

Bill No. 18-15
Concerning: Environmental Sustainability
– Montgomery County Green Bank
Revised: 6/30/2015 Draft No. 5
Introduced: April 21, 2015
Enacted: June 30, 2015
Executive: July 7, 2015
Effective: October 6, 2015
Sunset Date: None
Ch. 35, Laws of Mont. Co. 2015

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Berliner
Co-Sponsors: Council President Leventhal and Councilmembers Hucker, Riemer, Elrich, Rice,
Navarro and Katz

AN ACT to:

- (1) authorize County government to designate a County Green Bank to promote the investment in clean energy technologies;
- (2) specify the process to designate a nonprofit corporation to function as the Green Bank;
- (3) define the nature and powers of the Green Bank;
- (4) establish a Green Bank Work Group to review the application of Chapter 18A, Article 7 and make recommendations regarding the implementation of the Montgomery County Green Bank; and
- (5) generally amend the environmental sustainability law.

By adding

Montgomery County Code
Chapter 18A, Environmental Sustainability
Article 7
Sections 18A-44, 18A-45, 18A-46, 18A-47, 18A-48, 18A-49, and 18A-50

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. Article 7 (Sections 18A-44, 18A-45, 18A-46, 18A-47, 18A-48, 18A-49,
2 and 18A-50) is added as follows:

3 Article 7. Montgomery County Green Bank.

4 18A-44. Purpose.

5 The County Government should support the formation of a Montgomery
6 County Green Bank to promote the investment in clean energy technologies in the
7 County. The Green Bank must be able to:

8 [(a) develop separate programs to support clean energy investment in
9 residential, municipal, small business, and larger commercial projects;

10 (b) finance investment in clean energy technologies in accordance with a
11 comprehensive plan developed by it to foster the growth, development,
12 and commercialization of renewable energy sources and related
13 enterprises;]]

14 (a) serve and support the deployment of clean energy technologies in any
15 sector, including residential single family homes and multifamily,
16 commercial, industrial, non-profit, municipal governments, universities
17 and colleges, schools, and hospitals;

18 (b) offer a range of financing structures, forms and techniques, such as senior
19 loans, subordinate loans, credit enhancements, guarantees, warehousing,
20 securitization, and other techniques that can both lower the cost of
21 financing and increase private investment in clean energy technologies;

22 (c) leverage private investment in energy projects through financing
23 mechanisms that support, enhance, or complement private investment;

24 (d) consider the inclusion of any non-energy or supporting improvements
25 ancillary to the primary energy efficiency or renewable energy project,
26 up to a stated limit in scope or amount, in each program or mechanisms
27 it offers;

- 28 (e) accept capital from the county, the state, the federal government, from
 29 non-profits, from foundations, and any other capital source that the Green
 30 Bank governance deems to be attractive and useful;
- 31 (f) recapitalize its funds by selling assets (loans) through private placement
 32 or other securitization;
- 33 [[c]] (g) stimulate the demand for clean energy and the deployment of clean
 34 energy technologies that serve end-use customers;
- 35 [[d]] (h) before making [[an]] a loan, loan guarantee, or other form of financing
 36 support for clean energy technologies, develop rules, policies, and
 37 procedures to specify borrower eligibility and any other term or condition
 38 of financial support;
- 39 [[e] provide financing for clean energy technologies;]]
- 40 [[f]] (i) provide by resolution for the issuance of [[negotiable]] revenue bonds
 41 to finance clean energy technologies;
- 42 (j) provide information regarding best practices for overseeing energy
 43 projects and other appropriate consumer protection information;
- 44 (k) recognize that equity investments carry more risk and may require longer
 45 term commitment to a project, justifying compliance with strict
 46 investment guidelines to be established by the Board of Directors;
- 47 [[g]] (l) assess reasonable fees on its financing activities to cover its reasonable
 48 costs and expenses, as determined by the Board of Directors appointed
 49 under Section 18A-47;
- 50 [[h]] (m) make information regarding rates, terms, and conditions for all of its
 51 financing support transactions available to the public for inspection,
 52 including formal annual reviews by both a private auditor and the
 53 Director of Finance, and provide details to the public on the Internet
 54 unless such disclosure includes a trade secret, confidential commercial

information, or confidential financial information;

[(i)] (n) provide leadership on environmental issues at both the County and State levels;

[(j)] (o) maintain close liaison with government agencies and elected representatives at both the County and State levels to achieve the goals of the Green Bank; and

[(k)] (p) undertake any other activities deemed by the Board of Directors to support the mission of the Green Bank.

