
SENATE COMMITTEE ON LOCAL GOVERNMENT

Senator María Elena Durazo, Chair

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VOLUNTARY CONTRACTUAL ASSESSMENTS: WILDFIRE SAFETY IMPROVEMENTS

Makes various changes to the laws that allow for property assessed clean energy assessments for wildfire safety improvements.

Background

One of the barriers property owners face when it comes to financing water and energy efficiency improvements is the upfront cost of those improvements. Property assessed clean energy (PACE) financing programs allow local governments to offer loans to private property owners to cover the initial costs of renewable energy, energy efficiency, water efficiency, and other improvements to private property that offer public benefits. This allows property owners that would not otherwise be able to afford such improvements the opportunity to finance them. Property owners who voluntarily enter into a contractual assessment agreement pay off their costs over time on their property tax bills. In turn, property owners enter into a voluntary contractual assessment agreement with the local agency to pay for the improvements via an assessment or special tax, secured by a priority lien, on their property tax bill. The assessment or parcel tax remains with the property even if it is sold or transferred, and the improvements must be permanently fixed to the property.

Voluntary contractual assessments. A benefit assessment is an involuntary charge that property owners pay for a public improvement or service that provides a special benefit to their property. As an alternative to benefit assessments, and only with the free and willing consent of affected property owners, state law lets public agencies use voluntary contractual assessments to finance:

- Public improvements to developed parcels (SB 837, McCorquodale, 1987);
- Renewable energy sources or energy efficiency improvements that are permanently fixed to real property (AB 811, Levine, 2008);
- Water efficiency improvements that are permanently fixed to real property (AB 474, Blumenfield, 2009);
- Electric vehicle charging infrastructure permanently fixed to real property (SB 1340, Kehoe, 2010);
- Seismic strengthening improvements permanently fixed to real property (AB 184, Swanson, 2011); and
- Wildfire safety improvements permanently fixed to real property (SB 465, Jackson, 2018).

PACE program administration. To use contractual assessments, a city council or county board of supervisors must adopt a resolution, which:

- Determines that it would be convenient, advantageous, and in the public interest to designate an area within which officials and property owners may enter into contractual assessments and make related financing arrangements;
- Identifies the kinds of facility improvements which may be financed;
- Describes the area where contractual assessments may be used;
- Describes the proposed financing arrangements, including the criteria for determining the creditworthiness of a property owner;
- States the time and place for a public hearing; and
- Directs an official to prepare a detailed report about the contractual assessment program.

The detailed report must contain:

- A map of the area where contractual assessments will be offered;
- A draft contract specifying the terms and conditions;
- A list of the types of facility improvements which may be financed;
- The official authorized to enter into contractual assessments on behalf of the county or city;
- The maximum aggregate dollar amount of contractual assessments;
- A method for prioritizing requests from property owners for financing; and
- A plan for raising the capital amount required to pay for work performed pursuant to contractual assessments.

After holding a public hearing, the legislative body may adopt a resolution confirming the program as detailed in the report, confirm a modified version of the report, or abandon the proceedings.

Public and private PACE administration. In California, there are different models available to local governments for administering a PACE program. Only the counties of Sonoma and Placer administer their own PACE programs. The majority of local governments contract with a private third-party or join a Joint Powers Authority (JPA), which contracts with a private third-party to carry out their PACE programs. The cost of third-party administration is not borne by the local agency, but is built into PACE loan financing. Some of these programs focus on residential projects, others target commercial projects, and some handle both residential and commercial portfolios.

Evolution of PACE. At the inception of the PACE program, the presence of third-party administrators and the accompanying complex financing structures were not contemplated by the Legislature. Nearly all local governments utilize the JPA and administrator model for PACE programs and, as PACE continues to evolve, the realities are very different than those imagined at the outset of legislative authorization. For example, one of the key features of the PACE program is that not only does the efficiency improvement remain with the property, but so does the obligation to repay the contractual assessment. Because PACE places these assessments on a homeowner's property tax bill, delinquent PACE assessments accrue additional interest rapidly at a rate of 18% annually. This makes delinquencies, once incurred, harder for property owners to cure.

