

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0964H.011  
Bill No.: HB 145  
Subject: Energy  
Type: Original  
Date: February 18, 2021

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

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<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>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<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>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

**FORMCHECKBOX** Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>Local Government</b>	<b>(Greater than \$100,000)</b>	<b>(Greater than \$100,000)</b>	<b>(Greater than \$100,000)</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Commerce and Insurance (DCI)** assume the following regarding this proposal:

This bill would require DCI's Division of Finance (DOF) to examine residential PACE boards and their program administrators in Missouri.

There are currently four (4) Residential PACE districts (or boards) operating in Missouri. At this time, DCI cannot estimate how long it would take to perform examinations of the PACE boards and their program administrators since those reviews will be based on standards and rules that cannot be promulgated until the legislation becomes effective. At this time, neither the number nor the complexity of the reviews can be determined. Each review would take place every two years. For the sake of this estimate, DOF assumes that each review will take approximately 40 hours to complete. Using this estimate, the estimated cost per entity examined would be \$2,026 biannually. Based on the four current PACE districts in operation, DOF estimates that biannual income of \$8,104 would be deposited into the Division of Finance Fund. It is anticipated the cost for the review would be pro-rated to each participating municipality. This estimate is subject to change based on the undetermined factors listed above.

DOF assumes that any costs associated with this proposal would be offset by the examination fees paid by the PACE districts and program administrators. DOF anticipates current staffing levels can absorb the additional workload; and therefore, there will be no need for additional FTE or appropriation authority. If the bill changes significantly, or unanticipated factors increase the expected workload such that additional resources will be necessary to implement this legislation, DOF would pursue those resources through the appropriations process.

**Oversight** assumes DCI is provided with core funding to handle a certain amount of activity each year. Oversight assumes DCI could absorb the costs related to this proposal. Oversight generally does not reflect income or expense amounts considered not material. If multiple bills pass which require additional staffing and duties at substantial costs, DCI could request funding through the appropriation process.

Officials from the **Attorney General's Office, Office of the State Auditor, Office of the State Treasurer** and **Department of Natural Resources** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from the **Clean Energy Development Board of the City of St. Louis** assume the following regarding this proposal:

The exact costs to implement this proposal are unknown, although there are certain reasonable assumptions that can be made to provide an estimate. The following costs are costs incurred by program operation through the Clean Energy Development Board (CEDB) and program administrators.

§67.2815 Paragraph 4-5 — PACE Assessments and County Collectors

Clean Energy Development Boards are the local and regional governing entities that regulate Missouri PACE programs. They are separate political subdivisions of the state. PACE programs enable property owners to avoid high upfront costs related to installing energy-saving retrofits or energy-generating technology, such as solar panels. Local governments form PACE programs by passing an ordinance either creating or joining a Clean Energy Development Board. Property owners within a program's designated jurisdiction can choose to voluntarily opt-in to a PACE financing program, but they are not required to do so. The program enables access to fixed-rate, long-term financing and allows property owners to pay for these improvements over time through assessments on their property tax bills.

Typically, in Missouri, property taxes are collected by County Collectors. This proposal requires a PACE assessment to be collected by a "City Collector" — "if a city has joined a clean energy development board and the county has not." The addition of this statutory requirement for city collectors to collect assessments will block operation of at least one of the CEDB's 60 existing PACE programs due to the city not having a "city collector"; or, the requirement will act as an operational barrier for communities to participate in the Missouri PACE program. There will be significant legal and other third-party costs incurred by the Clean Energy Development Board and the program administrator to assess, legally analyze, and review the foregoing matter for our more than sixty participating communities. We estimate those costs to be at a minimum of **\$145,000**.

Further, annulling existing PACE jurisdiction operation and/or blocking participation of other jurisdictions will lead to significant losses in revenue (see Losses below).

§67.2816 Paragraph 5 – State ability to cancel and void PACE contracts and liens

Clean Energy Development Boards (CEDBs) are separate political subdivisions of the state and have the authority to issue special assessments on properties within their jurisdiction(s). PACE assessments secure financing for eligible property improvements after property owners execute assessment contracts and then sign a completion certificate indicating the contractor's work and the project has been completed to their satisfaction. This proposal includes a provision for a state agency, the Division of Finance, to examine CEDBs and file a release of the assessment contract and of any related assessment lien made in violation of the law. A PACE board then has thirty days to file an appeal with the circuit court for the county where the real estate is located.

Significant legal and other third-party costs will be incurred by the CEDB to assess, analyze, and review what impacts this would have on the financial structure of the program (including potentially preventing salability of PACE assets to secondary markets).

This provision will impact the potential cost of capital to the program and calls into question the ability of the capital markets to participate in the program due to the uncertainties created by this section. While the exact cost of this is unknown due to the uncertainties that this provision creates, the board estimates this to be a minimum cost of **\$150,000**.

Potential legal and court costs during a circuit court process are unknown but could exceed **\$100,000**. It is also unclear who or what entities are liable for the legal costs for both sides of any hearing as that is not stipulated.

Further, PACE contracts being vulnerable to annulment and cancellation by a state agency at any time in the life of the asset may lead to difficulty in selling PACE assets and a significant loss of revenue and/or the program being inoperable (see Losses below).

§67.2816 Paragraph 6 – Added cost to PACE Boards for Division of Finance Oversight Examinations for Sections 67.2817, 67.2818, and 67.2819, RSMo.

This proposal states that the “PACE board and its sponsoring municipality or municipalities shall be jointly and severally responsible for paying the actual costs of [the Division of Finance] examinations” which the director [of the Division of Finance] “shall assess upon the completion of an examination [...]” How much of these costs would be borne by PACE boards and municipalities is unknown; however, such costs can be conservatively estimated at **\$50,000 annually**.

