

HB

118

<TARGET><BILL>HB 118</BILL><SUBJECT>HB
118</SUBJECT><COMM>HCRA29</COMM></TARGET>



ALASKA STATE LEGISLATURE

House Community and Regional Affairs Committee

REP. CATHY TILTON
Chairman
State Capitol, Rm. 411
Juneau, AK 99801

Rep. Paul Seaton, Vice-Chair
Rep. Shelley Hughes
Rep. Benjamin Nageak
907.465.2199

Rep. Lora Reinbold
Rep. Harriet Drummond
Rep. Dan Ortiz

MEMORANDUM

TO: Legal Services

FROM: Heath E. Hilyard, Committee Aide
House Community and Regional Affairs Committee

DATE: April 2, 2015

RE: Drafting Request – CSHB 118 (29-GH1021\H)

Please provide a FINAL CS for CSHB 118(CRA)(29-GH1021\H) incorporating the attached amendments.

Please note that the amendment by drafter Macsalka was offered conceptually in order to allow Legal Service to draft as necessary to conform with the drafting manual.

Thank you.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 25, 2015

SUBJECT: Changes based on March 21, 2015, Memo to Representative Vazquez (CSHB 118(CRA); Work Order No. 29-GH1021\H)

TO: Representative Cathy Tilton
Chair of the House Community and Regional Affairs Committee
Attn: Heath Hilyard

FROM: Susie L. Shutts *Susie Shutts*
Legislative Counsel

Enclosed is the House Community and Regional Affairs Committee Substitute for HB 118 that you requested.

As I discussed today with Mr. Hilyard, this CS removes the language regarding extraterritorial jurisdiction, on page 3, lines 15 - 17 of CSHB 118(ENE), and the language regarding public hearings, on page 4, lines 20 - 21 of CSHB 118(ENE).

Also, as I discussed today with Mr. Hilyard, this CS does not make any changes based on the discussion of application of this bill to general law municipalities on page 2 of the March 21, 2015, memo to Representative Vazquez. This means that a second class borough could acquire the powers authorized under this bill either on a nonareawide basis, under AS 29.35.210(c), by receiving voter approval by a majority of the voters living in the borough but outside all cities in the borough, or on an areawide basis under AS 29.35.210(d), by holding an areawide election or by transfer of the power from a city to the borough.¹

Please review these changes to make sure they reflect your intent, and let me know if you would like any additional changes.

SLS:lem
15-197.lem

Enclosure

¹ A first class borough could pass an ordinance creating a program under this bill on a nonareawide basis, under AS 29.35.200(a), and could acquire the powers authorized under this bill on an areawide basis by holding an areawide election or by transfer of the power from a city to the borough. AS 29.35.200(c). As discussed in the March 21, 2015, memo, a third class borough's powers are particularly limited. Under AS 29.35.220(b), a third class borough may not exercise a power on an areawide basis other than education and tax assessment and collection. However, there are currently no third class boroughs, and an area may not incorporate as a third class borough. AS 29.05.031(b).

29-GH1021\H
Shutts
3/25/15

CS FOR HOUSE BILL NO. 118(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act adopting the Municipal Property Assessed Clean Energy Act; authorizing**
2 **municipalities to establish programs to impose assessments for energy improvements in**
3 **regions designated by municipalities; imposing fees; and providing for an effective**
4 **date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 *** Section 1.** AS 29.10.200 is amended by adding a new paragraph to read:

7 (65) AS 29.49 (energy improvement assessment programs).

8 *** Sec. 2.** AS 29 is amended by adding a new chapter to read:

9 **Chapter 49. Municipal Property Assessed Clean Energy Act.**

10 **Sec. 29.49.010. Exercise of powers.** A municipality that establishes a program
11 under AS 29.49.060 may exercise powers granted under this chapter.

12 **Sec. 29.49.020. Authorized assessments.** (a) A municipality may impose an
13 assessment under this chapter to repay the financing of qualified projects on real
14 property located in a region designated under this chapter.

1 (b) An assessment under this chapter may not be imposed to repay the
2 financing of

3 (1) facilities for undeveloped lots or lots undergoing development at
4 the time of the assessment; or

5 (2) the purchase or installation of products or devices not permanently
6 fixed to real property.

7 **Sec. 29.49.030. Written contract for assessment required.** A municipality
8 may impose an assessment under this chapter only under a written contract with the
9 record owner of the real property assessed.

10 **Sec. 29.49.040. Establishment of program.** (a) The governing body of a
11 municipality may establish a program under this chapter.

12 (b) A municipality that establishes a program under this chapter may enter into
13 a written contract with a record owner of real property in a region designated under
14 this chapter to impose an assessment to repay the financing of a qualified project on
15 property of the owner. The financing repaid through assessments may be provided by
16 a third party or, if authorized by municipal ordinance, by the municipality.

17 (c) If a program provides for third-party financing, when a municipality enters
18 into a contract under (b) of this section, the municipality shall enter into a written
19 contract with the third party providing for the municipality to service the debt through
20 assessments.

21 (d) If a program provides for municipal financing, the municipality shall enter
22 into a written contract with the record owner of the real property to finance the
23 qualified project through assessments.

24 (e) The financing for which assessments are imposed may be for costs of the
25 project, including

26 (1) the cost of materials and labor necessary for installation or
27 modification of a qualified improvement;

28 (2) permit fees;

29 (3) inspection fees;

30 (4) lender's fees;

31 (5) program application and administrative fees;

- 1 (6) project development and engineering fees;
2 (7) third-party review fees, including verification review fees, under
3 AS 29.49.090; and
4 (8) any other fees or costs that may be incurred by the property owner
5 incident to the installation, modification, or improvement on a specific or pro rata
6 basis, as determined by the municipality.

7 **Sec. 29.49.050. Designation of region.** (a) The governing body of a
8 municipality may designate an area of the municipality as a region where a record
9 owner of real property in the region may enter into a written contract to impose an
10 assessment to repay the financing of a qualified project by the owner on the owner's
11 property and, if authorized by the municipal program, finance the qualified project.

12 (b) An area designated as a region by the governing body of a municipality
13 under this section may include the entire municipality.

14 (c) A municipality may designate more than one region. If multiple regions
15 are designated, the regions may be separate, overlapping, or coterminous.

