



**Committee:** Joint Government Operations & Fiscal Policy/  
Transportation & Environment Committee

**Committee Review:** At a future date

**Staff:** Christine Wellons, Legislative Attorney

**Purpose:** To introduce agenda item – no vote expected

**Keywords:** #LEEDPropertyTaxCredit

AGENDA ITEM #4C

March 3, 2020

**Introduction**

## **SUBJECT**

Bill 10-20, Property Tax Credit – Energy and Environmental Design – Eligibility Criteria and Amounts of Credit

Lead Sponsors: Councilmembers Friedson and Riemer

Co-Sponsor: Council President Katz

## **EXPECTED ATTENDEES**

N/A

## **COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION**

- N/A

## **DESCRIPTION/ISSUE**

Bill 10-20 would:

- (1) alter the eligibility criteria for the property tax credit for energy and environmental design;
- (2) alter the amounts and durations of the property tax credit for energy and environmental design by type of building; and
- (3) alter annual limits on the total amounts of property tax credits granted by the County for energy and environmental design.

## **SUMMARY OF KEY DISCUSSION POINTS**

- N/A

### **This report contains:**

Staff Report

Bill 10-20

Legislative Request Report

Pages 1

©1

©9

F:\LAW\BILLS\2010 Property Tax Credit-Energy And Environmental Design-Eligibility\Intro Cover Sheet.Docx

**Alternative format requests for people with disabilities. If you need assistance accessing this report you may submit alternative format requests to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at [adacompliance@montgomerycountymd.gov](mailto:adacompliance@montgomerycountymd.gov)**

**MEMORANDUM**

February 27, 2020

TO: County Council

FROM: Christine Wellons, Legislative Attorney  
*C. Wellons*

SUBJECT: Bill 10-20, Property Tax Credit – Energy and Environmental Design – Eligibility Criteria and Amounts of Credit<sup>1</sup>

PURPOSE: Introduction – no Council votes required

Bill 10-20, Property Tax Credit – Energy and Environmental Design – Eligibility Criteria and Amounts of Credit, sponsored by Lead Sponsors Councilmembers Friedson and Riemer, and Co-Sponsor Council President Katz, is scheduled to be introduced on March 3, 2020. A public hearing is tentatively scheduled for March 24, 2020 at 1:30 p.m.

Bill 10-20 would:

- (1) alter the eligibility criteria for the property tax credit for energy and environmental design;
- (2) alter the amounts and durations of the property tax credit for energy and environmental design by type of building; and
- (3) alter annual limits on the total amounts of property tax credits granted by the County for energy and environmental design.

**BACKGROUND**

In June 2019, the County Executive delivered to the T&E and GO Committees a report on stakeholder *Recommendations on Montgomery County High-Performance Green Building Initiatives*. The stakeholder group recommended altering green building incentives in the County to focus more on energy reduction metrics as opposed to industry certifications alone.

Specifically, the workgroup looked at the current property tax credit for energy and environmental design under Section 52-103 of the County Code. Under the current Code, buildings are eligible for a property tax credit if they achieve certain certifications, or certification

---

<sup>1</sup> #LEEDPropertyTaxCredit

equivalents, under the Leadership in Energy and Environmental Design (LEED) rating system administered by the U.S. Green Building Council.

The stakeholder workgroup recommended, and the T&E and GO Committees discussed, creating a two-tiered approach to green building tax incentives for new construction, and a separate two-tiered approach to green building tax incentives for existing buildings. For both types of buildings – new and existing – the tiers would focus, first, upon rewarding energy reduction at levels above and beyond Building Code requirements and, second, upon high-level industry certifications for green buildings.

### **BILL DESCRIPTION**

Consistent with the recommendations of the stakeholder workgroup, Bill 10-20 would implement: (1) a two-tiered property tax credit for new commercial and multifamily construction, based upon energy reduction metrics and industry certifications; and (2) a separate two-tiered property tax credit for existing commercial and multifamily buildings, based upon energy reduction metrics and industry certifications.

With respect to new or extensively modified construction (a/k/a, “covered buildings” under the bill), the credit would be based upon the “energy reduction level” achieved by the building. The bill would define “energy reduction level” as a level of energy performance, expressed as a percentage, that the Director of Environmental Protection finds to be at least 10% better than the level of energy performance that would be achieved under the current Building Code (County Code, Chapter 8). The amount of the credit would increase as the building’s energy reduction level increased. For example, a building with an energy reduction level of 21%-30% would have a higher credit than a building with an energy reduction level of 10%-20%.

