

be those businesses that emit volatile organic compounds (“VOCs”), nitrogen oxides (“NOx”), or sulfur dioxides (“SO<sub>2</sub>”); use asphalt, rubber, metal finishers, plastics, or synthetic materials in the manufacturing or construction trades; or perform work involving the coating or painting of metal surfaces.<sup>1152</sup> Steel, chemical, and utility companies and automobile manufacturers, are all affected by the requirement to control air emissions and would be eligible for OAQDA incentives.<sup>1153</sup> OAQDA offers a variety of tax incentives for projects improving air quality and can even provide 100% exemption for a number of taxes.<sup>1154</sup>

### **Energy Special Improvement Districts (“ESID”)**

Legislation enacted in Ohio in July 2009 (House Bill 1) expanded existing special improvement district law by authorizing local municipalities and townships to create “special energy improvement districts” that offer property owners financing to install photovoltaic (PV) or solar-thermal systems on real property.<sup>1155</sup> In June 2010, legislation (Senate Bill 232) provided additional authorization to municipalities to authorize financing of geothermal, customer-generated systems (including wind, biomass, and gasification systems 250 kW and below or 250 kW and above as long as they serve all or part of the owner’s on-site load) and energy-efficiency improvements that are permanently fixed to the property within a special improvement district (“SID”).<sup>1156</sup> In general, as detailed in Chapter 2, a SID is created either by petition of the owners of real property within a proposed district or by an existing qualified nonprofit corporation.<sup>1157</sup> Creation is initiated in one of two ways: (1) owners of at least 60% of the front footage (excluding church or government property) petition the appropriate legislative authority, or (2) owners of at least 75% of the land area within the proposed SID petition the appropriate legislative authority. Normally, a SID is created as a general special improvement district. A general SID provides for the development of a plan for projects and services benefitting the district, and property owners are specially assessed for the plan’s projects and services, including projects and services dealing with education, safety, and transportation improvement.<sup>1158</sup> Property owners pay special assessments that cover costs of projects within the district and provide a source of revenue that secures bonds issued by

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<sup>1152</sup> The Ohio Air Quality Development Authority, Large Business, Affected Businesses, <http://ohioairquality.ohio.gov/Large-Business/Affected-Businesses>.

<sup>1153</sup> *Id.*

<sup>1154</sup> These include tangible personal property tax, real property tax, corporate franchise tax, sales and use tax, and interest income on bonds and notes issued by OAQDA. For more information, see The Ohio Air Quality Development Authority, Large Business, Financial Benefits, <http://ohioairquality.ohio.gov/Large-Business/Financial-Benefits>.

<sup>1155</sup> United States Department of Energy, Local Option—Special Energy Improvement Districts: Ohio, <http://energy.gov/savings/local-option-special-energy-improvement-districts>.

<sup>1156</sup> *Id.*

<sup>1157</sup> R.C. 1710.02.

<sup>1158</sup> United States Department of Energy, Local Option—Special Energy Improvement Districts: Ohio, <http://energy.gov/savings/local-option-special-energy-improvement-districts>.

governments or their authorized agencies to pay costs of developing the project.<sup>1159</sup> In a general SID, parcels of real property in the district must consist of a contiguous area of real property.<sup>1160</sup> Unlike a regular SID, an Energy SID does not have to include contiguous properties and can provide spot financing anywhere within a broad territory.<sup>1161</sup> Property owners anywhere in the district can implement energy-efficiency improvements using technologies such as solar water heat, solar thermal electric, solar thermal process heat, photovoltaic, wind, biomass, geothermal heat pumps, anaerobic digestion, and geothermal direct-use energy.<sup>1162</sup> ESID's require petitions signed by all property owners within the SID area. If a qualified nonprofit corporation does not already exist for the SID, one must be created. The corporation's articles of incorporation must be approved by resolution of each participating political subdivision. The owners of real property within the SID boundaries become members of the nonprofit corporation.

Any municipality choosing to establish an ESID can issue general obligation bonds or revenue bonds (secured solely by special assessment payments) or apply for state or federal money to fund such programs.<sup>1163</sup> Property owners who opt in to such a program and install solar, geothermal, wind, biomass, gasification, or energy efficiency improvements permanently affixed to their real properties using municipal financing must agree to a special assessment on the property tax bill for up to 30 years to pay for the financing secured through this mechanism.<sup>1164</sup> Municipalities and townships interested in creating such districts and providing financing for property owners must approve a special energy improvement district via ordinance or resolution after receiving the resident petition.<sup>1165</sup> An SID board of directors must be created to implement the program. Each local municipality or township must determine specific eligibility criteria, the maximum financing amount and interest rates, and other terms.<sup>1166</sup>

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<sup>1159</sup> *Id.*

<sup>1160</sup> R.C. 1710.02(A) ("All territory in a special improvement district shall be contiguous . . .").

<sup>1161</sup> *Id.* ("The area of each district shall be contiguous; except that the area of a special improvement district may be noncontiguous if all parcels of real property included within such area contain at least one special energy improvement thereon.").

<sup>1162</sup> R.C. 1710.01(I) (defining "special energy improvement project" as "any property, device, structure, or equipment necessary for the acquisition, installation, equipping, and improvement of any real or personal property used for the purpose of creating a solar photovoltaic project, a solar thermal energy project, a geothermal energy project, a customer-generated energy project, or an energy efficiency improvement, whether such real or personal property is publicly or privately owned").

