



Committee: Joint: Government Operations & Fiscal Policy/Transpiration & Environment

Committee Review: At a future date

Staff: Christine Wellons, Legislative Attorney

Purpose: To receive testimony – no vote expected

Keywords: #Energy Conservation, #Tax Credits

AGENDA ITEM 7
September 14, 2021
Public Hearing

SUBJECT

Expedited Bill 31-21, Property Tax Credits – Energy Conservation Devices and Energy Efficient Buildings – Amendments

Lead Sponsor: Council President at the request of the County Executive

EXPECTED ATTENDEES

Public speakers

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Public Hearing – no vote expected

DESCRIPTION/ISSUE

Expedited Bill 31-20 would:

- define and clarify terms related to property tax credits for energy conservation devices and energy-efficient buildings;
- repeal a sunset clause affecting property tax credits for energy-efficient buildings;
- provide for certain application timelines related to property tax credits; and
- generally amend the law regarding property tax credits.

SUMMARY OF KEY DISCUSSION POINTS

- N/A; public hearing

This report contains:

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F:\LAW\BILLS\2131 Property Tax Credit - Energy\PH Cover Sheet.docx

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MEMORANDUM

September 9, 2021

TO: County Council

FROM: Christine Wellons, Legislative Attorney

SUBJECT: Expedited Bill 31-21, Property Tax Credits – Energy Conservation Devices and Energy Efficient Buildings – Amendments

PURPOSE: Public Hearing – No Council vote required

Expedited Bill 31-21, Property Tax Credits – Energy Conservation Devices and Energy Efficient Buildings – Amendments, sponsored by Council President Tom Hucker at the request of the County Executive, was introduced on July 20, 2021. A joint Government Operations & Fiscal Policy and Transportation & Environment worksession will be scheduled at a future date.¹

Expedited Bill 31-21 would:

- Define and clarify terms related to property tax credits for energy conservation devices and energy-efficient buildings.
- repeal a sunset clause affecting property tax credits for energy-efficient buildings;
- provide for certain application timelines related to property tax credits; and
- generally amend the law regarding property tax credits.

BACKGROUND

As explained by the Executive in the Legislative Request Report: “In September 2020, the Council passed Bill 10-20, which phased out the existing Energy and Environmental Design property tax credit, established a new Energy-Efficient Buildings property tax credit for commercial and residential buildings to encourage energy efficiency improvements in existing buildings and incentivize newly constructed buildings to exceed the current building code requirements. As Executive staff began developing the forms and procedures to implement this program, minor logistical challenges were found that required legislative fixes.”

¹#Energy Conservation, #Tax Credits

BILL SPECIFICS

As stated by the Executive: “The bill would clarify the sunset provisions of the Energy and Environmental Design property tax credit program for LEED buildings and make minor implementation improvements to the new Energy-Efficient Buildings property tax credits for existing and newly constructed buildings. Specifically included are: new definitions for energy conservation devices and building code requirements, adjustments to the acceptable application time periods to better align with realistic construction timelines, and corrections to minor oversights in the original legislation. These amendments do not change the intent or design of the tax credit program established the Energy-Efficient Buildings Property Tax Credit program.”

| This packet contains: | <u>Circle #</u> |
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Expedited Bill No. 31-21
Concerning: Property Tax Credits –
Energy Conservation Devices and
Energy Efficient Buildings –
Amendments
Revised: 7/14/2021 Draft No. 1
Introduced: July 20, 2021
Expires: January 20, 2023
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the request of the County Executive

AN EXPEDITED ACT to:

- (1) define and clarify terms related to property tax credits for energy conservation devices and energy-efficient buildings;
- (2) repeal a sunset clause affecting property tax credits for energy-efficient buildings;
- (3) provide for certain application timelines related to property tax credits; and
- (5) generally amend the law regarding property tax credits.

