



Committee: TE
Committee Review: At a future date
Staff: Khandikile Mvunga Sokoni, Legislative Attorney
Purpose: To receive testimony – no vote expected
Keywords: #FuelEnergyTax #GreenBank

AGENDA ITEM#1
July 11, 2023
Public Hearing

SUBJECT

Bill 28-23, Taxation – Fuel Energy Tax – Green Bank
Lead Sponsor: Transportation and Environment Committee
Co-Sponsor(s): Councilmember Friedson

EXPECTED ATTENDEES

Members of the Public

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION:

N/A

DESCRIPTION/ISSUE

Bill 28-23 would

- (1) restrict the use of fuel energy tax funds by the Montgomery County's Green Bank to only support activities that promote the investment in clean energy technologies and to provide financing for clean energy technologies, including renewable energy and energy efficiency projects and not resiliency activities; and
- (2) generally amend the law related to taxation, the fuel-energy tax and environmental sustainability.

SUMMARY OF KEY DISCUSSION POINTS

- (1) The Transportation and Environment (TE) Committee sponsored Bill 28-23 in connection with the enactment of Bill 03-23.
- (2) Bill 28-23 seeks to make it clear that despite the Green Bank's authority to expand the scope of its activities to include resiliency, the 10% appropriation must remain dedicated to the original intent of the appropriation which is investment in clean energy.
- (3) Bill 28-23 seeks to ensure that the provisions of the Tax Law are consistent with the Environmental Sustainability Chapter regarding the 10% appropriation from the fuel energy tax.

This report contains:

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M E M O R A N D U M

July 6, 2023

TO: County Council

FROM: Khandikile Mvunga Sokoni, Legislative Attorney

SUBJECT: Bill 28-23, Taxation – Fuel Energy Tax – Green Bank

PURPOSE: Public Hearing – no vote expected

Bill 28-23, Taxation – Fuel Energy Tax – Green Bank, sponsored by the Transportation and Environment (TE) Committee and co-sponsored by Councilmember Friedson, was introduced on June 20, 2023. A public hearing is scheduled for July 11, 2023, and the TE Committee worksession is tentatively scheduled for July 17, 2023.

BACKGROUND

In adopting Bill 44-21, on February 1, 2022, the Council specifically provided for the appropriation of 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. This provision is codified under Chapter 52, Taxation, Sec. 52-14(j). At the time, the Green Bank’s authority was limited to primarily investing in clean energy technologies. Then the Council enacted Bill 3-23 on March 21, 2023¹ to amend the Environmental Sustainability Chapter of the Code, granting the Green Bank the ability to expand its scope to include engaging in climate resiliency activities. The TE Committee decided to limit the use of that 10% appropriation from the fuel energy tax to only support activities that promote the investment in clean energy technologies and to provide financing for clean energy technologies, including renewable energy and energy efficiency projects and not resiliency activities. Hence this bill.

BILL SPECIFICS

This bill seeks to make it clear that despite the Green Bank’s authority to expand the scope of its activities to include resiliency, the 10% appropriation must remain dedicated to the original intent of the appropriation which is investment in clean energy.

SUMMARY OF IMPACT STATEMENTS/ASSESSMENTS

The Office of Management and Budget (OMB) estimates that Bill 28-23 is not expected to impact County revenues or expenditures.

¹ Bill 3-23 took effect on July 3, 2023

The Office of Legislative Oversight (OLO) anticipates Bill 28-23 will have a minimal positive impact on the County's contribution to addressing climate change.

This packet contains:

Circle #

Bill 28-23

©1

Legislative Request Report

©3

Fiscal Impact Statement

©4

Climate Assessment

©5

Bill No. 28-23
Concerning: Taxation – Fuel Energy Tax
– Green Bank
Revised: 07/06/2023 Draft No. 2
Introduced: June 20, 2023
Expires: December 27, 2023
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Transportation and Environment Committee
Co-Sponsor: Council Vice-President Friedson

AN ACT to:

- (1) restrict the use of fuel energy tax funds by the Montgomery County’s Green Bank to only support activities that promote the investment in clean energy technologies and to provide financing for clean energy technologies, including renewable energy and energy efficiency projects and not resiliency activities; and
- (2) generally amend the law related to taxation, the fuel-energy tax and environmental sustainability.

