



**Committee:** TE  
**Committee Review:** Completed  
**Staff:** Khandikile Mvunga Sokoni, Legislative Attorney  
**Purpose:** Final action – vote expected  
**Keywords:** #FuelEnergyTax #GreenBank

AGENDA ITEM#13E  
July 25, 2023  
**Action**

## SUBJECT

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

## EXPECTED ATTENDEES

None

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION:

At a Committee worksession on July 17, 2023, the Transportation and Environment (TE) Committee unanimously recommended enactment of Bill 28-23 as introduced.

## 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:

Staff Report	Pages 1-2
Bill 28-23	© 1
Legislative Request Report	© 3
Fiscal Impact Statement	© 4

Climate Assessment  
Racial Equity and Social Justice Impact Statement  
Economic Impact Statement

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©12

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**M E M O R A N D U M**

July 20, 2023

TO: County Council

FROM: Khandikile Mvunga Sokoni, Legislative Attorney

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

PURPOSE: Action – roll call vote expected

<p><b><u>COMMITTEE RECOMMENDATION:</u></b> The Transportation and Environment (TE) Committee recommended (3-0) the enactment of Bill 28-23.</p>
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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 was held on July 11, 2023, and the TE Committee worksession was held on 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, 2023<sup>1</sup> 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.

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<sup>1</sup> Bill 3-23 took effect on July 3, 2023

## 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.

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.

OLO also anticipates that Bill 28-23 will have an indeterminate impact on racial equity and social justice in the County and will have an insignificant short-term impact on economic conditions within the County.

During the Committee worksession Council President Glass noted with regard to the RESJ Impact statement that the Green Bank is required to dedicate part of its funding from the County towards activities in Equity Emphasis areas which does advance racial equity and social justice. Section 18A-49(f)(1) provides that after July 1, 2023, 20% of annual direct appropriation that the Green Bank receives from the County must be used to support the Bank's activities in Equity Emphasis areas in the County.

## COMMITTEE RECOMMENDATION

The TE Committee unanimously recommended enactment of Bill 28-23.

This packet contains:

Circle #

Bill 28-23

©1

Legislative Request Report

©3

Fiscal Impact Statement

©4

Climate Assessment

©5

Racial Equity and Social Justice Impact Statement

©8

Economic Impact Statement

©12

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

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

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**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

<b>Boldface</b>	<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. Sections 52-14 is amended as follows:**

2   **52-14. Fuel-energy tax.**

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

6                                   \*       \*       \*

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

11          (k)   Any funds which under this section are given to the nonprofit  
12                  corporation designated as the Montgomery County Green Bank under  
13                  Section 18A-46 must only be used to promote the investment in clean  
14                  energy technologies and to provide financing for clean energy  
15                  technologies, including renewable energy and energy efficiency  
16                  projects and must not be used for resiliency activities.

17                                   \*       \*       \*

## LEGISLATIVE REQUEST REPORT

Bill 28-23

*Taxation – Fuel Energy Tax – Green Bank*

<b>DESCRIPTION:</b>	Bill 28-23 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.
<b>PROBLEM:</b>	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.
<b>GOALS AND OBJECTIVES:</b>	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.
<b>COORDINATION:</b>	Finance/Green Bank
<b>RACIAL EQUITY AND SOCIAL JUSTICE IMPACT STATEMENT</b>	Office of Legislative Oversight
<b>FISCAL IMPACT:</b>	Office of Management and Budget
<b>ECONOMIC IMPACT:</b>	Office of Legislative Oversight.
<b>EVALUATION:</b>	N/A.
<b>EXPERIENCE ELSEWHERE:</b>	N/A.
<b>SOURCE OF INFORMATION:</b>	Khandikile Mvunga Sokoni, Legislative Attorney, 240-777-7895
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	Countywide
<b>PENALTIES:</b>	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.