18A-45. Definitions.

In this Article, the following words have the meanings indicated:

Clean energy technologies means energy resources and emerging technologies that [[have significant potential for commercialization and]] do not involve the combustion of coal, petroleum or petroleum products, municipal solid waste, or nuclear fission. Clean energy technologies includes renewable energy sources, renewable energy projects, energy efficiency projects, alternative fuels used for electricity generation, alternative fuel vehicles and related infrastructure such as electric vehicle charging station infrastructure, and smart grid and battery storage.

Energy efficiency project means a permanent improvement made to an existing [[single-family home]] property that[[:]] reduces consumption of energy.

[(1) reduces the consumption of energy in the home, including:

(A) caulking and weatherstripping doors and windows;

(B) heating and cooling system efficiency modifications, including:

(i) replacing a burner, furnace, heat pump, or boiler, or air conditioner with a high efficiency model;

(ii) installing a device to modify flue openings that increases the energy efficiency or the heating system;

- (iii) any electrical or mechanical furnace ignition system which replaces a standing gas pilot; and
- (iv) any tune-up that increases the operating efficiency;
- (C) a programmable thermostat;
- (D) ceiling, attic, wall, or floor insulation;
- (E) whole house air sealing;
- (F) water heater tune-up, water heater insulation, pipe insulation, or change out to an ENERGY STAR qualified water heater;
- (G) storm windows or doors or ENERGY STAR qualified window or door replacement;
- (H) air distribution system improvements, including duct insulation and air sealing;
- (I) any device which controls demand of appliances and aids load management; [and]
- (J) any other conservation device, renewable energy technology, and specific home improvement that reduces the consumption of energy in the home; and
- (2) meets safety and performance standards set by a nationally recognized testing laboratory for that kind of device, if these standards are available.]]

[[Energy efficiency project does not include a standard household appliance, such as a washing machine or clothes dryer.]]

Energy efficiency and/or renewable energy improvement or improvement means any equipment, device, or material that:

- (1) meets safety and performance standards set by a nationally recognized testing laboratory for that kind of device, if these standards are available, and

109 (2) is intended to decrease energy consumption or expand use of renewable
110 energy sources, including:

111 (A) heating, ventilation, and cooling and distribution system
112 [[efficiency modifications, including]] modification or
113 replacement, such as:

114 (i) replacing existing equipment [[a burner, furnace, heat
115 pump, or boiler, or air conditioner]] with a high efficiency
116 model;

117 (ii) installing a device or retrofit to existing equipment that
118 increase energy efficiency and conservation [[to modify flue
119 openings that increases the energy efficiency or the heating
120 system]];

121 (iii) any electrical or mechanical furnace ignition system which
122 replaces a standing gas pilot;

123 (iv) any tune-up or maintenance activity that increases the
124 operating efficiency;

125 (B) a programmable thermostat;

126 (C) ceiling, attic, wall, roof, foundation, or floor insulation;

127 (D) whole house air sealing;

128 (E) water heater tune-up, water heater insulation, pipe insulation, or
129 change out to an ENERGY STAR qualified water heater;

130 (F) storm windows or doors or ENERGY STAR-qualified window or
131 door replacement;

132 (G) caulking and weather-stripping doors and windows;

133 (H) air distribution system improvements, including duct insulation
134 and air sealing;

135 (I) any device or energy management system which controls demand

of appliances or equipment and aides load management manually,
remotely, and/or automatically;

(J) a measure that reduces the usage of water or increases the
efficiency of water usage;

(K) an energy recovery system;

(L) electric vehicle infrastructure, such as installation of electric
vehicle charging station(s) and any necessary installation or
upgrades to electrical wiring or outlets;

(M) commercial-scale lighting upgrades or daylighting system;

(N) any measure or system that makes use of or expands a renewable
source of energy, including solar thermal and solar electric, wind
turbine, biomass, hydroelectric, geothermal electric, geothermal
heat pumps, anaerobic digestion, tidal or wave produced energy,
fuel cells using renewable fuels and geothermal direct-use; or

(O) any other installation or modification of equipment, device,
infrastructure, structure, or other material necessary to:

(i) install, operate, or maintain the improvement being
installed; or

(ii) resolve any structural, mechanical, electrical, or other issue
that directly jeopardizes the well-being or safety of the
building occupants, quality of the indoor environment, or
the durability or longevity of the structure on which the
project is being installed.