Increased PACE oversight and accountability. In response to concerns about PACE programs, the Legislature has made various changes intended to protect property owners. Two of the most significant pieces of legislation in this area are:

- *AB 1284 (Dababneh, 2017)* AB 1284 established a regulatory structure for the oversight of PACE solicitors and PACE solicitor agents under the Department of Business Oversight (DBO), now the Department of Financial Protection and Innovation (DFPI). The measure established requirements that PACE administrators must meet before a public agency can fund and record PACE assessment contracts, renamed the California Finance Lenders Law (CFLL) as the California Financing Law (CFL), required PACE administrators to be licensed under the CFL, and established a regulatory scheme for the oversight of PACE solicitors and PACE solicitor agents by DFPI. DFPI regulations went into effect on October 1, 2021. The regulations require a private entity that administers a PACE program on behalf of a public agency to be licensed under the CFL, and these private PACE program administrators must also comply with several new regulatory provisions, including those related to advertising standards and disclosures, among others; and
- *AB 2063 (Aguiar-Curry, 2018)*. AB 2063 updated many consumer safeguards for PACE. Among its provisions, AB 2063:
 - Requires program administrators to comply with the underwriting requirements of AB 1284 before they execute a PACE assessment contract, before a home improvement contract financed by that PACE assessment contract is executed; and
 - Requires program administrators to inform property owners, on the confirmation of key terms call that must be held between a program administrator and at least one owner of the property on which the energy efficiency improvement is to be installed, that it is the responsibility of the property owner to contact his or her home insurance provider to determine whether the efficiency improvement to be financed by the PACE assessment is covered by their property insurance plan.

Recent PACE issues. Local agencies continue to grapple with administration of their PACE programs:

- *Los Angeles County.* Los Angeles County ended its PACE program in 2020. County officials cited inadequate consumer protections as the rationale for their decision. The county also faced lawsuits alleging that government authorities failed to properly oversee the private PACE companies that interacted with property owners.
- *Western Riverside Council of Governments (WRCOG).* In December 2020, WRCOG, a JPA, ordered its staff to wind down the agency’s residential PACE program. WRCOG administered the HERO program in partnership with Renovate America, which managed many aspects of the PACE ecosystem, including assessment administration, bond issuance, bond administration functions, outreach, registration and education to contractors, and outreach and customer service to property owners. At its peak, the HERO program was available to an estimated 85% of California property owners. WRCOG’s decision to wind down the program stemmed from a marked decline in the number of new PACE assessments since Fiscal Year 2016-17.

Also in December 2020, Renovate America, a PACE program administrator in California, filed for Chapter 11 bankruptcy. In a June 4, 2021, press release, DFPI, which regulates the PACE program at the state level, announced, “it has moved to revoke the Property Assessed Clean Energy (PACE) Administrator license of Renovate America, Inc. (Renovate) after finding that one of its solicitors repeatedly defrauded homeowners in San Diego County.” This was the first

time in the program’s history that the Department has moved to revoke the license of a PACE administrator. The revocation stated:

“While Renovate received and documented the homeowners’ complaints, sent persons to verify if the work was done or not, and cooperated with regulatory investigative requests, Renovate did little else of substance to address the complaints. The PACE liens remain on the properties for at least nine homeowners. Renovate filed for bankruptcy on December 21, 2020. To help homeowners, the DFPI is coordinating with the Western Riverside Council of Governments, the public agency that issued the PACE liens. With these findings, Commissioner Alvarez has found Renovate responsible for acts of its solicitor, whose fraudulent practices are found to be injurious and unsafe to the public.”

