clean energy solutions

Statewide Commercial PACE Administrative Framework

The Virginia Department of Mines, Minerals and Energy (DMME) 2012 Department of Energy State Energy Program (SEP) grant has focused on policies, programs, and tools that can accelerate commercial building investments in energy efficiency. Property Assessed Clean Energy (PACE) is a financing mechanism that holds significant promise for expanding investment in energy efficiency. One avenue of activity for the SEP grant team has been to work on an improved PACE statute and to advise public and private stakeholders involved in this opportunity as to administrative processes to advance the concept.

To date, efforts have focused on assessment of the current Virginia statute to assess its adequacy, and possible modifications to that statute for legislative approval. Most lenders and observers argue that economies of scale in dollars invested warrant a statewide program to attract a strong base of lenders to any such program in most states.

So while continuing to work in the arena of strengthening the Virginia statute and/or securing favorable counsel opinions by municipal attorneys, we think it prudent to examine alternate structures and roles for a statewide program. The objective of this report is to understand the best practices for managing and facilitating a successful PACE program to jumpstart program investments.

A Report on Accelerating Commercial Building Energy Retrofits

Virginia Department of Mines Minerals and Energy | Maryland Energy Administration, Powering Maryland's Future | nvrc Northern Virginia Regional Commission

clean energy solutions | leap local energy alliance program | IMT Institute for Market Transformation

Catalyst Financial Group Inc | BLT Sustainable Energy | Chesapeake Crescent Initiative energy | life sciences | security

Hypothesis: Our hypothesis is that a central administrative and technical assistance organization is important:

(a) To attract large-scale participation by lenders, property owners, and contractors;
(b) To support local management of an unfamiliar and complex process;
(c) To facilitate aggregation or collaboration among smaller jurisdictions; and
(d) To maintain quality control, consistency among jurisdictions, and documentation of results.

Absent such central guidance, the transaction costs of dealing with many small jurisdictions, delays, and probable setbacks will likely discourage PACE marketing except in the larger and more aggressive counties/cities.

Accordingly, this investigation has examined the experience in a number of states where PACE has moved the farthest—California, Connecticut, Michigan, Colorado, DC among them—to determine the best fit for a Virginia commercial program. We have taken into account Virginia-specific conditions, barriers, and opportunities so that policymakers can make the best decisions for commercial building owners in the Commonwealth. We also looked at program structures and their relationship to state government, organizational options, program designs, financing vehicles, building owner and project eligibility requirements, pre-qualification processes for buildings and contractors, lender issues, and quality assurance and accountability requirements.

Lastly, we note, that PACE is still in its infancy and that the market is rapidly evolving. While the experience of programs to-date is informative, it is important that Virginia continue to monitor other programs and craft structures that make sense within the State's own context.

Section I: PROGRAM STRUCTURE, MISSION and RELATIONSHIP TO STATE GOVERNMENT

This section tackles the overarching question of whether this entity should be independent of, or tied in some manner, to state government. What are the benefits and drawbacks of being a legislature-sanctioned statewide authority, such as the Connecticut administrator, a stand-alone nonprofit or for profit with State agency Board members, a state managed and locally adopted program, or merely an existing or new organization with a state certification or some other form of recognition?

Categorization of Program Structures: Our research suggests four basic categories of PACE program structures. The categories are listed below. More detail about specific PACE programs can be found in Appendix A.

(1) The "Statutory District" Structure: a state-wide district that can make assessments and collections, create senior liens, sell bonds for financing, and provide assistance to property owners – **CO, DC**

(2) The "Authority" Structure: a state-wide Authority (existing or created for this purpose) that is funded by taxpayers and/or utility ratepayers to set standards and provide financial and technical assistance, but does not have property assessment authorization – **CT, NY**

(3) The "Independent NPO" Structure: a state-wide nonprofit organization, funded by voluntary contributions or grants from business and advocacy groups, with a charter to provide technical assistance to property owners but without statutory authorization either to make assessments or to use taxpayer or ratepayer funds – **NJ, TX**

(4) The "Localities Choice" Structure: other administrative structures that are not explicit in the legislation. This is most evident in **CA** but is also found in **OH**, **FL**, and **MI**. Nonprofits and for-profit "developers" are encouraged to formally partner with local governments to offer the marketing, administrative and financing services required of a PACE program.

1.1 Legislation Review

As a starting point, we reviewed the legislation that authorizes PACE in 14 states. The laws are all prescriptive to some extent regarding eligibility of technologies and contractors; ownership and debt requirements; savings, audit and verification standards; and other program requirements to which localities must adhere.

However, the decisions regarding marketing, financing, contractor management, and documentation of projects are mostly left to the participating localities. Only a few of the statutes authorize some kind of state-wide administrative mechanism and/or technical assistance. Appendix B presents a table listing the statutes by state.

The CT and NY statutes delegate technical and financial assistance responsibilities (and budgets) to quasi-independent Authorities (CEFIA, NYSERDA). DC's law gives the Mayor authority to "contract" for an Administrator and defines its duties, but does not specify its structure. Colorado's statutes create a state-wide District with authority to issue bonds and to levy special assessments on properties whose owners consent to them. In New Jersey and

Texas, there is a state-wide nonprofit provider of technical assistance, but it is funded by voluntary contributions from the business and advocacy communities, not by taxpayers or ratepayers.

1.2 Program Administration

The early PACE programs were primarily managed at the community or county level. As the PACE market has matured, programs with larger administrative areas (multi-community, multi-county, and statewide) have emerged, with some states taking a more active role in administration.

Of the States examined 5 have passed legislation with provisions truly relevant to establishing a state-wide administrative structure that can achieve the objectives outlined above. These are the states/programs utilizing the "Statutory District" and "Authority" Structures:

- *Colorado* – The Colorado New Energy Improvement District was created in 2010 to administer and finance a PACE-like program, including property assessments and liens, for any county that elects to participate[1]. Its costs would be covered out of the bond proceeds.

- *Connecticut* – CEFIA was set up in 2011 and funded (out of ratepayer fees) to provide financing, marketing, and technical services to municipalities that elect to make the special property assessments. The annual funding for administrative and marketing functions for CEFIA is unique in the country, and a major asset for the program.

- *District of Columbia* -- The Energy Efficiency Financing Act creates a District-wide administrative structure with an Administrator under contract with the Mayor. The District arranges assessments and liens, and the Administrator provides marketing, underwriting, and recording services, and certifies and engages contractors. After an initial pilot period, the District has provided no ongoing funding for the Administrator. The 3rd party administrator charges fees for participation in the program.

