

COMMITTEE STATEMENT:	ASSEMBLY:	Yes	Labor Appropriations
	SENATE:	No	

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	No
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LEGISLATIVE FISCAL ESTIMATE:	Yes
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VETO MESSAGE:	No
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GOVERNOR'S PRESS RELEASE ON SIGNING:	Yes
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FOLLOWING WERE PRINTED:

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REPORTS:	No
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HEARINGS:	No
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NEWSPAPER ARTICLES:	No
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CL/MM

P.L. 2024, CHAPTER 75, *approved September 12, 2024*
Senate, No. 3407

1 AN ACT concerning the C-PACE program and amending P.L.2021,
2 c.201.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 2 of P.L.2021, c.201 (C:34:1B-375) is amended to
8 read as follows:

9 2. As used in sections 1 through 9 of P.L.2021, c.201 (C.34:1B-
10 374 through C.34:1B-382):

11 "Assignment agreement" means an agreement in which a
12 participating municipality assigns a C-PACE assessment to a capital
13 provider, its designee, successor or assign.

14 "Authority" means the New Jersey Economic Development
15 Authority.

16 "Authorized municipality" means a municipality with a population
17 that, as of the launch date, is in the top third of municipalities in the
18 State in terms of population, according to the most recent American
19 Community Survey published by the United States Census Bureau.

20 "Capital provider" means:

21 a. an accredited investor or qualified institutional buyer as
22 defined respectively in Regulation D, Rule 501 (17 C.F.R.230.501
23 through 230.508) or Rule 144A (17 C.F.R.230.144A) of the federal
24 "Securities Act of 1933" (15 U.S.C. s.77a et seq.), as amended;

25 b. the trustee or custodian of a trust or custody arrangement
26 which provides that each beneficial owner of interests shall be an
27 accredited investor or qualified institutional buyer;

28 c. a public entity;

29 d. a special purpose securitization vehicle for the sale and
30 transfer of securities, which is restricted to those persons described
31 in subsection a. or b. of this definition; or

32 e. a commercial lending institution chartered by a state or the
33 federal government, including, without limitation, a savings and loan
34 association, a credit union, or a commercial bank.

35 "C-PACE" means commercial property assessed clean energy.

36 "C-PACE assessment" means a local improvement assessment, in
37 accordance with chapter 56 of Title 40 of the Revised Statutes,
38 imposed by a participating municipality on a property, with the
39 consent of the owner of the property, and determined based upon
40 either the existing use of a property or the contemplated use of
41 unimproved property upon completion of new construction, as a

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 means of securing financing provided pursuant to section 9 of
2 P.L.2021, c.201 (C.34:1B-382) to finance a C-PACE project at the
3 property, payments in respect of which assessment are collected by
4 the participating municipality and remitted to the entity that provided
5 the financing or its designee.

6 "C-PACE assessment agreement" means an agreement between a
7 participating municipality and a property owner in which the
8 property owner agrees to the imposition of a C-PACE assessment on
9 the property benefited by a C-PACE project within the municipality,
10 and in which the participating municipality agrees to levy, bill,
11 collect, remit, and, to the extent necessary, enforce the C-PACE
12 assessment.

13 "C-PACE project" means:

14 a. the acquisition, construction, installation, modification, or, in
15 the discretion of the authority and in accordance with guidelines
16 adopted by the authority, entry into a capital lease of an energy
17 efficiency improvement or renewable energy system including
18 energy storage, microgrid, water conservation improvement,
19 stormwater management system, electric vehicle charging
20 infrastructure, flood resistant construction improvement, or hurricane
21 resistant construction improvement, in each case affixed to a
22 property, including new construction upon previously unimproved
23 real property, within a participating municipality, provided that, on
24 the basis of supplemental program guidelines to be published by the
25 authority within 90 days following the launch date, a qualified
26 professional attests that such new construction exceeds the minimum
27 standards of the local and State building codes otherwise applicable
28 to the property;

29 b. at the discretion of, and in accordance with guidelines adopted
30 by, the authority, a microgrid or district heating and cooling system
31 in which a property owner within the municipality participates for the
32 duration of the C-PACE assessment; or

33 c. at the discretion of, and in accordance with guidelines adopted
34 by, the authority, a power purchase agreement with respect to a
35 renewable energy system affixed to a property.

36 "Direct financing" means financing for a C-PACE project
37 pursuant to a financing agreement entered into between a capital
38 provider and a property owner.

39 "Electric vehicle charging infrastructure" means equipment
40 designed to deliver electric energy to a battery electric vehicle or a
41 plug-in hybrid vehicle.

42 "Energy efficiency improvement" means an improvement to
43 reduce energy consumption through conservation or a more efficient
44 use of electricity, natural gas, propane, or other forms of energy,
45 including, but not limited to: air sealing; installation of insulation;
46 installation of energy-efficient electrical, heating, cooling, or
47 ventilation systems; building modifications to increase the use of
48 daylight; energy efficient windows, doors, and glass; installation of

1 energy or water controls or energy recovery systems; and installation
2 of efficient lighting equipment.

3 "Finance" or "financing" means the investing of capital in
4 accordance with section 9 of P.L.2021, c.201 (C.34:1B-382),
5 including, on the basis of supplemental program guidelines to be
6 published by the authority within 90 days following the launch date,
7 the refinancing of an investment in an existing C-PACE project.

8 "Flood resistant construction improvement" means an
9 improvement that mitigates the likelihood of flood damage,
10 including, but not limited to, the installation of break-away walls and
11 building elevation alterations.

12 "Garden State C-PACE program" means the program established
13 by the authority pursuant to sections 4 and 5 of P.L.2021, c.201
14 (C.34:1B-377 and C.34:1B-378).

15 "Garden State program agreement" means an agreement between
16 the authority and a participating municipality defining:

17 a. the obligations of a municipality to participate in the Garden
18 State C-PACE program, including the requirement that the
19 participating municipality levy, bill, collect, remit, and enforce a C-
20 PACE assessment; and

21 b. the obligations, if any, that the authority may undertake (1)
22 with respect to the remittance of C-PACE assessments to capital
23 providers if the remittance is authorized by regulations adopted by
24 the Local Finance Board pursuant to section 38 of P.L.2000, c.126
25 (C.52:27D-20.1) and requested by the participating municipality, and
26 (2) to review and approve the participation of individual capital
27 providers or financings in the Garden State C-PACE program.

28 **【Neither the execution by the authority of a Garden State program
29 agreement with a municipality nor its exercise of its rights or
30 performance of its duties thereunder shall be considered "authority
31 financial assistance" as that term is defined in section 1 of P.L.1979,
32 c.303 (C.34:1B-5.1).】**

33 "Hurricane resistant construction improvement" means an
34 improvement that enables a component of a structure to be in
35 compliance with the standards for a "wind-borne debris region"
36 adopted pursuant to the "State Uniform Construction Code Act,"
37 P.L.1975, c.217 (C.52:27D-119 et seq.), or into compliance with a
38 successor standard under that code.

39 "Launch date" means the date upon which the authority has taken
40 all of the actions specified in subsection c. of section 5 of P.L.2021,
41 c.201 (C.34:1B-378), other than any actions that are expressly
42 required by P.L.2021, c.201 (C.34:1B-374 et al.) to be taken within
43 90 days following the launch date.

44 "Local C-PACE program" means a program established by an
45 authorized municipality or a county pursuant to section 6 of
46 P.L.2021, c.201 (C.34:1B-379).

47 "Local C-PACE program ordinance" means an ordinance adopted
48 by an authorized municipality or a county, and approved by the

1 authority pursuant to section 7 of P.L.2021, c.201 (C.34:1B-380), to
2 establish a program within its jurisdiction pursuant to subsection b.
3 of section 5 and subsection a. of section 6 of P.L.2021, c.201
4 (C.34:1B-378 and C.34:1B-379).

5 "Microgrid" means a group of interconnected loads and
6 distributed energy resources within clearly defined electrical
7 boundaries that acts as a single controllable entity with respect to the
8 electric distribution system and that connects and disconnects from
9 the electric distribution system to enable it to operate when both
10 connected to, or independent of, the electric distribution system.

11 "Notice of assessment" means the document filed with the county
12 recording officer in the county in which a property is located, which
13 notifies prospective holders of an interest in the property that a C-
14 PACE assessment lien has been placed on the property.

15 "Opt-in ordinance" means an ordinance adopted by a municipality
16 by which it authorizes its participation in the Garden State C-PACE
17 program and authorizes the municipality to enter into a Garden State
18 program agreement with the authority.

19 "Participating municipality" means:

20 a. a municipality that adopts an opt-in ordinance and executes a
21 Garden State program agreement; or

22 b. an authorized municipality that adopts an opt-in ordinance,
23 executes a Garden State program agreement, and adopts a local C-
24 PACE program ordinance and local C-PACE program guidelines
25 approved by the authority.

26 "Private entity" means a corporation, limited liability company,
27 partnership, trust, or any other form of private organization,
28 including but not limited to a "related competitive business segment
29 of a public utility holding company," or a "related competitive
30 business segment of an electric public utility or gas public utility," as
31 those terms are defined in section 3 of P.L.1999, c.23 (C.48:3-51), so
32 long as the organization is not subject to the jurisdiction of the Board
33 of Public Utilities.

34 "Program guidelines" means:

35 a. any program-related rules or documents, or both, prepared
36 and published by the authority that apply to the Garden State C-
37 PACE program; or

38 b. any program-related rules or documents, or both, prepared
39 and published by an authorized municipality or a county, and
40 approved by the authority, that apply to local C-PACE programs
41 pursuant to paragraph (3) of subsection b. of section 6 of P.L.2021,
42 c.201 (C.34:1B-379).

43 "Project costs" means costs associated with a C-PACE project and
44 shall include: direct costs, including but not limited to, equipment,
45 materials, and labor related to the purchasing, constructing,
46 installing, modifying, or acquiring a C-PACE project; indirect costs,
47 including, but not limited to, expenses and fees of engineers,
48 architects, and other professionals, inspection fees and permits,

1 warranties and pre-paid maintenance contracts; program fees; and
2 financing costs of a capital provider, including, but not limited to,
3 origination fees, prepaid interest and payment reserves, closing costs,
4 counsel fees, trustee or custodian fees, recording fees, and other
5 financing charges, except that the authority may implement an
6 alternative definition of "project costs" in its program guidelines in
7 connection with the financing of new construction.

8 "Property" means industrial, agricultural, or commercial property;
9 residential property containing five or more dwelling units; common
10 areas of condominiums and other planned real estate developments
11 as defined in section 3 of P.L.1977, c.419 (C.45:22A-23); and
12 property owned by a tax-exempt or nonprofit entity, including, but
13 not limited to, schools, hospitals, institutions of higher education, or
14 religious institutions, within a participating municipality upon which
15 a C-PACE assessment is imposed at the request of a property owner
16 in connection with a C-PACE project.

17 "Property owner" means an owner of a property within a
18 participating municipality who consents to a C-PACE assessment
19 being imposed on the property.

