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**LEGISLATIVE FISCAL ESTIMATE:** Yes

**VETO MESSAGE:** Yes

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Energy and utilities subcommittee report  
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LAW/KR

§1 - C.40:56-1.4  
§§2,3 -  
C.40:56-13.1 &  
40:56-13.2  
§5 - Note

P.L.2011, CHAPTER 187, *approved January 17, 2012*  
Senate Committee Substitute (*First Reprint*) for  
Senate, No. 1406

1 **AN ACT** concerning the financing of renewable energy and energy  
2 efficiency systems, amending <sup>1</sup>[P.L.1974, c.80 and] <sup>1</sup>P.L.1960,  
3 c.183, and supplementing R.S.40:56-1 et seq. <sup>1</sup>[and various parts  
4 of the statutory law] <sup>1</sup>.

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 <sup>1</sup>[1.(New section) The New Jersey Economic Development  
10 Authority, in consultation with the Board of Public Utilities, shall  
11 establish the "New Jersey Property Assessment Clean Energy (NJ  
12 PACE) Municipal Financing Program" to provide financing for  
13 municipalities that wish to facilitate the purchase of renewable  
14 energy systems and energy efficiency improvements by property  
15 owners within the municipality.] <sup>1</sup>

16  
17 <sup>1</sup>[2. (New section) a. To implement the program, the New  
18 Jersey Economic Development Authority shall establish low-cost  
19 sources of financing, such as renewable energy and conservation  
20 bonds and investment from private capital sources, to provide  
21 funding to municipalities that wish to finance the purchase of  
22 renewable energy systems and energy efficiency improvements to  
23 interested property owners. The authority shall establish and  
24 maintain a special revolving fund to be known as the "Renewable  
25 Energy and Energy Efficiency Loan Fund," which shall be credited  
26 with: (1) any moneys derived from bonds issued by the authority  
27 pursuant to subsection jj. of section 5 of P.L.1974, c.80 (C.34:1B-  
28 5); (2) any interest or other investment income earned on moneys  
29 in the fund; (3) any moneys made available from private capital  
30 sources for the purposes of the program; (4) moneys derived from  
31 the sale of solar renewable energy certificates or other renewably  
32 energy credits assigned to the authority pursuant to section 7 of  
33 P.L., c. (C. ) (pending before the Legislature as this bill); and (5)  
34 any other moneys made available for the purposes of the fund.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate amendments adopted in accordance with Governor's recommendations January 9, 2012.

1       b. The authority may enter into loan agreements with any  
2 municipality that it deems eligible to participate in the NJ PACE  
3 program to enable the municipality to assist property owners to  
4 finance the cost of the purchase and installation of renewable  
5 energy systems and energy efficiency improvements on their  
6 property. Each loan agreement shall provide for the funding of one  
7 or more loans by the municipality to property owners within the  
8 municipality, each of which shall be covered by an individual  
9 financing agreement between the property owner and the  
10 municipality that provides for the assignment of the renewable  
11 energy special assessment imposed pursuant to section 6 of P.L. ,  
12 c. (C. ) (pending before the Legislature as this bill). The  
13 authority may adopt rules and regulations pursuant to the  
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 st  
15 seq.) establishing additional conditions for the loan agreements,  
16 including the terms of the financing agreement between the  
17 property owner and the municipality, the municipality's obligations  
18 to the authority, the procedures for repayment to the authority of  
19 moneys loaned to participating municipalities, and any other  
20 conditions the authority deems necessary.

21       c. As used in this section, "solar renewable energy certificate"  
22 shall have the same meaning as set forth in section 3 of P.L.1999,  
23 c.23 (C.48:3-51).]<sup>1</sup>

24  
25       <sup>1</sup>[3. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read  
26 as follows:

27       5. The authority shall have the following powers:

28       a. To adopt bylaws for the regulation of its affairs and the  
29 conduct of its business;

30       b. To adopt and have a seal and to alter the same at pleasure;

31       c. To sue and be sued;

32       d. To acquire in the name of the authority by purchase or  
33 otherwise, on such terms and conditions and such manner as it may  
34 deem proper, or by the exercise of the power of eminent domain in  
35 the manner provided by the "Eminent Domain Act of 1971,"  
36 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or  
37 other property which it may determine is reasonably necessary for  
38 any project; provided, however, that the authority in connection  
39 with any project shall not take by exercise of the power of eminent  
40 domain any real property except upon consent thereto given by  
41 resolution of the governing body of the municipality in which such  
42 real property is located; and provided further that the authority shall  
43 be limited in its exercise of the power of eminent domain in  
44 connection with any project to municipalities receiving State aid  
45 under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to  
46 municipalities which had a population, according to the latest  
47 federal decennial census, in excess of 10,000;

- 1 e. To enter into contracts with a person upon such terms and  
2 conditions as the authority shall determine to be reasonable,  
3 including, but not limited to, reimbursement for the planning,  
4 designing, financing, construction, reconstruction, improvement,  
5 equipping, furnishing, operation and maintenance of the project and  
6 to pay or compromise any claims arising therefrom;
- 7 f. To establish and maintain reserve and insurance funds with  
8 respect to the financing of the project or the school facilities project  
9 and any project financed pursuant to the "Municipal Rehabilitation  
10 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et  
11 al.);
- 12 g. To sell, convey or lease to any person all or any portion of a  
13 project for such consideration and upon such terms as the authority  
14 may determine to be reasonable;
- 15 h. To mortgage, pledge or assign or otherwise encumber all or  
16 any portion of a project, or revenues, whenever it shall find such  
17 action to be in furtherance of the purposes of this act, P.L.2000,  
18 c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and  
19 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),  
20 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of  
21 P.L.2009, c.90 (C.52:27D-489c et al.);
- 22 i. To grant options to purchase or renew a lease for any of its  
23 projects on such terms as the authority may determine to be  
24 reasonable;
- 25 j. To contract for and to accept any gifts or grants or loans of  
26 funds or property or financial or other aid in any form from the  
27 United States of America or any agency or instrumentality thereof,  
28 or from the State or any agency, instrumentality or political  
29 subdivision thereof, or from any other source and to comply,  
30 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),  
31 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72  
32 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic  
33 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and  
34 P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and  
35 conditions thereof;
- 36 k. In connection with any application for assistance under  
37 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
38 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
39 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
40 (C.52:27BBB-1 et al.), or P.L.2007, c.137 (C.52:18A-235 et al.) or  
41 commitments therefor, to require and collect such fees and charges  
42 as the authority shall determine to be reasonable;
- 43 l. To adopt, amend and repeal regulations to carry out the  
44 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of  
45 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),  
46 the "Municipal Rehabilitation and Economic Recovery Act,"

- 1 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137  
2 (C.52:18A-235 et al.);
- 3 m. To acquire, purchase, manage and operate, hold and dispose  
4 of real and personal property or interests therein, take assignments  
5 of rentals and leases and make and enter into all contracts, leases,  
6 agreements and arrangements necessary or incidental to the  
7 performance of its duties;
- 8 n. To purchase, acquire and take assignments of notes,  
9 mortgages and other forms of security and evidences of  
10 indebtedness;
- 11 o. To purchase, acquire, attach, seize, accept or take title to any  
12 project or school facilities project by conveyance or by foreclosure,  
13 and sell, lease, manage or operate any project or school facilities  
14 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1  
15 et al.), the "Municipal Rehabilitation and Economic Recovery Act,"  
16 P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-  
17 235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-  
18 489c et al.);
- 19 p. To borrow money and to issue bonds of the authority and to  
20 provide for the rights of the holders thereof, as provided in  
21 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
22 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
23 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
24 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and  
25 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);
- 26 q. To extend credit or make loans to any person for the  
27 planning, designing, acquiring, constructing, reconstructing,  
28 improving, equipping and furnishing of a project or school facilities  
29 project, which credits or loans may be secured by loan and security  
30 agreements, mortgages, leases and any other instruments, upon such  
31 terms and conditions as the authority shall deem reasonable,  
32 including provision for the establishment and maintenance of  
33 reserve and insurance funds, and to require the inclusion in any  
34 mortgage, lease, contract, loan and security agreement or other  
35 instrument, of such provisions for the construction, use, operation  
36 and maintenance and financing of a project or school facilities  
37 project as the authority may deem necessary or desirable;
- 38 r. To guarantee up to 90% of the amount of a loan to a person,  
39 if the proceeds of the loan are to be applied to the purchase and  
40 installation, in a building devoted to industrial or commercial  
41 purposes, or in an office building, of an energy improvement  
42 system;
- 43 s. To employ consulting engineers, architects, attorneys, real  
44 estate counselors, appraisers, and such other consultants and  
45 employees as may be required in the judgment of the redevelopment  
46 utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et  
47 seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72

1 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic  
2 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,  
3 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,  
4 c.90 (C.52:27D-489c et al.), and to fix and pay their compensation  
5 from funds available to the redevelopment utility therefor, all  
6 without regard to the provisions of Title 11A of the New Jersey  
7 Statutes;

8 t. To do and perform any acts and things authorized by  
9 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
10 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
11 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
12 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and  
13 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.),  
14 under, through or by means of its own officers, agents and  
15 employees, or by contract with any person;

16 u. To procure insurance against any losses in connection with  
17 its property, operations or assets in such amounts and from such  
18 insurers as it deems desirable;

19 v. To do any and all things necessary or convenient to carry out  
20 its purposes and exercise the powers given and granted in P.L.1974,  
21 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-  
22 4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
23 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
24 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and  
25 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

26 w. To construct, reconstruct, rehabilitate, improve, alter, equip,  
27 maintain or repair or provide for the construction, reconstruction,  
28 improvement, alteration, equipping or maintenance or repair of any  
29 development property and lot, award and enter into construction  
30 contracts, purchase orders and other contracts with respect thereto,  
31 upon such terms and conditions as the authority shall determine to  
32 be reasonable, including, but not limited to, reimbursement for the  
33 planning, designing, financing, construction, reconstruction,  
34 improvement, equipping, furnishing, operation and maintenance of  
35 any such development property and the settlement of any claims  
36 arising therefrom and the establishment and maintenance of reserve  
37 funds with respect to the financing of such development property;

38 x. When authorized by the governing body of a municipality  
39 exercising jurisdiction over an urban growth zone, to construct,  
40 cause to be constructed or to provide financial assistance to projects  
41 in an urban growth zone which shall be exempt from the terms and  
42 requirements of the land use ordinances and regulations, including,  
43 but not limited to, the master plan and zoning ordinances, of such  
44 municipality;

45 y. To enter into business employment incentive agreements as  
46 provided in the "Business Employment Incentive Program Act,"  
47 P.L.1996, c.26 (C.34:1B-124 et al.);

1 z. To enter into agreements or contracts, execute instruments,  
2 and do and perform all acts or things necessary, convenient or  
3 desirable for the purposes of the redevelopment utility to carry out  
4 any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-  
5 1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137  
6 (C.52:18A-235 et al.), including, but not limited to, entering into  
7 contracts with the State Treasurer, the Commissioner of Education,  
8 districts, the New Jersey Schools Development Authority, and any  
9 other entity which may be required in order to carry out the  
10 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137  
11 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90  
12 (C.52:27D-489c et al.);

13 aa. (Deleted by amendment, P.L.2007, c.137);

14 bb. To make and contract to make loans to local units to finance  
15 the cost of school facilities projects and to acquire and contract to  
16 acquire bonds, notes or other obligations issued or to be issued by  
17 local units to evidence the loans, all in accordance with the  
18 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007,  
19 c.137 (C.52:18A-235 et al.);

20 cc. Subject to any agreement with holders of its bonds issued to  
21 finance a project or school facilities project, obtain as security or to  
22 provide liquidity for payment of all or any part of the principal of  
23 and interest and premium on the bonds of the authority or for the  
24 purchase upon tender or otherwise of the bonds, lines of credit,  
25 letters of credit, reimbursement agreements, interest rate exchange  
26 agreements, currency exchange agreements, interest rate floors or  
27 caps, options, puts or calls to hedge payment, currency, rate, spread  
28 or similar exposure or similar agreements, float agreements,  
29 forward agreements, insurance contract, surety bond, commitment  
30 to purchase or sell bonds, purchase or sale agreement, or  
31 commitments or other contracts or agreements, and other security  
32 agreements or instruments in any amounts and upon any terms as  
33 the authority may determine and pay any fees and expenses required  
34 in connection therewith;

35 dd. To charge to and collect from local units, the State and any  
36 other person, any fees and charges in connection with the  
37 authority's actions undertaken with respect to school facilities  
38 projects, including, but not limited to, fees and charges for the  
39 authority's administrative, organization, insurance, operating and  
40 other expenses incident to the financing of school facilities projects;

41 ee. To make loans to refinance solid waste facility bonds  
42 through the issuance of bonds or other obligations and the execution  
43 of any agreements with counties or public authorities to effect the  
44 refunding or rescheduling of solid waste facility bonds, or otherwise  
45 provide for the payment of all or a portion of any series of solid  
46 waste facility bonds. Any county or public authority refunding or  
47 rescheduling its solid waste facility bonds pursuant to this



1 subsection shall provide for the payment of not less than fifty  
2 percent of the aggregate debt service for the refunded or  
3 rescheduled debt of the particular county or public authority for the  
4 duration of the loan; except that, whenever the solid waste facility  
5 bonds to be refinanced were issued by a public authority and the  
6 county solid waste facility was utilized as a regional county solid  
7 waste facility, as designated in the respective adopted district solid  
8 waste management plans of the participating counties as approved  
9 by the department prior to November 10, 1997, and the utilization  
10 of the facility was established pursuant to tonnage obligations set  
11 forth in their respective interdistrict agreements, the public  
12 authority refunding or rescheduling its solid waste facility bonds  
13 pursuant to this subsection shall provide for the payment of a  
14 percentage of the aggregate debt service for the refunded or  
15 rescheduled debt of the public authority not to exceed the  
16 percentage of the specified tonnage obligation of the host county for  
17 the duration of the loan. Whenever the solid waste facility bonds  
18 are the obligation of a public authority, the relevant county shall  
19 execute a deficiency agreement with the authority, which shall  
20 provide that the county pledges to cover any shortfall and to pay  
21 deficiencies in scheduled repayment obligations of the public  
22 authority. All costs associated with the issuance of bonds pursuant  
23 to this subsection may be paid by the authority from the proceeds of  
24 these bonds. Any county or public authority is hereby authorized to  
25 enter into any agreement with the authority necessary, desirable or  
26 convenient to effectuate the provisions of this subsection.

27 The authority shall not issue bonds or other obligations to effect  
28 the refunding or rescheduling of solid waste facility bonds after  
29 December 31, 2002. The authority may refund its own bonds issued  
30 for the purposes herein at any time;

31 ff. To pool loans for any local government units that are  
32 refunding bonds and do and perform any and all acts or things  
33 necessary, convenient or desirable for the purpose of the authority  
34 to achieve more favorable interest rates and terms for those local  
35 governmental units;

36 gg. To finance projects approved by the board, provide staff  
37 support to the board, oversee and monitor progress on the part of  
38 the board in carrying out the revitalization, economic development  
39 and restoration projects authorized pursuant to the "Municipal  
40 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
41 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities  
42 pursuant thereto;

43 hh. To offer financial assistance to qualified film production  
44 companies as provided in the "New Jersey Film Production  
45 Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.); **[and]**

46 ii. To finance or develop private or public parking facilities or  
47 structures, which may include the use of solar photovoltaic

1 equipment, in municipalities qualified to receive State aid pursuant  
2 to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and  
3 municipalities that contain areas designated pursuant to P.L.1985,  
4 c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan),  
5 Planning Area 2 (Suburban), or a town center, and to provide  
6 appropriate assistance, including but not limited to, extensions of  
7 credit, loans, and guarantees, to municipalities qualified to receive  
8 State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-  
9 178 et seq.) and municipalities that contain areas designated  
10 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning  
11 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town  
12 center, and their agencies and instrumentalities or to private entities  
13 whose projects are located in those municipalities, in order to  
14 facilitate the financing and development of parking facilities or  
15 structures in such municipalities. The authority may serve as the  
16 issuing agent of bonds to finance the undertaking of a project for  
17 the purposes of this subsection ; and

18 jj. To establish the “New Jersey Property Assessment Clean  
19 Energy (NJ PACE) Municipal Financing Program” to provide  
20 financing for municipalities that wish to facilitate the purchase of  
21 renewable energy systems and energy efficiency improvements by  
22 property owners within the municipality as provided in P.L. ,  
23 c. (C. ) (pending before the Legislature as this bill). The  
24 authority may issue bonds to finance the program .

25 (cf: P.L.2009, c.90, s.14)]<sup>1</sup>

26

27 <sup>1</sup>[4. (New section) a. The New Jersey Economic Development  
28 Authority shall appoint an administrator for the “New Jersey  
29 Property Assessment Clean Energy (NJ PACE) Municipal  
30 Financing Program,” to manage: the issuance of the bonds; the  
31 applications from municipalities to participate in the program; the  
32 loan agreements with municipalities that participate in the program;  
33 the sale of solar renewable energy certificates from participating  
34 homeowners; the assignment of special assessment payments to the  
35 New Jersey Economic Development Authority from municipalities;  
36 promotion of the program through an Internet web site, local media  
37 outlets, including print media, and materials sent to municipal  
38 governing bodies; and any other responsibilities which the authority  
39 deems appropriate. The administrator shall also establish best  
40 practices for municipalities that participate in the program.

