

**ALASKA STATE LEGISLATURE  
HOUSE SPECIAL COMMITTEE ON ENERGY**

January 20, 2022

10:16 a.m.

**MEMBERS PRESENT**

Representative Calvin Schrage, Chair  
Representative Matt Claman  
Representative Zack Fields  
Representative George Rauscher  
Representative James Kaufman

**MEMBERS ABSENT**

Representative Chris Tuck  
Representative Tiffany Zulkosky

**COMMITTEE CALENDAR**

HOUSE BILL NO. 227

"An Act relating to municipal energy and resilience improvement assessment programs; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 227

SHORT TITLE: MUNI ENERGY IMPROVEMNT ASSESSMENT PROGRAM

SPONSOR(S): REPRESENTATIVE(S) SCHRAGE

|          |     |                                 |
|----------|-----|---------------------------------|
| 01/18/22 | (H) | PREFILE RELEASED 1/7/22         |
| 01/18/22 | (H) | READ THE FIRST TIME - REFERRALS |
| 01/18/22 | (H) | ENE, CRA                        |
| 01/20/22 | (H) | ENE AT 10:15 AM ADAMS 519       |

**WITNESS REGISTER**

SHAINA KILCOYNE, Energy and Sustainability Manager  
Solid Waste Services  
Municipality of Anchorage  
Anchorage, Alaska

**POSITION STATEMENT:** Co-presented a PowerPoint, titled "Alaska C-PACE," and answered questions.

MELANIE LUCAS-CONWELL, Portfolio Manager

49th State Angel Fund  
Municipality of Anchorage  
Anchorage, Alaska

**POSITION STATEMENT:** Co-presented a PowerPoint, titled "Alaska C-PACE," and answered questions.

**ACTION NARRATIVE**

[10:16:24 AM](#)

**CHAIR CALVIN SCHRAGE** called the House Special Committee on Energy meeting to order at 10:16 a.m. Representatives Schrage, Claman, Rauscher, Kaufman, and Fields (via teleconference) were present at the call to order.

**HB 227-MUNI ENERGY IMPROVEMNT ASSESSMENT PROGRAM**

[10:17:09 AM](#)

CHAIR SCHRAGE announced that the only order of business would be HOUSE BILL NO. 227, "An Act relating to municipal energy and resilience improvement assessment programs; and providing for an effective date."

The committee took a brief at-ease at 10:17 a.m.

[During the at-ease, Chair Schrage passed the gavel to Representative Claman.]

[10:18:07 AM](#)

CHAIR SCHRAGE, as prime sponsor, presented HB 227. He paraphrased the sponsor statement [included in the committee packet], which read as follows [original punctuation provided]:

Property Assessed Clean Energy (PACE) is an innovative financing mechanism that enables owners of commercial and industrial properties to obtain fixed rate, long-term financing through private lenders for energy efficiency and renewable energy projects and pay the costs back over time through a voluntary assessment on the property tax. PACE attaches the loan to the property, rather than the borrower. If the property is sold, the loan transfers to the new owner. With lower energy costs, building owners unlock positive cash flow for their businesses and increase their buildings' value from day one.

Passed in 2017, the statute allows local governments to create and manage C-PACE programs. The Municipality of Anchorage launched the state's first program in April 2021. Other regions are interested in launching a program and are reviewing administration options. While program administration is offset by administrative fees, staff capacity is still required to maintain the program and review applications. Alaska's statute is based on Texas's C-PACE statute. Based on the growing success of C-PACE, lawmakers around the country are adding new eligible uses of C-PACE. Several statutory clean-ups will ensure efficient statewide promulgation and will greatly facilitate investment in our building stock, especially at a time when economic development is needed most.

House Bill 227 aims to expand C-PACE in Alaska by:

1. Allowing new construction financing
2. Allowing Resiliency projects
3. Allowing C-PACE refinancing
4. Considering Market Values rather than assessed values
5. Eliminating the Savings-to-Investment Ratio (SIR)

HB 227 changes serve the common goal of creating a large, thriving and active C-PACE market, which in turn will benefit Alaskans. These amendments were developed in coordination with the Municipality of Anchorage and the Alaska Energy Authority using the best practices & lessons learned in the Lower 48. In all cases, C-PACE assists property owners in dealing with the up-front cost of property upgrades that create a public benefit.

