For the past three years, New Jersey PACE, a 501(c)(3) nonprofit, has been working with the PACE industry and other stakeholders to draft improvements to NJ’s original Property Assessed Clean Energy (PACE) law enacted in 2011. In June 2015 a new bill (A2579) was passed overwhelmingly by the legislature. On November 9th, the Governor returned the bill to the Legislature with a Conditional Veto (CV), specifying changes to the bill as a condition of signing it.

After looking in detail at the Conditional Veto we believe that it contains several provisions that would make the program impractical to implement and in several respects actually leave us in a worse position than the 2011 statute. Accepting the Governor’s recommendations would also likely prevent the introduction of a corrective bill in the next session.

A couple of examples: the CV creates a “pilot” program limited to 10 towns, excluding some of the ones that could benefit from it the most; it excludes residential completely; and it authorizes the Division of Local Government Services (DLGS), an oversight agency in the Department of Community Affairs, to promulgate “rules and regulations,” which could delay approval of municipalities and programs more or less indefinitely. None of these restrictions are in the current law (PL 2011, Ch.187).

We’re at a critical stage with PACE in NJ, and we take our nonprofit responsibility to the public interest seriously. That is why we’re taking a careful approach. We are remaining open as to our response until we have discussed all options with key constituents, starting with the bill’s sponsors.

Our principal concerns with the Conditional Veto:

1. The proposed pilot program includes only ten towns, in the order of application, and excludes many cities that could benefit the most (Newark, Camden, Trenton, Atlantic City, Asbury Park, etc.).
2. Due to the limitation to 10 towns, and the uncertainty as to which towns will be approved, energy services companies can’t take the risk of wasting the time and money they have invested in lining up projects.
3. Reintroducing the requirement for pre-approval of municipalities by the DLGS can create major delays, because (1) the DLGS is severely understaffed (2) the DLGS has repeatedly told us and other PACE Administrators that their role is to protect public finances, not promote private investment or clean energy, and (3) since the DLGS is authorized to "write rules and regulations," it would not be unusual for this to take several years to complete.
4. There is nothing in the CV that determines what the Pilot's objectives would be, when it would be complete, how it should be evaluated, or how and when a full program could be established.
5. By removing residential altogether, the financial investment in PACE will be significantly diminished, which could be interpreted as a lack of program effectiveness, and impact the speed of expansion of the program. It is not generally understood that across the US, there has been 10X the investment in single family residential as compared with commercial projects. While residential projects are smaller, they are more...
PACE was created to accomplish the public good of reducing energy waste, switching to renewables, and increasing the resiliency of our built environment. If the reduction in energy use could have been achieved through our current system, it would have been – but it has not. This is why we need innovative programs like PACE. The mortgage banking system has controlled the financing of private property, and will continue to do so, for the majority of building assets. However, at some point positive change must overrule the dictates of the past, as long as these changes are done with sensitivity. We feel that PACE laws sufficiently protect the banking and mortgage banking industry — and the evidence shows that there have been virtually no defaults in the billion+ dollars of PACE loans made so far in America.

What can to be done to make the program work?

Many people, including ourselves, initially thought we could work with a limited pilot program. Pilots of new ideas sometimes make sense, but in the case of PACE, there has been sufficient evidence of success in other states that such a pilot is unnecessary; and we think a pilot structured in the way suggested in the CV would severely and perhaps permanently limit the viability of a PACE industry in NJ. It’s a shame, because NJ will likely lose more than a billion dollars a year of investment and the attendant economic and environmental benefits—at a time when NJ sorely needs to improve its business competitiveness and create jobs.

Thirty-one states—including Texas, Mississippi, and others—now have PACE statutes in place. They've already resolved the “concerns” that the Governor’s office has expressed, and demonstrated that PACE is not harmful in any jurisdiction.

At this point, though, we need to speak with the bill’s sponsors and see what they want to do. We remain committed to leading the movement to create a thriving PACE industry in New Jersey. Thank you for taking the time to understand this important issue.


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