<sup>1163</sup> United States Department of Energy, Local Option–Special Energy Improvement Districts: Ohio, <http://energy.gov/savings/local-option-special-energy-improvement-districts>.

<sup>1164</sup> *Id.*

<sup>1165</sup> *Id.*

<sup>1166</sup> *Id.*

## **Property Assessed Clean Energy (“PACE”)**

The “PACE” project process is one way Ohio communities are using energy-efficiency funding authorized by ESID legislation. PACE presents a way to finance energy-efficiency, renewable-energy, and water-conservation upgrades to buildings.<sup>1167</sup> PACE can pay for new heating and cooling systems, lighting improvements, solar panels, water pumps, insulation, and more for almost any property – homes, commercial, industrial, non-profit, and agricultural. PACE provides an opportunity for businesses and homeowners to save money by making their buildings more efficient, thus creating more property value as well.<sup>1168</sup> PACE pays for projects up front at 100% of the cost. Property owners can opt in to add 100% of the financed cost of the improvements to a special property-tax assessment on their property for up to 30 years. PACE financing legislation has been enacted by 28 states, including Ohio. Additionally, PACE financing stays with a building upon sale and is easy to share with tenants. State and local governments sponsor PACE financing to create jobs, promote economic development, and conserve natural resources.<sup>1169</sup>

Ohio began developing PACE programs in 2010. Not all local governments in Ohio offer PACE financing. Ohio currently has three PACE programs with funded projects happening throughout the state.

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<sup>1167</sup> ODSA has partnered with Ohio port authorities as they originate loans for projects that make business and nonprofit facilities more energy efficient. This is done through the Loan Loss Reserve program, which offers credit enhancement to eligible Ohio port authorities as they originate loans. Eight port authorities are already participating in the program. More information can be found at Ohio Development Services Agency, Community/Loan Loss Reserve Program, [http://development.ohio.gov/cs/cs\\_llr.htm](http://development.ohio.gov/cs/cs_llr.htm).

<sup>1168</sup> The Ohio State University, Energize Ohio, Property Assessed Clean Energy (PACE) Financing/Special Energy Improvement Districts (SID), <http://energizeohio.osu.edu/incentives/property-assessed-clean-energy-pace-financingspecial-energy-improvement-districts-sid>.

<sup>1169</sup> Am.Sub.S.B. 232 (2010) includes a provision for aggregating renewable energy credits created by projects within a district. The bill also allows any electricity savings or demand reduction resulting from projects within a district to count towards the electric distribution utility’s compliance under the Energy Efficiency Resource Standard (22% reduction in electricity use by 2026 and peak demand reduction requirements under R.C. 4928.66). This would not include any industrial customers who choose to commit its savings to the utility in exchange for an exemption from the utility’s energy efficiency cost recovery mechanism, as provided by law. The district would have to report to the utility regarding energy projects implemented in the special energy improvement district on a quarterly basis.

BetterBuildings Northwest Ohio is a program that seeks to enable the transformation of energy use and conservation among local businesses in the Toledo area. The program has the goal of achieving at least 20% energy savings per project, with many projects that are whole building retrofits averaging from 30% to 50%. BetterBuildings also has the objective of removing market barriers for businesses to complete energy efficiency projects, the largest of which is the lack of available funding or capital budgets. Its financing programs offer 100% financing of all project costs, with no upfront out-of-pocket expense to the business. Since its inception BetterBuildings has completed 80 buildings with a project value of energy conservation measures (“ECMS”) of over \$30,000,000. The program has become one of the largest and most highly recognized PACE districts in the country.<sup>1170</sup>

The Greater Cincinnati Energy Alliance is a nonprofit organization dedicated to creating energy-related economic development programs to support energy-efficiency and renewable-energy projects. The Energy Alliance, in partnership with the Port of Greater Cincinnati Development Authority, is working with communities throughout Southwest Ohio to implement PACE programs. Commercial property owners across the region have indicated an interest in PACE, and a pipeline of projects is in development.<sup>1171</sup>

### **Coal Research and Development Program**

The Ohio Coal Development Office (housed within ODSA) invests in the development and implementation of technologies that can use Ohio's vast reserves of coal in an economical, environmentally sound manner. The Coal Research Consortium provides grants to research institutions studying mechanisms critical to emissions formation, methods of control, and for uses of coal as a feedstock for other processes.<sup>1172</sup> This includes fundamental research, development, and inquiry that enable the conversion or use of Ohio coal as a fuel or chemical feedstock in an environmentally acceptable manner. Additionally, the Coal Demonstration and Pilot Program issues grants to utility power producers, clean coal technology developers, research and development firms, and universities directed for discovery of new technologies or the demonstration or application of existing technologies that enables the conversion or use of Ohio coal as a fuel or chemical feedstock in an environmentally acceptable manner.<sup>1173</sup>

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<sup>1170</sup> “Improving Buildings Across Northwest Ohio by Financing Energy Efficiency Technology,” [www.toledoportauthority.org/Programs/BetterBuildingsNWO.aspx](http://www.toledoportauthority.org/Programs/BetterBuildingsNWO.aspx).

<sup>1171</sup> Additional information can be found by visiting the Greater Cincinnati Energy Alliance at <http://greatercea.org>.

<sup>1172</sup> Ohio Development Services Agency, Advanced Energy and Efficiency Programs, [http://development.ohio.gov/bs/bs\\_ohiocoaldev.htm](http://development.ohio.gov/bs/bs_ohiocoaldev.htm).

<sup>1173</sup> *Id.*