SUBJECT
Bill 44-21, Montgomery County Green Bank – Funding – Fuel Energy Tax Revenue

Lead Sponsor: Council President Hucker

EXPECTED ATTENDEES
None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Whether to require the Council to appropriate 10% of the fuel-energy tax revenue to the County Green Bank.

DESCRIPTION/ISSUE

- How would dedicating a portion of the fuel-energy tax to the Green Bank affect other priorities?

SUMMARY OF KEY DISCUSSION POINTS

- What would the dedicated revenue buy the County?

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MEMORANDUM

November 10, 2021

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Bill 44-21, Montgomery County Green Bank – Funding – Fuel Tax Revenue

PURPOSE: Introduction – no Council votes required

Bill 44-21, Montgomery County Green Bank – Funding – Fuel Tax Revenue, with Lead Sponsor Council President Hucker, is scheduled to be introduced on November 16, 2021. A public hearing is tentatively scheduled for December 7, 2021 at 1:30 p.m.¹

Background

The Montgomery County Green Bank was established by Bill 18-15, enacted by the Council on June 30, 2015 and signed into law by the Executive on July 7, 2015. The Green Bank promotes the investment in clean energy technologies in the County by offering financing structures to lower the cost of financing these technologies for County residential and commercial properties. The fuel-energy tax is levied and imposed on every person transmitting, distributing, manufacturing, producing, or supplying electricity, gas, steam, coal, fuel oil, or liquefied petroleum gas in the County. The Council budgeted $175,651,251 for energy tax revenue in FY22.

Bill 44-21 would mandate that the Council appropriate 10% of the fuel-energy tax revenue to the County Green Bank each year in the annual operating budget.

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¹#GreenBank; #FuelEnergyTax
AN ACT to:

(1) require the Council to annually appropriate 10% of the fuel-energy tax revenue to the County Green Bank;

(2) establish a dedicated County funding source for the Green Bank; and

(3) generally amend the law governing the Green Bank and the use of the fuel-energy tax revenue.

By amending

Montgomery County Code
Chapter 18A, Environmental Sustainability
Section 18A-49

Chapter 52, Taxation
Section 52-14

The County Council for Montgomery County, Maryland approves the following Act:
Sec. 1. Sections 18A-49 and 52-14 are amended as follows:

18A-49. Work program; staff; support from County Government.
(a) The Board of Directors must adopt a work program each year to advance the policy objectives and perform the activities listed in Section 18A-44.
(b) The Green Bank’s work program may include a plan for sponsorship of private investment, marketing, and advocacy initiatives.
(c) The Board must meet with the Executive and the Council at least semi-annually.
(d) The Department of Environmental Protection may, if the Board of Directors requests, provide incidental administrative support for the Green Bank, including contracts, grants, or services in kind, subject to appropriation.
(e) Funding sources for the Green Bank may include:
(1) federal[, or State[, or County] funds provided to it;
(2) County funds, including a portion of the fuel-energy tax revenue received by the County;
(3) charitable gifts, grants, or contributions and loans from individuals, corporations, university endowments, and philanthropic foundations; and
[(3)] (4) earnings and interest derived from financing support activities for clean energy technologies backed by the Green Bank.
The Green Bank may also raise private funds and may accept services from any source consistent with its purpose.

(a) (1) A tax is levied and imposed on every person transmitting, distributing, manufacturing, producing, or supplying electricity, gas, steam, coal, fuel oil, or liquefied petroleum gas in the County.
(2) The County Council must set the rates for various forms of fuel and energy by a resolution adopted under Section 52-17(c). The Council may, from time to time, revise, amend, increase, or decrease the rates, including setting different rates for fuel or energy delivered for different categories of final consumption, such as residential or agricultural use. Each rate must be based on a weight or other unit of measure regularly used in the conduct of business. The rate for each form of fuel or energy should impose an equal or substantially equal tax on the equivalent energy content of each form of fuel or energy for a particular category of use.

(3) The tax does not apply to the transmission or distribution of electricity, gas, steam, coal, fuel oil, or liquefied petroleum gas in interstate commerce through the County if the tax would exceed the taxing power of the County under the United States Constitution. The tax does not apply to fuel or energy converted to another form of energy that will be subject to a tax under this Section. The tax must not be imposed at more than one point in the transmission, distribution, manufacture, production, or supply system. The rates of tax apply to the quantities measured at the point of delivery for final consumption in the County. For an electric company (as defined in state law), the rates of tax apply to the net consumption that is used to calculate each consumer bill.

(4) The tax does not apply to energy that is generated from a renewable source located:

(A) in the County and either used on the site where it is generated or subject to a net energy metering agreement (as defined in state law) with a public utility; or
(B) in the same electric service territory in Maryland as the subscriber using the energy and subject to a virtual net energy metering agreement (as defined in state law) with a public utility.

Renewable source means a “Tier 1 renewable source” as defined in Section 7-701(l) of the Public Utilities Article of the Maryland Code or any successor provision.

(i) Any violation of this Section is a class A violation. Each violation is a separate offense. Any conviction does not relieve any person from paying any tax due.

(j) The Council must appropriate 10% of the revenue received by the County from the fuel-energy tax each year to the nonprofit corporation designated as the Montgomery County Green Bank under Section 18A-46.

Sec. 2. Effective date.

The amendments in Section 1 take effect on July 1, 2022.
LEGISLATIVE REQUEST REPORT

Bill 44-21

Montgomery County Green Bank – Funding – Fuel Energy Tax Revenue

DESCRIPTION: Bill 44-21 would mandate that the Council appropriate 10% of the fuel-energy tax revenue to the County Green Bank each year in the annual operating budget.

PROBLEM: The County Green Bank does not have a dedicated source of revenue.

GOALS AND OBJECTIVES: To mandate a dedicated source of revenue for the Green Bank.

COORDINATION: Finance, DEP

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be researched.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Robert H. Drummer, Senior Legislative Attorney (240) 777-7895

APPLICATION WITHIN MUNICIPALITIES: Not applicable.

PENALTIES: Not applicable.