



Sen. Karen McConnaughay

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LRB100 17711 HLH 38665 a

1 AMENDMENT TO SENATE BILL 2773

2 AMENDMENT NO. _____. Amend Senate Bill 2773 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Property Assessed Clean Energy Act is
5 amended by changing Sections 5, 10, 15, 20, 25, 30, and 35 as
6 follows:

7 (50 ILCS 50/5)

8 Sec. 5. Definitions. As used in this Act:

9 "Alternative energy improvement" means the installation or
10 upgrade of electrical wiring, outlets, or charging stations to
11 charge a motor vehicle that is fully or partially powered by
12 electricity.

13 "Assessment contract" means a voluntary written contract
14 between the local unit of government (or a permitted assignee)
15 and record owner governing the terms and conditions of
16 financing and assessment under a program.

1 "Authority" means the Illinois Finance Authority.

2 "PACE area" means an area within the jurisdictional
3 boundaries of a local unit of government created by an
4 ordinance or resolution of the local unit of government to
5 provide financing for energy projects under a property assessed
6 clean energy program. A local unit of government may create
7 more than one PACE area under the program, and PACE areas may
8 be separate, overlapping, or coterminous.

9 "Energy efficiency improvement" means equipment, devices,
10 or materials intended to decrease energy consumption or promote
11 a more efficient use of electricity, natural gas, propane, or
12 other forms of energy on property, including, but not limited
13 to, all of the following:

14 (1) insulation in walls, roofs, floors, foundations,
15 or heating and cooling distribution systems;

16 (2) storm windows and doors, multi-glazed windows and
17 doors, heat-absorbing or heat-reflective glazed and coated
18 window and door systems, and additional glazing,
19 reductions in glass area, and other window and door system
20 modifications that reduce energy consumption;

21 (3) automated energy control systems;

22 (4) high efficiency heating, ventilating, or
23 air-conditioning and distribution system modifications or
24 replacements;

25 (5) caulking, weather-stripping, and air sealing;

26 (6) replacement or modification of lighting fixtures

1 to reduce the energy use of the lighting system;

2 (7) energy controls or recovery systems;

3 (8) day lighting systems; ~~and~~

4 (8.1) any energy efficiency project, as defined in
5 Section 825-65 of the Illinois Finance Authority Act; and

6 (9) any other installation or modification of
7 equipment, devices, or materials approved as a utility
8 cost-savings measure by the governing body.

9 "Energy project" means the installation or modification of
10 an alternative energy improvement, energy efficiency
11 improvement, or water use improvement, or the acquisition,
12 installation, or improvement of a renewable energy system that
13 is affixed to a stabilized existing property (including ~~not~~ new
14 construction).

15 "Governing body" means the county board or board of county
16 commissioners of a county, the city council of a city, or the
17 board of trustees of a village.

18 "Local unit of government" means a county, city, or
19 village.

20 "Permitted assignee" means (i) any body politic and
21 corporate, (ii) any bond trustee, or (iii) any warehouse
22 lender, or any other assignee of a local unit of government
23 designated in an assessment contract.

24 "Person" means an individual, firm, partnership,
25 association, corporation, limited liability company,
26 unincorporated joint venture, trust, or any other type of

1 entity that is recognized by law and has the title to or
2 interest in property. "Person" does not include a local unit of
3 government or a homeowner's or condominium association, but
4 does include other governmental entities that are not local
5 units of government.

6 "Program administrator" means a for-profit entity or
7 not-for profit entity that will administer a program on behalf
8 of or at the discretion of the local unit of government. It or
9 its affiliates, consultants, or advisors shall have done
10 business as a program administrator or capital provider for a
11 minimum of 18 months and shall be responsible for arranging
12 capital for the acquisition of bonds issued by the local unit
13 of government or the Authority to finance energy projects.

14 "Property" means privately-owned commercial, industrial,
15 non-residential agricultural, or multi-family (of 5 or more
16 units) real property located within the local unit of
17 government, but does not include property owned by a local unit
18 of government or a homeowner's or condominium association.