41 b. The New Jersey Economic Development Authority shall  
42 coordinate efforts with the Board of Public Utilities to ensure that  
43 the amount of financing made available for the program through the  
44 authority, and the allocation of those funds among participating  
45 municipalities, are in accordance with limits set from time to time  
46 by the Board of Public Utilities, and to otherwise ensure that the NJ

1 PACE program furthers the goals of the Office of Clean Energy in  
2 the Board of Public Utilities.

3 c. As used in this section, "solar renewable energy certificate"  
4 shall have the same meaning as set forth in section 3 of P.L.1999,  
5 c.23 (C.48:3-51).<sup>1</sup>

6  
7 <sup>1</sup>[5.(New section) The New Jersey Economic Development  
8 Authority shall adopt, pursuant to the "Administrative Procedure  
9 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and in consultation with  
10 the Board of Public Utilities, any rules and regulations necessary to  
11 implement the provisions of P.L. , c. (C. ) (pending before  
12 the Legislature as this bill).]<sup>1</sup>

13  
14 <sup>1</sup>[6.] 1.<sup>1</sup> (New section) <sup>1</sup>[The] Upon application to and  
15 approval by the Director of Local Government Services in the  
16 Department of Community Affairs, the<sup>1</sup> governing body of a  
17 municipality may undertake the financing of the purchase and  
18 installation of renewable energy systems and energy efficiency  
19 improvements by property owners as a local improvement and may  
20 provide by ordinance for a "clean energy special assessment" to be  
21 imposed on a property within the municipality, if the owner of the  
22 property requests the assessment in order to install such systems or  
23 improvements. Each improvement on an individual property shall  
24 constitute a separate local improvement and shall be assessed  
25 separately to the property owner benefitted thereby. The clean  
26 energy special assessment shall be payable in quarterly  
27 installments. The terms of the <sup>1</sup>clean energy special<sup>1</sup> assessment  
28 shall be in accordance with the terms of the financing provided by  
29 the municipality pursuant to section <sup>1</sup>[7] 2<sup>1</sup> of P.L. , c. (C. )  
30 (pending before the Legislature as this bill) <sup>1</sup>[or provided to the  
31 municipality by the New Jersey Economic Development Authority  
32 pursuant to section 2 of P.L. , c. (C. ) (pending before the  
33 Legislature as this bill)]<sup>1</sup>.

34  
35 <sup>1</sup>[7.] 2.<sup>1</sup> (New section) a. <sup>1</sup>[A] Upon application to and  
36 approval by the Director of Local Government Services in the  
37 Department of Community Affairs, a<sup>1</sup> municipality may adopt an  
38 ordinance to establish a program to finance the purchase and  
39 installation of renewable energy systems and energy efficiency  
40 improvements by property owners. The governing body may apply  
41 to <sup>1</sup>[the New Jersey Economic Development Authority to receive  
42 loan funds for that purpose or to]<sup>1</sup> a county improvement authority  
43 that issues bonds pursuant to paragraph (2) of subsection (j) of  
44 section 12 of P.L.1960, c.183 (C.40:37A-55), or may issue bonds to  
45 finance the program pursuant to section <sup>1</sup>[8] 3<sup>1</sup> of P.L. , c. (C. )  
46 (pending before the Legislature as this bill). Funds for the purchase

1 and installation of renewable energy systems and energy efficiency  
2 improvements shall be loaned to property owners in exchange for a  
3 'clean energy' special assessment on the property pursuant to  
4 section '~~6~~ 1' of P.L. , c. (C. ) (pending before the  
5 Legislature as this bill), to be paid quarterly. '~~In the case of loan~~  
6 funds provided by the New Jersey Economic Development  
7 Authority, the special assessment payments shall be assigned by the  
8 municipality and the property owner to the New Jersey Economic  
9 Development Authority for repayment of the bonds or other  
10 financing source.』' In the case of financing provided by bonds  
11 issued by a county improvement authority, the 'clean energy'  
12 special assessment shall be used to repay the bonds. In the case of  
13 financing provided by the municipality through the issuance of  
14 municipal bonds, the 'clean energy' special assessment shall be  
15 used to repay the bonds. A property owner who purchases and  
16 installs a renewable energy system under the program may also  
17 assign any solar renewable energy certificates or other renewable  
18 energy credits that accrue to the property owner from the operation  
19 of the system to the municipality '~~[,] or~~' the county improvement  
20 authority '~~[,] or the New Jersey Economic Development Authority~~'  
21 to repay the loan for the system. 'The Director of Local  
22 Government Services in the Department of Community Affairs  
23 shall coordinate efforts with the Board of Public Utilities to ensure  
24 that the amount of financing made available by local programs  
25 authorized pursuant to this act are in accordance with limits set  
26 from time to time by the Board of Public Utilities in order to ensure  
27 that local programs further the goals of the Office of Clean Energy  
28 in the Board of Public Utilities.'

29 b. As used in this section, "solar renewable energy certificate"  
30 shall have the same meaning as set forth in section 3 of P.L.1999,  
31 c.23 (C.48:3-51).

32  
33 '~~8.~~ 3.' (New section) '~~The~~ a. Upon application to and  
34 approval by the Director of Local Government Services in the  
35 Department of Community Affairs, the' governing body of a  
36 municipality may establish the amounts of money to be expended  
37 by the municipality for the '~~local~~' improvements authorized in  
38 '~~section 6~~ sections 1 and 2' of P.L. , c. (C. )  
39 (pending before the Legislature as this bill). Any amount so  
40 appropriated may be raised by the issuance of 'clean energy special  
41 assessment' bonds by the municipality. In making the  
42 appropriation, the governing body may designate the particular  
43 projects to be financed to which the moneys shall be applied.

44 'b. Clean energy special assessments and bonds issued to  
45 finance them shall be issued and shall be generally subject to

1 R.S.40:56-21 et seq., as the director shall determine to be  
2 applicable.

3 c. The director is authorized and empowered to take such action  
4 as deemed necessary and consistent with the intent of this act to  
5 implement its provisions.<sup>1</sup>

6  
7 <sup>1</sup>[9.] 4.<sup>1</sup> Section 12 of P.L.1960, c.183 (C.40:37A-55) is  
8 amended to read as follows:

9 12. Every authority shall be a public body politic and corporate  
10 constituting a political subdivision of the State established as an  
11 instrumentality exercising public and essential governmental  
12 functions to provide for the public convenience, benefit and welfare  
13 and shall have perpetual succession and, for the effectuation of its  
14 purposes, have the following additional powers:

15 (a) To adopt and have a common seal and to alter the same at  
16 pleasure;

17 (b) To sue and be sued;

18 (c) To acquire, hold, use and dispose of its facility charges and  
19 other revenues and other moneys;

20 (d) To acquire, rent, hold, use and dispose of other personal  
21 property for the purposes of the authority;

22 (e) Subject to the provisions of section 26 of this act, to acquire  
23 by purchase, gift, condemnation or otherwise, or lease as lessee,  
24 real property and easements or interests therein necessary or useful  
25 and convenient for the purposes of the authority, whether subject to  
26 mortgages, deeds of trust or other liens or otherwise, and to hold  
27 and to use the same, and to dispose of property so acquired no  
28 longer necessary for the purposes of the authority; provided that the  
29 authority may dispose of such property at any time to any  
30 governmental unit or person if the authority shall receive a  
31 leasehold interest in the property for such term as the authority  
32 deems appropriate to fulfill its purposes;

33 (f) Subject to the provisions of section 13 of this act, to lease to  
34 any governmental unit or person, all or any part of any public  
35 facility for such consideration and for such period or periods of  
36 time and upon such other terms and conditions as it may fix and  
37 agree upon;

38 (g) To enter into agreements to lease, as lessee, public facilities  
39 for such term and under such conditions as the authority may deem  
40 necessary and desirable to fulfill its purposes, and to agree,  
41 pursuant thereto, to be unconditionally obligated to make payments  
42 for the term of the lease, without set-off or counterclaim, whether or  
43 not the public facility is completed, operating or operable, and  
44 notwithstanding the destruction of, damage to, or suspension,  
45 interruption, interference, reduction or curtailment of the  
46 availability or output of the public facility to which the agreement  
47 applies;

- 1 (h) To extend credit or make loans to any governmental unit or  
2 person for the planning, design, acquisition, construction, equipping  
3 and furnishing of a public facility, upon the terms and conditions  
4 that the loans be secured by loan and security agreements,  
5 mortgages, leases and other instruments, the payments on which  
6 shall be sufficient to pay the principal of and interest on any bonds  
7 issued for the purpose by the authority, and upon such other terms  
8 and conditions as the authority shall deem reasonable;
- 9 (i) Subject to the provisions of section 13 of this act, to make  
10 agreements of any kind with any governmental unit or person for  
11 the use or operation of all or any part of any public facility for such  
12 consideration and for such period or periods of time and upon such  
13 other terms and conditions as it may fix and agree upon;
- 14 (j) (1) To borrow money and issue negotiable bonds or notes or  
15 other obligations and provide for and secure the payment of any  
16 bonds and the rights of the holders thereof, and to purchase, hold  
17 and dispose of any bonds;
- 18 (2) To issue bonds, notes or other obligations to provide funding  
19 to a municipality that finances the purchase and installation of  
20 renewable energy systems and energy efficiency improvements by  
21 property owners as provided in section '[7] 2' of P.L. \_\_\_\_\_,  
22 c. (C. ) (pending before the Legislature as this bill);
- 23 (k) To apply for and to accept gifts or grants of real or personal  
24 property, money, material, labor or supplies for the purposes of the  
25 authority from any governmental unit or person, and to make and  
26 perform agreements and contracts and to do any and all things  
27 necessary or useful and convenient in connection with the  
28 procuring, acceptance or disposition of such gifts or grants;
- 29 (l) To determine the location, type and character of any public  
30 facility and all other matters in connection with all or any part of  
31 any public facility which it is authorized to own, construct,  
32 establish, effectuate or control;
- 33 (m) To make and enforce bylaws or rules and regulations for the  
34 management and regulation of its business and affairs and for the  
35 use, maintenance and operation of any public facility, and to amend  
36 the same;
- 37 (n) To do and perform any acts and things authorized by this act  
38 under, through or by means of its own officers, agents and  
39 employees, or by contract with any governmental unit or person;
- 40 (o) To acquire, purchase, construct, lease, operate, maintain and  
41 undertake any project and to fix and collect facility charges for the  
42 use thereof;
- 43 (p) To mortgage, pledge or assign or otherwise encumber all or  
44 any portion of its revenues and other income, real and personal  
45 property, projects and facilities for the purpose of securing its  
46 bonds, notes and other obligations or otherwise in furtherance of the  
47 purpose of this act;

1 (q) To extend credit or make loans to redevelopers for the  
2 planning, designing, acquiring, constructing, reconstructing,  
3 improving, equipping and furnishing any redevelopment project or  
4 redevelopment work;

5 (r) To conduct examinations and investigations, hear testimony  
6 and take proof, under oath at public or private hearings of any  
7 material matter, require the attendance of witnesses and the  
8 production of books and papers and issue commissions for the  
9 examination of witnesses who are out of the State, unable to attend,  
10 or excused from attendance;

11 (s) To authorize a committee designated by it consisting of one  
12 or more members, or counsel, or any officer or employee to conduct  
13 any such investigation or examination, in which case such  
14 committee, counsel, officer or employee shall have power to  
15 administer oaths, take affidavits and issue subpoenas or  
16 commissions;

17 (t) To enter into any and all agreements or contracts, execute  
18 any and all instruments, and do and perform any and all acts or  
19 things necessary, convenient or desirable for the purposes of the  
20 authority or to carry out any power expressly given in this act  
21 subject to the "Local Public Contracts Law," P.L.1971, c.198  
22 (C.40A:11-1 et seq.); and

23 (u) To pool loans for any local governmental units within the  
24 county or any beneficiary county that are refunding bonds and do  
25 and perform any and all acts or things necessary, convenient or  
26 desirable for the purpose of the authority to achieve more favorable  
27 interest rates and terms for those local governmental units.

28 (cf: P.L.2002, c.42, s.9)

29

30 '10.] 5.' This act shall take effect on the 120th day after the  
31 date of enactment, but the '10.] New Jersey Economic Development  
32 Authority] Director of the Division of Local Government Services  
33 in the Department of Community Affairs' may take such  
34 anticipatory action in advance thereof as shall be necessary for the  
35 implementation of this act.

36

37

38

39

40 Establishes "New Jersey Property Assessment Clean Energy (NJ  
41 PACE) Municipal Financing Program."

# SENATE, No. 1406

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 11, 2010

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Senator CHRISTOPHER "KIP" BATEMAN**

**District 16 (Morris and Somerset)**

**SYNOPSIS**

Establishes “New Jersey Property Assessment Clean Energy (NJ PACE) Municipal Financing Program.”

**CURRENT VERSION OF TEXT**

As introduced.





1 AN ACT concerning the purchase of solar energy systems,  
2 supplementing Title 34 of the Revised Statutes and amending  
3 various sections of Title 40 of the Revised Statutes.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. (New section) The New Jersey Economic Development  
9 Authority in consultation with the Board of Public Utilities, shall  
10 establish the “New Jersey Property Assessment Clean Energy (NJ  
11 PACE) Municipal Financing Program” to provide financing for  
12 municipalities who wish to facilitate the purchase of solar energy  
13 systems by homeowners, or by groups of property owners acting  
14 jointly to share the costs and benefits of such improvements.

15  
16 2. (New section) a. To implement the program, the New  
17 Jersey Economic Development Authority shall establish low-cost  
18 sources of financing, such as qualified energy conservation bonds  
19 and investment from private capital sources, to provide funding for  
20 the purchase of solar energy systems to interested municipalities.

21 b. In addition to the works enumerated in R.S.40:56-1, a  
22 municipality may choose to adopt an ordinance to establish a  
23 program to facilitate the purchase of solar energy systems by  
24 homeowners and apply to the New Jersey Economic Development  
25 Authority to receive funds for the purchase of solar energy systems.  
26 Funds for the purchase of solar energy systems shall be loaned to  
27 homeowners in exchange for a special assessment on the property  
28 pursuant to R.S.40:56-1 et seq., to be paid quarterly. Homeowners  
29 shall also receive a solar renewable energy credit through the Board  
30 of Public Utilities. Both the special assessment payments and the  
31 solar renewable energy credits shall be assigned by the municipality  
32 and the homeowner to the New Jersey Economic Development  
33 Authority, and the proceeds from the assessments and the sale of  
34 the solar renewable energy credits shall be used by New Jersey  
35 Economic Development Authority to pay bondholders and to  
36 provide financial incentives to municipalities to participate in the  
37 “Municipal Solar Energy Financing Program.”

38 c. In consultation with the Board of Public Utilities, the New  
39 Jersey Economic Development Authority shall appoint an  
40 administrator for the “New Jersey Property Assessment Clean  
41 Energy (NJ PACE) Municipal Financing Program,” to manage all  
42 public bids for sales of solar energy systems; applications from  
43 municipalities to participate in the program; assignments of solar  
44 renewable energy credits to the authority from participating  
45 homeowners; assignments of special assessment payments to the

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 New Jersey Economic Development Authority from municipalities;  
2 contracts between vendors, municipalities, and homeowners;  
3 promotion of the program through an Internet web site, local media  
4 outlets, and materials sent to municipal governing bodies; quality  
5 management at each step in the program, and establishment of best  
6 practices for municipalities who wish to participate; and any other  
7 responsibilities which the authority deems appropriate.

8 d. The New Jersey Economic Development Authority shall  
9 coordinate efforts with the Board of Public Utilities to ensure that  
10 the amount of financing made available for the program through the  
11 authority, and the allocation of those funds among participating  
12 municipalities, is in accordance with limits set from time to time by  
13 the Board of Public Utilities, and to otherwise ensure that the NJ  
14 PACE program furthers the goals of the Office of Clean Energy in  
15 the Board of Public Utilities.

16

17 3. (New section) The New Jersey Economic Development  
18 Authority shall adopt, pursuant to the "Administrative Procedure  
19 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and in consultation with  
20 the Board of Public Utilities, any rules and regulations necessary to  
21 effectuate the purposes of P.L. , c. (C. ) (pending before the  
22 Legislature as this bill).

23

24 4. R.S.40:56-1 is amended to read as follows:

25 40:56-1. A local improvement is one, the cost of which, or a  
26 portion thereof, may be assessed upon the lands in the vicinity  
27 thereof benefited thereby.

28 Any municipality may undertake any of the following works as a  
29 local improvement; and the governing body thereof may make,  
30 amend, repeal and enforce ordinances for carrying into effect all  
31 powers granted in this section:

32 a. The laying out, opening or establishing of a new street,  
33 alley, or other public highway, or portion thereof.

34 b. The widening, straightening, extension, alteration or  
35 changing in any manner of the location of a street, alley or other  
36 public highway, or portion thereof.

37 c. The grading or alteration of the grade of a street, alley or  
38 other public highway, or portion thereof.

39 d. The paving, repaving, or otherwise improving or  
40 reimproving a street, alley or other public highway, or portion  
41 thereof.

42 e. The curbing or recurbing, guttering or reguttering of a  
43 sidewalk in, upon, or along a street, alley or other public highway,  
44 or portion thereof.

45 f. The construction, reconstruction, improvement and  
46 reimprovement of bridges and viaducts.

- 1 g. The construction, reconstruction, improvement,  
2 reimprovement or relocation of a public walk or driveway on any  
3 beach, or along the ocean or any river or other waterway.
- 4 h. The improvement or reimprovement of any beach or water  
5 front, and the providing of suitable protection to prevent damage to  
6 lands or property by the ocean or other waters, including the filing  
7 in and grading necessary for the protection of such improvements.
- 8 i. The construction, reconstruction, enlargement or extension  
9 of a sewer or drain in, under or along a street, alley or public  
10 highway, or portion thereof, or in, under or along any public or  
11 private lands; the construction, reconstruction, enlargement or  
12 extension of a system of sewerage or drainage or both combined;  
13 the construction, reconstruction, enlargement or extension of a  
14 system of drainage of the marshes and wet lowlands within the  
15 municipality; the construction, reconstruction, enlargement or  
16 alteration of a system of works for the sanitary disposal of sewage  
17 or drainage.
- 18 j. The installation of service connections to a system of water,  
19 gas, light, heat or power works owned by a municipality or  
20 otherwise, including all such works as may be necessary for  
21 supplying water, gas, light, heat or power to real estate for whose  
22 benefit such services are provided; service connections including  
23 the laying, construction or placing of mains, conduits or cables in,  
24 under or along a street, alley or other public highway or portion  
25 thereof.
- 26 k. The construction, reconstruction, enlargement or extension  
27 of any water main or other works for the distribution of water  
28 supplied by the State or any of its political subdivisions, or any  
29 public agency of any of the same.
- 30 l. The installation of such lighting standards, appliances and  
31 appurtenances as may be required for the brilliant illumination of  
32 the streets in those parts of the municipality where the governing  
33 body of the municipality may deem it necessary or proper to  
34 establish what is commonly called a "white way."
- 35 m. The widening, deepening or improvement of any stream,  
36 creek, river or other waterway.
- 37 n. The removal of obstructions in, and the constructing,  
38 reconstructing, enlarging or extending of any waterway, of  
39 enclosing walls, or of a pipe or conduit or any brook or  
40 watercourse, or part of same.
- 41 o. The defining of the location and the establishment of widths,  
42 grades and elevations of any stream, creek, river or other waterway,  
43 and the preventing of encroachments upon the same.
- 44 p. The reclaiming, filling and improving and bulkheading and  
45 filling in lands lying under tidal or other water, in whole or in part,  
46 within the municipality; the reclaiming or filling or bulkheading  
47 and filling those lands or lands adjacent to such reclaimed or filled  
48 lands; to dredge channels or improve harbor approaches in the

1 waters abounding the lands to be reclaimed, filled and improved, or  
2 bulkheaded and filled; provided, the approval of the Planning and  
3 Development Council of the Division of Planning and Development  
4 in the Department of Conservation and Economic Development of  
5 the State of New Jersey, and when necessary, the permission of the  
6 Federal authorities in charge of the district port in which the  
7 improvements are proposed to be made, to improve and dredge  
8 channels and construct and improve the harbor approaches to those  
9 lands, shall be first had and obtained.