By amending

Montgomery County Code
Chapter 52, Taxation
Sections 52-103A and 52-103B

By repealing

Chapter 28, Laws of Montgomery County 2020
Section 2

The County Council for Montgomery County, Maryland approves the following Act:

| | |
|-------------------------------------|--|
| 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> |

Sec. 1. Sections 52-103A and 52-103B are amended as follows:

52-103A. Property tax credit — energy conservation devices for existing energy-efficient buildings

(a) *Intent.* The intent of this Section is to:

* * *

(5) implement [a tax credit] tax credits under [Section] Sections 9-203 and 9-242(a) of the Tax-Property Article of the Maryland Code, as amended.

(b) *Definitions.* In this Section the following words have the meanings indicated:

* * *

Director means the Director of the Department of Finance or the Director's designee.

Energy conservation device means any equipment, device, or material that reduces the demand for conventional fuels or increases the efficiency of these fuels, but is not a standard household appliance, including:

(1) insulation in any wall, roof, floor, foundation, or heating and cooling distribution system;

(2) a storm window or door, multi-glazed window or door, heat-absorbing or heat-reflective glazed and coated window and door system, or additional glazing, reduction in glass area, and other window and door system modification that reduces energy consumption;

(3) an automated energy control system;

(4) a heating, ventilating, or air-conditioning and distribution system modification or replacement;

- 28 (5) caulking, weather-stripping, and air sealing;
- 29 (6) replacement or modification of a lighting fixture to reduce the
- 30 energy use of the lighting system;
- 31 (7) an energy recovery system;
- 32 (8) a day lighting system;
- 33 (9) a measure that reduces the usage of water or increases the
- 34 efficiency of water usage; or
- 35 (10) any other installation or modification of equipment, device, or
- 36 other material intended to decrease energy consumption.

37 *Energy-efficient building* means a non-[]residential or multi-family
 38 residential building that: (1) has or will have at least 10,000 square feet
 39 of gross floor area; (2) has received a Certificate of Occupancy from the
 40 Department of Permitting Services; (3) has achieved at least a minimum
 41 50 percent occupancy rate for at least 12 consecutive months; and (4)
 42 has demonstrated energy improvements consistent with the
 43 requirements of this Section.

44 * * *

45 (d) *Application.* An application by the owner of an energy-efficient
 46 building for a tax credit must be in the form prescribed by the Director
 47 and include:

- 48 (1) a description and installation date of the energy conservation
- 49 device installed in the building;

50 * * *

51 (e) *Energy Reduction Tax Credit authorized under Section 9-203 of the*
 52 *Tax-Property Article of the Maryland Code.*

53 * * *

54 (3) Baseline and Improved ENERGY STAR Score 12-month time
55 periods must not:

56 (A) overlap;

57 (B) include the energy conservation device installation period;
58 or [and];

59 (C) be more than 6 calendar years apart.

60 * * *

61 (f) *Building Sustainability Tax Credit authorized under Section 9-242(a) of*
62 *the Tax-Property Article of the Maryland Code.*

63 * * *

64 **52-103B. Property tax credit — newly constructed energy-efficient buildings**

65 * * *

66 (c) *Definitions.* In this Section the following words have the meanings
67 indicated:

68 * * *

69 *BREEAM* means the Building Research Establishment Environmental
70 Assessment Method rating system administered by BRE Global.

71 *Building Code requirement* means any code, standard, zoning
72 ordinance, or other requirement related to commercial and multi-family
73 building construction and permitting processes that applies to a newly
74 constructed energy-efficient building.

75 * * *

76 (e) *Application.*

77 (1) An application by the owner of a newly constructed energy-
78 efficient building for a tax credit must be in the form prescribed
79 by the Director and must include:

- 80 (A) a certification from the Department of Permitting Services
 81 within the past year indicating the percentage performance
 82 above current Building Code requirements at time of
 83 application demonstrated by the newly constructed energy-
 84 efficient building for the New Building Energy Reduction
 85 Tax Credit; and
- 86 (B) if the New Building Sustainability Tax Credit is sought
 87 after receiving the New Building Energy Reduction Tax
 88 Credit, verified documentation by the newly constructed
 89 energy-efficient building demonstrating qualification for
 90 the New Building Sustainability Tax Credit within [the
 91 past year for the New Building Sustainability Tax Credit]
 92 two years after obtaining a use and occupancy permit.

