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Martin Mador, Legislative Chair

Energy and Technology Committee
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Testimony In Support of
HB 5465 AAC the Development of Green Jobs

I am Martin Mador, 130 Highland Ave., Hamden, CT 06518. I am the volunteer Legislative Chair for the Sierra Club Connecticut Chapter. I hold a Masters of Environmental Management from the Yale School of Forestry and Environmental Studies.

Section 5 of this bill describes a program for financing energy efficiency programs and installation of renewable energy technologies. This program is popularly known as PACE: Property Assessed Clean Energy. It is an exciting financial program for dramatically and quickly increasing the installed capacity of renewable energy systems: solar photo-voltaic (PV) systems, solar thermal (hot water), geothermal energy, etc. The program can be used just as effectively to finance energy efficiency projects.

According to http://www.pacenow.org/:

A PACE bond is a bond where the proceeds are lent to commercial and residential property owners to finance energy retrofits (efficiency measures and small renewable energy systems) and who then repay their loans over 20 years via an annual assessment on their property tax bill. PACE bonds can be issued by municipal financing districts or finance companies and the proceeds can be typically used to retrofit both commercial and residential properties.

The PACE bond market, in combination with federal loan guarantees, has the potential to dramatically accelerate the energy retrofitting of America's building stock due to the below advantages. It is estimated that the potential for PACE bonds could exceed $500 billion.

Because this program will instantly raise the demand for installation of these systems, it is a very effective way to create green jobs within the state.

Sierra strongly endorses the establishment of a PACE program in Connecticut. HB 5465 is a good start, but it needs work. Sierra pledges to work with other stakeholders and energy and financial experts to craft an optimal bill for the state in this legislative session.

Pace programs have been established by legislation in California, Colorado, Illinois, Louisiana, Maryland, Nevada, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Texas, Vermont, Virginia and Wisconsin. Arizona, Maine, Minnesota, Hawaii, Massachusetts, New Hampshire, Nebraska and at least 11 other states have legislation under consideration or do not require additional legislative authority.

Hallmarks of the program include:

- -government issued bond
- -effective tool for meeting renewable energy targets
- -legislation is enabling for municipalities; they participate as they wish
- -loans to property owners are used to finance energy upgrades
- -the program can support residential, commercial, and industrial properties
- -participation is strictly voluntary (opt-in only)
- -the program requires no upfront capital
- -costs of administration are built into the repayment schedule
- -loans are repaid over the life of the bond, perhaps over 20 years
- -repayments are made via a surcharge on property taxes
- -the assessment runs with the property, not the owner, so, upon sale, the new owner assumes the remaining debt and continues the payments
- -the property owner is obligated for the repayments only until a sale of the property
- -re-payment of the bond is secure and lender risk is minimal, as the obligation is recorded as a lien on the property
- -there is no impact on government budgets
- -if the owner defaults, only the delinquent payment due is at risk, as the new owner assumes re-payment of the remaining amount
- -the energy improvements enhance the value of the property
- -re-payments can be smaller than the energy savings, so the owner nets a financial savings
- -no new government structures need be created, as existing bonding authority and property tax collection systems can be used
- -no fiscal impact on non-participants
- -potential tax advantages for participants

Property Assessed Clean Energy (PACE) Enabling Legislation

A Policy to Help Property Owners Access Financing for Renewable Energy and Energy Efficiency Improvements

Innovations in clean energy financing are as important as innovations in the technology themselves. Local governments across the United States are expanding upon traditional land-secured municipal finance mechanisms to allow property owners to go solar and install energy efficiency improvements, without paying high upfront costs. Known as "PACE" (Property Assessed Clean Energy), this finance model can generate billions of dollars in local economic stimulus, create thousands of long-term green jobs, and dramatically reduce energy use – all with little or no impact on state or local treasuries.

In most states, enabling legislation is needed to allow local governments to adopt a PACE program. See the end of this fact-sheet for the necessary nine components of PACE enabling legislation.

Which States Allow PACE financing?

Most states require a change to state statute to allow local governments to adopt PACE programs. With significant support over the past two years from Vote Solar, 16 states now have PACE enabling legislation in place: California, Colorado, Illinois, Louisiana, Maryland, Nevada, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Texas, Vermont, Virginia and Wisconsin. Local government entities in Hawaii can implement PACE programs without any special enabling legislation at the state level (although county law may need to be amended in some counties in Hawaii). There are currently proposals in over 18 states for PACE enabling legislation.

How does PACE work?

Local governments set up special clean energy finance districts or programs capable of issuing low-interest revenue bonds. Participating property owners can opt to use the bond money to pay for renewable energy and energy efficiency improvements, and then repay this financing through a long-term assessment paid with their property taxes. This arrangement spreads the cost of a new solar energy system, for example, out across a 20-year payment plan, which matches the functional life of the technology. The cost of that assessment is often less than the power bill savings generated by the improvements. PACE is a budget-friendly way for local governments to empower property owners to invest in a local clean energy future.

Note this finance model can - and we believe should - be used to finance a host of technologies, such as solar PV systems, solar hot water systems, energy efficiency improvements, and even water conservation upgrades. It should also be available to residential, commercial and industrial property owners.

What are the Benefits of PACE?
For property owners interested in going solar, improving the efficiency of their homes or conserving water, the PACE finance model overcomes a key financial barrier to such projects: lack of upfront capital. In addition, the incremental tax payments are usually fixed for 20 years at reasonable interest rates. Also, unlike taking out a line of credit, this financing program does not rely on, or draw down, a property owner's available credit.

