Montgomery County Council

**Committee:** Joint: Government Operations & Fiscal Policy/Transportation & Environment
**Committee Review:** Completed
**Staff:** Christine Wellons, Legislative Attorney
**Purpose:** Final action – vote expected
**Keywords:** #Energy Conservation, #Tax Credits

AGENDA ITEM 8C
October 5, 2021
**Action**

## 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

Lindsay Shaw, Department of Environmental Protection
Mike Parent, Department of Finance

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- The joint GO/T&E Committee recommended (6-0) the enactment of Expedited Bill 31-21 with amendments.
- A roll call vote is expected on whether to enact Expedited Bill 31-21 with amendments, as recommended by the joint GO/T&E Committee.

## 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

- The GO/T&E Committee recommended (6-0) two amendments:
  - a clarification of the sunset provision; and
  - an amendment by Councilmember Navarro to enhance the racial equity and social justice impacts of the bill by expanding the amount of the tax credit for qualified buildings located in Equity Emphasis Areas.

**This report contains:**

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

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Item 8C
October 5, 2021
**Action**

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

September 30, 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: Action – roll call vote required

**COMMITTEE RECOMMENDATION:**
The GO/T&E Joint Committee voted (6-0) to recommend the enactment of Expedited Bill 31-21 with amendments.

**Expected Attendees**

Lindsay Shaw, Department of Environmental Protection
Mike Parent, Department of Finance

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 public hearing on the bill was held on September 14, 2021.[1] A joint Government Operations & Fiscal Policy/Transportation & Environment worksession was held on September 20, 2021.

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.

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[1]#Energy Conservation, #Tax Credits

## BACKGROUND

In June 2019, the County Executive delivered to the T&E and GO Committees a report on stakeholder *Recommendations on Montgomery County High-Performance Green Building Initiatives*. The stakeholder group recommended altering green building incentives in the County to focus more on energy reduction metrics as opposed to industry certifications alone.

The stakeholder workgroup recommended, and the T&E and GO Committees discussed, creating a two-tiered approach to green building tax incentives for new construction, and a separate two-tiered approach to green building tax incentives for existing buildings. For both types of buildings – new and existing – the tiers would focus, first, upon rewarding energy reduction at levels above and beyond Building Code requirements and, second, upon high-level industry certifications for green buildings.

Consistent with the recommendations of the stakeholder workgroup, the Council enacted Council Bill 10-20 (sponsored by Lead Sponsors Councilmembers Friedson and Riemer and Co-Sponsor then-Council President Katz). Bill 10-20 established: (1) a two-tiered property tax credit for new commercial and multifamily construction, based upon energy reduction metrics and industry certifications; and (2) a separate two-tiered property tax credit for existing commercial and multifamily buildings, based upon energy reduction metrics and industry certifications.

The Executive branch, in implementing Bill 10-20, has identified several technical and substantive changes in order to make the property tax credit more effective and efficient. The purpose of Expedited Bill 31-21 is to implement the Executive's requested amendments.

## BILL SPECIFICS

Expedited Bill 31-21 would clarify eligibility requirements and application processes with respect to property tax credits for energy-efficient buildings. As explained above, the Council made significant amendments to the structure of energy-efficient property tax credits under enacted Bill 10-20. Bill 31-21 would further fine tune the restructuring.

First, the bill would define the term "energy conservation device" for purposes of tax credits for existing buildings, and would define the term "building code requirement" for purposes of the tax credits for new construction. The term "energy conservation device" would be defined as follows:

> *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;

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

(6) replacement or modification of a lighting fixture to reduce the energy use of the lighting system;

(7) an energy recovery system;

(8) a day lighting system;

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

(10) any other installation or modification of equipment, device, or other material intended to decrease energy consumption.

Under the current law, an applicant for a credit for an existing building must provide a description of the "energy conservation device" used in the building. However, the term "energy conservation device" is not defined under the current law.

The bill also would define the term "building code requirement", which is a term used under Section 52-103B for the credits available for new construction. "Building code requirement" would be defined as follows:

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

Under Section 52-103B, DPS uses software to determine the percentage of a new building's performance above Building Code requirement.