16 **Sec. 29.49.060. Procedure for establishment of program.** (a) To establish a
17 program under this chapter, the governing body of a municipality shall take the
18 following actions in the following order:

- 19 (1) adopt a resolution of intent that includes
20 (A) a finding that financing qualified projects through
21 contractual assessments serves a valid public purpose;
22 (B) a statement that the municipality intends to allow property
23 owners to make contractual assessments to repay financing for qualified
24 projects;
25 (C) a description of qualified projects that may be subject to
26 contractual assessments;
27 (D) a description of the boundaries of the region;
28 (E) a description of any proposed arrangements to make third-
29 party financing available or any financing the municipality will provide for
30 qualified projects;
31 (F) a description of municipal debt servicing procedures for

1 any third-party financing and assessments;

2 (G) a notice of the report on the proposed program required
3 under AS 29.49.070 and the location where the report is available for public
4 inspection;

5 (H) the time and place for a public hearing on the proposed
6 program; and

7 (I) the names of the local official who administers the program
8 and the appropriate assessor or person who collects the proposed contractual
9 assessments with property taxes imposed on the assessed property;

10 (2) hold a public hearing at which the public may comment on the
11 proposed program and the report prepared under AS 29.49.070; and

12 (3) adopt an ordinance establishing the program and the terms of the
13 program, including each item included in the report required under AS 29.49.070,
14 which may be incorporated by reference.

15 (b) A municipality may

16 (1) hire and set the compensation of a program administrator and
17 program staff; or

18 (2) contract for professional services necessary to administer a
19 program.

20 (c) A municipality may impose fees to offset the costs of administering a
21 program. The fees authorized under this subsection may be assessed as a

22 (1) program application fee paid by the property owner applying to the
23 program;

24 (2) component of the interest rate on the assessment in the written
25 contract between the municipality and the property owner; or

26 (3) combination of (1) and (2) of this subsection.

27 **Sec. 29.49.070. Report regarding assessment program.** (a) The report for a
28 proposed program required by AS 29.49.060 must include

29 (1) a map showing the boundaries of the proposed region;

30 (2) a form for a contract between the municipality and the property
31 owner specifying the terms of

- 1 (A) assessment under the program; and
- 2 (B) financing provided by a third party or the municipality, as
- 3 appropriate;
- 4 (3) if the proposed program provides for third-party financing, a form
- 5 for a contract between the municipality and the third party regarding the servicing of
- 6 the debt through assessments;
- 7 (4) a description of projects that may qualify for contractual
- 8 assessments;
- 9 (5) a plan for ensuring sufficient capital for third-party financing and,
- 10 if appropriate, raising capital for municipal financing for qualified projects;
- 11 (6) if bonds will be issued to provide capital to finance qualified
- 12 projects as part of the program as provided by AS 29.49.140,
- 13 (A) a maximum aggregate annual dollar amount for municipal
- 14 financing repaid by contractual assessments under the program;
- 15 (B) if requests appear likely to exceed the authorization
- 16 amount, a priority order for ranking a property owner's application for
- 17 financing repaid by contractual assessments; and
- 18 (C) a formula for calculating
- 19 (i) the interest rate and period during which contracting
- 20 owners would pay an assessment; and
- 21 (ii) the maximum amount of an assessment;
- 22 (7) a method for ensuring that the period of the contractual assessment
- 23 does not exceed the useful life of the qualified project that is the basis for the
- 24 assessment;
- 25 (8) a description of the application process and eligibility requirements
- 26 for financing of qualified projects repaid by contractual assessments under the
- 27 program;
- 28 (9) a method under (b) of this section for a property owner applying to
- 29 participate in the program to demonstrate the property owner's ability to fulfill
- 30 financial obligations repaid by contractual assessments;
- 31 (10) a statement explaining the manner in which property will be

1 assessed and assessments will be collected;

2 (11) a statement explaining the lender notice requirement under
3 AS 29.49.080;

4 (12) a statement explaining the review requirement under
5 AS 29.49.090;

6 (13) a description of marketing and participant education services to be
7 provided for the program;

8 (14) a description of quality assurance and antifraud measures to be
9 instituted for the program; and

10 (15) the procedures for collecting the proposed contractual
11 assessments.

12 (b) The municipality shall establish a method by which a property owner shall
13 demonstrate financial ability based on appropriate underwriting factors, including

14 (1) verification that the property owner applying to participate in the
15 program is

16 (A) the legal owner of the benefited property;

17 (B) current on mortgage and property tax payments; and

18 (C) not insolvent or in bankruptcy proceedings; and

19 (2) an appropriate ratio between the amount of the assessment and the
20 assessed value of the property.

21 (c) The municipality shall make the report available for public inspection

22 (1) on the Internet website of the municipality; and

23 (2) at the primary governing offices of the municipality.

24 **Sec. 29.49.080. Notice to mortgage holder required for participation.**

25 Before a municipality may enter into a written contract with a record owner of real
26 property to impose an assessment to repay the financing of a qualified project under
27 this chapter, the property owner shall

28 (1) give the holder of a mortgage lien on the property at least 30 days'
29 written notice of the intention of the property owner to participate in a program under
30 this chapter before the written contract for assessment between the owner and the
31 municipality is executed; and

1 (2) obtain a written consent from the holder of a mortgage lien on the
2 property.

3 **Sec. 29.49.090. Review required.** (a) A program established under this
4 chapter must require a review of the energy baseline conditions for each proposed
5 qualified project and the projected energy savings to establish the projected energy
6 savings.

7 (b) After a qualified project is completed, the municipality shall obtain
8 verification that the qualified project was properly completed and is operating as
9 intended.

10 (c) An independent third party must conduct both a baseline energy review
11 and a verification review under this section.

12 **Sec. 29.49.100. Direct acquisition by owner.** The proposed arrangements for
13 financing a qualified project may authorize the property owner to

14 (1) purchase directly the related equipment and materials for the
15 installation or modification of a qualified improvement; and

16 (2) contract directly, including through lease, power purchase
17 agreement, or other service contract, for the installation or modification of a qualified
18 improvement.