10 q. The financing of, and contracting for, the installation on  
11 private property, or in the case of community renewable energy  
12 projects, on public or private property or a combination of both, of  
13 renewable energy systems and energy efficiency improvements  
14 approved by the Board of Public Utilities, provided that in the case  
15 of improvements on a private property, such improvements shall be  
16 undertaken solely at the request of the property owner, and that in  
17 the case of community renewable energy projects, such  
18 improvements shall be undertaken solely at the request or consent  
19 of all participating property owners.

20 The governing body may enter into agreements with the Federal  
21 Government for reimbursement to the municipality for all or a  
22 portion of the cost of dredging channels or improving harbor  
23 approaches in waters under the jurisdiction of the Federal  
24 Government.

25 If any portion of the amount assessed against the lands within the  
26 municipality for the improvement shall be reimbursed to the  
27 municipality by the Federal Government after the assessment has  
28 been made, then a credit shall be made on each assessment levied in  
29 proportion to the amount so received from the Federal Government;  
30 provided, the amount received by the municipality from the Federal  
31 Government shall be in excess of the amount fixed in the  
32 assessment to be borne by the municipality at large. If any portion  
33 of the land included within lands benefited or improved by any  
34 work done in connection with the reclaiming, filling or bulkheading  
35 and filling shall be riparian lands or lands under water, for which  
36 the riparian grant has not theretofore been made by the State, the  
37 municipal board or body authorized to make assessments for  
38 improvements in accordance with this subtitle may include in any  
39 such assessment a prospective assessment against the riparian lands  
40 or lands under water, and a copy of such prospective assessment  
41 shall be filed with the Planning and Development Council of the  
42 Division of Planning and Development in the Department of  
43 Conservation and Economic Development of the State of New  
44 Jersey and shall be a part of the records of that council. Upon the  
45 sale or grant by the State of the riparian rights to any such lands for  
46 which a prospective assessment has been filed with the council, the  
47 amount of such prospective assessment together with interest at the  
48 rate of five per centum (5%) per annum from the time of the

1 confirmation of the assessment for the improvement shall be  
2 included by said Planning and Development Council in the purchase  
3 price fixed for such lands and made a part of the payment for the  
4 grant, and the amount of the assessment with interest, when paid,  
5 shall be turned over by said Planning and Development Council to  
6 the municipality making the assessment. Such prospective  
7 assessment shall also be included in the general assessment for and  
8 against any such riparian lands or lands under water for which an  
9 annual rental or fee is being charged or collected by said Planning  
10 and Development Council under any agreement by which the fee of  
11 any such riparian lands is passed, and when the fee does so pass by  
12 grant from the State the prospective assessment shall become  
13 immediately due and payable, together with interest thereon at the  
14 rate of five per centum (5%) per annum from the time of the  
15 confirmation of the assessment for the improvement and the  
16 assessment shall become a lien upon those lands until paid and shall  
17 be collectible as other liens for public improvements in the  
18 municipality. Should said Planning and Development Council lease  
19 for a term of years any such riparian lands or lands under water,  
20 included within lands benefited or improved by any work done in  
21 connection with the reclaiming, filling or bulkheading and filling, it  
22 shall include in the annual rental to be charged therefor one-tenth of  
23 the amount of the prospective assessment for each year of the term  
24 not exceeding ten years until the prospective assessment and the  
25 interest thereon at the rate of five per centum (5%) per annum from  
26 the time of confirmation of the assessment for the improvement,  
27 shall be paid. If the lease shall be for a period less than ten years,  
28 such provision shall be contained in any and all extensions and  
29 renewals thereof, or in any new leases until the full prospective  
30 assessment with such interest shall have been paid. Nothing  
31 contained in this subparagraph shall apply to lands owned by a  
32 company whose rates are subject to regulation by the Board of  
33 Public Utility Commissioners.

34 Whenever convenient more than one of the works provided for in  
35 this section may be carried on as one improvement. Any  
36 municipality may undertake any or all of the works mentioned in  
37 this section as a general improvement to be paid for by general  
38 taxation, and any municipality may provide for the maintenance,  
39 repair and operation of any or all of said works by taxation whether  
40 the same are undertaken as local or general improvements.

41 (cf: P.L.1951, c.175, s.1)

42

43 5. R.S.40:56-3 is amended to read as follows:

44 40:56-3. The governing body of a municipality may undertake  
45 any improvement mentioned in this chapter at the request of a  
46 number of petitioners who shall agree to pay the cost of the  
47 improvement and all expenses incidental thereto, and any other  
48 charge imposed by the governing body. The petitioners shall file

1 with the governing body a statement showing the improvement  
2 desired, the real estate owned by each of them, and the proportion  
3 of cost each is willing to pay. The statement shall be verified by  
4 each of the petitioners and, before any such work or improvement is  
5 commenced, the petitioners shall enter into bond with sufficient  
6 surety to the municipality in double the amount of the cost of the  
7 improvement as estimated by the engineer of the municipality  
8 conditioned for the prompt payment of the cost of the improvement  
9 and all expenses incidental thereto and charges imposed. The  
10 governing body may require further security for such payment as it  
11 may deem advisable, and when so secured may proceed to make the  
12 improvement. Upon the completion thereof the governing body  
13 shall determine the cost and expense thereof and cause the same to  
14 be collected from the petitioners. Notwithstanding the provisions of  
15 this section, in the case of community renewable energy projects  
16 pursuant to subsection q. of R.S.40:56-1, the amount of any bond or  
17 other security, if any, shall be as provided by regulation of the Board  
18 of Public Utilities.

19 Whenever an owner of land in this State is desirous of improving  
20 same by the installation of utilities, sidewalks, curbs, street paving  
21 and any other improvement and the municipality wherein the land is  
22 located desires assurance of completion of such improvement, such  
23 municipality is hereby authorized to accept a cash deposit from said  
24 owner, conditioned upon the completion of said improvement or  
25 improvements to the satisfaction of, and within the time set by the  
26 governing body of such municipality. Upon such completion, the  
27 municipality shall return said cash deposit to the owner of said land.  
28 Upon failure to complete to the satisfaction of the municipality, the  
29 municipality may complete said improvement or improvements,  
30 using the monies so deposited, or so much thereof as is necessary  
31 for such purpose, returning the balance of said deposit, if any, to the  
32 owner of such land so improved. Such cash deposit shall be used  
33 for no other purpose. The municipality is further authorized to  
34 enter into such contracts, stipulations or agreements with said  
35 owner as are necessary and proper to carry out the purpose of this  
36 act.

37 Nothing in this act contained shall prevent a municipality from  
38 accepting bonds or other surety under like circumstances, and  
39 nothing herein shall be construed to, in any way, limit the powers of  
40 a municipality as they now exist, it being intended that the authority  
41 herein granted is supplementary and in addition to rights and  
42 powers presently possessed by municipalities.

43 (cf: P.L.1941, c.242, s.1)

44

45 6. R.S.40:56-6 is amended to read as follows:

46 40:56-6. Whenever the governing body shall pass an ordinance  
47 for making any local improvement all further acts and proceedings  
48 necessary to carry out and complete the same and the work thereof

1 and all orders relating thereto may be by resolution. To authorize  
2 local improvements pursuant to subsection q. of R.S.40:56-1, a  
3 governing body shall adopt a single ordinance authorizing the  
4 financing of, and contracting for, such improvements by the  
5 municipality. Subsequent specific authorizations of such  
6 improvements on individual properties or, in the case of community  
7 renewable energy projects, on or benefiting groups of properties, and  
8 all further acts and proceedings necessary to carry out and complete  
9 the same and the work thereof and all orders relating thereto may be  
10 by resolution. Each such improvement on an individual property, and  
11 each separate community renewable energy project, shall be deemed to  
12 constitute a separate local improvement, and shall be assessed  
13 separately to the property owner or, in the case of community  
14 renewable energy projects, jointly to the property owners benefited  
15 thereby.

16 (cf: R.S.40:56-6)

17

18 7. R.S.40:56-7 is amended to read as follows:

19 40:56-7. Any municipality may purchase, condemn, or  
20 otherwise acquire any real estate or right or interest therein, useful  
21 or necessary for the making of such improvement, located within or  
22 without the municipality, and any personal property, useful or  
23 necessary therefor, may hire and employ all such engineers,  
24 surveyors, officers and employees; construct or cause to be  
25 constructed any work or thing deemed necessary for the making of  
26 any such improvement; enter into any contract or agreement for the  
27 acquisition of any such property or the construction of any such  
28 work, and do all other acts necessary to carry on, complete,  
29 maintain and operate any such improvement. Nothing contained  
30 herein shall be interpreted to authorize any municipality to condemn  
31 or otherwise acquire by means of eminent domain any real estate or  
32 right or interest therein with respect to an improvement pursuant to  
33 subsection q. of R.S.40:56-1.

34 (cf: R.S.40:56-7)

35

36 8. R.S.40:56-8 is amended to read as follows:

37 Any municipality may acquire by purchase or condemnation any  
38 property or works mentioned in this article and in sections 1 through  
39 3 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
40 which at the time of such purchase or condemnation is privately  
41 owned or operated, and assessments for benefits accruing therefrom  
42 may be made and levied upon the lands benefited thereby.

43 (cf: R.S.40:56-8)

44

45 9. R.S.40:56-11 is amended to read as follows:

46 R.S.40:56-11. All work or any portion thereof in connection  
47 with any local or general improvement, including any work done  
48 pursuant to sections 1 through 3 of P.L. , c. (C. ) (pending

1 before the Legislature as this bill) and subsection q. of R.S.40:56-1,  
2 may be done either by the municipality or by contract awarded to  
3 the lowest responsible bidder. Advertisements for bids for the  
4 doing of any such work shall be published and the bids shall be  
5 received and the contract awarded in each municipality in  
6 accordance with the provisions of chapter 50 of this title (s. 40:50-  
7 1 et seq.). Notwithstanding any section of law to the contrary,  
8 awards of contracts for improvements described in sections 1  
9 through 3 of P.L. , c. (C. ) (pending before the Legislature as  
10 this bill) and subsection q. of R.S.40:56-1 shall be made in  
11 accordance with such bidding or other requisition process as shall  
12 be established by regulation of the Board of Public Utilities.  
13 (cf: R.S.40:56-11)

14

15 10. R.S.40:56-21 is amended to read as follows:

16 R.S.40:56-21. All assessments for benefits for local  
17 improvements under this chapter shall be made by the officer or  
18 board charged with the duty of making general assessments of taxes  
19 in the municipality, except where there is provided by law a board  
20 for the making of all such assessments, in which case all  
21 assessments shall be made by such board.

22 The governing body of every municipality in which no board is  
23 provided by law for the making of all assessments for benefits  
24 accruing from local improvements may by ordinance create a  
25 general board for that purpose, which board shall thereafter make  
26 all such assessments. Notwithstanding this provision, all  
27 assessments for benefits accruing from local improvements pursuant to  
28 subsection q. of R.S.40:56-1 shall be made by the governing body, or  
29 by such other board as the governing body shall designate in the  
30 ordinance authorizing such improvements.

31 (cf: R.S.40:56-21)

32

33 11. R.S.40:56-30 is amended to read as follows:

34 R.S.40:56-30. Except as provided in article 4 of this chapter (s.  
35 40:56-58 et seq.) as to cities of the first class, assessments for  
36 benefits for local improvement together with any accompanying  
37 awards for incidental damages and all awards of damages for real  
38 estate or interests therein taken for any improvement, shall, except  
39 as provided in sections 40:56-42 to 40:56-51 of this title, be  
40 certified by the officer, board or commissioners making the same to  
41 the governing body of the municipality by a report in writing signed  
42 by the officer, or a majority of the board or commissioners making  
43 the said assessment or award for damages or incidental damages.  
44 The report shall be accompanied by a map showing the real estate  
45 taken, damaged or benefited by the improvement and for which  
46 damages or benefits have been assessed; provided that no map shall  
47 be required with respect to improvements to individual properties  
48 pursuant to subsection q. of R.S.40:56-1.



1 The report may be considered by the governing body at any  
2 meeting thereof, of which at least two weeks' previous notice shall  
3 have been given by the municipal clerk, or by an officer designated  
4 as aforesaid by the governing body, posted in five public places in  
5 the municipality, or published in a newspaper circulating therein,  
6 once in each week for two weeks prior to the meeting, as the  
7 governing body may direct, and also by mailing a copy of the notice  
8 to the owner or owners named in the report, directed to his or their  
9 last known post-office addresses, and the affidavit of said clerk or  
10 other designated official shall be conclusive as to such mailing.  
11 Notwithstanding this provision, notice with respect to improvements  
12 pursuant to subsection q. of R.S.40:56-1 shall be made at least 10 days  
13 before the meeting by posting notice of the meeting on the section of  
14 the municipality's official website that concerns improvements  
15 pursuant to subsection q. of R.S.40:56-1, and by mailing the notice by  
16 first-class mail to the post office address specified by the property  
17 owner for the receipt of notices and other communications relating to  
18 the improvement. The notice shall briefly state the object of the  
19 meeting with reference to the assessment. At that or any  
20 subsequent meeting the governing body after considering the report  
21 and map may adopt and confirm the same with or without  
22 alterations, as to them may seem proper, and may refer the matter to  
23 any committee of its own body, or to the officer or board making  
24 such assessment, for revision or correction before taking final  
25 action upon it.

26 When the report shall be adopted and confirmed with or without  
27 alterations it shall be final and conclusive and appeals may be taken  
28 as hereinafter provided in article 3 of this chapter (s. 40:56-54 et  
29 seq.).

30 Failure to mail the notice in this section required shall not  
31 invalidate the proceedings.  
32 (cf: R.S.40:56-30)

33

34 12. R.S.40:56-35 is amended to read as follows:

35 40:56-35. The governing body may by resolution provide that  
36 the owner of any real estate upon which any assessments for any  
37 improvement shall have been made may pay such assessments in  
38 such equal yearly or quarterly installments, not exceeding ten years  
39 in duration, except as hereinafter provided, with legal interest  
40 thereon, and at such time in each year as the governing body shall  
41 determine, but any person assessed may pay the whole of any  
42 assessment, or any balance of installments, with accrued interest  
43 thereon, at one time. If any such installment shall remain unpaid  
44 for 30 days after the time when the same shall have become due,  
45 either:

46 a. the whole assessment or balance due thereon shall become  
47 and be immediately due, shall draw interest at the rate imposed  
48 upon the arrearage of taxes in such municipality and be collected in

1 the same manner as is provided by this subtitle for other past due  
2 assessments; or

3 b. the governing body may, by resolution, permit any person  
4 who is delinquent in the payment of such an installment to pay only  
5 the amount of the delinquent payment and any interest on the  
6 delinquent payment that has accrued from the date that the  
7 installment was due and payable until the date that payment of the  
8 delinquent installment is made. After the delinquent installment is  
9 satisfied, the person assessed shall be reinstated on a regular  
10 installment payment schedule.

11 Whenever any owner shall be given the privilege of paying any  
12 assessment in installments such assessment shall remain a lien upon  
13 the land described therein until the same with all installments and  
14 accrued interest thereon shall be paid, and no proceedings to collect  
15 or enforce the same need be taken until default shall be made in the  
16 payment of any installment as hereinbefore in this subtitle provided.

17 In any municipality which is constructing a local improvement  
18 with funds secured from the Federal Government, through the  
19 public works administration, under the terms of the national  
20 recovery act, the governing body may provide that the assessments  
21 may be payable in yearly or quarterly installments, with legal  
22 interest thereon, over a period of years up to but in no event  
23 exceeding the term of years for which the funds therefor are  
24 borrowed from the Federal Government, and at such time in each  
25 year as the governing body shall determine. The governing body  
26 may fix the yearly installments in such amounts as in its opinion are  
27 equitable and just.

28 In any municipality in which the local improvement is being  
29 financed by the sale of bonds, the governing body may provide that  
30 the assessments may be payable in yearly or quarterly installments,  
31 with legal interest thereon, over a period of years up to but in no  
32 event exceeding the period of years for which the bonds were  
33 issued, or for 20 years, whichever shall be less, and at such time in  
34 each year as the governing body shall determine. The governing  
35 body may fix the yearly installments in such amounts as in its  
36 opinion are equitable and just.

37 Notwithstanding this provision, in the case of improvements made  
38 pursuant to subsection q. of R.S.40:56-1, the assessment shall be  
39 payable in quarterly installments. The term of the assessment and the  
40 interest to be charged thereon shall be in accordance with the terms of  
41 the financing provided to the municipality by the New Jersey  
42 Economic Development Authority or as otherwise may be provided by  
43 regulation of the Board of Public Utilities.

44 (cf: P.L.1997, c.5, s.1)

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46 13. This act shall take effect immediately.

STATEMENT

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This bill establishes the “New Jersey Property Assessment Clean Energy (NJ PACE) Municipal Financing Program” in the New Jersey Economic Development Authority (NJEDA) and the New Jersey Board of Public Utilities (BPU). This program is intended to provide financing for municipalities that wish to facilitate the purchase of renewable energy systems or energy efficiency improvements by individual property owners or by groups of property owners who wish to participate jointly in a community renewable energy project.

To implement the program, the New Jersey Economic Development Authority would establish low-cost sources of financing, such as qualified energy conservation bonds and investment from public utilities and private capital sources, to finance the purchase of renewable energy systems and energy efficiency improvements by property owners in participating municipalities.