93 * * *

94 (f) *New Building Energy Reduction Tax Credit.*

- 95 (1) A newly constructed energy-efficient building may receive [an] a
 96 New Building Energy Reduction Tax Credit for achieving energy
 97 use reductions as outlined in this subsection and, if that credit is
 98 granted, may receive an additional New Building Sustainability
 99 Tax Credit as described in subsection (g).
- 100 (2) To be eligible for the New Building Energy Reduction Tax
 101 Credit, a newly constructed energy-efficient building owned by
 102 the applicant must achieve a minimum 10 percent increase in
 103 energy performance above the current applicable [Building and
 104 Zoning Code] building code requirements at time of application
 105 using an energy modeling software approved by the Department
 106 of Permitting Services.

107 (3) For the New Building Energy Reduction Tax Credit, the
108 percentage of the annual County property tax credit awarded for
109 4 years is calculated by rounding a newly constructed energy-
110 efficient building’s performance above [Building Code and
111 Zoning Code] building code requirements to the nearest whole
112 number and multiplying it by the multiplier below:

113 * * *

114 (g) *New Building Sustainability Tax Credit.* The owner of a newly
115 constructed energy-efficient building seeking the New Building
116 [Energy] Sustainability Tax Credit must apply for that tax credit
117 [simultaneously with] after receiving the New Building Energy
118 Reduction Tax Credit.

119 * * *

120 (2) To be approved for the New Building Sustainability Tax Credit,
121 an energy-efficient building must [also] first be approved for the
122 New Building Energy Reduction Tax Credit.

123 * * *

124 **Sec. 2. Section 2 of Chapter 28 of the Laws of Montgomery County 2020**
125 **is repealed as follows:**

126 [Sec. 2. **Sunset Clause.** Section 52-103 of the County Code must sunset, and
127 must and have no further force and effect, on January 1, 2025.]

128 **Sec. 3. Expedited Effective Date.** The Council declares that this legislation is
129 necessary for the immediate protection of the public interest. This Act takes effect on
130 the date that it becomes law.




OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

July 6, 2021

TO: Tom Hucker, President
County Council

FROM: Marc Elrich 
County Executive

SUBJECT: Introduction of XX-21, Chapter 52—Taxation, Property Tax Credit, Energy Efficient Buildings—Amendments

It is my pleasure to transmit the attached emergency legislation to make minor clarifying amendments to the property tax credit for energy efficient buildings established through Energy-Efficient Buildings Property Tax Credit Law.

In September 2020, Council passed Bill 10-20, which phased out the existing Energy and Environmental Design property tax credit, established a new Energy-Efficient Buildings property tax credit for commercial and residential buildings to encourage energy efficiency improvements in existing buildings and incentivize newly constructed buildings to exceed the current building code requirements. As Executive staff began developing the forms and procedures to implement this program, minor logistical challenges were found that required legislative fixes. These changes are supported by the County's Climate Change Coordinator and the Departments of Finance and Environmental Protection (DEP).

The proposed amendments will clarify the sunset provisions of the Energy and Environmental Design property tax credit program and make minor implementation improvements to the new Energy-Efficient Buildings property tax credits for existing and newly constructed buildings. Specifically included are: new definitions for energy conservation devices and building code requirements, adjustments to the acceptable application time periods to better align with realistic construction timelines, and corrections to minor oversights in the original legislation.

The attached bill (XX-21, Chapter 52—Taxation, Property Tax Credit, Energy Efficient Buildings—Amendments) does not change the intent or design of the Energy-Efficient Buildings Property Tax Credit program. To the best of Executive staff's knowledge, the structure of this green building tax credit program remains the first of its kind in the nation.

If you have any questions, please contact Lindsey Shaw in the Department of Environmental Protection at 240-447-2917 or lindsey.shaw@montgomerycountymd.gov and Mike Parent in the Department of Finance's Treasury Division at 240-777-8931 or Michael.Parent@montgomerycountymd.gov.