19 **Sec. 29.49.110. Recording of notice of contractual assessment.** (a) A
20 municipality that authorizes financing through contractual assessments under this
21 chapter shall file written notice of each contractual assessment in the real property
22 records of the recording district in which the property is located.

23 (b) The notice under (a) of this section must contain

24 (1) the amount of the assessment;

25 (2) the legal description of the property;

26 (3) the name of each property owner; and

27 (4) a reference to the statutory assessment lien provided under this
28 chapter.

29 **Sec. 29.49.120. Lien.** (a) Contractual assessments under this chapter and any
30 interest or penalties on the assessments are liens on the property assessed and are prior
31 and paramount to all liens except municipal tax liens and special assessments.

1 Contractual assessment liens may be enforced as provided in AS 29.45.320 -
2 29.45.470 for enforcement of property tax liens.

3 (b) Contractual assessment liens run with the land, and that portion of the
4 assessment under the assessment contract that has not yet become due is not
5 eliminated by foreclosure of a property tax lien.

6 (c) Penalties and interest may be added to delinquent installments of the
7 assessments in the same manner as provided in AS 29.45.250.

8 (d) A municipality may recover costs and expenses, including attorney fees, in
9 a suit to collect a delinquent installment of an assessment in the same manner as in a
10 suit to collect a delinquent property tax.

11 **Sec. 29.49.130. Collection of assessments.** The governing body of a
12 municipality may contract with the governing body of another taxing unit to perform
13 the duties of the municipality relating to collection of assessments imposed by the
14 municipality under this chapter.

15 **Sec. 29.49.140. Bonds or notes.** (a) A municipality may issue bonds or notes
16 to finance qualified projects through contractual assessment under this chapter.

17 (b) Bonds or notes issued under this section may not be general obligations of
18 the municipality. The bonds or notes must be secured by one or more of the following,
19 as provided by the governing body of the municipality in the resolution or ordinance
20 approving the bonds or notes:

21 (1) payments of contractual assessments on benefited property in one
22 or more specified regions designated under this chapter;

23 (2) reserves established by the municipality from grants, bonds, or net
24 proceeds or other lawfully available funds;

25 (3) municipal bond insurance, lines of credit, public or private
26 guaranties, standby bond purchase agreements, collateral assignments, mortgages, or
27 any other available means of providing credit support or liquidity; and

28 (4) any other funds lawfully available for purposes consistent with this
29 chapter.

30 (c) A municipal pledge of assessments, funds, or contractual rights in
31 connection with the issuance of bonds or notes by the municipality under this chapter

1 is a first lien on the assessments, funds, or contractual rights pledged in favor of the
2 person to whom the pledge is given, without further action by the municipality. The
3 lien is valid and binding against any other person, with or without notice.

4 (d) Bonds or notes issued under this chapter further an essential public and
5 governmental purpose, including

6 (1) improvement of the reliability of local electrical systems;

7 (2) reduction of energy costs;

8 (3) reduction of energy demand on local utilities;

9 (4) economic stimulation and development;

10 (5) enhancement of property values; and

11 (6) enhancement of employment opportunities.

12 **Sec. 29.49.150. Joint implementation.** (a) Any combination of municipalities
13 may agree to jointly implement or administer a program under this chapter.

14 (b) If two or more municipalities jointly implement a program, a single public
15 hearing held jointly by the cooperating municipalities is sufficient to satisfy the
16 requirement of AS 29.49.060(a)(2).

17 (c) One or more municipalities may contract with a third party, including
18 another municipality, to administer a program.

19 **Sec. 29.49.160. Prohibited acts.** A municipality that establishes a region under
20 this chapter may not

21 (1) make the issuance of a permit, license, or other authorization from
22 the municipality to a person who owns property in the region contingent on the person
23 entering into a written contract to repay the financing of a qualified project through
24 contractual assessments under this chapter; or

25 (2) otherwise compel a person who owns property in the region to
26 enter into a written contract to repay the financing of a qualified project through
27 contractual assessments under this chapter.

28 **Sec. 29.49.890. Application of chapter.** This chapter applies to home rule and
29 general law municipalities.

30 **Sec. 29.49.900. Definitions.** In this chapter,

31 (1) "program" means a program established under this chapter;

1 (2) "qualified improvement" means a permanent improvement fixed to
2 real property and intended to decrease energy consumption or demand, including a
3 product, device, or interacting group of products or devices that uses energy
4 technology to generate electricity, provide thermal energy, or regulate temperature;

5 (3) "qualified project" means the installation or modification of a
6 qualified improvement;

7 (4) "real property" means privately owned commercial or industrial
8 real property;

9 (5) "region" means a region designated under this chapter.

10 **Sec. 29.49.995. Short title.** This chapter may be cited as the Municipal
11 Property Assessed Clean Energy Act.

12 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).

AMENDMENT

OFFERED IN THE HOUSE
COMMITTEE
TO: CSHB 118(CRA)

BY _____

1 Page 1, line 3:

2 Delete "**regions designated by**"

3

4 Page 1, line 14:

5 Delete "a region designated under this chapter"

6 Insert "the municipality"

7

8 Page 2, lines 13 - 14:

9 Delete "in a region designated under this chapter"

10 Insert "located in the municipality"

11

12 Page 3, lines 7 - 15:

13 Delete all material and insert:

14 "**Sec. 29.49.050. Applicability of program.** (a) A program established by a
15 borough under this chapter shall apply on an areawide basis.

16 (1) The governing body of a city located within a borough that establishes
17 a program under this chapter may, by ordinance, opt out of participation in the borough's
18 program. A city that opts out of the program shall forward a copy of the ordinance to the
19 borough within 30 days after adoption of the ordinance.

20 (2) A city that opts out of participation in a program established by a
21 borough may opt back into the borough's program by ordinance.

1 (b) A program established by a city under this chapter shall apply throughout the
2 entire geographic boundaries of the city.