In addition to the credit based upon an energy reduction level, a covered building could receive a bonus credit for certain sustainability certifications. For example, a gold rating under LEED, or the equivalent of a gold rating as determined by the Director, would make the building eligible for a bonus credit equal to 25% of the property tax owed on the building. The total credit would be capped at 100% of the property tax owed on the building.

With respect to existing buildings, the credit would be based upon the ENERGY STAR® improvement of the building over a 12-month period. The greater the amount of ENERGY STAR improvement, the greater the amount of the credit. For example, a building that improved its ENERGY STAR score by 25-49 points would receive a higher credit than a building that improved its score by 1-24 points.

Like with new construction, an existing building could receive a bonus credit for certain sustainability certifications. For example, a building with a platinum or higher rating for LEED, or the equivalent of a platinum or higher rating as determined by the Director, would qualify for a bonus credit in the amount of 75% of the property tax owed on the building. The total amount of the credit would be capped at 100% of the property tax owed on the building.

The bill would limit the duration of the tax credit to 4 years for qualified new construction, and 2 years for qualified existing buildings. The bill also would alter the annual limits that currently apply to the tax credit for energy and environmental design. The law currently caps the credits granted by the County at \$5 million annually. The bill would retain this \$5 million annual cap for credits to eligible existing buildings, but the cap would not apply for credits to eligible new construction.

This packet contains:

Bill 10-20

Legislative Request Report

Circle #

1

9

Bill No. 10-20  
Concerning: Property Tax Credit –  
Energy and Environmental Design –  
Eligibility Criteria and Amounts of  
Credit  
Revised: 02/26/2020 Draft No. 3  
Introduced: March 3, 2020  
Expires: September 3, 2021  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

---

Lead Sponsors: Councilmembers Friedson and Riemer  
Co-Sponsor: Council President Katz

---

**AN ACT** to:

- (1) alter the eligibility criteria for the property tax credit for energy and environmental design;
- (2) alter the amounts and durations of the property tax credit for energy and environmental design by type of building;
- (3) alter annual limits on the total amounts of property tax credits granted by the County for energy and environmental design; and
- (4) generally amend the law concerning the property tax credit for energy and environmental design.

By amending

Montgomery County Code  
Chapter 52, Taxation  
Section 52-103

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1       **Sec 1. Section 52-103 is amended as follows:**

2       (a) *Definitions.* In this Section the following words have the meanings  
3       indicated:

4       [(1)] *Covered building.* “Covered building” means a newly constructed  
5       or extensively modified non- residential or multi-family residential  
6       building that has or will have at least 10,000 square feet of gross  
7       floor area.

8       *Director.* “Director” means the Director of the Department of  
9       Environmental Protection or the Director’s designee.

10       *Energy reduction level.* “Energy reduction level” means a level of  
11       energy performance, expressed as a percentage, that the Director  
12       finds to be at least 10% better than the level of energy performance  
13       that would be achieved under the building requirements of Chapter  
14       8, as amended.

15       *ENERGY STAR.* “ENERGY STAR” means a trademarked  
16       program of the U.S. Environmental Protection Agency and the  
17       U.S. Department of Energy to encourage energy efficiency.

18       *ENERGY STAR Portfolio Manager.* “ENERGY STAR Portfolio  
19       Manager” means an energy management tool of the U.S.  
20       Environmental Protection Agency under ENERGY STAR to track  
21       energy consumption over time.

22       *ENERGY STAR score.* “ENERGY STAR score” means a score,  
23       calculated under the ENERGY STAR Portfolio Manager, that  
24       reflects the energy consumption of a building over time.

25       [(2)] *Extensively modified.* “Extensively modified” means any  
26       structural modification which alters more than 50% of the  
27       building’s gross floor area, as indicated on the application for a

28 building permit. Extensively modified does not include any  
 29 modification that is limited to one or more of the following  
 30 building systems: mechanical; electrical; plumbing; heating,  
 31 ventilation, and air conditioning (HVAC); and fire protection.