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### 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.<sup>1</sup> 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.<sup>2</sup>

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.<sup>3</sup>

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.<sup>4</sup> 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.”<sup>5</sup>

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.<sup>6</sup> Bill 28-23, Taxation – Fuel Energy Tax – Green Bank, was introduced by the Council on June 20, 2023.

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## ANTICIPATED IMPACTS

The Montgomery County Green Bank was established to accelerate energy efficiency, renewable energy, and clean energy investment in the County.<sup>7</sup> 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.<sup>8</sup> OLO notes that the Green Bank's previous projects, such as Seneca Village's rooftop solar project,<sup>9</sup> 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.<sup>10</sup>

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 adaptative capacity.

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## RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.<sup>11</sup> 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 adaptative capacity.

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## 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.

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## CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

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

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

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

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

<sup>5</sup> Ibid.

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

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

<sup>8</sup> ["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.](#)

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

<sup>10</sup> ["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.](#)

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

# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

## **BILL 28-23: TAXATION – FUEL ENERGY TAX – GREEN BANK**

### **SUMMARY**

The Office of Legislative Oversight (OLO) anticipates Bill 28-23 would have an indeterminant impact on racial equity and social justice (RESJ) in the County. Absent demographic data regarding the primary beneficiaries of Green Bank investments overall, and for climate resiliency investments in particular, it is impossible to discern whether the proposed funding restrictions on resiliency projects would have a negative, positive, or no impact on RESJ in the County.

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### **PURPOSE OF RESJ IMPACT STATEMENTS**

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a process that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a goal of eliminating racial and social inequities.<sup>1</sup> Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.<sup>2</sup>

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### **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.<sup>3</sup> On February 1, 2022, the County Council enacted Bill 44-21 authorizing that 10 percent of the County’s annual fuel-energy revenue would be allocated to the Montgomery County Green Bank to support energy efficiency, renewable energy, and clean energy investment in the County.<sup>4</sup> (See Appendix A, Table 1, Green Bank Related Legislation).

The purpose of Bill 28-23 is to restrict the use of fuel energy tax funds expended by the Green Bank to exclusively support clean energy technologies, including renewable energy and energy efficiency projects.<sup>5</sup> More specifically, the Bill would prohibit the Green Bank’s use of fuel energy tax revenue for climate resilience activities and projects.<sup>6</sup>

The Green Bank was established in 2015 as a publicly chartered 501(c)(3) nonprofit corporation. The Green Bank relies on funding from the County and other public and private funders.<sup>7</sup> Earlier this year, the Council enacted Bill 3-23 to enable the Green Bank to support climate resilience activities in the same manner as it supports energy efficiency and renewable energy projects. Specific climate resiliency activities authorized by Bill 3-23 include measures to support:<sup>8</sup>

- 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.

# RESJ Impact Statement

## Bill 28-23

Bill 28-23, Taxation – Fuel Energy Tax – Green Bank, was introduced by the Council on June 20, 2023.

In February 2023, OLO published a RESJIS for Bill 3-23 Environmental Sustainability – Montgomery County Green Bank.<sup>9</sup> Please refer to this RESJIS for background on climate change and racial equity.

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### ANTICIPATED RESJ IMPACTS

OLO anticipates Bill 28-23 would have an indeterminant impact on RESJ in the County if enacted. For Bill 3-23, which granted the Green Bank the authority to support climate resiliency investments, OLO found the anticipated RESJ impact to be indeterminant.<sup>10</sup> In the RESJIS for Bill 3-23, OLO observed that BIPOC constituents could benefit from increased investment in climate resiliency projects since they are disproportionately harmed by climate change. However, it was unclear from available information whether Black, Indigenous, and Other People of Color (BIPOC) constituents would be the primary beneficiaries of Green Bank investments.<sup>11</sup>

Data required to assess the anticipated RESJ impact of Green Bank investments remains unavailable. Moreover, in the absence of demographic data describing the primary beneficiaries of climate resiliency investments, it is impossible to discern whether the Bill would have a negative, positive, or no impact on RESJ in the County. As such, OLO finds the anticipated RESJ impact of Bill 28-23 to be indeterminant.

