue debt obligations for
24 a district that extend beyond twenty-five (25) years after the date
25 of the initial bond issue for the district.

26 Sec. 19. (a) Not later than April 15 of each year, a commission
27 that administers a fund established under section 14 of this chapter
28 shall file with the mayor and the fiscal body of the unit that
29 established the commission a report setting out the commission's
30 activities with regard to the fund during the preceding calendar
31 year.

32 (b) The report required by subsection (a) must include the
33 following:

- 34 (1) Revenues received.
- 35 (2) Expenses paid.
- 36 (3) Fund balances.
- 37 (4) The amount and maturity date of all outstanding
- 38 obligations.
- 39 (5) The amount paid on outstanding obligations.
- 40 (6) A list of all the parcels included in the allocation area and
- 41 the base assessed value and incremental assessed value for
- 42 each parcel.



1 (c) The report filed under subsection (a) is a public record and
 2 must be made available for inspection to an owner of property
 3 located within the district for which the report is made.

4 (d) A copy of the report filed under subsection (a) must be
 5 submitted to the department of local government finance in an
 6 electronic format.

7 (e) The commission shall also provide a copy of the report filed
 8 under subsection (a) to the following:

9 (1) The works board that recommended the establishment of
 10 the district.

11 (2) A certified neighborhood association located within the
 12 boundaries of the district.

13 (f) The fiscal body of a unit, the department of local government
 14 finance, or the works board may post a copy of the commission's
 15 report on a website maintained by the fiscal body of the unit, the
 16 department of local government finance, or the works board.

17 SECTION 2. IC 36-9-44.5 IS ADDED TO THE INDIANA CODE
 18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 19 UPON PASSAGE]:

20 **Chapter 44.5. Property Assessed Clean Energy Program**

21 **Sec. 1.** As used in this chapter, "actual net energy costs", with
 22 respect to property on which a qualified clean energy improvement
 23 described in section 15(1) or 15(2) of this chapter is installed,
 24 means the actual net costs for energy consumed on the property
 25 after the installation of the qualified clean energy improvement, as
 26 calculated:

27 (1) during the term of the assessment period at intervals that:

28 (A) are specified by the board upon approving the
 29 property owner's application under section 21 of this
 30 chapter; and

31 (B) are determined in accordance with the methodology
 32 established by the board under section 19(b)(7)(A) of this
 33 chapter;

34 (2) by the qualified provider installing the qualified clean
 35 energy improvement or by a utility providing retail energy
 36 service to the property, as specified by the board; and

37 (3) according to a methodology using industry engineering
 38 standards.

39 **Sec. 2.** As used in this chapter, "assessment period" means a
 40 term of years during which an assessment imposed under this
 41 chapter on a particular property is payable under section 23 of this
 42 chapter to the treasurer of the county in which the property is



1 located, to a board or a commercial lender under section 25 of this
 2 chapter, or to a third party under section 21(e) of this chapter, and
 3 that:

4 (1) is based on the expected useful life of the qualified clean
 5 energy improvement, as measured from the date of final
 6 installation; but

7 (2) does not exceed twenty (20) years.

8 Sec. 3. As used in this chapter, "board" refers to a body
 9 designated in a resolution or ordinance adopted under section 19
 10 of this chapter by:

11 (1) the legislative body of a unit; or

12 (2) the legislative bodies of all participating units, if two (2) or
 13 more units adopt a resolution or ordinance under section 19
 14 of this chapter;

15 to administer this chapter with respect to a district.

16 Sec. 4. As used in this chapter, "clean energy resources" means
 17 the following sources and programs for the production or
 18 conservation of electricity:

19 (1) Energy from wind.

20 (2) Solar energy.

21 (3) Photovoltaic cells and panels.

22 (4) Geothermal heating and cooling systems.

23 (5) Energy from waste heat recovery systems.