3 (c) If a borough establishes a program under this chapter after a city within the
4 borough establishes a program under this chapter, the borough succeeds to all rights,
5 powers, duties, assets, and liabilities of the city existing under the city's program.
6

7 Page 3, line 27:

8 Delete all material.
9

10 Page 3, line 28:

11 Delete "(E)"

12 Insert "(D)"
13

14 Page 3, line 31:

15 Delete "(F)"

16 Insert "(E)"
17

18 Page 4, line 2:

19 Delete "(G)"

20 Insert "(F)"
21

22 Page 4, line 5:

23 Delete "(H)"

24 Insert "(G)"
25

26 Page 4, line 7:

27 Delete "(I)"

28 Insert "(H)"
29

30 Page 4, line 29:

31 Delete all material.

1
2 Page 4, line 30:
3 Delete "(2)"
4 Insert "(1)"
5
6 Page 5, line 4:
7 Delete "(3)"
8 Insert "(2)"
9 Page 5, line 7:
10 Delete "(4)"
11 Insert "(3)"
12
13 Page 5, line 9:
14 Delete "(5)"
15 Insert "(4)"
16
17 Page 5, line 11:
18 Delete "(6)"
19 Insert "(5)"
20
21 Page 8, lines 21 - 22:
22 Delete all material and insert:
23 "(1) payments of contractual assessments on property benefited under this
24 chapter;"
25
26 Page 9, line 19:
27 Delete "region"
28 Insert "program"
29
30 Page 9, line 22:
31 Delete "region"

1 Insert "municipality"

2

3 Page 9, line 25:

4 Delete "region"

5 Insert "municipality"

6

7 Page 10, line 9:

8 Delete all material.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 118(CRA), Draft Version "H"

1 Page 1, following line 7:

2 Insert new bill sections to read:

3 **** Sec. 2.** AS 29.35.200(b) is amended to read:

4 (b) A first class borough may by ordinance exercise the following powers on
5 an areawide basis:

6 (1) provide transportation systems;

7 (2) provide water pollution control;

8 (3) provide air pollution control in accordance with AS 46.14.400;

9 (4) license day care facilities;

10 (5) license, impound, and dispose of animals;

11 **(6) establish an energy improvement assessment program under**

12 **AS 29.49.**

13 *** Sec. 3.** AS 29.35.210(b) is amended to read:

14 (b) A second class borough may by ordinance exercise the following powers
15 on an areawide basis:

16 (1) provide transportation systems;

17 (2) license, impound, and dispose of animals;

18 (3) provide air pollution control under AS 46.14.400;

19 (4) provide water pollution control;

20 (5) license day care facilities;

21 **(6) establish an energy improvement assessment program under**

22 **AS 29.49."**

23

- 1 Renumber the following bill sections accordingly.

1 Page 1, after line 7:

2 Insert:

3 ***Sec. 2.** AS 29.35.200(b) is amended by adding a paragraph to read:

4 (6) establish an energy improvement assessment program (AS 29.49).

5 ***Sec. 3.** AS 29.35.210(b) is amended by adding a paragraph to read:

6 (6) establish an energy improvement assessment program (AS 29.49).

7 Renumber the following bill sections accordingly.



March 24, 2015

Representative Cathy Tilton
House Community and Regional Affairs Committee
State Capitol, Room 424
Juneau, Alaska 99801

Re: HCS HB 118(ENE)

Dear Representative Tilton:

Thank you for placing HCS HB 118(ENE)-Muni Energy Improvement Assessments/Bonds- on the House Community and Regional Affairs Committee for consideration this week.

The legislation would provide the opportunity for local governments to create a Property Assessed Clean Energy (PACE) financing mechanism. PACE would incentivize energy efficiency improvements to commercial buildings by allowing a local government financing option as part of property tax assessments.

Thirty-two other states have created similar financing structures. Under a PACE program, interested business owners first have their buildings audited to determine potential energy savings. They then apply to traditional lending sources (loan programs, local lenders, etc.) for financing that is repaid through an addition to their property tax assessment that may be in place for up to 20 years. In the Interior, the PACE financing mechanism can incentivize conversion to natural gas.

HCS HB 118(ENE) would allow local governments and businesses to opt-in on a voluntary basis to adopt PACE financing mechanisms. Lenders are provided with additional certainty of repayment while business owners are traditionally supportive because it allows them to finance improvements over an extended period of time with low-cost capital.

The House Energy Committee amended the bill during its meeting on March 17 and adopted HCS HB 118 today, March 24. AEA supports the CS as it clarifies that PACE financing could be considered by home rule and general law municipalities in Alaska that exercise property tax powers.

In addition the CS streamlines the local process to create a PACE program by requiring passage of a government resolution followed by the regular municipal ordinance process, thereby maintaining ample public notification. HCS HB 118 (ENE) also makes numerous stylistic alterations to conform to the Manual of Legislative Drafting. After conferring with the Department of Law, AEA agrees with these conforming modifications.

Finally, Legislative Legal recommends further clarification of three municipal issues that the House Energy Committee left for consideration by the House Community and Regional Affairs Committee.

These issues are:

1. is the language on Page 4, Lines 20 – 21 necessary since municipal powers adopted by ordinance can only be amended by a subsequent ordinance process with required public notice and opportunity for public input;
2. do AS 29.35.200, AS 29.35.210 and AS 29.35.220 need to be amended to clarify that all boroughs that exercise property tax powers can create PACE programs under HB 118; and
3. should the language on Page 3, Lines 16 – 17 be deleted to clarify that municipalities are not allowed to initiate PACE programs outside of their territorial jurisdiction.

AEA stands ready to work with you and your staff to address these items in the House Community and Regional Affairs Committee.

If you have any questions regarding this bill, please feel free to contact me at 771-3012, or AEA's Energy Policy and Outreach Manager, Emily Ford at 771-3961 or cell 360-2131.

Sincerely,

 For SFG

Sara Fisher-Goad
Executive Director



HCS HB 118(ENE) - Muni Energy Improvement Assessments/Bonds

DETAILED SECTIONAL ANALYSIS

- Section 1: Amends existing AS 29.10.200 to add PACE financing to the list of items that Home Rule municipalities are allowed engage in.
- Section 2: Amends AS 29 by adding a new chapter 48. Municipal Assessed Clean Energy Act and adds:
- Sec 29.29.010, Exercise of Powers, which allows municipalities to exercise powers under AS 29.40.060 (Judicial Review).
 - Sec 29.49.020 Authorized Assessments, allowing for an assessment to be imposed to repay the financing of qualified projects on real property in the municipality or local government that adopts this program. Qualified projects do not include undeveloped lots or lots undergoing development at the time of assessment or the purchase of products or devices that are not a permanent part of the property.
 - Sec. 29.49.030, Written Contract for Assessment Required, requires a written contract between the municipality and record owner of the real property before the PACE mechanism can be utilized.
 - Sec. 29.49.040 Establishment of Program, authorizes municipalities to choose to establish a property assessed clean energy (PACE) program that would require a written contract with a record owner of real property. The financing for the PACE mechanism may be provided by a third party, or if authorized by the program, by a municipality. Repayment of third-party or municipal financing must be assured through a written contract with the property owner to finance the qualified project through a voluntary property tax assessment.