The Bill also would make some clarifications regarding the timelines of applications, and the sunset of prior tax credits for energy-efficient buildings.

**SUMMARY OF PUBLIC TESTIMONY**

Mr. Stan Edwards of DEP spoke for the County Executive in support of the bill. He stated that the bill would make minor but important clarifications necessary to implement the tax credits.

## SUMMARY OF JOINT GO/T&E WORKSESSION

### 1. Updates by the Departments of Finance and Environmental Protection

The Committee received updates by the Departments of Finance and Environmental Protection regarding the implementation of the tax credits for energy-efficient buildings.

As shown in the enclosed spreadsheet (© 25) provided by the Department of Finance, credits under Section 52-103 (the LEED-based credits which are being phased out) will meet the statutory limit of $5 million for the levy year 2021.

The new property tax credit for newly constructed energy efficient buildings, under Section 52-103B, will apply to tax years beginning on January 1, 2022. According to the Departments of Environmental Protection and Finance, the new property tax credit for existing buildings, under Section 52-103A, will be implemented once the clarifications under Bill 31-21 have become law.

### 2. Amendment to clarify sunset provisions:

One goal of the bill is to clarify the current sunset of Section 52-103. Section 52-103 provides for the tax credit that is being phased out under Bill 10-20. After discussions with DEP staff, Council staff recommended that the sunset provision should be amended to read 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. 2. Sunset Clause.** Section 52-103 of the County Code must sunset, and must and have no further force and effect, on January 1, 2033.

Extending the sunset from January 1, 2025 to January 1, 2033 should provide ample time to allow all applicants who are in the queue for the Section 52-103 credits (as of the application cut-off dates under Section 52-103) to receive the credits for 3 to 5 years (which are the durations for the credits contemplated under the section).

The Committee recommended (6-0) adoption of the amendment to the sunset provision described above.

### 3. Amendment re: Equity Emphasis Areas

To enhance the racial equity and social justice impacts of the bill, Councilmember Navarro proposed, and the Committee adopted (6-0) the following amendment in order to incentivize green building investments in Equity Emphasis Areas. Equity Emphasis Areas (EEAs) are 350 of the region's 1,222 total census tracts identified by the National Capital Region Transportation

Planning Board (TPB) as having high concentrations of low-income individuals, communities of color, or both. [Map Detail | Metropolitan Washington Council of Governments (mwcog.org)]

*After line 43, add a new definition:*

*Equity Emphasis Area* means an area identified as an equity emphasis area by National Capital Region Transportation Planning Board.

*After line 52, add:*

(1) An energy-efficient building may receive an Energy Reduction Tax Credit for achieving energy use reductions under this subsection and, if that credit is granted, may receive:

(A) an additional Building Sustainability Tax Credit under subsection (f); and

(B) an expanded credit under subsection (g) for buildings located in Equity Emphasis Areas.

*After line 63, add a new subsection (g) as follows, and re-letter subsequent subsections:*

(g) *Expanded credit for buildings in Equity Emphasis Areas.*

(1) The owner of an energy-efficient building located within an Equity Emphasis Area at the time of application may qualify for an expanded credit under this subsection.

(2) The owner must apply for a credit under this subsection simultaneously with an application for the Energy Reduction Tax Credit.

(3) The amount of the tax credit under this subsection must be added to the Energy Reduction Tax Credit for each year that the Energy Reduction Tax Credit is granted.

(4) The amount of the tax credit under this subsection must be equal to 10% of the annual property tax owed on the building.

*After line 75, add a new definition as follows:*

*Equity Emphasis Area* means an area identified as an equity emphasis area by National Capital Region Transportation Planning Board.

*Amend lines 94-99 as follows.*

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

(1) A newly constructed energy-efficient building may receive **[**an**]** a New Building Energy Reduction Tax Credit for achieving energy use reductions as outlined in this subsection and, if that credit is granted, may receive:

(A) an additional New Building Sustainability Tax Credit as described in subsection (g); and

(B) an expanded credit under subsection (h) for buildings located in Equity Emphasis Areas.

