

Action

MEMORANDUM

November 4, 2011

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *A. Mihill*

SUBJECT: **Action:** Expedited Bill 28-11, Property Tax Credit – Renewable Energy – Amendments

Government Operations and Fiscal Policy Committee recommendation (2-0): enact Bill 28-11.

Expedited Bill 28-11, Property Tax Credit – Renewable Energy - Amendments, sponsored by Council Vice President Berliner and Councilmembers Leventhal, Floreen, and Riemer, was introduced on September 20, 2011. A public hearing was held on October 11 at which Michael Heavener testified (see testimony and correspondence on ©8). A Government Operations and Fiscal Policy Committee worksession was held on October 31.

Bill 28-11 would suspend the property tax credit program for solar and geothermal energy devices as of September 20. New applications for the credit could only be granted after September 20, 2011 if an individual enters into a contract for eligible costs on or before September 20, 2011 and applies for the credit on or before September 20, 2012. Bill 28-11 would address the backlog of applications for the credit as described in an August 8 memorandum from Joseph Beach, Director of Finance (©4). Bill 28-11 would also clarify that a property owner must own a solar or geothermal energy device or energy conservation device to be eligible to receive a certain property tax credit (i.e., leased devices would not be eligible for the credit).

Issues/Committee Recommendation

1. Effective Date. As noted above, Bill 28-11 would suspend the property tax credit program for solar and geothermal energy devices as of September 20, 2011. New applications for the credit could only be granted after September 20, 2011 if an individual enters into a contract for eligible costs on or before September 20, 2011 and applies for the credit on or before September 20, 2012. Mr. Heavener, President and owner of GeoSolar Energy urged the Council to change the cut-off date to late November. At the public hearing, Councilmember Berliner stated that while he understood the entrepreneurial spirit behind the request, he wanted to avoid a potential

rush by consumers to contract thereby exacerbating the waitlist. **The Committee recommended (2-0, Council President Ervin temporarily absent) not to extend the deadline.**

2. *Projection of energy costs for new homes.* Mr. Heavener further urged the Council to enact a program that would require certain homebuilders to provide a 20-year projection of the energy costs to potential homebuyers. Council staff notes that such legislation is outside the scope of advertisement for Bill 28-11. If Councilmembers are interested in such a program, new legislation would need to be drafted.

This packet contains:	<u>Circle #</u>
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Expedited Bill No. 28-11
Concerning: Property Tax Credit -
Renewable Energy - Amendments
Revised: 9/17/2011 Draft No. 1
Introduced: September 20, 2011
Expires: March 20, 2013
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council Vice President Berliner and Councilmembers Leventhal, Floreen, and Riemer

AN EXPEDITED ACT to:

- (1) suspend the property tax credit for solar or geothermal energy devices;
- (2) clarify that a property owner must own a solar or geothermal energy device or energy conservation device to be eligible to receive a property tax credit; and
- (3) generally amend County law related to the renewable energy property tax credit.

By amending

Montgomery County Code
Chapter 52, Taxation
Section 52-18R

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:

LEGISLATIVE REQUEST REPORT

Expedited Bill 28-11

Property Tax Credit – Renewable Energy - Amendments

DESCRIPTION: Expedited Bill 28-11 would clarify that a property owner must own a solar or geothermal energy device or energy conservation device to be eligible to receive the property tax credit; and suspend the property tax credit for solar or geothermal energy devices.

PROBLEM: There is currently an approximate 6 year backlog of applications for the property tax credit for solar and geothermal energy devices. Additionally, current law is ambiguous as to whether a person can lease, or must own, a device to be eligible for the property tax credit.

GOALS AND OBJECTIVES: To suspend the property tax program for renewable energy devices and clarify existing law.

COORDINATION: Department of Finance.

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Amanda Mihill, Legislative Attorney, 240-777-7815

APPLICATION WITHIN MUNICIPALITIES: To be researched.

