

Proposed  
Floor Amendment  
November 6, 2017

**IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI**

**AN ORDINANCE** repealing section 3301, 3302, and 3303, Jackson County Code, 1984, relating to property assessed clean energy, and enacting, in lieu thereof, ten new sections relating to the same subject.

**ORDINANCE NO. 5044**, October 30, 2017

**INTRODUCED BY** Dennis Waits, County Legislator

WHEREAS, the General Assembly of the State of Missouri has adopted the Property Assessment Clean Energy Act, Sections 67.2800 to 67.2835, Revised Statutes of Missouri (the "PACE Act"), which authorized the creation of Clean Energy Development Boards to administer Property Assessment Clean Energy ("PACE") programs; and

WHEREAS, the Legislature desires to join with the City of Sugar Creek to form the Greater Kansas City Clean Energy Development Board pursuant to Section 67.2810.1 to create a clean energy district; and,

WHEREAS, the development, production, and efficient use of clean energy and renewable energy, as well as the installation of energy efficient improvements to publicly and privately owned real property, will serve the public purposes of creating jobs for residents of the County, advancing the economic well-being and public and environmental health of residents of the County, providing a broad public benefit to the

residents of the region as a whole, and contributing to the energy independence of the nation; and,

WHEREAS, PACE programs allow property owners to enter assessment contracts through a Clean Energy Development Board to finance energy efficiency and renewable energy improvements to their property and repay such assessments through their property tax bills; and,

WHEREAS, an affiliate of Missouri Clean Energy Authority, LLC ("MOCEA") was selected after a competitive bid process to be a PACE program administrator for the Clean Energy Development Boards of both the City of St. Louis and St. Louis County, and MOCEA thus has unique expertise regarding the start-up phase and operation required for a Missouri PACE board; and,

WHEREAS, it is in the best interest of the health, safety, and welfare of the County and its residents to form the Greater Kansas City Clean Energy Development Board and for the authorization of the appointment of board members to administer a PACE program within the geographic County boundaries, and to fund such PACE program through the receipt of grant funds, the issuance of bonds, and/or other financing mechanisms and funding sources, and to make or cause to be created assessment contracts with property owners within the geographic boundaries of the County to fund energy efficiency improvements; and,

WHEREAS, by Ordinance 4629, dated June 9, 2014, the Legislature did adopt Chapter 33 of the County Code to put in place provisions regarding PACE; and,

WHEREAS, the provisions of this Ordinance are intended to supplement rather than replace, the provisions of Ordinance 4629 and chapter 33 of the Code; now therefore;

BE IT ORDAINED by the County Legislature of Jackson County, Missouri, as follows:

Section A. Enacting Clause. Sections 3301., 3302., and 3303., Jackson County Code, 1984, are hereby repealed and ten new sections enacted in lieu thereof, to be known as sections 3301., 3302., 3303., 3305., 3306., 3307., 3308., 3309., and Section B and Section C, to read as follows:

3301. Title and Definitions.

3301.1 Title. This chapter shall be known and may be cited as the "Jackson County, Missouri Property Assessed Clean Energy (PACE) Ordinance."

3301.2 Definitions. Except as specifically defined below, word and phrases used in this chapter shall have their customary meanings. Words and phrases defined in section 67.2800.2 of the Missouri Revised Statutes (2016), as amended, shall have their defined meanings when used in this chapter. As used in this chapter, the following words and phrases shall have the meanings indicated.

“Greater Kansas City Clean Energy Development Board” or “Board” means the Greater Kansas City Clean Energy Development Board.

“Missouri Clean Energy District” or “District” means the Missouri Clean Energy District.

“PACE Act” means Missouri Property Assessed Clean Energy Act, Sections 67-2800 – 2835, RSMo, as amended.

“PACE Assessment” means a special assessment made against qualifying property in consideration of PACE Funding.

“PACE Funding” means funds provided to the owner(s) of qualified property by the District for an energy efficiency improvement.

“Qualifying Property” means real property located in Jackson County, Missouri.

3302. Program Administration.

The Missouri Clean Energy District and the Greater Kansas City Clean Energy Development Board shall be empowered to administer the functions of the PACE Program within the County by:

- a. Providing property owners with an application in order to apply for PACE Funds;
- b. Developing standards for the approval of Projects submitted by property owners;
- c. Reviewing applications and select qualified projects;
- d. Entering into Assessment Contracts with property owners;

- e. Providing a copy of each executed notice of assessment to the Director of Assessment and causing a copy of each such notice of assessment to be recorded in the real estate records of the Jackson County Recorder of Deeds;
- f. Authorizing and disbursing the PACE Funds to the property owners;
- g. Receiving the PACE assessment from the County Collector; and
- h. Recording any lien, if needed, due to nonpayment of a PACE Assessment.