19 "Property assessed clean energy program" or "program"
20 means a program as described in Section 10.

21 "Record owner" means the person who is the titleholder or
22 owner of the beneficial interest in property.

23 "Renewable energy resource" includes energy and its
24 associated renewable energy credit or renewable energy credits
25 from wind energy, solar thermal energy, photovoltaic cells and
26 panels, biodiesel, anaerobic digestion, and hydropower that

1 does not involve new construction or significant expansion of
2 hydropower dams. For purposes of this Act, landfill gas
3 produced in the State is considered a renewable energy
4 resource. The term "renewable energy resources" does not
5 include the incineration or burning of any solid material.

6 "Renewable energy system" means a fixture, product,
7 device, or interacting group of fixtures, products, or devices
8 on the customer's side of the meter that use one or more
9 renewable energy resources to generate electricity, and
10 specifically includes any renewable energy project, as defined
11 in Section 825-65 of the Illinois Finance Authority Act.

12 "Warehouse fund" means any fund established by a local unit
13 of government, body politic and corporate, or warehouse lender.

14 "Warehouse lender" means any financial institution
15 participating in a PACE area that finances an energy project
16 from lawfully available funds in anticipation of issuing bonds
17 as described in Section 35.

18 "Water use improvement" means any fixture, product,
19 system, device, or interacting group thereof for or serving any
20 property that has the effect of conserving water resources
21 through improved water management or efficiency.

22 (Source: P.A. 100-77, eff. 8-11-17.)

23 (50 ILCS 50/10)

24 Sec. 10. Property assessed clean energy program; creation.

25 (a) Pursuant to the procedures provided in Section 15, a

1 local unit of government may establish a property assessed
2 clean energy program and, from time to time, create a PACE area
3 or areas under the program.

4 (b) Under a program, the local unit of government may enter
5 into an assessment contract with the record owner of property
6 within a PACE area to finance or refinance one or more energy
7 projects on the property. The assessment contract shall provide
8 for the repayment of the cost of an energy project through
9 assessments upon the property benefited. The financing or
10 refinancing may include any and all of the following: the cost
11 of materials and labor necessary for installation, permit fees,
12 inspection fees, application and administrative fees, bank
13 fees, and all other fees that may be incurred by the record
14 owner pursuant to the installation and the issuance of bonds on
15 a specific or pro rata basis, as determined by the local unit
16 of government and may also include a prepayment premium.

17 (b-5) A local unit of government may sell or assign, for
18 consideration, any and all assessment contracts; the permitted
19 assignee of the assessment contract shall have and possess the
20 same powers and rights at law or in equity as the applicable
21 local unit of government and its tax collector would have if
22 the assessment contract had not been assigned with regard to
23 (i) the precedence and priority of liens evidenced by the
24 assessment contract, (ii) the accrual of interest, and (iii)
25 the fees and expenses of collection. The permitted assignee
26 shall have the same rights to enforce such liens as any private

1 party holding a lien on real property, including, but not
2 limited to, foreclosure. Costs and reasonable attorney's fees
3 incurred by the permitted assignee as a result of any
4 foreclosure action or other legal proceeding brought pursuant
5 to this Section and directly related to the proceeding shall be
6 assessed in any such proceeding against each record owner
7 subject to the proceedings. Such costs and fees may be
8 collected by the assignee at any time after demand for payment
9 has been made by the permitted assignee.

10 (c) A program may be administered by one or more ~~a~~ program
11 administrators ~~administrator~~ or the local unit of government.

12 (Source: P.A. 100-77, eff. 8-11-17.)

