FINAL BILL REPORT
SSB 5862

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Synopsis as Enacted

Brief Description: Concerning technical changes to the commercial property assessed clean energy and resiliency program.

Sponsors: Senate Committee on Housing & Local Government (originally sponsored by Senators Lovelett, Rivers, Fortunato, Gildon, Kuderer, Lovick, Nguyen, Nobles, Stanford, Wilson, C. and Wilson, J.).

Senate Committee on Environment, Energy & Technology
Senate Committee on Housing & Local Government
House Committee on Local Government

Background: Commercial Property Assessed Clean Energy and Resiliency. Commercial Property Assessed Clean Energy and Resiliency (C-PACER) programs provide a financing mechanism to encourage the installation of renewable energy systems and energy efficiency improvements on multifamily residential, industrial, agricultural or commercial properties. Eligible improvements frequently include installation of solar thermal panels, high efficiency air conditioning, and insulation. C-PACER programs allow a property owner to finance the up-front cost of energy or other eligible improvements on a property and then pay the costs back over time through a property assessment. The Legislature established the regulatory framework for state and countywide C-PACER programs during the 2020 regular session.

Special Assessments. Special assessments, or benefit assessments, may be imposed on benefitted property to pay for local improvements or to finance their activities and public facilities. Special assessments are not property taxes, but rather special charges created to recover funds to pay for services or improvements that have a particular direct benefit to land and their owners. Unlike property taxes that are based on the assessment value of the property, special assessments are generally determined by an assessment plan meant to charge amounts to a parcel of property that reflect the actual benefit the property will receive. Special assessments are not subject to the same limitations and procedures that govern property tax levies.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Liens and Enforcement. Collection and enforcement of the C-PACER lien or C-PACER financing installment payments, including foreclosure, is the responsibility of the capital provider. The lien must be enforced by the capital provider at any time after one year from the date of delinquency in the same manner as delinquent property taxes, except that a sworn declaration by the capital provider attesting to the delinquency must be used in lieu of the certificate of delinquency.

The capital provider may sell or assign for consideration any and all C-PACER liens received from the participating county. Before a capital provider may enter into a financing agreement to provide C-PACER financing of a qualified project, the capital provider must receive written consent from any holder of a lien, mortgage, or security interest in the real property that the property may participate in the program and the C-PACER lien will take precedence over all other liens except for a lien for taxes imposed by the state, a local government, or junior taxing district. A capital provider may collect delinquent payments in the same manner a county collects delinquent real property taxes, including lien foreclosure.

Summary: The capital provider of C-PACER funds is responsible for billing, collection, and enforcement of delinquent C-PACER liens or C-PACER assessment installments. The C-PACER lien may be foreclosed in the same manner as a mortgage lien. The sale of the property may not impact the priority of the C-PACER lien. A capital provider may not seek deficiency judgement with regard to any unpaid assessment at the time of sale.

The capital provider may collect delinquent interest and penalties in the same manner provided by the financing agreement during a foreclosure proceeding. The proceeds of the foreclosure sale of the property must be first applied to the outstanding liens for taxes imposed by the state, local government, or junior taxing district, and then applied to the delinquent assessments, interest, and penalties secured by the C-PACER lien.

Votes on Final Passage:

Senate	45	0
House	95	3

Effective: March 17, 2022