24 (6) Demand side management or energy efficiency initiatives
 25 that:

26 (A) reduce electricity consumption; or

27 (B) implement load management, demand response, or
 28 energy efficiency measures designed to shift customers'
 29 electric loads from periods of higher demand to periods of
 30 lower demand.

31 (7) Energy storage technology.

32 (8) Microgrid systems.

33 Sec. 5. As used in this chapter, "commission" refers to the
 34 Indiana utility regulatory commission created by IC 8-1-1-2.

35 Sec. 6. As used in this chapter, "community benefits agreement"
 36 means an enforceable contract between the qualified clean energy
 37 improvement owner and representative organizations from the
 38 county and municipality in which the community solar facility is
 39 located that sets forth specific community benefits to be delivered
 40 by the community solar facility, including at least the following:

41 (1) Local hiring for both construction and nonconstruction
 42 jobs.



- 1 **(2) Payment of the prevailing wages for construction jobs.**
- 2 **(3) Preapprenticeship job training and other on-the-job**
- 3 **training.**
- 4 **(4) Community input on environmental issues, design issues,**
- 5 **and other issues related to the project.**
- 6 **(5) The demonstration of specific economic benefits to the**
- 7 **residents and tax exempt organizations of the county or**
- 8 **municipality in which the community solar facility is located.**

9 **Sec. 7. As used in this chapter, "community solar facility"**
 10 **means a facility:**

- 11 **(1) that generates electricity by means of a photovoltaic**
- 12 **device;**
- 13 **(2) that is located on a single parcel of land;**
- 14 **(3) that is interconnected to the electric distribution grid;**
- 15 **(4) in which at least three (3) persons located in the electricity**
- 16 **provider service area in which the facility is located have**
- 17 **entered into a subscription;**
- 18 **(5) in which at least sixty percent (60%) of the generating**
- 19 **capacity is allocated to subscriptions of twenty-five (25)**
- 20 **kilowatts or less; and**
- 21 **(6) that is designed to offset the energy use of a specified set of**
- 22 **subscribers, with no single subscriber having more than a**
- 23 **twenty percent (20%) interest in the community solar facility.**

24 **Sec. 8. (a) As used in this chapter, "conservation measure"**
 25 **means:**

- 26 **(1) an alteration of a facility, structure, building, or fixture**
- 27 **permanently fixed to real property, including an alteration of:**
- 28 **(A) the site on which the facility, structure, building, or**
- 29 **fixture is located; and**
- 30 **(B) any equipment in or on, and appurtenances to, the**
- 31 **facility, structure, building, or fixture; or**
- 32 **(2) a technology upgrade;**

33 **that is designed to lower utility costs to consumers through efficient**
 34 **generation and consumption of energy.**

35 **(b) The term includes the following:**

- 36 **(1) Insulating or enhancing the insulation of the facility,**
- 37 **structure, building, or fixture and systems in the facility,**
- 38 **structure, building, or fixture.**
- 39 **(2) Installing or providing for window and door systems,**
- 40 **including:**
- 41 **(A) storm windows and storm doors;**
- 42 **(B) caulking or weatherstripping;**



- 1 (C) multiglazed windows and doors;
- 2 (D) heat absorbing or heat reflective glazed and coated
- 3 windows and doors;
- 4 (E) additional glazing;
- 5 (F) a reduction in glass area; and
- 6 (G) other modifications that reduce energy consumption.
- 7 (3) Installing automatic energy control systems.
- 8 (4) Modifying or replacing heating, ventilating, or air
- 9 conditioning systems.
- 10 (5) Installing or modifying lighting systems.

11 **Sec. 9.** As used in this chapter, "district" refers to a clean energy
 12 improvement financing district designated by a legislative body in
 13 a resolution or ordinance adopted under section 19 of this chapter.