The financing may include project costs, materials, labor, permit fees, inspection fees, lender's fees, program application and administrative fees, project development and engineering fees, third-party review fees, including verification review fees under AS 29.49.090 and any other fees that may be incurred by the property owner relating to the installation, modification, or improvement, as determined by the municipality.
 - Sec. 29.49.050 Designation of Region, allows the municipality to participate in the program and designate an area of the municipality for participation. This may include the entire municipality or more than one region, but each must be located wholly within the municipality's jurisdiction.

- Sec. 29.49.060 Procedure for Establishment of Program, defines the necessary actions for a municipality to establish a property assessed clean energy finance program. These are:
 - Adopt a resolution of intent that includes:
 - a finding that financing of qualified projects through contractual assessments is a valid public purpose;
 - a statement that the municipality intends to make contractual assessments to repay financing for qualified projects available to property owners;
 - a description of the types of qualified projects;
 - a description of the region boundaries;
 - a description of any proposed arrangements for third-party financing or municipal financing;
 - a description of the municipal debt servicing procedures if third-party financing is provided and assessments collected to service the third-party debt;
 - reference on the proposed program required by AS 29.49.010 and identifying where the report is available to the public;
 - identifying the time and place for a public hearing;
 - identifying the local official and assessor-collector for the proposed contractual assessments with property taxes imposed on the assessed property;
 - Hold a hearing where the public has the opportunity to provide comment, including on the report required in AS 29.49.070;
 - Adopt an ordinance establishing and defining the terms of the program, including:
 - each item included in the report under AS 29.49.070;
 - a description of each aspect of the program that may only be amended after another public hearing;
 - A municipality may hire a program administrator and program staff or contract for professional services to administer the program;
 - Fees may be assessed as an application fee, a component of the interest rate or a combination of both.
- Sec. 29.49.070 Report Regarding Assessment, defines the requirements of the municipality's publicly-available report on the program, as required by AS 29.49.060. The report must include:
 - A map showing the boundaries of the proposed region;
 - A form contract between the municipality and property owner that specifies the terms of the assessment and either the third-party or municipal financing;
 - A form contract, if third-party financing is used, that must be included regarding the servicing of the debt through assessments;

- A description of projects may qualify and a plan for ensuring sufficient capital for third-party financing;
 - If municipal bond financing is used:
 - a plan for raising capital for municipal financing;
 - a maximum aggregate annual dollar amount for financing to be provided by the municipality;
 - the method for ranking requests from property owners if requests will likely exceed the available municipal funding, and the method for determining the interest rate and maximum amount of an assessment;
 - A method for ensuring that the repayment schedule does not exceed the useful life of the qualified project;
 - A description of the application process and eligibility requirements;
 - A method to ensure that property owners have the capacity to participate and repay the financing obligations;
 - A statement describing the assessment and collection process provided by AS 29.49.080;
 - A statement explaining the review requirement provided by AS 29.49.090;
 - A description of marketing and educational services to be provided;
 - A description of quality assurance and antifraud measures;
 - Collection procedures;
 - The method for ensuring the demonstration of financial ability must be based on appropriate underwriting factors, including verification that the property owner is the legal owner of the property, current on mortgage and property tax payments and is not insolvent or in bankruptcy proceedings. An appropriate ratio of the assessment to the assessed value of the property must be maintained;
 - The municipality shall make the report publicly available online and at the primary governing office of the municipality.
- Sec. 29.49.080, Notice to Mortgage Holder Required for Participation, sets a series of requirements for the municipality before it may enter into a written contract with a record owner of real property:
 - The holder of any mortgage lien on the property must be given written notice within 30 days before the contract is executed;

- And a written consent from the mortgage lien holder must be obtained.
- Sec. 29.49.090, Review Required, requires the third-party review of baseline energy conditions in a proposed qualified project and the projected energy savings. After project completion the municipality must obtain a third-party verification that the project was properly completed and is operating as intended.
- Sec. 29.49.100, Direct Acquisition by Owner, the proposed financing arrangements for a qualified project may authorize the property owner to directly purchase necessary equipment and materials, contract directly-including through lease- power purchase agreement or other service contract for the installation or modification of a qualified project.
- Sec. 49.110, Recording of Notice for Contractual Assessment Required, requires a municipality that authorizes financing through contractual assessments to file written notice of each contractual assessment in the real property records of the recording district in which the property is located. This notice must contain the amount of the assessment, legal description of the property, name of each property owner and a reference to the statutory assessment lien.
- Sec. 29.49.120, Lien, states that contractual assessments as part of this program and any interest and penalties are liens on the assessed property and are prior and paramount to all liens except municipal tax liens and special assessments. Contractual assessment liens may be enforced as provided by AS 29.45.320- 29.45.470.
 - Contractual assessment liens are attached with the land and foreclosure of a property tax lien does not eliminate outstanding assessments.
 - Penalties and interest may be added to delinquent installments of the assessments, consistent with AS 29.45.250.
 - A municipality may recover costs and expenses, including attorney fees, if a suit is filed to recover delinquent installment of assessments, consistent with the delinquent property tax suit process.
- Sec. 29.49.130, Collection of Assessments, states that the governing body of a municipality may contract with the governing body of another taxing unit to collect assessments as outlined under this chapter.
- Sec. 29.49.140, Bonds or Notes, authorizes a municipality to issue bonds or notes to finance qualified projects.
 - Bonds issued under this section must be secured by one or more of the following:
 - payments of contractual assessments on benefited property in one or more specified regions
 - reserves established by the municipality from grants, bonds or net proceeds or lawfully available funds

