

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0780-02
Bill No.: SB 173
Subject: Boards, Commissions, Committees and Councils; Contracts and Contractors;
Energy; Property, Real and Personal; Taxation and Revenue - Property; Utilities
Type: Original
Date: March 12, 2019

Bill Summary: This proposal modifies provisions relating to property assessment contracts for energy efficiency.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Division of Finance Fund (0550)	Could exceed (\$200,000)	Could exceed (\$200,000)	Could exceed (\$200,000)
Environmental Improvement and Energy Resources Authority (0654)	(\$50,400)	(\$50,400)	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	Could exceed (\$250,400)	Could exceed (\$250,400)	Could exceed (\$200,000)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 18 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on FTE	0	0	0

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Local Government	(Greater than \$100,000)	(Greater than \$100,000)	(Greater than \$100,000)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state the following regarding this proposal:

The fiscal impact to implement this proposal is unknown. For the purposes of this fiscal note it is assumed that the funding for this new program would be appropriated from the Division of Finance Fund. Further, it is assumed that other licensed entities currently paying fees and assessments to the Division of Finance fund will bear the cost of implementation until such time as the fees and assessments paid by licensed residential Property Assessment Clean Energy (PACE) program administrators will adequately cover the cost of implementing this legislation.

This proposal requires that a residential PACE program administrator obtain a license and maintain an annual registration with the Division of Finance. It appears that California is the only state that has established a similar PACE licensing program. California's program became effective January 1, 2019. The number of potential applicants for a PACE license in Missouri is unknown. Research indicates that there are currently nine such lenders operating in Anaheim, CA.

For the purposes of this fiscal note, the Division assumes it will receive approximately 10 to 12 applications which could result in an annual increase of up to \$6,000 to the Division of Finance Fund (12 x \$500 Application (renewal) fee = \$6,000).

The proposal also requires that residential program administrators in this state be subject to examination by the division for compliance with the provisions of this chapter. These exams are required to be conducted at least once every 24 months and such other times as the director may determine. The bill language provides that the program administrator be responsible to pay the cost of the examination; however, no fund is designated for reimbursement.

Examination criteria to verify that a residential program administrator has adhered to the provisions of this proposal would include:

- Standards approved and adopted by the state environmental and energy resources authority as to what constitutes an eligible improvement.

ASSUMPTION (continued)

- The municipality's ordinances and regulations, including but not limited to those ordinances and regulations concerning zoning, subdivision, building, fire safety, and historic or architectural review; or any eligible improvements according to their established standards or practices as of August 27, 2019.
- That the cash price of the residential project is not more than twenty-percent of the true value in money of the property as determined by reference to the county assessment records for the most recent completed assessment, or by using alternate methods approved by the PACE board.
- That the term of the assessment contract does not exceed the weighted average useful life of the qualified improvements to which the greatest portion of funds disbursed under the assessment contract is attributable, not to exceed twenty years.
- That the program administrator has determined that the useful life for purposes of this subdivision is based upon credible third-party standards or certification criteria that have been established by appropriate government agencies or nationally recognized standards and testing organizations or as established by the authority.
- Any applicable residential PACE requirements established by the federal Bureau of Consumer Financial Protection and the Truth and Lending Act.
- That the disclosures required by the Missouri PACE Act have been made.

The proposal also requires the division investigate any consumer complaint against a residential program administrator submitted by a consumer. The division shall also investigate complaints submitted by a PACE Board or other government body or official.

In order to address and remedy these complaints, the bill authorizes the Division to issue orders to cease and desist:

"direct[ing] the reduction, refund, or cancellation of any program assessments against any consumer or assessments against any residential property where the program administrator or a residential PACE contractor has failed to adhere to the requirements for residential PACE program administrators or residential PACE projects in a manner deemed material or detrimental to the owner by the division or where a contractor has failed to perform contracted services under an assessment contract or the improvements under an assessment contract fail to meet program requirements or are deemed a

ASSUMPTION (continued)

detriment to the property by the division."

The number and types of complaints that will be submitted against residential program administrators or the performance of a contractor is unknown.

