

**RESOLUTION: SUPPORT TO AMEND EXISTING ENABLING LEGISLATION (A40004)  
REGARDING MUNICIPAL SUSTAINABLE ENERGY FINANCING  
PROGRAMS**

**WHEREAS**, most energy consumed in the Tompkins County community is used for heating and lighting buildings, making retrofitting the existing building stock key to making significant strides in reducing energy use in the community; and

**WHEREAS**, in November 2009, by Chapter 497 of the Laws of 2009, the State of New York authorized an amendment of the General Municipal Law by creating Article 5-L to allow municipalities to create Property Assessed Clean Energy Programs (known in New York State as "Sustainable Energy Financing Programs") to promote the deployment of renewable energy systems and energy efficiency improvement measures at residential and commercial properties; and

**WHEREAS**, Sustainable Energy Financing Programs assist property owners interested in making energy efficiency improvements or installing renewable energy systems in their buildings by providing a new financing mechanism to augment federal and state incentive programs; and

**WHEREAS**, Sustainable Energy Financing Programs are self supporting and designed to have no adverse budgetary impact to the municipality administering the program, and will be an "opt-in" benefit affecting only those residents who choose to participate; and

**WHEREAS**, the Town/Village/City/County of \_\_\_\_\_ wishes to increase the energy efficiency of existing buildings, reduce energy costs for residents, reduce carbon emissions to help mitigate climate disruption, reduce the negative health effects of fossil fuel emissions, create and retain local jobs in the energy audit and energy contracting sector, and bolster the local economy by saving residents monies which would otherwise be spent on energy costs; and

**WHEREAS**, the Town/Village/City/County of \_\_\_\_\_ wishes to explore mutually beneficial ways of:

- Leveraging private sources of capital with other public and private resources to accomplish these objectives; and
- Coordinating efforts with Federal, State, and other agencies and authorities to assure that activities are compatible with the plans and programs of the cooperating municipalities; and

**WHEREAS**, the Sustainable Energy Financing Program enabled by Article 5-L should be amended to allow broader sources of funding while securing and facilitating such programs, and such legislation is now pending in the New York State Senate and Assembly, now therefore be it

**RESOLVED**, That the Council/Board of Trustees/Legislators of Town/Village/City/County of \_\_\_\_\_ supports pending legislation in the NYS Senate (#S7683) and companion legislation in the NYS Assembly (#TBA) to amend, strengthen and correct technical deficiencies within the current enabling laws authorizing Sustainable Energy Financing Programs,

**RESOLVED**, further, That the Town/Village/City/County of \_\_\_\_\_ Clerk is authorized to forward this resolution in support of amending current enabling laws authorizing Sustainable Energy Financing Programs to Governor David A. Paterson, Senate Majority Leader Malcolm Smith, Senate Minority Leader Dean Skelos, Senator George Winner, Senator James Seward, Senator Michael Nozzolio, Assembly Speaker Sheldon Silver, Assembly Majority Leader Ron Canestrari, Assembly Minority Leader Brian Kolb, Assemblywoman Barbara Lifton, and the New York State Association of Counties/ New York State Association of Towns/New York Conference of Mayors.

**Model letter of support for NYS Senators  
Modifiable for letters to Assembly (no bill number yet) and Governor**

May 12, 2010

**RE: Support for S7683, Municipal Sustainable Energy Financing Program  
(Amendment to Existing NY PACE Enabling Legislation (A40004))**

Dear Senator:

On behalf of [*insert name of organization*], I am writing to urge you to co-sponsor S7683, which would amend Article 5-L of the General Municipal Law to expand permissible funding sources for sustainable energy financing programs (also referred to as PACE programs) beyond federally provided assistance. The adoption of this amendment will ensure that municipalities throughout New York State are able to establish PACE programs, and as a result will be able to take advantage of this novel financing mechanism to promote clean energy retrofits and renewable energy in their communities.

The New York State legislature passed PACE enabling legislation during special session in November 2009 (A40004), in order to enhance New York municipalities' chances of winning federal grant monies. Given the time pressure surrounding the passage of the existing PACE legislation, the governor's office and the state legislature were unable to fully consider alternative funding mechanisms. As a result, the existing statute limits available funding sources for New York's PACE programs to federal grants or federal credit support. Unless the existing PACE legislation is amended to expand permissible funding sources, the PACE programs established in New York would be constrained from scaling to their full potential and would not be able to contribute meaningfully to the Governor's goal of reducing the State's greenhouse gas emissions by at least 45% by 2015. Now your leadership is needed once more to pass this amendment that will allow the full implementation of PACE programs in New York.

There are several additional important reasons that require the amendment of the current PACE enabling legislation.

- Without S7683, NYSERDA will be constrained in its implementation of the Green Jobs Green New York (GJGNY) program passed during last year's legislative session, which would prevent NYSERDA from administering the program to fully serve all constituencies in the State, as intended under the GJGNY statute.
- Without S7683, NYSERDA would also be precluded from establishing a statewide aggregating model for PACE programs. The aggregating model would lower the cost of capital to homeowners across the state by bringing scale to PACE bond issuance, while also significantly reducing the administrative burdens of establishing PACE programs for smaller New York municipalities.

