

**Memorandum**  
**Office of Jenine Windeshausen**  
**Treasurer-Tax Collector**



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**To:** The Board of Supervisors  
**From:** Jenine Windeshausen, Treasurer-Tax Collector  
**Date:** April 19, 2016  
**Subject:** AB 2693

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**ACTION REQUESTED**

Authorize the Chair of the Board to sign letters in opposition of AB 2693 unless it is amended to restore the priority lien status of PACE assessments.

**BACKGROUND**

AB 811 in 2008 and SB 555 in 2009 authorized local governments to develop and operate PACE (Property Assessed Clean Energy) programs. PACE programs allow property owners to enter into a contractual assessment resulting in a lien on their property to finance energy efficiency, water conservation and renewable generation improvements to the property. The assessment is repaid through installments added to the property tax bill. Since that time there has been additional legislation that has further enhanced PACE: AB 474 added water efficiencies (Blumenfeld 2009), AB 184 added seismic retrofits (Swanson 2011), SB 96 created the PACE Loss Reserve (Budget Act 2013), AB 1883 authorized solar leases for commercial properties (Skinner 2014), and AB 2597, which amended the State's PACE Loss Reserve Regulations (Ting 2014).

Your Board authorized the mPOWER Placer PACE Program in 2009. Since then, the County has invested significant county resources. Nearly \$50 million in energy efficiency, water conservation and renewable generation projects have been financed. Almost 1,000 new jobs have been created in Placer County and carbon emissions have been reduced by 3,550 tons or the equivalent of 678 cars off the road annually. Of the \$50 million financed, the County Treasury holds bonds totaling \$40 million which are backed by mPOWER property tax assessments. Under AB 2693, Placer County and other local governments will no longer have the ability to issue bonds to provide capital for PACE financing as the cost of capital will become so cost prohibitive, PACE financing will no longer be feasible.

AB 2693 will have the effect of overturning the benefits of all prior PACE legislation, because it changes the PACE assessment from a priority lien to a judgment lien. This will cause bond investors who provide the capital for PACE financing to abandon the PACE bond market.

This bill, sponsored by the California Association of Realtors, California Association of Bankers, California Credit Union League, California Land Title Association and others, is based on the 2010 FHFA bulletins and more recently on complaints about other programs. While the mPOWER Program has virtually had no complaints, there is no doubt that reforms are needed in PACE financing. However, AB 2693 would render PACE financing completely infeasible regardless of the numerous benefits that it provides.

Additionally, AB 2693 makes fundamental and problematic changes related to the billing and collection of property taxes by creating two lien priorities on the property tax bill, with each lien priority having different administrative remedies and procedures. This situation will cause additional work and complexity related to the handling and processing of property subject to tax defaulted land sale resulting in increased collection costs. Changing the assessment lien to a judgment lien on the property tax bill is administratively untenable and unacceptable.

As indicated above, reforms may be needed in PACE financing. Legislative efforts to put meaningful and effective reforms in place while preserving the important benefits that result from prudently and responsibly managed PACE programs should be supported. In the future, the County should support any legislation that improves consumer protections and prevents the abuse of local government taxing and bonding authority.

**FISCAL IMPACT**

There is no fiscal impact associated with opposing this bill.

Attachment: Draft AB 2693 Letter (sample of letter based on current bill version)

Assembly Member Matthew Dababneh  
Chair of the Banking and Finance Committee

Re: AB 2693 OPPOSE unless amended to restore lien priority for all PACE assessments

Dear Chairman Dababneh,

There may be a need for reforms in PACE financing, however, the provisions in AB 2693 which eliminate the priority tax lien for residential PACE assessments in favor of a judgment lien would render PACE financing completely infeasible. In doing so, it would also eliminate future environmental and economic benefits that PACE financing achieves.

AB 2693 will undo years of legislative work that has authorized and improved PACE financing. This legislation includes:

- AB 811 Created PACE Districts (Levine 2008)
- SB 555 Created PACE Districts under Mello-Roos (Hancock 2009)
- AB 474 Added water efficiency (Blumenfield 2009)
- AB 184 Added seismic retrofits (Swanson 2011)
- SB 96 Created PACE Reserve (Budget Act 2013)
- AB 1883 Allows for Solar Leases for Commercial Properties (Skinner 2014)
- AB 2597 Amended PACE Reserve Regulations (Ting 2014)

Since 2009 PACE financing in California has:

- Created an estimated 13,000 jobs
- Reduced greenhouse gas emissions by 2.5 million tons
- Saved 3.4 billion gallons of water
- Saved 9.1 billion kWh of electricity
- Saved \$2.5 billion in utility bills

AB 2693 will have the effect of overturning all of these prior legislative efforts regarding PACE because the change from a priority lien to a judgment lien will cause bond investors who provide the capital for PACE financing to abandon the PACE bond market.

Placer County has committed over \$55 million dollars since 2009 to its PACE program mPOWER Placer. In Placer County, this commitment has resulted in the creation of almost 1,000 jobs and the reduction of 3,550 tons of carbon emissions or the equivalent of 678 cars off the road annually. mPOWER Placer has received numerous economic development and environmental awards for its prudently and responsibly managed PACE program. The mPOWER program has embraced strong consumer protections and disclosures since its inception which has resulted in virtually no consumer

complaints. Placer County recognizes the importance of strong consumer protections and disclosures and supports legislative efforts that ensure consumers are treated fairly and honestly and that communities receive maximum environmental and economic benefits from their PACE programs. Under AB 2693, Placer County and other local governments will no longer have the ability to issue bonds to provide capital for PACE financing and as the cost of capital will become so cost prohibitive, PACE financing will no longer be available.

Not only does the judgment lien provisions in AB 2693 make PACE infeasible it also creates fundamental and problematic changes related to the billing and collection of property taxes by creating two lien priorities on the property tax bill, with each lien priority having different administrative remedies and procedures. This situation will cause additional work and complexity related to the handling and processing of property subject to tax defaulted land sale resulting in increased collection costs. Changing PACE assessments to judgment lien status on the property tax bill is administratively untenable and unacceptable.

As indicated above, reforms may be needed in PACE financing. Placer County supports legislative efforts to put meaningful and effective reforms in place while preserving the important benefits that result from prudently and responsibly managed PACE programs. Placer County supports the legislature in efforts to improve consumer protections and prevent the abuse of local government taxing and bonding authority. Therefore, Placer County opposes AB2693 unless it is amended to restore the priority lien for PACE assessments.

Sincerely,

Robert Weygandt  
Chairman, Placer County Board of Supervisors