Green Bank means the Green Bank that the County has designated to promote
the investment in clean energy technologies and provide financing for clean
energy technologies, including renewable energy and energy efficiency
projects.

Maryland Open Meetings Act means the Maryland Open Meetings Act, codified at Sections 3-101 through 3-501 of the General Provisions Article of the Maryland Code.

Renewable energy project means a [[project]] permanent improvement made to an existing property that[:

(1)] creates, converts, stores, or actively uses renewable energy[:

(2) is permanently installed on the home or property; and

(3) meets safety and performance standards set by a nationally recognized testing laboratory for that kind of device, if these standards are available]].

Renewable energy source means a source of energy that naturally replenishes over a human, not a geological, time frame and that is ultimately derived from solar power, water power, or wind power. Renewable energy source does not include petroleum, nuclear, natural gas, or coal. A renewable energy source comes from the sun or from thermal inertia of the earth and minimizes the output of toxic material in the conversion of the energy and includes:

(1) non-hazardous, organic biomass material;

(2) solar electric and solar thermal energy;

(3) wind energy;

(4) geothermal energy; and

(5) methane gas captured from a landfill.

18A-46. Designation.

(a) The County Council must designate, by resolution approved by the County Executive, a single nonprofit corporation which complies with all requirements and criteria of this Article as the County's Green Bank. If the Executive disapproves the resolution within 10 days after receiving it, the Council may readopt the resolution with at least 6 affirmative votes.

(b) (1) Except as provided in (b)(2), any designation under this Section expires at the end of the fifth full fiscal year after the resolution is adopted unless the Council extends the designation by adopting another resolution under this Section.

(2) If the Council President does not notify the Chair of the designated Bank's Board of Directors, not later than June 30 of the fourth full fiscal year of the designation term, that the Council may allow the current designation to expire, the designation is automatically extended for another 5-year term.

(c) The Council at any time may suspend or revoke the designation of a corporation as the County's Green Bank by resolution, adopted after at least 15 days public notice, that is approved by the Executive, or, if the Executive disapproves the resolution within 10 days after receiving it, is readopted by a vote of at least 6 Councilmembers.

(d) To continue to qualify as the County's Green Bank, a corporation's articles of incorporation and bylaws must comply with all requirements of this Article.

18A-47. Board of Directors.

(a) To qualify as the County's Green Bank, a corporation's Board of Directors must have no more than 11 voting members. [[The corporation's bylaws should also allow the Directors of Environmental Protection and Finance to serve as ex-officio non-voting members along with any other nonvoting members authorized under the bylaws.]] The corporation's bylaws should specify that the County Executive may appoint up to 5 board members, including the Directors of Environmental Protection and Finance, subject to confirmation by the County Council.

(b) Each voting member should be a resident of the County. The members

of the Board of Directors should include:

- (1) representatives of residential [[or]] and low-income groups;
- (2) representatives of environmental organizations;
- (3) representatives of business organizations;
- (4) persons with experience in investment fund management;
- (5) persons with banking and lending experience;
- (6) persons with experience in the finance or deployment of renewable energy; [[and]]
- (7) persons with experience in research and development or manufacturing of clean energy;
- (8) the Director of the Montgomery County Department of Environmental Protection or the Director's designee; and
- (9) the Director of the Montgomery County Department of Finance or the Director's designee.

(c) A member must not be paid for service on the Board but may be reimbursed for necessary travel expenses.

(d) A member is not subject to Chapter 19A because of serving on the Board. The Bank's bylaws must include provisions defining and regulating conflicts of interest by Board members and Bank staff.