*After line 123, add a new subsection (h) as follows, and re-letter subsequent subsections:*

(h) *Expanded credit for buildings in Equity Emphasis Areas.*

(1) The owner of a newly constructed energy-efficient building located within an Equity Emphasis Area at the time of application may qualify for an expanded credit under this subsection.

(2) The owner must apply for a credit under this subsection simultaneously with an application for the New Building Energy Reduction Tax Credit.

(3) The amount of the tax credit under this subsection must be added to the New Building Energy Reduction Tax Credit for each year that the New Building Energy Reduction Tax Credit is granted.

(4) The amount of the tax credit under this subsection must be equal to 10% of the annual property tax owed on the building.

**Next Step**: Roll call vote on whether to enact Expedited Bill 31-20 with amendments, as recommended by the joint T&E/GO Committee.

| This packet contains: | Circle # |
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F:\LAW\BILLS\2131 Property Tax Credit - Energy\Action Memo.Docx

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: See Sec. 2
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
(4) 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** | *Heading or defined term.* |
| Underlining | *Added to existing law by original bill.* |
| **[**Single boldface brackets**]** | *Deleted from existing law by original bill.* |
| Double underlining | *Added by amendment.* |
| **[[**Double boldface brackets**]]** | *Deleted from existing law or the bill by amendment.* |
| * * * | *Existing law unaffected by bill.* |

**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;

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

(6) replacement or modification of a lighting fixture to reduce the energy use of the lighting system;

(7) an energy recovery system;

(8) a day lighting system;

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

(10) any other installation or modification of equipment, device, or other material intended to decrease energy consumption.

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

* * *

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

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

* * *

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

* * *

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

(A) overlap;

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

(C) be more than 6 calendar years apart.

* * *

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

* * *

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

* * *

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

* * *

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

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

* * *

(e) *Application*.

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

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

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

* * *

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

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

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

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

*  *  *

(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. Section 2 of Chapter 28 of the Laws of Montgomery County 2020 is repealed 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. Expedited Effective Date.** The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on 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** | *Heading or defined term.* |
| Underlining | *Added to existing law by original bill.* |
| **[**Single boldface brackets**]** | *Deleted from existing law by original bill.* |
| Double underlining | *Added by amendment.* |
| **[[**Double boldface brackets**]]** | *Deleted from existing law or the bill by amendment.* |
| * * * | *Existing law unaffected by bill.* |

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

**Sec. 1. Sections 52-103A, 52-103B, and 2020 L.M.C., ch. 28 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 under Section **[**9-242(a)**]** 9-203 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 demands 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;

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

(6) replacement or modification of a lighting fixture to reduce the energy use of the lighting system;

(7) an energy recovery system;

(8) a day lighting system;

(9) the installation or upgrade of electrical wiring or outlets to charge a motor vehicle that is fully or partially powered by electricity;

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

(11) any other installation or modification of equipment, device, or other material intended to decrease energy consumption.

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

* * *

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

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

* * *

(e) *Energy Reduction Tax Credit*.

* * *

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

* * *

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

* * *

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

* * *

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

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

* * *

(e) *Application*.

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

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

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

* * *

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

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

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

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

*        *        *

(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

*This is a correct copy of Council action.*

______________________________________________

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 R. Bryant ______________________ 6-10-21 ______________

**Jennifer Bryant, Director** **Date**
**Office of Management and Budget**

# 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/ccllims/DownloadFilePage?FileName=2723_1_16613_Bill_31-21E_Introduction_20210720.pdf.

## 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.

## 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 <u>not</u> represent OLO's endorsement of, or objection to, the bill under consideration.

## CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.

# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

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

### Summary

OLO anticipates that Expedited Bill 31-21 will help *reduce* current racial inequities and social injustices (RESJ) related to the climate gap in Montgomery County.