Expedited Bill No. XX-21
Concerning: Taxation – Property Tax Credit
Revised: [date] Draft No. 1
Introduced: [date]
Expires: [18 mos. after intro]
Enacted: [date]
Executive: [date signed]
Effective: [date takes effect]
Sunset Date: [date expires]
Ch. [#], Laws of Mont. Co. [year]

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the request of the County Executive

AN EXPEDITED ACT to:

- (1) correct the citation of the Tax-Property Article of the Maryland Code in Section 52-103;
- (2) remove the sunset clause from 2020 L.M.C., ch. 28 to ensure the full amount of tax credits are paid in full as awarded under Section 52-103(c);
- (3) improve implementation of energy-efficient building property tax credit program by defining energy conservation device and building code requirements;
- (4) clarify the acceptable time periods for submitting applications and determining performance baselines; and
- (5) generally revise County law regarding taxation.

By amending

Montgomery County Code
Chapter 52, Taxation
Sections 52-103A and 52-103B

2020 L.M.C., ch. 28

| | |
|------------------------------|--|
| 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. Sections 52-103A, 52-103B, and 2020 L.M.C., ch. 28 are amended**
 2 **as follows:**

3 **52-103A. Property tax credit — energy conservation devices for existing energy-**
 4 **efficient buildings.**

5 (a) *Intent.* The intent of this Section is to:

6 * * *

7 (5) implement a tax credit under Section [9-242(a)] 9-203 of the Tax-
 8 Property Article of the Maryland Code, as amended.

9 (b) *Definitions.* In this Section the following words have the meanings
 10 indicated:

11 * * *

12 *Director* means the Director of the Department of Finance or the
 13 Director's designee.

14 Energy conservation device means any equipment, device, or material
 15 that reduces the demands for conventional fuels or increases the
 16 efficiency of these fuels, but is not a standard household appliance,
 17 including:

18 (1) insulation in any wall, roof, floor, foundation, or heating and cooling
 19 distribution system;

20 (2) a storm window or door, multi-glazed window or door, heat-
 21 absorbing or heat-reflective glazed and coated window and door system,
 22 or additional glazing, reduction in glass area, and other window and
 23 door system modification that reduces energy consumption;

24 (3) an automated energy control system;

25 (4) a heating, ventilating, or air-conditioning and distribution system
 26 modification or replacement;

27 (5) caulking, weather-stripping, and air sealing;

- 28 (6) replacement or modification of a lighting fixture to reduce the
- 29 energy use of the lighting system;
- 30 (7) an energy recovery system;
- 31 (8) a day lighting system;
- 32 (9) the installation or upgrade of electrical wiring or outlets to charge a
- 33 motor vehicle that is fully or partially powered by electricity;
- 34 (10) a measure that reduces the usage of water or increases the
- 35 efficiency of water usage; or
- 36 (11) any other installation or modification of equipment, device, or
- 37 other material intended to decrease energy consumption.

38 *Energy-efficient building* means a non-[]residential or multi-family
 39 residential building that: (1) has or will have at least 10,000 square feet
 40 of gross floor area; (2) has received a Certificate of Occupancy from the
 41 Department of Permitting Services; (3) has achieved at least a minimum
 42 50 percent occupancy rate for at least 12 consecutive months; and (4)
 43 has demonstrated energy improvements consistent with the
 44 requirements of this Section.

45 * * *

46 (d) *Application.* An application by the owner of an energy-efficient
 47 building for a tax credit must be in the form prescribed by the Director
 48 and include:

- 49 (1) a description and installation date of the energy conservation
- 50 device installed in the building;

51 * * *

52 (e) *Energy Reduction Tax Credit.*

53 * * *

54 (3) Baseline and Improved ENERGY STAR Score 12-month time
55 periods must not overlap, must not include the energy
56 conservation device installation period, and must not be more
57 than 6 calendar years apart.

58 * * *

59 **52-103B. Property tax credit — newly constructed energy-efficient buildings.**

60 * * *

61 (c) *Definitions.* In this Section the following words have the meanings
62 indicated:

63 * * *

64 *BREEAM* means the Building Research Establishment Environmental
65 Assessment Method rating system administered by BRE Global.

66 *Building Code requirements* means any code, standard, zoning
67 ordinance, or other requirements relating to commercial and multi-
68 family building construction and permitting processes that apply to a
69 newly constructed energy-efficient building.