- *New Jersey* – The PACE-enabling legislation in NJ retains at the state level (Department of Community Affairs, in coordination with the Board of Public Utilities) approval

[1] The legislative "findings" behind Colorado's state-wide "New Energy Improvement District" constitute an elaborate maneuver around various constitutional and legislative barriers to such assessments.

authority over each municipality's PACE design. It does not provide for state-wide administration or assistance in running the programs.

- *New York* – NYSERDA sets standards of cost-effectiveness, audits, reporting, technologies, contractors, etc., and provides assistance to jurisdictions that vote to establish a PACE program. They work through local development corporations or other organizations, competitively selected to provide the technical assistant services. The local jurisdiction retains administrative control and responsibility along with the taxing authority.

In addition to states with explicit legislation that allows for a state-wide administrative structure, several states allow jurisdictions to opt-in or aggregate either directly in their PACE legislation or through existing authority such as special improvement districts. Some of the other administrative structures - "Localities Choice" Structure - that cover a State or significant portion of a state include:

- *Michigan* – Has a fairly flexible statute that allows communities to establish a PACE district and to join other PACE districts. Lean and Green Michigan (a private company) is signing up communities for an opt-in state-wide program.

- *California* – In addition to several community and county-based programs, the California Statewide Communities Development Authority ("CSCDA"), a statewide joint powers authority, has set up a PACE program that supports over 100 communities.

- *Florida* – Three regional PACE programs have been established in different parts of the state. Each of these programs has state-wide authority with localities signing inter-local agreements with one or more of the PACE programs.

- *Ohio* – Multiple, contiguous jurisdictions can join a special improvement district. The Northeast Ohio Advanced Energy District includes Cleveland and its inner ring suburbs. However, no projects have been completed to date in this program. One of the most successful programs in the country is the Toledo-Lucas County program that takes advantage of the Toledo Port Authority's bonding and organizational capacity.

- *Texas* – The State does not intend to administer PACE at the state level; however, the

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State is preparing a PACE in the box tool-kit for communities that want to launch and administer their own programs.

- *Minnesota* – Edina, MN created the Edina Emerald Energy Program modeled after the Sonoma County program upon pressure from the solar industry and a couple of property owners. The program completed 2 projects but has since been moved to the St. Paul Port Authority as one of many financing options for MN businesses. Municipalities may now sign a joint agreement with the Port Authority to participate in the PACE financing and place special assessments on local properties.

1.3 Start-Up and Program Formation

Start-up costs and time
While programs can develop fee structures (see 2.4) to generate revenue for sustainable program administration, significant program start-up funds are necessary for developing a successful program. Start-up fees can come from a number of sources:

- Federal grants
- Foundation grants
- Corporate sponsorship
- Utility rate payer funds
- local municipal general funds

If operating the program directly out of a municipal government, the start-up costs could be reduced as municipal staff performs the majority of the work. However, relying too heavily on in-kind resources such as existing staff labor could jeopardize the success of the program as staff capacity dictates the amount of time and focus dedicated to program start-up. Additionally, the length of time to get the program up and running could be extended as the program elements must be approved through the bureaucratic process.

Although the amount of time and capital needed for program start-up will vary based on program size and structure, understanding the costs incurred from other PACE programs gives a general understanding of the resources needed.

- *Sonoma County:* The program is managed out of the county government - $225,000 initial program set-up and pre-launch activities with an annual operating budget of

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around $800,000[2]. The program launched in 6 weeks but a significant amount of leg-work was completed prior to program creation. There was existing strong, political will as the Energy Independence Program (SCEIP) is focused on meeting the very rigorous greenhouse gas reduction goals of Sonoma County that were established in 2006.

- *GreenFinanceSF*: The Commercial PACE program in San Francisco was launched in 2011 and used $600,000 from an EECGB grant to start the program. The funds went towards collateral material, training, and program development. The program is managed by the city government; however, a $250,000 grant from the CEC helps to fund the program administrator for the first 5 years. While running the program out of the municipal government can add to the bureaucracy around each project, it potentially enables programs to launch more quickly than 3rd party administrator procurement or new organization creation.

- *Northwest Ohio Energy Improvement District*: The PACE program is managed by the Toledo Port Authority and was created with $15 million from a Better Buildings Neighborhood Program grant from the Department of Energy in 2010. Of the $15 million, 50% was put into the reserves of the Northwest Ohio Bond Fund, 20% was put into the Port Authority's Revolving Loan Fund, and the remaining funds were used as start-up funding. The program was launched in July of 2010 after receiving the BBNP funding in late 2009. Since the program is run out of the Port Authority much of the program staffing and organizational infrastructure was already in place.

- *Florida PACE Funding Agency:* The Agency was created with in-kind staff time from the participating local jurisdictions and the 3rd party consultant that will ultimately provide administration. The projected first year budget, once the Agency is self-sufficient, is approximately $850,000. This includes $250,000 for staffing, $100,000 for legal and the remainder going toward marketing, outreach and the overhead for a storefront to give the Agency a visible presence in the community. The Funding Agency was established in August of 2011 and has yet to complete a project. However, there is a waiting list of projects and the Agency just completed a $200 million bond issue to begin working on the initial projects.

[2] Property Assessed Clean Energy (PACE) Replication Guidance Package for Local Governments, Sonoma County, March 30, 2012, pg 25

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- *Florida Green Corridor:* Ygrene, the 3rd party administrator, worked with the participating municipalities and handles all aspects of program administration. Therefore there were no significant start-up costs for the participating municipalities. The program took about a year to organize and launch.

Program creation and development

Whether a statewide authority, nonprofit or local group of municipalities provide a PACE framework, resources and time are needed to reach municipalities to create/ participate in the PACE program. Therefore a strategy for education and outreach to municipalities, not just property owners and lenders, is needed to gain political support for program creation or existing program participation. Existing programs have found success by identifying progressive Mayors or Town Council Members as well as individual property owners to help with program establishment.

- *New Jersey PACE* initially began with blanketing outreach or general education and outreach to all municipalities in New Jersey. Over time they found that focusing on a couple of motivated municipalities with political support and interested property owners was more efficient in terms of program creation and success. The first municipal program is in progress spearheaded by Simon Property Group, the world's largest property owner of mall space. The publicly traded company has made a commitment to sustainability and reduced energy use. Improving the buildings reduces the cost to Simon and makes the spaces more desirable for mall tenants both of which make Simon Properties more appealing for the shareholders. Simon has completed multiple PACE projects across the country and is actively working with municipalities to create additional PACE programs to undertake additional projects.