HB 227 will help municipalities and boroughs statewide achieve the greatest overall environmental and economic development benefits at no cost to state or local governments.

[10:20:48 AM](#)

The committee took an at-ease from 10:20 a.m. to 10:21 a.m.

[During the at-ease Representative Claman passed the gavel back to Chair Schrage.]

[10:21:06 AM](#)

SHAINA KILCOYNE, Energy and Sustainability Manager, Solid Waste Services, co-presented a PowerPoint [hardcopy included in the committee packet], titled "Alaska C-PACE." She stated that commercial property assessed clean energy (C-PACE) is a government policy which supports commercial energy efficiency and renewable energy projects as a public benefit. She explained that the state statute passed in 2017 allowed the program to be created. The C-PACE program is led by an advisory committee headed by the Alaska Energy Authority. She stated that local municipalities had a difficult time implementing the program until a substantial loan was received from the federal government. The federal funding helped hire firms [listed on slide 2] to create a market study and program design, and since 2019 C-PACE in Alaska has made advancements.

[10:23:33 AM](#)

MELANIE LUCAS-CONWELL, Portfolio Manager, 49th State Angel Fund, co-presented the PowerPoint, titled "Alaska C-PACE." She addressed slide 3, titled "What makes C-PACE special?" She explained the six points listed on the slide: (1) C-PACE helps avoid upfront costs and barriers, as an investment can be made without any upfront money, and hard and soft costs can be rolled into the loan; (2) C-PACE creates long-term, fixed-rate, nonrecourse financing which aligns with the main goal of reducing the risks to all parties involved; (3) C-PACE funding is tied to the property and the liens are transferable, which helps avoid an uncertainty barrier and risks to lenders; (4) C-PACE is a priority lien, and other lien holders must consent to the assessment in writing; (5) C-PACE increases the property value over the long term with [clean energy] upgrades and improvements; (6) C-PACE requires projects to "pencil out" and be cashflow positive from day one.

[10:28:02 AM](#)

MS. LUCAS-CONWELL stated that C-PACE is not a new program, noting 37 states plus Washington DC have adopted similar programs, [as seen on slide 4]. She highlighted nationwide statistics from 2019 which show the program has resulted in over \$2 billion in investments, 25,000 commercial projects, and over 24,000 jobs. She noted that this [activity] has created various

examples and resources for new programs. She continued that C-PACE is an important source of [financing] for improvements, deferred maintenance, and projects which may have run out of funding.

[10:29:33 AM](#)

MS. LUCAS-CONWELL, moving to [slide 5], explained that since C-PACE was launched in Anchorage there have been ongoing talks with other municipalities, including the Matanuska-Susitna Borough, which has passed a resolution of intent for C-PACE. To facilitate the creation of the program in Alaska the advisory committee has helped with market information and other challenges. She referenced the ongoing effort to standardize the program to simplify the process and create lower costs. She explained that a completed application has not been received from a property owner yet because the program is new, and "it takes time for people to learn about the program and understand it." From observations in the Lower 48, she speculated there would not be a big influx of [participation] within the first two years. She pointed out that there are six-to-seven projects "in the pipeline" for the Anchorage area.

MS. LUCAS-CONWELL, moving to [slide 6], outlined eligibility requirements. She explained that, per statute, the role of the program administrators is to ensure the property and its owner are eligible. To be eligible the property owner must be the legal record holder, have up-to-date mortgage and property taxes, and not be in bankruptcy proceedings. She added that the property must be an existing commercial or industrial property and privately owned. She continued that the project must "pencil out" with SIR, which includes a 20 percent loan-to-value ratio.

