

MEMORANDUM
(REVISED November 19, 2007)

TO: County Council

FROM: Kathleen Boucher, Senior Legislative Attorney *KMB*
Amanda Mihill, Legislative Analyst *AM*

SUBJECT: **Introduction:** Bill 32-07, Environmental Sustainability – Climate Protection Plan

Bill 32-07, Environmental Sustainability – Climate Protection Plan, sponsored by Councilmembers Berliner, Leventhal, Andrews, Elrich and Floreen, is scheduled to be introduced on November 20, 2007. A public hearing is tentatively scheduled for January 17, 2008 at 7:30 p.m. This bill:

- Requires the Director of the Department of Environmental Protection (DEP) to prepare a Climate Protection Plan by January 1, 2009 that outlines a plan to reduce Countywide greenhouse gas emissions by 80% by January 1, 2050;
- Requires the Directors of DEP and the Department of Finance to evaluate the costs and benefits of converting the fuel energy tax to a carbon tax; and
- Requires the Director of DEP to recommend whether the County should join a cap and trade program.

This bill is identical to the version of Bill 32-07 that was forwarded to Councilmembers on Friday, November 16, except that it requires the Climate Action Plan to include a plan to stop increasing Countywide greenhouse gas emissions by 2010 and to reduce Countywide greenhouse gas emissions by 10% every 5 years until 2050.

This packet contains:

	<u>Circle #</u>
Bill 32-07	1
Legislative Request Report	9

Bill No. 32-07
Concerning: Environmental Sustainability
- Climate Protection Plan
Revised: 11/19/07 Draft No. 11
Introduced: November 20, 2007
Expires: May 20, 2009
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Berliner, Leventhal, Andrews, Elrich, and Floreen

AN ACT to:

- (1) establish goals to reduce Countywide greenhouse gas emissions by certain amounts by certain dates;
- (2) require the Director of the Department of Environmental Protection to prepare a Climate Protection Plan designed to achieve Countywide goals for greenhouse gas emissions;
- (3) require the Directors of the Department of Environmental Protection and Department of Finance to evaluate the costs and benefits of converting the fuel energy tax to a carbon tax;
- (4) require the Director of the Department of Environmental Protection to recommend whether the County should join a cap and trade program;
- (5) make stylistic changes; and
- (6) generally amend the law relating to energy and environmental policy.

By amending

Montgomery County Code
Chapter 18A, Energy Policy
Sections 18A-1, 18A-5, 18A-8, and 18A-10

By adding

Montgomery County Code
Chapter 18A, Energy Policy
Article II. Climate Protection

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. The title to Chapter 18A and Section 18A-1, Section 18A-5,**
2 **Section 18A-8, and Section 18A-10 are amended as follows:**

3 **Chapter 18A. [ENERGY POLICY] ENVIRONMENTAL**
4 **SUSTAINABILITY.**

5 **Article I. Energy.**

6 **18A-1. Findings and statement of purpose.**

- 7 **(a)** In the interest of maintaining an adequate and reliable energy supply at
8 reasonable cost, the County government recognizes the need to
9 institutionalize through legislation an energy policy and energy planning
10 program. In addition, the efficient use of energy directly benefits air
11 quality, demonstrating the linkages necessary to achieve essential
12 environmental goals. For this reason, the responsibilities of the
13 Advisory Committee on Energy Conservation are expanded to include
14 an advisory function with respect to air quality.
- 15 **(b)** The intent of this [Chapter] Article is to provide the initiative for
16 County government to address energy issues and plan for a future which
17 may be energy resource-constrained. It establishes the means to
18 formulate ongoing policies, plans, programs and activities designed to
19 foster energy conservation and to promote cost-effective alternatives to
20 existing sources of energy and patterns of energy consumption while
21 maintaining efforts to meet environmental goals.
- 22 **(c)** This [Chapter] Article is intended to serve as a vehicle for the
23 promotion of energy consciousness throughout all segments of the
24 community and for the development and implementation of immediate
25 and long-range cooperative energy planning efforts in both the public
26 and private sectors.