PENALTIES: N/A

FNU & ENERGY



KL
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DEPARTMENT OF FINANCE

Isiah Leggett
County Executive

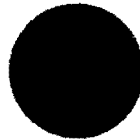
Joseph F. Beach
Director

MEMORANDUM

August 8, 2011

TO: Valerie Ervin
Council President

064342



FROM: Joseph F. Beach
Director of Finance

SUBJECT: Renewable Energy Credit backlog

As a result of strong demand by County residents for the Renewable Energy Credit, which has an annual funding cap of \$400,000, there is a current and significantly growing backlog of applications for the credit. The purpose of this memorandum is to make the County Council aware of this trend.

The Renewable Energy Credit program was introduced effective levy year 2008 (Fiscal Year 2009) with an initial annual funding cap of \$250,000. This property tax credit is provided for eligible geothermal and solar energy devices and is the lesser of \$5,000 or 50% of the cost of the system that provides heating or cooling, or generates electricity. The credit is the lesser of \$1,500 or 50% of the cost of the system for a solar or geothermal hot water heater. In 2009, the County Council increased the annual funding to \$400,000 (Bill 39-09), effective levy year 2009. Although the increase in annual funding allowed more taxpayers to receive the credit on their property tax bill, the demand for the credit quickly exceeded the annual funding cap.

Even though the program has been in existence for only three years, due to the excess demand for the credit, the backlog in issuing credits by reducing the property tax bill for applicants has doubled each year to 501 at the close of levy year 2010 (Fiscal Year 2011). To illustrate the trend, the backlog after the first year (levy year 2008) was only 100, but grew to 245 (levy year 2009), and to 501 (levy year 2010). Since the majority of applications qualify for the \$5,000 credit, that suggests a \$2.5 million backlog. Assuming a \$400,000 annual cap indicates that some taxpayers that have been approved for the credit but are in the queue may have to wait six years before they see the credit reflected on their property tax bill. Meanwhile, new applications will be received making the backlog even longer over the coming years.

Office of the Director

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Valerie Ervin, Council President

August 8, 2011

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Renewable Energy Tax Credit Data							
	New Applications Processed	Prior Year Applications Processed	Total Applications Processed	Amount Processed	Applications Received	Annual Backlog	Cumulative Backlog
LY 2008	55	0	55	\$ 250,000	155	100	100
LY 2009	59	44	103	\$ 400,000	204	145	245
LY 2010	61	57	118	\$ 400,000	317	256	501

Note: Amounts based on maximum \$5,000 credit value multiplied by applications
Total Applications is sum of new and prior year applications processed
LY2008 is first year of credit

The table above illustrates the trend of increasing applications, from 155 (2008) to 317 (2010), and shows that even though the number of taxpayers receiving the credit more than doubled from 2008 to 2010 (from 55 to 118) – the amount of funding available was insufficient to prevent the backlog from rising to 501 by the end of June 2011.

Since we recognize that some taxpayers have made the investment in this technology expecting the credit within a reasonable timeframe, and that this unintended delay in receiving the credit may create financial hardship for some County residents, the Department of Finance has placed a notice on our website to inform applicants of the delay in receiving the credit. Finance will also work with the Department of Environmental Protection (DEP) to obtain a list of contractors that install the renewable energy devices and inform them of the time delay.

I also want to take this opportunity to inform the County Council that Finance is administering the credit in compliance with the County law, which requires issuing the credit on a first-come-first-serve basis and with a maximum allowable credit amount of \$400,000 for this program in each fiscal year. In this case, however, the success of the credit program exceeds the allowable funding creating an immediate customer service challenge and a long-term funding liability in excess of what was anticipated at the onset.

JFB:cmc



OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Jennifer A. Hughes
Director

MEMORANDUM

October 7, 2011

TO: Valerie Ervin, President, County Council
FROM: Jennifer A. Hughes, Director
SUBJECT: Expedited Council Bill 28-11, Property Tax Credit – Renewable Energy - Amendments

The purpose of this memorandum is to transmit a fiscal and economic impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

This bill would suspend the property tax credit program for solar and geothermal energy devices as of September 20, 2011. New applications for the credit after September 20, 2011 could only be approved if the applicant entered into a contract for applicable costs on or before September 20, 2011 and applied for the credit before September 20, 2012. Bill 28-11 would also clarify that a property owner must own (rather than lease) a solar or geothermal energy device or energy conservation device to be eligible to receive the property tax credit.