3303. Liability of County Officials; Liability of County.

Notwithstanding any other provision of law to the contrary, officers and other officials of the County, the Board, the District, and the County, including, without limitation, tax assessors and tax collectors, shall not be personally liable to any person for claims, of whatever kind or nature, under or related to the County's PACE Program, including, without limitation, claims for or related to uncollected PACE Assessments. The County has no liability to a property owner for or related to energy savings improvements funded under a PACE Program. The Board and the District shall for all purposes be considered independent entities and shall not be considered subdivisions of the County.

3305. Greater Kansas City Clean Energy Development Board, Established

The Greater Kansas City Clean Energy Development Board is established.

- 3305.1 Membership. The Board shall consist of five members:
- a. Chair of the Jackson County Legislature;
  - b. The Mayor of the City of Sugar Creek, MO;
  - c. The Legislative Auditor of Jackson County, MO; and,
  - d. Two members selected by majority vote of the three permanent members, who shall serve terms of two years.

3305.2 Expenses. The Board shall establish reasonable procedures for Board members to be reimbursed for expenses incurred due to their Board service.

3306. Greater Kansas City Clean Energy Development Board, Authority

The Board is authorized to exercise all powers which may be exercised by similar boards pursuant to the PACE Act, as it may be revised from time to time, and to adopt bylaws addressing its operations as are consistent with the PACE Act and this chapter.

3306.1 Start-Up Phase. The Missouri Clean Energy Authority, LLC (MOCEA) shall serve as Program Administrator for the Board during its initial or start-up phase. Such start-up phase shall extend for a period of one (1) year, and may be extended by vote of the Board for a period up to three (3) years. During the start-up phase, MOCEA shall be responsible for all costs and fees associated with the Board's operations.

3307. PACE Act, Application

The requirements of the PACE Act as pertain to the authority, number, qualifications, terms, and manner of appointment of persons to serve on the Greater Kansas City Clean Energy Development Board may, from time to time, be revised, and the Legislature may act in accordance with the PACE Act, as from time to time revised, so that at all times the Greater Kansas City Clean Energy Development Board shall be and remain legally authorized to exercise the powers of a Clean Energy Development Board under the PACE Act.

3308. Consumer Protections.

The Greater Kansas City Clean Energy Development Board shall adopt, before any project may be approved by the Board, consumer protection policies and standards that address, at a minimum, the following areas:

- (a) Consumer eligibility;
- (b) Minimum required disclosures and documentation to be provided to the consumer;
- (c) Maximum rates and fees to be charged to the consumer; (d) Post-funding support for the consumer;
- (e) Data and cyber-security standards to protect consumer data and personal information that comply with the Financial Services Modernization Act of 1999, Title V;
- (f) The prohibition of PACE program practices that are misleading, deceptive, or violative of federal, state or local laws regarding marketing practices;

- (g) Compliance with all federal, state, or local laws regarding protected classes;
- (h) Availability of the program to low-income homeowners who are otherwise eligible for the program; and,
- (i) Implementation of a reasonable maximum finance amount.

These consumer protections shall either meet or exceed the national PACE standards as outlined in the Residential PACENation Consumer Protection Policies, as revised from time to time, viewable at <http://pacenation.us/consumer-protections/>.

### 3309. Reporting and Auditing.

The Greater Kansas City Clean Energy Development Board shall provide for an annual audit, and the Board shall collect and provide data regarding projects for inspection to allow for analysis of outcomes and the efficacy of the program.

Section B. Further Authority. The Legislature and all County officials, agents, and employees are hereby authorized to take such further actions and execute such documents as may be necessary or desirable to carry out and comply with the intent of this Ordinance, and to carry out, comply with, and perform the duties hereunder and under the PACE Act.

Section C. Severability and Superseding of Inconsistent Provisions. The sections of this Ordinance shall be severable. In the event that any section of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining sections of this Ordinance shall be valid, unless the court finds the valid sections of the Ordinance are



so essential and inseparably connected with and dependent upon the invalid sections(s) that it cannot be presumed that this body would have enacted the voided sections without the void ones, or unless the court finds that the void sections standing alone are incomplete and are incapable of being executed in accordance with the legislative intent. The provision of this Ordinance hereby amend any provision of any ordinance of Jackson County inconsistent the terms hereof, but only to the extent of such inconsistency.

Effective Date: This Ordinance shall be effective immediately upon its passage by the County Executive.

APPROVED AS TO FORM:

  
Chief Deputy County Counselor

  
County Counselor

I hereby certify that the attached ordinance, Ordinance No. 5044 introduced on October 30, 2017, was duly passed on November 6, 2017 by the Jackson County Legislature. The votes thereon were as follows:

Yeas 7


Nays 0

Abstaining 0

Absent 2

This Ordinance is hereby transmitted to the County Executive for his signature.

11-6-17  
Date

  
Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance No. 5044.

11/13/2017  
Date

  
Frank White, Jr., County Executive