Data found in the 2017 annual reports of three Clean Energy Development Boards (Missouri Clean Energy District, St. Louis County Clean Energy Development Board, and the Clean Energy Development Board of the City of St. Louis) indicates that between these three boards over 1,770 residential PACE financing applications were approved.

This proposal also provides that a PACE board or a residential program administrator may request that the division review and provide comment on those entities' various legally required assessment contracts, disclosure forms and telephone scripts. The number of requests for legal opinions and the degree of difficulty of those requests is unknown.

In order to fulfill the above responsibilities, the Division must adjudicate (act as a legal finder of fact) and conduct hearings in accordance with Chapter 536 in order to provide the necessary due process to residential program administrators and PACE contractors. Both functions will require at a minimum, an investigator that is familiar with not only residential PACE program administration, but also the proper design, construction and installation of eligible energy efficiency projects as well as disaster resiliency improvements and water efficiency improvements. To the extent that these qualifications are not possessed by a single individual, it would be necessary to hire more than one additional full time employee. An attorney to prepare and present the contested cases will be needed as well as someone to serve as a hearing officer to the extent that the director is unable to perform this function if the number of complaints begin to require more time. Additionally, an attorney capable of reviewing complex documents related to financing green energy projects and contract compliance may be needed. The additional Personal Service increase to the Division of Finance will exceed \$200,000. Further, the division may need to retain the services of unknown technical and legal staff to assist with complaints, legal opinions reviews and any challenges to determinations made by the director.

DIFP is unaware at this time of what program needs will be required to implement this proposal. DIFP may hire FTE or may contract out the necessary services.

Oversight assumes DIFP will incur costs related to this proposal. Oversight does not have any information to the contrary; therefore Oversight will reflect the fiscal impact based on DIFP's assumptions.

ASSUMPTION (continued)

Oversight notes the Division of Finance Fund (0550) had a fund balance of \$4,894,231 as of January 2019.

Officials from the **Department of Natural Resources (DNR)** state the following regarding this proposal:

Section 67.2800.3, RSMo. states that the Environmental Improvement and Energy Resources Authority (EIERA) shall exercise its authority under Section 67.2805, RSMo. to issue standards of eligible improvements for residential PACE projects not later than January 1, 2020.

Assuming this legislation does not become effective until August 28, 2019, this allows only four months to promulgate rules. The rule-making process requires 18 to 24 months.

It is assumed that this will be a one-time requirement. If so, the most efficient approach would be to contract professional services to perform the majority of the tasks associated with convening stakeholder meetings, conducting research and gathering stakeholder input with oversight provided by EIERA staff. It is assumed that multiple public meetings across the state will be necessary to properly gather input on any proposed standards.

It is estimated that the cost to contract these services will be approximately \$110,800. This is based on existing state contract information for environmental services which provides a cost for professional staff of \$105/hr. The estimate is calculated as follows:

$$\begin{array}{rcl} (2 \text{ contract staff}) \times (\$105/\text{hr}) \times (480 \text{ hrs}) & = & \$100,800 \\ \text{Plus miscellaneous expenses} & = & \underline{\$10,000} \\ & & \$110,800 \end{array}$$

Oversight assumes DNR will incur costs related to this proposal. Oversight does not have any information to the contrary; therefore, Oversight will reflect a cost of \$50,400 for FY 2020 and FY 2021 for the contract of professional services.

Officials from the **Department of Economic Development - Public Service Commission, Department of Economic Development - Office of Public Counsel, Department of Economic Development - Division of Energy, Attorney General's Office and Office of Prosecution Services** each assume the proposal will have no fiscal impact on their respective organizations.

ASSUMPTION (continued)

Oversight notes that the agencies mentioned above have stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

In response to a similar proposal (HCS for HB 215), officials from the **Clean Energy Development Board of the City of St. Louis (CEDB)** assumed the following:

The exact costs to implement this proposal are unknown, although there are certain reasonable assumptions that can be made to provide an estimate. The following are costs incurred by program operation through the Clean Energy Development Board and program administrators to comply with the proposed legislation.