### Purpose of RESJ Statement

The purpose of RESJ impact statements 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, power, and leadership of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.[1] 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.[2]

### Purpose of Expedited Bill 31-21

The purpose of Expedited Bill 31-21 is to amend Bill 10-20 that created the Energy-Efficient Buildings Property Tax Credit. Bill 10-20 provides commercial and residential building owners tax credits for increasing the energy efficiency of current and future buildings.[3] The overarching goal of Bill 10-20 is to reduce greenhouse emissions generated by buildings that contribute to climate change. Expedited Bill 31-21 makes minor amendments to Bill 10-20 that 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.[4]

### The Climate Gap and Racial Equity

Climate change has far-reaching harmful consequences on public health, community assets, and the economy that will impact all residents. [5] Black, Indigenous, People of Color (BIPOC) residents, especially those who are low-income, are disproportionately harmed by climate change due to a lack of resources and the ability to adjust to the consequences of global warming.[6] The term “climate gap” refers to the unequal impact that climate change has on BIPOC and low-income communities. As noted by researchers at the University of Southern California, the climate gap means that BIPOC communities and the poor will suffer more during extreme heat waves with increased illness and deaths, will breathe even dirtier air due to global warming, will pay more for basic necessities, and may have fewer job opportunities with increased climate change.[7] Drivers of the climate include inequities in income, education, employment, and access to health services.

Data on inequities in energy burden, housing, and environmental risk help to explain the increased vulnerably of BIPOC to climate change; the drivers of the climate gap help to explain the role of government in fostering the climate gap.

**Data on Energy Burden.** In Montgomery County, about 17 percent of households are energy-burdened (expending more than 6 percent of their income on energy bills) and 9 percent are living in energy poverty (expending more than 10 percent of their income on energy bills).[8] Inequities in poverty rates by race and ethnicity suggest that Black and Latinx households face greater energy burdens than White and Asian households locally. For example, as noted in the OLO Racial Equity Profile, 11 percent of Black and Latinx households experienced poverty in 2017 compared to 6 and 4 percent of White and Asian households respectively.[9]

**Data on Housing.** Nationally, 6 to 8 percent of Latinx and Black households resided in substandard housing compared to less than 3 percent of White households. The older-age of affordable housing in the County and local data on rent-burden suggests that Black and Latinx households in Montgomery County experience higher risks for substandard housing. For example, in 2019, 66 percent of Latinx renters and 60 percent of Black renters experienced rent-burden, expending more than 30 percent of their income on rent compared to 40 percent of White renters and 33 percent of Asian renters.[10] Conversely, 75 percent of White and Asian households resided in owner-occupied units in 2019 compared to 50 percent of Latinx and Native American households and 42 percent of Black households.[11]

**Data on Environmental Risk.** Nationally, BIPOC and low-income residents often reside in communities located near polluting and environmentally hazardous industries and uses.[12] This can include proximity to power stations, industrial plants, and infrastructure like major highways. This leads to far greater rates of serious health problems in communities of color, from cancer to lung conditions to heart attacks, as well as a higher prevalence and severity of asthma, lower birth weights, and greater incidence of high blood pressure.[13]

The County's Climate Action Plan shows that communities with high concentrations of BIPOC and low-income residents (greater than 25 percent for each) are located in areas of the County with higher levels of traffic and air pollution.[14] Of note, Black residents had the highest rates of emergency room visits for chronic lower respiratory diseases (including asthma) at more than 1,538 visits per 100,000. [15] In 2014-16, the rate of emergency room visits for chronic respiratory diseases for Latinx residents was 815 visits per 100,000 compared to 543 visits per 100,000 White residents.[16]

**Drivers of the Climate Gap.** The disproportionate impact of climate change on BIPOC results from government policies and practices that concentrated housing for BIPOC and low-income residents in close proximity to polluting facilities and infrastructure like major highways. More specifically, the climate gap results from a history of land and wage theft that enriched a subset of White households at the expense of BIPOC and low-income residents. Slavery, the Indian Removal and Homestead Acts, and occupational segregation have undermined the economic development of people of color.[17]

Further, housing segregation through redlining, racial covenants, and exclusionary zoning has contributed to the climate gap as have the policies and practices of the Federal Housing Administration, the Social Security Act, GI Bill, and of departments of transportation that have reinforced housing segregation and undermined wealth building and housing equity for BIPOC residents.[18] Housing segregation has also fostered the concentration of BIPOC residents into densely populated neighborhoods with fewer trees and larger amounts of impervious surfaces that make them exceptionally vulnerable to effects of excessive heat and flood events exacerbated by climate change.[19]

In short, government efforts to cultivate and protect White wealth by segregating BIPOC residents and excluding them from comparable wealth-building opportunities has resulted in the siting of BIPOC communities in or adjacent to environmentally hazardous areas. As such, government has played a significant role in developing the climate gap.

