
AIR QUALITY DEVELOPMENT AUTHORITY

- Authorizes the Ohio Air Quality Development Authority to enter into an arrangement with a municipality, township, or special improvement district to fund commercial or industrial energy or energy efficiency projects (often referred to as a PACE or “property assessed clean energy” project).
- Authorizes the municipality, township, or special improvement district to impose and remit to the Authority special assessments on property benefitting from the PACE.

Property assessed clean energy project financing

(R.C. 503.59, 727.01, 1710.06, 3706.01, 3706.051, and 3706.12; Section 803.20)

The act authorizes the Ohio Air Quality Development Authority (AIR) to enter into an agreement with a local partner – either a municipal corporation, township, or special improvement district (SID) – to fund a privately owned commercial or industrial “special energy improvement” that reduces air pollution, i.e., a solar, geothermal, or customer-generated energy facility or energy efficiency improvement. Pursuant to this agreement, AIR will issue bonds and remit the proceeds to either the local partner or the private owner. The local partner will levy a special assessment against the project property, and remit the proceeds of that assessment to AIR to service the bonds. This type of financing arrangement is commonly referred to as a PACE, or “property assessed clean energy,” project.

Under continuing law and pursuant to its existing bonding authority, AIR may use its bond proceeds to fund commercial and industrial special energy improvement projects directly. AIR also may enter into agreements with local governments to fund such projects owned by the local government. The act authorizes two separate PACE funding models. One to be used when the local partner is a SID or municipality that is a SID member acting in furtherance of the SID’s objectives, the other to be used when the local partner is a township or municipality operating independently and not through a SID.

SID PACE model

Under continuing law, SIDs and both municipalities and townships that are SID members acting in accordance with SID objectives may impose special assessments on property to fund special energy improvement projects, provided the projects are approved by every property owner to be assessed. (A SID is a district formed by one or more municipalities and townships for the purpose of levying special assessments to provide certain services or develop certain improvements within the district.)

Under the act, a SID, or a member municipality or township, may enter into an agreement with AIR whereby AIR remits bond proceeds to the SID, municipality, or township, which then remits those funds to a private property owner to fund special energy improvement projects. It also allows AIR to remit those funds directly to the private property owner. In turn, the SID, municipality, or township imposes a special assessment on the benefitted property and assigns and remits the assessment proceeds to AIR, which uses them to service project bonds.

The act prohibits this model from being construed to apply to any AIR bonds or SID special assessments issued or levied before October 3, 2023.

Municipal and township PACE model

While SIDs and municipalities that are SID members have existing authority to levy special assessments to fund special energy improvement projects, municipalities acting outside of a SID and townships do not have that authority.

The act grants specific authority for these municipalities and townships to levy special assessments to fund special energy improvement projects. However, they may be levied only if the property owner proposing the project petitions for them and the municipality or township enters into an agreement with AIR. Pursuant to this agreement, AIR will remit bond proceeds to the property owner to fund the project, and the municipality or township will pledge and remit the special assessments to AIR to service those bonds. (In contrast, the bond proceeds in the SID model are remitted to the local partner, and not the property owner.)

The act also requires a municipal corporation or township that is part of a SID that develops and implements plans for special energy improvement projects to notify the SID of both:

1. The agreement between AIR and the municipal corporation or township; and
2. The air quality facility that is to be funded with property assessments.