32 [(3)] *High performance building*. “High performance building” means:

33 (A) [A] a covered building that achieves:

34 (1) [A gold or platinum rating from the USGBC for  
 35 LEED-NC, LEED-CS, or LEED-EB; or] an energy  
 36 reduction level; and

37 (2) [An] an energy and environmental design standard  
 38 that the Director [of the Department of Permitting  
 39 Services] finds [is equivalent to a gold or platinum  
 40 rating from the USGBC for LEED-NC, LEED- CS,  
 41 or LEED-EB; and] meets the minimum standards of  
 42 Section 9-242(a) of the Tax-Property Article of the  
 43 Maryland Code, as amended; or

44 (B) [Any other] a non-covered building that achieves:

45 (1) [A silver, gold, or platinum rating from the USGBC  
 46 for LEED- NC, LEED-CS, or LEED-EB; or] an  
 47 improved ENERGY STAR score under the  
 48 ENERGY STAR Portfolio Manager; and

49 (2) [An] an energy and environmental design standard  
 50 that the Director [of the Department of Permitting  
 51 Services] finds [is equivalent to the silver, gold or  
 52 platinum rating from the USGBC for LEED- NC,  
 53 LEED-CS, or LEED-EB] meets the minimum

54 standards of Section 9-242(a) of the Tax-Property  
 55 Article of the Maryland Code, as amended.

56 [(4) “LEED-CS”] LEED. “LEED” means the Leadership in Energy  
 57 and Environmental Design] - Core and Shell] rating system  
 58 administered by the USGBC.

59 [(5) “LEED-EB” means the Leadership in Energy and Environmental  
 60 Design - Existing Building rating system administered by the  
 61 USGBC.

62 (6) “LEED-NC” means the Leadership in Energy and Environmental  
 63 Design - New Construction rating system administered by the  
 64 USGBC.]

65 [(7)] Property tax. “Property tax” means the general County tax and all  
 66 special service area taxes.

67 [(8)] USGBC. “USGBC” means the US Green Building Council.

68 (b) *Credit*. Subject to the restrictions in subsections (c), (d), and (e), the  
 69 Director of the Department of Finance must allow a tax credit each  
 70 eligible year against the property tax imposed on a high performance  
 71 building.

72 (c) *Application*. A taxpayer must apply for the credit [within 1 year after the  
 73 building is certified as a high performance building] on the application  
 74 and in the manner that the Director of Finance requires.

75 (d) *Amount of credit*.

76 (1) For a covered high performance building, the amount of the credit  
 77 [is] must be the percentage of the property tax owed on the  
 78 building, not to exceed 100% of the property tax owed, that equals  
 79 the sum of the amounts under subparagraphs (A) and (B):

80 (A) Energy reduction level.



81 [(A)] (i) [25% of the property tax owed on the building  
 82 for 5 years] the product of the energy reduction level  
 83 of the building multiplied by 0.5, if the building  
 84 achieves [a gold rating for LEED-NC or LEED-CS  
 85 or an equivalent standards] an energy reduction level  
 86 of at least 10% and no more than 20%;

87 [(B)] (ii) [75% of the property tax owed on the building  
 88 for 5 years] the amount of the energy reduction level  
 89 of the building, if the building achieves [a platinum  
 90 rating for LEED-NC or LEED-CS or an equivalent  
 91 standard] an energy reduction level of at least 21%  
 92 and no more than 30%;

93 [(C)] (iii) [10% of the property tax owed on the building  
 94 for 3 years] the product of the energy reduction level  
 95 of the building multiplied by 1.5, if the building  
 96 achieves [the gold rating for LEED-EB or an  
 97 equivalent standard] an energy reduction level of at  
 98 least 31% and no more than 40%; or

99 [(D)] (iv) [50% of the property tax owed on the building  
 100 for 3 years] the product of the energy reduction level  
 101 of the building multiplied by 2, if the building  
 102 achieves [the platinum rating for LEED-EB or an  
 103 equivalent standard] an energy reduction level of at  
 104 least 41%; and

105 (B) Sustainability certification bonus.

106 (i) 25% of the property tax owed on the building, if the  
 107 building achieves a gold rating for LEED, or a rating

108 that the Director finds is equivalent to a gold rating  
 109 for LEED; or

110 (ii) 75% of the property tax owed on the building, if the  
 111 building achieves a platinum or higher rating for  
 112 LEED, or a rating that the Director finds is equivalent  
 113 to a platinum or higher rating for LEED.

114 (2) For [any other] a non-covered high performance building, the  
 115 amount of the credit [is] must be the percentage of the property tax  
 116 owed on the building, not to exceed 100% of the property tax  
 117 owed, that equals the sum of the amounts under subparagraphs (A)  
 118 and (B):

119 (A) ENERGY STAR improvement.