## Anticipated RESJ Impacts

When estimating the potential impact on Expedited Bill 31-21 on racial equity and social justice, both the favorable and unfavorable impacts of this bill on racial and social inequities should be considered.

On the positive side, the decrease in green house emissions anticipated by increasing the energy efficiency of buildings through tax credits could generate favorable public health outcomes that could disproportionately benefit BIPOC and low-income communities. Since BIPOC and low-income communities are more vulnerable to the negative consequences of climate change, they may benefit disproportionately from countywide reductions in green house emissions. Further, if their landlords can take advantage of the tax credits, BIPOC and low-income renters may also benefit disproportionately from long-term reductions in their energy costs that reduce their energy burden. On the negative side, however, if use of the tax credit triggers increases in real estate development and rising rents that displace BIPOC and low-income residents, then the tax credit could exacerbate housing inequities by race, ethnicity and income.

Considering both the positive and negative impacts that energy efficiency tax credits may have on racial equity and social justice, OLO anticipates that the public health and reduced energy burden benefits resulting from energy efficiency tax credits will exceed the potential costs of displacing BIPOC and low-income residents and renters. As such, OLO anticipates a favorable net impact of Bill 31-21 on racial equity and social justice in the County.

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## Recommended Amendments

The County's 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.[20] OLO finds that Expedited Bill 31-21 could narrow racial and ethnic inequities in the climate gap by incentivizing more energy-efficient buildings in Montgomery County. If the Council chooses to implement more significant reductions in the climate gap via legislation to further promote racial equity and social justice, the County's Climate Action Plan offers two relevant recommendations for enhancing equity that could be considered as a potential amendment to this bill:

- Ensure that income-limited or vulnerable groups receive priority or focused access to incentive programs; and
- Collaborate with utilities and the State of Maryland to ensure incentive programs include equity metrics, especially future cycles of EmPOWER Maryland.[21]

Similarly, the Climate Gap Report published by researchers at the University of Southern California recommend that efforts to reduce greenhouse gap emissions should target the BIPOC and low-income neighborhoods with the dirtiest air.[22] Toward this end, they recommend using mapping to identify vulnerable neighborhoods, measuring the success of mitigation strategies by whether they protect everyone, and designing research that identifies opportunities for targeting greenhouse gas reductions to reduce toxic air emissions in highly polluted neighborhoods.[23]

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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.

## CONTRIBUTIONS

Dr. Elaine Bonner-Tompkins, Senior Legislative Analyst drafted this racial equity and social justice impact statement with assistance from Dr. Theo Holt, Performance Management and Data Analyst.