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### RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.<sup>12</sup> OLO anticipates that Bill 28-23 will have an indeterminant impact on RESJ in the County because it is unclear from available information whether BIPOC constituents will be the primary beneficiaries of Green Bank investments regardless of the proposed restriction on fuel energy tax funds for resilience activities and projects. As such, OLO does not offer recommended amendments.

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### CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than 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.

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### CONTRIBUTIONS

OLO staffer Elsabett Tesfaye, Performance Management and Data Analyst, drafted this RESJ impact statement.

# RESJ Impact Statement

## Bill 28-23

### Appendix A

Table 1: Montgomery County Green Bank-Related Legislation		
Bill	Enacted	Purpose
Bill 18-15 Environmental Sustainability - Montgomery County Green Bank	6/30/15	To Establish the Montgomery County Green Bank. Enacted by the Council on June 30, 2015 and was signed into law by the County Executive on July 7, 2015.
Bill 44-21 Montgomery County Green Bank —Funding— Fuel-Energy tax revenue	2/1/ 22	To mandate that the Council annually appropriate 10% of the fuel-energy tax revenue to the County Green Bank.  <b>Added new language: Chapter 52, Taxation</b>  <b>52-14(j)</b> 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.
Bill-3-23 Environmental Sustainability – Montgomery County Green Bank	3/ 21/23	To modify the enabling language in Article 7, Section 18A of the Montgomery County Code to allow the Montgomery County Green Bank to engage in activities related to climate resilience in the same manner as energy efficiency and renewable energy. <sup>13</sup>  <b>New Language Added-Chapter 18-A. Environmental Sustainability</b> <b>Article 7-Montgomery County Green Bank</b> <b>18A-45 Definitions: Resiliency, sustainability, or climate adaptive projects</b> <u>“(D)esigned 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.”</u>  <b>New Language Added- Chapter 18-A. Environmental Sustainability</b> <b>18A-49 : Work program; staff; support from County Government</b> 18A-49 (e)((2) <u>County funds, including a portion of the fuel-energy tax revenue received by the County, provided that any funds given to the Green Bank under Chapter 52, Sec. 52-14 must only be used to promote the investment in clean energy technologies and to provide financing for clean energy technologies, including renewable energy and energy efficiency projects and must not be used for resiliency activities.</u>
Bill-28-23 Taxation – Fuel Energy Tax – Green Bank (Introduced June 20, 2023)	New	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. <sup>14</sup>  <b>New Language added: Chapter 52, Taxation 52-14 Fuel Energy Tax</b> <b>52-14 (k)</b> <u>Any funds which under this section are given to the nonprofit corporation designated as the Montgomery County Green Bank under Section 18A-46 must only be used to promote the investment in clean energy technologies and to provide financing for clean energy technologies, including renewable energy and energy efficiency projects and must not be used for resiliency activities.</u>

# RESJ Impact Statement

## Bill 28-23

<sup>1</sup> Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

<sup>2</sup> Ibid.

<sup>3</sup> Fuel Energy Tax Information. Montgomery County Government. MC311 Customer Service Center. Last Update 09/03/21  
<https://www3.montgomerycountymd.gov/311/Solutions.aspx?SolutionId=1-2FSHUH>

<sup>4</sup> Montgomery County Council. Legislative Information Management System (LIMS). Council Legislation - Bill Details. Bill 44-21 - Montgomery County Green Bank - Funding - Fuel-energy tax revenue  
<https://apps.montgomerycountymd.gov/ccllms/BillDetailsPage?RecordId=2735&fullTextSearch=44-21>

<sup>5</sup> Memorandum from Khandikile Mvunga Sokoni, Legislative attorney introducing Agenda Item. Bill-28-23 Fuel Energy Tax – Green Bank. June 20, 2023.

