

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2756
102ND GENERAL ASSEMBLY

5786H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 67.2800, 67.2810, 67.2815, and 67.2840, RSMo, and to enact in lieu thereof four new sections relating to the property assessment clean energy act.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 67.2800, 67.2810, 67.2815, and 67.2840, RSMo, are repealed
2 and four new sections enacted in lieu thereof, to be known as sections 67.2800, 67.2810,
3 67.2815, and 67.2840, to read as follows:

67.2800. 1. Sections 67.2800 to 67.2840 shall be known and may be cited as the
2 "Property Assessment Clean Energy Act".

3 2. As used in sections 67.2800 to 67.2840, the following words and terms shall mean:

4 (1) "Assessment contract", a contract entered into between a clean energy
5 development board and a property owner under which the property owner agrees to pay an
6 annual assessment for a period of up to twenty years not to exceed the weighted average
7 useful life of the qualified improvements in exchange for financing of an energy efficiency
8 improvement or a renewable energy improvement;

9 (2) "Authority", the state environmental improvement and energy resources authority
10 established under section 260.010;

11 (3) "Bond", any bond, note, or similar instrument issued by or on behalf of a clean
12 energy development board;

13 (4) "Clean energy conduit financing", the financing of energy efficiency
14 improvements or renewable energy improvements for a single parcel of property or a
15 unified development consisting of multiple adjoining parcels of property under section
16 67.2825;

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 17 (5) "Clean energy development board", a board formed by one or more municipalities
18 under section 67.2810;
- 19 (6) "Director", the director of the division of finance within the department of
20 commerce and insurance;
- 21 (7) "Division", the division of finance within the department of commerce and
22 insurance;
- 23 (8) "Energy efficiency improvement", any acquisition, installation, or modification on
24 or of publicly or privately owned property designed to reduce the energy consumption of such
25 property, including but not limited to:
- 26 (a) Insulation in walls, roofs, attics, floors, foundations, and heating and cooling
27 distribution systems;
- 28 (b) Storm windows and doors, multiglazed windows and doors, heat-absorbing or
29 heat-reflective windows and doors, and other window and door improvements designed to
30 reduce energy consumption;
- 31 (c) Automatic energy control systems;
- 32 (d) Heating, ventilating, or air conditioning distribution system modifications and
33 replacements;
- 34 (e) Caulking and weatherstripping;
- 35 (f) Replacement or modification of lighting fixtures to increase energy efficiency of
36 the lighting system without increasing the overall illumination of the building unless the
37 increase in illumination is necessary to conform to applicable state or local building codes;
- 38 (g) Energy recovery systems; and
- 39 (h) Daylighting systems;
- 40 (9) "Municipality", any county, city, or incorporated town or village of this state;
- 41 (10) "Program administrator", an individual or entity selected by the clean energy
42 development board to administer the PACE program, but this term does not include an
43 employee of a county or municipal government assigned to a clean energy development board
44 or a public employee employed by a clean energy development board who is paid from
45 appropriated general tax revenues;
- 46 (11) "Project", any energy efficiency improvement or renewable energy
47 improvement;
- 48 (12) "Property assessed clean energy local finance fund", a fund that may be
49 established by the authority for the purpose of making loans to clean energy development
50 boards to establish and maintain property assessed clean energy programs;
- 51 (13) "Property assessed clean energy program" or "PACE program", a program
52 established by a clean energy development board to finance energy efficiency improvements
53 or renewable energy improvements under section 67.2820;

54 (14) "Renewable energy improvement", any acquisition and installation of a fixture,
55 product, system, device, or combination thereof on publicly or privately owned property that
56 produces energy from renewable resources, including, but not limited to photovoltaic
57 systems, solar thermal systems, wind systems, biomass systems, or geothermal systems.

58 3. All projects undertaken under sections 67.2800 to 67.2840 are subject to the
59 applicable municipality's ordinances and regulations, including but not limited to those
60 ordinances and regulations concerning zoning, subdivision, building, fire safety, and historic
61 or architectural review.