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[1] Adopted from definition of racial equity described in the Racial Equity Policy Scorecard included in "Applying a Racial Equity Lens into Federal Nutrition Programs," authored by Marlysa Gamblin; see the Government Alliance for Race and Equity's "Advancing Racial Equity and Transforming Government" resource guide for understanding the historical role of government in maintaining racial inequities https://racialequityalliance.org/wp-content/uploads/2015/02/GARE-Resource_Guide.pdf
[2] Adopted from racial equity definition provided by Racial Equity Tools. https://www.racialequitytools.org/glossary
[3] Montgomery County Council Bill 10-20-Property Tax Credit-Energy and Environmental Design-Eligibility Criteria and Amounts of Credit, Effective December 30, 2020, Montgomery County, Maryland https://apps.montgomerycountymd.gov/ccllims/BillDetailsPage?RecordId=2649&fullTextSearch=10-20
[4] Ibid.
[5] Montgomery County Climate Action Plan: Building a Healthy, Equitable, Resilient Community, June 2021, Montgomery County, Maryland https://www.montgomerycountymd.gov/green/Resources/Files/climate/climate-action-plan-printer-friendly.pdf
[6] Ibid.
[7] Rachel Morello-Frosch, et al, The Climate Gap: Inequities in How Climate Change Hurts Americans and How to Close the Gap, Dornsife Center, University of Southern California, 2009
[8] Montgomery County Climate Action Plan
[9] Jupiter Independent Research Group, Racial Equity Profile Montgomery County, Office of Legislative Oversight, Report 2019-7, July 17, 2019 https://www.montgomerycountymd.gov/OLO/Resources/Files/2019%20Reports/RevisedOLO2019-7.pdf
[10] American Community Survey, Gross Rent as a Percentage of Household Income, 2019 1-Year Estimates, United States Census Bureau. https://data.census.gov/cedsci/table?t=-00%20%20All%20available%20races%3AIncome%20and%20Poverty%3ARace%20and%20Ethnicity&g=0500000US24031&tid=ACSSPP1Y2019.S0201
[11] Calculations based on American Community Survey, 2019 1-Year Estimates, Table ID S2502.
[12] Rolf Pendall, A Building Block for Inclusive Housing for Community Level Diversity, Participation and Cohesion, Urban Institute, September 2017 cited in Zero Cities Project, Equity Assessment Tool https://www.usdn.org/uploads/cms/documents/equity_assessment_tool_-zero_cities_project_-_race_forward_2019.pdf
[13] American Public Health Association, Climate Change, Health, and Equity: A Guide for Local Health Departments, https://www.apha.org/-/media/Files/PDF/topics/climate/Guide_Section2.ashx
[14] Montgomery County Climate Action Plan
[15] Health in Montgomery County, 2008 – 2016: A surveillance report on population health, https://www.montgomerycountymd.gov/HHS/Resources/Files/Reports/PopHealthReportFINAL.pdf
[16] Ibid.
[17] Field Note, 2020-2, December 2020 – Turning the Floodlights on the Root Causes of Today's Racialized Economic Disparities: Community Development Work at the Boston Fed Post-2020, Regional and Community Outreach
[18] Kilolo Kijakazi, et al, The Color of Wealth in the Nation's Capital, November 2016 https://www.urban.org/research/publication/color-wealth-nations-capital
[19] Iverson, L.R. and E.A. Cook, Urban Forest Cover of the Chicago Region and Its Relation to Household Density and Income, Urban Ecosystems, 2000 cited in Zero Cities Project, Equity Assessment Tool
[20] Montgomery County Council, Bill 27-19, Administration – Human Rights - Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee - Established
[21] Montgomery County Climate Action Plan
[22] Rachel Morello-Frosch
[23] Ibid.

PROPERTY TAX CREDIT - ENERGY AND ENVIRONMENTAL DESIGN
LEVY YEAR 2021

| SILVER RATING (Limit $1.5 M) | | | | | | | |
|---|---|---|---|---|---|---|---|
| Account # | Multi Family Res or Non-Res | Building Type (Other) | USGBC Rating | Mont Co Tax | Tax Credit % | Tax Credit Amount | Credit Year |
| TOTAL SILVER RATING | | | | | | $0.00 | |