Furthermore, where programs have experienced some success, adjacent municipalities become interested in joining the existing program, or at least utilizing the administrative structure and/or provider.

- *Sonoma County Energy Independence Program (SCEIP)* is currently working with nearby counties to explore the potential of program expansion but to date it has not been feasible because of the different ways that counties collect taxes and the additional administrative burden. Similarly, the PACE Manual that Sonoma County created was utilized by Edina, Minnesota to create the Edina Emerald Energy Program (EEEP). The program forms, the program structure and lessons learned were employed in Edina, saving the cost and time of creating and recreating program forms and processes.

- *Northwest Ohio Energy Improvement District* advises other municipalities in Ohio on how to set up the required nonprofit to run a PACE program in OH and what is needed for successful administration. By utilizing the success of existing programs to the greatest extent possible, the start-up costs and time can be kept to a minimum.

Team development/ staffing

Once the program has been established through municipal government approval, the organizational structure of the program must be developed. Whether the program is administered through the municipal government or a 3rd party administrator, certain program oversight must be established.

Government program administration: In San Francisco, the PACE program has one program manager that is a municipal government employee. While the employee only works on the PACE program about ¾-time, the position could be full-time as demand increases. This position is funded partially through a CEC grant. Conversely, the Energy Independence Program in Sonoma County is also run out of the County government but has seven full-time staff members. It should be noted that the Sonoma program also offers residential PACE which leads to higher project volume, a tool-lending library, and has a store front which is open 5 days a week. In Connecticut the CEFIA's state-wide PACE program has two dedicated staff, plus is able to drawn on an additional CEFIA program, finance, and legal staff on an as-needed basis.

3rd Party Administration: Third party administrators are generally selected for PACE program administration through the accepted procurement processes - the competitive bid process - of the state or municipality. The administrators offer a turn-key program, implementing and managing most areas of the program. For example, Ygrene is the administrator for the Clean Green Energy Corridor in Florida and offers:

- program design,
- funding,
- marketing and outreach,
- contractor training and prequalification,
- technical assistance
- project approval, and

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- data management software.

Depending on the municipality, the municipal representative or liaison will manage:

- pass resolutions for program creation
- authorize bonds
- execute loan and assessment documents
- place assessments on the tax roll
- collect and distribute assessment payments[3]

On-going Program Costs

The on-going program costs will vary based on PACE program structure, building types served and size of program. Both the SCEIP in Sonoma County and the Florida Pace Funding Agency have created annual operating budgets of around $850,000, other programs such as CT and DC have costs that range from about $500k to $1M, although specific numbers were not available. If programs operate or plan on operating a store-front model a higher level of staffing is potentially necessary than a program run by a private 3rd party administrator or run directly out of a municipal government. Regardless of the amount, there are multiple costs associated with most program models that must be taken into consideration. The list of costs includes, but is not limited to:

- staff: program manager, outreach director, legal, financial advisor
- marketing and outreach: website creation, branding, collateral creation
- office overhead: rent, internet, phone, utilities
- back office: data management software

A detailed list of potential costs can be found in the Sonoma County Resource Manual (referenced above). If utilizing a 3rd party administrator many of these costs are absorbed by the administrator.

Section II. Financing and the Role of the Administrator

In California and other states, the statutes do not prescribe any particular role. There are trade-offs between a state organization prequalifying lenders, establishing expectations of lender terms and conditions, prequalifying building owners for lenders versus letting the free market operate on its own.

[3] https://ygrene.us/faqs

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2.1 Central administrator role in the financing function

Capital Source

As PACE has developed around the country, programs have adopted a range of approaches to provide capital. Broadly speaking programs source capital from either public funds (primarily bond) or private capital, of which there are a variety of sources:

- local and regional banks,
- national banks,
- insurance companies,
- pensions funds, and
- private equity funds.

Those programs that use public funds either make funds available on demand (Sonoma) and or they pool projects before issuing bonds (Toledo). As PACE is still in the early stages of development and acceptance as an economic development finance tool, only a few programs have had success or willingness accessing the municipal bond market. To date, most PACE loans have been completed using either a source of non-bond government capital, a pool of private capital to warehouse loans, owner arranged capital through an existing banking relationship, or through private bonds that were sold to social impact investors. Boulder County and St. Louis, MO both utilized Qualified Energy Conservation Bonds (QECBs) to fund PACE programs. The private funded programs include open-market, owner-arranged financing programs (CA, MI) were a building owner makes an arrangement with a financing source to provide the capital for the PACE note and turn-key programs (Miami – Dade) that have a dedicated source of private capital.

- The C-PACE Program in Connecticut offers a combination of public and private funds. The program has a $25M pool of capital from State funds available for PACE loans. The program has also qualified 17 capital providers. To date all PACE loans in CT have initially been capitalized with the State money. A bundle of more than $20M of these loans was then sold to a private investor to replenish the state pool.

- The Toledo program has a front-end, DOE-funded revolving loan fund. Once they aggregate $5M or more in projects the Port Authority issues a bond to replenish the fund.

- The enabling legislation in the District of Columbia authorized $250M in bonds. However, the program is relying entirely on private money to fund PACE projects. The

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bonding authority creates the ability for the jurisdiction to create the PACE note, which is then entirely funded by private capital and has no recourse to the District. DC's 3rd party administrator plays an active role in connecting projects with financing by actively soliciting capital with favorable terms from a range of financial institutions.

- The Lean and Green Michigan PACE program, which is also administered by a 3rd party, is an open-market program and similarly intends to match owners with financial institutions.

Despite the security of a PACE note, which sits ahead of mortgage debt, much of the private capital available in the market does not currently offer competitive interest rates when compared to available sources of mortgage finance. This may be the result of the relative newness of PACE. Therefore building owners will only prefer it if they can neither self-finance a project with neither cash nor access an additional mortgage.

Financial and Technical Underwriting Standards

An important function of a state-wide administrator is to set the standards for project underwriting. Typical standards include:

- Project size (min – max)
- Financial: Debt service coverage, loan-to-value, current on property taxes, and other standard financial metrics (i.e. no bankruptcy proceedings, or adverse legal findings)
- Technical: Positive savings to investment ratio (i.e. Do the net benefits exceed the costs). Some programs such as CT are strict with regard to energy savings exceeding costs, whereas DC contemplates a wider range of benefit including maintenance savings and replacement costs of equipment at the end of useful life.