20 "Renewable energy system" means an improvement by which
21 electrical, mechanical, or thermal energy is produced from a method
22 that uses one or more of the following fuels or energy sources:
23 hydrogen, solar energy, geothermal energy, biomass, or wind energy,
24 together with the other fuels and energy sources that the authority,
25 after consultation with the Board of Public Utilities, may determine
26 pursuant to program guidelines prepared and published pursuant to
27 subsection c. of section 5 of P.L.2021, c.201 (C.34:1B-378).

28 "Solar renewable energy certificate" means the same as defined in
29 section 3 of P.L.1999, c.23 (C.48:3-51).

30 "Stormwater management system" means the same as defined in
31 section 3 of P.L.2019, c.42 (C.40A:26B-3).

32 "Transition renewable energy certificate" means a certificate
33 issued by the Board of Public Utilities or its designee, under the solar
34 energy transition incentive program, which is designed to transition
35 between the solar renewable energy certificate program and a solar
36 successor incentive program to be developed by the Board of Public
37 Utilities pursuant to P.L.2018, c.17 (C.48:3-87.8 et al.).

38 "Uniform assessment documents" means a uniform C-PACE
39 assessment agreement, assignment agreement, and notice of
40 assessment, a model lender consent to a C-PACE assessment
41 pursuant to section 5 of P.L.2021, c.201 (C.34:1B-378), and any
42 other uniform or model documents prepared by the authority and used
43 in the Garden State C-PACE program and local C-PACE programs,
44 except that the authority shall not mandate a uniform financing
45 agreement, which shall be supplied by the capital provider for direct
46 financing.

1 "Water conservation improvement" means an improvement that
2 reduces water consumption, increases the efficiency of water use, or
3 reduces water loss.

4 (P.L.2021, c.201, s.2)

5

6 2. Section 9 of P.L.2021, c.201 (C.34:1B-382) is amended to
7 read as follows:

8 9. a. Financing for the implementation of C-PACE projects,
9 including the refinancing of an investment in an existing
10 improvement that qualifies as a C-PACE project, provided the
11 existing improvement was completed no more than three years prior
12 to the submission of an application to the Garden State C-PACE
13 program or local C-PACE program for the financing, shall be made
14 available to property owners in exchange for a C-PACE assessment
15 on the property. The C-PACE assessment shall be used to repay the
16 financing.

17 b. The governing body of a county or authorized municipality
18 may apply to a county improvement authority that issues bonds
19 pursuant to paragraph (3) of subsection (j) of section 12 of P.L.1960,
20 c.183 (C.40:37A-55), or, in the case of an authorized municipality,
21 may issue bonds on its own to finance project costs for C-PACE
22 projects pursuant to a local C-PACE program or the Garden State C-
23 PACE program.

24 (1) Notwithstanding any other law to the contrary, bonds issued
25 by a participating municipality shall be authorized and issued by
26 ordinance of the municipality, may be issued in one or more series
27 on such additional terms, and may be sold at public or private sale,
28 all as set forth in the ordinance.

29 (2) Bonds issued by a county improvement authority shall be
30 authorized and issued in the manner set forth in the "county
31 improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et
32 seq.).

33 (3) Bonds issued by a participating municipality or county
34 improvement authority shall be non-recourse obligations of the issuer
35 and shall not be considered to be direct and general obligations of the
36 issuer, or the State of New Jersey or any political subdivision thereof.
37 Any bonds issued or authorized by a municipality pursuant to
38 P.L.2021, c.201 (C.34:1B-374 et al.) shall not be considered gross
39 debt of the municipality on any debt statement filed in accordance
40 with the "Local Bond Law," N.J.S. 40A:2-1 et seq.

41 (4) Bonds issued by a municipality or county improvement
42 authority pursuant to this subsection may be backed by one or more
43 C-PACE assessment contracts.

44 c. The authority shall allow capital providers to directly finance
45 project costs for C-PACE projects, or for such costs to be financed
46 through bond issuance. Any direct financing provided by a capital
47 provider pursuant to P.L.2021, c.201 (C.34:1B-374 et al.) shall not
48 be guaranteed or secured by the full faith and credit of any public

1 entity, including the State of New Jersey or any political subdivision
2 thereof, shall not be considered to be direct and general obligations
3 of any public entity, including the State of New Jersey or any political
4 subdivision thereof, shall not be considered gross debt of any
5 municipality on any debt statement filed in accordance with the
6 "Local Bond Law," N.J.S.40A:2-1 et seq., [and shall not be
7 considered "financial assistance" pursuant to section 1 of P.L.1979,
8 c.303 (C.34:1B-5.1),] except to the extent the authority may provide
9 a guaranty as provided for in subsection d. of section 4 of P.L.2021,
10 c.201 (C.34:1B-377). The Garden State C-PACE program and any
11 local C-PACE program shall permit all capital providers that meet
12 the eligibility requirements established in their program guidelines to
13 provide financing through the program.

14 d. An authorized municipality or county that has established a
15 local C-PACE program shall allow capital providers to directly
16 finance project costs for C-PACE projects under the program. The
17 repayment of any financing provided by a capital provider shall not
18 be guaranteed or secured by the full faith and credit of any public
19 entity, including the State of New Jersey or any political subdivision
20 thereof, shall not be considered to be direct and general obligations
21 of any public entity, including the State of New Jersey or any political
22 subdivision thereof, shall not be considered gross debt of any
23 municipality on any debt statement filed in accordance with the
24 "Local Bond Law," N.J.S.40A:2-1 et seq., [and shall not be
25 considered "financial assistance" pursuant to section 1 of P.L.1979,
26 c.303 (C.34:1B-5.1),] except to the extent the authority may provide
27 a guaranty as provided for in subsection d. of section 4 of P.L.2021,
28 c.201 (C.34:1B-377).

29 e. A property owner who installs a renewable energy system
30 under the Garden State C-PACE program or a local C-PACE program
31 may also assign or transfer any solar renewable energy certificates,
32 transition renewable energy certificates, or other renewable energy
33 certificates or credits that accrue to the property owner from the
34 operation of the system to the authority, the municipality, the county
35 improvement authority, other public entity, or the private entity, or
36 capital provider as applicable, which has financed the C-PACE
37 project. If any solar renewable energy certificates, transition
38 renewable energy certificates, or other renewable energy certificates
39 or credits are assigned or transferred to a municipality, county,
40 county improvement authority, other public entity, or private entity,
41 the municipality, county, county improvement authority, other public
42 entity, or private entity, or capital provider is authorized to sell, grant,
43 assign, convey, or otherwise dispose of its interest in the certificates
44 or credits to repay the financing.

45 f. Other than as identified in this section, no public entity,
46 including the State of New Jersey or any political subdivision thereof,
47 may issue bonds to finance any C-PACE program, except to the

1 extent the authority may issue bonds pursuant to P.L.1974, c.80
2 (C.34:1B-1 et seq.).

3 g. Any direct financing provided by a capital provider for a C-
4 PACE project under subsection b. or subsection c. of this section
5 shall be considered "authority financial assistance" as that term is
6 defined in section 1 of P.L.1979, c.303 (C.34:1B-5.1) and work on
7 the project undertaken in connection with the assistance shall be
8 subject to the prevailing wage requirements of that section.
9 (P.L.2021, c.201, s.9)

10

11 3. This act shall take effect immediately.

12

13

14

STATEMENT

15

16 This bill removes provisions in the current law that exclude
17 financing under the Commercial Property Assessed Clean Energy
18 ("C-PACE") Program from being considered as authority financial
19 assistance or financial assistance that would require payment of the
20 prevailing wage. The bill expressly provides that any direct
21 financing provided by a capital provider for a C-PACE project is
22 considered "authority financial assistance" as that term is defined in
23 section 1 of P.L.1979, c.303 (C.34:1B-5.1) and that work on the
24 project is subject to the prevailing wage requirements of that section.

25 The C-PACE program provides financing for renewable energy,
26 energy efficiency, water conservation, and certain types of
27 resiliency-related improvements for New Jersey.

28 Pursuant to the bill, employers are required to ensure that not less
29 than the prevailing wage rate is paid to workers involved in
30 construction contracts connected to C-PACE program financing.
31 This includes projects undertaken to meet conditions for receiving
32 assistance. The prevailing wage rate, determined by the
33 Commissioner of Labor and Workforce Development, applies to any
34 authority financial assistance including loans, loan guarantees,
35 grants, incentives, tax exemptions, or other financial assistance
36 provided by the authority.

37

38

39

40

41 _____
42 Requires payment of prevailing wage for projects financed
through commercial property assessed clean energy program.

CHAPTER 75

AN ACT concerning the C-PACE program and amending P.L.2021, c.201.

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

1. Section 2 of P.L.2021, c.201 (C.34:1B-375) is amended to read as follows:

C.34:1B-375 Definitions.

2. As used in sections 1 through 9 of P.L.2021, c.201 (C.34:1B-374 through C.34:1B-382):

"Assignment agreement" means an agreement in which a participating municipality assigns a C-PACE assessment to a capital provider, its designee, successor or assign.

"Authority" means the New Jersey Economic Development Authority.

"Authorized municipality" means a municipality with a population that, as of the launch date, is in the top third of municipalities in the State in terms of population, according to the most recent American Community Survey published by the United States Census Bureau.

"Capital provider" means:

an accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 (17 C.F.R.230.501 through 230.508) or Rule 144A (17 C.F.R.230.144A) of the federal "Securities Act of 1933" (15 U.S.C. s.77a et seq.), as amended;

the trustee or custodian of a trust or custody arrangement which provides that each beneficial owner of interests shall be an accredited investor or qualified institutional buyer;

a public entity;

a special purpose securitization vehicle for the sale and transfer of securities, which is restricted to those persons described in subsection a. or b. of this definition; or

a commercial lending institution chartered by a state or the federal government, including, without limitation, a savings and loan association, a credit union, or a commercial bank.

"C-PACE" means commercial property assessed clean energy.

"C-PACE assessment" means a local improvement assessment, in accordance with chapter 56 of Title 40 of the Revised Statutes, imposed by a participating municipality on a property, with the consent of the owner of the property, and determined based upon either the existing use of a property or the contemplated use of unimproved property upon completion of new construction, as a means of securing financing provided pursuant to section 9 of P.L.2021, c.201 (C.34:1B-382) to finance a C-PACE project at the property, payments in respect of which assessment are collected by the participating municipality and remitted to the entity that provided the financing or its designee.

"C-PACE assessment agreement" means an agreement between a participating municipality and a property owner in which the property owner agrees to the imposition of a C-PACE assessment on the property benefited by a C-PACE project within the municipality, and in which the participating municipality agrees to levy, bill, collect, remit, and, to the extent necessary, enforce the C-PACE assessment.