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230620/20230620\\_1A.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230620/20230620_1A.pdf)

<sup>6</sup> Ibid.

<sup>7</sup> Montgomery County Green Bank. Making a green dream a reality.

<https://mcgreenbank.org/about-us/>

<sup>8</sup> Montgomery County Council. Legislative Information Management System (LIMS). Council Legislation - Bill Details  
Bill 3-23 - Environmental Sustainability – Montgomery County Green Bank

<https://apps.montgomerycountymd.gov/ccllms/BillDetailsPage?RecordId=2778>

<sup>9</sup> Janmarie Peña. Racial Equity and Social Justice (RESJ) Impact Statement. Office of Legislative Oversight. February 22, 2023

<https://www.montgomerycountymd.gov/OLO/Resources/Files/resjis/2023/Bill3-23.pdf>

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

<sup>13</sup> Montgomery County Council. Legislative Information Management System (LIMS). Council Legislation - Bill Details  
Bill 3-23 - Environmental Sustainability – Montgomery County Green Bank

<sup>14</sup> Memorandum from Khandikile Mvunga Sokoni. June 20,2023

# Economic Impact Statement

Montgomery County, Maryland

## Bill 28-23

## Taxation – Fuel Energy Tax – Green Bank

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Bill 28-23 would have an insignificant short-term impact on economic conditions in the County in terms of the Council’s priority indicators. By prohibiting the Green Bank from using the fuel energy tax funds for climate resilience activities, the policy change likely would not affect the Green Bank because it does not intend to pursue these activities in the short-term. However, the Bill could negatively impact economic conditions in the mid- to long-term, if the Green Bank forgoes non-energy climate resilience projects in the future.

### 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.<sup>1</sup> On February 1, 2022, the County Council enacted Bill 44-21, which specified that 10% of the annual revenue received from the fuel energy tax would be given to the Montgomery County Green Bank.<sup>2</sup>

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.<sup>3</sup>

Recently, the Council enacted Bill 3-23 on March 21, 2023, which granted the Green Bank the ability to engage in climate resiliency activities.<sup>4</sup> 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.”<sup>5</sup>

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 from using the tax funds for resilience activities and projects.<sup>6</sup>

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<sup>1</sup> "Fuel Energy Tax Information", Montgomery County Government, Accessed 6/23/23.

<sup>2</sup> Bill 44-21, Montgomery County Green Bank - Funding - Fuel-energy Tax Revenue, Montgomery County Council, Effective date May 13, 2022.

<sup>3</sup> "About Us", Montgomery County Green Bank, Accessed 6/23/23.

<sup>4</sup> Bill 3-23, Environmental Sustainability - Montgomery County Green Bank, Montgomery County Council, Effective date July 3, 2023.

<sup>5</sup> Ibid.

<sup>6</sup> Introduction Staff Report for Bill 28-23, Montgomery County Council, June 20, 2023.



Bill 28-23, Taxation – Fuel Energy Tax – Green Bank, was introduced by the Council on June 20, 2023.

## INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess, both, the impacts of Bill 28-23 on residents and private organizations in terms of the Council’s priority economic indicators and whether the Bill would have a net positive or negative impact on overall economic conditions in the County.<sup>7</sup>

In this analysis, OLO performs a qualitative assessment of Bill 28-23’s impacts on the Council’s priority indicators. It draws on the following sources of information:

- Correspondence with personnel from the Green Bank;
- Economic Impact Statements for Bill 44-21 and 3-23; and
- Smith, Gene to GO and T&E Committees, Memorandum: FY23 Operating Budget – Montgomery County Green Bank (MCGB) Non-Departmental Account.

No assumptions are made in this analysis.

## VARIABLES

The primary variables that would affect the economic impacts of enacting Bill 28-23 are the following:

- Total County funding for the Green Bank per year; and
- External funding for the Green Bank to support non-energy climate resilience activities.

