



Metropolitan Nashville and Davidson County, TN

Legislation Text

File #: RS2022-1767, **Version:** 1

A resolution affirming the intent of the Metropolitan Government of Nashville and Davidson County to explore a commercial property assessed clean energy and resiliency (C-PACER) program within Nashville and Davidson County, Tennessee.

WHEREAS, Tennessee Code Annotated, Title 68, was amended in 2021 to add Chapter 205 known as the “Commercial Property Assessed Clean Energy and Resilience Act” (“Act”); and

WHEREAS, through the adoption of the Act, it was the intent of the Tennessee General Assembly to authorize the establishment of commercial property assessed clean energy and resiliency (“C-PACER”) programs that local governments may voluntarily implement to ensure that free and willing owners of agricultural, commercial, industrial, and multifamily residential properties, as defined by the Act, can obtain low-cost, long-term financing for qualifying improvements; and

WHEREAS, through a C-PACER program, a local government may authorize a special assessment on real property, by way of a written assessment contract entered into voluntarily by a property owner and the local government, whereby the benefiting property owner agrees to repay the long-term financing for qualifying C-PACER improvements through a special assessment which becomes a lien on the property and is collected in the same manner as ad valorem property taxes; and

WHEREAS, the Tennessee General Assembly found that authorization of local governments to adopt C-PACER programs is a valid public purpose to increase economic development, lower insurance costs, and lower disaster and emergency response and aid costs to local governments; and

WHEREAS, unlike commercial loans, C-PACER financing is secured by a local government lien and it has a long-term, fixed-rate that makes annual payments more affordable to applicants pursuing projects. In addition, unlike commercial loans, because C-PACER improves the property, it is transferable upon sale to a new owner; and

WHEREAS, C-PACER programs also encourage a decrease in energy and water usage and corresponding costs, and further realize associated environmental, economic, and social co-benefits; and

WHEREAS, pursuant to Tennessee Code Annotated § 68-205-104, a local government may establish a C-PACER program and exercise all powers granted under the Act; and

WHEREAS, the 2021 Report to the Mayor on the Metropolitan Government’s Climate Change Mitigation Action Plan recommended that Nashville pursue adoption of a local C-PACER program to unlock financing tools that support sustainability and resiliency within Nashville and Davidson County’s built infrastructure; and

WHEREAS, the Metropolitan Government of Nashville and Davidson County has adopted government and community targets of reducing greenhouse gas emissions by eighty percent (80%) by 2050, and energy, water, and resiliency improvements can support achieving this target; and

WHEREAS, pursuant to Tennessee Code Annotated § 62-205-105(a), the Metropolitan Government desires to declare its intent to explore the adoption of a C-PACER program within Nashville and Davidson County.

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That the Metropolitan Council does hereby affirm its interest in establishing a Commercial Property Assessed Clean Energy and Resilience (C-PACER) program within Nashville and Davidson County.

Section 2. That the Metropolitan Council finds that the financing of qualified C-PACER projects through voluntary special assessments is a valid public purpose by virtue of the ability to increase economic development, lower disaster and emergency response and aid costs, promote energy efficiency and reduction of greenhouse gas emissions, and promote efficient use of water resources.

Section 3. That the Metropolitan Council further finds that, by exploring the establishment of a C-PACER program and setting terms, the Metropolitan Government of Nashville and Davidson County intends to authorize direct financing between property owners and capital providers as the means to finance qualified projects.

Section 4. That the Metropolitan Council further finds that pursuant to established terms, the Metropolitan Government of Nashville and Davidson County intends to authorize special assessments, entered into voluntarily by a property owner with the local government by means of the written assessment contract, as the means to repay the financing for qualified projects available to property owners.