"C-PACE project" means:

the acquisition, construction, installation, modification, or, in the discretion of the authority and in accordance with guidelines adopted by the authority, entry into a capital lease of an energy efficiency improvement or renewable energy system including energy storage, microgrid, water conservation improvement, stormwater management system, electric vehicle charging infrastructure, flood resistant construction improvement, or hurricane resistant construction improvement, in each case affixed to a property, including new construction upon previously unimproved real property, within a participating municipality, provided that, on the basis of supplemental program guidelines to be published by the authority within 90 days following the

launch date, a qualified professional attests that such new construction exceeds the minimum standards of the local and State building codes otherwise applicable to the property;

at the discretion of, and in accordance with guidelines adopted by, the authority, a microgrid or district heating and cooling system in which a property owner within the municipality participates for the duration of the C-PACE assessment; or

at the discretion of, and in accordance with guidelines adopted by, the authority, a power purchase agreement with respect to a renewable energy system affixed to a property.

"Direct financing" means financing for a C-PACE project pursuant to a financing agreement entered into between a capital provider and a property owner.

"Electric vehicle charging infrastructure" means equipment designed to deliver electric energy to a battery electric vehicle or a plug-in hybrid vehicle.

"Energy efficiency improvement" means an improvement to reduce energy consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy, including, but not limited to: air sealing; installation of insulation; installation of energy-efficient electrical, heating, cooling, or ventilation systems; building modifications to increase the use of daylight; energy efficient windows, doors, and glass; installation of energy or water controls or energy recovery systems; and installation of efficient lighting equipment.

"Finance" or "financing" means the investing of capital in accordance with section 9 of P.L.2021, c.201 (C.34:1B-382), including, on the basis of supplemental program guidelines to be published by the authority within 90 days following the launch date, the refinancing of an investment in an existing C-PACE project.

"Flood resistant construction improvement" means an improvement that mitigates the likelihood of flood damage, including, but not limited to, the installation of break-away walls and building elevation alterations.

"Garden State C-PACE program" means the program established by the authority pursuant to sections 4 and 5 of P.L.2021, c.201 (C.34:1B-377 and C.34:1B-378).

"Garden State program agreement" means an agreement between the authority and a participating municipality defining:

the obligations of a municipality to participate in the Garden State C-PACE program, including the requirement that the participating municipality levy, bill, collect, remit, and enforce a C-PACE assessment; and

the obligations, if any, that the authority may undertake (1) with respect to the remittance of C-PACE assessments to capital providers if the remittance is authorized by regulations adopted by the Local Finance Board pursuant to section 38 of P.L.2000, c.126 (C.52:27D-20.1) and requested by the participating municipality, and (2) to review and approve the participation of individual capital providers or financings in the Garden State C-PACE program.

"Hurricane resistant construction improvement" means an improvement that enables a component of a structure to be in compliance with the standards for a "wind-borne debris region" adopted pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), or into compliance with a successor standard under that code.

"Launch date" means the date upon which the authority has taken all of the actions specified in subsection c. of section 5 of P.L.2021, c.201 (C.34:1B-378), other than any actions that are expressly required by P.L.2021, c.201 (C.34:1B-374 et al.) to be taken within 90 days following the launch date.

"Local C-PACE program" means a program established by an authorized municipality or a county pursuant to section 6 of P.L.2021, c.201 (C.34:1B-379).

"Local C-PACE program ordinance" means an ordinance adopted by an authorized municipality or a county, and approved by the authority pursuant to section 7 of P.L.2021,

c.201 (C.34:1B-380), to establish a program within its jurisdiction pursuant to subsection b. of section 5 and subsection a. of section 6 of P.L.2021, c.201 (C.34:1B-378 and C.34:1B-379).

"Microgrid" means a group of interconnected loads and distributed energy resources within clearly defined electrical boundaries that acts as a single controllable entity with respect to the electric distribution system and that connects and disconnects from the electric distribution system to enable it to operate when both connected to, or independent of, the electric distribution system.

"Notice of assessment" means the document filed with the county recording officer in the county in which a property is located, which notifies prospective holders of an interest in the property that a C-PACE assessment lien has been placed on the property.

"Opt-in ordinance" means an ordinance adopted by a municipality by which it authorizes its participation in the Garden State C-PACE program and authorizes the municipality to enter into a Garden State program agreement with the authority.

"Participating municipality" means:

a municipality that adopts an opt-in ordinance and executes a Garden State program agreement; or

an authorized municipality that adopts an opt-in ordinance, executes a Garden State program agreement, and adopts a local C-PACE program ordinance and local C-PACE program guidelines approved by the authority.

"Private entity" means a corporation, limited liability company, partnership, trust, or any other form of private organization, including but not limited to a "related competitive business segment of a public utility holding company," or a "related competitive business segment of an electric public utility or gas public utility," as those terms are defined in section 3 of P.L.1999, c.23 (C.48:3-51), so long as the organization is not subject to the jurisdiction of the Board of Public Utilities.

"Program guidelines" means:

any program-related rules or documents, or both, prepared and published by the authority that apply to the Garden State C-PACE program; or

any program-related rules or documents, or both, prepared and published by an authorized municipality or a county, and approved by the authority, that apply to local C-PACE programs pursuant to paragraph (3) of subsection b. of section 6 of P.L.2021, c.201 (C.34:1B-379).

"Project costs" means costs associated with a C-PACE project and shall include: direct costs, including but not limited to, equipment, materials, and labor related to the purchasing, constructing, installing, modifying, or acquiring a C-PACE project; indirect costs, including, but not limited to, expenses and fees of engineers, architects, and other professionals, inspection fees and permits, warranties and pre-paid maintenance contracts; program fees; and financing costs of a capital provider, including, but not limited to, origination fees, prepaid interest and payment reserves, closing costs, counsel fees, trustee or custodian fees, recording fees, and other financing charges, except that the authority may implement an alternative definition of "project costs" in its program guidelines in connection with the financing of new construction.

"Property" means industrial, agricultural, or commercial property; residential property containing five or more dwelling units; common areas of condominiums and other planned real estate developments as defined in section 3 of P.L.1977, c.419 (C.45:22A-23); and property owned by a tax-exempt or nonprofit entity, including, but not limited to, schools, hospitals, institutions of higher education, or religious institutions, within a participating municipality upon which a C-PACE assessment is imposed at the request of a property owner in connection with a C-PACE project.

"Property owner" means an owner of a property within a participating municipality who consents to a C-PACE assessment being imposed on the property.

"Renewable energy system" means an improvement by which electrical, mechanical, or thermal energy is produced from a method that uses one or more of the following fuels or energy sources: hydrogen, solar energy, geothermal energy, biomass, or wind energy, together with the other fuels and energy sources that the authority, after consultation with the Board of Public Utilities, may determine pursuant to program guidelines prepared and published pursuant to subsection c. of section 5 of P.L.2021, c.201 (C.34:1B-378).

"Solar renewable energy certificate" means the same as defined in section 3 of P.L.1999, c.23 (C.48:3-51).

"Stormwater management system" means the same as defined in section 3 of P.L.2019, c.42 (C.40A:26B-3).

"Transition renewable energy certificate" means a certificate issued by the Board of Public Utilities or its designee, under the solar energy transition incentive program, which is designed to transition between the solar renewable energy certificate program and a solar successor incentive program to be developed by the Board of Public Utilities pursuant to P.L.2018, c.17 (C.48:3-87.8 et al.).

"Uniform assessment documents" means a uniform C-PACE assessment agreement, assignment agreement, and notice of assessment, a model lender consent to a C-PACE assessment pursuant to section 5 of P.L.2021, c.201 (C.34:1B-378), and any other uniform or model documents prepared by the authority and used in the Garden State C-PACE program and local C-PACE programs, except that the authority shall not mandate a uniform financing agreement, which shall be supplied by the capital provider for direct financing.

"Water conservation improvement" means an improvement that reduces water consumption, increases the efficiency of water use, or reduces water loss.

2. Section 9 of P.L.2021, c.201 (C.34:1B-382) is amended to read as follows:

C.34:1B-382 Financing, assessment on property.

9. a. Financing for the implementation of C-PACE projects, including the refinancing of an investment in an existing improvement that qualifies as a C-PACE project, provided the existing improvement was completed no more than three years prior to the submission of an application to the Garden State C-PACE program or local C-PACE program for the financing, shall be made available to property owners in exchange for a C-PACE assessment on the property. The C-PACE assessment shall be used to repay the financing.

b. The governing body of a county or authorized municipality may apply to a county improvement authority that issues bonds pursuant to paragraph (3) of subsection (j) of section 12 of P.L.1960, c.183 (C.40:37A-55), or, in the case of an authorized municipality, may issue bonds on its own to finance project costs for C-PACE projects pursuant to a local C-PACE program or the Garden State C-PACE program.

(1) Notwithstanding any other law to the contrary, bonds issued by a participating municipality shall be authorized and issued by ordinance of the municipality, may be issued in one or more series on such additional terms, and may be sold at public or private sale, all as set forth in the ordinance.

(2) Bonds issued by a county improvement authority shall be authorized and issued in the manner set forth in the "county improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.).

(3) Bonds issued by a participating municipality or county improvement authority shall be non-recourse obligations of the issuer and shall not be considered to be direct and general obligations of the issuer, or the State of New Jersey or any political subdivision thereof. Any bonds issued or authorized by a municipality pursuant to P.L.2021, c.201 (C.34:1B-374 et al.) shall not be considered gross debt of the municipality on any debt statement filed in accordance with the "Local Bond Law," N.J.S. 40A:2-1 et seq.

(4) Bonds issued by a municipality or county improvement authority pursuant to this subsection may be backed by one or more C-PACE assessment contracts.

c. The authority shall allow capital providers to directly finance project costs for C-PACE projects, or for such costs to be financed through bond issuance. Any direct financing provided by a capital provider pursuant to P.L.2021, c.201 (C.34:1B-374 et al.) shall not be guaranteed or secured by the full faith and credit of any public entity, including the State of New Jersey or any political subdivision thereof, shall not be considered to be direct and general obligations of any public entity, including the State of New Jersey or any political subdivision thereof, shall not be considered gross debt of any municipality on any debt statement filed in accordance with the "Local Bond Law," N.J.S.40A:2-1 et seq., except to the extent the authority may provide a guaranty as provided for in subsection d. of section 4 of P.L.2021, c.201 (C.34:1B-377). The Garden State C-PACE program and any local C-PACE program shall permit all capital providers that meet the eligibility requirements established in their program guidelines to provide financing through the program.

d. An authorized municipality or county that has established a local C-PACE program shall allow capital providers to directly finance project costs for C-PACE projects under the program. The repayment of any financing provided by a capital provider shall not be guaranteed or secured by the full faith and credit of any public entity, including the State of New Jersey or any political subdivision thereof, shall not be considered to be direct and general obligations of any public entity, including the State of New Jersey or any political subdivision thereof, shall not be considered gross debt of any municipality on any debt statement filed in accordance with the "Local Bond Law," N.J.S.40A:2-1 et seq., except to the extent the authority may provide a guaranty as provided for in subsection d. of section 4 of P.L.2021, c.201 (C.34:1B-377).

e. A property owner who installs a renewable energy system under the Garden State C-PACE program or a local C-PACE program may also assign or transfer any solar renewable energy certificates, transition renewable energy certificates, or other renewable energy certificates or credits that accrue to the property owner from the operation of the system to the authority, the municipality, the county improvement authority, other public entity, or the private entity, or capital provider as applicable, which has financed the C-PACE project. If any solar renewable energy certificates, transition renewable energy certificates, or other renewable energy certificates or credits are assigned or transferred to a municipality, county, county improvement authority, other public entity, or private entity, the municipality, county, county improvement authority, other public entity, or private entity, or capital provider is authorized to sell, grant, assign, convey, or otherwise dispose of its interest in the certificates or credits to repay the financing.

f. Other than as identified in this section, no public entity, including the State of New Jersey or any political subdivision thereof, may issue bonds to finance any C-PACE program, except to the extent the authority may issue bonds pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.).

g. Any direct financing provided by a capital provider for a C-PACE project under subsection b. or subsection c. of this section shall be considered "authority financial assistance" as that term is defined in section 1 of P.L.1979, c.303 (C.34:1B-5.1), and work on the project

undertaken in connection with the assistance shall be subject to the prevailing wage requirements of that section.

