

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 234

PRINTER NO. 1432

AMOUNT

No Fiscal Impact

FUND

Local Funds

DATE INTRODUCED

January 31, 2017

PRIME SPONSOR

Senator Blake

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 234 amends Title 12 (Commerce and Trade) by adding new Chapter 43, which authorizes the establishment of a Property Assessed Clean Energy Program (“program”).

The legislation is designed to ensure that owners of agricultural, commercial and industrial properties can obtain low-cost, long-term financing for energy efficiency, water conservation and renewable energy products. Multi-family housing or any residential property is excluded.

Senate Bill 234 defines the following terms:

- “Alternative energy system” is energy generated from alternative energy sources as defined under Pennsylvania’s Alternative Energy Portfolio Standards Act. Programs also may recognize alternative energy sources not included in the Alternative Energy Portfolio Standards Act when approving qualified project applications.
- An “assessment” is a charge against the real property within a district which is levied and collected by the county or municipality that establishes the district.
- “Clean energy project” is a project which does any of the following:
 - Replaces or supplements an existing energy system that utilizes nonrenewable energy with an energy system that utilizes alternative energy.
 - Facilitates the installation of an alternative energy system in an existing building or a major renovation of a building.
 - Facilitates the retrofit of an existing building to meet high-performance building standards.
 - Installs equipment to facilitate or improve energy conservation or energy efficiency, including heating and cooling equipment and solar thermal equipment.

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- “District” is an area or group of real properties within a municipality or county, designated by the municipality or county for the purpose of establishing a property assessed clean energy program.
- “Power purchase agreement” is a financial arrangement in which a third party owns, operates and maintains a permanently affixed energy generation unit for a property owner and the property owner purchases power from the third party at agreed-upon rates in the agreement. The third party would have the ability to finance its equipment acquisitions with an assessment under a property assessed clean energy program.
- A “property assessed clean energy program” is a means of financing qualified projects in a district through an assessment.
- “Qualified party” is a contractor or subcontractor that meets the following standards:
 - Possesses all technical qualifications and resources, including equipment, management, technical and craft labor personnel, and financial resources necessary to perform the contracted responsibilities, or will obtain the contracted responsibilities through the use of qualified subcontractors.
 - Possesses all valid, current licenses, registrations or other certificates required for the contractor or its employees by Federal, State or local law necessary for the type of work required for the project.
 - Does not have any outstanding liability to the locality in the form of tax obligations, fines or other fees, unless the contractor or subcontractor has entered into and is in compliance with a payment agreement with the locality for such taxes, fines or fees.
 - Meets all bonding requirements and all insurance requirements.
- A “qualified project” is the installation or modification of a permanent improvement fixed to real property that is a clean energy project, water conservation project or alternative energy system, which generates measurable energy savings or reductions in water usage and the installation is performed by a qualified party in a district. The term includes installation of alternative energy-generating equipment affixed to the land or building.
- A “water conservation project” is a project that reduces the usage of water or increases the efficiency of water usage.
- The legislation also defines the terms “bond”, “business”, “financial institution”, “local financing”, “owner financing”, “program” and “real property”.

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Senate Bill 234 provides that a municipality with a community or economic development department or a county may establish a program by adopting an ordinance or resolution that will establish the program, define the district and provide other operational standards and guidelines. A county that establishes a program must notify any municipality that may be in the district of their possible inclusion, before a resolution establishing a program is approved. A municipality or county may contract with a third party to administer the program.

Before real property may be subject to an assessment under the program and begin a local financing or an owner financing of a qualified project, any financial institution holding a lien, mortgage or security interest in or other encumbrance of the real property that secures a current, future or contingent payment obligation must be given written notice of the real property owner's intention to participate in the program and must provide written consent to the property owner and municipality or county that the property may participate in the program.

Each proposed qualified project shall require a scope of work, energy baseline or water usage baseline and the projected energy savings or water usage reductions in order to establish the viability of the qualified project and the projected energy savings or water usage reductions. After a qualified project is completed, the municipality or county shall obtain verification from the real property owner and from an independent professional inspector or building code official that the qualified project was properly completed.

Senate Bill 234 requires a municipality or county that establishes a program to post online and make available to the public a notice of each qualified project financed through an assessment. The notice shall contain the following information:

- The legal description of the property.
- The name of each property owner.
- The total amount of the qualified project and a complete description of the qualified project.
- The assessment needed to satisfy the bond.
- A reference to the statutory assessment lien provided under this chapter.
- The financing rate on the bond, the total amount of the bond financing and any financing charges associated with the bond.

The legislation provides that an assessment under this chapter, including past due amounts and required future payments and any interest or penalties on the assessment shall be a first lien against the real property on which the assessment is imposed, shall have the same priority status as a lien for any other tax imposed, must be recorded on the title, and may be discharged, compromised or abated in the same manner as delinquent property tax obligations. The lien runs with the land, and the assessment cannot be accelerated or extinguished until fully repaid.

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The assessment lien may be enforced by the municipality or county in the same manner that a property tax lien against real property may be enforced by the municipality or county to the extent the enforcement is consistent with the laws of the Commonwealth. Delinquent installments of the assessments incur interest and penalties in the same manner as delinquent property taxes, and a municipality or county may recover costs and expenses in a suit to collect a delinquent installment of an assessment.

Senate Bill 234 requires the governing body of a municipality or county that establishes a district to collect the assessments for that district using their present tax collection process and remit for payment of the local financing or owner financing. The assessment shall be made through a written agreement, and proceeds may only be used to fund a local financing or owner financing and lasts only for the term of the financing.

Local financing or owner financing may be used to issue bonds to finance qualified projects. Bonds issued under the program may not be general obligations of the municipality or county. Funds generated from the issuance of a bond may be used only for the following purposes:

1. Design, engineering and project development costs of a qualified project.
2. Infrastructure related to and necessary for a qualified project.
3. Purchase and installation cost of any equipment needed for a qualified project.
4. Payment of normal and customary issuance and closing fees of a bond.
5. Normal and customary administrative fees necessary to continue operations of the municipal or county financing agency. The fees can include, but are not limited to, audits and application fees.

Any combination of municipalities or counties may agree to jointly implement or administer a property assessed clean energy program.

This act shall take effect in 60 days.

FISCAL IMPACT:

Senate Bill 234 will have no adverse fiscal impact on Commonwealth or local funds.

The legislation authorizes, but does not require, municipalities or counties to establish a property assessed clean energy program. Program financing does not require the use of any public funds, and issued bonds may not be general obligations of the municipality or county.

The program provides a platform whereby an assessment is collected on the improved property (similar to a voluntary increased property tax assessment), and the assessment is remitted for payment on the debt incurred to fund a qualified project. Assessments must be collected using the present tax collection process, and normal and customary administrative fees necessary to continue operations of the municipal or county financing agency are an allowable use of bond proceeds.