While the property owner occupies the house she will enjoy decreased utility bills, and when the home is sold the resale value of the home should increase with the desirable amenity of the solar, or energy efficiency or water conservation systems. Finally, and for the first time in a clean energy financing plan, the original property owner is not under a long-term obligation for the remaining value of the clean energy or water system. Instead, the property assessment usually transfers to the new property owners once the property is sold. Given that the average American lives in his home for six to nine years, transferability of the financial obligation overcomes a key hurdle in the adoption of renewable energy and energy efficiency improvements.

For local governments, the benefits are also clear. First, and perhaps most importantly in these volatile economic times, the financial model poses little to no liability or exposure to a local government's general fund. Thus, a city or county can implement a PACE financing program with almost zero budget impact that can dramatically help such city or county meet its clean energy or climate change goals. Plus, this type of property-tax assessment financing structure is well known to local governments, and is considered a familiar way to finance local projects.

Nine Key Components of PACE Legal Authority

Enabling legislation will vary by state, depending on existing state law. Please consider the following policy components when drafting legislation. However, if more guidance is needed, please contact Annie Carmichael at annie@votesolar.org or 415-817-5063 with specific questions.

Policy Component #1: Identify existing financing & assessment authority within state statute.
Research into the state statutory law can determine whether local governments have existing authority to finance improvements and to impose assessments or special taxes against property that benefits from such improvements. If such authority exists, it is generally preferable to use such existing structures and amend existing statutory provisions to provide for the specific aspects of PACE financing, if necessary. If no such structure exists or if amendments to existing structures are too cumbersome, stand-alone PACE authority can be drafted.

Policy Component #2: Ensure that assessments are secured by liens on the property benefitted.
A key feature of PACE is that assessments are secured via a lien on the property benefited. It is preferable to use existing procedure for securing, recording, collecting other local government assessments and taxes, and handling delinquencies. Typically, the assessment or special tax lien is of the same priority as other property tax and assessment liens. It is preferable that the lien not accelerate in the event of foreclosure or transfer of ownership, and that the lien transfer to the next property owner, if this is not already provided under existing state law. We recommend that details regarding default be specified in local government ordinances or policies, rather than in state statute.

Policy Component #3: Establish the mechanism for creation of PACE financing districts and programs.
The improvement financing and assessment authorizing statute typically specifies the procedure for establishing a district or program. This process can be simple or cumbersome. In some jurisdictions the local city council or county board of supervisors can pass a city ordinance creating such districts by a simple majority vote, though a public hearing is often required. However, some states require a petition or vote of a majority of property owners or registered voters. It is less cumbersome if the financing district or program is established by the governing body of local government entity, rather than through a ballot initiative or popular election.

Policy Component #4: Authorize financing of improvements on private property.
Enabling legislation should authorize the financing of improvements on residential, commercial and industrial private property. It is important to review state constitutional law to ensure that PACE programs are properly authorized.

Policy Component #5: Authorize the financing of renewable energy and energy efficiency improvements.
Existing state law local government improvement authority often specifies the types of projects that may be financed by the local government. If specific types of projects (e.g. sidewalks, parks, sewers) are enumerated, this list should be expanded to include renewable energy, energy efficiency and water conservation improvements. We recommend choosing broad and flexible definitions that do not require state statutory amendments to adapt to technological change. If examples of specific clean energy technologies are provided, lists should not be exclusive (i.e. use the phrase "including, but not limited to").

Policy Component #6: Legislative findings that improvements are in the public interest.
PACE enabling legislation should include a legislative findings section noting that local government financing of renewable energy, energy efficiency and water conservation projects has a valid public purpose and is in the public interest. The public benefits of such improvements, such as energy security, local job creation, clean air, and climate change mitigation are well documented.

Policy Component #7: Create opt-in assessment feature.
The PACE financing authority also must include an "opt-in" feature through which willing and interested property owners voluntarily elect to receive financing and have assessments made against their property. State law should clarify that financing is not to be provided and assessments are not to be made unless property owners first consent in writing. This opt-in feature does not typically appear in existing local government improvement financing authority. Typically, such programs only authorize improvements that result in shared benefit among all property owners within that contiguous geographic area, and tax all property owners within that geographic area. Under the PACE finance model, however, only property owners who choose to participate join the district or program and then receive financing and incur assessments against their property. Existing state law usually needs to be amended to provide that financing and assessments are contingent on property owner approval.

Policy Component #8: Authorize Bonding and the use of loans or grants to finance improvements.
State law should authorize local governments to issue and sell bonds. This is perhaps the most complicated component of enabling legislation, and policy makers should consult with local bond counsel to determine whether additional statutory provisions relating to debt are

required. It is preferable that debt issued to financing PACE improvements not be a general obligation or backed by the full faith and credit of the local or state government, but instead be secured by the assessment or tax lien on the benefitted property. In general, we recommend that state statute not include specifics regarding interest rates, administrative fees and other details, and instead allow local governments to supply such details in ordinances or policies implementing PACE programs. Also note that enabling legislation should provide cities and counties authority to accept federal, state and local government grants and loans to provide up front financing for creating and/or administering a PACE program.

Policy Component #9: Enabling statewide or multi-jurisdictional PACE programs.
PACE legal authority should authorize groups of cities and counties and joint powers authorities to coordinate under a single program or financing district to allow for greater economies of scale in the financing and administration of PACE programs.

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