Section 67.2800, RSMo. - Missouri Merchandising Practices Act Compliance – (Clean Energy Development Board and program administrator and their respective external and internal counsel) = estimated **\$75,000** cost for the initial review and set up and **\$30,000** annually thereafter for continuing maintenance/compliance. The proposal seeks to define Missouri PACE programs as “merchandise” under chapter 407 despite that chapter exempting any entities, such as banks, which are regulated by the Division of Finance. Thus, there is an inherent incongruity in this proposal if PACE programs and administrators are to be overseen and regulated by both the Division of Finance and also subject to the Missouri Merchandising Practices Act (MMPA). In addition, and accordingly, there will be significant legal and other third-party costs incurred by the Clean Energy Development Board and the program administrator to assess, analyze, and review the MMPA and to ensure ongoing compliance therewith (as estimated above).

Section 67.2816, RSMo. - Division of Finance Licensing - **\$500** year-one initial license fee; **\$500** annual registration fee thereafter; estimated **\$7,500** for initial organization enrollment and registration; estimated **\$1,000** annually thereafter for license renewals. This bill proposes to require the Division of Finance to create a licensing and oversight examination process for residential program administrators contracted with Clean Energy Development Boards. Current Missouri program administrators have no experience with the Division of Finance. The Division of Finance will be directed to develop the experience and expertise necessary to license special assessment district programs for financing for the PACE programs deployed by Clean Energy Development Boards. It is also unclear the cost of staff time and outside experts needed to comply with any examination process that might be developed. We have not accounted for those costs.

ASSUMPTION (continued)

Section 67.2816, RSMo. - Truth-In-Lending Act Compliance - Clean Energy Development Board counsel, outside counsel, Program Admin Counsel and lending syndicate counsel review = estimated **\$250,000** for year one and estimated **\$100,000** annually thereafter. This requirement raises many questions because the federal Truth-in-Lending Act is directed at regulation of open- and closed-end consumer credit cost disclosures (for example, mortgage banking loans and credit cards) between private parties and not special assessment district financing such as PACE assessments. For example, special assessments are treated as property taxes that are repaid annually pursuant to a property taxation schedule to public agencies whereas typical mortgage payments occur monthly with the assessment of interest charges and payments and prepayments being applied as received by that creditor. Also, Clean Energy Development Boards issue bonds for PACE projects that are transferred to the residential program administrator in exchange for project financing to be disbursed to authorized contractors upon satisfactory completion of the eligible measures included in a PACE project. Consumer credit typically involves a lender and borrower in privity with each other (with one party advancing funds and the other party directly repaying those funds pursuant to a monthly payment schedule). For PACE, the flow of funds and financial structure is between property owners, contractors who install eligible improvements, PACE providers/administrators, property tax collectors, and Clean Energy Development Boards, which is wholly different from typical and far simpler bilateral credit agreements between borrower and lender. In order to comply with Truth-in-Lending Act requirements (assuming those requirements could even be applied to PACE financing), significant and on-going legal review would be required as well as coordination with the Division of Finance, Clean Energy Development Board, program administrator, and outside counsel for the program capital providers.

Section 67.2816, RSMo. - Division of Finance Oversight Examinations for Sections 67.2817, 67.2818 and 67.2819, RSMo. is estimated to be no less than **\$120,000** annually (see below). This proposal also states that the “residential program administrator shall be responsible for paying the costs of examinations which the director [of the Division of Finance] may assess upon the completion of an exam. The original fiscal note generated by Legislative Research for HB 215 estimated Division of Finance costs “could exceed” \$200,000 per year, when reviewing compliance only with Sections 67.2817 and 67.2818, RSMo. How much of these costs would be borne by program administrators is unknown; however, such costs are estimated at no less than **\$50,000** annually.

This bill adds an additional section, Section 67.2819, RSMo. - Contractor Oversight and Training, to the Division of Finance examination process. This section concerns the hundreds of independent energy and home performance contracting companies that participate in Missouri PACE programs.