14 **Sec. 10.** As used in this chapter, "eligible property" means any
 15 of the following types of property:

- 16 (1) Commercial.
- 17 (2) Industrial.
- 18 (3) Agricultural (excluding homesteads).
- 19 (4) Property owned by an approved postsecondary
- 20 educational institution (as defined in IC 21-7-13-6(a)).
- 21 (5) Property that:
 - 22 (A) is owned by a nonprofit organization; and
 - 23 (B) is not classified as residential for property tax
 - 24 purposes.
- 25 (6) School buildings.
- 26 (7) Buildings of a unit of local government, whether owned by
- 27 the unit or leased by the unit.
- 28 (8) Property owned by religious institutions.

29 **Sec. 11.** As used in this chapter, "energy storage technology"
 30 means any of the following:

- 31 (1) Technology that receives, stores, and delivers energy for
- 32 conversion to electricity.
- 33 (2) Technology that stores energy.
- 34 (3) Thermal energy storage technology that:
 - 35 (A) is directly connected to a heating, ventilation, or air
 - 36 conditioning system;
 - 37 (B) removes heat from, or adds heat to, a storage medium
 - 38 for subsequent use; and
 - 39 (C) provides energy for the heating or cooling of the
 - 40 interior of a building.

41 **Sec. 12.** As used in this chapter, "microgrid system" means an
 42 electrical grid that:



1 (1) serves a discrete geographical area from distributed
2 energy resources; and

3 (2) can operate independently from the central electric grid on
4 a temporary basis.

5 Sec. 13. As used in this chapter, "program" refers to a
6 voluntary property assessed clean energy program established
7 under section 19 of this chapter.

8 Sec. 14. As used in this chapter, "projected net energy costs",
9 with respect to property on which a qualified clean energy
10 improvement described in section 15(1) or 15(2) of this chapter is
11 installed, means the projected net costs for energy consumed on the
12 property after the installation of the qualified clean energy
13 improvement, as calculated:

14 (1) before the assessment period begins;

15 (2) for the term of the assessment period, at intervals that:

16 (A) are specified by the board upon approving the
17 property owner's application under section 21 of this
18 chapter; and

19 (B) are determined in accordance with the methodology
20 established by the board under section 19(b)(7)(A) of this
21 chapter;

22 (3) by the qualified provider installing the qualified clean
23 energy improvement or by a utility providing retail energy
24 service to the property, as specified by the board; and

25 (4) according to a methodology using industry engineering
26 standards.

27 Sec. 15. As used in this chapter, "qualified clean energy
28 improvement" means any of the following:

29 (1) A fixture, product, system, device, or interacting group of
30 devices that is permanently installed behind the meter of any
31 building to:

32 (A) produce electricity from one (1) or more clean energy
33 resources; or

34 (B) reduce energy consumption.

35 (2) A conservation measure designed to lower utility costs to
36 consumers through efficient generation and consumption of
37 energy.

38 (3) A project that aggregates reductions in energy
39 consumption and power injections through multiple behind
40 the meter source points to enable distributed energy resources
41 to participate in electricity markets run by regional grid
42 operators.



1 **Sec. 16. As used in this chapter, "qualified provider" means a**
 2 **person that:**

- 3 **(1) is experienced in the design, implementation, and**
 4 **installation of qualified clean energy improvements; and**
 5 **(2) meets any other requirements established by a legislative**
 6 **body in a resolution or ordinance adopted under section 19 of**
 7 **this chapter.**

8 **Sec. 17. As used in this chapter, "utility" means:**

- 9 **(1) a public utility (as defined in IC 8-1-2-1(a));**
 10 **(2) a municipally owned utility (as defined in IC 8-1-2-1(h));**
 11 **(3) a utility organized under IC 8-1-11.1;**
 12 **(4) a nonprofit utility;**
 13 **(5) a cooperatively owned corporation;**
 14 **(6) a conservancy district established under IC 14-33; or**
 15 **(7) a regional district established under IC 13-26;**

16 **that provides retail energy or water service to the public in**
 17 **Indiana, regardless of whether the entity described in subdivisions**
 18 **(1) through (7) is under the jurisdiction of the commission.**