Taxing Authority

All of the statutes authorize <u>localities</u> to place special assessments with senior liens on the properties of willing owners, and to make collections thereon. None of the statutes except DC's and Colorado's, however, creates a state-wide PACE District with authority to impose such assessments and liens. Other than those two states, real-estate tax is assessed and collected at the local or county level. Therefore it is necessary for a statewide PACE administrative entity to engage with those local jurisdictions' appropriate taxing entity. While the PACE administrator will not directly administer the placement of the tax assessment and the collection of payments, it can work with the communities to establish standards.

Lender Consent
In the early days of commercial PACE there was a significant concern that placing a voluntary assessment on a property and hence jumping in front of any mortgage holder's interest would create a negative backlash from banks. The industry best-practice that emerged is for property owners to receive lender consent from the primary mortgage holder as a requirement for receiving a PACE loan. The experience to-date is that once banks are educated about the benefits of improving the asset, lender consent has not been difficult to obtain. Therefore, it is critical that a statewide program actively engage its financing institutions early in program development through groups such as the Bankers Association and the Chamber of Commerce. The Connecticut program was particularly successful in their engagement of these groups and faced very little opposition. PACENow.org also offers a variety of resources on lender consent.

2.2 Pre-qualifying procedures:

Certifying Lenders
Several administrators that want to benefits of a competitive market, but want to ensure the quality of the capital providers participating in PACE, have issued RFQs for lender. As noted above, Connecticut actively certifies PACE lenders in a rolling-application process and has 17 capital providers as of March, 2014. The DC PACE program actively seeks terms sheets from lenders and is developing an RFP to the pre-qualify lenders. The Energize Commercial PACE program in New York is also running an RFP for lenders in March 2014.

Pre-qualifying Projects (criteria) and Building Owners
Connecticut, Michigan, and the District of Columbia are also taking an active role in pre-qualifying projects and generating leads. As an initial screen most programs evaluate both the technical potential of the project as well as the underlying, fundamental financials against the underwriting criteria discussed above (e.g. anticipated loan amount, energy savings potential, and core property financials). In CT, DC, and NJ this screen is handled through an initial online application. Many of the programs with a turn-key administrator and a dedicated private capital source are actively qualifying projects in order to generate business.

2.3 The Role of Credit Enhancement

To-date few commercial programs have utilized direct credit enhancement. However, there are on-going discussions by administrators and other stakeholders about how to structure capital pools that leverage combinations of private capital, public capital, and philanthropic capital (PRI) to create PACE capital that has either a more competitive interest rate or expands the underwriting criteria for harder-to-underwrite property types (e.g. low-income MF, houses of worship, etc).

The GreenFinanceSF program in San Francisco offered a Debt Service Reserve Fund (DSRF) to cover lenders in the event of late payments or delinquency funded through ARRA funds. The DSRF was limited based project eligibility based on grant requirements and the grant performance period. On the residential front California has established a pool of funds that will pay the delinquent portion of a PACE note, in order to mitigate FHFA concerns about residential PACE.

2.4 Fee Structure

All programs charge some fee for participation in the PACE program. Depending on the source of capital, several program administrators also make money either on a mark-up of the capital interest rate or directly on the capital. Given current loan volumes, no program is collecting enough in fees to cover expenses, and so the government or the administrator is subsidizing performance.

- CT – Fixed fee (Range: $0 - $15,875) plus a percentage of the deal (Range: 3% - 0.75%) on a sliding scale based on deal size
- DC – 2.5% origination fee (split between the District and the 3rd-party administrator)
- MI – 2% contractor fee and 0.5% lender fee
- Florida PACE Funding Agency, SCEIP: 4% for program fees
- Toledo - 2.25-3% of bond issuance, 0.75% mark-up on each bond sale of aggregated projects
- NJ - anticipated 4.5% up to $500,000

Section III: Program Design Attributes

Once the legislation is in place, the administrative and organizational structure has been established, and method(s) of financing is determined the other program design attributes must be developed. While PACE programs are just getting started, there are multiple programs already established which have developed program forms, tested different marketing strategies and worked to refine and simplify the program process. Sonoma County, specifically, was awarded a grant from the California Energy Commission to create an in depth PACE manual based on their experience creating the Sonoma County Energy Independence Program (SCEIP). The manual contains example budgets, program forms, lessons learned and case studies. The Connecticut C-PACE program also has a comprehensive manual. While California and

Connecticut differ from Virginia in many ways, the manual is a great place to start developing the PACE program attributes.

3.1 Marketing strategies for property owner engagement

Marketing of PACE financing, especially in the start-up phase, needs to be aggressive and adequately funded. In most cases, where programs are not supported through ratepayer funding, the program sustainability requires economies of scale to fund the technical assistance and administration through project loan proceeds. Additionally, PACE is a relatively unknown financing tool. A significant amount of basic education is needed for all stakeholders including local officials, municipal staff, property owners, lenders and contractors. Only through dedicated, targeted outreach and education will programs reach a sufficient number of eligible property owners and educate them about the benefits of PACE in order for projects to move forward. While traditional marketing techniques such as print and TV ads, billboards, and radio have been utilized, other more cost effective techniques are increasingly being implemented by programs.

There are several different methods of marketing that are currently being utilized by PACE programs across the county:

Contractor training and education: By empowering the contractors to promote PACE, the program gains more boots on the ground speaking to property owners that are already interested in building improvements. This is a very effective, relatively inexpensive method of outreach. It should be noted that sufficient training for all contractors is imperative or the program could be misrepresented and deter potential eligible projects. In Connecticut's C-PACE, the Florida programs, the District of Columbia and the Green Finance SF, San Francisco program, the program administrator or consultants respectively train the prequalified contractors to promote the PACE program. The Sonoma County Energy Independence Program has found success through employing the contractors to promote PACE financing. The program has a monthly training that is open to all 200 contractors. On average about 10-12 of the 30 active contractors attend the meetings, which are either held by conference call or in person. The meetings or trainings are designed to provide updates on the program, get feedback from the contractors. They also provide forums for learning the new energy code or focusing on individual ECMs such as HVAC and insulation.

Dedicated marketing personnel: In Connecticut, the two CEFIA PACE program staff spend significant time marketing. CEFIA has also engaged independent "deal jockey's" on a per closed deal basis. In Toledo, Ohio the program utilizes the development staff of the port authority to promote PACE. While the staff person is not completely dedicated to promoting PACE, it is a full-time position that is actively working to promote all of the financing mechanisms offered through the port authority to increase economic development in the Port Authority's jurisdiction. In Toledo the factor driving projects forward is economic development as opposed to energy savings. In Florida, the PACE Financing Agency has a first year budget that allocates over half of the funding to outreach. While the amount includes creating regional store-fronts for the PACE program, it illustrates the importance of sufficient marketing for program success.

