

HB 2178 -- Property Assessment Clean Energy Act

Sponsor: Holsman

This bill establishes the Property Assessment Clean Energy Act. In its main provisions, the bill:

(1) Authorizes municipalities to form a clean energy development board to establish a property assessed clean energy program to finance energy efficiency or renewable energy improvement projects. A property owner can apply to the board to finance the costs of the project through annual special assessments levied under an assessment contract;

(2) Requires each board to consist of at least three members. The number of board members and their terms are to be specified in the ordinance or order establishing the board. If only one municipality is participating in the board, the chief elected officer will appoint board members with the consent of the governing body. If more than one municipality is participating, members will be appointed in a manner agreed to by all participating municipalities;

(3) Requires the board to be a separate body politic and corporate and have all powers necessary to carry out the provisions of the bill;

(4) Requires the board, by July 1 of each year, to submit a report with the Environmental Improvement and Energy Resources Authority (EIERA) and each municipality that participated in the formation of the board. The report must include a brief description of each project financed by the board, the amount of assessments due and the amount collected, the board's administrative costs, the estimated cumulative energy savings from the projects financed during the year and to date, the estimated cumulative energy produced by all renewable energy improvements financed during the year and to date, and any other financial information required by EIERA's rules or regulations;

(5) Specifies that no lawsuit to set aside the formation or to otherwise question the proceedings related to the formation of the board may be brought after 60 days from the effective date of the ordinance establishing the board. No lawsuit can be brought to set aside the approval of a project, an assessment contract, or a special assessment after 60 days from the date that the assessment contract is executed;

(6) Specifies the contractual requirements for any assessment contract between the board and the benefitted property owner or owners;

(7) Specifies that the total special assessments levied against a property under an assessment contract cannot exceed the total cost of the project including any required energy audits and inspections;

(8) Requires the board to provide a copy of the assessment contract to the local county assessor and collector, as well as ensure that a copy of the assessment contract is recorded with the county recorder of deeds;

(9) Specifies that the special assessments agreed to under the contract will be a lien on the property against which it is assessed by the board. The assessments will be collected by the county collector in the same manner as other real property taxes;

(10) Authorizes a board to establish application requirements and criteria for project financing approval to effectively administer the program and ration available funding. A board may require an initial energy audit as a prerequisite to financing and inspections to verify completion of the project;

(11) Authorizes a board to finance any number of projects to be installed within a single parcel of property or within a unified development consisting of multiple adjoining parcels of property through a clean energy conduit financing rather than through a property assessed clean energy program. Clean energy conduit financing must consist of the issuance of bonds payable from the special assessment revenues collected under an assessment contract with the participating property owners;

(12) Authorizes a board to issue bonds payable from the special assessment revenues generated by assessment contracts and any other revenues. The state or municipality is not liable for any bonds issued by a board;

(13) Authorizes the Director of the Department of Economic Development to allocate the state's residual share of the national qualified energy conservation bond limitation under the federal Internal Revenue Code for these purposes to the EIERA, any board, the state, any political subdivision, instrumentality, or any other corporate or politic body; and

(14) Creates the Property Assessed Clean Energy Local Finance Fund for the EIERA to loan funds, when available, to boards to establish and operate property assessed clean energy programs. The fund will consist of grants, contributions, or other moneys received from the federal government or any other sources, the proceeds of any revenue bonds or other obligations issued by the authority for the fund, revenues received from loan agreements, and any other funds designated by the EIERA for this purpose.

The EIERA may enter into loan agreements with a board for financing the development and marketing of the programs.