

## New, Low-Interest Options for Financing Alternative Energy Projects

For more information regarding these provisions, please contact your Vorys attorney or:

**Scott J. Ziance**

sjziance@vorys.com  
614.464.8287

**M. Howard Petricoff**

mhpetricoff@vorys.com  
614.464.5414

**Chris L. Connelly**

clconnelly@vorys.com  
614.464.8244

On June 4, 2010, the General Assembly passed Substitute Senate Bill 232 (“S.B. 232”), which includes provisions related to a revolving loan fund program for certain alternative energy projects and an expansion of the use of special improvement districts (“SIDs”) to support certain advanced energy projects. The provisions should facilitate affordable, efficient financing of advanced energy projects throughout the State by entrepreneurial communities, business owners and homeowners.

### Alternative Energy Revolving Loan Program

Prior law allowed municipal corporations to establish a low-interest revolving loan program to assist residents with installing solar panels at their residences. S.B. 232 expands this program to assist any owner of real property in the municipal corporation, not just residential property owners, with installing and implementing solar photovoltaic and solar thermal energy projects, geothermal energy projects, “energy efficiency technologies” and “customer-generated energy projects.”

Energy efficiency technologies are those that reduce or support the reduction of energy consumption, allow for the reduction in demand or support the production of clean, renewable energy.

Customer-generated energy projects include wind, biomass or gasification facilities for the generation of electricity that are either (i) facilities designed to have a generating capacity of 250 KW or less; or (ii)

facilities designed to have a generating capacity of more than 250 KW that are operated in parallel with electric transmission and distribution facilities serving the real property at the project site, are intended primarily to offset part or all of the facility owner’s requirements for electricity at the site, are located on the facility owner’s real property and are not producing energy for direct sale by the facility owner to the public.

The municipal ordinance establishing an alternative energy revolving loan program must provide for all of the following:

- Establishment of an alternative energy revolving loan fund in the municipal treasury;
- A source of money (e.g., gifts, bond issuances, real property assessments, federal monies) to provide for loans from the fund;
- Procedures for making loans from the fund, including an explanation of how owners may qualify, a description of the types of property for which a loan can be made, application procedures, criteria for reviewing applications and determining the appropriate loan amount, the interest rate to be charged (which must be below market rates), the repayment schedule and other terms and conditions of loans;
- A specification that loan repayments may be made in installments, and may be paid and collected in the same manner as special assessments at the option of the property owner;
- A specification that repayments are to be credited to the fund, that

the money in the fund is to be invested and that the earnings on the investment are to be credited to the fund; and

- Any other matters necessary for the implementation and administration of the program.

Because there are incentives for electric utilities to facilitate successful advanced energy revolving loan funds, which are beyond the scope of this client alert, communities may find electric utilities to be a potential source for seeding their loan funds.

### **Expansion of SIDs**

Prior law allowed municipal corporations and townships to establish SIDs for the purpose of developing and implementing plans for public improvements and services. A SID is governed by a board of trustees of a non-profit corporation, and is responsible for developing public improvement plans. The public improvements, including certain “special energy improvement projects,” are funded primarily through the levy of special assessments.

S.B. 232 expands the definition of “special energy improvement project” to include geothermal energy projects, customer-generated energy projects and energy efficiency improvements. The definition of “customer-generated energy project” is identical to the one described above for the alternative energy revolving loan program. “Energy efficient improvement” is defined

as “energy efficiency technologies, products, and activities that reduce or support the reduction of energy consumption, allow for the reduction in demand, or support the production of clean, renewable energy and that are or will be permanently fixed to real property.”

Prior law limited the time period during which special assessments could be issued to fund special energy improvement projects to 25 years. S.B. 232 expands this time period to 30 years. In addition, S.B. 232 expands the definition of allowable costs that may be paid with special assessments by a SID to include costs related to consulting and energy auditing services. Finally, S.B. 232 allows for the aggregation of renewable energy credits generated by one or more special energy improvement projects within a SID for the purpose of selling the renewable energy credits.

Because there are incentives for electric utilities to facilitate advanced energy projects through the utilization of SIDs, communities may find that electric utilities will assist with the establishment and use of SIDs in the financing of alternative energy projects.

S.B. 232 creates exciting new opportunities for the efficient financing of advanced energy projects. If you believe your community or your project could benefit from the new S.B. 232 opportunities, please call a member of our Climate Change and Sustainability group or your primary Vorys attorney.

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