13 (50 ILCS 50/15)

14 Sec. 15. Program established.

15 (a) To establish a property assessed clean energy program,
16 the governing body of a local unit of government shall adopt a
17 resolution or ordinance that includes all of the following:

18 (1) a finding that the financing of energy projects is
19 a valid public purpose;

20 (2) a statement of intent to facilitate access to
21 capital (which may be from one or more ~~a~~ program
22 administrators) ~~administrator~~ to provide funds for energy
23 projects, which will be repaid by assessments on the
24 property benefited with the agreement of the record owners;

25 (3) a description of the proposed arrangements for

1 financing the program, which may be through one or more ~~a~~
2 program administrators ~~administrator~~;

3 (4) the types of energy projects that may be financed;

4 (5) a description of the territory within the PACE
5 area;

6 (6) reference to a report on the proposed program as
7 described in Section 20; ~~and~~

8 (7) the time and place for a ~~any~~ public hearing to be
9 held by the local unit of government if required for the
10 adoption of the proposed program by resolution or
11 ordinance;

12 (8) matters required by Section 20 to be included in
13 the report; for this purpose, the resolution or ordinance
14 may incorporate the report or an amended version thereof by
15 reference; and

16 (9) a description of which aspects of the program may
17 be amended without a new public hearing and which aspects
18 may be amended only after a new public hearing is held.

19 (b) A property assessed clean energy program may be amended
20 by resolution or ordinance of the governing body. Adoption of
21 the resolution or ordinance shall be preceded by a public
22 hearing if required.

23 (Source: P.A. 100-77, eff. 8-11-17; revised 10-3-17.)

24 (50 ILCS 50/20)

25 Sec. 20. Report. The report on the proposed program

1 required under Section 15 shall include all of the following:

2 (1) a form of assessment contract between the local
3 unit of government and record owner governing the terms and
4 conditions of financing and assessment under the program.

5 (2) identification of an official authorized to enter
6 into an ~~a~~ assessment contract on behalf of the local unit
7 of government;

8 (3) a maximum aggregate annual dollar amount for all
9 financing to be provided by the applicable program
10 administrator under the program;

11 (4) an application process and eligibility
12 requirements for financing energy projects under the
13 program;

14 (5) a method for determining interest rates on
15 assessment installments, repayment periods, and the
16 maximum amount of an assessment;

17 (6) an explanation of how assessments will be made and
18 collected;

19 (7) a plan to raise capital to finance improvements
20 under the program pursuant to the sale of bonds, subject to
21 this Act or the Special Assessment Supplemental Bond and
22 Procedures Act, or alternatively, through the sale of bonds
23 by the Authority pursuant to subsection (d) of Section
24 825-65 of the Illinois Finance Authority Act ~~to a program~~
25 ~~administrator;~~

26 (8) information regarding all of the following, to the

1 extent known, or procedures to determine the following in
2 the future:

3 (A) any revenue source or reserve fund or funds to
4 be used as security for bonds described in paragraph
5 (7); and

6 (B) any application, administration, or other
7 program fees to be charged to record owners
8 participating in the program that will be used to
9 finance costs incurred by the local unit of government
10 as a result of the program;

11 (9) a requirement that the term of an assessment not
12 exceed the useful life of the energy project paid for by
13 the assessment; provided that the local unit of government
14 may allow projects that consist of multiple improvements
15 with varying lengths of useful life to have a term that is
16 no greater than the improvement with the longest useful
17 life;

18 (10) a requirement for an appropriate ratio of the
19 amount of the assessment to the assessed value of the
20 property or market value of the property as determined by a
21 recent appraisal no older than 12 months;

22 (11) a requirement that the record owner of property
23 subject to a mortgage obtain written consent from the
24 mortgage holder before participating in the program;

25 (12) provisions for marketing and participant
26 education;

1 (13) provisions for an adequate debt service reserve
2 fund, if any; and

3 (14) quality assurance and antifraud measures.

4 (Source: P.A. 100-77, eff. 8-11-17.)

5 (50 ILCS 50/25)

6 Sec. 25. Contracts with record owners of property.

7 (a) After creation of a program and PACE area, a record
8 owner of property within the PACE area may apply with the local
9 unit of government or its program administrator or
10 administrators for funding to finance an energy project.

11 (b) A local unit of government may impose an assessment
12 under a property assessed clean energy program only pursuant to
13 the terms of a recorded assessment contract with the record
14 owner of the property to be assessed.

