

SENATE BILL No. 411

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-9-44.

Synopsis: Commercial property assessed clean energy program. Authorizes counties, cities, and towns (local units) to adopt a commercial property assessed clean energy program (PACE program) as a financing mechanism to allow commercial property owners to obtain financing for energy efficient improvements, with the repayment of the financing obligation for those improvements made from a voluntary tax assessment (special assessment) on the property. Defines an "energy efficient improvement". Requires a property owner to petition a local unit that has adopted a PACE program to impose a special assessment on the property, the proceeds of which would be transferred to the financing provider for the purchase and installation of the energy efficient improvement. Requires all owners of record of a property to sign the petition. Requires the petition to contain the written consent of each mortgage lien holder on the property stating that the lien holder does not object to the imposition of the assessment. Requires certain provisions to be included in an assessment contract. Specifies the procedures for imposing the special assessment and the priority of any tax lien. Prohibits the local unit from issuing bonds secured by tax revenue from any special assessment and further specifies that a local unit shall have no financial obligation or liability for the payment of tax revenue from a special assessment, other than to transfer the proceeds to the financing provider for the improvements.

Effective: July 1, 2023.

Walker G

January 19, 2023, read first time and referred to Committee on Tax and Fiscal Policy.



First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

SENATE BILL No. 411

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

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

1 SECTION 1. IC 36-9-44 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2023]:

4 **Chapter 44. Commercial Property Assessed Clean Energy**
5 **Program**

6 **Sec. 1. As used in this chapter, "assessment contract" means a**
7 **contract entered into between a local unit and a commercial**
8 **property owner in a district pursuant to a program adopted by the**
9 **local unit.**

10 **Sec. 2. As used in this chapter, "district" means an energy**
11 **assessment district designated by a local unit under section 8 of this**
12 **chapter in which a commercial property owner may apply to a**
13 **local unit to enter into an assessment contract.**

14 **Sec. 3. As used in this chapter, "energy efficient improvement"**
15 **means any permanent improvement fixed to commercial real**
16 **property and intended to increase the efficiency of energy use or**
17 **decrease water or energy consumption demand, generate**



1 electricity, provide thermal energy, or regulate temperature,
2 including an automatic energy control system or similar device.

3 **Sec. 4.** As used in this chapter, "financing provider" means a
4 person that provides financing for the purchase and installation of
5 an energy efficient improvement on real property.

6 **Sec. 5.** As used in this chapter, "local unit" means a county, city,
7 or town.

8 **Sec. 6.** As used in this chapter, "program" means a commercial
9 assessed clean energy program established by a local unit under
10 section 8 of this chapter.

11 **Sec. 7.** As used in this chapter, "property" means commercial
12 real property and improvements. However, the term does not
13 include commercial property that is used as a warehouse.

14 **Sec. 8. (a)** The fiscal body of a local unit may adopt an ordinance
15 to establish a commercial property assessed clean energy program
16 and enter into an assessment contract with owners of commercial
17 property located in a district designated under the program.

18 **(b)** An ordinance adopted under this section may designate:

- 19 **(1)** all of the territory of the local unit; or
20 **(2)** one (1) or more specific geographic territories within the
21 local unit;

22 as an energy assessment district in which a commercial property
23 owner may petition the local unit to enter into an assessment
24 contract.

25 **(c)** If a local unit establishes a program under subsection (a),
26 upon petition to the fiscal body of the local unit, the fiscal body of
27 the local unit may enter into an assessment contract with the owner
28 or owners of record of commercial property located within a
29 district to impose a voluntary special assessment on the petitioner's
30 property as a means of assisting the petitioner in obtaining
31 financing of energy efficient improvements on the property.

32 **(d)** A petition submitted to the fiscal body of a local unit must
33 contain the signature of each owner of record of the property.

34 **(e)** The petition filed by the owner or owners of record shall
35 include the written consent of the holder of each existing mortgage
36 lien on the commercial property stating that the lien holder does
37 not object to the imposition of the special assessment.

38 **Sec. 9.** An assessment contract must include at least the
39 following terms:

- 40 **(1)** A legal description of the property.
41 **(2)** An agreement by the property owner or owners of record
42 to pay an annual special assessment on the property described



1 in subdivision (1).

2 (3) A statement that the property owner or owners of record
3 are liable for all obligations incurred for financing the energy
4 efficient improvements, that tax proceeds from the special
5 assessment are not pledged as security or otherwise obligated
6 for any payment, and that the local unit will transfer or assign
7 the proceeds from the special assessment only as set forth in
8 section 11(b) of this chapter.

9 (4) A statement that the special assessment constitutes a lien
10 against the property on which the assessment is imposed until
11 the special assessment, including any interest or penalty, is
12 paid in full, and that the lien runs with the property and has
13 the same priority and status as other property tax and
14 assessment liens.

15 **Sec. 10.** A local unit may impose a fee on property owners who
16 enter into an assessment contract for the costs of administering the
17 program.

18 **Sec. 11. (a)** Except as provided in subsection (b), a local unit
19 shall have no financial obligation or any other obligation or
20 liability for the payment of tax revenue received from a special
21 assessment under this chapter and shall not be deemed to have
22 incurred or assumed any such obligation or liability as a result of
23 entering into an assessment contract under this chapter.

24 (b) A local unit may agree to either of the following under the
25 terms of an assessment contract:

26 (1) If subdivision (2) does not apply, the fiscal officer of the
27 local unit shall transfer the tax proceeds from a special
28 assessment to the financing provider for the energy efficient
29 improvement not later than thirty (30) days after the revenue
30 is received.

31 (2) The fiscal officer of the local unit may assign the right to
32 receive the tax revenue proceeds from a special assessment to
33 the financing provider for the energy efficient improvements,
34 in which case the payment of the special assessment must be
35 made by the taxpayer directly to the assignee.

36 (c) A local unit may not issue bonds secured by tax revenue
37 from a special assessment under this chapter.

38 **Sec. 12.** The following apply for a special assessment imposed
39 under the terms of an assessment contract:

40 (1) The assessment contract shall be recorded with the county
41 recorder's office in the county in which the property is located
42 immediately after it is executed.



- 1 **(2) The special assessment shall be imposed beginning on the**
- 2 **assessment date next following the date on which the contract**
- 3 **is recorded with the county recorder's office.**
- 4 **(3) The liability for the special assessment is a lien upon the**
- 5 **land and shall have the same priority, and shall be subject to**
- 6 **the same collection procedures and penalties, as any other ad**
- 7 **valorem tax imposed by the local unit.**