3. This act shall take effect immediately.

Approved September 12, 2024.

SENATE, No. 3407

STATE OF NEW JERSEY 221st LEGISLATURE

INTRODUCED JUNE 10, 2024

Sponsored by:

Senator JOSEPH A. LAGANA

District 38 (Bergen)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Assemblywomen Bagolie and Drulis

SYNOPSIS

Requires payment of prevailing wage for projects financed through commercial property assessed clean energy program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/28/2024)

S3407 LAGANA

2

1 AN ACT concerning the C-PACE program and amending P.L.2021,
2 c.201.

3

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

6

7 1. Section 2 of P.L.2021, c.201 (C:34:1B-375) is amended to
8 read as follows:

9 2. As used in sections 1 through 9 of P.L.2021, c.201 (C.34:1B-
10 374 through C.34:1B-382):

11 "Assignment agreement" means an agreement in which a
12 participating municipality assigns a C-PACE assessment to a capital
13 provider, its designee, successor or assign.

14 "Authority" means the New Jersey Economic Development
15 Authority.

16 "Authorized municipality" means a municipality with a population
17 that, as of the launch date, is in the top third of municipalities in the
18 State in terms of population, according to the most recent American
19 Community Survey published by the United States Census Bureau.

20 "Capital provider" means:

21 a. an accredited investor or qualified institutional buyer as
22 defined respectively in Regulation D, Rule 501 (17 C.F.R.230.501
23 through 230.508) or Rule 144A (17 C.F.R.230.144A) of the federal
24 "Securities Act of 1933" (15 U.S.C. s.77a et seq.), as amended;

25 b. the trustee or custodian of a trust or custody arrangement
26 which provides that each beneficial owner of interests shall be an
27 accredited investor or qualified institutional buyer;

28 c. a public entity;

29 d. a special purpose securitization vehicle for the sale and
30 transfer of securities, which is restricted to those persons described
31 in subsection a. or b. of this definition; or

32 e. a commercial lending institution chartered by a state or the
33 federal government, including, without limitation, a savings and loan
34 association, a credit union, or a commercial bank.

35 "C-PACE" means commercial property assessed clean energy.

36 "C-PACE assessment" means a local improvement assessment, in
37 accordance with chapter 56 of Title 40 of the Revised Statutes,
38 imposed by a participating municipality on a property, with the
39 consent of the owner of the property, and determined based upon
40 either the existing use of a property or the contemplated use of
41 unimproved property upon completion of new construction, as a
42 means of securing financing provided pursuant to section 9 of
43 P.L.2021, c.201 (C.34:1B-382) to finance a C-PACE project at the
44 property, payments in respect of which assessment are collected by

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 the participating municipality and remitted to the entity that provided
2 the financing or its designee.

3 "C-PACE assessment agreement" means an agreement between a
4 participating municipality and a property owner in which the
5 property owner agrees to the imposition of a C-PACE assessment on
6 the property benefited by a C-PACE project within the municipality,
7 and in which the participating municipality agrees to levy, bill,
8 collect, remit, and, to the extent necessary, enforce the C-PACE
9 assessment.

10 "C-PACE project" means:

11 a. the acquisition, construction, installation, modification, or, in
12 the discretion of the authority and in accordance with guidelines
13 adopted by the authority, entry into a capital lease of an energy
14 efficiency improvement or renewable energy system including
15 energy storage, microgrid, water conservation improvement,
16 stormwater management system, electric vehicle charging
17 infrastructure, flood resistant construction improvement, or hurricane
18 resistant construction improvement, in each case affixed to a
19 property, including new construction upon previously unimproved
20 real property, within a participating municipality, provided that, on
21 the basis of supplemental program guidelines to be published by the
22 authority within 90 days following the launch date, a qualified
23 professional attests that such new construction exceeds the minimum
24 standards of the local and State building codes otherwise applicable
25 to the property;

26 b. at the discretion of, and in accordance with guidelines adopted
27 by, the authority, a microgrid or district heating and cooling system
28 in which a property owner within the municipality participates for the
29 duration of the C-PACE assessment; or

30 c. at the discretion of, and in accordance with guidelines adopted
31 by, the authority, a power purchase agreement with respect to a
32 renewable energy system affixed to a property.

33 "Direct financing" means financing for a C-PACE project
34 pursuant to a financing agreement entered into between a capital
35 provider and a property owner.

36 "Electric vehicle charging infrastructure" means equipment
37 designed to deliver electric energy to a battery electric vehicle or a
38 plug-in hybrid vehicle.

39 "Energy efficiency improvement" means an improvement to
40 reduce energy consumption through conservation or a more efficient
41 use of electricity, natural gas, propane, or other forms of energy,
42 including, but not limited to: air sealing; installation of insulation;
43 installation of energy-efficient electrical, heating, cooling, or
44 ventilation systems; building modifications to increase the use of
45 daylight; energy efficient windows, doors, and glass; installation of
46 energy or water controls or energy recovery systems; and installation
47 of efficient lighting equipment.

1 "Finance" or "financing" means the investing of capital in
2 accordance with section 9 of P.L.2021, c.201 (C.34:1B-382),
3 including, on the basis of supplemental program guidelines to be
4 published by the authority within 90 days following the launch date,
5 the refinancing of an investment in an existing C-PACE project.

6 "Flood resistant construction improvement" means an
7 improvement that mitigates the likelihood of flood damage,
8 including, but not limited to, the installation of break-away walls and
9 building elevation alterations.

10 "Garden State C-PACE program" means the program established
11 by the authority pursuant to sections 4 and 5 of P.L.2021, c.201
12 (C.34:1B-377 and C.34:1B-378).

13 "Garden State program agreement" means an agreement between
14 the authority and a participating municipality defining:

15 a. the obligations of a municipality to participate in the Garden
16 State C-PACE program, including the requirement that the
17 participating municipality levy, bill, collect, remit, and enforce a C-
18 PACE assessment; and

19 b. the obligations, if any, that the authority may undertake (1)
20 with respect to the remittance of C-PACE assessments to capital
21 providers if the remittance is authorized by regulations adopted by
22 the Local Finance Board pursuant to section 38 of P.L.2000, c.126
23 (C.52:27D-20.1) and requested by the participating municipality, and
24 (2) to review and approve the participation of individual capital
25 providers or financings in the Garden State C-PACE program.
26 **【Neither the execution by the authority of a Garden State program**
27 **agreement with a municipality nor its exercise of its rights or**
28 **performance of its duties thereunder shall be considered "authority**
29 **financial assistance" as that term is defined in section 1 of P.L.1979,**
30 **c.303 (C.34:1B-5.1).】**

31 "Hurricane resistant construction improvement" means an
32 improvement that enables a component of a structure to be in
33 compliance with the standards for a "wind-borne debris region"
34 adopted pursuant to the "State Uniform Construction Code Act,"
35 P.L.1975, c.217 (C.52:27D-119 et seq.), or into compliance with a
36 successor standard under that code.

37 "Launch date" means the date upon which the authority has taken
38 all of the actions specified in subsection c. of section 5 of P.L.2021,
39 c.201 (C.34:1B-378), other than any actions that are expressly
40 required by P.L.2021, c.201 (C.34:1B-374 et al.) to be taken within
41 90 days following the launch date.

42 "Local C-PACE program" means a program established by an
43 authorized municipality or a county pursuant to section 6 of
44 P.L.2021, c.201 (C.34:1B-379).

45 "Local C-PACE program ordinance" means an ordinance adopted
46 by an authorized municipality or a county, and approved by the
47 authority pursuant to section 7 of P.L.2021, c.201 (C.34:1B-380), to
48 establish a program within its jurisdiction pursuant to subsection b.

1 of section 5 and subsection a. of section 6 of P.L.2021, c.201
2 (C.34:1B-378 and C.34:1B-379).

3 "Microgrid" means a group of interconnected loads and
4 distributed energy resources within clearly defined electrical
5 boundaries that acts as a single controllable entity with respect to the
6 electric distribution system and that connects and disconnects from
7 the electric distribution system to enable it to operate when both
8 connected to, or independent of, the electric distribution system.

9 "Notice of assessment" means the document filed with the county
10 recording officer in the county in which a property is located, which
11 notifies prospective holders of an interest in the property that a C-
12 PACE assessment lien has been placed on the property.

13 "Opt-in ordinance" means an ordinance adopted by a municipality
14 by which it authorizes its participation in the Garden State C-PACE
15 program and authorizes the municipality to enter into a Garden State
16 program agreement with the authority.

17 "Participating municipality" means:

18 a. a municipality that adopts an opt-in ordinance and executes a
19 Garden State program agreement; or

20 b. an authorized municipality that adopts an opt-in ordinance,
21 executes a Garden State program agreement, and adopts a local C-
22 PACE program ordinance and local C-PACE program guidelines
23 approved by the authority.

24 "Private entity" means a corporation, limited liability company,
25 partnership, trust, or any other form of private organization,
26 including but not limited to a "related competitive business segment
27 of a public utility holding company," or a "related competitive
28 business segment of an electric public utility or gas public utility," as
29 those terms are defined in section 3 of P.L.1999, c.23 (C.48:3-51), so
30 long as the organization is not subject to the jurisdiction of the Board
31 of Public Utilities.

32 "Program guidelines" means:

33 a. any program-related rules or documents, or both, prepared
34 and published by the authority that apply to the Garden State C-
35 PACE program; or

36 b. any program-related rules or documents, or both, prepared
37 and published by an authorized municipality or a county, and
38 approved by the authority, that apply to local C-PACE programs
39 pursuant to paragraph (3) of subsection b. of section 6 of P.L.2021,
40 c.201 (C.34:1B-379).

41 "Project costs" means costs associated with a C-PACE project and
42 shall include: direct costs, including but not limited to, equipment,
43 materials, and labor related to the purchasing, constructing,
44 installing, modifying, or acquiring a C-PACE project; indirect costs,
45 including, but not limited to, expenses and fees of engineers,
46 architects, and other professionals, inspection fees and permits,
47 warranties and pre-paid maintenance contracts; program fees; and
48 financing costs of a capital provider, including, but not limited to,

1 origination fees, prepaid interest and payment reserves, closing costs,
2 counsel fees, trustee or custodian fees, recording fees, and other
3 financing charges, except that the authority may implement an
4 alternative definition of "project costs" in its program guidelines in
5 connection with the financing of new construction.

