Bill Number:	S. 0542 Introduced on February 16, 2023
Author:	Davis
Subject:	Commercial Property Assessed Clean Energy Programs
Requestor:	Senate Labor, Commerce, and Industry
RFA Analyst(s):	Bryant
Impact Date:	March 29, 2023

Fiscal Impact Summary

This bill authorizes local governments to establish commercial property assessed clean energy and resiliency (C-PACE) programs. Under a C-PACE program, a local government may enter into a voluntary assessment agreement with the record owner of a qualifying property within a designated PACE area to finance certain clean energy improvements on the property. The assessment agreement must provide for the repayment of financing through an assessment levied upon the qualifying property by the local government. The bill provides for the application and administration of the program, establishes a process for assessing and collecting liens, provides details on financing and qualified improvements, and develops standards.

Due to the permissive nature of this bill, the overall impact of the bill on local governments is undetermined. The Revenue and Fiscal Affairs Office (RFA) surveyed all forty-six counties, the South Carolina Association of Counties (SCAC), and the Municipal Association of South Carolina (MASC) and received responses from four counties and the MASC. Beaufort County indicates that the bill will have no fiscal impact and notes that the Register of Deeds will develop new document types to include the C-PACE lien and C-PACE lien release using existing resources. Calhoun County indicates that the bill will have no fiscal impact since they do not intend to implement a C-PACE program. However, Calhoun County notes that if a C-PACE program were to be established, there would likely be expenses, including legal fees to set up the program and costs associated with software reprogramming, designating and training a local program administrator, collecting and tracking the assessments, and collecting any unpaid assessments. Dorchester County and Hampton County indicate that the bill will have no expenditure impact in general but note that the impact could vary, as local governments will be able to voluntarily enter into these agreements depending on individual circumstances. Likewise, the MASC indicates that the bill will have an undetermined impact on local governments due to variability in how a C-PACE program might be implemented in different localities. Therefore, the expenditure impact on local governments is undetermined.

Explanation of Fiscal Impact

Introduced on February 16, 2023
State Expenditure
N/A

State Revenue
N/A

Local Expenditure
This bill authorizes local governments to establish C-PACE programs. Under a C-PACE program, a local government may establish a PACE district by ordinance for the purpose of promoting, encouraging, and facilitating clean energy improvements within its geographic boundaries. The clean energy improvements must be for use at a qualifying property, which is defined as a privately-owned commercial, industrial, or agricultural property, a multifamily property with five or more dwellings, and property owned by a nonprofit or tax-exempt entity other than a residential property with one to four dwellings. A local government may enter into a voluntary assessment agreement with the record owner of a qualifying property within a PACE area to finance all or a portion of one or more qualifying improvements on the property. Qualifying improvements include the acquisition, installation, modification, or construction of a water efficiency measure, energy efficiency measure, renewable energy resource, renewable energy facility, resiliency measure, or electrical vehicle charging infrastructure affixed to real property, including new construction. A program must be administered by one or more program administrators, as determined by the local governing body and set forth in the ordinance establishing the program.

The assessment agreement must provide for the repayment of financing through an assessment levied upon the qualifying property by the local government. Qualified improvements must be financed with funds provided directly by a capital provider pursuant to a financing agreement. The bill specifies that neither the state nor a local government may use public funds to fund or repay financing between a capital provider and property owner. An assessment levied pursuant to this bill constitutes a lien against the entire qualifying property to which it applies. The lien of the assessment runs with the qualifying property until the assessment is paid in full and has the same priority status as a lien for any other ad valorem tax or assessment on par with the tax under Title 12. Assessments may be billed and collected in the same manner as the regular property tax bills of the county, or the local government in which the PACE area is located may either directly bill and collect the assessments or designate the local government's program administrator or another third party to bill and collect assessments. To the extent that an assessment is not paid when due, the delinquency is enforceable by the county or local government. Proceeds from any enforcement or foreclosure action must be remitted to the permitted assignee identified in the notice of assignment of assessment and C-PACE lien related to the assessment.

Due to the permissive nature of this bill, the expenditure impact on local governments will vary, depending upon the number of PACE areas established by ordinance, the number of property owners who choose to participate in the program, and the manner in which the C-PACE program is implemented. RFA surveyed all forty-six counties, the SCAC, and the MASC and received responses from four counties and the MASC. Beaufort County indicates that the bill will have no fiscal impact and notes that the Register of Deeds will develop new document types to include the C-PACE lien and C-PACE lien release using existing resources. Calhoun County indicates that the bill will have no fiscal impact since they do not intend to implement a C-PACE program. However, Calhoun County notes that if a C-PACE program were to be established, there would likely be expenses, including legal fees to set up the program and costs associated with software reprogramming, designating and training a local program administrator, collecting and tracking the assessments, and collecting any unpaid assessments. Dorchester County and Hampton County indicate that the bill will have no expenditure impact in general but note that the impact could vary, as local governments will be able to voluntarily enter into these agreements depending on individual circumstances. Likewise, the MASC indicates that the bill will have an undetermined impact on local governments due to variability in how a C-PACE program might be implemented in different localities. The MASC notes that a local government's decision to administer a C-PACE program in-house or contract it to a third party may affect expenditures since costs could vary depending upon the capacity and expertise of existing staff and whether the local government will have to add additional staff to manage the provisions of the bill. Additionally, the MASC anticipates that although the language of the bill shields local governments from liability to repay the assessment, there may additional costs if a local government is named as a party in judicial efforts to recover funds from a defaulting property owner. Therefore, the expenditure impact of this bill on local governments is undetermined.

Local Revenue
N/A

Frank A. Rainwater, Executive Director