19 **Sec. 18. This chapter applies to all units except townships.**

20 **Sec. 19. (a) The legislative body of a unit, or each legislative**
 21 **body of two (2) or more units, may adopt a resolution or ordinance**
 22 **to:**

- 23 **(1) establish a voluntary property assessed clean energy**
 24 **program;**
 25 **(2) designate a clean energy improvement financing district;**
 26 **and**
 27 **(3) authorize within the district the financing of qualified**
 28 **clean energy improvements under this chapter.**

29 **For the legislative bodies of two (2) or more units to adopt**
 30 **resolutions or ordinances establishing a joint program under this**
 31 **subsection, each unit must be contiguous to at least one (1) of the**
 32 **other units.**

33 **(b) A resolution or ordinance adopted under subsection (a) must**
 34 **do the following:**

- 35 **(1) Establish the geographic boundaries of the proposed**
 36 **district.**
 37 **(2) Designate one (1) of the following as the board responsible**
 38 **for administering this chapter with respect to the district:**
 39 **(A) The members of the legislative body. Subject to**
 40 **subsection (c)(2), if two (2) or more units adopt resolutions**
 41 **or ordinances to establish a joint program under this**
 42 **section, the board may consist of members of one (1)**



1 legislative body or of members of any combination of the
2 participating units' legislative bodies.

3 (B) The members of a redevelopment commission
4 established under IC 36-7 for the unit. Subject to
5 subsection (c)(2), if two (2) or more units adopt resolutions
6 or ordinances to establish a joint program under this
7 section, the board may consist of members of one (1)
8 redevelopment commission or members any combination
9 of the participating units' redevelopment commissions.

10 (C) A new body consisting of members who are:

11 (i) appointed by the legislative body of the unit for terms
12 specified by the legislative body of the unit; and

13 (ii) qualified by knowledge and experience to administer
14 this chapter with respect to the district.

15 A body designated under this clause must have an odd
16 number of members. Not more than one-half (1/2) the
17 number of members of the body plus one (1) may be
18 members of the same political party. Subject to subsection
19 (c)(2), if two (2) or more units adopt resolutions or
20 ordinances to establish a joint program under this section,
21 the board must consist of a number of members appointed
22 by the legislative body of each participating unit. The
23 number of members appointed by any one (1) participating
24 unit must bear the same proportion to the total number of
25 members of the board that the number of eligible
26 properties that are located both in the appointing unit and
27 in the district bears to the total number of eligible
28 properties in the district.

29 (3) Describe the proposed method of financing of qualified
30 clean energy improvements installed in the district.

31 Permissible methods include one (1) or more of the following:

32 (A) Soliciting owner arranged financing from a
33 commercial lender.

34 (B) Obtaining federal or state:

35 (i) grants;

36 (ii) loans; or

37 (iii) both grants and loans;

38 subject to any applicable program requirements for the
39 grants or loans obtained.

40 (C) Obtaining financing:

41 (i) through the issuance of bonds by a local public
42 improvement bond bank established under IC 5-1.4-2 or



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- by another bond bank or financial institution; or
- (ii) through another local government source.
- (4) Establish the qualifications for qualified providers under the program, including any required performance bond to ensure a qualified provider's faithful performance of the qualified provider's obligations over the term of the assessment period for a qualified clean energy improvement.
- (5) Provide that only a qualified provider or a utility, or an employee or agent of a qualified provider or utility, may install equipment in, make modifications to, or remodel a facility, structure, building, or fixture in connection with the installation of a qualified clean energy improvement under the program.
- (6) Ensure that notice is given to and written consent is obtained from the mortgage lender of any mortgage on the qualifying commercial real property before any improvements to the qualifying commercial real property are made or any assessment is imposed upon the qualifying commercial real property.
- (7) For qualified clean energy improvements described in section 15(1) through 15(2) of this chapter, establish the following:
 - (A) A methodology for determining:
 - (i) intervals during the term of an assessment period for which a qualified provider or a utility must calculate, before the assessment period begins, projected net energy costs; and
 - (ii) corresponding intervals during the term of the assessment period for which a qualified provider or a utility must calculate, during the term of the assessment period, actual net energy costs.