70 * * *

71 (e) *Application.*

72 (1) An application by the owner of a newly constructed energy-
73 efficient building for a tax credit must be in the form prescribed
74 by the Director and must include:

75 (A) a certification from the Department of Permitting Services
76 within the past year indicating the percentage performance
77 above current Building Code requirements at time of
78 application demonstrated by the newly constructed energy-
79 efficient building for the New Building Energy Reduction
80 Tax Credit; and

81 (B) if the New Building Sustainability Tax Credit is sought
 82 after receiving the New Building Energy Reduction Tax
 83 Credit, verified documentation by the newly constructed
 84 energy-efficient building demonstrating qualification
 85 within the past two [year] years after obtaining a use and
 86 occupancy permit [for the New Building Sustainability
 87 Tax Credit].

88 * * *

89 (f) *New Building Energy Reduction Tax Credit.*

90 (1) A newly constructed energy-efficient building may receive [an] a
 91 New Building Energy Reduction Tax Credit for achieving energy
 92 use reductions as outlined in this subsection and, if that credit is
 93 granted, may receive an additional New Building Sustainability
 94 Tax Credit as described in subsection (g).

95 (2) To be eligible for the New Building Energy Reduction Tax
 96 Credit, a newly constructed energy-efficient building owned by
 97 the applicant must achieve a minimum 10 percent increase in
 98 energy performance above the current applicable Building [and
 99 Zoning] Code requirements at time of application using an
 100 energy modeling software approved by the Department of
 101 Permitting Services.

102 (3) For the New Building Energy Reduction Tax Credit, the
 103 percentage of the annual County property tax credit awarded for
 104 4 years is calculated by rounding a newly constructed energy-
 105 efficient building's performance above Building Code [and
 106 Zoning Code] requirements to the nearest whole number and
 107 multiplying it by the multiplier below:

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* * *

(g) *New Building Sustainability Tax Credit.* The owner of a newly constructed energy-efficient building seeking the New Building [Energy] Sustainability Tax Credit must apply for that tax credit [simultaneously with] after receiving the New Building Energy Reduction Tax Credit.

* * *

(2) To be approved for the New Building Sustainability Tax Credit, an energy-efficient building must [also] first be approved for the New Building Energy Reduction Tax Credit.

* * *

Sec. 2. 2020 L.M.C., ch. 28, is amended as follows:

[Sec. 2. Sunset Clause. Section 52-103 of the County Code must sunset, and must and have no further force and effect, on January 1, 2025.]

Sec. 3. Effective Date: The Council declares that an emergency exists and that this legislation is necessary for the immediate protection of the public health and safety. This Act takes effect on the date on which it becomes law.

Approved:

Tom Hucker, President, County Council

Date

Approved:

Marc Elrich, County Executive

Date

129 *This is a correct copy of Council action.*

130

Selena Mendy Singleton, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Bill XX-21, Chapter 52—Taxation, Property Tax Credit, Energy-Efficient Buildings— Amendments

| | |
|---|--|
| DESCRIPTION: | The legislation proposes minor amendments to Chapter 52 (“Property Tax Credits”) related to the Energy-Efficient Buildings credit program (Sec. 52-103, 52-103A, and 52-103B). |
| PROBLEM: | In September 2020, Council passed Bill 10-20, which phased out the existing Energy and Environmental Design property tax credit, established a new Energy-Efficient Buildings property tax credit for commercial and residential buildings to encourage energy efficiency improvements in existing buildings and incentivize newly constructed buildings to exceed the current building code requirements. As Executive staff began developing the forms and procedures to implement this program, minor logistical challenges were found that required legislative fixes. |
| GOALS AND OBJECTIVES: | The proposed amendments will clarify the sunset provisions of the Energy and Environmental Design property tax credit program for LEED buildings and make minor implementation improvements to the new Energy-Efficient Buildings property tax credits for existing and newly constructed buildings. Specifically included are: new definitions for energy conservation devices and building code requirements, adjustments to the acceptable application time periods to better align with realistic construction timelines, and corrections to minor oversights in the original legislation. These amendments do not change the intent or design of the tax credit program established the Energy-Efficient Buildings Property Tax Credit program. |
| COORDINATION: | Department of Environmental Protection, Department of Finance |
| FISCAL IMPACT: | To be requested. |
| ECONOMIC IMPACT: | To be requested. |
| EVALUATION: | To be requested. |
| EXPERIENCE ELSEWHERE: | N/A |
| SOURCE OF INFORMATION: | Lindsey Shaw, Manager of Energy and Sustainability Programs, Energy, Climate, and Compliance Division, DEP (240-777-7754) Mike Parent, Financial Programs Administrator, Treasury Division, FIN (240-777-8931) |
| APPLICATION WITHIN MUNICIPALITIES: | N/A |
| PENALTIES: | N/A |