By amending
Montgomery County Code

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:

LEGISLATIVE REQUEST REPORT

Bill 28-23

Taxation – Fuel Energy Tax – Green Bank

DESCRIPTION:	Bill xx-23 restricts the use of fuel energy tax funds by the Montgomery County’s Green Bank to only support activities that promote the investment in clean energy technologies and to provide financing for clean energy technologies, including renewable energy and energy efficiency projects and not resiliency activities.
PROBLEM:	In adopting Bill 44-21, the Council specifically provided for the appropriation of 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. This provision is codified under Chapter 52, Sec. 52-14(j). At the time, the Green Bank’s authority was limited to primarily investing in clean energy technologies. Now, Bill 3-23 seeks to grant the Green Bank the ability to expand its scope to include engaging in climate resiliency activities. The Transportation and Environment Committee wishes to limit the use of that 10% appropriation from the fuel energy tax to only support activities that promote the investment in clean energy technologies and to provide financing for clean energy technologies, including renewable energy and energy efficiency projects and not resiliency activities.
GOALS AND OBJECTIVES:	To ensure that the 10% portion of the fuel energy tax that is allocated to the Green Bank every year will continue to support the Green Bank’s original scope of work.
COORDINATION:	Finance/Green Bank
RACIAL EQUITY AND SOCIAL JUSTICE IMPACT STATEMENT	Office of Legislative Oversight
FISCAL IMPACT:	Office of Management and Budget
ECONOMIC IMPACT:	Office of Legislative Oversight.
EVALUATION:	N/A.
EXPERIENCE ELSEWHERE:	N/A.
SOURCE OF INFORMATION:	Khandikile Mvunga Sokoni, Legislative Attorney, 240-777-7895
APPLICATION WITHIN MUNICIPALITIES:	Countywide
PENALTIES:	N/A



Fiscal Impact Statement

Office of Management and Budget

Bill 28-23

Taxation - Fuel Energy Tax - Green Bank

Bill Summary

Bill 28-23 restricts the use of fuel energy tax funds by the Montgomery County Green Bank to only support activities that promote the investment in clean energy technologies and to provide financing for clean energy technologies, including renewable energy and energy efficiency projects, and not resiliency activities.

Fiscal Impact Summary

This bill is not expected to impact County revenues or expenditures.

Fiscal Impact Analysis

Restricting the uses of the fuel energy tax funds received by the Montgomery County Green Bank will not impact County revenues or expenditures.

Staff Impact

The bill is not expected to impact staff time or duties.

Actuarial Analysis

The bill is not expected to impact retiree pension or group insurance costs.

Information Technology Impact

The bill is not expected to impact the County Information Technology (IT) or Enterprise Resource Planning (ERP) systems.

Other Information

Later actions that may impact revenue or expenditures if future spending is projected

The bill does not authorize future spending.

Contributors

Abdul Rauf, Office of Management and Budget
Nancy Feldman, Department of Finance
Stan Edwards, Department of Environmental Protection



Climate Assessment

Office of Legislative Oversight

Bill 28-23: Taxation – Fuel Energy Tax – Green Bank

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 28-23 will have a minimal positive impact on the County's contribution to addressing climate change as the proposed changes are designating fuel energy tax revenue received by the Green Bank to only be used for activities related to the investment and financing of clean energy technologies. The designation of funds could allow for more clean energy technology activities to be funded, as the fuel energy tax revenue received by the Green Bank could not be used for any other activity. Further, many clean energy projects also increase community resilience.