Municipalities that choose to establish a program to utilize the special-assessment financing mechanism afforded by R.S.40:56-1 et seq. to facilitate the purchase of renewable energy systems and energy efficiency improvements by its property owners would apply to the BPU to participate in the program. Participating municipalities would be eligible to borrow funds from the NJEDA for use in financing the purchase and installation, by its property owners, of renewable energy systems and energy efficiency improvements. The loan for the purchase of the renewable energy systems and energy efficiency improvements energy systems would be secured by a special assessment on the improved property in the case of an individual project. In the case of community renewable energy projects, the loaned funds would be secured by a special assessment on all properties benefited by the improvement, in proportion to the benefit they receive. Payment on the loaned funds would be collected quarterly by the municipality, with interest at a rate determined by the BPU and the NJEDA. In the case of improvements that include solar energy systems, property owners would also receive a solar renewable energy credit through the BPU. Those solar renewable energy credits would be assigned by the property owner to the municipality in repayment of a portion of the funds borrowed from the municipality. The municipality, in turn, would assign the solar renewable energy credits and the proceeds from the payments of the special assessments to the NJEDA. Proceeds from the sale of the solar renewable energy credits and the special assessment payments received from the municipalities would be used by NJEDA to pay bondholders and other utility or private investors, and may be used to provide financial incentives to municipalities to participate in the “New

1 Jersey Property Assessment Clean Energy (NJ PACE) Municipal  
2 Financing Program.”

3 Finally, the bill requires the BPU to appoint a manager to  
4 manage all of the logistics of the “NJ PACE Municipal Financing  
5 Program.” The NJEDA and BPU would coordinate to promulgate  
6 any rules and regulations necessary to effectuate the purposes of the  
7 program.

# SENATE ENVIRONMENT AND ENERGY COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1406**

# **STATE OF NEW JERSEY**

DATED: JUNE 3, 2010

The Senate Environment and Energy Committee favorably reports a committee substitute for Senate Bill No. 1406.

This committee substitute would establish the “New Jersey Property Assessment Clean Energy (NJ PACE) Municipal Financing Program.” This program would provide financing to municipalities by the New Jersey Economic Development Authority (NJEDA), and would authorize the issuance of municipal bonds and county improvement authority bonds, to facilitate the purchase of renewable energy systems or energy efficiency improvements by individual property owners. The New Jersey Economic Development Authority would establish low-cost sources of financing to finance the purchase of renewable energy systems and energy efficiency improvements by property owners in participating municipalities. In addition, the bill authorizes municipalities and local improvement authorities to issue bonds to finance loans to property owners to finance the improvements. In order to facilitate the repayment of the loan, the bill authorizes municipalities to impose a special assessment on property. The loan for the purchase of the renewable energy systems and energy efficiency improvements would be secured by the special assessment on the improved property. Payment on the loaned funds would be collected quarterly by the municipality. In the case of improvements that include renewable energy systems, any renewable energy credits may be assigned by the property owner to repay the loan.

The bill requires the BPU to appoint an administrator to manage the program. The administrator would manage the issuance of the NJEDA bonds, applications from municipalities to participate in the program, loan agreements with municipalities that participate in the program, the sale of solar renewable energy certificates from participating homeowners, the assignment of special assessment payments to the New Jersey Economic Development Authority from municipalities, promotion of the program, and any other responsibilities which the authority deems appropriate. The administrator would also establish best practices for municipalities that participate in the program. Finally, the bill provides that the NJEDA,

in consultation with the Board of Public Utilities, may adopt any rules and regulations necessary to implement the program.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1406**

# **STATE OF NEW JERSEY**

DATED: JUNE 27, 2011

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1406 (SCS).

This bill would establish the “New Jersey Property Assessment Clean Energy (NJ PACE) Municipal Financing Program.” This program would provide financing to municipalities by the New Jersey Economic Development Authority (NJEDA), and would authorize the issuance of municipal bonds and county improvement authority bonds, to facilitate the purchase of renewable energy systems or energy efficiency improvements by individual property owners. The New Jersey Economic Development Authority would establish low-cost sources of financing to finance the purchase of renewable energy systems and energy efficiency improvements by property owners in participating municipalities. In addition, the bill authorizes municipalities and local improvement authorities to issue bonds to finance loans to property owners to finance the improvements. In order to facilitate the repayment of the loan, the bill authorizes municipalities to impose a special assessment on property. The loan for the purchase of the renewable energy systems and energy efficiency improvements would be secured by the special assessment on the improved property. Payment on the loaned funds would be collected quarterly by the municipality. In the case of improvements that include renewable energy systems, any renewable energy credits may be assigned by the property owner to repay the loan.

The bill requires the NJEDA to appoint an administrator to manage the program. The administrator would manage the issuance of the NJEDA bonds, applications from municipalities to participate in the program, loan agreements with municipalities that participate in the program, the sale of solar renewable energy certificates from participating homeowners, the assignment of special assessment payments to the New Jersey Economic Development Authority from municipalities, promotion of the program, and any other responsibilities which the authority deems appropriate. The administrator would also establish best practices for municipalities that participate in the program. Finally, the bill provides that the NJEDA,

in consultation with the Board of Public Utilities, may adopt any rules and regulations necessary to implement the program.



**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE COMMITTEE SUBSTITUTE FOR**  
**SENATE, No. 1406**  
**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

DATED: JULY 6, 2011

**SUMMARY**

- Synopsis:** Establishes “New Jersey Property Assessment Clean Energy (NJ PACE) Municipal Financing Program.
- Type of Impact:** Indeterminate net impact on State revenues and expenditures.  
 Indeterminate net impact on local revenues and expenditures.
- Agencies Affected:** New Jersey Economic Development Authority, Board of Public Utilities, counties, and municipalities.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Finances</b>	Indeterminate Net Fiscal Impact – See comments below		
<b>Local Revenue</b>	Indeterminate Net Fiscal Impact – See comments below		

- The enactment of the Senate Committee Substitute for Senate Bill No. 1406 will have an indeterminate net impact on State and local finances. The Office of Legislative Services notes that the bill is permissive, so no municipality is required to join the NJ PACE Municipal Financing Program.
- The NJ PACE Municipal Financing Program is designed to be self-liquidating because the principal and interest on bonds issued to finance the purchase of renewable energy systems and energy efficiency improvements would be paid by revenues generated through a special assessment on the improved property.
- Municipalities may be required to expend general revenues to provide for the repayment of bonds or loans in the event that a property owner fails to make required payments of the special assessment.

**BILL DESCRIPTION**

The Senate Committee Substitute for Senate Bill No. 1406 of 2011 would establish the “New Jersey Property Assessment Clean Energy (NJ PACE) Municipal Financing Program.” This

program would provide financing to municipalities by either the New Jersey Economic Development Authority (NJEDA) or by a county improvement authority. It would also authorize the issuance of municipal bonds and county improvement authority bonds to facilitate the purchase of renewable energy systems or energy efficiency improvements by individual property owners. The NJEDA would establish low-cost sources of financing for the purchase of renewable energy systems and energy efficiency improvements by property owners in participating municipalities. In addition, the bill authorizes municipalities to issue their own bonds to finance loans to property owners to finance the improvements. In order to facilitate the repayment of the loan, the bill authorizes municipalities to impose a special assessment on the improved property. Payment on the loaned funds would be collected quarterly by the municipality. In the case of improvements that include renewable energy systems, any renewable energy credits may be assigned by the property owner to help repay the loan.

The bill also requires the NJEDA to establish and maintain a special revolving fund, to be known as the “Renewable Energy and Energy Efficiency Loan Fund,” which would be credited with: (1) moneys derived from the issuance of bonds by the NJEDA for the purchase of renewable energy systems and energy efficiency improvements; (2) any interest or other investment income earned on moneys in the fund; (3) any moneys made available from private capital sources for the purposes of the program; (4) moneys derived from the sale of solar renewable energy certificates or other renewable energy credits assigned to the authority pursuant to section 7 of the committee substitute; and (5) any other moneys made available for the purposes of the fund.

The NJEDA must also appoint a program administrator to manage all facets of the program and establish best practices for participating municipalities. Finally, the NJEDA is permitted to adopt rules and regulations to: (1) set additional conditions for the loan agreements between the NJEDA and participating municipalities and (2) in consultation with the Board of Public Utilities, establish any rules and regulations necessary to implement the program.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The enactment of the Senate Committee Substitute for Senate Bill No. 1406 of 2011 will have an indeterminate impact on NJEDA expenditures and municipal revenues and expenditures. The NJEDA may incur additional costs associated with the establishment of the “New Jersey Property Assessment Clean Energy (NJ PACE) Municipal Financing Program.” For example, the bill requires the NJEDA to appoint a program administrator to manage all facets of the program and establish best practices for municipalities that participate in the program. It is possible, but not certain, that fees charged by the NJEDA to municipalities for opting to obtain financing from the program will offset these costs.

Under the substitute, a municipality would be permitted to issue bonds, or borrow funds from the NJEDA or a county improvement authority, to finance loans to property owners to acquire and install renewable energy systems and energy efficiency improvements. The issuance of municipal debt must be authorized by an ordinance adopted by a two-thirds vote of the full

membership of the governing body and approved by the mayor (as is necessary in the specific form of government). The loans would be secured by the payment of a special assessment on the improved property. Special assessments would be paid quarterly and assigned to the agency that issued the bonds or provided the financing for the renewable energy improvements.

While the substitute provides for a financing mechanism under which costs are born only by property owners benefitting from energy improvements, municipalities may be required to expend general revenues to provide for the repayment of bonds or loans in the event that a property owner fails to make required payments of the special assessment. In most cases, a municipality should be able to recover its costs through enforcement of its lien against the property owner under general law.

*Section: Local Government*

*Analyst: Scott A. Brodsky  
Senior Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY TELECOMMUNICATIONS AND UTILITIES  
COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 1406**

**STATE OF NEW JERSEY**

DATED: NOVEMBER 21, 2011

The Assembly Telecommunications and Utilities Committee reports favorably Senate Bill No. 1406 (SCS).

As reported, this committee substitute would establish the “New Jersey Property Assessment Clean Energy (NJ PACE) Municipal Financing Program.” This program would provide financing to municipalities by the New Jersey Economic Development Authority (NJEDA), and would authorize the issuance of municipal bonds and county improvement authority bonds, to facilitate the purchase of renewable energy systems or energy efficiency improvements by individual property owners. The New Jersey Economic Development Authority would establish low-cost sources of financing to finance the purchase of renewable energy systems and energy efficiency improvements by property owners in participating municipalities. In addition, the bill authorizes municipalities and local improvement authorities to issue bonds to finance loans to property owners to finance the improvements. In order to facilitate the repayment of the loan, the bill authorizes municipalities to impose a special assessment on property. The loan for the purchase of the renewable energy systems and energy efficiency improvements would be secured by the special assessment on the improved property. Payment on the loaned funds would be collected quarterly by the municipality. In the case of improvements that include renewable energy systems, any renewable energy credits may be assigned by the property owner to repay the loan.

The bill requires the BPU to appoint an administrator to manage the program. The administrator would manage the issuance of the NJEDA bonds, applications from municipalities to participate in the program, loan agreements with municipalities that participate in the program, the sale of solar renewable energy certificates from participating homeowners, the assignment of special assessment payments to the New Jersey Economic Development Authority from municipalities, promotion of the program, and any other responsibilities which the authority deems appropriate. The administrator would also establish best practices for municipalities that

participate in the program. Finally, the bill provides that the NJEDA, in consultation with the Board of Public Utilities, may adopt any rules and regulations necessary to implement the program.

This bill would establish the “New Jersey Property Assessment Clean Energy (NJ PACE) Municipal Financing Program.” This program would provide financing to municipalities by the New Jersey Economic Development Authority (NJEDA), and would authorize the issuance of municipal bonds and county improvement authority bonds, to facilitate the purchase of renewable energy systems or energy efficiency improvements by individual property owners. The New Jersey Economic Development Authority would establish low-cost sources of financing to finance the purchase of renewable energy systems and energy efficiency improvements by property owners in participating municipalities. In addition, the bill authorizes municipalities and local improvement authorities to issue bonds to finance loans to property owners to finance the improvements. In order to facilitate the repayment of the loan, the bill authorizes municipalities to impose a special assessment on property. The loan for the purchase of the renewable energy systems and energy efficiency improvements would be secured by the special assessment on the improved property. Payment on the loaned funds would be collected quarterly by the municipality. In the case of improvements that include renewable energy systems, any renewable energy credits may be assigned by the property owner to repay the loan.

The bill requires the NJEDA to appoint an administrator to manage the program. The administrator would manage the issuance of the NJEDA bonds, applications from municipalities to participate in the program, loan agreements with municipalities that participate in the program, the sale of solar renewable energy certificates from participating homeowners, the assignment of special assessment payments to the New Jersey Economic Development Authority from municipalities, promotion of the program, and any other responsibilities which the authority deems appropriate. The administrator would also establish best practices for municipalities that participate in the program. Finally, the bill provides that the NJEDA, in consultation with the Board of Public Utilities, may adopt any rules and regulations necessary to implement the program.

As reported by the committee, Senate Bill No. 1406 (SCS) is identical to Assembly Bill No. 2502 (ACS) which was also reported by the committee on this date.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1406**

# **STATE OF NEW JERSEY**

DATED: DECEMBER 8, 2011

The Assembly Appropriations Committee reports favorably Senate Bill No. 1406 (SCS).

This bill establishes the "New Jersey Property Assessment Clean Energy (NJ PACE) Municipal Financing Program." The bill authorizes certain types of financing for the purchase and installation of renewable energy systems and energy efficient improvements (qualified energy systems and improvements) by property owners. The bill may be conceptualized into two components: the New Jersey Economic Development Authority (NJEDA) financing component and the municipal financing component.

As to the NJEDA component, the bill requires the NJEDA to establish low-cost sources of financing, such as renewable energy and conservation bonds and investment from private capital sources, to provide funding to municipalities that wish to finance the purchase of qualified energy systems and improvements to interested property owners. For purposes of providing that financing, the bill requires the NJEDA to establish a special revolving fund called the "Renewable Energy and Energy Efficiency Loan Fund." That fund is credited with: (1) moneys derived from bonds issued by the authority, pursuant to authority granted in this bill; (2) interest or investment income earned on fund balances; (3) private capital made available for the program; (4) solar renewable energy certificate (SREC) sale proceeds or other renewable energy credits assigned to the NJEDA pursuant to the program; and (5) any other moneys made available for the purposes of the fund. The bill authorizes the NJEDA to enter into loan agreements with municipalities to assist property owners with the financing of qualified energy systems and improvements and to assign the proceeds of a special assessment levied on the property to repay the financing. The bill gives the NJEDA rulemaking authority concerning the loan agreements.

The bill requires the NJEDA to appoint an administrator to manage the program. The bill specifies that the administrator shall manage the issuance of NJEDA bonds, municipal program applications, loan agreements with participating municipalities, the sale of SRECs from participating homeowners, the assignment of special assessment

payments to the NJEDA from municipalities, promotion of the program, and any other responsibilities which the NJEDA deems appropriate. The bill also directs the administrator to establish best practices for participating municipalities. The bill requires the NJEDA to coordinate with the Board of Public Utilities (BPU) to ensure that the amount of financing made available and allocated to municipalities through the NJEDA are in accordance with limits set by the BPU and that the program is in furtherance of the goals of the BPU's Office of Clean Energy. The bill grants the NJEDA, in consultation with the BPU, rulemaking authority to implement the bill.

The second component of the bill concerns municipal financing. The bill authorizes a municipality to adopt an ordinance to establish a program to finance qualified energy systems and improvements by property owners. The bill provides three potential funding sources for the financing: loan funds from NJEDA, bond proceeds from a county improvement authority issuance authorized under the bill, or bond proceeds authorized for issuance by the municipality under the bill. The bill requires that the financing for qualified energy systems and improvements extended to property owners be loaned in exchange for a special assessment on the property called the "clean energy special assessment." The special assessment is to be paid quarterly. The special assessment is to be used to repay the financing for the qualified energy systems and improvements, whether the financing was acquired through NJEDA bonds or other financing source, county improvement authority bonds, or municipal bonds. The bill also authorizes property owners to assign SREC sale proceeds or other renewable energy credits generated by the qualified energy systems and improvements to repay the financing for the qualified energy system and improvement.

The bill takes effect 120 days after the date of enactment but authorizes NJEDA to take anticipatory action for implementation.

**FISCAL IMPACT:**

According to the Office of Legislative Services' Fiscal Estimate for this bill, the bill may cause an indeterminate fiscal impact on State and local revenues and expenditures. Though the NJEDA role in implementation is mandatory, municipal participation in the financing program is optional. Based on municipal participation, the extent that NJEDA will have to engage in implementing activity will vary. There is potential that the NJEDA will offset all or a portion of its implementation costs via financing fees.

As to financing, the options allowed under the bill, including bond authority, are designed to be self-liquidating via special assessments on improved property. It may be noted that if a property owner fails to abide by the payment terms of the special assessment the municipality may be required to expend general revenues to repay financing.

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 1406**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

ADOPTED JUNE 3, 2010

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Senator CHRISTOPHER "KIP" BATEMAN**

**District 16 (Morris and Somerset)**

**Assemblyman UPENDRA J. CHIVUKULA**

**District 17 (Middlesex and Somerset)**

**Assemblyman WAYNE P. DEANGELO**

**District 14 (Mercer and Middlesex)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Camden)**

**Assemblyman REED GUSCIORA**

**District 15 (Mercer)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblyman PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Co-Sponsored by:**

**Senators A.R.Bucco, Weinberg, Cunningham, Codey, Ruiz, Ciesla,**  
**Assemblymen Prieto, Mainor, Assemblywoman Wagner, Assemblyman**  
**Johnson, Assemblywoman Jasey, Assemblymen Giblin, Ramos, Benson,**  
**Assemblywoman Riley and Assemblyman Wisniewski**

**SYNOPSIS**

Establishes "New Jersey Property Assessment Clean Energy (NJ PACE)  
Municipal Financing Program."

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Senate Environment and Energy Committee.

(Sponsorship Updated As Of: 12/16/2011)



1 AN ACT concerning the financing of renewable energy and energy  
2 efficiency systems, amending P.L.1974, c.80 and P.L.1960,  
3 c.183, and supplementing R.S.40:56-1 et seq. and various parts  
4 of the statutory law.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8

9 1. (New section) The New Jersey Economic Development  
10 Authority, in consultation with the Board of Public Utilities, shall  
11 establish the "New Jersey Property Assessment Clean Energy (NJ  
12 PACE) Municipal Financing Program" to provide financing for  
13 municipalities that wish to facilitate the purchase of renewable  
14 energy systems and energy efficiency improvements by property  
15 owners within the municipality.

