COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 260, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 36-9-39.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 39.5. Clean Energy Improvement Financing Districts

Sec. 1. This chapter applies to all political subdivisions except townships.

Sec. 2. As used in this chapter, "clean energy improvement" means a fixture, product, system, device, or interacting group of devices that is permanently installed behind the meter of any building to:

(1) produce energy from one (1) or more clean energy resources; or

(2) reduce energy consumption.

Sec. 3. As used in this chapter, "clean energy resources" means the following sources and programs for the production or conservation of electricity:

(1) Energy from wind.

(2) Solar energy.

(3) Photovoltaic cells and panels.

(4) Energy from:

(A) landfill gas to electric systems; and

(B) manure to gas systems.

(5) Geothermal heating and cooling systems.

(6) Energy from waste heat recovery systems.

(7) Conservation measures that reduce electricity consumption.

Sec. 4. (a) As used in this chapter, "conservation measure" means:

(1) a facility alteration;

(2) an alteration of a structure (as defined in IC 36-1-10-2); or

(3) a technology upgrade;

designed to reduce energy or other operating costs.

(b) The term includes the following:

(1) Providing insulation of the facility or structure and systems in the facility or structure.

(2) Installing or providing for window and door systems, including:

(A) storm windows and storm doors;

(B) caulking or weatherstripping;

(C) multiglazed windows and doors;

(D) heat absorbing or heat reflective glazed and coated windows and doors;

(E) additional glazing;

(F) the reduction in glass area; and

(G) other modifications that reduce energy consumption.

(3) Installing automatic energy control systems.

(4) Modifying or replacing heating, ventilating, or air conditioning systems.

(5) Unless an increase in illumination is necessary to conform to Indiana laws or rules or local ordinances, modifying or replacing lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility or structure.

Sec. 5. As used in this chapter, "designated body" refers to a legislative body that administers this chapter with respect to a district. The term includes a legislative body designated under section 7(c) of this chapter.

Sec. 6. As used in this chapter, "district" refers to a clean energy improvement financing district established in a resolution or ordinance adopted under section 7 of this chapter.

Sec. 7. (a) The legislative body of a political subdivision, or the legislative bodies of two (2) or more political subdivisions, may adopt a preliminary resolution or ordinance to:

(1) establish a clean energy improvement financing district; and

(2) authorize in the district the financing of clean energy improvements under this chapter.

(b) A preliminary resolution or ordinance adopted under subsection (a) must contain the following:

(1) The geographic boundaries of the proposed district.

(2) A description of the proposed method of financing of

clean energy improvements installed in the district.

(c) If the legislative bodies of two (2) or more political subdivisions adopt a preliminary resolution or ordinance, the preliminary resolutions or ordinances must:

(1) comply with subsection (b);

(2) be identical; and

(3) designate one (1) legislative body to administer the requirements of this chapter with respect to the district established in the preliminary resolution or ordinance.

A legislative body designated under subdivision (3) must have authority to issue bonds.

(d) The boundaries of a district need not coincide with those of other political subdivisions.

Sec. 8. A designated body may do the following:

(1) Enter into an agreement with another entity concerning the following:

(A) The development of marketing and public information programs for a district.

(B) The issuance of bonds under this chapter.

(2) Apply for grants, loans, or other awards on behalf of the district.

Sec. 9. The designated body shall publish notice of a hearing on the preliminary resolution or ordinance in accordance with IC 5-3-1 and on the designated body's web site. The notice must state the date, time, and place at which the designated body will hear all interested persons.

Sec. 10. (a) At the hearing specified in the notice under section 9 of this chapter, the designated body shall do the following:

(1) Hear interested persons.

(2) Receive and compile data on the costs of clean energy improvements proposed to be installed in buildings located in the district.

(3) Rescind, modify, or confirm the resolution or ordinance.

(b) If the designated body confirms, or modifies and confirms, the resolution or ordinance:

(1) the clean energy improvement financing district is established; and

(2) the clean energy improvements installed in buildings located in the district may be financed according to the resolution or ordinance.

Sec. 11. (a) A property owner that desires to participate in the proposed clean energy improvement financing shall submit an application to the designated body in the form and according to a schedule determined by the designated body. The application must contain the following:

(1) The address and legal description of the property on which the clean energy improvement for which the property owner desires financing will be installed.

(2) A description and the cost of all clean energy improvements proposed to be installed on the property.

(3) A statement of intent to participate in the financing of the clean energy improvement through the imposition of a special assessment on the property.

(4) A statement showing no delinquent property taxes or special assessments on the property for the shorter of the following:

(A) The two (2) immediately preceding taxable years.

(B) The period during which the property owner has owned the property.

(5) A statement that the assumed cost savings to the owner of the property over the useful life of the clean energy improvement, based on industry standards, will exceed the actual cost of the clean energy improvement.