A methodology established under this clause must ensure that the intervals described in items (i) and (ii) are based on the number of years in the assessment period and on the particular type of qualified clean energy improvement and the technology involved.
 - (B) For qualified clean energy improvements described in section 15(1) through 15(2) of this chapter that are financed with more than two hundred fifty thousand dollars (\$250,000) in assessments, a reconciliation mechanism to:
 - (i) account for any variance between projected net



1 energy costs and actual net energy costs at the intervals
 2 specified by the board in accordance with the
 3 methodology described in clause (A); and

4 (ii) provide for a refund or credit to the property owner,
 5 or a payment or surcharge from the property owner, as
 6 appropriate, to adjust for the variance, at such times as
 7 the board may prescribe.

8 In establishing a methodology under clause (A) or a
 9 reconciliation mechanism under clause (B), the legislative
 10 body of the unit or legislative bodies of the units may consult
 11 the technical guidelines established by the commission in the
 12 rules adopted under section 26 of this chapter.

13 (8) Limit participation in the program to owners of eligible
 14 property.

15 (9) Ensure that the principal amount of any financing offered
 16 under this section does not exceed the greater of:

17 (A) forty percent (40%) of the assessed value; or

18 (B) twenty percent (20%) of the appraised value, as
 19 accepted or approved by the mortgage lender;

20 of the real property on which the improvements are to be
 21 installed.

22 (c) If the legislative bodies of two (2) or more units adopt a
 23 resolution or ordinance under this section, the resolution or
 24 ordinance adopted by each legislative body must:

25 (1) comply with subsection (b); and

26 (2) be identical to the resolutions or ordinances adopted by all
 27 of the other participating units.

28 (d) The boundaries of a district need not coincide with those of
 29 any one (1) or more units, subject to the requirement set forth in
 30 subsection (a) concerning the boundaries of participating units in
 31 the case of a district established under this section by two (2) or
 32 more units.

33 Sec. 20. (a) A board has powers do the following with respect to
 34 a program:

35 (1) Make and enter into contracts and other instruments with
 36 public and private entities.

37 (2) Accept grants, guarantees, and donations of property,
 38 labor, services, and other things of value from any public or
 39 private source.

40 (3) Employ or contract for managerial, legal, technical,
 41 clerical, accounting, or other assistance.

42 (4) Levy and collect assessments in accordance with sections



- 1 **21 through 25 of this chapter.**
 2 **(5) Borrow money from any public or private source.**
 3 **(6) Provide for the investment of any funds not required for**
 4 **immediate disbursement in the same manner as other**
 5 **municipal funds are invested.**
 6 **(7) Subject to section 24 of this chapter, record an assessment**
 7 **as a lien on an assessed property.**
 8 **(8) Develop appropriate underwriting guidelines for the**
 9 **program, including:**
 10 **(A) assurances that the assessment period for any qualified**
 11 **clean energy improvement under the program does not**
 12 **exceed the expected useful life of the improvement as**
 13 **measured from the date of final installation;**
 14 **(B) the appropriate ratio of an assessment under this**
 15 **chapter to the assessed value of the property subject to the**
 16 **assessment, as determined after the installation of a**
 17 **qualified clean energy improvement to the property;**
 18 **(C) verification that a property owner does not owe**
 19 **delinquent property taxes, special assessments, or sewer**
 20 **charges; and**
 21 **(D) assurances that any community solar facility, and any**
 22 **related assets, will be decommissioned and recycled at the**
 23 **end of their useful life.**
 24 **(9) Require that a project:**
 25 **(A) have an executed community benefits agreement; or**
 26 **(B) prioritize projects that have executed community**
 27 **benefits agreements.**
 28 **For purposes of this subdivision, "community benefits**
 29 **agreement" is an agreement under which the highest priority**
 30 **is given to approving community solar projects serving**
 31 **minority communities and low income to moderate income**
 32 **households in high poverty metropolitan statistical areas.**
 33 **(10) Exercise other powers necessary to carry out the board's**
 34 **responsibilities under this chapter.**
 35 **(b) If a legislative body is designated as a board under section**
 36 **19(b)(2) of this chapter, the legislative body has the powers set**
 37 **forth in subsection (a) in addition to its powers as a legislative**
 38 **body.**
 39 **(c) A board shall encourage the use in a program of project**
 40 **labor agreements under which the terms and conditions of**
 41 **employment for construction projects are negotiated through**
 42 **collective bargaining between construction unions and construction**