Program website: A dedicated PACE program website helps educate interested participants on program operations as well as the benefits of utilizing PACE financing. Additionally, it can be utilized for on-line applications and collecting other information that can be compiled and used to potentially improves the program in the future. New Jersey PACE set up a website from the very beginning that tracks the progress of PACE programs across the country, explains the benefits of PACE for property owners, municipalities and contractors and outlines the steps to creating a PACE program for local municipalities. According to NJ PACE, once the website was live, interest in the organization greatly increased. The website helped educate interested parties and was a quick way to develop momentum for the new organization. More established programs, such as Sonoma County, CA use their website to collect online applications and ultimately streamline the application process.

Utilize existing local regulations to target property owners: Increasingly in larger urban areas regulations are being enacted to benchmark commercial building energy use or mandate a certain level of green building. Programs can target property owners that must meet the regulations and promote PACE as a tool to address problem areas or meet the building requirements. In San Francisco, there is a city ordinance that all non-residential buildings must benchmark their energy use every year and get an energy audit once every five years. The Green Finance SF program is utilizing the benchmarking and audit information to target property owners that would be good candidates for a PACE project. DC has a similar benchmarking mandate.

Tax bill inserts: The PACE assessment is generally paid back annually through property tax bills. Therefore local, municipal programs are creating tax bill inserts that outline the benefits of PACE for property owners. Sonoma County has been utilizing bill inserts and while they have not tracked the direct impact, theyfeel that the inserts have had a positive impact on program interest and participation.

Strategic Partnerships: Since PACE programs generally rely on loan proceeds, rate payer funds, and corporate donations and/ or grants to fund program administration and technical assistance, strategic partnerships help stretch those dollars and engage more

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property owners. Green Finance SF and the Sonoma Energy Independence Program both utilize existing utility incentive programs to offer additional energy efficiency incentives for property owners and utilize the quality assurance offered by the utility. Additionally, programs frequently partner with national organizations such as the Building Owners and Managers Association (BOMA), the Commercial Real Estate Development Association (NAIOP), the Urban Land Institute (ULI) and the American Institute of Architects (AIA) to provide information and education around PACE and the benefits and gaining access to the membership databases for targeted outreach to property owners.

3.2 Technical assistance

Some PACE programs provide direct technical assistance to participants, with the level of assistance provided varying significantly. The Connecticut program provides significant technical assistance, primarily:

1) Provision and management of standardized program project metrics input software which allows for program simplicity and consistency and permits efficient review and approval, as well as a verifiable database of program performance.
2) Establishment and enforcement of requirements for each ECM and each project's full ECM implementation scope, such as:

    - The expected Useful Life (EUL); overall project savings to investment ratio (SIR) and what qualifies as "savings" and "investment";
    - Acceptable methods for determining the project life cycle cost;
    - Whether or not maintenance cost savings/increase are allowable in the project cash flow;
    - What discount rate to use to determine project SIR; and,
    - The maximum fuel escalation rates that can be used without specific prior justification and program approval.

3) The criteria governing maximum Loan Term in relation to EUL of a single- or multiple- ECM project. Connecticut allows for the term to be the ECM-weighted average of either the ECM costs or dollar value of savings.

4) A list of program qualified/unqualified ECMs. Will energy-consuming equipment that is no more efficient than the equipment it is replacing be covered in the project cost, even if the overall SIR is greater than 1.0? Will fuel switching be permitted? Will ECMs such as conventional plug load household appliances, such as

refrigerators, be allowed? Will necessary “associated” costs such as end of useful life roof replacement when a new PV system is desired be allowed to be financed?

Other notable, desirable technical assistance efforts common to other PACE programs include stipulation of the minimum efficiency standard of replacement equipment. Does it meet the most stringent applicable code in effect, or must the efficiency exceed code by some percentage to qualify?

3.3 Audit requirements

Programs vary between requiring ASHRAE Level I or II audits for Commercial PACE projects. Generally the smaller the project in terms of dollar amount, the less strenuous the audit. In SF and Florida Green Finance Authority, projects under $100,000 are required to receive an ASHRAE Level I audit and projects $100,000 or more are required to receive an ASHRAE Level II audit. Sonoma utilizes a free utility audit for residential projects and certain commercial projects if they qualify for a utility incentive. The Toledo, OH requirements are flexible. The program works with the property owner to gather the necessary information to determine the size and scope of the project. Toledo does not require a certain audit standard as long as all necessary information can be gathered for the project at hand.

The Connecticut program requires that the audit provides reasonable and accurate savings and cost estimates, performed by qualified energy auditors. The “baseline” energy usage level is based on actual energy and water billings as adjusted to anticipated repayment term site use – occupancy level, facility use, etc. The baseline use variables must be clearly defined and quantified (occupancy, hours of use, sq. ft. of conditioned space, etc.). Flexibility is allowed regarding allowable savings analysis tools and methods (commercially-available, in-house proprietary, ASHRAE approved). Two audit complexity levels are permitted – comprehensive and simple (addressing just one ECM). The audit savings must be reconciled against savings estimates provided by any utility rebate or incentive the participant intends to use.

Other notable, potentially desirable audit requirements present in other PACE programs include:

1) Pre-testing of savings variables (run times, wattage draw, flow rates, etc.) to establish data points that can be used after construction to verify and monitor savings;
2) An adequate M&V plan, tailored to the recommended ECMs may be required in the audit with the M&V cost balanced by the estimated savings value (more discussion on M&V is provided below).

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3) A plan to train on-site maintenance staff, provision for the cost and availability of necessary sub-contracted maintenance, and energy education for building occupants tailored to the specific recommended ECMs.
4) ECM pricing criteria – subcontractor bid, Means estimates, commercial software driven, inclusion incremental annual maintenance costs.

3.4 Contractor registration/qualification

Existing programs generally require proof of current licenses and proof of insurance as well as relevant project history. Where possible programs have utilized existing program prequalified contractors. For example, GreenFinanceSF utilizes the California Solar Initiative (CSI) list of prequalified contractors. If a contractor has already been prequalified with CSI, they are automatically eligible to work in the GreenFinanceSF program.

The Connecticut program allows for use of contractors solicited by the program as well as participant -- preferred contractors brought to program by the participant, as long as they meet general program criteria. The program has several "contractor" categories: Auditor, Engineer, Design/Build, ESCO, HVAC, Lighting, Water, Solar. The District of Columbia program is similar to that of Connecticut.