ASSUMPTION (continued)

The Division of Finance does not currently regulate or conduct examinations of energy and home performance or similar contractors participating in special assessment district financing programs such as PACE programs in Missouri. The cost of this expanded examination role in this bill, which would be borne by the program operation through its program administrators, is unknown. We estimate such cost to be a minimum of **\$20,000** annually. We also have no way to estimate the cost to all of the third-party companies that might be included in such examination process, nor can we predict if this will prove to eliminate parties from using the PACE product due to the overburden of regulatory requirements. Further, this bill adds Truth-In-Lending Act audit requirements to the Division of Finance and the portion of this added oversight included in examination costs, also to be borne by the program administrator, is unknown; however, we estimate such audit costs at a minimum of **\$50,000** annually.

This bill proposes to restructure oversight of Missouri Clean Energy Development Boards residential PACE programs and place them under a licensing and examination program with the Division of Finance. The previous fiscal note report for HB 215 stated, “[it] appears that California is the only state that has established a similar PACE licensing program.” Following the adoption of this similar licensing program, revenue for residential PACE in California has steeply declined by more than 50% due to regulatory burdens.

2018 revenue for the Clean Energy Development Board of the City of St. Louis was approximately \$2,000,000 in residential PACE origination. A conservative estimate of the impact of increased regulation under a state agency as proposed in this bill would be at least a 30% reduction in total annual revenue. A 30% reduction in total annual revenue based on 2018 figures would be approximately **\$600,000** in revenue losses annually.

In response to a similar proposal (HCS for HB 215), officials from the **St. Louis County Clean Energy Development Board (Missouri Energy Savings Program)** assumed the same fiscal impact as the Clean Energy Development Board of the City of St. Louis (CEDB) except for the following difference:

2018 revenue for the St. Louis County Clean Energy Development Board was approximately \$1,800,000 in residential PACE origination. A conservative estimate of the impact of increased regulation under a state agency as proposed in HCS HB215 would be at least a 30% reduction in total annual revenue. A 30% reduction in total annual revenue based on 2018 figures would be approximately **\$540,000** in revenue losses annually.

In response to a similar proposal (HCS for HB 215), officials from the **Show Me PACE Clean Energy District (SMP)** assumed the following regarding this proposal:

ASSUMPTION (continued)

The exact costs to implement this proposal are not specifically known; however, there are certain reasonable assumptions that can be made to provide the requested estimate. The following costs are costs incurred by program operation through the Clean Energy Development Board (CEDB) and program administrators. While it seems the proposal is targeting residential PACE only, the following analysis demonstrates that costs and losses will be incurred by both residential and commercial PACE within the Show Me PACE CED. Additionally, while some costs will certainly apply to one of our program administrators, it is possible that all costs may apply to both program administrators, as our administrator has subcontracted the residential program administration duties.

Section 67.2800, RSMo. - Missouri Merchandising Practices Act Compliance: estimated **\$75,000** cost for the initial review and set up and **\$15,000** annually thereafter for continuing maintenance/compliance.

A clear analysis is imperfect due to the proposal's addition to define Missouri PACE programs as "merchandise" under chapter 407 despite that chapter exempting any entities, such as banks, which are regulated by the Division of Finance. Due to this conflict, we believe significant legal and other third-party costs will be incurred by the CEDB and both residential and commercial program administrators to assess, analyze and review the MMPA and to ensure our ongoing compliance.

Section 67.2816, RSMo. - Division of Finance Licensing: **\$1,000** year one initial license fee; **\$1,000** annual registration fee thereafter; estimated **\$10,000** for initial organization enrollment and registration; estimated **\$2,000** annually thereafter for license renewals (multiplied by 2 administrators).

This bill sets to require the Division of Finance create a licensing and oversight examination process for residential program administrators contracted with SMP CEDB. SMP CEDB program administrators have no experience with the Division of Finance nor the Division with PACE. The Division of Finance will be charged with developing the processes and expertise to license special assessment district programs for financing for the PACE programs deployed by Clean Energy Development Boards.

Section 67.2816, RSMo. - Truth-In-Lending Act Compliance: estimated **\$250,000** for year one and estimated **\$40,000** annually thereafter.