Fiscal Impact Statement
Bill XX-21, Chapter 52—Taxation, Property Tax Credit, Energy-Efficient Buildings—
Amendments

1. Legislative Summary.

Bill XX-21 proposes minor amendments to Chapter 52 (“Property Tax Credits”) related to the Energy-Efficient Buildings credit program (Sec. 52-103, 52-103A, and 52-103B). In September 2020, Council passed Bill 10-20, which phased out the existing Energy and Environmental Design property tax credit, established a new Energy-Efficient Buildings property tax credit for commercial and residential buildings to encourage energy efficiency improvements in existing buildings and incentivize newly constructed buildings to exceed the current building code requirements. As Executive staff began developing the forms and procedures to implement this program, minor logistical challenges were found that required legislative fixes.

The proposed amendments will clarify the sunset provisions of the Energy and Environmental Design property tax credit program and make minor implementation improvements to the new Energy-Efficient Buildings property tax credits for existing and newly constructed buildings. These amendments do not change the intent or design of the Energy-Efficient Buildings Property Tax Credit program.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

Bill XX-21 makes clarifying amendments to previous legislation and is not estimated to have any further impact on revenues or expenditures than originally identified when this Law was passed in September 2020.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

See the comment above in #2.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. An estimate of expenditures related to County’s information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Not applicable.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

Amendments to the Energy-Efficient Buildings Property Tax Credit Law do not authorize future spending.

7. An estimate of the staff time needed to implement the bill.

There would be no anticipated need for additional staff to implement Bill XX-21. Staff that currently support the Energy-Efficient Buildings Property Tax Credit program would continue to do so.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

See comment above in #7.

9. An estimate of costs when an additional appropriation is needed.

No additional appropriations would be required to implement amendments to the Energy-Efficient Buildings Property Tax Credit Law.

10. A description of any variable that could affect revenue and cost estimates.

Bill XX-21 makes clarifying amendments to previous legislation and is not estimated to have any further impact on revenues or expenditures than originally identified when this Law was passed in September 2020.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

12. If a bill is likely to have no fiscal impact, why that is the case.

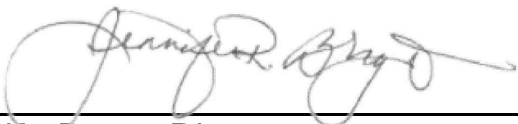
Not applicable.

13. Other fiscal impacts or comments.

None.

14. The following contributed to and concurred with this analysis:

Lindsey Shaw, Department of Environmental Protection
Mike Parent, Division of Treasury, Department of Finance
Richard H. Harris, Office of Management and Budget



Jennifer Bryant, Director
Office of Management and Budget

6-10-21

Date

Economic Impact Statement

Office of Legislative Oversight

Expedited Bill 31-21

Property Tax Credits – Energy Conservation Devices and Energy Efficient Buildings – Amendments

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Expedited Bill 31-21 would have an insignificant impact on economic conditions in the County. However, OLO notes that enacting the Bill would likely improve the implementation of the Energy and Environmental Design-Property Tax Credit program and add clarity for property owners and managers who take advantage of the program.