- 1 contractors.
- 2 **Sec. 21. (a)** A property owner that desires to participate in a
- 3 program established under this chapter shall submit an application
- 4 to the board in the form and according to a schedule determined by
- 5 the board. The application must contain the following:
- 6 (1) The address and legal description of the property on which
- 7 the qualified clean energy improvement for which the
- 8 property owner desires financing will be installed.
- 9 (2) A description and the cost of all qualified clean energy
- 10 improvements proposed to be installed on the property.
- 11 (3) An agreement, separately signed by the property owner,
- 12 to participate in the financing of the qualified clean energy
- 13 improvement through the imposition of an assessment on the
- 14 property.
- 15 (4) A statement showing no delinquent property taxes, special
- 16 assessments, or sewer charges for the property for the shorter
- 17 of the following:
- 18 (A) The two (2) immediately preceding taxable years.
- 19 (B) The period during which the property owner has
- 20 owned the property.
- 21 (5) An agreement, separately signed by the property owner,
- 22 to have a qualified provider or a utility, as specified by the
- 23 board, perform a baseline audit with respect to the property
- 24 to verify to the board that the qualified clean energy
- 25 improvement is installed properly and is operating as
- 26 intended, and to establish the following:
- 27 (A) In the case of a qualified clean energy improvement
- 28 described in section 15(1) of this chapter, the projected net
- 29 energy costs with respect to the property, at the intervals
- 30 determined by the board in accordance with the
- 31 methodology established by the board under section
- 32 19(b)(7)(A) of this chapter.
- 33 (B) In the case of a qualified clean energy improvement
- 34 described in section 15(2) of this chapter, the projected net
- 35 energy costs with respect to the property, at the intervals
- 36 determined by the board in accordance with the
- 37 methodology established by the board under section
- 38 19(b)(7)(A) of this chapter.
- 39 A baseline audit described in this subdivision shall be
- 40 performed after the qualified clean energy improvement is
- 41 installed and before the assessment period begins.
- 42 (6) For a qualified clean energy improvement financed with



1 more than two hundred fifty thousand dollars (\$250,000) in
2 assessments, the following:

3 (A) In the case of a qualified clean energy improvement
4 described in section 15(1) or 15(2) of this chapter, a written
5 guarantee by the qualified provider or the utility, as
6 applicable, that:

7 (i) the qualified clean energy improvement will achieve
8 a net energy cost savings to investment ratio greater than
9 one (1) over the term of the assessment period; and

10 (ii) if the actual net energy costs at a particular interval
11 exceed the projected net energy costs for that interval,
12 the qualified provider or the utility will pay or credit to
13 the property owner the difference between the actual net
14 energy costs and the projected net energy costs, at the
15 times and subject to any reconciliation mechanism the
16 board may prescribe upon approving the property
17 owner's application under this section.

18 (B) An executed community benefits agreement.

19 (b) The board shall:

20 (1) review; and

21 (2) approve or deny;

22 an application submitted under subsection (a) according to a
23 schedule determined by the board. The board shall use the
24 description of costs provided under subsection (a)(2) to impose an
25 assessment on each property for which an application is approved.
26 The decision of the board as to all assessments is final and
27 conclusive on all parties.

