

Introduction

MEMORANDUM

November 28, 2012

TO: County Council

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

SUBJECT: **Introduction:** Bill 40-12, Economic Development – Green Organization Supplement

Bill 40-12, Economic Development – Green Organization Supplement, sponsored by Council President Berliner, is scheduled to be introduced on December 4, 2012. A public hearing is tentatively scheduled for January 22, 2013 at 1:30 p.m.

Bill 40-12 would authorize the County to provide qualified applicants a Green Organization Supplement. The County would supplement 50% of the recipient's investment in a qualified green organization, or a lower percentage set in the annual operating budget resolution, up to \$25,000. This bill implements one of the recommendations from the Green Economy Task Force (see report excerpts on ©6).

| This packet contains: | <u>Circle #</u> |
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Expedited Bill No. 40-12
Concerning: Economic Development -
Green Organization Supplement
Revised: 11/27/2012 Draft No. 2
Introduced: December 4, 2012
Enacted: June 4, 2014
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President Roger Berliner

AN ACT to:

- (1) authorize the County to provide qualified applicants a Green Organization Supplement; and
- (2) generally amend the law governing County financial incentives for investment in certain businesses.

By adding

Montgomery County Code
Chapter 20, Finance
Section 20-76C

| | |
|------------------------------|--|
| 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:

1 **Sec. 1. Section 20-76C is inserted as follows:**

2 **20-76C. Green Organization Supplement.**

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

5 Green product or service means the delivery of a product or service in
6 the following areas:

- 7 (1) renewable, clean, or distributed energy;
8 (2) energy efficiency products or services;
9 (3) sustainable farming and food distribution;
10 (4) water quality and conservation;
11 (5) pollution reduction and remediation;
12 (6) recycling, reuse, and resource recovery; or
13 (7) biodiversity and natural resource conservation.

14 Qualified green organization means any business, cooperative, or non-
15 profit that:

- 16 (1) provides a green product or service; and
17 (2) implements a sustainable operation as verified by a third party.

18 Qualified investor means any individual or entity that invests at least
19 \$5,000 in a qualified Montgomery County green organization and that is
20 required to file an income tax return in any jurisdiction. Qualified
21 investor does not include a qualified pension plan, individual retirement
22 account, or other qualified retirement plan under the Employee
23 Retirement Income Security Act of 1974, as amended, or fiduciaries or
24 custodians under such plans, or similar tax-favored plans or entities
25 under the laws of other countries.

26 Sustainable operation means an organization validated by a third party
27 under one of the following:

- 28 (1) Montgomery County Certified Green Business, as certified by the
 29 Department of Environmental Protection;
 30 (2) Certified B Corp;
 31 (3) Green America Certification;
 32 (4) Green Seal;
 33 (5) International Organization for Standardization ISO 14001
 34 certified; or
 35 (6) any other third party validation approved by the Department.
- 36 (b) Payment of supplement. The Director of Finance must pay, subject to
 37 appropriation, a Green Organization Supplement to each applicant who
 38 meets certain eligibility standards.
- 39 (c) Eligibility standards. An applicant, who need not be a County resident,
 40 is eligible to receive the Supplement if the applicant:
- 41 (1) is a qualified investor; and
 42 (2) invests in a qualified green organization that:
- 43 (A) has its headquarters and base of operations in the County;
 44 or
 45 (B) has signed a lease to open a facility in the County and has
 46 been in business for less than 10 years and employs less
 47 than 50 people.
- 48 (d) Additional eligibility standards. The County Executive, by Method 2
 49 regulation, may impose other eligibility standards. However, those
 50 standards must not make any person ineligible to receive the
 51 Supplement who would be eligible under subsection (c).
- 52 (e) Ineligible investments. A qualified investor must not receive a
 53 supplement for capital used for any:
- 54 (1) geothermal, or solar photovoltaic, or similar system; or

55 (2) any building green or energy efficiency improvement,

56 (f) Amount of supplement. The Supplement paid to each recipient is a one-
57 time Supplement and must equal 50% of the recipient's investment in a
58 qualified green organization, or a lower percentage set in the annual
59 operating budget resolution, up to \$25,000.