ASSUMPTION (continued)

The federal Truth-in-Lending Act is directed at regulation of open and closed end consumer credit cost disclosures (for example, mortgage banking loans and credit cards) between private parties and not special assessment district financing such as PACE assessments. For example, special assessments are treated as property taxes that are repaid annually pursuant to a property taxation schedule to public agencies whereas typical mortgage payments occur monthly with the assessment of interest charges and payments and prepayments being applied as received by that creditor. Also, Clean Energy Development Boards issue bonds for PACE projects that are transferred to the residential program administrator in exchange for project financing to be disbursed to authorized contractors upon satisfactory completion of the eligible measures included in a PACE project.

Consumer credit typically involves a lender and borrower in privity with each other (with one party advancing funds and the other party directly repaying those funds pursuant to a monthly payment schedule). For PACE, the flow of funds and financial structure is between property owners, contractors who install eligible improvements, PACE providers/administrators, property tax collectors, and Clean Energy Development Boards which is wholly different from typical and far simpler bilateral credit agreements between borrower and lender.

In order to comply with Truth-in-Lending Act requirements (assuming those requirements could be meaningfully applied to PACE financing), significant and on-going legal review would be required as well as coordination with the Division of Finance, Clean Energy Development Board, program administrator, and outside counsel for the program capital providers.

Section 67.2816, RSMo. - Division of Finance Oversight Examinations for Sections 67.2817, 67.2818 and 67.2819, RSMo: estimated **\$100,000** annually.

This proposal also states that the "residential program administrator shall be responsible for paying the costs of examinations which the director [of the Division of Finance] may assess upon the completion of an exam. The original fiscal note generated for HB 215 estimated Division of Finance costs "could exceed" \$200,000 per year, when reviewing compliance only with Sections 67.2817 and 67.2818, RSMo. How much of these costs would be borne by program administrators is unknown; however, such costs are estimated at **\$50,000** annually.

This bill adds an additional section, Section 67.2819, RSMo. - Contractor Oversight and Training, to the Division of Finance examination process. This concerns the hundreds of independent energy and home performance contracting companies that participate in Missouri PACE programs.

ASSUMPTION (continued)

The Division of Finance does not currently regulate or conduct examinations of energy and home performance or similar contractors participating in special assessment district financing programs such as PACE programs in Missouri. The cost of this expanded examination role, which would be borne by the program operation through its program administrators, is unknown. We estimate such cost to be a minimum of **\$20,000** annually.

Further, this bill adds Truth-In-Lending Act audit requirements to the Division of Finance and the portion of this added oversight included in examination costs, also to be borne by the program administrator, is unknown; however, we estimate such audit costs at a minimum of **\$30,000** annually.

All combined, year one is expected to cost **\$436,000** and **\$158,000** thereafter.

This bill proposes to restructure oversight of the Show Me PACE CEDB's residential PACE programs and place them under a licensing and examination program with the Division of Finance. The previous fiscal note report for HB 215 stated, "[it] appears that California is the only state that has established a similar PACE licensing program." Following the adoption of this similar licensing program, revenue for residential PACE in California has steeply declined by more than 50%.

2018 revenue for the Show Me PACE CEDB was approximately \$76,500 from \$10,576,540 in commercial PACE origination. While the full expected cost of this legislation may not be borne by our commercial program, it is expected that 20% of year one (\$87,200) and 30% (\$47,400) of year two costs will be incurred by this program. This equates to an additional \$22,000 fee per commercial project in year one and an additional \$12,000 per project cost thereafter. This assumes the district can cover the initial additional legal and staffing costs and that deal flow would not decrease.

We contend after discussions with our commercial PACE capital providers that this cost increase, which would be directly passed onto the property owners, would only further the disparity between PACE project size.

The Show Me PACE CEDB purposefully created a district administrator that was a nonprofit as to meet the public private partnership mission of PACE and for benefitting all of Missouri. This bill will most likely end this endeavor, as our nonprofit administrator cannot subsidize the district at such high costs, as it has for the past three years. The SMP CEDB would be forced to obtain a new administrator that has a broader for profit portfolio, which would only increase the costs more, as our current administrator provides the least cost services in the country.

ASSUMPTION (continued)

This additional cost of a higher priced administrator will further diminish the future potential projects for the SMP CEDB.