(b) The designated body shall:

(1) review; and

(2) approve or deny;

an application submitted under subsection (a) according to a schedule determined by the designated body. The designated body shall use the costs reported under subsection (a)(2) to determine a total assessment for each property for which an application was approved.

(c) A property owner may withdraw or amend an application at any time before a special assessment is levied on the owner's property under section 12 of this chapter.

(d) The designated body shall establish a procedure by which the designated body may adjust the amounts of assessments determined under subsection (b) to ensure that collections from the assessments are adequate to make all payments on the bonds as described in section 15 of this chapter.

Sec. 12. (a) Based on the assessments determined under section 11(b) of this chapter, and subject to any withdrawal or amendment of an application under section 11(c) of this chapter, a designated body shall have an assessment roll prepared and levy a special assessment on each property in the clean energy improvement financing district for which one (1) or more clean energy improvements will be financed under this chapter. The assessment roll must include the following for each property subject to an assessment under this chapter:

(1) The name of the owner.

(2) A description of the property.

(3) The total assessment.

(4) The annual installment of the assessment determined under section 13 of this chapter.

An assessment indicated against a property on the assessment roll is presumed to be of special benefit to the property.

(b) Immediately after the assessment roll is prepared and filed, the designated body shall publish a notice according to IC 5-3-1. The assessment roll is not considered to be completed for purposes of the subsection until any adjustments under section 11(d) of this chapter are made. The notice must do the following:

(1) Describe the purpose of the assessment.

(2) State that the assessment roll, with the names of owners and descriptions of property subject to assessment and the amounts of any assessments, is on file and may be inspected in the designated body's office.

(c) Following any adjustments under section 11(d) of this chapter, the designated body shall complete and confirm the assessment roll. The assessment roll must show the total assessment opposite each name and a description of the property on the roll. The designated body shall:

(1) deliver the completed assessment roll to:

(A) the auditor and treasurer of each county in which a property listed on the roll is located; and

(B) the municipal fiscal officer if the financing under this chapter is initiated by a municipality; and

(2) publish a notice of the completed assessment roll according to IC 5-3-1.

(d) Except as provided in subsection (e), the decision of the designated body as to all assessments is final and conclusive on all parties.

(e) An owner of an assessed property may appeal a special assessment to the circuit or superior court for the county in which the assessed property is located. The clerk of the court shall certify the judgment to the designated body. The designated body shall immediately notify the property owner of the amount of the assessment fixed by the court.

Sec. 13. (a) All assessments under this chapter are payable to the treasurer of the county in which the property that is subject to the assessment is located. The county treasurer shall:

(1) annually over the twenty (20) year bond payment period under section 15 of this chapter bill to the property an amount equal to the quotient of the total assessment determined for the property under this chapter divided by twenty (20); and

(2) bill the amount under subdivision (1) annually to a property regardless of any changes in ownership of the property.

(b) Subject to subsection (d), a county treasurer shall bill, collect, and enforce the assessments in the same manner that property taxes are billed, collected, and enforced.

(c) A county treasurer shall distribute assessments collected under subsection (b) to the auditor of the county in which the designated unit that levied the assessments is located for deposit in a separate special fund under section 14 of this chapter.

(d) The county treasurer shall specify on each property tax statement that the assessment under this chapter is separate and distinct from the property tax.

Sec. 14. The proceeds from assessments levied by a designated body under this chapter constitute a separate special fund for the security and payment of any bonds issued by the designated body

under section 15 of this chapter, including:

(1) debt service reserves to secure the payment of the bonds; and

(2) expenses, duties, and costs associated with:

(A) the issuance, sale, or payment of the bonds;

(B) the billing, collection, or enforcement of the assessments; or

(C) an agreement described in section 8 of this chapter.

Sec. 15. (a) The designated body shall issue bonds in anticipation of the collection of the assessments to finance the installation of clean energy improvements in buildings, regardless of whether the buildings or the real property on which the buildings are located are privately or publicly owned. The designated body shall:

(1) issue and sell the bonds in the manner prescribed for other bonds of the political subdivision; and

(2) make the payments on the bonds described in section 14 of this chapter over a term of twenty (20) years.

The designated body may issue the bonds at any time after a district is established.

(b) The designated body shall use the proceeds of the bonds issued under subsection (a) to pay:

(1) the costs of the clean energy improvements for the properties for which applications were approved under section 11(b) of this chapter, subject to any adjustments under section 11(d) of this chapter or any appeals under section 12 of this chapter; and

(2) to the extent permitted by federal law, any expenses, duties, or costs described in section 14(2) of this chapter.

(c) Bonds issued under this section:

(1) are not an obligation of the political subdivision that issued bonds but are an indebtedness of the district; and

(2) are payable solely from proceeds of special assessments levied by the designated body under section 12 of this chapter.

(Reference is to SB 260 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Utilities and Technology.

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LONG, Chairperson