DFPI releases annual reports on PACE. Some of the key findings regarding the PACE market contained in their most recent annual report include:

Finding	2022	2023	2024
Program administrator income	\$42.0 million	\$16.4 million	\$9.3 million
Number of assessments	3,721	2,756	2,149
Value of assessments	\$138.9 million	\$106.8 million	\$78.7 million
Fees and other charges assessed	\$16.1 million	\$11.1 million	\$8.1 million
Number of cancellations by consumers	274	413	114
Provider statutory violations	0	9	18
Complaints from consumers	75	61	47

PACE for wildfire safety improvements. To help homeowners finance fire-hardening measures, SB 465 (Jackson, 2018) expanded PACE, until January 1, 2029, to finance the installation of wildfire safety improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property, provided that the property is located in a very high fire hazard severity zone. SB 465 requires that a resolution of intention adopted by the legislative body of a public agency to establish a voluntary contractual assessment program relating to wildfire safety improvements must identify the kinds of wildfire safety improvements that may be financed and also requires the resolution of intention to direct an appropriate public agency official to prepare a report on the proposed assessment program and the types of wildfire safety improvements that may be financed through the program.

SB 465 defines eligible wildfire safety improvements as any of the improvements identified by CALFIRE that are fixed to an existing building or structure. Some of these improvements include ember-resistant roofs, dual-paned windows, driveways, and various ignition-resistant products such as walls, decks, and patio covers. SB 465 also requires wildfire safety improvements to not be used as a part of a project to construct a new home, or to rebuild or reconstruct a home that was destroyed or damaged in a fire. SB 465 authorizes, upon written consent of an authorized public agency official, the proposed wildfire safety financing program to allow a property owner to directly purchase wildfire safety-related equipment and materials

and contract for the installation of wildfire safety improvements. So far, no program administrators have been able to implement wildfire safety PACE improvements in California.

To encourage the use of PACE for wildfire safety improvements, PACE program administrators want to remove some of SB 465's limitations.

Proposed Law

Senate Bill 1041 makes various changes to PACE financing for wildfire safety improvements. Specifically, SB 1041:

- Removes the requirement that improvements can only be made on existing buildings and structures, not newly-constructed properties;
- Allows PACE to finance wildfire safety improvements in connection with the rebuilding or reconstruction of property if the wildfire safety improvements are in addition to or an improvement to, and were not part of, the property as it existed immediately prior to the destruction or damage to the property by fire;
- No longer requires CALFIRE to identify wildfire safety improvements. Instead, SB 1041 allows PACE to finance any permanent wildfire safety improvements;
- Allows for PACE improvements to address defensible space provided they are not temporary, unless the temporary improvements are necessary as part of the installation or acquisition of another wildfire safety improvement;
- No longer limits PACE wildfire safety improvements to very high fire hazard severity zones;
- No longer requires local agencies to designate a specific area for PACE wildfire safety improvements or adopt a resolution that outlines the specific wildfire safety improvements they will allow PACE to finance; and
- Removes the January 1, 2029, sunset for PACE wildfire safety improvements.

Comments

1. Purpose of the bill. According to the author, "SB 1041 would allow qualified homeowners to use Property Assessed Clean Energy (PACE) financing for fire hardening improvements, which helps protect homes and reduce barriers to affordable insurance. The Property Assessed Clean Energy (PACE) Program offers families a flexible financing tool to make capital infrastructure upgrades to their homes for energy and water efficiency, seismic reliance or critical fire hardening improvements. As Californians struggle with the realities of fire activity and rising insurance rates, this bill will provide a critical financial option for those that might not otherwise have the upfront capital or credit to make these important improvements to their properties."

2. To expand or not expand? In 2018, SB 465 allowed PACE to finance wildfire safety improvements, but only if the Legislature also enacted AB 2063, which reformed PACE consumer protections. Even with these new consumer protections, the Legislature put additional consumer protections for wildfire safety improvements. For example, properties had to be in very high fire hazard severity zones, CALFIRE had to identify eligible improvements, and PACE could not be used for new construction or rebuilds after wildfires. SB 1041 rolls back many of these safeguards. It also removes the local agency's ability to specify which improvements are allowed where, and makes the program permanent by removing the January 1, 2029, sunset. According to PACE providers sponsoring this measure, expanding PACE

financing of wildfire safety improvements can serve households with lower credit scores that do not have access to traditional home improvement loans. They also argue that PACE has changed as a result of the regulations that DFPI adopted in 2021, which has led to decreased complaints. While PACE complaints have decreased, that is due in part to a decrease in PACE assessments. Additionally, DFPI continues to find PACE providers violating some of the consumer safeguards. Repealing the safeguards put in place for wildfire safety improvements may result in negative consequences for consumers. The consequences for not paying back PACE assessments are severe and can lead to property tax delinquency, and in rare cases foreclosure.