The Show Me PACE CEDB is in the process of launching residential PACE. Therefore we have no numbers to provide as to losses from this bill.

Oversight is unable to verify the assumptions provided by these Clean Energy/PACE boards. However, Oversight assumes these boards will incur increased costs to comply with this proposal. Therefore, Oversight will reflect a cost to local political subdivisions of "Greater than \$100,000" for each fiscal year. Oversight will not reflect the loss of revenue estimated by these boards as this would be an indirect fiscal impact.

Officials from the **City of Columbia**, **City of Springfield** and **City of Kansas City** each assume the proposal will have no fiscal impact on their respective organizations.

Oversight notes that St. Louis County has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for local political subdivisions.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other cities and counties were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
DIVISION OF FINANCE FUND			
<u>Revenue</u> - application fees p. 3	\$6,000	\$6,000	\$6,000
<u>Cost</u> - DIFP - to implement program p. 5	(Could exceed <u>\$200,000</u>)	(Could exceed <u>\$200,000</u>)	(Could exceed <u>\$200,000</u>)
ESTIMATED NET EFFECT ON THE DIVISION OF FINANCE FUND	(Could exceed <u>\$200,000</u>)	(Could exceed <u>\$200,000</u>)	(Could exceed <u>\$200,000</u>)

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2020 (10 Mo.)	FY 2021	FY 2022
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**ENVIRONMENTAL
 IMPROVEMENT AND ENERGY
 RESOURCES AUTHORITY**

<u>Cost</u> - DNR - contract professional services p. 6	<u>(\$50,400)</u>	<u>(\$50,400)</u>	<u>\$0</u>
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ESTIMATED NET EFFECT ON THE ENVIRONMENTAL IMPROVEMENT AND ENERGY RESOURCES AUTHORITY	<u>(\$50,400)</u>	<u>(\$50,400)</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
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**LOCAL POLITICAL SUBDIVISIONS
 - CLEAN ENERGY BOARDS**

<u>Cost</u> - to comply with requirements of this proposal	(Greater than <u>\$100,000</u>)	(Greater than <u>\$100,000</u>)	(Greater than <u>\$100,000</u>)
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ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS - CLEAN ENERGY BOARDS	(Greater than <u>\$100,000</u>)	(Greater than <u>\$100,000</u>)	(Greater than <u>\$100,000</u>)
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act adds the terms "commercial property", "director", "disaster resiliency improvement", "division", "eligible improvement", "program administrator", "residential PACE program", "residential program administrator", and "water efficiency improvement".

FISCAL DESCRIPTION (continued)

The act also modifies the term "assessment contract" to state that property owners may enter into assessment contracts to finance energy efficiency improvements with a clean energy development board for a period of up to 20 years not to exceed the weighted average useful life of the qualified improvements.

PACE boards established prior to August 28, 2019, may approve eligible improvements according to their established standards or practice as of August 27, 2019, but shall not approve any new classes of eligible improvements until final standards for such improvements are issued by the state environmental and energy resources authority.

PACE boards shall adopt, implement, and maintain standards for eligible improvements within 180 days after the standards become final. The state environmental and energy resources authority shall issue standards of eligible improvements for residential PACE projects not later than January 1, 2020.

CLEAN ENERGY DEVELOPMENT BOARDS (Section 67.2810): A clean energy development board may employ a program administrator, including a licensed residential program administrator. A board may also accept appropriated funds from any participating county or municipality to fund the board's activities, including the employment of staff.

RESIDENTIAL PACE PROGRAM (Section 67.2816): No individual or corporation shall serve as a residential program administrator for a residential PACE program unless that individual or corporation obtains a license and maintains an annual registration with the Missouri Division of Finance. Any existing residential program administrator acting in Missouri on August 28, 2019, shall submit to licensing and registration and file an application within 90 days.

The Director of the Missouri Division of Finance may establish reasonable license and annual registration fees, as set forth in the act. The Director shall not issue such a license unless the applicant has met certain requirements as listed in the act.