28 (c) A property owner may withdraw or amend an application at
29 any time before an assessment is:

30 (1) imposed on the owner's property under subsection (b);
31 and

32 (2) recorded in an assessment roll under section 22 of this
33 chapter.

34 (d) The board shall communicate with all parties having an
35 interest in a property for which an application is approved in a
36 manner consistent with the procedures and practices for special
37 assessments.

38 (e) A board that imposes an assessment may:

39 (1) allow a third party that has provided financing for a
40 qualified clean energy improvement to collect the assessments
41 with respect to the qualified clean energy improvement; and



- 1 (2) require the third party to inform the board if an
2 installment of an assessment is delinquent.
- 3 **Sec. 22. (a)** The board shall prepare an assessment roll and,
4 subject to any withdrawal or amendment of an application under
5 section 21(c) of this chapter, enter the amount of the assessment
6 imposed on each property in the district for which one (1) or more
7 qualified clean energy improvements will be financed under this
8 chapter in the amount of the assessment. The assessment roll must
9 include the following for each property subject to an assessment
10 under this chapter:
- 11 (1) The name of the owner.
 - 12 (2) A description of the property.
 - 13 (3) The total assessment.
 - 14 (4) The amount of an annual installment of the assessment
15 determined under section 23 of this chapter.
- 16 An assessment against a property on the assessment roll is
17 presumed to be of special benefit to the property.
- 18 **(b)** The board shall complete and confirm the assessment roll
19 and record the completed assessment roll and any later additions
20 to the assessment roll with the county recorder of each county in
21 which a property listed on the roll is located. A county recorder
22 who records an assessment roll under this subsection shall
23 cross-reference the assessment roll on the most recent deed of
24 record in the recorder's office for each property listed on the roll.
25 The recorder shall charge a fee in accordance with IC 36-2-7-10,
26 which may be assessed from the property owner.
- 27 **Sec. 23. (a)** Subject to this chapter, an assessment shall be paid
28 in the installments and to the persons specified in the agreement
29 entered into under section 21 of this chapter. The annual amount
30 payable for all installment payments in a year on an assessment is
31 equal to the quotient of:
- 32 (1) the total assessment determined for the property under
33 this chapter; divided by
 - 34 (2) the number of years in the assessment period.
- 35 Subject to subsection (c), the amount shall be billed to a property
36 regardless of any changes in ownership of the property. A change
37 in ownership of the property does not accelerate or otherwise alter
38 the term of the assessment period.
- 39 **(b)** The board shall, if sections 21(e) and 25(2) of this chapter do
40 not apply to an assessment, and the board may, if section 21(e) or
41 25(2) of this chapter applies to an assessment and an owner fails to
42 pay one (1) or more installments of the assessment when due,



1 certify the following to the county auditor of each county where the
2 property is located:

3 (1) The name of each owner of the property.

4 (2) The description of the property, as shown by the records
5 of the county auditor.

6 (3) The amount of the unpaid annual installment of the
7 assessment determined under this section.

8 The certification must be made not later than the applicable date
9 under IC 36-2-6-14.5. The county auditor shall place the total
10 amount certified under this subsection on the tax duplicate for the
11 affected property as a special assessment. All special assessments
12 certified under this subsection are payable to the treasurer of the
13 county in which the property that is subject to the special
14 assessment is located. A county treasurer shall bill, collect, and
15 enforce the special assessments in the same manner that property
16 taxes are billed, collected, and enforced. The county treasurer shall
17 specify on each property tax statement that the special assessment
18 under this subsection is separate and distinct from ad valorem
19 property taxes and other special assessments. A county treasurer
20 shall distribute special assessments collected under section 25(1) of
21 this chapter, or collected in connection with one (1) or more
22 delinquent installments under section 21(e) or 25(2) of this chapter,
23 to the county auditor for deposit in a separate, special fund from
24 which payments to commercial lenders or other third parties that
25 provide financing may be made.