15 (c) Before entering into an assessment contract with a
16 record owner under a program, the local unit of government
17 shall verify all of the following:

18 (1) that the property is within the PACE area;

19 (2) that there are no delinquent taxes, special
20 assessments, or water or sewer charges on the property;

21 (3) that there are no delinquent assessments on the
22 property under a property assessed clean energy program;

23 (4) there are no involuntary liens on the property,
24 including, but not limited to, construction or mechanics
25 liens, lis pendens or judgments against the record owner,

1 environmental proceedings, or eminent domain proceedings;

2 (5) that no notices of default or other evidence of
3 property-based debt delinquency have been recorded and not
4 cured;

5 (6) that the record owner is current on all mortgage
6 debt on the property, the record owner has not filed for
7 bankruptcy in the last 2 years, and the property is not an
8 asset to a current bankruptcy.

9 (7) all work requiring a license under any applicable
10 law to make a qualifying improvement shall be performed by
11 a registered contractor that has agreed to adhere to a set
12 of terms and conditions through a process established by
13 the local unit of government.

14 (8) the contractors to be used have signed a written
15 acknowledgement that the local unit of government will not
16 authorize final payment to the contractor until the local
17 unit of government has received written confirmation from
18 the record owner that the improvement was properly
19 installed and is operating as intended; provided, however,
20 that the contractor retains all legal rights and remedies
21 in the event there is a disagreement with the owner;

22 (9) that the amount of the assessment in relation to
23 the greater of the assessed value of the property or the
24 appraised value of the property, as determined by a
25 licensed appraiser, does not exceed 25%; and

26 (10) a requirement that an assessment of the existing

1 water or energy use and a modeling of expected monetary
2 savings have been conducted for any proposed project.

3 (d) At least 30 days before entering into an assessment
4 contract ~~agreement~~ with the local unit of government, the
5 record owner shall provide to the holders or loan servicers of
6 any existing mortgages encumbering or otherwise secured by the
7 property a notice of the record owner's intent to enter into an
8 assessment contract with the local unit of government, together
9 with the maximum principal amount to be financed and the
10 maximum annual assessment necessary to repay that amount, along
11 with a request that the holders or loan servicers of any
12 existing mortgages consent to the record owner subjecting the
13 property to the program. A verified copy or other proof of
14 those notices and the written consent of the existing mortgage
15 holder for the record owner to enter into the assessment
16 contract and acknowledging that the existing mortgage will be
17 subordinate to the financing and assessment agreement and that
18 the local unit of government or its permitted assignee can
19 foreclose the property if the assessment is not paid shall be
20 provided to the local unit of government.

21 (e) A provision in any agreement between a local unit of
22 government and a public or private power or energy provider or
23 other utility provider is not enforceable to limit or prohibit
24 any local unit of government from exercising its authority
25 under this Section.

26 (f) The record owner has signed a certification that the

1 local unit of government has complied with the provisions of
2 this Section, which shall be conclusive evidence as to
3 compliance with these provisions, but shall not relieve any
4 contractor, or local unit of government, from any potential
5 liability.

6 (g) This Section is additional and supplemental to county
7 and municipal home rule authority and not in derogation of such
8 authority or limitation upon such authority.

9 (h) The imposition of any assessment pursuant to this Act
10 shall be exempt from any other statutory procedures or
11 requirements that condition the imposition of assessments or
12 other taxes against a property, except as set forth in this
13 Act.

14 (Source: P.A. 100-77, eff. 8-11-17.)

15 (50 ILCS 50/30)

16 Sec. 30. Assessments constitute a lien; billing.

17 (a) An assessment imposed under a property assessed clean
18 energy program pursuant to an assessment contract, including
19 any interest on the assessment and any penalty, shall, upon
20 recording of the assessment contract in the county in which the
21 PACE area is located, constitute a lien against the property on
22 which the assessment is imposed until the assessment, including
23 any interest or penalty, is paid in full. The lien of the
24 assessment contract shall run with the property until the
25 assessment is paid in full and a satisfaction or release for

1 the same has been recorded with the local unit of government
2 and shall have the same priority and status as other property
3 tax and assessment liens. The local unit of government (or any
4 permitted assignee) shall have all rights and remedies in the
5 case of default or delinquency in the payment of an assessment
6 as it does with respect to delinquent property taxes. When the
7 assessment, including any interest and penalty, is paid, the
8 lien shall be removed from the property.