6 "Property" means industrial, agricultural, or commercial property;
7 residential property containing five or more dwelling units; common
8 areas of condominiums and other planned real estate developments
9 as defined in section 3 of P.L.1977, c.419 (C.45:22A-23); and
10 property owned by a tax-exempt or nonprofit entity, including, but
11 not limited to, schools, hospitals, institutions of higher education, or
12 religious institutions, within a participating municipality upon which
13 a C-PACE assessment is imposed at the request of a property owner
14 in connection with a C-PACE project.

15 "Property owner" means an owner of a property within a
16 participating municipality who consents to a C-PACE assessment
17 being imposed on the property.

18 "Renewable energy system" means an improvement by which
19 electrical, mechanical, or thermal energy is produced from a method
20 that uses one or more of the following fuels or energy sources:
21 hydrogen, solar energy, geothermal energy, biomass, or wind energy,
22 together with the other fuels and energy sources that the authority,
23 after consultation with the Board of Public Utilities, may determine
24 pursuant to program guidelines prepared and published pursuant to
25 subsection c. of section 5 of P.L.2021, c.201 (C.34:1B-378).

26 "Solar renewable energy certificate" means the same as defined in
27 section 3 of P.L.1999, c.23 (C.48:3-51).

28 "Stormwater management system" means the same as defined in
29 section 3 of P.L.2019, c.42 (C.40A:26B-3).

30 "Transition renewable energy certificate" means a certificate
31 issued by the Board of Public Utilities or its designee, under the solar
32 energy transition incentive program, which is designed to transition
33 between the solar renewable energy certificate program and a solar
34 successor incentive program to be developed by the Board of Public
35 Utilities pursuant to P.L.2018, c.17 (C.48:3-87.8 et al.).

36 "Uniform assessment documents" means a uniform C-PACE
37 assessment agreement, assignment agreement, and notice of
38 assessment, a model lender consent to a C-PACE assessment
39 pursuant to section 5 of P.L.2021, c.201 (C.34:1B-378), and any
40 other uniform or model documents prepared by the authority and used
41 in the Garden State C-PACE program and local C-PACE programs,
42 except that the authority shall not mandate a uniform financing
43 agreement, which shall be supplied by the capital provider for direct
44 financing.

45 "Water conservation improvement" means an improvement that
46 reduces water consumption, increases the efficiency of water use, or
47 reduces water loss.

48 (P.L.2021, c.201, s.2)

1 2. Section 9 of P.L.2021, c.201 (C.34:1B-382) is amended to
2 read as follows:

3 9. a. Financing for the implementation of C-PACE projects,
4 including the refinancing of an investment in an existing
5 improvement that qualifies as a C-PACE project, provided the
6 existing improvement was completed no more than three years prior
7 to the submission of an application to the Garden State C-PACE
8 program or local C-PACE program for the financing, shall be made
9 available to property owners in exchange for a C-PACE assessment
10 on the property. The C-PACE assessment shall be used to repay the
11 financing.

12 b. The governing body of a county or authorized municipality
13 may apply to a county improvement authority that issues bonds
14 pursuant to paragraph (3) of subsection (j) of section 12 of P.L.1960,
15 c.183 (C.40:37A-55), or, in the case of an authorized municipality,
16 may issue bonds on its own to finance project costs for C-PACE
17 projects pursuant to a local C-PACE program or the Garden State C-
18 PACE program.

19 (1) Notwithstanding any other law to the contrary, bonds issued
20 by a participating municipality shall be authorized and issued by
21 ordinance of the municipality, may be issued in one or more series
22 on such additional terms, and may be sold at public or private sale,
23 all as set forth in the ordinance.

24 (2) Bonds issued by a county improvement authority shall be
25 authorized and issued in the manner set forth in the "county
26 improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et
27 seq.).

28 (3) Bonds issued by a participating municipality or county
29 improvement authority shall be non-recourse obligations of the issuer
30 and shall not be considered to be direct and general obligations of the
31 issuer, or the State of New Jersey or any political subdivision thereof.
32 Any bonds issued or authorized by a municipality pursuant to
33 P.L.2021, c.201 (C.34:1B-374 et al.) shall not be considered gross
34 debt of the municipality on any debt statement filed in accordance
35 with the "Local Bond Law," N.J.S. 40A:2-1 et seq.

36 (4) Bonds issued by a municipality or county improvement
37 authority pursuant to this subsection may be backed by one or more
38 C-PACE assessment contracts.

39 c. The authority shall allow capital providers to directly finance
40 project costs for C-PACE projects, or for such costs to be financed
41 through bond issuance. Any direct financing provided by a capital
42 provider pursuant to P.L.2021, c.201 (C.34:1B-374 et al.) shall not
43 be guaranteed or secured by the full faith and credit of any public
44 entity, including the State of New Jersey or any political subdivision
45 thereof, shall not be considered to be direct and general obligations
46 of any public entity, including the State of New Jersey or any political
47 subdivision thereof, shall not be considered gross debt of any
48 municipality on any debt statement filed in accordance with the

1 "Local Bond Law," N.J.S.40A:2-1 et seq., [and shall not be
2 considered "financial assistance" pursuant to section 1 of P.L.1979,
3 c.303 (C.34:1B-5.1),] except to the extent the authority may provide
4 a guaranty as provided for in subsection d. of section 4 of P.L.2021,
5 c.201 (C.34:1B-377). The Garden State C-PACE program and any
6 local C-PACE program shall permit all capital providers that meet
7 the eligibility requirements established in their program guidelines to
8 provide financing through the program.

9 d. An authorized municipality or county that has established a
10 local C-PACE program shall allow capital providers to directly
11 finance project costs for C-PACE projects under the program. The
12 repayment of any financing provided by a capital provider shall not
13 be guaranteed or secured by the full faith and credit of any public
14 entity, including the State of New Jersey or any political subdivision
15 thereof, shall not be considered to be direct and general obligations
16 of any public entity, including the State of New Jersey or any political
17 subdivision thereof, shall not be considered gross debt of any
18 municipality on any debt statement filed in accordance with the
19 "Local Bond Law," N.J.S.40A:2-1 et seq., [and shall not be
20 considered "financial assistance" pursuant to section 1 of P.L.1979,
21 c.303 (C.34:1B-5.1),] except to the extent the authority may provide
22 a guaranty as provided for in subsection d. of section 4 of P.L.2021,
23 c.201 (C.34:1B-377).

24 e. A property owner who installs a renewable energy system
25 under the Garden State C-PACE program or a local C-PACE program
26 may also assign or transfer any solar renewable energy certificates,
27 transition renewable energy certificates, or other renewable energy
28 certificates or credits that accrue to the property owner from the
29 operation of the system to the authority, the municipality, the county
30 improvement authority, other public entity, or the private entity, or
31 capital provider as applicable, which has financed the C-PACE
32 project. If any solar renewable energy certificates, transition
33 renewable energy certificates, or other renewable energy certificates
34 or credits are assigned or transferred to a municipality, county,
35 county improvement authority, other public entity, or private entity,
36 the municipality, county, county improvement authority, other public
37 entity, or private entity, or capital provider is authorized to sell, grant,
38 assign, convey, or otherwise dispose of its interest in the certificates
39 or credits to repay the financing.

40 f. Other than as identified in this section, no public entity,
41 including the State of New Jersey or any political subdivision thereof,
42 may issue bonds to finance any C-PACE program, except to the
43 extent the authority may issue bonds pursuant to P.L.1974, c.80
44 (C.34:1B-1 et seq.).

45 g. Any direct financing provided by a capital provider for a C-
46 PACE project under subsection b. or subsection c. of this section
47 shall be considered "authority financial assistance" as that term is
48 defined in section 1 of P.L.1979, c.303 (C.34:1B-5.1) and work on

1 the project undertaken in connection with the assistance shall be
2 subject to the prevailing wage requirements of that section.

3 (P.L.2021, c.201, s.9)

4

5 3. This act shall take effect immediately.

6

7

8

STATEMENT

9

10 This bill removes provisions in the current law that exclude
11 financing under the Commercial Property Assessed Clean Energy
12 (“C-PACE”) Program from being considered as authority financial
13 assistance or financial assistance that would require payment of the
14 prevailing wage. The bill expressly provides that any direct
15 financing provided by a capital provider for a C-PACE project is
16 considered "authority financial assistance" as that term is defined in
17 section 1 of P.L.1979, c.303 (C.34:1B-5.1) and that work on the
18 project is subject to the prevailing wage requirements of that section.

19 The C-PACE program provides financing for renewable energy,
20 energy efficiency, water conservation, and certain types of
21 resiliency-related improvements for New Jersey.

22 Pursuant to the bill, employers are required to ensure that not less
23 than the prevailing wage rate is paid to workers involved in
24 construction contracts connected to C-PACE program financing.
25 This includes projects undertaken to meet conditions for receiving
26 assistance. The prevailing wage rate, determined by the
27 Commissioner of Labor and Workforce Development, applies to any
28 authority financial assistance including loans, loan guarantees,
29 grants, incentives, tax exemptions, or other financial assistance
30 provided by the authority.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3407

STATE OF NEW JERSEY

DATED: JUNE 24, 2024

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3407.

This bill removes provisions in the current law that exclude financing under the Commercial Property Assessed Clean Energy (“C-PACE”) Program from being considered as authority financial assistance or financial assistance that would require payment of the prevailing wage. The bill expressly provides that any direct financing provided by a capital provider for a C-PACE project is considered "authority financial assistance" as that term is defined in section 1 of P.L.1979, c.303 (C.34:1B-5.1) and that work on the project is subject to the prevailing wage requirements of that section.

The C-PACE program provides financing for renewable energy, energy efficiency, water conservation, and certain types of resiliency-related improvements for New Jersey.

Pursuant to the bill, employers are required to ensure that not less than the prevailing wage rate is paid to workers involved in construction contracts connected to C-PACE program financing. This includes projects undertaken to meet conditions for receiving assistance. The prevailing wage rate, determined by the Commissioner of Labor and Workforce Development, applies to any authority financial assistance including loans, loan guarantees, grants, incentives, tax exemptions, or other financial assistance provided by the authority.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates the bill will result in an indeterminate increase annual State expenditures by requiring the payment of the prevailing wage for projects financed through the commercial property assessed clean energy (C-PACE) program, which would finance commercial properties undertaken by participating property owners.

The bill removes provisions in the current law that exclude financing under the C-PACE program from being considered as authority financial assistance, or financial assistance that would require payment of the prevailing wage. The Economic Development Authority provides general oversight of the program and may need to implement additional monitoring and enforcement mechanisms to ensure adherence to the Prevailing Wage Act, which may create

additional administrative costs. However, these costs may be partially offset by the fees the authority may charge to review a C-PACE program ordinance or project application.