Other notable, potentially desirable contractor qualifying criteria present in other PACE programs include:

1. An RFP issuance, review and approval process when the participant wishes to retain the services of an ESCO and the participant has no prior experience with an ESCO.
2. Update list of approved contractors annually and potentially remove contractors due to non- or poor-performance

3.5 Construction process/contractual requirements

When the Audit is complete and the participant is ready to contract for ECM installation with the contractor, the Connecticut program verifies, for ECMs like roof-mounted solar PV panels, that a structural analysis by a competent structural engineer is included in the contract specifications and quotations. The program also verifies that a qualified Commissioning plan is in place and an approved commissioning authority (Cx Authority) is identified and part of the project implementation team (either an independent 3rd party, subcontracted by the contractor, retained directly by the program participant, or a direct, qualified contractor employee.

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Other notable, potentially desirable, contract review practices present in other PACE programs include:

1. Review of contract technical Specifications to ensure that the contract scope of work in the contract reflects equipment specifications as defined in the Audit (model, efficiency, quality as related to expected useful life, M&V plan);
2. Assessment and possible adjustments for material changes to savings and cost estimates from any scope changes that occur post-Audit acceptance
3. Require and analyze post installation testing of equipment as per M&V plan to determine any material changes to savings estimates
4. Require contractors to provide accurate as-built drawings and a complete equipment catalog which includes all maintenance protocols

3.6 Data management and Measurement and Verification (M&V)

Gathering and posting of pre-retrofit and post-retrofit utility savings data is a key component of the quality assurance task. Toledo requires the projects to report post retrofit data in Portfolio Manager but does not consistently review this data. GreenFinanceSF utilizes the utility incentive program QA.

As mentioned above in technical assistance, the Connecticut program provides and manages standardized project metrics input software which allows for program simplicity and consistency and permits efficient review and approval, as well as a verifiable database of program performance. Participants/contractors are required to enter specific information in the proper location using program-defined units of entry. A project will not be approved if all relevant details are not adequately entered. Baseline use and cost and savings values in units and dollars are entered for all projects implemented. M&V Plans must meet the guidelines of the International Performance Measurement and Verification Protocols (IPMVP) Options A, B, C and D) as well as certain criteria established by the Investor Confidence Project (IDF). Each year of the loan term, the participant must enter the required M&V data and results are compared to the original savings estimates.

Section IV. Overall Recommendations

The recommendations which follow attempt to capture the major lessons learned from our review of documents, web sites, and interviews of PACE providers and consultants. Given the recent emergence of most PACE programs, we anticipate that the experience of the next couple of years may change significantly the nature and thrust of future recommendations. We are

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addressing a fast moving target in capturing the prominent best practices and their implications for program design, marketing and implementation. We offer the following:

- Flexibility in program requirements according to the size and complexity of the building customer need is important;
- An accessible, attractive financing offering is necessary, but not sufficient to trigger significant building owner uptake – a well-integrated program design, marketing, quality assurance, and administrative elements are also required;
- None of the existing PACE programs have yet assembled all of the attributes required for a very successful program, as defined by number of participants and dollar volume invested;
- Statewide administrative structures, such as that operating in Connecticut, are ideal, but most states don't have them, and many have found alternative vehicles to set up successfully;
- A premium should be placed on creating a fully functioning program in one or two localities rather than persuading a large number of local governments to participate before launching;
- Legislative language that establishes clearly defined program elements; The efforts of statewide and local public officials have been critical to not just the administrative start-up, but also to the credible and effective marketing of the program.

1. **Program Flexibility**: There is a major tension existing between programs featuring rigorous standards, strong quality assurance, comprehensive audits, prequalified contractors, a sophisticated application process, and limited eligible measures on the one hand; and less stringent standards, easy access to financing, few limitations on participating contractors, simple application process on the other hand. Rigorous standards reassure customers that their lack of knowledge about this industry is taken care of by trusted third parties. Conversely, the absence of these program attributes facilitates a straightforward application process and quick access to financing for customers with trusted contractors working with them. From the perspective of public policymakers and lenders, a tilt toward rigor is comforting, especially for large projects ($1 Million or more). From the perspective of program marketers and administrators and small building owners, the absence of rigor is more attractive. Any step in the process that consumes time and money represents a potential barrier to implementation. A program with the flexibility to vary the rigor according to project size and complexity--especially to the audit and contractor qualification standards--may be more successful.

2. **Web of Program Attributes vital to Program Success**: We cannot overstate how difficult it is to provide a PACE program which enjoys significant customer uptake, as defined by total loan dollar volume, participation rates, comprehensiveness of measures included, and per participant loan size worthy of closer scrutiny. Any investigation of the few successful programs is instructive: such an examination yields a set of bundled attributes associated with them. Although few programs combine all of these attributes, they each contain several, and they are not bounded by the terms and accessibility of the financing itself. The following elements are selected from the CESI's exposure to academic papers, conference presentations, telephone interviews and direct experience in establishing financing programs--not restricted to PACE alone-- over the last four years. The target audiences are commercial customers. This list is not yet confirmed by any national or rigorous regional evaluations, but represents our own experience and research only. We look forward to formal evaluations confirming or modifying our conclusions over the next couple of years. The bundled attributes are:

- Strong, credible marketing partners;
- A linkage to additional financial incentives, usually in the form of utility grants and subsidies;
- Customized, multi-channeled marketing strategy by geography and market subsector;
- Credible and competent EE program administrators in addition to the financing program management itself;
- Mature and competent auditing and installation contractor infrastructure;
- One-stop contracting for suite of audit, installation, and financing services;
- An accompanying program design structure (utility or government-sponsored) providing incentives for comprehensive measure investments and utility savings of 15% or greater; and,
- A capable IT platform able to serve customers, contractors, lenders and program administrators, and the ability to track post-retrofit savings on utility bills.

Accordingly, we reach the conclusion that a well-crafted, attractive PACE program itself is necessary, but not sufficient, to effect customer uptake on a large scale. We also acknowledge that the programs featuring these bundled attributes exist primarily in states with high utility rates, robust utility incentive programs, and regulatory commissions and governments with aggressive EE objectives. This set of associated elements is generally limited to the Northeast, West Coast and a few Great Lakes states. But there are exceptions, such as Austin, Texas. We also believe that appropriation of these attributes and application to nearby states can lead to flourishing programs. Southeast examples of promising new programs feature the Florida PACE efforts; we anticipate several additional programs in the months ahead.

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3. **None of the existing programs have assembled entire web of attributes required for success**: Toledo, Sonoma, and Connecticut represent three fairly successful programs. All have benefited from strong marketing, a solid administrative presence, and available, accessible financing. But no program has yet achieved participation rates of even 1% of the eligible population or tens of millions of dollars in project volume. While we are early in the program maturity stages, some very significant upgrades can take place in appropriating the elements described above to assure major owner uptake for PACE.