§67.2816 Paragraph 6 – Added liability to municipalities for Division of Finance oversight and examinations

PACE programs have been expressly designed to be cost-free to the governing boards and participating municipalities. The programs finance themselves through the operations and provide public benefits such as job creation, utility bill savings, and other benefits without increases in public spending. As mentioned above, this proposal adds an additional section, §67.2819 Contractor Oversight and Training, to the Division of Finance examination process. The Division of Finance does not currently regulate or conduct examinations of energy and home performance or similar contractors participating in special assessment district financing programs such as PACE programs in Missouri. The cost of this expanded examination role, which would be borne by the program operation through its PACE board and municipalities, is unknown. However, the board estimates such costs to be a minimum of **\$45,000 annually** and this cost is scalable based on the number of home performance contracting companies that participate in the program.

This proposal rejects this revenue neutral characteristic by placing liability for Division of Finance examinations onto the PACE Boards and municipalities: “The PACE board and its sponsoring municipality or municipalities shall be jointly and severally responsible for paying the actual costs of examinations.” Expanded liability and increased regulations may be in conflict

with enabling ordinances creating PACE programs, and/or may violate contractual points or program-design attributes.

Significant legal and other third-party costs will be incurred by the CEDBs, program administrators, including review by their respective external and internal counsel with regard to the impacts of the foregoing matter. We estimate these costs to be a minimum of **\$75,000**.

Further, adding state agency costs onto local municipalities will result in active communities revoking PACE as a violation of existing ordinances, impacting both commercial and residential PACE, and will lead to significant losses in revenue and/or program stoppage/elimination (see Losses below).

This proposal proposes to restructure oversight of Missouri Clean Energy Development Boards residential PACE programs and place them under additional state agency regulation and an examination program with the Division of Finance. California is the only state that has established a similar statewide regulatory-oversight program. Following the adoption of this similar program, program activity for residential PACE in California has steeply declined by more than 50%. For comparison purposes, residential PACE originations during 2020 for the Show Me PACE CEDB was approximately \$276,000. A conservative estimate of the impact of increased regulation under a state agency as proposed would be at least a 30% reduction in project originations—**\$80,000 in revenue losses**. However, our residential program is new and increased by 100% between 2019 and 2020, and thus losses would be much greater than this conservative projection.

The losses incurred from communities ending their PACE programs:

In 2019, Show Me PACE facilitated more than \$29,000,000 in Commercial PACE, which facilitated \$90,000,000 in total construction and economic development for local communities. Show Me PACE has agreements with only a few counties, and should the other cities revoke their ordinances, SMP would lose 16% of 2019 projects (\$4.5 Million) and 100% of 2020 projects (\$14 Million), for a total of \$18.5 Million in direct funding and \$133 Million local economic impact.

Officials from the **St. Louis County Clean Energy Development Board** assume the same fiscal impact as the Clean Energy Development Board of the City of St. Louis except the following difference:

This proposal proposes to restructure oversight of Missouri Clean Energy Development Boards residential PACE programs and place them under additional state agency regulation and examination program with the Division of Finance. Residential PACE originations during 2018 for the City of St. Louis Clean Energy Development Board was approximately \$2,000,000. A conservative estimate of the impact of increased regulation under a state agency would be at least a 30% reduction in project originations - **\$600,000** in revenue losses.

**Oversight** is unable to verify the assumptions provided by these Clean Energy/PACE boards. However, Oversight assumes these boards will incur increased costs to comply with this proposal. Therefore, Oversight will reflect a cost to local political subdivisions of "Greater than \$100,000" for each fiscal year. Oversight will not reflect the loss of revenue estimated by these boards as this would be an indirect fiscal impact.

Officials from the **City of Hale** assume there will be a fiscal impact but did not identify the impact.

Officials from the **City of Kansas City** assume this proposal has the effect of making Kansas City collectors responsible for collecting Property Assessment Clean Energy (PACE) assessments if the county does not participate; therefore, the city would need to collect for county assessment contracts. This proposal would also make the city liable for the cost of periodic examinations of the PACE board by the state. Therefore, this proposal could have a negative fiscal impact on the city but the impact is not able to be calculated.

Officials from the **City of Springfield** assume a negative fiscal impact from being jointly and severally responsible for examination costs if it chooses to join a residential PACE program.

**Oversight** does not have any information to the contrary in regards to the City of Kansas City's and City of Springfield's assumptions; therefore, Oversight will reflect an unknown cost to local political subdivisions on the fiscal note.

Officials from the **City of Ballwin, City of Corder, City of O'Fallon** and the **Ste. Genevieve County Collector** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

**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. A general listing of political subdivisions included in our database is available upon request.

<u>FISCAL IMPACT –</u> <u>State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Cost - Cities/Counties</u> - to comply with requirements of this proposal	(Unknown)	(Unknown)	(Unknown)
<u>Cost - PACE/Clean Energy Boards - to comply with requirements of this proposal</u>	(Greater than <u>\$100,000</u> )	(Greater than <u>\$100,000</u> )	(Greater than <u>\$100,000</u> )
<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	(Greater than <u>\$100,000</u> )	(Greater than <u>\$100,000</u> )	(Greater than <u>\$100,000</u> )

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This proposal modifies provisions to the Property Assessment Clean Energy Act.

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 Commerce and Insurance  
Department of Natural Resources  
Attorney General's Office  
Office of the State Treasurer  
Office of the State Auditor  
City of Kansas City  
City of Springfield  
City of Hale  
City of Corder  
City of Ballwin  
City of O'Fallon  
Ste. Genevieve County Collector  
Clean Energy Development Board of the City of St. Louis  
St. Louis County Clean Energy Development Board



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