60 (g) Application required. The Director must require each eligible person to
61 submit an application for the Supplement and may take any other action
62 necessary to administer the Supplement. The Executive may issue
63 regulations under Method (2) to specify an application process and
64 otherwise implement this Section.

65 (h) Fraudulent applications. A person who submits a false or fraudulent
66 application, or withholds material information, to obtain a payment
67 under this Section has committed a Class A violation. In addition, the
68 person must repay the County for all amounts improperly paid and all
69 accrued interest and penalties that would apply to those amounts as if
70 they were overdue taxes. A person who violates this Section is liable
71 for all court costs and expenses of the County in any civil action brought
72 by the County to recover any payment, interest, or penalty. The County
73 may collect any amount due, and otherwise enforce this Section, by any
74 appropriate legal action.

LEGISLATIVE REQUEST REPORT

Bill 40-12

Economic Development – Green Organization Supplement

DESCRIPTION: Authorizes the County to provide qualified applicants a Green Organization Supplement. The County supplement 50% of the recipient's investment in a qualified green organization, or a lower percentage set in the annual operating budget resolution, up to \$25,000.

PROBLEM: Need for further incentives to invest in local green technology companies

GOALS AND OBJECTIVES: To promote investment in local green technology companies

COORDINATION: Finance Department, Department of Economic Development

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: Applies to companies anywhere in the County.

PENALTIES: Not applicable

Overview of the green economy in Montgomery County, MD

Montgomery County is laying the foundation for a new green economy, which will create, expand and attract businesses that provide environmentally sustainable products, green technologies and services. With its history of progressive policies, engaged residents and innovative entrepreneurs, Montgomery County can nurture its nascent green industries and transform its entire economy into one of the greenest and most successful in the region—and beyond.

This report documents the Montgomery County Green Economy Task Force's recommendations for growing a sustainable economy in the 21st century. It covers a variety of topics, including raising substantial capital for new green technologies, spurring innovation through competition, simplifying bureaucracy for green businesses and building a vibrant, local food system.

These are not small recommendations that can be done quickly by one department or agency. They involve new partnerships, substantial private investments, advocacy at multiple levels of government and a county-wide commitment to a new way of doing business. In some cases, the inspiration for these recommendations comes from other jurisdictions like Silicon Valley, Austin and Toronto who are leaders in sustainable development. The Task Force has examined these programs and tailored some of them to fit Montgomery County's strategic advantages.

Other jurisdictions have set ambitious goals for green job growth, including Vancouver, BC, which hopes to add 20,000 by 2020 and Silicon Valley, which aims to add 25,000 clean-tech jobs within 15 years.¹ The Task Force hopes and expects that if the recommendations are implemented, something of a similar nature might be achievable in Montgomery County.

But, in addition to new jobs, the Task Force recommends that the success of the green economy should not be determined by usual measures like tax receipts or new construction starts. Instead, leaders should analyze the County's triple bottom line. Evaluating success using a "triple bottom line" approach means that we no longer look only at financial health, but we are now obligated to consider economic prosperity, environmental quality and social justice equally, with each policy decision we make.

By implementing the recommendations outlined in this report, and committing to a triple bottom line approach for evaluation, the potential for Montgomery County's green economy is only limited by our researchers' and entrepreneurs' imaginations. The Task Force is confident that Montgomery County will become a green economic engine that supports profitable business ventures while contributing to a sustainable society.

Charge to the Green Economy Task Force

In early 2009, the County Executive commissioned the 29-member Green Economy Task Force for the purpose of charting "a bold new course for Montgomery County focused on creating opportunities for new and existing 'green' businesses, spurring innovation, increasing employment, and developing next generation technologies."