62 **4. Sections 67.2800 to 67.2840 shall not apply to any assessment contract,**
63 **project, or PACE program entered into, undertaken, or established for any residential**
64 **property.**

67.2810. 1. One or more municipalities may form clean energy development boards
2 for the purpose of exercising the powers described in sections 67.2800 to 67.2840. Each
3 clean energy development board shall consist of not less than three members, as set forth in
4 the ordinance or order establishing the clean energy development board. Members shall serve
5 terms as set forth in the ordinance or order establishing the clean energy development board
6 and shall be appointed:

7 (1) If only one municipality is participating in the clean energy development board,
8 by the chief elected officer of the municipality with the consent of the governing body of the
9 municipality; or

10 (2) If more than one municipality is participating, in a manner agreed to by all
11 participating municipalities.

12 2. A clean energy development board shall be a political subdivision of the state and
13 shall have all powers necessary and convenient to carry out and effectuate the provisions of
14 sections 67.2800 to 67.2840, including but not limited to the following:

15 (1) To adopt, amend, and repeal bylaws, which are not inconsistent with sections
16 67.2800 to 67.2840;

17 (2) To adopt an official seal;

18 (3) To sue and be sued;

19 (4) To make and enter into contracts and other instruments with public and private
20 entities;

21 (5) To accept grants, guarantees, and donations of property, labor, services, and other
22 things of value from any public or private source, **including the acquisition of loans or**
23 **assessment contracts from other states or their municipalities and political subdivision**
24 **to serve a common purpose of providing financing support or credit enhancement for**
25 **any project;**

26 (6) To employ or contract for such managerial, legal, technical, clerical, accounting,
27 or other assistance it deems advisable;

28 (7) To levy and collect special assessments under an assessment contract with a
29 property owner and to record such special assessments as a lien on the property;

30 (8) To borrow money from any public or private source and issue bonds and provide
31 security for the repayment of the same;

32 (9) To finance a project under an assessment contract;

33 (10) To collect reasonable fees and charges in connection with making and servicing
34 assessment contracts and in connection with any technical, consultative, or project assistance
35 services offered;

36 (11) To invest any funds not required for immediate disbursement in obligations of
37 the state of Missouri or of the United States or any agency or instrumentality thereof, or in
38 bank certificates of deposit; provided, however, the limitations on investments provided in
39 this subdivision shall not apply to proceeds acquired from the sale of bonds which are held by
40 a corporate trustee; and

41 (12) To take whatever actions necessary to participate in and administer a clean
42 energy conduit financing or a property assessed clean energy program.

43 3. No later than July first of each year, the clean energy development board shall file
44 with each municipality that participated in the formation of the clean energy development
45 board and with the director of the department of natural resources an annual report for the
46 preceding calendar year that includes:

47 (1) A brief description of each project financed by the clean energy development
48 board during the preceding calendar year, which shall include the physical address of the
49 property, the name or names of the property owner, an itemized list of the costs of the project,
50 and the name of any contractors used to complete the project;

51 (2) The amount of assessments due and the amount collected during the preceding
52 calendar year;

53 (3) The amount of clean energy development board administrative costs incurred
54 during the preceding calendar year;

55 (4) The estimated cumulative energy savings resulting from all energy efficiency
56 improvements financed during the preceding calendar year; and

57 (5) The estimated cumulative energy produced by all renewable energy
58 improvements financed during the preceding calendar year.

59 4. No lawsuit to set aside the formation of a clean energy development board or to
60 otherwise question the proceedings related thereto shall be brought after the expiration of
61 sixty days from the effective date of the ordinance or order creating the clean energy
62 development board. No lawsuit to set aside the approval of a project, an assessment contract,

63 or a special assessment levied by a clean energy development board, or to otherwise question
64 the proceedings related thereto shall be brought after the expiration of sixty days from the
65 date that the assessment contract is executed.

67.2815. 1. A clean energy development board shall not enter into an assessment
2 contract or levy or collect a special assessment for a project without making a finding that
3 there are sufficient resources to complete the project and that the estimated economic benefit
4 expected from the project during the financing period is equal to or greater than the cost of the
5 project.

