

Bill No. 44-21
Concerning: Montgomery County Green Bank – Funding – Fuel-energy tax revenue
Revised: 2-1-2022 Draft No. 6
Introduced: November 16, 2021
Enacted: February 1, 2022
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Council President Hucker and Councilmember Friedson
Co-Sponsors: Councilmembers Riemer, Navarro, and Katz, Council Vice President Alborno, Councilmembers Rice and Jawando

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) restrict the use of the funds by the Green Bank; and
- (4) 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 and 18A-50

Chapter 52, Taxation
Section 52-14

Boldface	<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:

Sec. 1. Sections 18A-49, 18A-50, 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.

(f) Restrictions on County funding. [[The]] After July 1, 2023, the Green Bank must not use the annual direct appropriations from the County to fund new mechanical energy equipment that uses fossil fuels or the equipment that upgrades the efficiency of existing mechanical energy

28 equipment that uses fossil fuels. The Green Bank must use the annual
 29 direct appropriations from the County as follows:

30 (1) 20% of the funds must be used to support the Bank's activities in
 31 Equity Emphasis Areas in the County as defined by the
 32 Metropolitan Washington Council of Governments; and

33 (2) 15% of the funds must be used to reduce the cost of energy
 34 projects undertaken by property owners by a loan subsidy,
 35 interest rate buydown, technical assistance, pre-development,
 36 blended capital, or other similar tools.

37 **18A-50. Report**

38 The Board of Directors must report annually by December 31 on the activities
 39 and finances of the Green Bank to the Executive and Council. The report must
 40 include details about the use and fund balance of County funds.

41 **52-14. Fuel-energy tax.**

42 (a) (1) A tax is levied and imposed on every person transmitting,
 43 distributing, manufacturing, producing, or supplying electricity,
 44 gas, steam, coal, fuel oil, or liquefied petroleum gas in the County.

45 (2) The County Council must set the rates for various forms of fuel
 46 and energy by a resolution adopted under Section 52-17(c). The
 47 Council may, from time to time, revise, amend, increase, or
 48 decrease the rates, including setting different rates for fuel or
 49 energy delivered for different categories of final consumption,
 50 such as residential or agricultural use. Each rate must be based on
 51 a weight or other unit of measure regularly used in the conduct of
 52 business. The rate for each form of fuel or energy should impose
 53 an equal or substantially equal tax on the equivalent energy content
 54 of each form of fuel or energy for a particular category of use.

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

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

69 (A) in the County and either used on the site where it is
70 generated or subject to a net energy metering agreement (as
71 defined in state law) with a public utility; or

72 (B) in the same electric service territory in Maryland as the
73 subscriber using the energy and subject to a virtual net
74 energy metering agreement (as defined in state law) with a
75 public utility.

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

79 * * *

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

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

86 **Sec. 2. Effective date; report.**

87 The amendments in Section 1 take effect on July 1, 2022. The Director of the
88 Department of Environmental Protection must submit a report to the Council and the
89 Executive on or before May 1, 2023 estimating the cost of converting fossil fuel
90 mechanical energy equipment to electric power.

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