4. **Statewide administrative structures are ideal, but not absolutely required:** The Connecticut model benefits from rather generous public funding that may not be feasible in Virginia. Accordingly, strengthening local and regional capabilities should gain priority attention. There are now available published guides to establishing programs. Constructing the infrastructure for a program, from local ordinance to administrative structure, financial offerings, audit and contractor requirements, eligible measures monitoring and verification protocols, and reporting requirements follows now well established pathways. Nonprofit, government and for profit administrators and marketers have all experienced some success in specific states, so there is no prescription for how the program must proceed. Working in local governments with larger populations does make eminent sense, given the economies of scale required for all major program participants. Aggregating adjacent counties and cities into a single program entity also pays dividends.

5. **Prioritize the establishment of a fully functioning program somewhere: Recruiting** local government participation across the state in the early months of the effort is time and resource intensive without certainty of active program creation. Given the barriers to successful program delivery and the substantial start-up effort to mobilize the financing, administration, contractor recruitment and qualification and marketing strategy, resources are best allocated to establishing one or two strong local programs. Their success will also comprise a very effective marketing tool to attract the interest and commitment of additional local governments.

6. **The state legislation should clearly address the following**:

- A legislative finding that there is a public interest in facilitating the efficient use of energy,[4] the production of renewable energy, and the financing of capital improvements to commercial, industrial, residential, and institutional facilities for the such purposes;
- Broad definitions of energy-efficiency and renewable-energy capital improvements ;
- Authority for each local jurisdiction with property-taxing powers:
    - o to include such financing in its budgets, and to issue bonds payable from the assessments on participating property[5]

[4] Water may be included as well as energy

[5] Although financing may be arranged with private sources bilaterally with property owners, the locality will generally need authority to provide financing from revenue-bond proceeds. This is most often done by creating a

  - to make loans to property owners who voluntarily consent to an assessment for loan repayment, and to secure such loans through a lien on such property senior to other debt
  - to add an assessment to the property tax equal to the debt service on such loans
  - to engage an administrator to assist in marketing, enrollment, contractor engagement, documentation, advisory services to owners, engineering support, and the administration and collection of assessments[6]
  - to recover its costs through an administrative fee added to the financed principal
  - to join other jurisdictions in a combined PACE District;
- Requirement to notify mortgage holders that a senior lien is to be placed on the property[7]
- Reasonable underwriting criteria for qualifying loans, whether privately- or bond-financed;
- Creation of a statutory Authority (or designation of an existing Authority), with staff funded by a public benefit charge added to utility bills,[8] to set standards and provide consistent state-wide administrative and technical support to participating jurisdictions[9]; and,
- Non-interference by the state in PACE financing collections

Note: this is an indicative outline only. Many existing statutes have to be amended to enable these provisions, and the wording of each amendment and each new provision requires drafting by legislative counsel and approval by procedures unique to the state.

7. **Strong Local public official participation is critical to program success**: From the creation of the program elements to establishing of credibility in marketing to owners, the efforts of local public official "PACE champions" make a very significant difference in the quality of the program delivery. In almost every location with a relatively successful PACE program, the contributions of one or two public officials, or consultants hired by local governments, has been transformative. Program planners should seek out such champions during the early stages of program implementation.

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special-purpose "District" with financing authority, which the property owner may join. Normal procurement requirements such as competitive bidding are generally waived in such districts.

[6] Many of these functions are best handled by a state-level Authority, as recommended in item 6.6.

[7] Some states require that mortgagor consent be required, such provisions having been found necessary to gain the support of the banking lobby.

[8] Funding for the Authority can also come from fees charged to participating jurisdictions, to be financed with the capital improvements; however, such fees will not be available until the program successfully places substantial PACE financing.

[9] Although these functions can be provided without state-wide authority (as described in this report), they are most likely to serve the public purpose consistently and lastingly if authorized and funded centrally.

Section V: Additional Resources

In addition to the documents cited throughout, PACENow curates a wealth of resources on PACE from legislation through design and implementation:
http://pacenow.org/resources/#toolkit

Appendix A: State PACE Framework (see attached Excel)

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In general – Unless otherwise noted, these statutes all define eligible measures or energy projects essentially as the usual energy efficiency (EE) and renewable-energy (RE) property improvements, although they provide for various limitations. They also all set up the usual kind of legislative process requirements, PACE assessments, liens, financing provisions (usually including tax-exempt, revenue-bonding authority), underwriting criteria, and collection provisions. The *General Purpose* notes that follow are focused on provisions that relate in some degree to state administration of a PACE Program (which is in no case clearly defined). The relevance of each statute to some form of state-level administration or PACE structure is noted as essentially "none," peripheral," or "relevant."

State	Statutes	Date approved	General Purpose	State Admin Relevance
CA	AB 811, Chap. 159	Jul-08	Adds EE, RE, and DG to improvements that a local government and its citizens can finance via voluntary assessments.	None
CA	AB 474	Oct-09	Adds Water Efficiency	None
CA	SB 77	Apr-10	Establishes a Reserve Fund at CA Energy Transportation Authority to purchase localities' PACE financing paper, including underwriting criteria; gives the Authority rights to purchase projects or energy from anyone; sets up a LLR for small projects.	Peripheral
CA	SB 555, C 493	Oct-11	Enables "community facilities districts" to finance property improvements using PACE.	Peripheral
CA	SB 27	Oct-13	Clarifies the "District" status of San Fran Bay Restoration Authority and its ability to impose programs on the included counties	None
CO	HB 08-1350	May-08	Authorizes PACE programs where counties or municipalities create special Districts and obtain voter authorization; creates the CO Clean Energy Development authority; encourages EE and RE investments	Peripheral
CO	SB 10-100	May-10	Allows PACE districts to cross county boundaries and be noncontiguous; clarifies utility rights, bond approvals, and notification requirements; allows improvements on a "community" location as well as on buildings.	None

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State	Statutes	Date approved	General Purpose	State Admin Relevance
CO	HB 10-1328	Jul-10	Creates a state-wide "new Energy Improvement District" with bonding authority and PACE-assessment authority on property owners (initially residential only) who choose to join. Counties can opt in. A "Program Administrator" can be engaged to do financing and marketing. Initially limited to $25,000 per property. Governing Board of 9-11 members.[10] Initial bond issue = $800M. Law gives the NEID all the normal powers of corporations and public authorities. Counties can engage the NEID to run their programs. State pledges not to interfere with NEID operations of bonding. Utilities can count savings toward their targets if they assist the program. The Article has a sunset of 1/1/16 except for outstanding bonds. A $10M LLR fund created in Treasury, available to all PACE Districts.	relevant
CO	SB13-212		Adds commercial properties to the NEID Authorization, removes the $$ caps, expands the eligible technologies. It also removes the Legislature's appointee authority to the Board. Adds private financing options. Modifies mortgagor consent processes. Repeals the Sunset. Deletes the Board's "attorney" and "local govt." appointee qualifications in favor of utility and industry experience. Increases the NEID's role in aggregating applicants for financing. Prohibits assessors from including EE/RE improvements. Extends State's pledge of noninterference to private financiers.	Relevant

[10] Cabinet Energy + Economic Development; five appointed by Gov. (Affordable Housing, Lending, Attorney, EE, and local govt); one appointee of Speaker, one of Senate Pres., one of Minority Leader in each House.