BACKGROUND

On December 5, 2017, the Council adopted a resolution calling on the County to reduce greenhouse gas emissions by 80% by 2027 and reach 100% elimination by 2035.¹ Consistent with the County’s greenhouse emissions goals, the Council enacted the Energy-Efficient Buildings Property Tax Credit Law in September 2020. The law established a new program called the “Energy and Environmental Design-Property Tax Credit,” which offers property tax credits for commercial and residential buildings to incentivize energy efficiency improvements in existing buildings and to exceed the current building code requirements in newly constructed buildings.²

If enacted, Expedited Bill 31-21 would make minor amendments to the Energy and Environmental Design-Property Tax Credit program. The amendments include:

- clarifying the program’s sunset provisions for LEED buildings;
- specifying new definitions for energy conservation devices and building code requirements;
- adjusting the acceptable application time periods to better align with realistic construction timelines; and
- correcting minor oversights in the original legislation.³

¹ Montgomery County Council, Resolution 18-974, Emergency Climate Mobilization, Adopted December 5, 2017, <https://www.montgomerycountymd.gov/green/Resources/Files/climate/Montgomery-County-Climate-Action-Resolution.pdf>.

² For more details, see <https://www3.montgomerycountymd.gov/311/Solutions.aspx?SolutionId=1-2FSHRH>.

³ Montgomery County Council, Expedited Bill 31-21, Property Tax Credits – Energy Conservation Devices and Energy Efficient Buildings – Amendments, Introduced July 20, 2021. See Bill in Introduction Staff Report, https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2723_1_16613_Bill_31-21E_Introduction_20210720.pdf.

Economic Impact Statement

Office of Legislative Oversight

METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

In the economic impact statement for Bill 10-20, OLO concluded that establishing the Energy and Environmental Design-Property Tax Credit would benefit commercial and residential property owners who take advantage of the tax credit and have an overall net positive impact on economic conditions in the County.⁴ Because the amendments in Expedited Bill 31-21 do not change the program's intent or design, OLO does not anticipate that enacting the Bill would result in significant impacts on economic conditions in the County.

However, based on the sources included in the Bill's Introduction Staff Report and consultation with the Department of Environmental Protection, OLO anticipates that enacting the amendments previously described would likely improve the implementation of the Energy and Environmental Design-Property Tax Credit program and add clarity for the property owners and managers who take advantage of the program. The claims made in subsequent sections are based on this assumption.

VARIABLES

The primary variable that would affect the economic impacts of enacting Expedited Bill 31-21 is the following:

- Implementation of the Energy and Environmental Design-Property Tax Credit program.

IMPACTS

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

Businesses, Non-Profits, Other Private Organizations

As previously stated, OLO anticipates that enacting Expedited Bill 31-21 would improve the implementation of the Energy and Environmental Design-Property Tax Credit program and add clarity for the property owners and managers who take advantage of the program. If these outcomes occur, it is possible that property owners and managers may experience a minor reduction in operating costs associated with participating in the program. Other than this potential impact, OLO does not believe enacting Expedited Bill 31-21 would have significant impacts on the Council's other priority indicators.⁵

Residents

OLO anticipates enacting Expedited Bill 31-21 would have an insignificant impact on County residents in terms of several of the Council's priority indicators.

⁴ Office of Legislative Oversight, Economic Impact Statement: Bill 10-20, Property Tax Credit – Energy and Environmental Design – Eligibility Criteria and Amounts of Credit. See statement in the Action Staff Report for Bill 10-20, https://apps.montgomerycountymd.gov/ccllims/DownloadFilePage?FileName=2649_1_10917_Bill_10-20_Action_20200929.pdf.

⁵ Montgomery County Code, Sec. 2-81B, Economic Impact Statements, https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md/0-0-0-80894.

Economic Impact Statement

Office of Legislative Oversight

DISCUSSION ITEMS

Not applicable

WORKS CITED

Montgomery County Code. Sec. 2-81B. Economic Impact Statements.

Montgomery County Council. Expedited Bill 31-21, Property Tax Credits – Energy Conservation Devices and Energy Efficient Buildings – Amendments. Introduced July 20, 2021.

Montgomery County Council. Resolution 18-974, Emergency Climate Mobilization. Adopted December 5, 2017.

Office of Legislative Oversight. Economic Impact Statement: Bill 10-20, Property Tax Credit – Energy and Environmental Design – Eligibility Criteria and Amounts of Credit.

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.