16

17 2. (New section) a. To implement the program, the New Jersey  
18 Economic Development Authority shall establish low-cost sources  
19 of financing, such as renewable energy and conservation bonds and  
20 investment from private capital sources, to provide funding to  
21 municipalities that wish to finance the purchase of renewable  
22 energy systems and energy efficiency improvements to interested  
23 property owners. The authority shall establish and maintain a  
24 special revolving fund to be known as the "Renewable Energy and  
25 Energy Efficiency Loan Fund," which shall be credited with: (1)  
26 any moneys derived from bonds issued by the authority pursuant to  
27 subsection jj. of section 5 of P.L.1974, c.80 (C.34:1B-5); (2) any  
28 interest or other investment income earned on moneys in the fund;  
29 (3) any moneys made available from private capital sources for the  
30 purposes of the program; (4) moneys derived from the sale of solar  
31 renewable energy certificates or other renewably energy credits  
32 assigned to the authority pursuant to section 7 of P.L. , c. (C. )  
33 (pending before the Legislature as this bill); and (5) any other  
34 moneys made available for the purposes of the fund.

35 b. The authority may enter into loan agreements with any  
36 municipality that it deems eligible to participate in the NJ PACE  
37 program to enable the municipality to assist property owners to  
38 finance the cost of the purchase and installation of renewable  
39 energy systems and energy efficiency improvements on their  
40 property. Each loan agreement shall provide for the funding of one  
41 or more loans by the municipality to property owners within the  
42 municipality, each of which shall be covered by an individual  
43 financing agreement between the property owner and the  
44 municipality that provides for the assignment of the renewable  
45 energy special assessment imposed pursuant to section 6 of P.L. ,

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 c. (C. ) (pending before the Legislature as this bill). The  
2 authority may adopt rules and regulations pursuant to the  
3 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
4 seq.) establishing additional conditions for the loan agreements,  
5 including the terms of the financing agreement between the  
6 property owner and the municipality, the municipality's obligations  
7 to the authority, the procedures for repayment to the authority of  
8 moneys loaned to participating municipalities, and any other  
9 conditions the authority deems necessary.

10 c. As used in this section, "solar renewable energy certificate"  
11 shall have the same meaning as set forth in section 3 of P.L.1999,  
12 c.23 (C.48:3-51).

13

14 3. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read as  
15 follows:

16 5. The authority shall have the following powers:

17 a. To adopt bylaws for the regulation of its affairs and the  
18 conduct of its business;

19 b. To adopt and have a seal and to alter the same at pleasure;

20 c. To sue and be sued;

21 d. To acquire in the name of the authority by purchase or  
22 otherwise, on such terms and conditions and such manner as it may  
23 deem proper, or by the exercise of the power of eminent domain in  
24 the manner provided by the "Eminent Domain Act of 1971,"  
25 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or  
26 other property which it may determine is reasonably necessary for  
27 any project; provided, however, that the authority in connection  
28 with any project shall not take by exercise of the power of eminent  
29 domain any real property except upon consent thereto given by  
30 resolution of the governing body of the municipality in which such  
31 real property is located; and provided further that the authority shall  
32 be limited in its exercise of the power of eminent domain in  
33 connection with any project to municipalities receiving State aid  
34 under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to  
35 municipalities which had a population, according to the latest  
36 federal decennial census, in excess of 10,000;

37 e. To enter into contracts with a person upon such terms and  
38 conditions as the authority shall determine to be reasonable,  
39 including, but not limited to, reimbursement for the planning,  
40 designing, financing, construction, reconstruction, improvement,  
41 equipping, furnishing, operation and maintenance of the project and  
42 to pay or compromise any claims arising therefrom;

43 f. To establish and maintain reserve and insurance funds with  
44 respect to the financing of the project or the school facilities project  
45 and any project financed pursuant to the "Municipal Rehabilitation  
46 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et  
47 al.);

- 1 g. To sell, convey or lease to any person all or any portion of a  
2 project for such consideration and upon such terms as the authority  
3 may determine to be reasonable;
- 4 h. To mortgage, pledge or assign or otherwise encumber all or  
5 any portion of a project, or revenues, whenever it shall find such  
6 action to be in furtherance of the purposes of this act, P.L.2000,  
7 c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and  
8 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),  
9 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of  
10 P.L.2009, c.90 (C.52:27D-489c et al.);
- 11 i. To grant options to purchase or renew a lease for any of its  
12 projects on such terms as the authority may determine to be  
13 reasonable;
- 14 j. To contract for and to accept any gifts or grants or loans of  
15 funds or property or financial or other aid in any form from the  
16 United States of America or any agency or instrumentality thereof,  
17 or from the State or any agency, instrumentality or political  
18 subdivision thereof, or from any other source and to comply,  
19 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),  
20 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72  
21 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic  
22 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and  
23 P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and  
24 conditions thereof;
- 25 k. In connection with any application for assistance under  
26 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
27 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
28 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
29 (C.52:27BBB-1 et al.), or P.L.2007, c.137 (C.52:18A-235 et al.) or  
30 commitments therefor, to require and collect such fees and charges  
31 as the authority shall determine to be reasonable;
- 32 l. To adopt, amend and repeal regulations to carry out the  
33 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of  
34 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),  
35 the "Municipal Rehabilitation and Economic Recovery Act,"  
36 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137  
37 (C.52:18A-235 et al.);
- 38 m. To acquire, purchase, manage and operate, hold and dispose  
39 of real and personal property or interests therein, take assignments  
40 of rentals and leases and make and enter into all contracts, leases,  
41 agreements and arrangements necessary or incidental to the  
42 performance of its duties;
- 43 n. To purchase, acquire and take assignments of notes,  
44 mortgages and other forms of security and evidences of  
45 indebtedness;
- 46 o. To purchase, acquire, attach, seize, accept or take title to any  
47 project or school facilities project by conveyance or by foreclosure,

1 and sell, lease, manage or operate any project or school facilities  
2 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1  
3 et al.), the "Municipal Rehabilitation and Economic Recovery Act,"  
4 P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-  
5 235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-  
6 489c et al.);

7 p. To borrow money and to issue bonds of the authority and to  
8 provide for the rights of the holders thereof, as provided in  
9 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
10 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
11 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
12 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and  
13 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

14 q. To extend credit or make loans to any person for the  
15 planning, designing, acquiring, constructing, reconstructing,  
16 improving, equipping and furnishing of a project or school facilities  
17 project, which credits or loans may be secured by loan and security  
18 agreements, mortgages, leases and any other instruments, upon such  
19 terms and conditions as the authority shall deem reasonable,  
20 including provision for the establishment and maintenance of  
21 reserve and insurance funds, and to require the inclusion in any  
22 mortgage, lease, contract, loan and security agreement or other  
23 instrument, of such provisions for the construction, use, operation  
24 and maintenance and financing of a project or school facilities  
25 project as the authority may deem necessary or desirable;

26 r. To guarantee up to 90% of the amount of a loan to a person,  
27 if the proceeds of the loan are to be applied to the purchase and  
28 installation, in a building devoted to industrial or commercial  
29 purposes, or in an office building, of an energy improvement  
30 system;

31 s. To employ consulting engineers, architects, attorneys, real  
32 estate counselors, appraisers, and such other consultants and  
33 employees as may be required in the judgment of the redevelopment  
34 utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et  
35 seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72  
36 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic  
37 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,  
38 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,  
39 c.90 (C.52:27D-489c et al.), and to fix and pay their compensation  
40 from funds available to the redevelopment utility therefor, all  
41 without regard to the provisions of Title 11A of the New Jersey  
42 Statutes;

43 t. To do and perform any acts and things authorized by  
44 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
45 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
46 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
47 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and

- 1 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.),  
2 under, through or by means of its own officers, agents and  
3 employees, or by contract with any person;
- 4 u. To procure insurance against any losses in connection with  
5 its property, operations or assets in such amounts and from such  
6 insurers as it deems desirable;
- 7 v. To do any and all things necessary or convenient to carry out  
8 its purposes and exercise the powers given and granted in P.L.1974,  
9 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-  
10 4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
11 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
12 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and  
13 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);
- 14 w. To construct, reconstruct, rehabilitate, improve, alter, equip,  
15 maintain or repair or provide for the construction, reconstruction,  
16 improvement, alteration, equipping or maintenance or repair of any  
17 development property and lot, award and enter into construction  
18 contracts, purchase orders and other contracts with respect thereto,  
19 upon such terms and conditions as the authority shall determine to  
20 be reasonable, including, but not limited to, reimbursement for the  
21 planning, designing, financing, construction, reconstruction,  
22 improvement, equipping, furnishing, operation and maintenance of  
23 any such development property and the settlement of any claims  
24 arising therefrom and the establishment and maintenance of reserve  
25 funds with respect to the financing of such development property;
- 26 x. When authorized by the governing body of a municipality  
27 exercising jurisdiction over an urban growth zone, to construct,  
28 cause to be constructed or to provide financial assistance to projects  
29 in an urban growth zone which shall be exempt from the terms and  
30 requirements of the land use ordinances and regulations, including,  
31 but not limited to, the master plan and zoning ordinances, of such  
32 municipality;
- 33 y. To enter into business employment incentive agreements as  
34 provided in the "Business Employment Incentive Program Act,"  
35 P.L.1996, c.26 (C.34:1B-124 et al.);
- 36 z. To enter into agreements or contracts, execute instruments,  
37 and do and perform all acts or things necessary, convenient or  
38 desirable for the purposes of the redevelopment utility to carry out  
39 any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-  
40 1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137  
41 (C.52:18A-235 et al.), including, but not limited to, entering into  
42 contracts with the State Treasurer, the Commissioner of Education,  
43 districts, the New Jersey Schools Development Authority, and any  
44 other entity which may be required in order to carry out the  
45 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137  
46 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90  
47 (C.52:27D-489c et al.);

- 1       aa. (Deleted by amendment, P.L.2007, c.137);
- 2       bb. To make and contract to make loans to local units to finance  
3 the cost of school facilities projects and to acquire and contract to  
4 acquire bonds, notes or other obligations issued or to be issued by  
5 local units to evidence the loans, all in accordance with the  
6 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007,  
7 c.137 (C.52:18A-235 et al.);
- 8       cc. Subject to any agreement with holders of its bonds issued to  
9 finance a project or school facilities project, obtain as security or to  
10 provide liquidity for payment of all or any part of the principal of  
11 and interest and premium on the bonds of the authority or for the  
12 purchase upon tender or otherwise of the bonds, lines of credit,  
13 letters of credit, reimbursement agreements, interest rate exchange  
14 agreements, currency exchange agreements, interest rate floors or  
15 caps, options, puts or calls to hedge payment, currency, rate, spread  
16 or similar exposure or similar agreements, float agreements,  
17 forward agreements, insurance contract, surety bond, commitment  
18 to purchase or sell bonds, purchase or sale agreement, or  
19 commitments or other contracts or agreements, and other security  
20 agreements or instruments in any amounts and upon any terms as  
21 the authority may determine and pay any fees and expenses required  
22 in connection therewith;
- 23       dd. To charge to and collect from local units, the State and any  
24 other person, any fees and charges in connection with the  
25 authority's actions undertaken with respect to school facilities  
26 projects, including, but not limited to, fees and charges for the  
27 authority's administrative, organization, insurance, operating and  
28 other expenses incident to the financing of school facilities projects;
- 29       ee. To make loans to refinance solid waste facility bonds  
30 through the issuance of bonds or other obligations and the execution  
31 of any agreements with counties or public authorities to effect the  
32 refunding or rescheduling of solid waste facility bonds, or otherwise  
33 provide for the payment of all or a portion of any series of solid  
34 waste facility bonds. Any county or public authority refunding or  
35 rescheduling its solid waste facility bonds pursuant to this  
36 subsection shall provide for the payment of not less than fifty  
37 percent of the aggregate debt service for the refunded or  
38 rescheduled debt of the particular county or public authority for the  
39 duration of the loan; except that, whenever the solid waste facility  
40 bonds to be refinanced were issued by a public authority and the  
41 county solid waste facility was utilized as a regional county solid  
42 waste facility, as designated in the respective adopted district solid  
43 waste management plans of the participating counties as approved  
44 by the department prior to November 10, 1997, and the utilization  
45 of the facility was established pursuant to tonnage obligations set  
46 forth in their respective interdistrict agreements, the public  
47 authority refunding or rescheduling its solid waste facility bonds

1 pursuant to this subsection shall provide for the payment of a  
2 percentage of the aggregate debt service for the refunded or  
3 rescheduled debt of the public authority not to exceed the  
4 percentage of the specified tonnage obligation of the host county for  
5 the duration of the loan. Whenever the solid waste facility bonds  
6 are the obligation of a public authority, the relevant county shall  
7 execute a deficiency agreement with the authority, which shall  
8 provide that the county pledges to cover any shortfall and to pay  
9 deficiencies in scheduled repayment obligations of the public  
10 authority. All costs associated with the issuance of bonds pursuant  
11 to this subsection may be paid by the authority from the proceeds of  
12 these bonds. Any county or public authority is hereby authorized to  
13 enter into any agreement with the authority necessary, desirable or  
14 convenient to effectuate the provisions of this subsection.

15 The authority shall not issue bonds or other obligations to effect  
16 the refunding or rescheduling of solid waste facility bonds after  
17 December 31, 2002. The authority may refund its own bonds issued  
18 for the purposes herein at any time;

19 ff. To pool loans for any local government units that are  
20 refunding bonds and do and perform any and all acts or things  
21 necessary, convenient or desirable for the purpose of the authority  
22 to achieve more favorable interest rates and terms for those local  
23 governmental units;

24 gg. To finance projects approved by the board, provide staff  
25 support to the board, oversee and monitor progress on the part of  
26 the board in carrying out the revitalization, economic development  
27 and restoration projects authorized pursuant to the "Municipal  
28 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
29 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities  
30 pursuant thereto;

31 hh. To offer financial assistance to qualified film production  
32 companies as provided in the "New Jersey Film Production  
33 Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.); **[and]**

34 ii. To finance or develop private or public parking facilities or  
35 structures, which may include the use of solar photovoltaic  
36 equipment, in municipalities qualified to receive State aid pursuant  
37 to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and  
38 municipalities that contain areas designated pursuant to P.L.1985,  
39 c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan),  
40 Planning Area 2 (Suburban), or a town center, and to provide  
41 appropriate assistance, including but not limited to, extensions of  
42 credit, loans, and guarantees, to municipalities qualified to receive  
43 State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-  
44 178 et seq.) and municipalities that contain areas designated  
45 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning  
46 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town  
47 center, and their agencies and instrumentalities or to private entities

1 whose projects are located in those municipalities, in order to  
2 facilitate the financing and development of parking facilities or  
3 structures in such municipalities. The authority may serve as the  
4 issuing agent of bonds to finance the undertaking of a project for  
5 the purposes of this subsection ; and

6 jj. To establish the “New Jersey Property Assessment Clean  
7 Energy (NJ PACE) Municipal Financing Program” to provide  
8 financing for municipalities that wish to facilitate the purchase of  
9 renewable energy systems and energy efficiency improvements by  
10 property owners within the municipality as provided in P.L. ,  
11 c. (C. ) (pending before the Legislature as this bill). The  
12 authority may issue bonds to finance the program .  
13 (cf: P.L.2009, c.90, s.14)  
14

15 4. (New section) a. The New Jersey Economic Development  
16 Authority shall appoint an administrator for the “New Jersey  
17 Property Assessment Clean Energy (NJ PACE) Municipal  
18 Financing Program,” to manage: the issuance of the bonds; the  
19 applications from municipalities to participate in the program; the  
20 loan agreements with municipalities that participate in the program;  
21 the sale of solar renewable energy certificates from participating  
22 homeowners; the assignment of special assessment payments to the  
23 New Jersey Economic Development Authority from municipalities;  
24 promotion of the program through an Internet web site, local media  
25 outlets, including print media, and materials sent to municipal  
26 governing bodies; and any other responsibilities which the authority  
27 deems appropriate. The administrator shall also establish best  
28 practices for municipalities that participate in the program.

29 b. The New Jersey Economic Development Authority shall  
30 coordinate efforts with the Board of Public Utilities to ensure that  
31 the amount of financing made available for the program through the  
32 authority, and the allocation of those funds among participating  
33 municipalities, are in accordance with limits set from time to time  
34 by the Board of Public Utilities, and to otherwise ensure that the NJ  
35 PACE program furthers the goals of the Office of Clean Energy in  
36 the Board of Public Utilities.

37 c. As used in this section, "solar renewable energy certificate"  
38 shall have the same meaning as set forth in section 3 of P.L.1999,  
39 c.23 (C.48:3-51).  
40

41 5. (New section) The New Jersey Economic Development  
42 Authority shall adopt, pursuant to the “Administrative Procedure  
43 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), and in consultation with  
44 the Board of Public Utilities, any rules and regulations necessary to  
45 implement the provisions of P.L. , c. (C. ) (pending before  
46 the Legislature as this bill).



1       6. (New section) The governing body of a municipality may  
2 undertake the financing of the purchase and installation of  
3 renewable energy systems and energy efficiency improvements by  
4 property owners as a local improvement and may provide by  
5 ordinance for a "clean energy special assessment" to be imposed on  
6 a property within the municipality, if the owner of the property  
7 requests the assessment in order to install such systems or  
8 improvements. Each improvement on an individual property shall  
9 constitute a separate local improvement and shall be assessed  
10 separately to the property owner benefitted thereby. The clean  
11 energy special assessment shall be payable in quarterly  
12 installments. The terms of the assessment shall be in accordance  
13 with the terms of the financing provided by the municipality  
14 pursuant to section 7 of P.L. , c. (C. ) (pending before the  
15 Legislature as this bill) or provided to the municipality by the New  
16 Jersey Economic Development Authority pursuant to section 2 of  
17 P.L. , c. (C. ) (pending before the Legislature as this bill).