State	Statutes	Date approved	General Purpose	State Admin Relevance
CT	SB 1243 (Public Act 11-80)	Jul-11	Creates CEFIA. Combines regulatory & clean energy functions in DEEP, incl. the Ratepayer PBC-supported Clean Energy Fund (PUC + DEP + CEF = DEEP). Allows any munic. to set up a PACE program. Sets targets, RPSs, and RECs for Renewables and CHP. Permits "virtual net metering" among municipal facilities. Provides financing support of various forms. Imposes various requirements on utilities, and takes over from utilities the IRP process. Sets appliance efficiency standards. CEFIA given bonding authority and may seek CDFI qualification. May charge a fee for financing. Board appointed by Gov + Legislature. NOTE: Although PACE authority is created by same statute that established CEFIA, it is vested in CT municipalities, not administered by the State. DEEP shall, however, establish standard EPC terms and processes, and may charge state or municipal agencies a fee for TA.	relevant
CT	SB 501, section 157	Jun-12	Authorizes CEFIA to issue bonds and finance a "Commercial Sustainable Energy Program," and to make the rules for such financing, which participating municipalities must follow if they elect to enter into a PACE Agreement with CEFIA. The commercial property tax liens may then be assigned by the municipality to CEFIA, which may elect to package the loans and set up trust agreements with third parties (e.g., banks). This Section provides funding for CEFIA to provide financing, marketing, and technical services to municipalities that elect to place liens on willing properties, but it does not make the State a party to the transactions except via the Municipality-CEFIA Agreement. Presumably a municipality could run its own PACE Program using private capital.	relevant
DC	Title 47, Chap 8 amended Section 8-1778.01 et seq		The District is unique in having municipal, county and state territories and citizens coincident, and can itself place liens on willing property owners for PACE financing. The Energy Efficiency Financing Act creates a "statewide" administrative structure with an Administrator under contract with the Mayor to manage the Energy Efficiency Loan program, and a Quality Assurance program. The Administrator provides marketing, underwriting, and recording services, and certifies and engages contractors.	relevant

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State	Statutes	Date approved	General Purpose	State Admin Relevance
FL	HB 7179	Apr-10	Authorizes counties, municipalities, and special Districts (alone or in partnerships) to provide PACE financing to willing owners. Allows them to contract out the PACE administration to NPOs or profit companies. Eligible measures include EE, RE, and “wind resistance.”	Peripheral
MI	HB 5640	Dec-10	Allows local units of govt. to establish PACE Districts, alone or in partnerships, with the usual provisions.	Peripheral
MN	Chap. 216 Section 4 (216C.436)	2010	Permits a local govt. to establish a PACE program, with the usual provisions. Requires cooperation with local utility.	Peripheral
MN	Chap. 389, Article 7		Allows the local govt. to name an “Implementing Entity” by resolution, to administer PACE. This Entity, which may be an authority, may establish a PACE financing program and issue revenue bonds.[11]	relevant
NY	Article 5-L, Sec. 119 AB 8862	Nov-09	Any NY county, city, town, or village authorized to establish a PACE program using federal support. NYSERDA sets standards of cost-effectiveness, audits, reporting, technologies, contractors, etc. “Refuse and Garbage Improvement Districts” extended to allow PACE. Home Rule legislation used for broader PACE authority (e.g., Babylon, Bedford, Binghamton).	relevant
ME		Apr-10	Maine received a $30 million DOE Better Buildings grant to set up a PACE program, with maximum loans of $15,000, essentially intended for residential markets. The state passed enabling legislation for localities to opt into the program, and strengthened Efficiency Maine Trust to administer the program. In Maine, PACE loans are subordinate to mortgages.[12] Presumably private capital could be used to extend the program to commercial properties, but the loan cap and subordination would have to be changed.	Peripheral
OH	HB 1	Jul-09	Authorizes localities to set up SIDs for PACE financing of solar. Cleveland and Toledo have created PACE SIDs.	none
OH	SB 232	Jun-10	Expanded to other RE plus EE.	none
WI	AB 255	May-09	Grafted PACE on to special district legislation, residential	none
WI	SB 624	May-10	Added water, non-residential properties.	none

[11] Attorney involved in legislation: Stefanie N. Galey, Faegre & Benson LLP, sgaley@faegre.com, 612-766-7661.
[12] Thus surmounting the FHMC barrier.

State	**Statutes**	**Date approved**	**General Purpose**	**State Admin Relevance**
WI	SB 425	Feb-12	Allows the private financier to collect the debt service. Financing and many rules of eligibility etc. set by localities.	Peripheral
NJ	SB1406	Jan-12	Authorizes municipalities, with approval of the State Department of Community Affairs, to provide PACE financing and make Special Assessments. The municipality can issue bonds or ask the county development authority to issues them. The Board of Public Utilities can set limits on such financing. The Director of Local Gvt. Services in DCA "is authorized and empowered to take such action as deemed necessary and consistent with the intent of this Act to implement its provisions."	Relevant
NJ	AB3898	Jan-14	Both houses passed legislation that would add "storm resistance" to PACE financing, allow private financing, and clarify administration – however, Governor did not sign by end of Session.	Relevant if signed
TX	SB385	Jun-13	Authorizes municipalities and counties to place PACE assessments on willing property owners, who may finance the improvements using either private loans or (if the jurisdiction issues them) bond proceeds. Water and energy projects eligible. The jurisdiction must first describe its methods of financing, underwriting, assessments, marketing, and quality control. Administration is local but jurisdictions may join. Mortgagor consent required. As NPO Business Coalition (including at least 3 large ESCOs) is developing technical assistance documents.	Peripheral

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