- Certain technical revisions are required to clarify procedural details of establishing PACE programs, in order to provide municipalities with a clear process to follow in setting up their programs, to provide the public with notice and an opportunity to participate in the process, and to ensure that participation in these clean energy assessment districts remains entirely voluntary on the part of property owners.

We have attached a fact sheet which provides more detail about the required amendments, and a fact sheet that describes PACE programs in more detail. In summary, a large number of cities, towns, villages and counties throughout New York are very excited about establishing PACE programs to finance clean energy retrofits in their communities, but their hands are tied by the existing legislation's restriction of funding sources to federal grants or credit support. We ask that you co-sponsor S7683, which would allow municipalities across the state to move forward using funding from NYSERDA and other appropriate sources to create their PACE programs. We also respectfully request that you raise your voice in conference in order to move the bill to the floor for a vote.

We thank you for your consideration of this request.

Sincerely,

**SPONSORS MEMO:**

**NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S7683    SPONSOR: THOMPSON

PURPOSE: To expand permissible funding sources for sustainable energy financing programs, allow NYSERDA (the "Authority") to perform certain aggregating and administrative functions for sustainable energy financing programs, set forth certain procedural requirements for establishing sustainable energy financing programs and make various technical corrections to Article 5-L.

SUMMARY OF PROVISIONS: Throughout the statute, the term "Municipal Sustainable Energy Loan Program" is revised to "Municipal Sustainable Energy Financing Program," replacing the word "loan" with "financing."

Section 119-ee - expands the legislative findings and declaration; \* to more fully describe the public purposes that will be fulfilled by establishing Municipal Sustainable Energy Financing Programs including the development of new industries and new jobs; fostering a cleaner environment; helping to avoid future energy shortages; and enabling the state and municipal corporations to reduce its reliance on sources of energy that have a negative impact on air quality, thereby contributing to the health and well-being of the people of the state. \* to declare that it is necessary for the Authority and municipal corporations to play a critical role in providing cost-effective financing for the large-scale installation of renewable energy systems and energy efficiency measures.

Section 119-ff - adds definitions for the following terms: assessment district and governing body, energy efficiency improvement as it applies to one to four family residential properties

Section 119-gg

- 1 - expands the permissible funding sources for sustainable energy financing programs established by municipal corporations having the power to enforce delinquent tax liens.
- 2 - permits the Authority to enter into contracts with municipal corporations with mutually determined terms and conditions allows municipal corporations to enter into such other contracts with third parties as may be necessary or appropriate to implement their sustainable energy financing programs.
- 3 - permits cities with populations of one million persons or more to establish their own lists of cost effective energy efficiency improvements for different building types.
- 4 - permits cities with populations of one million persons or more to establish their own systems for verifying the installation and performance of renewable energy systems and energy efficiency improvements financed by their sustainable energy financing programs.
- 6 - replaces the term "appraised real property value" with the term "fair market value of the real property, as determined by the municipal corporation."
- 9 - clarifies that municipal corporations are authorized to assess real property located within their jurisdictions benefitted by improvements financed by their respective sustainable energy financing programs.

existing legislation is amended to expand funding sources programs established by the NYSERDA, New York City and Bedford grant may not be able to comply with the leverage requirements of the DOE grant program. As a result, the new programs would be constrained and unable to contribute meaningfully to the Governor's "45 by 15" goal. Furthermore, unless amended the vast majority of New York municipalities that did not receive federal ARRA grants will be unable to establish sustainable energy finance programs, and consequently unable to take advantage of this exciting opportunity to promote clean energy retrofits in their communities. NYSERDA currently proposes to support three separate financing mechanisms through the Green Jobs Green New York (GJGNY) program passed during the 2009 legislative session: the sustainable energy financing program, on-bill recovery, and unsecured consumer loans. Each of these mechanisms will be more appropriate than the others to serve certain constituencies. For example, it is extremely difficult to finance retrofits for the large number of homeowners that use oil heat using the on-bill recovery mechanism, and the consumer loan product is restricted to property owners with a 640 or better FICO credit score. The existing enabling legislation would not permit NYSERDA to use GJGNY funds to provide funding for or otherwise support sustainable energy financing programs. Also an important procedural mechanism included established clean energy assessment districts under this legislation. This will provide municipalities with a clear process to follow in setting up their programs by providing the public with notice, an opportunity to participate in the process, and ensure that participation remains entirely voluntary for property owners. Many cities, towns, villages and counties across New York State are very excited about establishing sustainable energy financing programs to finance clean energy retrofits in their communities, but their hands are tied by the existing legislation's restriction of funding sources to federal grants or credit support. The existing legislation must be amended to allow municipalities across the New York state to move forward using funding from NYSERDA and other appropriate sources to create sustainable energy financing programs.

**BUDGET IMPLICATIONS:** This bill would have no State budget implications.

**EFFECTIVE DATE:** This bill would take effect immediately.