18  
19       7. (New section) a. A municipality may adopt an ordinance to  
20 establish a program to finance the purchase and installation of  
21 renewable energy systems and energy efficiency improvements by  
22 property owners. The governing body may apply to the New  
23 Jersey Economic Development Authority to receive loan funds for  
24 that purpose or to a county improvement authority that issues bonds  
25 pursuant to paragraph (2) of subsection (j) of section 12 of  
26 P.L.1960, c.183 (C.40:37A-55), or may issue bonds to finance the  
27 program pursuant to section 8 of P.L. , c. (C. ) (pending before  
28 the Legislature as this bill). Funds for the purchase and installation  
29 of renewable energy systems and energy efficiency improvements  
30 shall be loaned to property owners in exchange for a special  
31 assessment on the property pursuant to section 6 of P.L. , c.  
32 (C. ) (pending before the Legislature as this bill), to be paid  
33 quarterly. In the case of loan funds provided by the New Jersey  
34 Economic Development Authority, the special assessment payments  
35 shall be assigned by the municipality and the property owner to the  
36 New Jersey Economic Development Authority for repayment of the  
37 bonds or other financing source. In the case of financing provided  
38 by bonds issued by a county improvement authority, the special  
39 assessment shall be used to repay the bonds. In the case of  
40 financing provided by the municipality through the issuance of  
41 municipal bonds, the special assessment shall be used to repay the  
42 bonds. A property owner who purchases and installs a renewable  
43 energy system under the program may also assign any solar  
44 renewable energy certificates or other renewable energy credits that  
45 accrue to the property owner from the operation of the system to the  
46 municipality, the county improvement authority, or the New Jersey  
47 Economic Development Authority to repay the loan for the system.

1       b. As used in this section, "solar renewable energy certificate"  
2 shall have the same meaning as set forth in section 3 of P.L.1999,  
3 c.23 (C.48:3-51).

4  
5       8. (New section) The governing body of a municipality may  
6 establish the amounts of money to be expended by the municipality  
7 for the local improvements authorized in section 6 of P.L.       ,       ,  
8 c. (C.     ) (pending before the Legislature as this bill). Any amount  
9 so appropriated may be raised by the issuance of bonds by the  
10 municipality. In making the appropriation, the governing body may  
11 designate the particular projects to be financed to which the moneys  
12 shall be applied.

13  
14       9. Section 12 of P.L.1960, c.183 (C.40:37A-55) is amended to  
15 read as follows:

16       12. Every authority shall be a public body politic and corporate  
17 constituting a political subdivision of the State established as an  
18 instrumentality exercising public and essential governmental  
19 functions to provide for the public convenience, benefit and welfare  
20 and shall have perpetual succession and, for the effectuation of its  
21 purposes, have the following additional powers:

22       (a) To adopt and have a common seal and to alter the same at  
23 pleasure;

24       (b) To sue and be sued;

25       (c) To acquire, hold, use and dispose of its facility charges and  
26 other revenues and other moneys;

27       (d) To acquire, rent, hold, use and dispose of other personal  
28 property for the purposes of the authority;

29       (e) Subject to the provisions of section 26 of this act, to acquire  
30 by purchase, gift, condemnation or otherwise, or lease as lessee,  
31 real property and easements or interests therein necessary or useful  
32 and convenient for the purposes of the authority, whether subject to  
33 mortgages, deeds of trust or other liens or otherwise, and to hold  
34 and to use the same, and to dispose of property so acquired no  
35 longer necessary for the purposes of the authority; provided that the  
36 authority may dispose of such property at any time to any  
37 governmental unit or person if the authority shall receive a  
38 leasehold interest in the property for such term as the authority  
39 deems appropriate to fulfill its purposes;

40       (f) Subject to the provisions of section 13 of this act, to lease to  
41 any governmental unit or person, all or any part of any public  
42 facility for such consideration and for such period or periods of  
43 time and upon such other terms and conditions as it may fix and  
44 agree upon;

45       (g) To enter into agreements to lease, as lessee, public facilities  
46 for such term and under such conditions as the authority may deem  
47 necessary and desirable to fulfill its purposes, and to agree,

1 pursuant thereto, to be unconditionally obligated to make payments  
2 for the term of the lease, without set-off or counterclaim, whether or  
3 not the public facility is completed, operating or operable, and  
4 notwithstanding the destruction of, damage to, or suspension,  
5 interruption, interference, reduction or curtailment of the  
6 availability or output of the public facility to which the agreement  
7 applies;

8 (h) To extend credit or make loans to any governmental unit or  
9 person for the planning, design, acquisition, construction, equipping  
10 and furnishing of a public facility, upon the terms and conditions  
11 that the loans be secured by loan and security agreements,  
12 mortgages, leases and other instruments, the payments on which  
13 shall be sufficient to pay the principal of and interest on any bonds  
14 issued for the purpose by the authority, and upon such other terms  
15 and conditions as the authority shall deem reasonable;

16 (i) Subject to the provisions of section 13 of this act, to make  
17 agreements of any kind with any governmental unit or person for  
18 the use or operation of all or any part of any public facility for such  
19 consideration and for such period or periods of time and upon such  
20 other terms and conditions as it may fix and agree upon;

21 (j) (1) To borrow money and issue negotiable bonds or notes or  
22 other obligations and provide for and secure the payment of any  
23 bonds and the rights of the holders thereof, and to purchase, hold  
24 and dispose of any bonds;

25 (2) To issue bonds, notes or other obligations to provide funding  
26 to a municipality that finances the purchase and installation of  
27 renewable energy systems and energy efficiency improvements by  
28 property owners as provided in section 7 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_)  
29 (pending before the Legislature as this bill);

30 (k) To apply for and to accept gifts or grants of real or personal  
31 property, money, material, labor or supplies for the purposes of the  
32 authority from any governmental unit or person, and to make and  
33 perform agreements and contracts and to do any and all things  
34 necessary or useful and convenient in connection with the  
35 procuring, acceptance or disposition of such gifts or grants;

36 (l) To determine the location, type and character of any public  
37 facility and all other matters in connection with all or any part of  
38 any public facility which it is authorized to own, construct,  
39 establish, effectuate or control;

40 (m) To make and enforce bylaws or rules and regulations for the  
41 management and regulation of its business and affairs and for the  
42 use, maintenance and operation of any public facility, and to amend  
43 the same;

44 (n) To do and perform any acts and things authorized by this act  
45 under, through or by means of its own officers, agents and  
46 employees, or by contract with any governmental unit or person;

- 1 (o) To acquire, purchase, construct, lease, operate, maintain and  
2 undertake any project and to fix and collect facility charges for the  
3 use thereof;
- 4 (p) To mortgage, pledge or assign or otherwise encumber all or  
5 any portion of its revenues and other income, real and personal  
6 property, projects and facilities for the purpose of securing its  
7 bonds, notes and other obligations or otherwise in furtherance of the  
8 purpose of this act;
- 9 (q) To extend credit or make loans to redevelopers for the  
10 planning, designing, acquiring, constructing, reconstructing,  
11 improving, equipping and furnishing any redevelopment project or  
12 redevelopment work;
- 13 (r) To conduct examinations and investigations, hear testimony  
14 and take proof, under oath at public or private hearings of any  
15 material matter, require the attendance of witnesses and the  
16 production of books and papers and issue commissions for the  
17 examination of witnesses who are out of the State, unable to attend,  
18 or excused from attendance;
- 19 (s) To authorize a committee designated by it consisting of one  
20 or more members, or counsel, or any officer or employee to conduct  
21 any such investigation or examination, in which case such  
22 committee, counsel, officer or employee shall have power to  
23 administer oaths, take affidavits and issue subpoenas or  
24 commissions;
- 25 (t) To enter into any and all agreements or contracts, execute  
26 any and all instruments, and do and perform any and all acts or  
27 things necessary, convenient or desirable for the purposes of the  
28 authority or to carry out any power expressly given in this act  
29 subject to the "Local Public Contracts Law," P.L.1971, c.198  
30 (C.40A:11-1 et seq.); and
- 31 (u) To pool loans for any local governmental units within the  
32 county or any beneficiary county that are refunding bonds and do  
33 and perform any and all acts or things necessary, convenient or  
34 desirable for the purpose of the authority to achieve more favorable  
35 interest rates and terms for those local governmental units.  
36 (cf: P.L.2002, c.42, s.9)
- 37
- 38 10. This act shall take effect on the 120th day after the date of  
39 enactment, but the New Jersey Economic Development Authority  
40 may take such anticipatory action in advance thereof as shall be  
41 necessary for the implementation of this act.

**SENATE COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 1406**

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Committee Substitute for Senate Bill No. 1406 with my recommendations for reconsideration.

This bill would establish the New Jersey Property Assessment Clean Energy Municipal Financing Program (PACE) and would authorize the issuance of bonds by the Economic Development Authority (EDA), municipalities and county improvement authorities to assist with the purchase of renewable energy systems or energy efficiency improvements by individual property owners. While this bill is permissive with respect to county and municipal participation, it requires the EDA to establish a low-cost source of financing for participating municipalities that will in turn assist property owners with the purchase of renewable energy systems and energy efficiency improvements.

I wholeheartedly support energy efficiency and renewable energy programs and have encouraged their further development as part of the recently adopted Energy Master Plan. In fact, the Energy Master Plan specifically discusses plans to finance renewable energy programs through revolving loans, as opposed to grants, in order to free-up funds collected as Societal Benefits Charges for other programs or, alternatively, to reduce the significant charges assessed against ratepayers. In this vein, PACE is somewhat redundant with programs administered through the Office of Clean Energy in the Board of Public Utilities in that it would provide subsidies on top of existing subsidies.

While I support low interest loans for renewable energy programs, I have serious concerns with creating new mechanisms that serve to increase state and local debt, no matter how noble the purpose. Against the current economic backdrop, we must consider already existing federal and state subsidy programs for renewable energy and energy efficiency.

Nevertheless, I do recognize that establishing a voluntary PACE program under certain limited circumstances with appropriate fiscal safeguards may benefit the public. Accordingly, I recommend this bill be limited to authorizing municipalities, subject to the approval of the Director of Local Government Services in the Department of Community Affairs, to establish a program to finance and purchase renewable energy systems and energy efficiency improvements by property owners, including the authority to impose a clean energy special assessment on participating property owners.

Therefore, I herewith return Senate Committee Substitute for Senate Bill No. 1406 and recommend that it be amended as follows:

<u>Page 2, Title, Line 2:</u>	Delete "P.L.1974, c.80 and"
<u>Page 2 Title, Line 3:</u>	Delete "and various parts"
<u>Page 2, Title, Line 4:</u>	Delete "of the statutory law"
<u>Page 2, Sections 1-2, Lines 9-45:</u>	Delete in their entirety
<u>Page 3, Sections 2-3, Lines 1-47:</u>	Delete in their entirety
<u>Page 4, Section 3, Lines 1-47:</u>	Delete in their entirety
<u>Page 5, Section 3, Lines 1-47:</u>	Delete in their entirety
<u>Page 6, Section 3, Lines 1-47:</u>	Delete in their entirety
<u>Page 7, Section 3, Lines 1-47:</u>	Delete in their entirety
<u>Page 8, Section 3, Lines 1-47:</u>	Delete in their entirety
<u>Page 9, Sections 3-5, Lines 1-46:</u>	Delete in their entirety

<u>Page 10, Section 6, Line 1:</u>	Delete "6" and insert "1"
<u>Page 10, Section 6, Line 1:</u>	Delete "The" and insert "Upon application to and approval by the Director of Local Government Services in the Department of Community Affairs, the"
<u>Page 10, Section 6, Line 12:</u>	After "terms of the" insert "clean energy special"
<u>Page 10, Section 6, Line 14:</u>	Delete "7" and insert "2"
<u>Page 10, Section 6, Line 15-17:</u>	Delete "or provided to the municipality by the New Jersey Economic Development Authority pursuant to section 2 of P.L. ,c. (C. )(pending before the Legislature as this bill)"
<u>Page 10, Section 6, Line 19:</u>	Delete "7" and insert "2"
<u>Page 10, Section 7, Line 19:</u>	Delete "A" and insert "Upon application to and approval by the Director of Local Government Services in the Department of Community Affairs, a"
<u>Page 10, Section 7, Lines 22-24:</u>	Delete "the New Jersey Economic Development Authority to receive loan funds for that purpose or to"
<u>Page 10, Section 7, Line 27:</u>	Delete "8" and insert "3"
<u>Page 10, Section 7, Line 30:</u>	After "exchange for a" insert "clean energy"
<u>Page 10, Section 7, Line 31:</u>	Delete "6" and insert "1"
<u>Page 10, Section 7, Lines 33-37:</u>	Delete "In the case of loan funds provided by the New Jersey Economic Development Authority, the special assessment payments shall be assigned by the municipality and the property owner to the New Jersey Economic Development Authority for repayment of the"

- bonds or other financing source."
- Page 10, Section 7, Line 38: After "authority, the" insert "clean energy"
- Page 10, Section 7, Line 41: After "bonds, the" insert "clean energy"
- Page 10, Section 7, Lines 46: After "municipality" delete "," and insert "or"
- Page 10, Section 7, Lines 46-47: Delete ", or the New Jersey Economic Development Authority"
- Page 10, Section 7, Line 47: After "system." insert "The Director of Local Government Services in the Department of Community Affairs shall coordinate efforts with the Board of Public Utilities to ensure that the amount of financing made available by local programs authorized pursuant to this act are in accordance with limits set from time to time by the Board of Public Utilities to order to ensure that local programs further the goals of the Office of Clean Energy in the Board of Public Utilities."
- Page 11, Section 8, Line 5: Delete "8" and insert "3"
- Page 11, Section 8, Line 5: Delete "The" and insert "a. Upon application to and approval by the Director of Local Government Services in the Department of Community Affairs, the"
- Page 11, Section 8, Line 7: After "the" delete "local"
- Page 11, Section 8, Line 7: Delete "section 6" and insert "sections 1 and 2"
- Page 11, Section 8, Line 9: After "issuance of" insert "clean energy special assessment"
- Page 11, Section 8, Line 12: After "applied." insert "b. Clean energy special assessments and bonds issued to finance them shall be issued and shall be generally



subject to R.S. 40:56-21 et seq., as the Director shall determine to be applicable.

"c. The Director is authorized and empowered to take such action as deemed necessary and consistent with the intent of this act to implement its provisions."

Page 11, Section 9, Line 14:

Delete "9" and insert "4"

Page 11, Section 9, Line 28:

Delete "7" and insert "2"

Page 13, Section 10, Line 38:

Delete "10" and insert "5"

Page 13, Section 10, Line 39:

Delete "New Jersey Economic Development Authority" and insert "Director of the Division of Local Government Services in the Department of Community Affairs"

Respectfully,

[seal]

/s/ Chris Christie

Governor

Attest:

/s/ Kevin M. O'Dowd

Deputy Chief Counsel to the Governor

# ASSEMBLY, No. 2502

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MARCH 15, 2010

**Sponsored by:**

**Assemblyman UPENDRA J. CHIVUKULA**

**District 17 (Middlesex and Somerset)**

**Assemblyman WAYNE P. DEANGELO**

**District 14 (Mercer and Middlesex)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Camden)**

**Assemblyman REED GUSCIORA**

**District 15 (Mercer)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblyman PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Co-Sponsored by:**

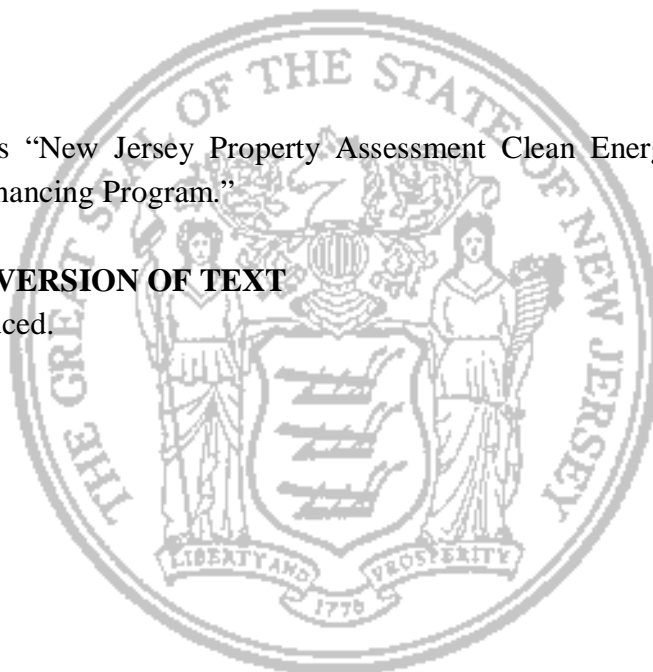
**Assemblymen Prieto, Mainor, Assemblywoman Wagner, Assemblyman Johnson, Assemblywoman Jasey, Assemblymen Giblin and Ramos**

**SYNOPSIS**

Establishes "New Jersey Property Assessment Clean Energy (NJ PACE) Municipal Financing Program."

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 2/18/2011)

A2502 CHIVUKULA, DEANGELO

2

1 AN ACT concerning the purchase of solar energy systems,  
2 supplementing Title 34 of the Revised Statutes and amending  
3 various sections of Title 40 of the Revised Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. (New section) The New Jersey Economic Development  
9 Authority in consultation with the Board of Public Utilities, shall  
10 establish the “New Jersey Property Assessment Clean Energy (NJ  
11 PACE) Municipal Financing Program” to provide financing for  
12 municipalities who wish to facilitate the purchase of solar energy  
13 systems by homeowners, or by groups of property owners acting  
14 jointly to share the costs and benefits of such improvements.

15

16 2. (New section) a. To implement the program, the New  
17 Jersey Economic Development Authority shall establish low-cost  
18 sources of financing, such as qualified energy conservation bonds  
19 and investment from private capital sources, to provide funding for  
20 the purchase of solar energy systems to interested municipalities.

21 b. In addition to the works enumerated in R.S.40:56-1, a  
22 municipality may choose to adopt an ordinance to establish a  
23 program to facilitate the purchase of solar energy systems by  
24 homeowners and apply to the New Jersey Economic Development  
25 Authority to receive funds for the purchase of solar energy systems.  
26 Funds for the purchase of solar energy systems shall be loaned to  
27 homeowners in exchange for a special assessment on the property  
28 pursuant to R.S.40:56-1 et seq., to be paid quarterly. Homeowners  
29 shall also receive a solar renewable energy credit through the Board  
30 of Public Utilities. Both the special assessment payments and the  
31 solar renewable energy credits shall be assigned by the municipality  
32 and the homeowner to the New Jersey Economic Development  
33 Authority, and the proceeds from the assessments and the sale of  
34 the solar renewable energy credits shall be used by New Jersey  
35 Economic Development Authority to pay bondholders and to  
36 provide financial incentives to municipalities to participate in the  
37 “Municipal Solar Energy Financing Program.”