Under current law, the authority is authorized to potentially recoup administrative costs by charging a county or authorized municipality a one-time fee, not to exceed \$5,000, to review the proposed C-PACE program ordinance. Additionally, the authority may charge a property owner a fee for the review of an application for a C-PACE project in the Garden State C-PACE program and for its fulfillment of such obligations.

The OLS notes that the bill is permissive regarding a participating municipality's or county's participation in the C-PACE program. As a result, the OLS is unable to quantify the impact of the bill on local finances. Any local government that participates in and provides financing through a C-PACE program may experience increased costs due to the requirement to pay the prevailing wage.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 3407
STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JULY 2, 2024

SUMMARY

- Synopsis:** Requires payment of prevailing wage for projects financed through commercial property assessed clean energy program.
- Type of Impact:** Increase in annual State and local expenditures.
- Agencies Affected:** Department of Labor and Workforce Development; Economic Development Authority.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
Local Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) determines that the bill will result in an indeterminate increase in annual State and local expenditures by requiring the payment of the prevailing wage for projects financed through the commercial property assessed clean energy (C-PACE) program.
- The bill makes no changes to current law that allows the Economic Development Authority to charge administrative fees to review proposed C-PACE ordinances and property owner applications. Since these revenue-generating aspects remain unchanged, there is no change in revenues associated with C-PACE activities.

BILL DESCRIPTION

This bill removes provisions in the current law that exclude financing under the commercial property assessed clean energy (C-PACE) Program from being considered as “authority financial assistance”, or financial assistance that would require payment of the prevailing wage. The bill expressly provides that any direct financing provided by a capital provider for a C-PACE project is considered "authority financial assistance" and that work on the project is subject to the prevailing wage requirements.

The C-PACE program provides financing for renewable energy, energy efficiency, water conservation, and certain types of resiliency-related improvements for New Jersey.

Pursuant to the bill, employers are required to ensure that not less than the prevailing wage rate is paid to workers involved in construction contracts connected to C-PACE program financing. The prevailing wage rate, determined by the Commissioner of Labor and Workforce Development, applies to any authority financial assistance including loans, loan guarantees, grants, incentives, tax exemptions, or other financial assistance provided by the authority.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that the bill will result in an indeterminate increase in annual State and local expenditures by requiring the payment of the prevailing wage for projects financed through the C-PACE program.

The bill removes provisions in the current law that exclude financing under the C-PACE program from being considered as “authority financial assistance”, or financial assistance that would require payment of the prevailing wage. The Economic Development Authority provides general oversight of the program and along with the Department of Labor and Workforce Development will need to implement additional monitoring and enforcement mechanisms to ensure adherence to the Prevailing Wage Act, which may create additional administrative costs. However, these costs may be partially offset by the fees the authority may charge to review a C-PACE program ordinance or project application.

Under current law, the authority is authorized to potentially recoup administrative costs by charging a county or authorized municipality a one-time fee, not to exceed \$5,000, to review the proposed C-PACE program ordinance. Additionally, the authority may charge a property owner a fee for the review of an application for a C-PACE project in the Garden State C-PACE program and for its fulfillment of such obligations.

The OLS notes that the bill is permissive regarding a municipality’s or county’s participation in the C-PACE program. As a result, the OLS is unable to quantify the impact of the bill on local finances. Any local government that participates in and provides financing through a C-PACE program may experience increased costs due to the requirement to pay the prevailing wage.

Section: Commerce, Labor and Industry
Analyst: John Gaudio
Assistant Fiscal Analyst
Approved: Thomas Koenig
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, No. 4540

STATE OF NEW JERSEY 221st LEGISLATURE

INTRODUCED JUNE 13, 2024

Sponsored by:

Assemblyman ANTHONY S. VERRELLI
District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Assemblywomen Bagolie and Drulis

SYNOPSIS

Requires payment of prevailing wage for projects financed through commercial property assessed clean energy program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/25/2024)

A4540 VERRELLI

2

1 AN ACT concerning the C-PACE program and amending P.L.2021,
2 c.201.

3

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

6

7 1. Section 2 of P.L.2021, c.201 (C:34:1B-375) is amended to
8 read as follows:

9 2. As used in sections 1 through 9 of P.L.2021, c.201 (C.34:1B-
10 374 through C.34:1B-382):

11 "Assignment agreement" means an agreement in which a
12 participating municipality assigns a C-PACE assessment to a capital
13 provider, its designee, successor or assign.

14 "Authority" means the New Jersey Economic Development
15 Authority.

16 "Authorized municipality" means a municipality with a population
17 that, as of the launch date, is in the top third of municipalities in the
18 State in terms of population, according to the most recent American
19 Community Survey published by the United States Census Bureau.

20 "Capital provider" means:

21 a. an accredited investor or qualified institutional buyer as
22 defined respectively in Regulation D, Rule 501 (17 C.F.R.230.501
23 through 230.508) or Rule 144A (17 C.F.R.230.144A) of the federal
24 "Securities Act of 1933" (15 U.S.C. s.77a et seq.), as amended;

25 b. the trustee or custodian of a trust or custody arrangement
26 which provides that each beneficial owner of interests shall be an
27 accredited investor or qualified institutional buyer;

28 c. a public entity;

29 d. a special purpose securitization vehicle for the sale and
30 transfer of securities, which is restricted to those persons described
31 in subsection a. or b. of this definition; or

32 e. a commercial lending institution chartered by a state or the
33 federal government, including, without limitation, a savings and loan
34 association, a credit union, or a commercial bank.

35 "C-PACE" means commercial property assessed clean energy.

36 "C-PACE assessment" means a local improvement assessment, in
37 accordance with chapter 56 of Title 40 of the Revised Statutes,
38 imposed by a participating municipality on a property, with the
39 consent of the owner of the property, and determined based upon
40 either the existing use of a property or the contemplated use of
41 unimproved property upon completion of new construction, as a
42 means of securing financing provided pursuant to section 9 of
43 P.L.2021, c.201 (C.34:1B-382) to finance a C-PACE project at the
44 property, payments in respect of which assessment are collected by

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 the participating municipality and remitted to the entity that provided
2 the financing or its designee.

3 "C-PACE assessment agreement" means an agreement between a
4 participating municipality and a property owner in which the
5 property owner agrees to the imposition of a C-PACE assessment on
6 the property benefited by a C-PACE project within the municipality,
7 and in which the participating municipality agrees to levy, bill,
8 collect, remit, and, to the extent necessary, enforce the C-PACE
9 assessment.

10 "C-PACE project" means:

11 a. the acquisition, construction, installation, modification, or, in
12 the discretion of the authority and in accordance with guidelines
13 adopted by the authority, entry into a capital lease of an energy
14 efficiency improvement or renewable energy system including
15 energy storage, microgrid, water conservation improvement,
16 stormwater management system, electric vehicle charging
17 infrastructure, flood resistant construction improvement, or hurricane
18 resistant construction improvement, in each case affixed to a
19 property, including new construction upon previously unimproved
20 real property, within a participating municipality, provided that, on
21 the basis of supplemental program guidelines to be published by the
22 authority within 90 days following the launch date, a qualified
23 professional attests that such new construction exceeds the minimum
24 standards of the local and State building codes otherwise applicable
25 to the property;

26 b. at the discretion of, and in accordance with guidelines adopted
27 by, the authority, a microgrid or district heating and cooling system
28 in which a property owner within the municipality participates for the
29 duration of the C-PACE assessment; or

30 c. at the discretion of, and in accordance with guidelines adopted
31 by, the authority, a power purchase agreement with respect to a
32 renewable energy system affixed to a property.

33 "Direct financing" means financing for a C-PACE project
34 pursuant to a financing agreement entered into between a capital
35 provider and a property owner.

36 "Electric vehicle charging infrastructure" means equipment
37 designed to deliver electric energy to a battery electric vehicle or a
38 plug-in hybrid vehicle.

39 "Energy efficiency improvement" means an improvement to
40 reduce energy consumption through conservation or a more efficient
41 use of electricity, natural gas, propane, or other forms of energy,
42 including, but not limited to: air sealing; installation of insulation;
43 installation of energy-efficient electrical, heating, cooling, or
44 ventilation systems; building modifications to increase the use of
45 daylight; energy efficient windows, doors, and glass; installation of
46 energy or water controls or energy recovery systems; and installation
47 of efficient lighting equipment.

1 "Finance" or "financing" means the investing of capital in
2 accordance with section 9 of P.L.2021, c.201 (C.34:1B-382),
3 including, on the basis of supplemental program guidelines to be
4 published by the authority within 90 days following the launch date,
5 the refinancing of an investment in an existing C-PACE project.

6 "Flood resistant construction improvement" means an
7 improvement that mitigates the likelihood of flood damage,
8 including, but not limited to, the installation of break-away walls and
9 building elevation alterations.

10 "Garden State C-PACE program" means the program established
11 by the authority pursuant to sections 4 and 5 of P.L.2021, c.201
12 (C.34:1B-377 and C.34:1B-378).

13 "Garden State program agreement" means an agreement between
14 the authority and a participating municipality defining:

15 a. the obligations of a municipality to participate in the Garden
16 State C-PACE program, including the requirement that the
17 participating municipality levy, bill, collect, remit, and enforce a C-
18 PACE assessment; and

19 b. the obligations, if any, that the authority may undertake (1)
20 with respect to the remittance of C-PACE assessments to capital
21 providers if the remittance is authorized by regulations adopted by
22 the Local Finance Board pursuant to section 38 of P.L.2000, c.126
23 (C.52:27D-20.1) and requested by the participating municipality, and
24 (2) to review and approve the participation of individual capital
25 providers or financings in the Garden State C-PACE program.
26 **【Neither the execution by the authority of a Garden State program**
27 **agreement with a municipality nor its exercise of its rights or**
28 **performance of its duties thereunder shall be considered "authority**
29 **financial assistance" as that term is defined in section 1 of P.L.1979,**
30 **c.303 (C.34:1B-5.1).】**

31 "Hurricane resistant construction improvement" means an
32 improvement that enables a component of a structure to be in
33 compliance with the standards for a "wind-borne debris region"
34 adopted pursuant to the "State Uniform Construction Code Act,"
35 P.L.1975, c.217 (C.52:27D-119 et seq.), or into compliance with a
36 successor standard under that code.

37 "Launch date" means the date upon which the authority has taken
38 all of the actions specified in subsection c. of section 5 of P.L.2021,
39 c.201 (C.34:1B-378), other than any actions that are expressly
40 required by P.L.2021, c.201 (C.34:1B-374 et al.) to be taken within
41 90 days following the launch date.

42 "Local C-PACE program" means a program established by an
43 authorized municipality or a county pursuant to section 6 of
44 P.L.2021, c.201 (C.34:1B-379).

45 "Local C-PACE program ordinance" means an ordinance adopted
46 by an authorized municipality or a county, and approved by the
47 authority pursuant to section 7 of P.L.2021, c.201 (C.34:1B-380), to
48 establish a program within its jurisdiction pursuant to subsection b.

1 of section 5 and subsection a. of section 6 of P.L.2021, c.201
2 (C.34:1B-378 and C.34:1B-379).