| GOLD RATING (Limit $2.5 M) | | | | | | | |
|---|---|---|---|---|---|---|---|
| Account # | Multi Family Res or Non-Res | Building Type (Covered or Other) | USGBC Rating | Mont Co Tax | Tax Credit % | Tax Credit Amount | Duration |
| | Non-Residential | Other | LEED - EB | $191,705.34 | 25% | $47,926.34 | 3 of 3 |
| | Non-Residential | Other | LEED - EB | $170,413.87 | 25% | $42,603.47 | 3 of 3 |
| | Non-Residential | Other | LEED - EB | $189,434.12 | 25% | $47,358.53 | 3 of 3 |
| | Muliti-family Residential | Covered | LEED - NC | $632,395.68 | 25% | $158,098.92 | 3 of 3 |
| | Non-Residential | Other | LEED - EB | $194,565.91 | 25% | $48,641.48 | 3 of 3 |
| | Non-Residential | Other | LEED - EB | $224,189.11 | 25% | $56,047.28 | 3 of 3 |
| | Non-Residential | Other | LEED - EB | $146,038.66 | 25% | $36,509.67 | 3 of 3 |
| | Non-Residential | Other | LEED - EB | $221,559.70 | 25% | $55,389.93 | 3 of 3 |
| | Non-Residential | Other | LEED - EB | $104,070.18 | 25% | $26,017.55 | 3 of 3 |
| | Non-Residential | Other | LEED - EB | $175,028.28 | 25% | $43,757.07 | 3 of 3 |
| | Non-Residential | Other | LEED - EB | $228,938.56 | 25% | $57,234.64 | 3 of 3 |
| | Non-Residential | Other | LEED - EB | $96,553.77 | 25% | $24,138.44 | 3 of 3 |
| | Non-Residential | Other | LEED - EB | $116,271.55 | 25% | $29,067.89 | 3 of 3 |
| | Non-Residential | Other | LEED - EB | $751,875.00 | 25% | $187,968.75 | 3 of 3 |
| | Muliti-family Residential | Covered | LEED - NC | $689,341.59 | 25% | $172,335.40 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $22,432.94 | 25% | $5,608.24 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $30,772.08 | 25% | $7,693.02 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $30,768.07 | 25% | $7,692.02 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $33,547.32 | 25% | $8,386.83 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $39,307.70 | 25% | $9,826.93 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $39,307.70 | 25% | $9,826.93 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $36,224.67 | 25% | $9,056.17 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $36,224.67 | 25% | $9,056.17 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $36,224.67 | 25% | $9,056.17 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $32,089.02 | 25% | $8,022.26 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $39,613.11 | 25% | $9,903.28 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $35,342.80 | 25% | $8,835.70 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $35,342.80 | 25% | $8,835.70 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $35,342.80 | 25% | $8,835.70 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $230,041.66 | 25% | $57,510.42 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $102,167.43 | 25% | $25,541.86 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $102,167.43 | 25% | $25,541.86 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $102,167.43 | 25% | $25,541.86 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $102,167.43 | 25% | $25,541.86 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $98,784.68 | 25% | $24,696.17 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $111,671.81 | 25% | $27,917.95 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $104,422.40 | 25% | $26,105.60 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $104,422.40 | 25% | $26,105.60 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $104,422.40 | 25% | $26,105.60 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $104,422.40 | 25% | $26,105.60 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $106,838.41 | 25% | $26,709.60 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $106,838.41 | 25% | $26,709.60 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $101,845.32 | 25% | $25,461.33 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $101,845.32 | 25% | $25,461.33 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $101,845.32 | 25% | $25,461.33 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $88,934.43 | 25% | $22,233.61 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $86,148.84 | 25% | $21,537.21 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $76,451.65 | 25% | $19,112.91 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $76,853.99 | 25% | $19,213.50 | 3 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $76,853.99 | 25% | $19,213.50 | 3 of 5 |
| | Non-Residential | Other | LEED - EB | $1,127,233.03 | 25% | $281,808.26 | 2 of 3 |
| | Muliti-family Residential | Covered | LEED - NC | $42,466.69 | 25% | $10,616.67 | 2 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $65,692.59 | 25% | $16,423.15 | 2 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $64,793.56 | 25% | $16,198.39 | 2 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $66,384.96 | 25% | $16,596.24 | 2 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $67,413.74 | 25% | $16,853.44 | 2 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $66,984.72 | 25% | $16,746.18 | 2 of 5 |
| | Muliti-family Residential | Covered | LEED - NC | $65,461.15 | 25% | $16,365.29 | 2 of 5 |
| TOTAL GOLD RATING | | | | | | $2,093,166.32 | |

| PLATINUM RATING | | | | | | | |
|---|---|---|---|---|---|---|---|
| Account # | Multi Family Res or Non-Res | Building Type (Covered or Other) | USGBC Rating | Mont Co Tax | Tax Credit % | Tax Credit Amount | Duration |
| | Non-Residential | Covered | LEED - CS | $22,038.63 | 75% | $16,528.97 | 2 of 5 |
| | Non-Residential | Other | LEED - EB | $1,857,992.11 | 50% | $1,773,908.08 | 2 of 3 |
| | Non-Residential | Other | LEED - EB | $2,269,921.92 | 50% | $1,116,396.64 | 1 of 3 |
| TOTAL PLATINUM RATING | | | | | | $2,906,833.69 | |

| | |
|---|---|
| **TOTAL ALL RATINGS** | **$5,000,000.00** |

**ADDENDUM**
Item 8C
October 5, 2021
**Action**

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

October 4, 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: Action – roll call vote required