(e) Notwithstanding any inconsistent provision of Section 19A-21, a member of the Board of Directors who engages in legislative or administrative advocacy as part of that member's duties on the Board is not required to register as a lobbyist under Article V of Chapter 19A because of that advocacy.

(f) The Board must direct the program, management, and finances of the corporation.

(g) The Bank's bylaws must provide that, upon dissolution of the Green

Bank, all assets must be transferred within 30 days from dissolution to either its successor Green Bank as authorized by Resolution or to the County for use permitted by the Green Bank legislation.

18A-48. Status; incorporation; bylaws.

(a) To qualify as the County's Green Bank, a corporation's articles of incorporation must provide that the corporation is:

(1) a tax-exempt nonprofit corporation;

(2) not an instrumentality of the County; and

(3) incorporated for the sole purpose of serving as the County's Green Bank.

(b) The Green Bank's bylaws may contain any provision, not inconsistent with law or the articles of incorporation, necessary to govern and manage the Bank. The Green Bank may exercise all powers and is subject to all [[requirements under]] applicable provisions of the Financial Institutions Article of the Maryland Code.

(c) The Board must adopt and may amend the Green Bank's bylaws. The Board must submit any proposed amendment to the articles of incorporation or bylaws to the Executive and Council for review and comment at least 60 days before the Board takes final action on the amendment. The Board must submit a copy of each adopted amendment to the Executive and Council within 5 days after adoption.

(d) The bylaws must require the Green Bank to comply with the Maryland Open Meetings Act and provide that all meetings of the Board of Directors must be open to the public except when closed on a recorded vote of the Board for a reason expressly listed in the state law.

18A-49. Work program; staff; support from County Government.

(a) The Board of Directors must adopt a work program each year to advance

the policy objectives and perform the activities listed in Section 18A-44.

(b) The Green Bank's work program may include a plan for sponsorship of private investment, marketing, and advocacy initiatives.

(c) The Board must meet with the Executive and the Council at least semi-annually.

(d) The Department of Environmental Protection [[should]] may, if the Board of Directors requests, provide incidental administrative support for the Green Bank, including contracts, grants, or services in kind, subject to appropriation.

(e) Funding sources for the Green Bank may include:

(1) federal, State, or County funds provided to it;

(2) charitable gifts, grants, or contributions and loans from individuals, corporations, university endowments, and philanthropic foundations; and

(3) earnings and interest derived from financing support activities for clean energy technologies backed by the Green Bank.

The Green Bank may also raise private funds and may accept services from any source consistent with its purpose.

18A-50. Report

The Board of Directors must report annually on the activities and finances of the Green Bank to the Executive and Council.

Sec. 2. Green Bank Work Group.

(a) The Executive must convene a Green Bank Work Group. Members of the Work Group must include representatives from the County departments of Environmental Protection, Finance, and Economic Development; investment and financing industry, such as regional and national banks, property trusts, and other lending institutions or

companies; energy services companies; building owners and managers;
industry trade associations; environmental organizations; nonprofit
organizations; and utility companies.

(b) The Work Group must:

- (1) review the application of Chapter 18A, Article 7, as added by
Section 1 of this Act, in the context of relevant best practices and
local needs; and
- (2) submit a report to the County Council and County Executive by
June 30, 2016 with recommendations on implementing Chapter
18A, Article 7, including any proposed amendments to County
Law.

Approved:

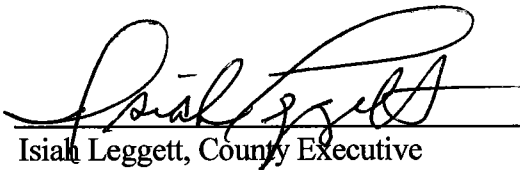


7/2/2015

George Leventhal, President, County Council

Date

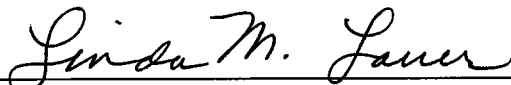
Approved:


Isiah Leggett, County Executive

July 7, 2015

Date

This is a correct copy of Council action.



7/9/15

Linda M. Lauer, Clerk of the Council

Date