



Committee: Joint
Committee Review: At a future date
Staff: Robert H. Drummer, Senior Legislative Attorney
Purpose: To introduce agenda item – no vote expected
Keywords: #GreenBank; #FuelEnergyTax

AGENDA ITEM #8A
November 16, 2021
Introduction

SUBJECT

Bill 44-21, Montgomery County Green Bank – Funding – Fuel Energy Tax Revenue

Lead Sponsor: Council President Huckler

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Whether to require the Council to appropriate 10% of the fuel-energy tax revenue to the County Green Bank.

DESCRIPTION/ISSUE

- How would dedicating a portion of the fuel-energy tax to the Green Bank affect other priorities?

SUMMARY OF KEY DISCUSSION POINTS

- What would the dedicated revenue buy the County?

This report contains:

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Bill 44-21
LRR

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MEMORANDUM

November 10, 2021

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Bill 44-21, Montgomery County Green Bank – Funding – Fuel Tax Revenue

PURPOSE: Introduction – no Council votes required

Bill 44-21, Montgomery County Green Bank – Funding – Fuel Tax Revenue, with Lead Sponsor Council President Hucker, is scheduled to be introduced on November 16, 2021. A public hearing is tentatively scheduled for December 7, 2021 at 1:30 p.m.¹

Background

The Montgomery County Green Bank was established by Bill 18-15, enacted by the Council on June 30, 2015 and signed into law by the Executive on July 7, 2015. The Green Bank promotes the investment in clean energy technologies in the County by offering financing structures to lower the cost of financing these technologies for County residential and commercial properties. The fuel-energy tax is levied and imposed on every person transmitting, distributing, manufacturing, producing, or supplying electricity, gas, steam, coal, fuel oil, or liquefied petroleum gas in the County. The Council budgeted \$175,651,251 for energy tax revenue in FY22.

Bill 44-21 would mandate that the Council appropriate 10% of the fuel-energy tax revenue to the County Green Bank each year in the annual operating budget.

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¹#GreenBank; #FuelEnergyTax

Bill No. 44-21
Concerning: Montgomery County Green Bank – Funding – Fuel-energy tax revenue
Revised: 10-25-21 Draft No. 1
Introduced: November 16, 2021
Expires: May 16, 2023
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President Hucker

AN ACT to:

- (1) require the Council to annually appropriate 10% of the fuel-energy tax revenue to the County Green Bank;
- (2) establish a dedicated County funding source for the Green Bank; and
- (3) generally amend the law governing the Green Bank and the use of the fuel-energy tax revenue.

By amending

Montgomery County Code
Chapter 18A, Environmental Sustainability
Section 18A-49

Chapter 52, Taxation
Section 52-14

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

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

Sec. 1. Sections 18A-49 and 52-14 are amended as follows:

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

- (a) The Board of Directors must adopt a work program each year to advance the policy objectives and perform the activities listed in Section 18A-44.
- (b) The Green Bank’s work program may include a plan for sponsorship of private investment, marketing, and advocacy initiatives.
- (c) The Board must meet with the Executive and the Council at least semi-annually.
- (d) The Department of Environmental Protection may, if the Board of Directors requests, provide incidental administrative support for the Green Bank, including contracts, grants, or services in kind, subject to appropriation.
- (e) Funding sources for the Green Bank may include:
 - (1) federal[, or State[, or County] funds provided to it;
 - (2) County funds, including a portion of the fuel-energy tax revenue received by the County;
 - (3) charitable gifts, grants, or contributions and loans from individuals, corporations, university endowments, and philanthropic foundations; and
 - ~~[(3)]~~ (4) earnings and interest derived from financing support activities for clean energy technologies backed by the Green Bank.

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

52-14. Fuel-energy tax.

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

- 28 (2) The County Council must set the rates for various forms of fuel
29 and energy by a resolution adopted under Section 52-17(c). The
30 Council may, from time to time, revise, amend, increase, or
31 decrease the rates, including setting different rates for fuel or
32 energy delivered for different categories of final consumption,
33 such as residential or agricultural use. Each rate must be based on
34 a weight or other unit of measure regularly used in the conduct of
35 business. The rate for each form of fuel or energy should impose
36 an equal or substantially equal tax on the equivalent energy content
37 of each form of fuel or energy for a particular category of use.
- 38 (3) The tax does not apply to the transmission or distribution of
39 electricity, gas, steam, coal, fuel oil, or liquefied petroleum gas in
40 interstate commerce through the County if the tax would exceed
41 the taxing power of the County under the United States
42 Constitution. The tax does not apply to fuel or energy converted to
43 another form of energy that will be subject to a tax under this
44 Section. The tax must not be imposed at more than one point in the
45 transmission, distribution, manufacture, production, or supply
46 system. The rates of tax apply to the quantities measured at the
47 point of delivery for final consumption in the County. For an
48 electric company (as defined in state law), the rates of tax apply to
49 the net consumption that is used to calculate each consumer bill.
- 50 (4) The tax does not apply to energy that is generated from a
51 renewable source located:
- 52 (A) in the County and either used on the site where it is
53 generated or subject to a net energy metering agreement (as
54 defined in state law) with a public utility; or

55 (B) in the same electric service territory in Maryland as the
56 subscriber using the energy and subject to a virtual net
57 energy metering agreement (as defined in state law) with a
58 public utility.

59 Renewable source means a “Tier 1 renewable source” as defined in
60 Section 7-701(l) of the Public Utilities Article of the Maryland Code or
61 any successor provision.

62 * * *

63 (i) Any violation of this Section is a class A violation. Each violation is a
64 separate offense. Any conviction does not relieve any person from paying
65 any tax due.

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

69 **Sec. 2. Effective date.**

70 The amendments in Section 1 take effect on July 1, 2022.

LEGISLATIVE REQUEST REPORT

Bill 44-21

Montgomery County Green Bank – Funding – Fuel Energy Tax Revenue

DESCRIPTION:	Bill 44-21 would mandate that the Council appropriate 10% of the fuel-energy tax revenue to the County Green Bank each year in the annual operating budget.
PROBLEM:	The County Green Bank does not have a dedicated source of revenue.
GOALS AND OBJECTIVES:	To mandate a dedicated source of revenue for the Green Bank.
COORDINATION:	Finance, DEP
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be researched.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Robert H. Drummer, Senior Legislative Attorney (240) 777-7895
APPLICATION WITHIN MUNICIPALITIES:	Not applicable.
PENALTIES:	Not applicable.