**Addendum to Staff Memorandum Dated September 30, 2021:**

The purpose of this addendum is to provide additional context for the amendment to Bill 31-21, proposed by the T&E/GO Committee, to focus incentives within geographic areas of the County identified as Equity Emphasis Areas (EEAs).

**Background on EEAs and Policy Implications.** As noted in the September 30 staff memorandum, EEAs are 350 of the region's 1,222 total census tracts identified by the National Capital Region Transportation Planning Board (TPB) as having underserved communities, including high concentrations of low-income communities and communities of color. Map Detail | Metropolitan Washington Council of Governments (mwcog.org). EEAs are a tool used to focus strategies on hardest hit geographic areas, and to increase equity in multiple policy areas, including transportation planning, housing, public health, and the environment. Equity Emphasis Areas: A tool to prioritize and invest in communities - News Highlight - News | Metropolitan Washington Council of Governments (mwcog.org)

Regarding climate change, the Metropolitan Washington Council of Governments (COG) has used EEAs to analyze climate impacts and risks in its 2030 Climate and Energy Action Plan. Metropolitan Washington 2030 Climate and Energy Action Plan | Metropolitan Washington Council of Governments (mwcog.org). Among COG's findings are:

- Overall "energy burden," or the percentage of household incomes that goes towards energy costs, is also a significant concern for underserved communities. Across the region, **underserved communities spend a larger portion of income on home energy cost than other residents**.

- [M]ean **energy burden across census tracts in Equity Emphasis Areas (EEAs) is 6.6 percent higher than all other census tracts in the region**.… Ensuring equitable energy access to underserved communities ensures energy burdens don't limit residents' ability to choose between paying energy bills or living essentials.

- EEAs are more heavily burdened by extreme heat. **The median number of extreme heat days a year in the region is 8.61 days, the median in EEAs is 8.75 days.** Potentially vulnerable populations may face barriers such as access to air conditioning, housing, and cooling centers.

- Underserved communities have been **disproportionately impacted by environmental exposures, including ambient air pollution and climate-change-related health impacts**.

(Emphasis added).

In response to this data regarding EEAs, COG encourages local government policies to address energy inequities, including:

- Resilient green infrastructure enhancements should be prioritized in vulnerable communities with limited access to parks and green spaces.

- Improving the energy efficiency reduces the financial burden associated with energy costs for both residents and local businesses. Accelerating retrofit work also has the potential to create high quality jobs in the region.

- Benchmarking programs leading to more energy efficient multifamily and commercial buildings reduce the financial burden associated with energy costs.

- On-site renewable systems can reduce the financial burden associated with energy costs. Incentives and cooperative campaigns can be designed to maximize participation rates among economically disadvantaged communities.

**Amendment to Bill 31-21.** The proposed amendment, which is described in Item #3 of the September 30 staff memorandum, would expand tax credits for energy-efficient commercial and multi-family buildings within EEAs, in order to focus incentives where they are most needed, and to increase equity and social justice in the County.

As shown by COG, EEAs disproportionately experience a high "energy burden," poor air quality, and extreme heat. An expanded tax credit to create energy efficiencies within EEAs would be a targeted strategy to reduce these demonstrable inequities and to help low-income areas with the greatest needs. Within the EEAs, the expanded credits would decrease the costs of energy for commercial and multifamily buildings and, thus, reduce the inequitable energy burden in low-income areas of the County. The expanded credits also would mitigate health disparities – caused in part by the relatively extreme heat of EEAs – by improving indoor air quality.