3 "Microgrid" means a group of interconnected loads and
4 distributed energy resources within clearly defined electrical
5 boundaries that acts as a single controllable entity with respect to the
6 electric distribution system and that connects and disconnects from
7 the electric distribution system to enable it to operate when both
8 connected to, or independent of, the electric distribution system.

9 "Notice of assessment" means the document filed with the county
10 recording officer in the county in which a property is located, which
11 notifies prospective holders of an interest in the property that a C-
12 PACE assessment lien has been placed on the property.

13 "Opt-in ordinance" means an ordinance adopted by a municipality
14 by which it authorizes its participation in the Garden State C-PACE
15 program and authorizes the municipality to enter into a Garden State
16 program agreement with the authority.

17 "Participating municipality" means:

18 a. a municipality that adopts an opt-in ordinance and executes a
19 Garden State program agreement; or

20 b. an authorized municipality that adopts an opt-in ordinance,
21 executes a Garden State program agreement, and adopts a local C-
22 PACE program ordinance and local C-PACE program guidelines
23 approved by the authority.

24 "Private entity" means a corporation, limited liability company,
25 partnership, trust, or any other form of private organization,
26 including but not limited to a "related competitive business segment
27 of a public utility holding company," or a "related competitive
28 business segment of an electric public utility or gas public utility," as
29 those terms are defined in section 3 of P.L.1999, c.23 (C.48:3-51), so
30 long as the organization is not subject to the jurisdiction of the Board
31 of Public Utilities.

32 "Program guidelines" means:

33 a. any program-related rules or documents, or both, prepared
34 and published by the authority that apply to the Garden State C-
35 PACE program; or

36 b. any program-related rules or documents, or both, prepared
37 and published by an authorized municipality or a county, and
38 approved by the authority, that apply to local C-PACE programs
39 pursuant to paragraph (3) of subsection b. of section 6 of P.L.2021,
40 c.201 (C.34:1B-379).

41 "Project costs" means costs associated with a C-PACE project and
42 shall include: direct costs, including but not limited to, equipment,
43 materials, and labor related to the purchasing, constructing,
44 installing, modifying, or acquiring a C-PACE project; indirect costs,
45 including, but not limited to, expenses and fees of engineers,
46 architects, and other professionals, inspection fees and permits,
47 warranties and pre-paid maintenance contracts; program fees; and
48 financing costs of a capital provider, including, but not limited to,

1 origination fees, prepaid interest and payment reserves, closing costs,
2 counsel fees, trustee or custodian fees, recording fees, and other
3 financing charges, except that the authority may implement an
4 alternative definition of "project costs" in its program guidelines in
5 connection with the financing of new construction.

6 "Property" means industrial, agricultural, or commercial property;
7 residential property containing five or more dwelling units; common
8 areas of condominiums and other planned real estate developments
9 as defined in section 3 of P.L.1977, c.419 (C.45:22A-23); and
10 property owned by a tax-exempt or nonprofit entity, including, but
11 not limited to, schools, hospitals, institutions of higher education, or
12 religious institutions, within a participating municipality upon which
13 a C-PACE assessment is imposed at the request of a property owner
14 in connection with a C-PACE project.

15 "Property owner" means an owner of a property within a
16 participating municipality who consents to a C-PACE assessment
17 being imposed on the property.

18 "Renewable energy system" means an improvement by which
19 electrical, mechanical, or thermal energy is produced from a method
20 that uses one or more of the following fuels or energy sources:
21 hydrogen, solar energy, geothermal energy, biomass, or wind energy,
22 together with the other fuels and energy sources that the authority,
23 after consultation with the Board of Public Utilities, may determine
24 pursuant to program guidelines prepared and published pursuant to
25 subsection c. of section 5 of P.L.2021, c.201 (C.34:1B-378).

26 "Solar renewable energy certificate" means the same as defined in
27 section 3 of P.L.1999, c.23 (C.48:3-51).

28 "Stormwater management system" means the same as defined in
29 section 3 of P.L.2019, c.42 (C.40A:26B-3).

30 "Transition renewable energy certificate" means a certificate
31 issued by the Board of Public Utilities or its designee, under the solar
32 energy transition incentive program, which is designed to transition
33 between the solar renewable energy certificate program and a solar
34 successor incentive program to be developed by the Board of Public
35 Utilities pursuant to P.L.2018, c.17 (C.48:3-87.8 et al.).

36 "Uniform assessment documents" means a uniform C-PACE
37 assessment agreement, assignment agreement, and notice of
38 assessment, a model lender consent to a C-PACE assessment
39 pursuant to section 5 of P.L.2021, c.201 (C.34:1B-378), and any
40 other uniform or model documents prepared by the authority and used
41 in the Garden State C-PACE program and local C-PACE programs,
42 except that the authority shall not mandate a uniform financing
43 agreement, which shall be supplied by the capital provider for direct
44 financing.

45 "Water conservation improvement" means an improvement that
46 reduces water consumption, increases the efficiency of water use, or
47 reduces water loss.

48 (cf: P.L.2021, c.201, s.2)

1 2. Section 9 of P.L.2021, c.201 (C.34:1B-382) is amended to
2 read as follows:

3 9. a. Financing for the implementation of C-PACE projects,
4 including the refinancing of an investment in an existing
5 improvement that qualifies as a C-PACE project, provided the
6 existing improvement was completed no more than three years prior
7 to the submission of an application to the Garden State C-PACE
8 program or local C-PACE program for the financing, shall be made
9 available to property owners in exchange for a C-PACE assessment
10 on the property. The C-PACE assessment shall be used to repay the
11 financing.

12 b. The governing body of a county or authorized municipality
13 may apply to a county improvement authority that issues bonds
14 pursuant to paragraph (3) of subsection (j) of section 12 of P.L.1960,
15 c.183 (C.40:37A-55), or, in the case of an authorized municipality,
16 may issue bonds on its own to finance project costs for C-PACE
17 projects pursuant to a local C-PACE program or the Garden State C-
18 PACE program.

19 (1) Notwithstanding any other law to the contrary, bonds issued
20 by a participating municipality shall be authorized and issued by
21 ordinance of the municipality, may be issued in one or more series
22 on such additional terms, and may be sold at public or private sale,
23 all as set forth in the ordinance.

24 (2) Bonds issued by a county improvement authority shall be
25 authorized and issued in the manner set forth in the "county
26 improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et
27 seq.).

28 (3) Bonds issued by a participating municipality or county
29 improvement authority shall be non-recourse obligations of the issuer
30 and shall not be considered to be direct and general obligations of the
31 issuer, or the State of New Jersey or any political subdivision thereof.
32 Any bonds issued or authorized by a municipality pursuant to
33 P.L.2021, c.201 (C.34:1B-374 et al.) shall not be considered gross
34 debt of the municipality on any debt statement filed in accordance
35 with the "Local Bond Law," N.J.S. 40A:2-1 et seq.

36 (4) Bonds issued by a municipality or county improvement
37 authority pursuant to this subsection may be backed by one or more
38 C-PACE assessment contracts.

39 c. The authority shall allow capital providers to directly finance
40 project costs for C-PACE projects, or for such costs to be financed
41 through bond issuance. Any direct financing provided by a capital
42 provider pursuant to P.L.2021, c.201 (C.34:1B-374 et al.) shall not
43 be guaranteed or secured by the full faith and credit of any public
44 entity, including the State of New Jersey or any political subdivision
45 thereof, shall not be considered to be direct and general obligations
46 of any public entity, including the State of New Jersey or any political
47 subdivision thereof, shall not be considered gross debt of any
48 municipality on any debt statement filed in accordance with the

1 "Local Bond Law," N.J.S.40A:2-1 et seq., [and shall not be
2 considered "financial assistance" pursuant to section 1 of P.L.1979,
3 c.303 (C.34:1B-5.1),] except to the extent the authority may provide
4 a guaranty as provided for in subsection d. of section 4 of P.L.2021,
5 c.201 (C.34:1B-377). The Garden State C-PACE program and any
6 local C-PACE program shall permit all capital providers that meet
7 the eligibility requirements established in their program guidelines to
8 provide financing through the program.

9 d. An authorized municipality or county that has established a
10 local C-PACE program shall allow capital providers to directly
11 finance project costs for C-PACE projects under the program. The
12 repayment of any financing provided by a capital provider shall not
13 be guaranteed or secured by the full faith and credit of any public
14 entity, including the State of New Jersey or any political subdivision
15 thereof, shall not be considered to be direct and general obligations
16 of any public entity, including the State of New Jersey or any political
17 subdivision thereof, shall not be considered gross debt of any
18 municipality on any debt statement filed in accordance with the
19 "Local Bond Law," N.J.S.40A:2-1 et seq., [and shall not be
20 considered "financial assistance" pursuant to section 1 of P.L.1979,
21 c.303 (C.34:1B-5.1),] except to the extent the authority may provide
22 a guaranty as provided for in subsection d. of section 4 of P.L.2021,
23 c.201 (C.34:1B-377).

24 e. A property owner who installs a renewable energy system
25 under the Garden State C-PACE program or a local C-PACE program
26 may also assign or transfer any solar renewable energy certificates,
27 transition renewable energy certificates, or other renewable energy
28 certificates or credits that accrue to the property owner from the
29 operation of the system to the authority, the municipality, the county
30 improvement authority, other public entity, or the private entity, or
31 capital provider as applicable, which has financed the C-PACE
32 project. If any solar renewable energy certificates, transition
33 renewable energy certificates, or other renewable energy certificates
34 or credits are assigned or transferred to a municipality, county,
35 county improvement authority, other public entity, or private entity,
36 the municipality, county, county improvement authority, other public
37 entity, or private entity, or capital provider is authorized to sell, grant,
38 assign, convey, or otherwise dispose of its interest in the certificates
39 or credits to repay the financing.

40 f. Other than as identified in this section, no public entity,
41 including the State of New Jersey or any political subdivision thereof,
42 may issue bonds to finance any C-PACE program, except to the
43 extent the authority may issue bonds pursuant to P.L.1974, c.80
44 (C.34:1B-1 et seq.).

45 g. Any direct financing provided by a capital provider for a C-
46 PACE project under subsection b. or subsection c. of this section
47 shall be considered "authority financial assistance" as that term is
48 defined in section 1 of P.L.1979, c.303 (C.34:1B-5.1) and work on

1 the project undertaken in connection with the assistance shall be
2 subject to the prevailing wage requirements of that section.

3 (cf: P.L.2021, c.201, s.9)

4

5 3. This act shall take effect immediately.

6

7

8

STATEMENT

9

10 This bill removes provisions in the current law that exclude
11 financing under the Commercial Property Assessed Clean Energy
12 (“C-PACE”) Program from being considered as authority financial
13 assistance or financial assistance that would require payment of the
14 prevailing wage. The bill expressly provides that any direct
15 financing provided by a capital provider for a C-PACE project is
16 considered "authority financial assistance" as that term is defined in
17 section 1 of P.L.1979, c.303 (C.34:1B-5.1) and that work on the
18 project is subject to the prevailing wage requirements of that section.