This bill addresses the backlog of applications for this popular credit. The number of applications that can be funded in a given year is limited by the funds appropriated for this program – currently \$400,000 each year. The maximum credit possible under the program is \$5,000, and the Finance Department reports that most applicants qualify for the maximum credit. Only about 80 – 100 applications can be approved per year under the amount currently budgeted. However, the number of applications received has outstripped the funding available, leading to a significant backlog of applications remaining to be processed. As of the end of calendar year 2010, this backlog had reached 501 applications. If one assumes that all of these applications are ultimately approved for the maximum \$5,000 property tax credit and that funding for the program continues at \$400,000 per year, it will take over six years for the applicants at the end of the queue to receive their credit. Such delays may create a financial hardship for taxpayers who invested in renewable energy devices expecting to receive a timely tax credit. Meanwhile, the number of applications and the backlog would continue to grow. Bill 28-11 would suspend the program while the Department of Finance works through the backlog.

Office of the Director

101 Monroe Street, 14th Floor • Rockville, Maryland 20850 • 240-777-2800
www.montgomerycountymd.gov

Valerie Ervin, President, County Council
October 7, 2011
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FISCAL AND ECONOMIC SUMMARY

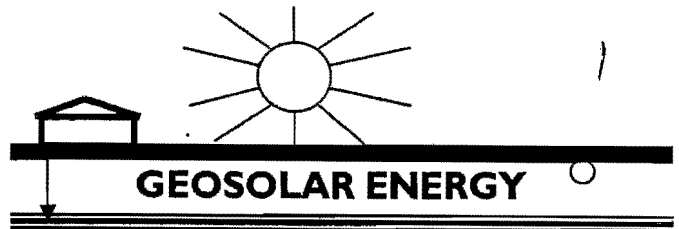
This bill should have no fiscal impact on County expenditures over the next six years, assuming that the County continues to fund the renewable energy property tax credit program at \$400,000 per year. Although the bill closes the program to new applicants as of September 20, 2011, the Department of Finance expects to continue to process backlogged applications each year until the \$400,000 annual budget is exhausted, as it has done for the last two years (since the budget was increased from \$250,000 to \$400,000). If the budget is increased in the future, the number of applications processed (and the processing cost to the Department of Finance) would increase proportionately, and the backlog may be eliminated in less than six years, at which point both the tax credit and processing costs to the County would be eliminated (due to the closure of the program to new applicants under Bill 28-11).

This bill will have no economic impact while the backlog of applications is being processed (processing of the backlog is currently estimated to require more than six years). The number of property owners receiving the property tax credit and the total amount of credits provided are expected to remain stable, assuming that the program continues to be funded at \$400,000 per year.

The following contributed to and concurred with this analysis: John Greiner, Office of Management and Budget; Michael Coveyou, Department of Finance.

JAH:jg

- c: Kathleen Boucher, Assistant Chief Administrative Officer
- Lisa Austin, Offices of the County Executive
- Joseph F. Beach, Director, Department of Finance
- Mike Coveyou, Department of Finance
- Bob Hoyt, Director, Department of Environmental Protection
- John Greiner, Office of Management and Budget
- Amy Wilson, Office of Management and Budget
- John Cuff, Office of Management and Budget

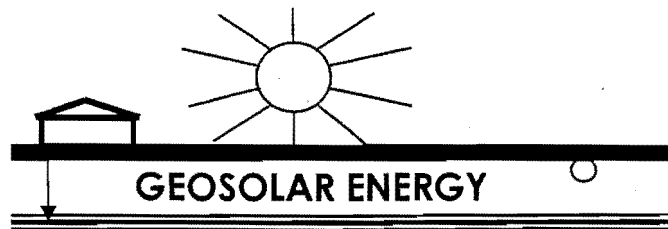


Box 2171
Gaithersburg, Md. 20886
301 926-1891 x1
GeoSolarEnergy@Verizon.Net
October 11, 2011