[10:33:55 AM](#)

MS. LUCAS-CONWELL, advancing to [slide 7], pointed out the various types of improvements which are eligible for C-PACE financing. Improvements considered are those which reduce energy costs and help repay the loan. She stated that according to the recent Anchorage Energy Landscape and Opportunities Analysis, a conservative estimate for cost-effective retrofits for private commercial and industrial facilities could result in savings of 20 percent, with an operation and maintenance savings of 5 percent. She noted that in terms of the investment these loans would be paid back within an estimated seven years.

[10:35:32 AM](#)

MS. KILCOYNE moved to slide 8, which addressed delinquency and default of C-PACE liens. She stated that C-PACE liens are prior and paramount to all liens except municipal tax liens and special assessments. Municipalities are responsible for reporting the assessment, billing, and remitting the correct portion of the payment to the lender, but municipalities would not be guaranteeing the collection of funds. In the event of delinquency, the municipalities would follow existing proceedings and not be required to repay the lender. Once the property is sold, the loan, penalties, and interest would be sold with it. She noted that nationally there have been no foreclosures as a result of a delinquent C-PACE assessment.

MS. KILCOYNE advanced to slide 9. In reference to HB 227, she pointed out that changes over the past 10 years reinforce the need for the proposed amendments. She noted many states are reporting statutory changes in their programs. She expressed the belief that the changes in the amendments would bring Alaska in alignment with other states. Continuing to slide 10, she related that in 25 states C-PACE now makes loans on new construction, which represents around half of the transactions in the last two years. She said Alaska replicated Texas' statute, and Texas is working to include new construction in its program. She indicated there have been inquiries [in Alaska] about the new construction of "very large projects." She argued that allowing loans for new construction would offer developers opportunities for financing beyond traditional debt. Loans for new construction would facilitate more energy efficient buildings and align with the intent of [HB 227] by reducing energy consumption, costs, and emissions. She added that expanding the program to include new construction would offer new tax revenue. She provided some examples of program changes to include new construction. She stated that, consistent with the current program, only certain energy saving measures would be allowed for C-PACE financing. She noted that these details are still being worked out.

[10:39:54 AM](#)

MS. KILCOYNE pointed out that current market trends use C-PACE financing for resiliency projects, such as seismic improvements, fire hardening, [and other projects listed on slide 11]. She maintained that impacts from the climate, earthquakes, and other disasters could be mitigated by improving building resiliency. She conceded these types of projects could have significant

upfront costs, but they could prevent major property damage during disasters, helping communities rebound quicker. She expressed the belief that Alaska could benefit from a broad application and authorization of resiliency retrofits, giving individual jurisdictions the ability to offer retrofits relevant to their regions.

MS. KILCOYNE stated that the language change shown on slide 12 would define "finances" and "financing" to explicitly include refinancing throughout the statute. She pointed out that [the expanded definitions] would enable an eligible property owner, who previously used C-PACE, to refinance an outstanding assessment lien. This would also allow a property owner to refinance the cost if the improvements have already begun or have been completed. She expressed the belief that the change would support the intent of the original legislation.

[10:42:38 AM](#)

REPRESENTATIVE RAUSCHER questioned whether the [proposed] legislation would give Alaska [C-PACE] the ability to retroactively fund projects, or whether this can be done without [new amendments]. He noticed Alaska is not included in the eight states listed. He questioned whether the legislation being discussed would put Alaska on the list.

[10:44:31 AM](#)

CHAIR SCHRAGE, clarifying Representative Rauscher's question, requested that Ms. Kilcoyne explain the reason Alaska currently does not allow retroactive financing.

MS. KILCOYNE responded that [retroactive financing] is not explicit in the original statute. She stated that the [program administrators] are seeking more direction with updated language, and [retroactive financing] is viewed as the "best practice" in the Lower 48.

CHAIR SCHRAGE shared the understanding that this would free up additional capital for further investments in these types of properties.

REPRESENTATIVE RAUSCHER asked for confirmation that the legislation would allow Alaska "to be part of the list."

CHAIR SCHRAGE responded that that is his understanding.