¹ "Vancouver 2020 – A Bright Green Future". David R. Boyd & The Greenest City Action Team. 2009

The Task Force was asked to build upon several strengths inherent in Montgomery County: 1) a successful track record in promoting the growth of the local biotech industry; 2) progressive environmental policies; and 3) existing environmental and economic development initiatives. Examples of key policies include green building legislation, which requires both privately-constructed buildings and new County-owned buildings to achieve certain LEED² standards, and the Home Energy Loan Program, a new financing mechanism that allows residents to make energy efficient home improvements that are repaid through property assessments. In addition to these policies, key initiatives like the Sustainability Working Group,³ and important partnerships with organizations like the Maryland Clean Energy Center,⁴ informed the Task Force's work.

The County Executive appointed Dick Wegman, an environmental attorney with broad experience in federal, state and local environmental issues, as the Task Force chairman. The Task Force deliberated for ten months to develop the recommendations outlined in this report. The schedule included six full Task Force meetings and dozens of smaller subcommittee meetings. The subcommittees were created to target broad categories of the green economy, including: Agriculture, Finance, Innovation, Land Use, Policy/Regulation, Promotion and Workforce. The Task Force's consultants, Sustainable Design Group, provided the subcommittees with topical background information including relevant green initiatives in other jurisdictions. Several of these programs are referenced in the final recommendations.

The purpose of this report is to provide the Leggett Administration with expert guidance and input regarding the investments, policies and strategic partnerships that will nurture Montgomery County's nascent green economy. The ultimate goal is to increase Montgomery County's triple bottom line by generating economic, environmental and social value for local businesses, residents and the region.

Lessons from our biotech history

Beginning a quarter of a century ago, Montgomery County embarked on a major biotechnology initiative designed to stimulate the local economy by taking advantage of its proximity to major national medical research facilities, including the National Institutes of Health, U.S. Army Walter Reed Medical Center, Bethesda Naval Medical Center and related entities such as the Food and Drug Administration. To convert these research assets into commercial opportunities, Montgomery County pursued the following initiatives:

- Purchased close to 300 acres for the world-renowned Shady Grove Life Sciences Center, whose land value today approximates \$150 million;

² The Leadership in Energy and Environmental Design (LEED) rating system is a third party certification program and the nationally accepted benchmark for high performance green buildings.

³ In January 2009, Montgomery County issued a ground-breaking Climate Protection Plan, prepared by the legislatively created Sustainability Working Group. The Sustainability Working Group's recommendations will create a demand for green companies, through green building laws, greenhouse gas reduction mandates and other quality of life recommendations.

⁴ The Maryland Clean Energy Center, headquartered at the Universities at Shady Grove, was created by the State legislature and the governor in 2008 to develop clean technology development and clean tech jobs in the state. The Center's mission is to provide a coordinated approach to building a strong, clean energy economy in Maryland through technology commercialization, business incubation and workforce development and training.

- Coordinated the donation of 85 acres of private land to the University of Maryland and The Johns Hopkins University for their academic campuses and for the Center for Advanced Research in Biotechnology (CARB);
- Infused over \$17 million in infrastructure for the Life Sciences Center and for Hopkins' Belward Campus;
- Constructed Hopkins' first academic building (a \$12 million capital outlay), and financed the construction of CARB;
- Developed a life sciences business incubation strategy, which began with the \$10 million Maryland Technology Development Center, and now includes a total of five incubators; and
- Advocated at the State level for major capital investments in the University of Maryland, Johns Hopkins and CARB by continually highlighting these assets in the County's state legislative priorities.

The deeper pockets of the state, through financing agencies like MEDCO and TEDCO, and the Sunny Day Fund, and the attraction of out of state venture capital, were also needed to grow companies such as MedImmune and Human Genome Sciences.