6 2. An assessment contract shall be executed by the clean energy development board
7 and the benefitted property owner or property owners and shall provide:

8 (1) A description of the project, including the estimated cost of the project and details
9 on how the project will either reduce energy consumption or create energy from renewable
10 sources;

11 (2) A mechanism for:

12 (a) Verifying the final costs of the project upon its completion; and

13 (b) Ensuring that any amounts advanced or otherwise paid by the clean energy
14 development board toward costs of the project will not exceed the final cost of the project;

15 (3) An acknowledgment by the property owner that the property owner has received
16 or will receive a special benefit by financing a project through the clean energy development
17 board that equals or exceeds the total assessments due under the assessment contract;

18 (4) An agreement by the property owner to pay annual special assessments for a
19 period not to exceed twenty years, as specified in the assessment contract;

20 (5) A statement that the obligations set forth in the assessment contract, including the
21 obligation to pay annual special assessments, are a covenant that shall run with the land and
22 be obligations upon future owners of such property; and

23 (6) An acknowledgment that no subdivision of property subject to the assessment
24 contract shall be valid unless the assessment contract or an amendment thereof divides the
25 total annual special assessment due between the newly subdivided parcels pro rata to the
26 special benefit realized by each subdivided parcel.

27 3. The total special assessments levied against a property under an assessment
28 contract shall not exceed the sum of the cost of the project, including any required energy
29 audits and inspections, or portion thereof financed through the participation in a property
30 assessed clean energy program or clean energy conduit financing, including the costs of any
31 audits or inspections required by the clean energy development board, plus such
32 administration fees, interest, and other financing costs reasonably required by the clean
33 energy development board.

34 4. The clean energy development board shall provide a copy of each signed
35 assessment contract to the local assessor and collector for the county, or city not within a
36 county, and shall cause a copy of such assessment contract to be recorded in the real estate
37 records of the recorder of deeds for the county, or city not within a county.

38 5. Special assessments agreed to under an assessment contract shall be a lien on the
39 property against which it is assessed on behalf of the applicable clean energy development
40 board from the date that each annual assessment under the assessment contract becomes due.
41 Such special assessments shall be collected by the collector for the county, or city not within a
42 county, in the same manner and with the same priority as ad valorem real property taxes[;
43 ~~subject to the provisions of subsection 8 of this section~~]. Once collected, the collector for the
44 county, or city not within a county, shall pay over such special assessment revenues to the
45 clean energy development board in the same manner in which revenues from ad valorem real
46 property taxes are paid to other taxing districts. Such special assessments shall be collected
47 as provided in this subsection from all subsequent property owners, including the state and all
48 political subdivisions thereof, for the term of the assessment contract.

49 6. Any clean energy development board that contracts for outside administrative
50 services to provide financing origination for a project shall offer the right of first refusal to
51 enter into such a contract to a federally insured depository institution with a physical presence
52 in Missouri upon the same terms and conditions as would otherwise be approved by the clean
53 energy development board. Such right of first refusal shall not be applicable to the
54 origination of any transaction that involves the issuance of bonds by the clean energy
55 development board.

56 7. **Except as otherwise provided in section 67.2840**, sections 67.2816, 67.2817,
57 67.2818, and 67.2819 shall apply only to PACE programs for projects to improve residential
58 properties of four or fewer units. Notwithstanding any provision of law to the contrary, any
59 clean energy development board formed to improve commercial properties, properties owned
60 by nonprofit or not-for-profit entities, governmental properties, or nonresidential properties in
61 excess of four residential units shall be exempt from the provisions of sections 67.2816,
62 67.2817, 67.2818, and 67.2819, nor shall such sections apply to the commercial PACE
63 programs and commercial PACE assessment contracts of any clean energy development
64 board engaged in both commercial and residential property programs. Notwithstanding any
65 provision of law to the contrary, any clean energy development board that ceases to finance
66 new projects to improve residential properties of four or fewer units before January 1, 2022,
67 shall be exempt from the provisions of sections 67.2816, 67.2817, 67.2818, and 67.2819.

67.2840. 1. Sections 67.2816, 67.2817, 67.2818, and 67.2819 shall be effective and
2 apply **only** to the residential PACE programs of clean energy development boards and
3 participating municipalities ~~after~~ **from** January 1, 2022, **to August 28, 2024. Beginning**

4 **August 28, 2024, all residential properties shall be exempt from the provisions of**
5 **sections 67.2816 to 67.2819 and no assessment contract, project, or PACE program shall**
6 **be entered into, undertaken, or established for any residential property.**

7 2. Sections 67.2816, 67.2817, 67.2818, and 67.2819 shall be effective and apply **only**
8 to residential PACE assessment contracts entered into after January 1, 2022, **but before**
9 **August 28, 2024.**

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