Section 5. That the Metropolitan Council further finds that qualified projects are those projects approved by the Metropolitan Government's C-PACER program administrator, involving the installation or modification of permanent improvements installed and affixed to commercial property, and intended to (a) decrease energy consumption or demand through the use of efficiency technologies, products, or activities that reduce or support the reduction of energy consumption; (b) support the production of clean, renewable energy, including through the use of a product, device, or interacting group of products or devices on the customer's side of the meter that generates electricity, provides thermal energy, or regulates temperature; (c) decrease water consumption or demand and address safe drinking water through the use of efficiency technologies, products, or activities that reduce or support the reduction of water consumption; (d) allow for the reduction or elimination of lead from water that may be used for drinking or cooking; (e) increase water or waste water resilience, including through storm retrofits, flood mitigation, and stormwater management, or wind resistance, energy storage, microgrids, and other resilience projects approved by the local government; or (f) increase seismic resilience of new or existing buildings by making improvements necessary to comply with seismic provisions of the locally adopted technical building codes.

Section 6. That the Metropolitan Council further finds that the boundaries of the proposed C-PACER program will be the entirety of Davidson County.

Section 7. That the proposed C-PACER program will be administered by the Office of the Metropolitan Trustee ("Trustee") with support by other Metropolitan Government departments as deemed appropriate. The Trustee will be the point of contact for inquiries about the collection of proposed special assessments with property taxes imposed on the assessed property.

Section 8. That the Metropolitan Council further finds that the Metropolitan Trustee will work with potential capital providers to ensure that the C-PACER special assessment is correctly billed, collected and disbursed per the financing agreement. The Metropolitan Government of Nashville and Davidson County shall not have any responsibility for the C-PACER financing, other than imposition of the C-PACER special assessment per the financing agreement.

Section 9. That pursuant to Tennessee Code Annotated § 68-205-105(a)(2), a hearing for the public to comment upon this proposed program shall be held October 4, 2022 at 6:30 p.m. in the Metro Council

Chambers, Historic Metro Courthouse, 1 Public Square, 2nd Floor, Nashville, Tennessee 37201.

Section 10. That this resolution shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This resolution affirms the intent of the Metropolitan Government to explore a commercial property assessed clean energy and resiliency (C-PACER) program by making the findings required by state law and setting a public hearing. The resolution represents the first step required under state law to institute the program. Title 68 of the Tennessee Code Annotated was amended in 2021 to add Chapter 205 creating the C-PACER program to authorize local governments to implement a program offering commercial property owners an alternative method to obtain long-term financing for clean energy and resiliency improvements to real property.

This resolution complies with Tenn. Code Ann. § 68-205-105(a) requiring, that as the initial step to implementation, the local government adopt a resolution that:

1. makes a finding that financing C-PACER projects through assessments is a valid public purpose; *(Section 2 of the resolution)*
2. states the intent to authorize direct financing between property owners and capital providers for the C-PACER projects; *(Section 3 of the resolution)*
3. states that the local government intends to authorize special assessments, via a written assessment contract, as a means to repay the financing; *(Section 4 of the resolution)*
4. includes a description of the types of qualified projects that may be subject to special assessments; *(Section 5 of the resolution)*
5. includes a description of the boundaries of the region; *(Section 6 of the resolution)*
6. includes a description of the administration of the program; *(Section 7 of the resolution)*
7. if a third party will be involved in servicing the assessment payments, a description of the procedures; *(Section 8 of the resolution)*
8. designates the time and place for a public hearing on the program; and *(Section 9 of the resolution)*
9. identifies the local official and tax collector for the program. *(Section 8 of the resolution)*

The remaining steps required under state law to implement the C-PACER program are the public hearing (to be held at the October 4, 2022 Council meeting) and the adoption of a separate resolution establishing the specific terms of the program. Once all the steps are completed, the program should allow commercial property owners with a qualifying project to enter a written contract with Metro to enact a special assessment on the property that will repay the long-term financing in installments. The special assessment will become a first and prior lien on the property with the same priority status as a tax lien and will be collected by the Metro Trustee in the same manner as property taxes. A C-PACER assessment lien will run with the property and cannot be eliminated by a back tax sale.