- municipal bond insurance, lines of credit, public or private guaranties, standby bond purchase agreements, collateral assignments, mortgages or any other available means of providing credit support or liquidity, and
 - any other funds lawfully available for purposes consistent with this chapter.
- The governing body of the municipality must include this information in a resolution approving the bonds or notes.
- The municipality's contractual rights in connection with the issuance of bonds or notes is a first lien on the property, without further action by the municipality. The lien is valid and binding against any other person, with or without notice.
- Bonds or notes issues under this chapter further an essential public and governmental purpose, including the:
 - Improvement of the reliability of local electrical systems
 - Reduction of energy costs
 - Reduction of energy demand on local utilities
 - Economic stimulation and development
 - Enhancement of property values, and
 - Enhancement of employment opportunities.
- Sec. 29.49.150, Joint Implementation, any combination of municipalities may agree to jointly implement or administer a program under this chapter, or contract with a third-party. If two or more municipalities jointly administer the program, a public hearing is to be held by the cooperating municipalities sufficient to satisfy the requirements of AS 29.49.060.
- Sec. 29.49.160, Prohibited Acts, states that participation in the program must be voluntary. A municipality that establishes a region under this chapter may not require a real property owner in that region to participate in the assessment program outlined in this chapter in order to issue a permit, license or other municipal authorization, or otherwise compel a property owner in the region to enter into a written contract to repay the financing of a qualified project through contractual assessments.
- Sec. 29.49.890, Allows the proposed PACE provisions to be available to home rule and general law municipalities.
- Sec. 29.49.900, Definitions, defines terminology included in the chapter.
- Sec. 29.49.995, Short Title, indicates this chapter may be cited as the Municipal Property Assesse Clean Energy Act.

Section 3 sets an immediate effective date.



HB 118 Property Assessed Clean Energy (PACE)

Emily Ford, energy policy and outreach manager
House Energy Committee
March 5, 2015



What is Commercial PACE?

- PACE was named one of the top 20 “world-changing ideas by Scientific American magazine.”
- Commercial Property Assessed Clean Energy programs (PACE) allows property owners to finance qualifying energy efficiency improvements over time through a voluntary assessment on the property tax bill.
 - Voluntary participation by municipalities AND commercial property owners
 - Mortgage holder consent is required before applications are approved and assessments are placed
 - Improvements can include lighting upgrades, renewable energy, conversion to natural gas, high-efficiency boilers, and additional energy efficiency improvements
- The repayment obligation transfers with the sale of property

Benefits

- Energy efficiency upgrades are financed with capital secured by a primary lien on the property, lower-interest capital and favorable repayment terms can be raised from the private sector
- Allows for longer repayment periods allowing the building owner to recognize immediate operating savings while repaying the debt
- Can use traditional lending sources
- In Alaska, provides consistency with state energy policy, energy efficiency and renewable energy goals

Creating a PACE Program

- 31 states have authorized PACE programs
- State legislatures must provide authority for local governments to establish and operate commercial PACE programs
- Municipalities to create the program and select financing models
- Resources: U.S. Department of Energy, PaceNow.org, C-Pace.com

Potential PACE Models

- **Local-government driven**
 - Either property assessment office or a PACE office used as interface with commercial property owners and potential lenders
 - Bond financing
- **Private-sector driven**
 - Third-party administrator under contract with local government
 - Private financing
- **Hybrid model**
 - Smaller local governments can contract with other communities or regional organizations to administer the program
 - Identify all potential funding sources (bonds, revolving loan funds, private capital)

House Bill 118

- HB 118: Muni Energy Improvement Assessments/Bonds
- Authorizing legislation for local governments who collect property taxes to choose to create a PACE program and allow commercial property owners to opt-in
- 24 eligible local governments with a total population of 639,314

House Bill 118

- Section 1: Amends existing AS 29.10.200 to add PACE financing to the list of items that Home Rule Municipalities are allowed to engage in
- Section 2 amends AS 29 by adding a new chapter:
AS 29.49: Municipal Property Assessed Clean Energy Act
- AS 29.49.010 Exercise of Powers allows municipalities to exercise powers under AS 29.40.060 (Judicial Review)
- AS 29.49.020 Authorized Assessments would allow for a property tax assessment to be added for financing of qualified projects on real property.
 - Improvements may not be made to vacant lots or property undergoing development at the time of assessment
 - Not to finance purchase of temporary products or anything not permanently fixed to real property
- AS 29.49.30 Written Contract for Assessment Required would require a written contract between the local government and record owner of the real property

House Bill 118

- **AS 29.49.040 Establishes the program**
 - Authorizes local government to choose to establish a PACE program and enter into a contract with a property owner to impose an assessment. Financing can be provided by the municipality or a third-party.
 - If third-party financing is used, the municipality, third-party financier and real property owner must all enter into a contract
 - The assessment imposed may cover some costs for the commercial property owner, including permit and lenders fees, administration, and project development and engineering costs
- **AS 29.49.050 Designates the Eligible Region**
 - The municipality's governing body may designate one or more area(s) of the municipality (within its jurisdiction) as a PACE-eligible region(s)

House Bill 118

- AS 29.49.060 Defines the Procedure to Create the Program
 - If the municipality chooses to create a PACE program the governing body of a municipality must (in order):
 - 1) Adopt a resolution of intent that
 - shows that providing the PACE program serves a valid public purpose
 - includes a statement the municipality intends to make PACE available to property owners
 - includes a description of qualified projects
 - describes the boundaries of the region
 - describes the available financing for qualified projects (i.e. bonds, local lenders, etc.)
 - describes the municipal debt servicing procedures if third-party financing is used
 - describes how the public can access the program report required by AS 29.29.070
 - Identifying the time and place for a public hearing
 - identifies public contacts regarding the collection of the proposed contractual assessments

House Bill 118

- AS 29.49.060 Defines the Procedure to Create the Program
 - The governing body of a municipality must:
 - 2) hold a public hearing with opportunity for public comment
 - 3) adopt an ordinance establishing the terms of the program, including each item included in the publicly-available program report required by AS 29.49.070
 - Each aspect of the program can only be amended after another public hearing
 - A municipality may hire and set compensation for a program administrator, staff or contract for professional services
 - A municipality may impose fees to offset the costs of administering the program, to include an application fee and/or a component of the interest rate