38 c. In consultation with the Board of Public Utilities, the New  
39 Jersey Economic Development Authority shall appoint an  
40 administrator for the “New Jersey Property Assessment Clean  
41 Energy (NJ PACE) Municipal Financing Program,” to manage all  
42 public bids for sales of solar energy systems; applications from  
43 municipalities to participate in the program; assignments of solar  
44 renewable energy credits to the authority from participating  
45 homeowners; assignments of special assessment payments to the

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 New Jersey Economic Development Authority from municipalities;  
2 contracts between vendors, municipalities, and homeowners;  
3 promotion of the program through an Internet web site, local media  
4 outlets, and materials sent to municipal governing bodies; quality  
5 management at each step in the program, and establishment of best  
6 practices for municipalities who wish to participate; and any other  
7 responsibilities which the authority deems appropriate.

8 d. The New Jersey Economic Development Authority shall  
9 coordinate efforts with the Board of Public Utilities to ensure that  
10 the amount of financing made available for the program through the  
11 authority, and the allocation of those funds among participating  
12 municipalities, is in accordance with limits set from time to time by  
13 the Board of Public Utilities, and to otherwise ensure that the NJ  
14 PACE program furthers the goals of the Office of Clean Energy in  
15 the Board of Public Utilities.

16

17 3. (New section) The New Jersey Economic Development  
18 Authority shall adopt, pursuant to the "Administrative Procedure  
19 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and in consultation with  
20 the Board of Public Utilities, any rules and regulations necessary to  
21 effectuate the purposes of P.L. , c. (C. ) (pending before the  
22 Legislature as this bill).

23

24 4. R.S.40:56-1 is amended to read as follows:

25 40:56-1. A local improvement is one, the cost of which, or a  
26 portion thereof, may be assessed upon the lands in the vicinity  
27 thereof benefited thereby.

28 Any municipality may undertake any of the following works as a  
29 local improvement; and the governing body thereof may make,  
30 amend, repeal and enforce ordinances for carrying into effect all  
31 powers granted in this section:

32 a. The laying out, opening or establishing of a new street,  
33 alley, or other public highway, or portion thereof.

34 b. The widening, straightening, extension, alteration or  
35 changing in any manner of the location of a street, alley or other  
36 public highway, or portion thereof.

37 c. The grading or alteration of the grade of a street, alley or  
38 other public highway, or portion thereof.

39 d. The paving, repaving, or otherwise improving or  
40 reimproving a street, alley or other public highway, or portion  
41 thereof.

42 e. The curbing or recurbing, guttering or reguttering of a  
43 sidewalk in, upon, or along a street, alley or other public highway,  
44 or portion thereof.

45 f. The construction, reconstruction, improvement and  
46 reimprovement of bridges and viaducts.

- 1 g. The construction, reconstruction, improvement,  
2 reimprovement or relocation of a public walk or driveway on any  
3 beach, or along the ocean or any river or other waterway.
- 4 h. The improvement or reimprovement of any beach or water  
5 front, and the providing of suitable protection to prevent damage to  
6 lands or property by the ocean or other waters, including the filing  
7 in and grading necessary for the protection of such improvements.
- 8 i. The construction, reconstruction, enlargement or extension  
9 of a sewer or drain in, under or along a street, alley or public  
10 highway, or portion thereof, or in, under or along any public or  
11 private lands; the construction, reconstruction, enlargement or  
12 extension of a system of sewerage or drainage or both combined;  
13 the construction, reconstruction, enlargement or extension of a  
14 system of drainage of the marshes and wet lowlands within the  
15 municipality; the construction, reconstruction, enlargement or  
16 alteration of a system of works for the sanitary disposal of sewage  
17 or drainage.
- 18 j. The installation of service connections to a system of water,  
19 gas, light, heat or power works owned by a municipality or  
20 otherwise, including all such works as may be necessary for  
21 supplying water, gas, light, heat or power to real estate for whose  
22 benefit such services are provided; service connections including  
23 the laying, construction or placing of mains, conduits or cables in,  
24 under or along a street, alley or other public highway or portion  
25 thereof.
- 26 k. The construction, reconstruction, enlargement or extension  
27 of any water main or other works for the distribution of water  
28 supplied by the State or any of its political subdivisions, or any  
29 public agency of any of the same.
- 30 l. The installation of such lighting standards, appliances and  
31 appurtenances as may be required for the brilliant illumination of  
32 the streets in those parts of the municipality where the governing  
33 body of the municipality may deem it necessary or proper to  
34 establish what is commonly called a "white way."
- 35 m. The widening, deepening or improvement of any stream,  
36 creek, river or other waterway.
- 37 n. The removal of obstructions in, and the constructing,  
38 reconstructing, enlarging or extending of any waterway, of  
39 enclosing walls, or of a pipe or conduit or any brook or  
40 watercourse, or part of same.
- 41 o. The defining of the location and the establishment of widths,  
42 grades and elevations of any stream, creek, river or other waterway,  
43 and the preventing of encroachments upon the same.
- 44 p. The reclaiming, filling and improving and bulkheading and  
45 filling in lands lying under tidal or other water, in whole or in part,  
46 within the municipality; the reclaiming or filling or bulkheading  
47 and filling those lands or lands adjacent to such reclaimed or filled  
48 lands; to dredge channels or improve harbor approaches in the

1 waters abounding the lands to be reclaimed, filled and improved, or  
2 bulkheaded and filled; provided, the approval of the Planning and  
3 Development Council of the Division of Planning and Development  
4 in the Department of Conservation and Economic Development of  
5 the State of New Jersey, and when necessary, the permission of the  
6 Federal authorities in charge of the district port in which the  
7 improvements are proposed to be made, to improve and dredge  
8 channels and construct and improve the harbor approaches to those  
9 lands, shall be first had and obtained.

10 q. The financing of, and contracting for, the installation on  
11 private property, or in the case of community renewable energy  
12 projects, on public or private property or a combination of both, of  
13 renewable energy systems and energy efficiency improvements  
14 approved by the Board of Public Utilities, provided that in the case  
15 of improvements on a private property, such improvements shall be  
16 undertaken solely at the request of the property owner, and that in  
17 the case of community renewable energy projects, such  
18 improvements shall be undertaken solely at the request or consent  
19 of all participating property owners.

20 The governing body may enter into agreements with the Federal  
21 Government for reimbursement to the municipality for all or a  
22 portion of the cost of dredging channels or improving harbor  
23 approaches in waters under the jurisdiction of the Federal  
24 Government.

25 If any portion of the amount assessed against the lands within the  
26 municipality for the improvement shall be reimbursed to the  
27 municipality by the Federal Government after the assessment has  
28 been made, then a credit shall be made on each assessment levied in  
29 proportion to the amount so received from the Federal Government;  
30 provided, the amount received by the municipality from the Federal  
31 Government shall be in excess of the amount fixed in the  
32 assessment to be borne by the municipality at large. If any portion  
33 of the land included within lands benefited or improved by any  
34 work done in connection with the reclaiming, filling or bulkheading  
35 and filling shall be riparian lands or lands under water, for which  
36 the riparian grant has not theretofore been made by the State, the  
37 municipal board or body authorized to make assessments for  
38 improvements in accordance with this subtitle may include in any  
39 such assessment a prospective assessment against the riparian lands  
40 or lands under water, and a copy of such prospective assessment  
41 shall be filed with the Planning and Development Council of the  
42 Division of Planning and Development in the Department of  
43 Conservation and Economic Development of the State of New  
44 Jersey and shall be a part of the records of that council. Upon the  
45 sale or grant by the State of the riparian rights to any such lands for  
46 which a prospective assessment has been filed with the council, the  
47 amount of such prospective assessment together with interest at the  
48 rate of five per centum (5%) per annum from the time of the

1 confirmation of the assessment for the improvement shall be  
2 included by said Planning and Development Council in the purchase  
3 price fixed for such lands and made a part of the payment for the  
4 grant, and the amount of the assessment with interest, when paid,  
5 shall be turned over by said Planning and Development Council to  
6 the municipality making the assessment. Such prospective  
7 assessment shall also be included in the general assessment for and  
8 against any such riparian lands or lands under water for which an  
9 annual rental or fee is being charged or collected by said Planning  
10 and Development Council under any agreement by which the fee of  
11 any such riparian lands is passed, and when the fee does so pass by  
12 grant from the State the prospective assessment shall become  
13 immediately due and payable, together with interest thereon at the  
14 rate of five per centum (5%) per annum from the time of the  
15 confirmation of the assessment for the improvement and the  
16 assessment shall become a lien upon those lands until paid and shall  
17 be collectible as other liens for public improvements in the  
18 municipality. Should said Planning and Development Council lease  
19 for a term of years any such riparian lands or lands under water,  
20 included within lands benefited or improved by any work done in  
21 connection with the reclaiming, filling or bulkheading and filling, it  
22 shall include in the annual rental to be charged therefor one-tenth of  
23 the amount of the prospective assessment for each year of the term  
24 not exceeding ten years until the prospective assessment and the  
25 interest thereon at the rate of five per centum (5%) per annum from  
26 the time of confirmation of the assessment for the improvement,  
27 shall be paid. If the lease shall be for a period less than ten years,  
28 such provision shall be contained in any and all extensions and  
29 renewals thereof, or in any new leases until the full prospective  
30 assessment with such interest shall have been paid. Nothing  
31 contained in this subparagraph shall apply to lands owned by a  
32 company whose rates are subject to regulation by the Board of  
33 Public Utility Commissioners.

34 Whenever convenient more than one of the works provided for in  
35 this section may be carried on as one improvement. Any  
36 municipality may undertake any or all of the works mentioned in  
37 this section as a general improvement to be paid for by general  
38 taxation, and any municipality may provide for the maintenance,  
39 repair and operation of any or all of said works by taxation whether  
40 the same are undertaken as local or general improvements.  
41 (cf: P.L.1951, c.175, s.1)

42

43 5. R.S.40:56-3 is amended to read as follows:

44 40:56-3. The governing body of a municipality may undertake  
45 any improvement mentioned in this chapter at the request of a  
46 number of petitioners who shall agree to pay the cost of the  
47 improvement and all expenses incidental thereto, and any other  
48 charge imposed by the governing body. The petitioners shall file

1 with the governing body a statement showing the improvement  
2 desired, the real estate owned by each of them, and the proportion  
3 of cost each is willing to pay. The statement shall be verified by  
4 each of the petitioners and, before any such work or improvement is  
5 commenced, the petitioners shall enter into bond with sufficient  
6 surety to the municipality in double the amount of the cost of the  
7 improvement as estimated by the engineer of the municipality  
8 conditioned for the prompt payment of the cost of the improvement  
9 and all expenses incidental thereto and charges imposed. The  
10 governing body may require further security for such payment as it  
11 may deem advisable, and when so secured may proceed to make the  
12 improvement. Upon the completion thereof the governing body  
13 shall determine the cost and expense thereof and cause the same to  
14 be collected from the petitioners. Notwithstanding the provisions of  
15 this section, in the case of community renewable energy projects  
16 pursuant to subsection q. of R.S.40:56-1, the amount of any bond or  
17 other security, if any, shall be as provided by regulation of the Board  
18 of Public Utilities.

19 Whenever an owner of land in this State is desirous of improving  
20 same by the installation of utilities, sidewalks, curbs, street paving  
21 and any other improvement and the municipality wherein the land is  
22 located desires assurance of completion of such improvement, such  
23 municipality is hereby authorized to accept a cash deposit from said  
24 owner, conditioned upon the completion of said improvement or  
25 improvements to the satisfaction of, and within the time set by the  
26 governing body of such municipality. Upon such completion, the  
27 municipality shall return said cash deposit to the owner of said land.  
28 Upon failure to complete to the satisfaction of the municipality, the  
29 municipality may complete said improvement or improvements,  
30 using the monies so deposited, or so much thereof as is necessary  
31 for such purpose, returning the balance of said deposit, if any, to the  
32 owner of such land so improved. Such cash deposit shall be used  
33 for no other purpose. The municipality is further authorized to  
34 enter into such contracts, stipulations or agreements with said  
35 owner as are necessary and proper to carry out the purpose of this  
36 act.

37 Nothing in this act contained shall prevent a municipality from  
38 accepting bonds or other surety under like circumstances, and  
39 nothing herein shall be construed to, in any way, limit the powers of  
40 a municipality as they now exist, it being intended that the authority  
41 herein granted is supplementary and in addition to rights and  
42 powers presently possessed by municipalities.

43 (cf: P.L.1941, c.242, s.1)

44

45 6. R.S.40:56-6 is amended to read as follows:

46 40:56-6. Whenever the governing body shall pass an ordinance  
47 for making any local improvement all further acts and proceedings  
48 necessary to carry out and complete the same and the work thereof



1 and all orders relating thereto may be by resolution. To authorize  
2 local improvements pursuant to subsection q. of R.S.40:56-1, a  
3 governing body shall adopt a single ordinance authorizing the  
4 financing of, and contracting for, such improvements by the  
5 municipality. Subsequent specific authorizations of such  
6 improvements on individual properties or, in the case of community  
7 renewable energy projects, on or benefiting groups of properties, and  
8 all further acts and proceedings necessary to carry out and complete  
9 the same and the work thereof and all orders relating thereto may be  
10 by resolution. Each such improvement on an individual property, and  
11 each separate community renewable energy project, shall be deemed to  
12 constitute a separate local improvement, and shall be assessed  
13 separately to the property owner or, in the case of community  
14 renewable energy projects, jointly to the property owners benefited  
15 thereby.

16 (cf: R.S.40:56-6)

17

18 7. R.S.40:56-7 is amended to read as follows:

19 40:56-7. Any municipality may purchase, condemn, or  
20 otherwise acquire any real estate or right or interest therein, useful  
21 or necessary for the making of such improvement, located within or  
22 without the municipality, and any personal property, useful or  
23 necessary therefor, may hire and employ all such engineers,  
24 surveyors, officers and employees; construct or cause to be  
25 constructed any work or thing deemed necessary for the making of  
26 any such improvement; enter into any contract or agreement for the  
27 acquisition of any such property or the construction of any such  
28 work, and do all other acts necessary to carry on, complete,  
29 maintain and operate any such improvement. Nothing contained  
30 herein shall be interpreted to authorize any municipality to condemn  
31 or otherwise acquire by means of eminent domain any real estate or  
32 right or interest therein with respect to an improvement pursuant to  
33 subsection q. of R.S.40:56-1.

34 (cf: R.S.40:56-7)

35

36 8. R.S.40:56-8 is amended to read as follows:

37 Any municipality may acquire by purchase or condemnation any  
38 property or works mentioned in this article and in sections 1 through  
39 3 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
40 which at the time of such purchase or condemnation is privately  
41 owned or operated, and assessments for benefits accruing therefrom  
42 may be made and levied upon the lands benefited thereby.

43 (cf: R.S.40:56-8)

44

45 9. R.S.40:56-11 is amended to read as follows:

46 R.S.40:56-11. All work or any portion thereof in connection  
47 with any local or general improvement, including any work done  
48 pursuant to sections 1 through 3 of P.L. , c. (C. ) (pending

1 before the Legislature as this bill) and subsection q. of R.S.40:56-1,  
2 may be done either by the municipality or by contract awarded to  
3 the lowest responsible bidder. Advertisements for bids for the  
4 doing of any such work shall be published and the bids shall be  
5 received and the contract awarded in each municipality in  
6 accordance with the provisions of chapter 50 of this title (s. 40:50-1  
7 et seq.). Notwithstanding any section of law to the contrary, awards  
8 of contracts for improvements described in sections 1 through 3 of  
9 P.L. , c. (C. ) (pending before the Legislature as this bill) and  
10 subsection q. of R.S.40:56-1 shall be made in accordance with such  
11 bidding or other requisition process as shall be established by  
12 regulation of the Board of Public Utilities.  
13 (cf: R.S.40:56-11)

14

15 10. R.S.40:56-21 is amended to read as follows:

16 R.S.40:56-21. All assessments for benefits for local  
17 improvements under this chapter shall be made by the officer or  
18 board charged with the duty of making general assessments of taxes  
19 in the municipality, except where there is provided by law a board  
20 for the making of all such assessments, in which case all  
21 assessments shall be made by such board.

22 The governing body of every municipality in which no board is  
23 provided by law for the making of all assessments for benefits  
24 accruing from local improvements may by ordinance create a  
25 general board for that purpose, which board shall thereafter make  
26 all such assessments. Notwithstanding this provision, all  
27 assessments for benefits accruing from local improvements pursuant to  
28 subsection q. of R.S.40:56-1 shall be made by the governing body, or  
29 by such other board as the governing body shall designate in the  
30 ordinance authorizing such improvements.

31 (cf: R.S.40:56-21)

32

33 11. R.S.40:56-30 is amended to read as follows:

34 R.S.40:56-30. Except as provided in article 4 of this chapter (s.  
35 40:56-58 et seq.) as to cities of the first class, assessments for  
36 benefits for local improvement together with any accompanying  
37 awards for incidental damages and all awards of damages for real  
38 estate or interests therein taken for any improvement, shall, except  
39 as provided in sections 40:56-42 to 40:56-51 of this title, be  
40 certified by the officer, board or commissioners making the same to  
41 the governing body of the municipality by a report in writing signed  
42 by the officer, or a majority of the board or commissioners making  
43 the said assessment or award for damages or incidental damages.  
44 The report shall be accompanied by a map showing the real estate  
45 taken, damaged or benefited by the improvement and for which  
46 damages or benefits have been assessed; provided that no map shall  
47 be required with respect to improvements to individual properties  
48 pursuant to subsection q. of R.S.40:56-1.

1 The report may be considered by the governing body at any  
2 meeting thereof, of which at least two weeks' previous notice shall  
3 have been given by the municipal clerk, or by an officer designated  
4 as aforesaid by the governing body, posted in five public places in  
5 the municipality, or published in a newspaper circulating therein,  
6 once in each week for two weeks prior to the meeting, as the  
7 governing body may direct, and also by mailing a copy of the notice  
8 to the owner or owners named in the report, directed to his or their  
9 last known post-office addresses, and the affidavit of said clerk or  
10 other designated official shall be conclusive as to such mailing.  
11 Notwithstanding this provision, notice with respect to improvements  
12 pursuant to subsection q. of R.S.40:56-1 shall be made at least 10 days  
13 before the meeting by posting notice of the meeting on the section of  
14 the municipality's official website that concerns improvements  
15 pursuant to subsection q. of R.S.40:56-1, and by mailing the notice by  
16 first-class mail to the post office address specified by the property  
17 owner for the receipt of notices and other communications relating to  
18 the improvement. The notice shall briefly state the object of the  
19 meeting with reference to the assessment. At that or any  
20 subsequent meeting the governing body after considering the report  
21 and map may adopt and confirm the same with or without  
22 alterations, as to them may seem proper, and may refer the matter to  
23 any committee of its own body, or to the officer or board making  
24 such assessment, for revision or correction before taking final  
25 action upon it.

