



## Legislation Text

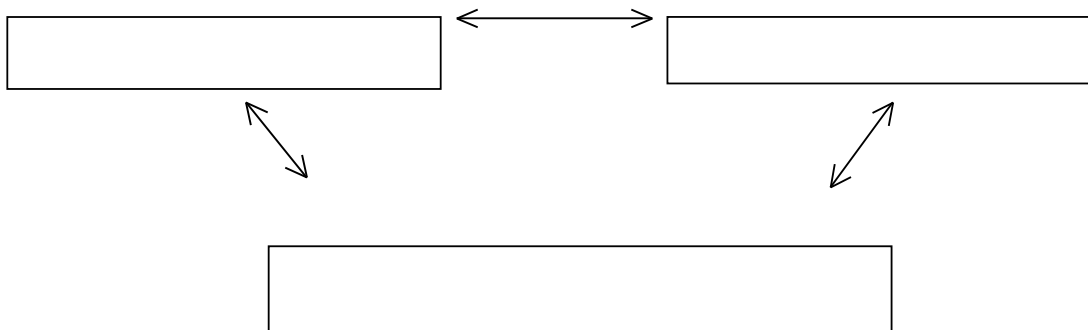
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Recommendation to adopt resolution authorizing the City to join the Figtree PACE Program; authorizing the California Enterprise Development Authority to conduct contractual assessment proceedings and levy contractual assessments within the jurisdiction of the City of Long Beach; and authorizing related actions;

Assembly Bill 811 (AB 811) was approved by the State Legislature and signed by the Governor on July 21, 2008. AB 811 and its amendments authorize local governments to provide financing to qualified property owners for the installation of energy and water efficiency improvements, as well as distributed generation renewable energy sources. Participating property owners repay the cost of the improvements through an assessment levied against their property, that is payable in semi-annual installments on property tax bills, with a lien filed against the property as security. The assessment remains with the property should the owner transfer or sell it. In turn, government jurisdictions, such as cities, counties, or joint powers authorities, issue municipal bonds backed by the assessments.



This financing mechanism, Property Assessed Clean Energy (PACE), mitigates two key barriers that may prevent property owners from implementing a greater number of energy efficiency, water efficiency, and renewable energy projects: (1) it eliminates the need for property owners to pay out-of-pocket up-front costs for improvements; and (2) it establishes a lien obligation that is attached to the property and not the individual borrower. These programs represent an innovative partnership between the public and private sector, leading to a greener city, decreased costs for property owners, and spurring growth in this sector of the economy.

PACE, however, also exposes property owners to risk. Unlike traditional lenders, most PACE

programs do not use traditional indicators, such as debt-to-income ratios or FICO credit scores, to evaluate a property owner's ability to repay; instead, they evaluate the value of the property in relation to the size of the lien. An evaluation of the property owner is done, such as ensuring the owner has not filed bankruptcy in the preceding years and is current on the mortgage and property taxes. The interest rates are typically fixed for the life of the lien, though they fluctuate over time. The interest rate, and APR which often includes program fees, can exceed market rates. What's more, PACE becomes the senior lien on the property, meaning failure to pay allows bondholders to seek foreclosure. Finally, most PACE programs rely on contractors to generate demand for the financing; unscrupulous contractors could encourage property owners to make poor choices. Working in tandem, these factors place property owners at risk for improvements they cannot afford, potentially resulting in foreclosure.

Commercial PACE programs, however, mitigate some of these risks. Commercial programs are available to a wide range of commercial property types, including commercial offices, industrial sites, multifamily homes (5 units or more), hotels, schools, hospitals, and non-profits. Commercial programs require the consent of the primary mortgage holder before executing an agreement. In response to this request for consent, most lending institutions complete a thorough review of the borrower, essentially re-underwriting the mortgagee. The lender will not give consent unless the mortgagee and their property can sustain the payments. Thus, even though the program does not adhere to traditional underwriting criteria, the mortgagee is still subjected to strict criteria. This process mitigates some of the risks posed by residential PACE programs. In addition, the financial literacy of commercial property owners typically exceeds that of homeowners, allowing the owners to better assess the benefits and risks of PACE financing. Commercial PACE programs tend to require more engagement from the PACE lender, so it is not simply the contractor and the property owner working together. This third party provides additional oversight to ensure that the project costs seem in line with the proposed improvements.

## **PACE Programs in Long Beach**

On June 22, 2010, the Long Beach City Council adopted a resolution authorizing participation in the Los Angeles County Clean Energy Program (which has since been renamed as LA County PACE). This program, the only PACE program authorized to operate in the City of Long Beach, currently serves commercial properties. The program provides financing for projects over \$500,000. The LA County PACE program has completed 3 commercial projects to date, including one in Long Beach. The International Brotherhood of Teamsters took advantage of PACE financing to install solar panels, new lighting, and a "cool roof" at their Local 848 meeting hall, located in Long Beach. As a result, building energy use is estimated to be reduced by 83%, resulting in nearly \$75,000 in annual savings.

Though Long Beach property owners have utilized the LA County commercial program, many projects are not large enough to be eligible. The closing costs for the LA County commercial program range from approximately \$20,000 - \$30,000 per project, making it reasonable for

projects over \$500,000, but unaffordable for smaller, worthwhile projects. Authorizing additional PACE programs to operate in Long Beach will allow smaller commercial projects to be completed. In addition, authorization of multiple programs injects competition into the marketplace, leading to better rates for consumers.

The recommended additional commercial PACE programs include Figtree PACE, CaliforniaFIRST, and California HERO, as outlined below. Authorization of these programs will not conflict with the LA County PACE. Exhibit A details the underwriting standards for each program.

1. Figtree PACE launched in 2010. The Figtree program is offered through CEDA, created by the California Association for Local Economic Development. Currently 84 cities and counties participate in Figtree PACE.
2. California HERO launched in 2011 by WRCOG, a joint powers authority. Currently, 204 cities and counties participate in California HERO.
3. CaliforniaFIRST was launched in 2012 by the CSCDA, a statewide joint powers authority sponsored by the California State Association of Counties and League of California Cities. Currently, 144 cities in 28 counties participate in CaliforniaFIRST.

If a commercial property owner chooses to participate, the installed improvements will be financed by the issuance of bonds by either CEDA, CSCDA, or WRCOG. The bonds are secured by a voluntary contractual assessment levied on the owner's property, with no recourse to the local government or other participating jurisdictions. Participation in the program is 100% voluntary. Property owners who wish to participate in the program agree to repay the amount borrowed through the voluntary contractual assessment collected together with their property taxes. The City can withdraw from these programs at any time by passing a resolution rescinding the authorization.

This matter was reviewed by Deputy City Attorney Linda Vu on February 25, 2015 and by Budget Management Officer Victoria Bell on February 26, 2015.

City Council action is requested on April 7, 2015 to allow Long Beach commercial property owners to take advantage of the program as soon as possible.

The recommended PACE programs do not require the use of City funds. Very limited staff time is required to assist with the implementation of the program, in particular, facilitating the initiation of the programs. There will be no monetary impact to the City's budget. Approval of this recommendation could result in a positive local job impact.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AUTHORIZING THE CITY TO JOIN THE FIGTREE PACE PROGRAM; AUTHORIZING THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY TO CONDUCT CONTRACTUAL**

ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE JURISDICTION OF THE CITY OF LONG BEACH; AND AUTHORIZING RELATED ACTIONS

APPROVED:

PATRICK H. WEST  
CITY MANAGER