House Bill 118

- AS 29.49.070 Requires a Publicly-Available Program Report (as required by AS 29.49.060)
 - The report must include:
 - a map of the program region boundaries
 - a form contract between the municipality and the property owner that specifies the terms of the assessment and any financing, including third-party and municipal
 - if appropriate a form contract between the municipalities and the third-party financier regarding the servicing of the debt through assessments
 - a description of qualified projects
 - a plan for ensuring sufficient capital
 - if bonds are used the report must include:
 - a maximum aggregate annual dollar amount for financing
 - a method for ranking requests from property owners
 - a method for determining the interest rate and maximum amount of an assessment
 - a method for ensuring the repayment period does not exceed the useful life of the qualified project

House Bill 118

- AS 29.49.070 Requires a Publicly-Available Program Report (continued)
 - The report must include:
 - a description of the application process and eligibility requirements
 - a method for ensuring qualified applicants can demonstrate financial ability to fulfill financial obligations and verify the applicant is the legal owner of the property, is current on mortgage and property taxes and is not insolvent or in bankruptcy
 - an explanation of the assessment and collection process
 - an explanation of the lender notice requirement provided by AS 29.40.080
 - an explanation of the review requirement provided by AS 29.49.090
 - a description of the marketing and education services to be provided
 - a description of quality assurance and antifraud measures
 - collection procedures
 - a requirement for an appropriate ratio between the assessment and property value
 - The report must be available online and at the municipal offices

House Bill 118

- **AS 29.49.080 Notice to Mortgage Holder Required**
 - The holder of any mortgage lien on the property must be given written notice within 30 days before the contract is executed
 - Written consent from the mortgage lien holder must be obtained
- **AS 29.49.090 Review Required**
 - A third-party baseline energy audit and projected energy savings are required
 - Once a qualified project is complete, the municipality shall obtain third-party verification that the project was properly completed and operating as intended
- **AS 29.49.100 Direct Acquisition by Owner**
 - The property owner may be authorized to purchase directly the related equipment and materials or contract directly, including through lease, power purchase agreement or other service contract for the installation or modification of a qualified improvement

House Bill 118

- **AS 29.49.110 Contractual Assessment must be Noticed**
 - Written notice of each contractual assessment shall be filed by the municipality in the real property records, including the assessment amount, legal description of the property, name of each property owner and the reference to the statutory assessment lien provided under this chapter
- **AS 29.49.210 Contractual Assessments and any Interest or Penalties are Primary Liens on the Property**
 - exceptions are municipal tax liens and special assessments
 - enforcement provided in AS 29.45.320-470
 - contractual assessment liens stay with the land and not eliminated by foreclosure
 - penalties and interest may be added to delinquent installments, as provided in AS. 29.45.250
 - municipalities may recover cost and expenses, including attorney fees to collect a delinquent installment
- **AS 29.49.130 Collection of Assessments**
 - The governing body of a municipality may contract with the governing body of another taxing unit to collect assessments as outlined under this chapter

House Bill 118

- AS 29.49.140 Municipalities may Issue Bonds or Notes to Finance Qualified Projects
 - These may **not** be general obligations bonds and must be secured by one or more of the following:
 - payments of the contractual assessments
 - municipal reserves from grants, bonds, or net proceeds and other lawfully available funds
 - municipal bond insurance, lines of credit, public or private guarantees, standby bond purchase agreements, collateral assignments, mortgages, or available means of providing credit support or liquidity
 - any other funds lawfully available for purposes consistent with this chapter
 - A municipal pledge of assessments, funds, or contractual rights in connection with the issuance of bonds is a first lien valid and binding against any other person, with or without notice
 - Bonds or notes issued must further an essential public and governmental purpose, including reducing energy costs, improving electrical reliability, reduction of energy demand on utilities, economic development, employment and enhancement of property values

House Bill 118

- AS 29.49.150 Joint Implementation
 - Any combination of municipalities may agree to jointly implement or administer a program or contract with a third party. A public hearing as outlined in AS 29.49.060 is required.
- AS 29.49.160 Prohibited Acts states that the program must be voluntary
 - A municipality that establishes a PACE region may not compel a property owner to use PACE or, make any permit, license, or authorization contingent on a property owner using PACE.
- AS 29.49.890 Allows the proposed PACE provisions to be available to Home Rule and General Law Municipalities
- AS 29.49.900 Adds Definitions of Program, Qualified Improvement, Qualified Project, Real Property and Region.
- AS 29.49.995 Adds the Short Title “Municipal Property Assessed Clean Energy Act.”
- Section 3 Establishes an Immediate Effective Date

AKEnergyAuthority.org



Ms. Emily Ford
Legislative Coordinator
Alaska Energy Authority
813 West Northern Lights
Anchorage, Alaska 99503

February 26, 2015

Dear Ms. Ford:

On behalf of Renewable Energy Alaska Project (REAP), I am writing to support the PACE financing legislation contained in House Bill 118 and its companion, SB 56. As you know, REAP is a statewide non-profit coalition of over 80 electric utilities, independent power producers and developers, Alaska Native organizations, businesses and NGOs with the goal of increasing renewable energy development and promoting energy efficiency in Alaska.

REAP has been advocating for over two years for the creation of a Publicly Assessed Clean Energy (PACE) program to help Alaska businesses finance retrofits on their buildings to make them more energy efficient. There are currently few state programs aimed at helping commercial buildings become more efficient and this legislation would create another tool to increase the energy efficiency of the state's building stock.

PACE would give business owners the opportunity to *voluntarily* borrow from their local tax assessment district, and then pay the loan back through an additional tax assessment on their property. The program would be revenue neutral for the municipality, and would allow the loan to be attached to the building, rather than the buildings owner.

PACE programs in other states are already providing important benefits including reduction of energy costs, reduction of energy demand on local utilities, enhancement of property values and economic stimulation and development.

Thanks to the Alaska Energy Authority for promoting PACE, and to Governor Walker for introducing this legislation to help Alaska be more efficient, and keep energy dollars circulating in the state's economy.