As a result of this 25 year effort, Montgomery County's biosciences industry now generates combined annual revenues of \$2.36 billion, employs more than 9,200 private sector employees, and is often ranked as one of the top ten biotechnology clusters in the nation.⁵

Strategic advantages for growing the green economy

The Green Economy Task Force believes that even though there are significant differences between the biotech industry and the green technology industry, by implementing certain strategies outlined in this report, the probability of growing a robust green economy in Montgomery County is quite high.

The County's innate strengths, which promoted the growth of biotech, will again be the bedrock for the new, green economy. These strengths include an engaged private sector, bold political leadership, proximity to federal agencies, partnerships with academia and a highly-educated workforce. For example, the local government has a history of progressive leadership, which has already made significant strides in terms of green policies and sustainability. A recent study by the National Association of Counties, entitled "Local Leaders in Sustainability," described Montgomery County as "a progressive leader on green building and sustainability. Montgomery County will certainly be a county to watch as recent legislation takes effect and local policymakers go to new and innovative lengths to promote green buildings in their communities."⁶

Additionally, Montgomery County has a highly engaged professional community. It has experience building public-private partnerships and facilitating communication and collaboration between citizens, government, industry, researchers and academia. These professionals include employees at several federal installations related to energy, climate change and other green economy issues,

⁵ Maryland-National Capital Park and Planning Commission (M-NCPPC).

⁶ NACO – Local Leaders in Sustainability – Green Counties. Brooks Rainwater & Cooper Martine.

including the National Institute of Standards and Technology, the National Oceanic and Atmospheric Administration, and the Department of Energy. Because of these federal partners, Montgomery County is particularly well positioned to take advantage of the new federal and state support for strategies that utilize sustainability as a driver of economic development. And, unlike the biotech experience, there are existing large corporations in the County that can provide sources of technology as well as generate demand for green goods and services. Local sustainability strategies will also serve as demand generators.

Presently, Montgomery County's companies and businesses benefit from access to a well-educated and highly skilled workforce of 500,000 people. Nearly 60 percent of the county's labor force holds a bachelor's degree and 34 percent have earned a graduate or professional degree⁷, making Montgomery County an advantageous location for new and expanding green businesses.

Finally, Montgomery County has over 93,000 acres of viable farmland, which includes 577 farms and 350 horticulture enterprises, producing \$251 million annually and employing 10,000 people.

Combined, these strategic advantages give us an opportunity to become a leading jurisdiction in the green economy.

Defining the green economy

The green economy means different things to different people. With respect to many of the recommendations contained in this report, regulators or county officials in carrying out their responsibilities may find the Governor's Workforce Investment Board (GWIB) definition helpful. The GWIB treats a company as "green" if it is "directly engaged in the development, manufacture, sale and distribution, installation, and application of products and services that promote energy security and/or protects our environment."⁸ However, this approach would not be appropriate for some of the other recommendations in this report. For example, the Task Force recommends encouraging the consumption of locally produced products and food; clearly, in this area, a different metric would be needed. In other instances, the construction or operation of a LEED-certified building may qualify as "green," and the GWIB test would not fit here either.

What is the same are the basic principles that underlie all of the recommendations in this report: (1) dependence on carbon-based sources of energy is rapidly becoming economically and environmentally unsustainable and (2) Montgomery County can play a major leadership role in finding new ways to meet these challenges. Thus, after considering whether a single definition of the green economy should be adopted, in the end the Task Force decided that a one-size-fits-all approach would not be useful.

⁷ Research & Technology Center – Montgomery County Planning Department.

⁸ www.mdworkforce.com

Benchmarks

At this time, there is no national definition of what constitutes the “green economy,” so it is difficult to benchmark and monitor Montgomery County’s progress against other jurisdictions. For example, a contractor may build green homes, an HVAC contractor may specialize in energy efficient equipment, or an architect may design only LEED-rated buildings. However, common data sources like NAICS Codes are of limited use, because they don’t have a special green designation—every architect would fall under the same code. Similarly, there is no single source of data on the green industry within Montgomery County. For this report, the consultants used a variety of data sources, including industry associations serving specific technology sectors and consumer guides.