**Testimony of Michael G. Heavener before Montgomery County Council relative to
Bill 28-11**

I am President and Owner of GeoSolar Energy which I believe is the oldest renewable energy firm in the Baltimore/Washington area. We went into business in 1976 after I installed the first Geo System in my new home following the 1973 oil embargo. We will use the term Geo for Geothermal, GeoSolar, Earth Coupled Heat Pumps, etc. Also we will use the term we as the "Royal We" to represent our firm which sells Geo equipment to dealers and installers who put our equipment in. We have sold over 1,000 systems. We are the Maryland Distributor for Bosch Geo equipment who is the large international firm. They bought an American firm in Florida four years ago. FHP started making Geo equipment in the 60's. As interesting side story, this Geo equipment is exported to Germany and they are sending us automobiles in return. NPR had a show on energy yesterday where they have met the goal of using 20% of renewable energy - I believe we are at 1%. The real estate tax credit for Geo has been very helpful in selling our systems and we thank you. We have done many home and green shows to make the public aware of our renewable technology including the one in Germantown last month. EPA rates Geo as the best of the 3 technologies. Geo can supply almost all heating, cooling and most hot water for homes and businesses. It works when cloudy, at night or when the wind doesn't blow. It can be installed anywhere. All County School built or remodeled in the last 5 years have Geo. We have three requests:

1. We request that you give us about a month or two before you suspend the tax credit so we can get all of our customer who expressed interest in our Geo Systems bid and under contract. I don't understand why this is emergency legislation and is retroactive to September 20?
2. Existing Homes - Our market segments into two different area. We have heard the "Help" program might be restarted. This is the up to \$25K loan at 2% to 3% over prime to be repaid on the tax bill over some 20 years. This could offset the loss installations as a result of the suspension of this credit.
3. New Homes - It is much easier more cost effective to install Geo in a new home. The homeowner can include in the mortgage at about a 4% interest rate. We request that you require the builders of new homes to give customers a cost estimate for the various energy sources that are available for their area including Geo. You current require 2 year past bills for resale's. Builders are installing propane.



Box 2171
Gaithersburg, Md. 20886
301 926-1891 x1
GeoSolarEnergy@Verizon.Net
October 22, 2011

Subject: Bill 28-11 and Renewable Energy for New Homes

Dear Montgomery County Council:

This letter is a follow-up to our testimony at the hearing on this bill on the 11th of this month. GeoSolar is the oldest renewable energy firm in Maryland having started the business in 1976. We distribute Bosch GeoThermal Energy Systems.

We thank you for the existing renewable energy property tax credit. This has helped us sell many systems and promote the technology at home and green shows. Back dating the suspension of the credit to September 20 is very unusual and has caused a number of our customers to cancel their installations and general market confusion. We request that you set some future date such as the end of November to suspend the program. We have told all of our customers that they will not get their property tax credit for six years and they don't seem to mind.

We would like you to consider a replacement program that will encourage the installation of renewable systems without costing the taxpayers any funds. We think that this program would result in far more installations than the existing program. For new homes, we would like to see builders who construct 10 or more homes a year to prepare a one page 20 year projection of the conventional and renewable energy costs available to the buyers for the house for sale. We have found that a number of major county builders are installing propane which cost 4 times as much to heat as our Geo system. Our market research indicates that these new home purchasers have no idea the cost of propane which is the worst environmental fuel. Under our plan the builder wouldn't be required to offer a renewable energy but we think that they might in time offer renewable sources. All major appliances such as refrigerators, dishwashers, dryers, etc. have a tag with operating cost. County homes for resale have to have two years of energy records so it just make sense that new homes should have a projection that includes one or more renewable energy sources. We would be glad to work with you to draft legislation.

**Sincerely,
Michael Heavener
Michael Heavener
President**