Sincerely,



Chris Rose
Executive Director



Fairbanks North Star Borough

Mayor's Office

809 Pioneer Road P.O. Box 71267 Fairbanks, AK 99707-1267 T.(907)459-1300 F. (907)459-1102

March 10, 2015

Ms. Emily Ford
Legislative Coordinator
Alaska Energy Authority
813 W. Northern Lights Blvd.
Anchorage, AK 99503

Dear Ms. Ford

On behalf of the Fairbanks North Star Borough, I am writing to support the Property Assessed Clean Energy Act (PACE financing legislation contained in House Bill 118 and its companion, Senate Bill 56. The Fairbanks North Star Borough is the second largest municipality in the state, and faces some of the highest energy costs in the nation. Our community eagerly awaits delivery of natural gas to our city gates. When it arrives, numerous businesses-as well as home, utilities and government entities- will begin upgrading and replacing their power and heating systems. Additionally, assisting our local businesses to convert to more efficient natural gas energy will help improve our local air quality.

It is precisely for these reasons that I write in support of HB 118 and SB 56.

A well-conceived and executed Property Assessed Clean Energy (PACE) program will help Alaska businesses achieve needed energy retrofits, resulting in greater efficiencies and cost savings-all of which will make our businesses more successful and our economy more secure.

It is my understanding that similar programs in other states have resulted in reduction of energy costs, reduction of energy demand on local utilities, enhancement of property values and economic stimulation and development.

I strongly commend the concept of Property Assessed Clean Energy, and I thank the Administration for their work in bringing this idea forward.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Luke Hopkins', is written over a blue line.

Luke Hopkins
Mayor
Fairbanks North Star Borough



CITY OF FAIRBANKS

John Eberhart, Mayor

800 CUSHMAN STREET
FAIRBANKS, ALASKA 99701-4615

OFFICE: 907-459-6793

FAX: 907-459-6787

mayor@ci.fairbanks.ak.us

March 11, 2015

Ms. Emily Ford
Legislative Coordinator
Alaska Energy Authority
813 West Northern Lights
Anchorage, Alaska 99503

Re: Senate Bill 56 and House Bill 118 – City of Fairbanks Support

Dear Ms. Ford:

I am writing to express the City of Fairbanks' support for the proposed legislation for PACE financing as detailed in Senate Bill 56 and House Bill 1118.

In the City of Fairbanks, energy efficiency is key to the financial viability of businesses, given our current high rates for heating and fuel costs. The proposed creation of a Property Assessed Clean Energy (PACE) program to help Alaska businesses finance retrofits on their buildings to make them more energy efficient would be a boon to our local businesses. There are currently few state programs aimed at helping commercial buildings become more efficient and this legislation would create another tool to increase the energy efficiency of businesses.

PACE would give business owners the opportunity to borrow from their local tax assessment district, and then pay the loan back through an additional tax assessment on their property. The program would be revenue neutral for the municipality, and would allow the loan to be attached to the building, rather than the building's owner. PACE programs in other states provide important benefits including reduction of energy costs and enhancement of property values and economic stimulation and development.

This opportunity for local businesses in the Golden Heart community is appreciated, and I thank the Alaska Energy Authority for supporting this program. I also applaud Governor Walker for introducing this legislation to help the City of Fairbanks become more energy efficient, while also bringing operating costs into a more reasonable range of expenditure.

Please encourage your colleagues in the Senate and House of Representatives to support this legislation.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "John Eberhart".

Mayor John Eberhart

Cc: City Council

Alaska Bankers Association

P.O. Box 241489 • Anchorage, Alaska 99524-1489 • T: 907-261-3525 • F: 907-562-1758

March 16, 2015

The Honorable Click Bishop, Chair
Senate Community and Regional Affairs Committee
Alaska State Capitol
Juneau, AK 99801-1182

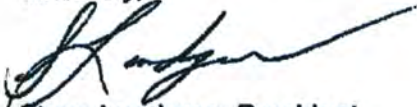
Re: Senate Bill 56 - Municipal Energy Improvement Assessments/Bonds

Dear Senator Bishop:

The Alaska Bankers Association supports economic development initiatives that lower the cost of energy and ensure adequate and reliable deliverability.

In response to the question raised by the Senate Community and Regional Affairs Committee on March 12, the Alaska Bankers Association is not opposed to Senate Bill 56 in its current form, which proposes to establish a commercial Property Assessed Clean Energy (PACE) program in Alaska that requires written consent from the lien holder.

Sincerely,



Steve Lundgren, President
Alaska Bankers Association

Ms. Emily Ford
Legislative Coordinator
Alaska Energy Authority
813 West Northern Lights
Anchorage, Alaska 99503

Dear Ms. Ford,

The Interior Gas Utility is a municipal utility in the Fairbanks North Star Borough tasked by the borough and the community to deliver "low cost natural gas, to as many people possible, as quickly as possible." As part of that mission, I offer my support on behalf of the Interior Gas Utility for HB 118/SB 56.

The IGU service area incorporates the City of North Pole and areas within the FNSB surrounding the City of Fairbanks. Phase I of the project incorporates downtown North Pole and several commercial properties that would be classified as high demand users. While 40 commercial structures are anticipated to convert to natural gas in Phase I, this accounts for slightly less than 50% of the gas demand for the entire phase.

It is critical that high volume structures convert to natural gas as soon as possible to increase the demand for the project. Currently, no resources are available for commercial and multi-family structures, and the PACE Act will fill that void to assist in more rapid conversions. By the third year of natural gas availability in Phase I, 100% of commercial and 95% of multi-family homes are expected to be using natural gas as their primary heating source, a trend that is supported by the Cardno Entrix Conversions Analysis Report and ENSTAR's rate of conversion in Homer, AK.

The PACE Act eases financial roadblocks from the business community and property owners allowing them to convert to natural gas more rapidly with these financing options. Not only does this legislation provide a way for the larger users of natural gas to convert faster, it stimulates the economic wellbeing of the community, improving air quality and lowering heating costs for residents in the Interior.

It is without reservation that IGU offer to support this legislation to accomplish our mission for the benefit of the state, and specifically the FNSB community.

Sincerely,



Steven Haagenson
General Manager

PO Box 70200
Fairbanks, AK 99707

907 374 4474
interiorgas.com