26 (c) The property owner who submitted the original application
27 under section 21 of this chapter for a qualified clean energy
28 improvement, and any subsequent owner of the property, may pay
29 off the total amount of an assessment for the property before the
30 end of the applicable assessment period without penalty. Upon
31 payment in full of the total amount of the assessment, including any
32 interest or penalties owed, the board shall cause the property to be
33 removed from the assessment roll prepared and recorded under
34 section 22 of this chapter, and shall release any lien for an
35 assessment recorded under section 24 of this chapter with respect
36 to the property.

37 Sec. 24. (a) An assessment against real property under this
38 chapter constitutes a lien against the property assessed. The lien is
39 superior to all other liens except, notwithstanding section
40 20(a)(8)(C) or 21(a)(4) of this chapter, liens for delinquent property
41 taxes, special assessments certified under a provision other than
42 this chapter, or sewer charges that are recorded with respect to the



1 property before the assessment roll listing the property is recorded
2 under section 22(b) of this chapter.

3 (b) Notwithstanding IC 6-1.1-22-13.5, a lien for an assessment
4 under this chapter attaches in the manner liens attach under
5 IC 36-9-23. In addition to the procedures for the collection and
6 enforcement of a special assessment certified under section 23(b)
7 of this chapter, a lien under this chapter may be enforced and
8 foreclosed in the manner liens are enforced and foreclosed under
9 IC 36-9-23.

10 Sec. 25. A board may authorize the financing of qualified clean
11 energy improvements with owner arranged financing from a
12 commercial lender. Under this arrangement, the board may levy
13 an assessment under section 21 of this chapter and either:

- 14 (1) collect assessment payments and forward the payments to
15 the commercial lender; or
16 (2) authorize a property owner to pay the assessments directly
17 to the commercial lender.

18 If the board authorizes a property owner to pay the assessments
19 directly to the commercial lender under subdivision (2), the board
20 may require the commercial lender to inform the board if an
21 installment of an assessment is delinquent.

22 Sec. 26. The commission, under IC 4-22-2, shall adopt rules to
23 establish technical guidelines to assist units in administering a
24 program under this chapter. The technical guidelines must provide
25 guidance to units in doing the following:

- 26 (1) For qualified clean energy improvements described in
27 section 15(1) through 15(2) of this chapter, determine the
28 appropriate intervals during the term of an assessment period
29 at which to require a qualified provider or a utility to
30 calculate:

31 (A) projected net energy costs; and

32 (B) actual net energy costs;

33 for particular types of qualified clean energy improvements,
34 based on the number of years in the assessment period for the
35 qualified clean energy improvement and the technology
36 involved, as described in section 19(b)(7)(A) of this chapter.

- 37 (2) For qualified clean energy improvements described in
38 section 15(1) through 15(2) of this chapter that are financed
39 with more than two hundred fifty thousand dollars (\$250,000)
40 in assessments, establish a reconciliation mechanism to:



1 **(A) account for any variance between projected net energy**
2 **costs and actual net energy costs at the intervals described**
3 **in subdivision (1); and**
4 **(B) provide for a refund or credit to the property owner, or**
5 **a payment or surcharge from the property owner, as**
6 **appropriate, to adjust for the variance;**
7 **as described in section 19(b)(7)(B) of this chapter.**
8 **Sec. 27. Participation in a program established under section 19**
9 **of this chapter does not exempt property or a participant from any**
10 **distributed generation charge to a customer of a public utility that**
11 **may be imposed by a public utility to recover part or all of the**
12 **costs of equipment or services related to allowing the customer to**
13 **generate the customer's own energy and sell the customer's excess**
14 **energy back to the public utility in order to offset the costs of the**
15 **customer's energy supplied by the public utility, regardless of when**
16 **the participant installed qualified clean energy improvements**
17 **under this chapter.**
18 **SECTION 3. An emergency is declared for this act.**

