COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Utilities and Technology, 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

Sec. 1. This chapter applies to all units 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) Renewable energy resources (as defined in IC 8-1-8.8-10).

(2) 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 body that administers this chapter with respect to a unit.

Sec. 6. As used in this chapter, "program" refers to a clean energy improvement financing program established under section 7 of this chapter.

Sec. 7. The legislative body of a unit may adopt a preliminary resolution or ordinance to establish a clean energy improvement financing program. The preliminary resolution or ordinance must do the following:

(1) Establish one (1) or more methods to finance clean energy improvements installed in buildings located in the unit. Permissible methods include:

(A) soliciting guaranteed private equity financing; and

(B) obtaining federal grants, loans, or both.

(2) Prohibit the legislative body from issuing bonds to finance clean energy improvements under this chapter.

(3) Designate a body to administer the clean energy improvement financing program. The legislative body may designate itself under this subdivision.

(4) Provide that each property owner must contribute a percentage of the total cost of the property owner's clean energy improvement to be eligible to participate in the program. The percentage must:

(A) be at least ten percent (10%) but not more than twenty-five percent (25%); and

(B) apply uniformly across all property owners in the unit.

(5) Authorize the designated body to use contributions described in subdivision (4) to pay for costs incurred in administering the program.

(6) Require independent review by a financial institution, an energy utility (as defined in IC 8-1-2.5-2), or an energy development company of each clean energy improvement for which a property owner applies for financing under this chapter to ensure that the total cost of the clean energy improvement, including any cost savings to the property owner over the useful life of the clean energy improvement, is compatible with and appropriate for the property owner.

(7) Establish a twenty (20) year payment period for payment of special assessments levied under section 11 of this chapter.

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

(1) Apply for grants, loans, or other awards on behalf of a unit.

(2) Issue requests for proposals for the following:

(A) Private equity financing of clean energy improvements under this chapter.

(B) Contracts for technical assistance in developing energy conservation and clean energy programs.

Sec. 9. (a) The legislative body shall publish notice of a hearing on the preliminary resolution or ordinance in accordance with IC 5-3-1. The notice must state the date, time, and place at which

the legislative body will hear all interested persons.

(b) At the hearing specified in the notice under subsection (a), the legislative body shall do the following:

(1) Hear interested persons.

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

(c) If the legislative body confirms, or modifies and confirms, the resolution or ordinance:

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

(2) eligible clean energy improvements installed in buildings located in the unit may be financed according to the financing method approved by the legislative body.

Sec. 10. (a) A property owner that desires to participate in the program 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 state of intent to participate in the financing of the clean energy improvement through the imposition of a special assessment on the property.

(4) A verified statement from the property owner that the property owner has:

(A) owned; and

(B) occupied or otherwise used, depending on the property's classification;

the property for at least the immediately preceding twelve (12) months.

(5) 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 set forth in the verified statement required under subdivision (4).

(6) 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.

(7) Payment of the property owner's contribution toward the clean energy improvement in an amount equal to the total costs reported under subdivision (2) multiplied by the percentage set forth in the resolution or ordinance adopted by the legislative body under section 9 of this chapter.

(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 11 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 required under the financing method approved by the legislative body.

Sec. 11. (a) Based on the assessments determined under section 10(b) of this chapter, and subject to any withdrawal or amendment of an application under section 10(c) of this chapter, a legislative body shall have an assessment roll prepared and levy a special assessment on each property in the unit 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 12 of this chapter.

(b) Immediately after the assessment roll is prepared and filed,

the legislative body shall publish a notice according to IC 5-3-1. The assessment roll is not considered to be completed for purposes of this section until any adjustments under section 10(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 10(d) of this chapter, the legislative 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 legislative body shall:

(1) deliver the completed assessment roll to:

(A) the auditor and treasurer of the county in which the unit 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 (c), the decision of the legislative body as to all special 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. 12. (a) All assessments under this chapter are payable to the treasurer of the county in which the assessed property is located. The county treasurer shall:

(1) annually over the twenty (20) year payment period established in the resolution or ordinance adopted under section 9 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 property that is subject to the assessment is located for deposit in a separate special fund established by the legislative body for the payment of the financing method approved by the legislative body under this chapter.

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

Sec. 13. (a) The legislative body shall procure financing in a manner authorized in the resolution or ordinance adopted under section 9 of this chapter 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.

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

(1) the costs of the clean energy improvements for the properties for which applications were approved under section 10(b) of this chapter, subject to any adjustments under section 10(d) of this chapter or any appeals under section 11 of this chapter; and

1 **(2) any expenses, duties, or costs incurred in administering**
2 **this chapter.**

(Reference is to SB 260 as printed January 21, 2011.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 1.

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Merritt **Chairperson**