26 When the report shall be adopted and confirmed with or without  
27 alterations it shall be final and conclusive and appeals may be taken  
28 as hereinafter provided in article 3 of this chapter (s. 40:56-54 et  
29 seq.).

30 Failure to mail the notice in this section required shall not  
31 invalidate the proceedings.

32 (cf: R.S.40:56-30)

33

34 12. R.S.40:56-35 is amended to read as follows:

35 40:56-35. The governing body may by resolution provide that  
36 the owner of any real estate upon which any assessments for any  
37 improvement shall have been made may pay such assessments in  
38 such equal yearly or quarterly installments, not exceeding ten years  
39 in duration, except as hereinafter provided, with legal interest  
40 thereon, and at such time in each year as the governing body shall  
41 determine, but any person assessed may pay the whole of any  
42 assessment, or any balance of installments, with accrued interest  
43 thereon, at one time. If any such installment shall remain unpaid  
44 for 30 days after the time when the same shall have become due,  
45 either:

46 a. the whole assessment or balance due thereon shall become  
47 and be immediately due, shall draw interest at the rate imposed  
48 upon the arrearage of taxes in such municipality and be collected in

1 the same manner as is provided by this subtitle for other past due  
2 assessments; or

3 b. the governing body may, by resolution, permit any person  
4 who is delinquent in the payment of such an installment to pay only  
5 the amount of the delinquent payment and any interest on the  
6 delinquent payment that has accrued from the date that the  
7 installment was due and payable until the date that payment of the  
8 delinquent installment is made. After the delinquent installment is  
9 satisfied, the person assessed shall be reinstated on a regular  
10 installment payment schedule.

11 Whenever any owner shall be given the privilege of paying any  
12 assessment in installments such assessment shall remain a lien upon  
13 the land described therein until the same with all installments and  
14 accrued interest thereon shall be paid, and no proceedings to collect  
15 or enforce the same need be taken until default shall be made in the  
16 payment of any installment as hereinbefore in this subtitle provided.

17 In any municipality which is constructing a local improvement  
18 with funds secured from the Federal Government, through the  
19 public works administration, under the terms of the national  
20 recovery act, the governing body may provide that the assessments  
21 may be payable in yearly or quarterly installments, with legal  
22 interest thereon, over a period of years up to but in no event  
23 exceeding the term of years for which the funds therefor are  
24 borrowed from the Federal Government, and at such time in each  
25 year as the governing body shall determine. The governing body  
26 may fix the yearly installments in such amounts as in its opinion are  
27 equitable and just.

28 In any municipality in which the local improvement is being  
29 financed by the sale of bonds, the governing body may provide that  
30 the assessments may be payable in yearly or quarterly installments,  
31 with legal interest thereon, over a period of years up to but in no  
32 event exceeding the period of years for which the bonds were  
33 issued, or for 20 years, whichever shall be less, and at such time in  
34 each year as the governing body shall determine. The governing  
35 body may fix the yearly installments in such amounts as in its  
36 opinion are equitable and just.

37 Notwithstanding this provision, in the case of improvements made  
38 pursuant to subsection q. of R.S.40:56-1, the assessment shall be  
39 payable in quarterly installments. The term of the assessment and the  
40 interest to be charged thereon shall be in accordance with the terms of  
41 the financing provided to the municipality by the New Jersey  
42 Economic Development Authority or as otherwise may be provided by  
43 regulation of the Board of Public Utilities.

44 (cf: P.L.1997, c.5, s.1)

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46 13. This act shall take effect immediately.

STATEMENT

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This bill establishes the “New Jersey Property Assessment Clean Energy (NJ PACE) Municipal Financing Program” in the New Jersey Economic Development Authority (NJEDA) and the New Jersey Board of Public Utilities (BPU). This program is intended to provide financing for municipalities that wish to facilitate the purchase of renewable energy systems or energy efficiency improvements by individual property owners or by groups of property owners who wish to participate jointly in a community renewable energy project.

To implement the program, the New Jersey Economic Development Authority would establish low-cost sources of financing, such as qualified energy conservation bonds and investment from public utilities and private capital sources, to finance the purchase of renewable energy systems and energy efficiency improvements by property owners in participating municipalities.

Municipalities that choose to establish a program to utilize the special-assessment financing mechanism afforded by R.S.40:56-1 et seq. to facilitate the purchase of renewable energy systems and energy efficiency improvements by its property owners would apply to the BPU to participate in the program. Participating municipalities would be eligible to borrow funds from the NJEDA for use in financing the purchase and installation, by its property owners, of renewable energy systems and energy efficiency improvements. The loan for the purchase of the renewable energy systems and energy efficiency improvements energy systems would be secured by a special assessment on the improved property in the case of an individual project. In the case of community renewable energy projects, the loaned funds would be secured by a special assessment on all properties benefited by the improvement, in proportion to the benefit they receive. Payment on the loaned funds would be collected quarterly by the municipality, with interest at a rate determined by the BPU and the NJEDA. In the case of improvements that include solar energy systems, property owners would also receive a solar renewable energy credit through the BPU. Those solar renewable energy credits would be assigned by the property owner to the municipality in repayment of a portion of the funds borrowed from the municipality. The municipality, in turn, would assign the solar renewable energy credits and the proceeds from the payments of the special assessments to the NJEDA. Proceeds from the sale of the solar renewable energy credits and the special assessment payments received from the municipalities would be used by NJEDA to pay bondholders and other utility or private investors, and may be used to provide financial incentives to municipalities to participate in the “New

1 Jersey Property Assessment Clean Energy (NJ PACE) Municipal  
2 Financing Program.”

3 Finally, the bill requires the BPU to appoint a manager to  
4 manage all of the logistics of the “NJ PACE Municipal Financing  
5 Program.” The NJEDA and BPU would coordinate to promulgate  
6 any rules and regulations necessary to effectuate the purposes of the  
7 program.

ASSEMBLY TELECOMMUNICATIONS AND UTILITIES  
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2502**

**STATE OF NEW JERSEY**

DATED: NOVEMBER 21, 2011

The Assembly Telecommunications and Utilities Committee reports favorably Assembly Committee Substitute for Assembly Bill No. 2502.

As reported, this committee substitute would establish the “New Jersey Property Assessment Clean Energy (NJ PACE) Municipal Financing Program.” This program would provide financing to municipalities by the New Jersey Economic Development Authority (NJEDA), and would authorize the issuance of municipal bonds and county improvement authority bonds, to facilitate the purchase of renewable energy systems or energy efficiency improvements by individual property owners. The New Jersey Economic Development Authority would establish low-cost sources of financing to finance the purchase of renewable energy systems and energy efficiency improvements by property owners in participating municipalities. In addition, the bill authorizes municipalities and local improvement authorities to issue bonds to finance loans to property owners to finance the improvements. In order to facilitate the repayment of the loan, the bill authorizes municipalities to impose a special assessment on property. The loan for the purchase of the renewable energy systems and energy efficiency improvements would be secured by the special assessment on the improved property. Payment on the loaned funds would be collected quarterly by the municipality. In the case of improvements that include renewable energy systems, any renewable energy credits may be assigned by the property owner to repay the loan.

The bill requires the BPU to appoint an administrator to manage the program. The administrator would manage the issuance of the NJEDA bonds, applications from municipalities to participate in the program, loan agreements with municipalities that participate in the program, the sale of solar renewable energy certificates from participating homeowners, the assignment of special assessment payments to the New Jersey Economic Development Authority from municipalities, promotion of the program, and any other responsibilities which the authority deems appropriate. The

administrator would also establish best practices for municipalities that participate in the program. Finally, the bill provides that the NJEDA, in consultation with the Board of Public Utilities, may adopt any rules and regulations necessary to implement the program.

This bill would establish the “New Jersey Property Assessment Clean Energy (NJ PACE) Municipal Financing Program.” This program would provide financing to municipalities by the New Jersey Economic Development Authority (NJEDA), and would authorize the issuance of municipal bonds and county improvement authority bonds, to facilitate the purchase of renewable energy systems or energy efficiency improvements by individual property owners. The New Jersey Economic Development Authority would establish low-cost sources of financing to finance the purchase of renewable energy systems and energy efficiency improvements by property owners in participating municipalities. In addition, the bill authorizes municipalities and local improvement authorities to issue bonds to finance loans to property owners to finance the improvements. In order to facilitate the repayment of the loan, the bill authorizes municipalities to impose a special assessment on property. The loan for the purchase of the renewable energy systems and energy efficiency improvements would be secured by the special assessment on the improved property. Payment on the loaned funds would be collected quarterly by the municipality. In the case of improvements that include renewable energy systems, any renewable energy credits may be assigned by the property owner to repay the loan.

The bill requires the NJEDA to appoint an administrator to manage the program. The administrator would manage the issuance of the NJEDA bonds, applications from municipalities to participate in the program, loan agreements with municipalities that participate in the program, the sale of solar renewable energy certificates from participating homeowners, the assignment of special assessment payments to the New Jersey Economic Development Authority from municipalities, promotion of the program, and any other responsibilities which the authority deems appropriate. The administrator would also establish best practices for municipalities that participate in the program. Finally, the bill provides that the NJEDA, in consultation with the Board of Public Utilities, may adopt any rules and regulations necessary to implement the program.

This committee substitute is identical to Senate Bill No. 1406 (SCS) of 2010.



# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 2502

# STATE OF NEW JERSEY

DATED: DECEMBER 8, 2011

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2502 (ACS).

This bill establishes the "New Jersey Property Assessment Clean Energy (NJ PACE) Municipal Financing Program." The bill authorizes certain types of financing for the purchase and installation of renewable energy systems and energy efficient improvements (qualified energy systems and improvements) by property owners. The bill may be conceptualized into two components: the New Jersey Economic Development Authority (NJEDA) financing component and the municipal financing component.

As to the NJEDA component, the bill requires the NJEDA to establish low-cost sources of financing, such as renewable energy and conservation bonds and investment from private capital sources, to provide funding to municipalities that wish to finance the purchase of qualified energy systems and improvements to interested property owners. For purposes of providing that financing, the bill requires the NJEDA to establish a special revolving fund called the "Renewable Energy and Energy Efficiency Loan Fund." That fund is credited with: (1) moneys derived from bonds issued by the authority, pursuant to authority granted in this bill; (2) interest or investment income earned on fund balances; (3) private capital made available for the program; (4) solar renewable energy certificate (SREC) sale proceeds or other renewable energy credits assigned to the NJEDA pursuant to the program; and (5) any other moneys made available for the purposes of the fund. The bill authorizes the NJEDA to enter into loan agreements with municipalities to assist property owners with the financing of qualified energy systems and improvements and to assign the proceeds of a special assessment levied on the property to repay the financing. The bill gives the NJEDA rulemaking authority concerning the loan agreements.

The bill requires the NJEDA to appoint an administrator to manage the program. The bill specifies that the administrator shall manage the issuance of NJEDA bonds, municipal program applications, loan agreements with participating municipalities, the sale of SRECs from participating homeowners, the assignment of special assessment

payments to the NJEDA from municipalities, promotion of the program, and any other responsibilities which the NJEDA deems appropriate. The bill also directs the administrator to establish best practices for participating municipalities. The bill requires the NJEDA to coordinate with the Board of Public Utilities (BPU) to ensure that the amount of financing made available and allocated to municipalities through the NJEDA are in accordance with limits set by the BPU and that the program is in furtherance of the goals of the BPU's Office of Clean Energy. The bill grants the NJEDA, in consultation with the BPU, rulemaking authority to implement the bill.

The second component of the bill concerns municipal financing. The bill authorizes a municipality to adopt an ordinance to establish a program to finance qualified energy systems and improvements by property owners. The bill provides three potential funding sources for the financing: loan funds from NJEDA, bond proceeds from a county improvement authority issuance authorized under the bill, or bond proceeds authorized for issuance by the municipality under the bill. The bill requires that the financing for qualified energy systems and improvements extended to property owners be loaned in exchange for a special assessment on the property called the "clean energy special assessment." The special assessment is to be paid quarterly. The special assessment is to be used to repay the financing for the qualified energy systems and improvements, whether the financing was acquired through NJEDA bonds or other financing source, county improvement authority bonds, or municipal bonds. The bill also authorizes property owners to assign SREC sale proceeds or other renewable energy credits generated by the qualified energy systems and improvements to repay the financing for the qualified energy system and improvement.

The bill takes effect 120 days after the date of enactment but authorizes NJEDA to take anticipatory action for implementation.

**FISCAL IMPACT:**

According to the Office of Legislative Services' Fiscal Estimate for this bill's identical Senate version, this bill may cause an indeterminate fiscal impact on State and local revenues and expenditures. Though the NJEDA role in implementation is mandatory, municipal participation in the financing program is optional. Based on municipal participation, the extent that NJEDA will have to engage in implementing activity will vary. There is potential that the NJEDA will offset all or a portion of its implementation costs via financing fees.

As to financing, the options allowed under the bill, including bond authority, are designed to be self-liquidating via special assessments on improved property. It may be noted that if a property owner fails to abide by the payment terms of the special assessment the municipality may be required to expend general revenues to repay financing.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY COMMITTEE SUBSTITUTE FOR**  
**ASSEMBLY, No. 2502**  
**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

DATED: DECEMBER 21, 2011

**SUMMARY**

**Synopsis:** Establishes “New Jersey Property Assessment Clean Energy (NJ PACE) Municipal Financing Program.”

**Type of Impact:** Indeterminate net impact on State revenues and expenditures.  
 Indeterminate net impact on local revenues and expenditures.

**Agencies Affected:** New Jersey Economic Development Authority, Board of Public Utilities, counties, and municipalities.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Finances</b>	Indeterminate Net Fiscal Impact – See comments below		
<b>Local Finances</b>	Indeterminate Net Fiscal Impact – See comments below		

- The enactment of the Assembly Committee Substitute for Assembly Bill No. 2502 of 2010 will have an indeterminate net impact on State and local finances. The Office of Legislative Services notes that the bill is permissive, so no municipality is required to join the NJ PACE Municipal Financing Program.
- The NJ PACE Municipal Financing Program is designed to be self-liquidating because the principal and interest on bonds issued to finance the purchase of renewable energy systems and energy efficiency improvements would be paid by revenues generated through a special assessment on the improved property.
- Municipalities may be required to expend general revenues to provide for the repayment of bonds or loans in the event that a property owner fails to make required payments of the special assessment.

**BILL DESCRIPTION**

The Assembly Committee Substitute for Assembly Bill No. 2502 of 2010 would establish the “New Jersey Property Assessment Clean Energy (NJ PACE) Municipal Financing Program.”

The bill authorizes certain types of financing for the purchase and installation of renewable energy systems and energy efficiency improvements (qualified energy systems and improvements) by property owners.

This program would provide financing to municipalities by the either New Jersey Economic Development Authority (NJEDA) or by a county improvement authority. It would also authorize the issuance of municipal bonds and county improvement authority bonds to facilitate the purchase of renewable energy systems or energy efficiency improvements by individual property owners. The NJEDA would establish low-cost sources of financing for the purchase of renewable energy systems and energy efficiency improvements by property owners in participating municipalities. In addition, the bill authorizes municipalities to issue their own bonds to finance loans to property owners to finance the improvements. In order to facilitate the repayment of the loan, the bill authorizes municipalities to impose a special assessment on the improved property. Payment on the loaned funds would be collected quarterly by the municipality. In the case of improvements that include renewable energy systems, any renewable energy credits may be assigned by the property owner to help repay the loan.

The bill also requires the NJEDA to establish and maintain a special revolving fund, to be known as the “Renewable Energy and Energy Efficiency Loan Fund,” which would be credited with: (1) moneys derived from the issuance of bonds by the NJEDA for the purchase of renewable energy systems and energy efficiency improvements; (2) any interest or other investment income earned on moneys in the fund; (3) any moneys made available from private capital sources deposited in the fund for the purposes of the program; (4) moneys derived from the sale of solar renewable energy certificates or other renewable energy credits assigned to the NJEDA pursuant to the program; and (5) any other moneys made available for the purposes of the fund.

The NJEDA must also appoint a program administrator to manage all facets of program and establish best practices for participating municipalities. Finally, the NJEDA is permitted to adopt rules and regulations to: (1) set additional conditions for the loan agreements between the NJEDA and participating municipalities, and (2) in consultation with the Board of Public Utilities, establish any rules and regulations necessary to implement the program.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The enactment of the Assembly Committee Substitute for Assembly Bill No. 2502 will have an indeterminate impact on the NJEDA expenditures and municipal revenues and expenditures. The NJEDA may incur additional costs associated with the establishment of the “New Jersey Property Assessment Clean Energy (NJ PACE) Municipal Financing Program.” For example, the bill requires the NJEDA to appoint a program administrator to manage all facets of the program and establish best practices for municipalities that participate in the program. It is possible, but not certain, that fees charged by the NJEDA to municipalities for opting to obtain financing from the program will offset these costs.

Under the substitute, a municipality would be permitted to issue bonds, or borrow funds from the NJEDA or a county improvement authority, to finance loans to property owners to acquire

and install renewable energy systems and energy efficiency improvements. The issuance of municipal debt must be authorized by an ordinance adopted by a two-thirds vote of the full membership of the governing body and approved by the mayor (as is necessary in the specific form of government). The loans would be secured by the payment of a special assessment on the improved property. Special assessments would be paid quarterly and assigned to the agency that issued the bonds or provided the financing for the renewable energy improvements.

While the substitute provides for a financing mechanism under which costs are born only by property owners benefitting from energy improvements, municipalities may be required to expend general revenues to provide for the repayment of bonds or loans in the event that a property owner fails to make required payments of the special assessment. In most cases, a municipality should be able to recover its costs through enforcement of its lien against the property owner under general law.

*Section: Local Government*

*Analyst: Scott A. Brodsky  
Senior Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).