BACKGROUND AND PURPOSE OF BILL 28-23

Montgomery County levies a fuel-energy tax on every person transmitting, distributing, manufacturing, producing, or supplying electricity, gas, steam, coal, fuel oil, or liquefied petroleum gas in the County.¹ On February 1, 2022, the County Council enacted Bill 44-21, Montgomery County Green Bank – Funding – Fuel-energy tax revenue, which specified that 10% of the annual revenue received from the fuel-energy tax would be given to the Montgomery County Green Bank.²

The Green Bank is a publicly chartered 501c3 nonprofit corporation focused on accelerating energy efficiency, renewable energy, and clean energy investment in the County. They receive funding from the County, in addition to other public and private funders that finance their projects.³

Recently, the Council enacted Bill 3-23, Environmental Sustainability – Montgomery County Green Bank, on March 21, 2023, which granted the Green Bank the ability to engage in climate resiliency activities.⁴ The bill defined climate resiliency projects and activities as:

“designed to support property or community resilience, reliability, and environmental sustainability; property or community environmental health and environmental safety; property or community water conservation and on-site management; sustainable waste treatment; sustainable agricultural activities; and adaption of systems to manage changes to the climate, such as activities responding to extreme weather events.”⁵

Bill 28-23 proposes to restrict the use of fuel energy tax funds by the Green Bank to only support activities related to the investment and financing of clean energy technologies, including renewable energy and energy efficiency projects. The bill would **prohibit** the Green Bank to use the tax funds for resilience activities and projects.⁶ Bill 28-23, Taxation – Fuel Energy Tax – Green Bank, was introduced by the Council on June 20, 2023.

ANTICIPATED IMPACTS

The Montgomery County Green Bank was established to accelerate energy efficiency, renewable energy, and clean energy investment in the County.⁷ In early 2023, the Council passed Bill 3-23, which allows the Green Bank to finance resiliency projects outside of the clean energy sector.

Many projects associated with clean energy technologies also positively benefit community resilience. Projects, such as solar-powered microgrids can help a community become more resilient to disruptions in energy supplies, such as those caused by extreme weather events.⁸ OLO notes that the Green Bank's previous projects, such as Seneca Village's rooftop solar project,⁹ not only decrease greenhouse gas emissions associated with energy use but increase community resilience as they can strengthen local energy systems by providing reliable and affordable energy for local governments, households, and businesses.¹⁰

Bill 28-23 seeks to restrict the use of fuel energy tax funds by the Green Bank to only support activities related to the investment and financing of clean energy technologies. The designation of funds could allow for more clean energy technology activities to be funded, as the fuel energy tax revenue received by the Green Bank could not be used for any other activity. Further, many clean energy projects also increase community resilience. The Office of Legislative Oversight (OLO) anticipates Bill 28-23 will have a minimal positive impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptive capacity.

RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.¹¹ OLO does not offer recommendations or amendments as Bill 28-23 is likely to have little to no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptive capacity.

CAVEATS

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County's contribution to addressing climate change. These climate assessments will provide the Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County's adaptive capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

¹ ["Fuel Energy Tax Information", Montgomery County Government, Accessed 6/23/23.](#)

² [Bill 44-21, Montgomery County Green Bank - Funding - Fuel-energy Tax Revenue, Montgomery County Council, Effective date May 13, 2022.](#)

³ ["About Us", Montgomery County Green Bank, Accessed 6/23/23.](#)

⁴ [Bill 3-23, Environmental Sustainability - Montgomery County Green Bank, Montgomery County Council, Effective date July 3, 2023.](#)

⁵ Ibid.

⁶ [Introduction Staff Report for Bill 28-23, Montgomery County Council, June 20, 2023.](#)

⁷ ["About Us", Montgomery County Green Bank, Accessed 6/23/23.](#)

⁸ ["Community Resilience Planning and Clean Energy Initiatives: A Review of City-Led Efforts for Energy Efficiency and Renewable Energy", American Council for an Energy-Efficient Economy, January 2020.; "Enhancing Community Resilience through Energy Efficiency", American Council for an Energy-Efficient Economy, October 2015.](#)

⁹ ["2022 Annual Report", Montgomery County Green Bank, 2022.](#)

¹⁰ ["Enhancing Community Resilience through Energy Efficiency", American Council for an Energy-Efficient Economy, October 2015.; "Solar Resilience: Keeping Communities Connected", U.S. Department of Energy: Office of Energy Efficiency and Renewable Energy, Accessed 6/28/23.](#)

¹¹ Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022