Residential program administrators shall be subject to a compliance examination process, which shall be conducted at least once every 2 years. The Division of Finance shall investigate any consumer complaint submitted against a residential program administrator and any complaint submitted by a PACE board or other government body. The residential program administrator shall be responsible for the costs of the examinations.

FISCAL DESCRIPTION (continued)

The Director may also assess residential program administrators on an annual basis to equitably spread the costs of the Division's administration expenses incurred to maintain the licensing program, compliance examination program, and complaint investigation program.

The Division of Finance may issue an order to cease and desist to any residential program administrator who fails to obtain and maintain a license and annual registration. The Division may take other corrective actions, such as suspending or revoking licenses or referring matters relating to the conduct of a residential program administrator to a prosecuting attorney or the Attorney General.

RESIDENTIAL PACE PROGRAM CONTRACTS (Sections 67.2817 and 67.2818): A clean energy development board or residential program administrator shall not approve, execute, submit, or otherwise present for recordation any residential assessment contract unless certain criteria set forth in the act are satisfied. The property owner executing a residential PACE assessment contract shall have a 3-day right to cancel the contract. The property owner executing such a contract shall also be provided a 30-day option to pay the cash price of the residential project plus applicable interest, as set forth in the act.

The PACE board or residential program administrator shall advise the property owner in writing that the obligations under the PACE assessment contract continue even if the property owner sells or refinances the property.

If the residential property owner pays his or her property taxes and special assessments via a lender or loan servicer's escrow program, the PACE board or residential program administrator shall advise the property owner that the residential PACE assessment will cause the owner's monthly escrow requirements to increase and will increase the owner's total payment to the lender or the loan servicer. The PACE board or residential program administrator shall further advise the property owner that if the special assessment results in an escrow shortage the owner will be required to pay the shortage in a lump-sum payment or catch-up the shortage over 12 months.

The PACE board or residential program administrator shall also provide a statement providing a brief description of the residential project improvement, the cost of the improvement, and the annual assessment necessary to repay the obligation due on the assessment contract to any first lien holder within 3 days of the date the contract is recorded.

FISCAL DESCRIPTION (continued)

The PACE board or residential program administrator shall maintain a public website with current information about the residential PACE program. The website shall list approved contractors for the program and shall disclose the standard assessment contract information and process for property owners or their successors to request information about their assessment contract.

The PACE board, program administrator, contractor, or other third party shall not make any representations as to the income tax deductibility of an assessment contract unless the representation is accompanied by certain supporting documents, as listed in the act.

The PACE board or residential program administrator that offers residential PACE projects shall provide a disclosure form to homeowners that shall show the financing terms of the assessment contract, as set forth in the act. The disclosure form shall be presented to a property owner prior to the execution of an assessment contract.

Before a property owner executes an assessment contract, the PACE board or residential program administrator shall make an oral confirmation that at least one owner of the property has a copy of the assessment contract documents, the financing estimate and disclosure form, and the right to cancel form. An oral confirmation shall also be made of the key terms of the assessment contract, in plain language, and an acknowledgment shall be obtained from the property owner or authorized representative to whom the oral confirmation is given. The oral confirmation shall include information as listed in the act.

PACE PROGRAM CONTRACTORS (Section 67.2819): Contractors or other third parties shall not advertise the availability of residential assessment contracts that are administered by a PACE board or residential program administrator or solicit property owners on behalf of the PACE board or residential program administrator, unless the contractor meets requirements set forth in the act.

The act sets limitations on what incentives or information the PACE board or residential program administrator shall provide to a contractor.

Finally, a contractor shall not provide a different price for a project financed as a residential PACE project than the contractor would provide if paid in cash by the property owner.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Insurance, Financial Institutions and Professional Registration
Department of Natural Resources
Office of Prosecution Services
Department of Economic Development - Public Service Commission
Department of Economic Development - Office of Public Counsel
Department of Economic Development - Division of Energy
Attorney General's Office
City of Columbia
City of Springfield
City of Kansas City
Clean Energy Development Board of the City of St. Louis
St. Louis County Clean Energy Development Board
Show Me PACE Clean Energy District



Kyle Rieman
Director
March 12, 2019

Ross Strobe
Assistant Director
March 12, 2019