3. Back to school. The initial PACE program started to finance clean energy improvements. The theory was that a contractor would complete improvements, like solar panels, for a property owner that did not have the resources to pay for in cash or with a traditional home improvement loan. While the consumer paid for these improvements on their property tax bill, they would see savings elsewhere in the form of reduced utility bills. In other words, PACE improvements paid for themselves. Wildfire safety improvements are a bit more complicated. Some improvements may not immediately reduce other costs. In 2022, the Insurance Commissioner (IC) issued regulations that required insurance providers to incorporate certain wildfire safety improvements into their rates, including fire-safe roofs, enclosed eaves, and multiplane windows. But not all wildfire safety improvements result in reductions in insurance premiums under this framework, and the framework allows variation across insurers in the level of discounts they provide when making covered improvements. Since SB 1041 allows any permanent wildfire safety improvements, and even some temporary ones, there is no guarantee that homeowners' rates will decrease. This means the property owner's property tax bill would increase to pay for the improvements, but they may not experience immediate savings elsewhere. To ensure that homeowners see savings with PACE wildfire safety improvements, the Committee may wish to consider amending the bill to tie the improvements allowed in PACE to the improvements that the IC's regulations require insurance providers to price into their policies.

4. A middle ground? Some of the initial safeguards for PACE wildfire safety improvements made using PACE for these improvements difficult in the name of protecting consumers. For example, under current law, properties have to be in very high fire hazard severity zones, and improvements have to be fixed or attached to existing structures. This limited the places where these improvements could occur, and the types of improvements providers could complete. SB 1041 intends to remove some of these obstacles to enable PACE providers to offer wildfire safety improvements. To meet the intent of the measure, while still ensuring adequate consumer protections, the Committee may wish to consider amending the bill in the following ways:

- To ensure that the expansion does not continue if consumer safeguards prove inadequate, the Committee may wish to consider amending the bill to restore the sunset provision;
- To allow local agencies the ability to tailor the permitted wildfire safety improvements to local conditions, the Committee may wish to consider amending the bill to restore the requirement for local agency to designate areas and wildfire safety improvements;
- To prevent homeowners from financing improvements on their property tax bill that are not permanent, the Committee may wish to consider removing the authority PACE to finance temporary improvements for defensible space;
- To ensure that consumers dealing with the loss of the home are not pressured to take out assessments that could increase their property taxes, the Committee may wish to continue to not allow PACE for wildfire safety improvements on properties rebuilding after wildfires;

- To ensure that consumers have already become accustomed to paying their property taxes before they take out assessments that can further increase their property taxes, the Committee may wish to consider amending the bill to not allow PACE for wildfire safety improvements on new properties;
- To ensure that consumers that lose their home with a PACE lien for wildfire safety improvements do not confront financial challenges when rebuilding because of a PACE lien, the Committee may wish to consider amending the bill to require the PACE provider to remove the lien if a wildfire destroys the property and improvements; and
- To ensure that the Legislature has adequate information on how PACE for wildfire safety improvements is functioning, the Legislature may wish to consider amending the bill to expand PACE provider reporting requirements for these improvements and submit those reports to the Legislature.

Support and Opposition (4/17/2026)

Support: Renew Financial (Sponsor)
Cal Fire Local 2881
Home Run Financing
Pacenation
Sierra Club

Opposition: California Association of County Treasurers & Tax Collectors
California Bankers Association
California Community Banking Network
California's Credit Unions
California Low-income Consumer Coalition
California Mortgage Bankers Association
Housing and Economic Rights Advocates (HERA)
National Housing Law Project
Public Counsel

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