120 [(A)] (i) [25% of the property tax owed on the building  
 121 for 5 years] the amount that the ENERGY STAR  
 122 score of the building improved over 12 months, if the  
 123 building [achieves a silver rating for LEED-NC or  
 124 LEED-CS or an equivalent standard] improved its  
 125 ENERGY STAR score by at least 1 and no more than  
 126 24 over the 12 months;

127 [(B)] (ii) [50% of the property tax owed on the building  
 128 for 5 years] the product of the amount that the  
 129 ENERGY STAR score of the building improved over  
 130 12 months multiplied by 1.5, if the building [achieves  
 131 a gold rating for LEED-NC or LEED-CS or an  
 132 equivalent standard] improved its ENERGY STAR  
 133 score by at least 25 and no more than 49 over the 12  
 134 months;

135            [(C)] (iii)    [75% of the property tax owed on the building  
 136                            for 5 years] the product of the amount that the  
 137                            ENERGY STAR score of the building improved over  
 138                            12 months multiplied by 2, if the building [achieves  
 139                            a platinum rating for LEED-NC or LEED-CS or an  
 140                            equivalent standard] improved its ENERGY STAR  
 141                            score by at least 50 and no more than 74 over the 12  
 142                            months; or

143            (iv)    the product of the amount that the ENERGY STAR  
 144                            score of the building improved over 12 months  
 145                            multiplied by 2.5, if the building improved its  
 146                            ENERGY STAR score by at least 75 over the 12  
 147                            months; and

148            (B)    *Sustainability certification bonus.*

149            [(D)] (i)    [10%] 25% of the property tax owed on the  
 150                            building [for 3 years], if the building achieves the  
 151                            [silver] gold rating for [LEED-EB] LEED or [an  
 152                            equivalent] a standard that the Director finds is  
 153                            equivalent to the gold rating for LEED; or

154            [(E)] (ii)    [25%] 75% of the property tax owed on the  
 155                            building [for 3 years], if the building achieves the  
 156                            [gold] platinum or higher rating for [LEED-EB]  
 157                            LEED, or [an equivalent] a standard that the Director  
 158                            finds is equivalent of a platinum or higher rating for  
 159                            LEED]; and].

160 [(F) 50% of the property tax owed on the building for 3 years, if  
 161 the building achieves the platinum rating for LEED-EB or  
 162 an equivalent standard.]

163 (e) *Annual limits.*

164 (1) Subject to the annual [limits] limit for non-covered buildings in  
 165 paragraph (2) and the carryover rules in paragraph (3), the Director  
 166 must grant credits in the order in which the Department of Finance  
 167 receives complete applications.

168 (2) During any fiscal year the total credits granted to[:]

169 [(A) All] non-covered buildings under this Section must not  
 170 exceed \$5 million.

171 [(B) Buildings that achieve a silver rating or equivalent standard  
 172 must not exceed \$1.5 million; and

173 [(C) Buildings that achieve a gold rating or equivalent standard  
 174 must not exceed \$2.5 million.]

175 (3) A complete application that, if granted, would cause [any of] the  
 176 [limits] limit set in paragraph (2) to be exceeded, must be granted  
 177 in the next fiscal year or years based on the order in which the  
 178 Department of Finance received the application.

179 (4) A tax credit under paragraph (d)(1) must not be granted for a  
 180 building for more than 4 years.

181 (5) A tax credit under paragraph (d)(2) must not be granted for a  
 182 building for more than 2 years.

183 (f) *Regulations.* The County Executive may issue regulations under method  
 184 (2) to administer this tax credit.

## LEGISLATIVE REQUEST REPORT

Bill 10-20

### *Property Tax Credit – Energy and Environmental Design – Eligibility Criteria and Amounts of Credit*

<b>DESCRIPTION:</b>	The bill would: (1) alter the eligibility criteria for the property tax credit for energy and environmental design; (2) alter the amounts and durations of the property tax credit for energy and environmental design by type of building; and (3) alter annual limits on the total amounts of property tax credits granted by the County for energy and environmental design.
<b>PROBLEM:</b>	The current property tax credit for energy and environmental design will allow buildings that simply meet, but do not exceed, the building code to receive credits.
<b>GOALS AND OBJECTIVES:</b>	Incentivize energy and environmental design standards that reduce energy consumption.
<b>COORDINATION:</b>	DEP
<b>FISCAL IMPACT:</b>	OMB
<b>ECONOMIC IMPACT:</b>	Office of Legislative Oversight (OLO)
<b>EVALUATION:</b>	To be done.
<b>EXPERIENCE ELSEWHERE:</b>	To be researched.
<b>SOURCE OF INFORMATION:</b>	Christine Wellons, Legislative Attorney
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	N/A
<b>PENALTIES:</b>	N/A