19 The C-PACE program provides financing for renewable energy,
20 energy efficiency, water conservation, and certain types of
21 resiliency-related improvements for New Jersey.

22 Pursuant to the bill, employers are required to ensure that not less
23 than the prevailing wage rate is paid to workers involved in
24 construction contracts connected to C-PACE program financing.
25 This includes projects undertaken to meet conditions for receiving
26 assistance. The prevailing wage rate, determined by the
27 Commissioner of Labor and Workforce Development, applies to any
28 authority financial assistance including loans, loan guarantees,
29 grants, incentives, tax exemptions, or other financial assistance
30 provided by the authority.

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4540

STATE OF NEW JERSEY

DATED: JUNE 24, 2024

The Assembly State and Local Government Committee reports favorably Assembly Bill No. 4540.

This bill removes provisions in the current law that exclude financing under the Commercial Property Assessed Clean Energy (“C-PACE”) Program from being considered as authority financial assistance or financial assistance that would require payment of the prevailing wage. The bill expressly provides that any direct financing provided by a capital provider for a C-PACE project is considered "authority financial assistance" as that term is defined in section 1 of P.L.1979, c.303 (C.34:1B-5.1) and that work on the project is subject to the prevailing wage requirements of that section.

The C-PACE program provides financing for renewable energy, energy efficiency, water conservation, and certain types of resiliency-related improvements for New Jersey.

Pursuant to the bill, employers are required to ensure that not less than the prevailing wage rate is paid to workers involved in construction contracts connected to C-PACE program financing. This includes projects undertaken to meet conditions for receiving assistance. The prevailing wage rate, determined by the Commissioner of Labor and Workforce Development, applies to any authority financial assistance including loans, loan guarantees, grants, incentives, tax exemptions, or other financial assistance provided by the authority.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4540

STATE OF NEW JERSEY

DATED: JUNE 24, 2024

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4540.

This bill removes provisions in the current law that exclude financing under the Commercial Property Assessed Clean Energy (“C-PACE”) Program from being considered as authority financial assistance or financial assistance that would require payment of the prevailing wage. The bill expressly provides that any direct financing provided by a capital provider for a C-PACE project is considered "authority financial assistance" as that term is defined in section 1 of P.L.1979, c.303 (C.34:1B-5.1) and that work on the project is subject to the prevailing wage requirements of that section.

The C-PACE program provides financing for renewable energy, energy efficiency, water conservation, and certain types of resiliency-related improvements for New Jersey.

Pursuant to the bill, employers are required to ensure that not less than the prevailing wage rate is paid to workers involved in construction contracts connected to C-PACE program financing. This includes projects undertaken to meet conditions for receiving assistance. The prevailing wage rate, determined by the Commissioner of Labor and Workforce Development, applies to any authority financial assistance including loans, loan guarantees, grants, incentives, tax exemptions, or other financial assistance provided by the authority.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates the bill will result in an indeterminate increase in annual State expenditures by requiring the payment of the prevailing wage for projects financed through the commercial property assessed clean energy (C-PACE) program, which would finance commercial properties undertaken by participating property owners.

The bill removes provisions in current law that exclude financing under the C-PACE program from being considered as authority financial assistance, or financial assistance that would require the payment of the prevailing wage. The Economic Development Authority provides general oversight of the program and may need to implement additional monitoring and enforcement mechanisms to

ensure adherence to the Prevailing Wage Act, which may create additional administrative costs. However, these costs may be partially offset by the fees the authority charges to review a C-PACE program ordinance or project application.

Under current law, the authority is authorized to potentially recoup administrative costs by charging a county or authorized municipality a one-time fee, not to exceed \$5,000, to review a proposed C-PACE program ordinance. Additionally, the authority may charge a property owner a fee for the review of an application for a C-PACE project in the C-PACE program and for its fulfillment of such obligations.

The OLS notes that current law is permissive regarding a participating municipality's or county's participation on the C-PACE program. As a result, the OLS is unable to quantify the impact of the bill on local finances. Any local government that participates in and provides financing through a C-PACE program may experience increased costs due to the requirement to pay the prevailing wage.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 4540
STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JUNE 28, 2024

SUMMARY

- Synopsis:** Requires payment of prevailing wage for projects financed through commercial property assessed clean energy program.
- Type of Impact:** Increase in annual State and local expenditures.
- Agencies Affected:** Department of Labor and Workforce Development; Economic Development Authority.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
Local Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) determines that the bill will result in an indeterminate increase in annual State and local expenditures by requiring the payment of the prevailing wage for projects financed through the commercial property assessed clean energy (C-PACE) program.
- The bill makes no changes to current law that allows the Economic Development Authority to charge administrative fees to review proposed C-PACE ordinances and property owner applications. Since these revenue-generating aspects remain unchanged, there is no change in revenues associated with C-PACE activities.

BILL DESCRIPTION

This bill removes provisions in current law that exclude financing under the commercial property assessed clean energy (C-PACE) program from being considered as “authority financial assistance”, or financial assistance that would require payment of the prevailing wage. The bill expressly provides that any direct financing provided by a capital provider for a C-PACE project is considered "authority financial assistance" and that work on the project is subject to the prevailing wage requirements.

The C-PACE program provides financing for renewable energy, energy efficiency, water conservation, and certain types of resiliency-related improvements for New Jersey.

Pursuant to the bill, employers are required to ensure that not less than the prevailing wage rate is paid to workers involved in construction contracts connected to C-PACE program financing. The prevailing wage rate, determined by the Department of Labor and Workforce Development, applies to any authority financial assistance including loans, loan guarantees, grants, incentives, tax exemptions, or other financial assistance provided by the authority.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that the bill will result in an indeterminate increase in annual State and local expenditures by requiring the payment of the prevailing wage for projects financed through the C-PACE program.

The bill removes provisions in the current law that exclude financing under the C-PACE program from being considered as “authority financial assistance”, or financial assistance that would require payment of the prevailing wage. The Economic Development Authority provides general oversight of the program and along with the Department of Labor and Workforce Development will need to implement additional monitoring and enforcement mechanisms to ensure adherence to the Prevailing Wage Act, which may create additional administrative costs. However, these costs may be partially offset by the fees the authority may charge to review a C-PACE program ordinance or project application.

Under current law, the authority is authorized to potentially recoup administrative costs by charging a county or authorized municipality a one-time fee, not to exceed \$5,000, to review the proposed C-PACE program ordinance. Additionally, the authority may charge a property owner a fee for the review of an application for a C-PACE project in the Garden State C-PACE program and for its fulfillment of such obligations.

The OLS notes that the bill is permissive regarding a municipality’s or county’s participation in the C-PACE program. As a result, the OLS is unable to quantify the impact of the bill on local finances. Any local government that participates in and provides financing through a C-PACE program may experience increased costs due to the requirement to pay the prevailing wage.

Section: Commerce, Labor and Industry
Analyst: John Gaudio
Assistant Fiscal Analyst
Approved: Thomas Koenig
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.).

Governor Murphy Takes Action on Legislation

09/12/2024

TRENTON – Today, Governor Murphy signed the following bills into law:

S-721/A-2812 (Steinhardt, Sarlo/Greenwald, Swain, Egan) - Exempts sales of investment metal bullion and investment coins from sales and use tax

S-741/A-2608 (Diegnan/Karabinchak) - Authorizes State Treasurer to sell as surplus certain real property and improvements in City of Jersey City in Hudson County

SCS for S-2188/ACS for A-1970 (Ruiz, Greenstein/Speight, Karabinchak, Verrelli) – Requires DEP, DOH, owners or operators of certain public community water systems, and owners or operators of certain buildings or facilities to take certain actions to prevent and control cases of Legionnaires' disease

S-2311/A-1128 (Singleton, Singer/DiMaio, Matsikoudis) - Requires criminal history background check for individuals seeking licensure issued by boards regulating certain health care professions

S-2435/A-3537 (Greenstein, Mukherji/Stanley, McCoy, Murphy) - Revises certain requirements concerning eligibility for reimbursement from “Emergency Medical Technician Training Fund”

S-2607/A-3872 (Ruiz, McKnight/Pintor Marin, Calabrese, Speight) - Requires private bus operators to provide notice and hold public meetings for certain service changes

S-2810/A-3779 (Diegnan/DeAngelo, Karabinchak, Bagolie) - Changes membership of board of trustees of SPRS to remove requirement that two members be private citizens

S-3097/A-4226 (Pou, Sarlo/Wimberly, Sumter) - Modifies requirements for certain projects under Economic Redevelopment and Growth Grant program

S-3134/A-4192 (Diegnan, Moriarty/Calabrese, Carter) - Requires MVC to take certain action concerning commercial driver licenses and commercial learner’s permits

S-3235/A-4461 (Ruiz, Moriarty/Conaway, Miller, Sampson) – Regulates production and sale of certain intoxicating hemp products

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S-3368/A-4623 (Ruiz, McKnight/Calabrese, Stanley, Reynolds-Jackson) - Concerns law protecting residential tenants from lead-based paint hazards

S-3407/A-4540 (Lagana/Verrelli) - Requires payment of prevailing wage for projects financed through commercial property assessed clean energy program

A-2610/S-3203 (Karabinchak, Calabrese, Sauickie/Gopal) - Extends annual horse racing purse subsidies through State fiscal year 2029

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A-2890/S-3231 (Verrelli, Reynolds-Jackson, Quijano/Cryan) - Permits temporary appointment of additional members to the Board of Review in the Division of Employment Security

A-4035/S-2809 (Dunn, Speight/Bucco, Pennacchio) - Requires State to sell as surplus property certain land and improvements in Morris County known as Central Park School

A-4533/S-3421 (Coughlin, Wimberly, Speight/Zwicker, Johnson) - Revises certain sections of law concerning financing mechanisms for school facilities projects of regular operating districts

A-4534/S-3439 (Coughlin, Wimberly, Schnall/Vitale, Mukherji) - Revises definition of qualified assistance fund expenses under UEZ program to include costs of transportation infrastructure projects and related debt service

Governor Murphy conditionally vetoed the following bills:

S-2864/A-4061 (Lagana/Verrelli, Swain, Venezia) – CONDITIONAL - Establishes working hours for certain minors employed as professional athletes

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S-3455/A-4597 (Sarlo, Burzichelli/Calabrese, Moen, Stanley) – CONDITIONAL - Provides for automatic renewal of off-track wagering licenses

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A-2180/S-3000 (Moen, Wimberly, Murphy/Beach, Polistina) – CONDITIONAL - Permits certain persons to operate Type S school buses

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A-2294/S-1443 (Lopez, Freiman, Tully/Singleton, Johnson) – CONDITIONAL - Establishes mortgage payment relief and foreclosure protection for certain homeowners impacted by the remnants of Hurricane Ida

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A-2607/S-360 (Karabinchak, Calabrese, Inganamort/Diegnan, Mukherji) – CONDITIONAL - Authorizes taxicabs, limousines, and transportation network companies to provide paratransit services for two-year period

[Copy of Statement](#)