9 (a-5) The assessment shall be imposed by the local unit of
10 government against each lot, block, track and parcel of land
11 within the PACE area to be assessed in accordance with an
12 assessment roll setting forth: (i) a description of the method
13 of spreading the assessment; (ii) a list of lots, blocks,
14 tracts and parcels of land in the PACE area; and (iii) the
15 amount assessed on each parcel. The assessment roll shall be
16 filed with the county clerk of the county in which the PACE
17 area is located for use in establishing the lien and collecting
18 the assessment.

19 (b) Installments of assessments due under a program may be
20 included in each tax bill issued under the Property Tax Code
21 and may be collected at the same time and in the same manner as
22 taxes collected under the Property Tax Code. Alternatively,
23 installments may be billed and collected as provided in a
24 special assessment ordinance of general applicability adopted
25 by the local unit of government pursuant to State law or local
26 charter. In no event will partial payment of an assessment be

1 allowed.

2 (Source: P.A. 100-77, eff. 8-11-17.)

3 (50 ILCS 50/35)

4 Sec. 35. Bonds.

5 (a) A local unit of government may issue bonds under this
6 Act or the Special Assessment Supplemental Bond and Procedures
7 Act, or the Authority may issue bonds under subsection (d) of
8 Section 825-65 of the Illinois Finance Authority Act upon
9 assignment of the assessment contracts securing such bonds by
10 the local unit of government to the Authority, in either case
11 to finance energy projects under a property assessed clean
12 energy program. Interim financing prior to the issuance of
13 bonds authorized by this Section may be provided only by a
14 warehouse fund, except that warehouse funds established by a
15 warehouse lender may only hold assessment contracts for 36
16 months or less.

17 (b) Bonds issued under subsection (a) shall not be general
18 obligations of the local unit of government or the Authority,
19 but shall be secured by the following as provided by the
20 governing body in the resolution or ordinance approving the
21 bonds:

22 (1) payments of assessments on benefited property
23 within the PACE area or areas specified; and

24 (2) if applicable, revenue sources or reserves
25 established by the local unit of government or the

1 Authority from bond proceeds or other lawfully available
2 funds.

3 (c) A pledge of assessments, funds, or contractual rights
4 made by a governing body in connection with the issuance of
5 bonds by a local unit of government under this Act constitutes
6 a statutory lien on the assessments, funds, or contractual
7 rights so pledged in favor of the person or persons to whom the
8 pledge is given, without further action by the governing body.
9 The statutory lien is valid and binding against all other
10 persons, with or without notice.

11 (d) Bonds of one series issued under this Act may be
12 secured on a parity with bonds of another series issued by the
13 local unit of government or the Authority pursuant to the terms
14 of a master indenture or master resolution entered into or
15 adopted by the governing body of the local unit of government
16 or the Authority.

17 (e) Bonds issued under this Act are subject to the Bond
18 Authorization Act and the Registered Bond Act.

19 (f) Bonds issued under this Act further essential public
20 and governmental purposes, including, but not limited to,
21 reduced energy costs, reduced greenhouse gas emissions,
22 economic stimulation and development, improved property
23 valuation, and increased employment.

24 (g) A program administrator can assign its rights to
25 purchase the bonds to a third party ~~(the "bond purchaser")~~.

26 (h) A ~~program administrator shall retain a~~ law firm shall

1 be retained to give a bond opinion in connection with any bond
2 issued under this Act ~~for the benefit of the program~~
3 ~~administrator or bond purchaser.~~

4 (i) Bonds issued by the Authority under this Act and
5 pursuant to subsection (d) of Section 825-65 of the Illinois
6 Finance Authority Act shall not be entitled to the benefits of
7 Section 825-75 of the Illinois Finance Authority Act.

8 (Source: P.A. 100-77, eff. 8-11-17.)"