MS. KILCOYNE offered her opinion that the amendments could be even more explicit.

[10:46:27 AM](#)

REPRESENTATIVE CLAMAN requested an explanation of the 49th State Angel Fund's active involvement with the legislation.

MS. LUCAS-CONWELL responded that she and Ms. Kilcoyne work jointly at C-PACE as part of their regular jobs. Based on her experience with private capital providers, she explained she was asked by the municipality to help with the effort. She stated that this is a staff-time management issue.

REPRESENTATIVE CLAMAN, with a follow-up question, expressed the understanding that the 49th State Angel Fund is involved with start-up enterprises based in Alaska, and federal funding enables it to pick investments. He questioned whether the fund has been investing in C-PACE.

MS. LUCAS-CONWELL responded that the 49th State Angel Fund investments are completely separate from C-PACE financing. The 49th State Angel Fund makes equity venture investments, and, from that aspect, it is completely separate. She stated that C-PACE programs collaborate mostly with private capital lenders, such as the Northrim Bank and other nationwide lenders. She stated that, as opposed to investing activities, she is lending her time to C-PACE from a staffing perspective. In response to a follow-up question, she reiterated that she is only lending her expertise to the program.

[10:49:33 AM](#)

REPRESENTATIVE KAUFMAN suggested that a flow diagram of the [C-PACE] process would be helpful. He related the understanding that the financing would be connected to the building structure as opposed to the owner. He questioned the default process.

MS. KILCOYNE, in terms of a [C-PACE] default, responded that the property owner would be at risk, not the municipality. She went on to explain that the financing is private and would be between the lender and the property owner. She stated that if there were a default, the municipality would go through its "typical processes" and, if the building is sold, whoever buys the building would be buying the lien and be responsible for arrears.

MS. KILCOYNE, in response to a follow-up question, reiterated that the municipality would not be at risk. She stated that the entire process is to de-risk the loan.

[10:52:36 AM](#)

MS. KILCOYNE, referencing slide 13, reiterated that the current maximum financing may not exceed 20 percent of the assessed value of the property at the time of the application. She argued this [restriction] limits large projects which could ultimately increase the assessed value. She gave the example that the cap for a building assessed at \$10 million would be \$2 million for C-PACE financing. She stated that this financing may not work for a large project. She explained that the tax-assessed value tends to be less than the market price of a property; thus, using the market value allows for more flexibility in capturing the value of improvements. She continued that upgrades would be better captured using the "as built" value, and a 25 percent maximum financing would better align with industry standard.

MS. KILCOYNE, advancing to slide 14, stated that the maximum length of an assessment is currently 20 years. She explained that many financed improvements have at least a 30-year life expectancy, which is the industry standard. She stated that, in general, SIR does not capture all the **program's** benefits to property owners, and she gave examples. She expressed the opinion that the metric used by capital writers to measure a property owner's credit worthiness would be a better test than SIR. She added that if new construction and resiliency were allowed in C-PACE, SIR would not be applicable. She offered her opinion that lengthening the assessment to 30 years and removing SIR would be positive changes.

MS. KILCOYNE, in conclusion, moved to slide 15 which listed C-PACE's website, links to presentations, and contact information.

[10:56:33 AM](#)

The committee took a brief at-ease at 10:56 a.m.

[10:56:52 AM](#)

REPRESENTATIVE KAUFMAN questioned how C-PACE would be better than the lending process outside of the program.

MS. KILCOYNE responded that C-PACE offers benefits which include long-term financing, fixed rates, and prioritized liens. She explained that C-PACE loans come "above" other loans, and, once taxes and assessments are paid, risks would be eliminated. She added that because the loan is transferable, the lender would know that the future property owner would take over the payments.

MS. LUCAS-CONWELL, in further response, expressed the opinion that there are risks with these types of loans, but having the municipalities facilitate the process reinforces the value. She expressed the opinion that adding new construction, per the proposed amendments, would increase the visibility of building improvements to the capital providers that are not currently participating in the program. She stated that the programs have been successful because of energy savings and energy efficiency, which is especially relevant with Alaska's high energy costs. She concluded that the program offers capital providers more security when underwriting these type loans.

