

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0821-01  
Bill No.: HB 215  
Subject: Utilities; Property, Real and Personal  
Type: Original  
Date: February 19, 2019

---

Bill Summary: This proposal modifies provisions for the Property Assessment Clean Energy Act.

**FISCAL SUMMARY**

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

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
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
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Could exceed (\$250,400)</b>	<b>Could exceed (\$250,400)</b>	<b>Could exceed (\$200,000)</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 11 pages.

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

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

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

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## **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.

Officials from **St. Louis County** assume the proposal will have no fiscal impact on their organization.

**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](http://www.legislativeoversight.mo.gov).

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
<b>DIVISION OF FINANCE FUND</b>			
<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> )
<b>ESTIMATED NET EFFECT ON THE DIVISION OF FINANCE FUND</b>	(Could exceed <u><u>\$200,000</u></u> )	(Could exceed <u><u>\$200,000</u></u> )	(Could exceed <u><u>\$200,000</u></u> )

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2020 (10 Mo.)	FY 2021	FY 2022
--	---------------------	---------	---------

**ENVIRONMENTAL  
 IMPROVEMENT AND ENERGY  
 RESOURCES AUTHORITY**

<u>Cost - DNR - contract professional services p. 6</u>	<u>(\$50,400)</u>	<u>(\$50,400)</u>	<u>\$0</u>
---	-------------------	-------------------	------------

<b>ESTIMATED NET EFFECT ON THE    ENVIRONMENTAL    IMPROVEMENT AND ENERGY    RESOURCES AUTHORITY</b>	<b><u>(\$50,400)</u></b>	<b><u>(\$50,400)</u></b>	<b><u>\$0</u></b>
--	--------------------------	--------------------------	-------------------

<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This bill changes the provisions of the "Property Assessment Clean Energy (PACE) Act." PACE boards established as of August 28, 2019, may approve eligible improvements according to their established standards but may not approve any new class of improvements until final standards are issued by the Environmental Improvement and Energy Resources Authority (EIERA). Boards must determine the classes of eligible improvements for their districts and are not required to authorize all classes of improvements under the EIERA standards. Boards must adopt, implement, and maintain standards consistent with regulations issued by EIERA within 180 days after the standards become final. EIERA must issue standards for residential projects no later than January, 1, 2020.

FISCAL DESCRIPTION (continued)

The bill modifies the powers of the boards to allow them to employ a program administrator, accept appropriated funds for a participating county or municipality, and approve and finance both residential and commercial projects.

The bill specifies that no individual or corporation may serve as a residential program administrator for a residential PACE program unless licensed by the Division of Finance. Existing residential program administrators must submit to licensing and file an application within 90 days. The Director of the Division of Finance may issue a cease and desist order to any residential program administrator who fails to obtain and maintain a license and registration.

The director may establish reasonable license and annual registration fees for a residential program administrator in the State of Missouri. Neither fee may exceed \$500. All applicants must meet certain requirements including having a designated primary Missouri contact with authority to communicate with the division and its examiners and respond to examination requests; have never had any type of financial services license or registration revoked in any governmental jurisdiction; and be in compliance with Missouri corporate registration requirements to be in good standing and is not delinquent on any Missouri state or local taxes or license fees. Residential program administrators must pass an exam related to the administration of the residential PACE program. The division must conduct exams at least once in 24 months.

The division must investigate any complaint submitted by a PACE board or other government body or official pertaining to the business conduct of a residential program administrator or compliance with the applicable state residential PACE requirements or applicable residential PACE requirements established by the federal Bureau of Consumer Financial Protection.

The division may suspend or revoke the license of any program administrator that fails to comply with the terms of an order to cease and desist or that fails to pay any license or registration fees or assessments.

The division may refer any matter related to the conduct of a residential program administrator to a prosecuting attorney or to the Attorney General.

A clean energy development board or residential program administrator may not approve, execute, submit, or otherwise record any residential assessment contract unless specified criteria is met. The property owner executing a residential PACE assessment contract has a three-day right to cancel the qualifying improvements financing the PACE assessment contract.

FISCAL DESCRIPTION (continued)

The property owner executing a residential PACE assessment contract shall be provided a 30-day option to pay the cash price of the residential project plus applicable interest to the cancellation date up to 30 days and a cancellation fee of 3% of the cash price not to exceed \$500 to have the assessment contract canceled and released as paid in full.

The bill also specifies several requirements for the PACE board or residential program administrator to advise a property owner throughout the execution of a residential assessment contract. The board also must maintain a public website with current information about the residential PACE program and a list approved contractors for the residential PACE program. Before a property owner executes an assessment contract the PACE board or residential program administrator must meet several requirements specified in the bill including receiving several oral confirmations from the property owner relating to the contract documents and the requirements contained therein.

The PACE board and residential program administrator may not permit contractors or other third parties to advertise the availability of residential assessment contracts that are administered by the board or residential program administrator, unless the contractor maintains any permits, licenses, or registrations required for engaging in its business in the jurisdiction where it operates and maintains bond and insurance coverage in minimum amounts determined by the board or higher amounts as required in the jurisdiction where the contractor is licensed or registered; and the board or program administrator obtains the contractor's written agreement that the contractor or third party must act in accordance with applicable advertising and marketing laws and regulations. The board or residential program administrator may not provide payment to a contractor beyond the actual price charged by that contractor or third party to the property owner for qualified improvements financed by an assessment contract, provide to a contractor any information that discloses the maximum amount of funds for which a property owner may be eligible for qualifying improvements or the amount of equity in a property, reimburse a contractor for expenses for advertising and marketing campaigns and collateral that solely benefit the contractor, or provide any payment to a property owner explicitly conditioned upon that property owner entering into an assessment contract.

A contractor may not provide a different price for a project financed under the PACE program 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  
St. Louis County



Kyle Rieman  
Director  
February 19, 2019

Ross Strobe  
Assistant Director  
February 19, 2019