According to the consultants’ preliminary estimates, there are over 200 businesses in Montgomery County that contribute to the green economy. Montgomery County’s green industry can be divided into several categories: Energy Companies, Products and Services, Federal Installations, Finance and Venture Capital, and Private Green Technology R&D. Additionally, the Task Force acknowledges the importance of existing companies that are implementing sustainable business practices, regardless of their industry, because they create significant demand for local green products. The following are some examples of existing businesses and organizations already impacting Montgomery County’s green economy:

Energy Companies: Preliminary research shows 11 companies that provide energy-related products and services in Montgomery County (not counting energy auditors). One of the most successful companies is Standard Solar, Inc., which was started in 2004, and currently employs more than 60 people. Not only was Standard Solar involved in one of the east coast’s largest solar electric system installations for the US Department of Energy, the company was recently part of the region’s largest Power Purchase Agreements in Upper Marlboro, MD.

Green Products and Services: The available data indicates that the largest sector of green business in Montgomery County is green products/services. These services include everything from green cleaning companies to energy auditors and consultants. Additionally, there are an estimated 410 LEED Accredited Professionals working in Montgomery County. An example of a green product provider is Amicus Green Building Center, in Kensington, MD, which offers a range of green building products and supplies. In addition to providing green products, Amicus follows triple bottom line principles in its operations.

Federal Installations: There are three federal installations in Montgomery County whose work supports the advancement of green technology. For example, the National Institute of Standards and Technology (NIST), in Gaithersburg, is committed to studying and solving issues associated with a variety of green technology standards, including high performance buildings and sustainable infrastructure materials.

Finance and Venture Capital: Investors are an important component to a healthy green industry, because they help companies bring their technologies to market. Calvert Investments, an environmentally and socially responsible investment firm in Bethesda, manages \$14 billion in assets.

Private Green Technology R&D: Montgomery County is home to several large corporations that are diversifying their businesses to include green technology. One example is Lockheed Martin, the country’s largest defense contractor, which is now investing in smart grid R&D.

B-3) Encourage private investment in green technology through tax incentives

In order to promote investments in local green technology companies, Montgomery County should establish a local tax credit (against income, real or personal property taxes) for investors who invest in Montgomery County-based green tech companies.

Model Program:

The Maryland Biotechnology Investment Tax Credit provides income tax credits for investors in qualified Maryland biotechnology companies to offer incentives for investment in seed and early stage, privately held biotech companies. The value of the credit is equal to 50% of an eligible investment made in a qualified Maryland biotechnology company during the taxable year. The maximum amount of the credit cannot exceed \$250,000 for investors.

Strategic Advantages:

The State of Maryland has a proven track record of using investment tax credits to leverage private investment in early stage biotech companies. Montgomery County is currently developing its own biotechnology investment tax credit program, which will provide a model for a parallel green technology local tax credit program. Alternatively, a single biotech/clean tech investment tax credit program could be established through one piece of legislation/program.

Implementation:

1. Work with the Office of the County Executive, Department of Finance, Office of Management and Budget and Office of the County Attorney to draft legislation and a fiscal impact statement.
2. Enlist local biotech companies that have benefited from the MD biotech investment tax credit to educate decision makers on the potential direct and indirect benefits of the tax for the green sector.
3. Coordinate funding for the tax credit in appropriate fiscal year budget, and develop the necessary administrative procedures.

Resources and Financial Impacts:

Funds will need to be included in the County budget for the tax credit program (as a point of reference, FY10 funding for the MD Biotech Investment Tax Credit is \$6 million). Staff resources will be needed to develop the legislation and regulatory/administrative procedures, and to certify eligible investments and administer the tax credit program.

Partnerships:

- State Comptroller
- Tech Council of Maryland and chambers of commerce (for outreach on the program)
- Angel investors and VC funds