## IMPACTS

**WORKFORCE** ▪ **TAXATION POLICY** ▪ **PROPERTY VALUES** ▪ **INCOMES** ▪ **OPERATING COSTS** ▪ **PRIVATE SECTOR CAPITAL INVESTMENT** ▪ **ECONOMIC DEVELOPMENT** ▪ **COMPETITIVENESS**

### Economics of the Green Bank

The Green Bank aims to increase investment in energy efficiency and renewable energy technologies for County residential and commercial properties. To achieve this aim, the Green Bank seeks to attract private capital through de-risking strategies, outreach, and technical assistance, thereby helping to lower the cost of financing these technologies and grow the nascent clean energy market in the County.

According to Green Bank personnel, it has used its capital to induce private investment in clean energy improvements in County buildings that otherwise would have not occurred. This has occurred through:

- attracting private investment to clean energy improvements that otherwise would not have flowed to the County; and

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<sup>7</sup> Montgomery County Code, [Sec. 2-81B](#).

- re-directing investment towards clean energy improvements that otherwise would have flowed to other areas within the County.

## **Businesses, Non-Profits, Other Private Organizations**

OLO anticipates that Bill 28-23 would have an insignificant short-term impact on certain private organizations, namely the Green Bank and its private partners, in terms of the Council’s priority economic indicators.

According to Green Bank personnel, the organization does not expect to pursue climate resiliency projects that do NOT qualify as promoting clean energy in FY24. The Green Bank gained climate reliance authorities in July 2023. Currently, it does not have a project pipeline of non-energy resilience activities and will not be able to pursue these activities until the organization develops the required internal capacity and external funding, as the Green Bank’s current funding sources do not support these activities.

However, it is worth noting the Bill potentially could negatively impact the Green Bank and certain County-based providers of climate resilience-related services in the mid- to long-term. If the opportunities to pursue investments in non-energy climate resilience arise, the Green Bank would have to decline them until alternative sources of funding would become available. If this occurs, the Green Bank and County-based providers of climate resilience-related services would be negatively impacted by forgoing projects that otherwise would occur in the absence of the Bill.

More details on future climate resilience projects, which are currently unavailable, would be required for OLO to provide a fuller accounting of potential negative economic impacts.

## **Residents**

OLO anticipates that the Bill would have an insignificant short-term impact on residents in terms of the Council’s priority economic indicators. OLO cannot provide a fuller accounting of the mid- to long-term economic impacts on residents due to lack of information.

## **Net Impact**

OLO anticipates the Bill would have an insignificant short-term impact on economic conditions in the County in terms of the Council’s priority indicators. By prohibiting the Green Bank from using the fuel energy tax funds for climate resilience activities, the policy change likely would not affect the Green Bank because it does not intend to pursue these activities in the short-term. However, the Bill could negatively impact economic conditions in the mid- to long-term, if the Green Bank forgoes non-energy climate resilience projects in the future.

## **DISCUSSION ITEMS**

Not applicable

## **WORKS CITED**

Epa.gov. “[Climate Adaptation and the EPA’s Role](#).” U.S. Environmental Protection Agency. September 19, 2022.

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements](#).

Montgomery County Council. [Introduction Staff Report for Bill 28-23, Taxation – Fuel Energy Tax – Green Bank](#).  
Introduced on June 20, 2023.

Office of Legislative Oversight. [Economic Impact Statement: Bill 44-21, Montgomery County Green Bank – Funding – Fuel Energy Tax Revenue](#).

— [Economic Impact Statement: Bill 3-23, Environmental Sustainability – Montgomery County Green Bank](#).

Smith, Gene to Government Operations and Fiscal Policy (GO) and Transportation and Environment (T&E) Committees.  
[Memorandum: FY23 Operating Budget – Montgomery County Green Bank \(MCGB\) Non-Departmental Account](#). May 2, 2022.

## CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. 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.

## CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.