REPRESENTATIVE KAUFMAN questioned whether procuring a loan through C-PACE would transfer risk to the original lender. He speculated that since the original loan would be "bumped behind" the C-PACE loan, the original lender would write clauses to prevent this from happening.

MS. KILCOYNE responded that the initial lender will often perceive the loan as a risk and be resistant to signing a consent which "bumps" its loan down; however, she speculated that the initial lender would see the benefits once it is observed that projects are happening, the value of properties are increasing, and the borrower, with more tenants and less cost, is in a better position with immediate revenue. She asserted that patience is needed because "they eventually come around and see that." She conceded this will be a problem until "we get this going."

[11:02:36 AM](#)

CHAIR SCHRAGE asked whether a commercial property owner would have to have consent from the original lender before taking advantage of C-PACE financing.

MS. KILCOYNE responded that the original lender would get "bumped" in the lien position because C-PACE would be the "higher" lien, and the borrower would have to have consent from the original lender.

MS. LUCAS-CONWELL added that this is the case only if there is an active mortgage. If the mortgage has been repaid on the property, the original mortgage holder would not need to consent.

[11:03:24 AM](#)

REPRESENTATIVE KAUFMAN, with a follow-up request, asked that the committee be supplied with a linear sequence of the program.

[11:03:55 AM](#)

REPRESENTATIVE CLAMAN commented that, in terms of the risk, if a property owner wants a C-PACE loan, the property owner cannot force the original lender to take this on. He reiterated that the original lender would have to consent to the loan.

MS. KILCOYNE responded in the affirmative, explaining the importance of the benefits being shared to both the property owner and the original lender.

REPRESENTATIVE CLAMAN speculated that the mortgage holder would need to analyze whether the value of the property would be strengthened and whether the mortgage would be paid.

MS. KILCOYNE responded in the affirmative.

[11:05:11 AM](#)

REPRESENTATIVE RAUSCHER questioned whether it is in the statute that the original mortgage holder has rights [concerning the borrower's access to C-PACE financing].

MS. KILCOYNE expressed the belief that this is in statute. She continued that this is the [mortgage] industry's practice and has not heard of any program that does not include the [mortgage] industry's consent. She stated that she would further research the answer.

[11:05:55 AM](#)

REPRESENTATIVE FIELDS questioned which investors participate in the programs in the country. He questioned whether local banks, large institutional investors, or private equity firms would be participating.

MS. LUCAS-CONWELL responded that there are private lenders nationwide which have a specialty in C-PACE loans. These lenders are familiar with the process and often will have their own services, such as energy audits for potential customers and guidance through the program. She noted that, while there is no stipulation on the firms that can participate, no private equity firms have come forward.

MS. KILCOYNE added that the local banks are slower to show interest, but Northrim Bank is an "exciting" addition. She stated that there is a list of institutions in the Lower 48 which follow C-PACE markets.

[11:08:27 AM](#)

REPRESENTATIVE FIELDS questioned whether public entities, such as school districts, could benefit from the program.

MS. KILCOYNE responded that, per statute, the loan would need to be to a private recipient.

REPRESENTATIVE FIELDS, with a follow-up question, asked why a public entity could not participate.

MS. KILCOYNE responded that she had not heard of public entities being a part of C-PACE, but the topic could be investigated.

MS. LUCAS-CONWELL, adding to the response, stated that the tax assessment on the property would be complicated for public institutions. She advised that there would be questions about the current lien holders and the financing.

REPRESENTATIVE FIELDS expressed understanding concerning the tax issue. He added that the Anchorage School District is falling behind by \$30 million every year for deferred maintenance for schools.

[11:10:42 AM](#)

CHAIR SCHRAGE thanked the speakers. He announced that HB 227 was held over.

**ADJOURNMENT**

[11:11:16 AM](#)

There being no further business before the committee, the House Special Committee on Energy meeting was adjourned at 11:11 a.m.