27 **18A-5. Energy and Air Quality Advisory Committee; establishment; terms**
 28 **of office; ex-officio members [; etc].**

29 (a) There is hereby established an Advisory Committee on Energy and Air
 30 Quality[, hereinafter referred to as the Committee,] to assist the County
 31 Council and the County Executive in carrying out the purposes of this
 32 [Chapter] Article and Chapter 3. The Committee consists of 15
 33 members appointed by the County Executive, subject to confirmation
 34 by the County Council. One member must be designated by the
 35 Executive and confirmed by the Council to serve as chair of the
 36 Committee. [Appointees] Each appointee must be [citizens] a resident
 37 of the County who [are] is technically knowledgeable and interested in
 38 energy and air quality.

39 * * *

40 **18A-8. Duties and responsibilities.**

41 The Committee has the following duties:

42 (a) Advise the County Executive and the County Council of the activities of
 43 the Committee in furthering the goals of this [Chapter] Article and
 44 Chapter 3;

45 * * *

46 (f) Carry out [such other] duties [as may be] assigned from time to time by
 47 the County Executive and the County Council to assist in fulfilling the
 48 purposes of this [Chapter] Article.

49 **18A-10. Administrative arrangements; support and organizational duties**
 50 **and functions of county government.**

51 (a) The County Executive must designate a senior officer or employee of
 52 the executive branch of County government to provide executive

53 direction to the performance of the functions and responsibilities
 54 delineated in this [Chapter] Article and to report annually to the
 55 Executive and Council on the activities undertaken to further the goals
 56 of this [Chapter] Article.

57 (b) The County Executive may also establish [such] organizational and
 58 administrative arrangements as appropriate to promote the policies and
 59 purposes of this [Chapter] Article, including the following functions:

60 * * *

61 **Sec. 2. Chapter 18A is amended by adding Article II. Climate Protection**
 62 **as follows:**

63 **Article II. Climate Protection.**

64 **18A-12. Definitions**

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

66 “Cap and trade program” means a program that places a limit on the
 67 aggregate net greenhouse gas emissions of the participants, while allowing the
 68 transfer or sale of greenhouse gas emission allowances.

69 “Carbon dioxide equivalent” means a given weight of a greenhouse gas that
 70 has the same global warming potential, measured over a specified time, as a
 71 given weight of carbon dioxide.

72 “Climate Protection Plan” means the plan to reduce the level of Countywide
 73 greenhouse gas emissions prepared under Section 18A-13

74 “Countywide greenhouse gas emissions” means the total annual greenhouse
 75 gas emissions in the County, measured in tons of carbon dioxide equivalents,
 76 including all emissions from electricity generated outside the County but
 77 consumed in the County.

78 “Department” means the Department of Environmental Protection.

79 "Director" means the Director of the Department or the Director's designee.

80 "Greenhouse gas" includes carbon dioxide, methane, nitrous oxide,
81 hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, and any other
82 gas or substance the Director finds to be a significant contributor to global
83 warming.

84 **18A-13. Climate Protection Plan.**

85 (a) Inventory. The Director must conduct a greenhouse gas emissions
86 inventory to determine the amount of greenhouse gases emitted in the
87 County and submit a written report on the inventory to the County
88 Executive and County Council by July 1, 2008.

89 (b) Reduction of greenhouse gas emissions. The Director must prepare a
90 Climate Protection Plan by January 1, 2009 that outlines a plan to
91 reduce Countywide greenhouse gas emissions to 80% below the amount
92 of greenhouse gas emissions in the base year identified in the inventory
93 prepared under subsection (a) by January 1, 2050, including a plan to
94 stop increasing Countywide greenhouse gas emissions by 2010 and
95 achieve a 10% reduction every 5 years through 2050.

96 (c) Climate Protection Plan. The Climate Protection Plan must:

97 (1) Identify a strategy, including short-, mid-, and long-term goals to
98 reduce Countywide greenhouse gas emissions to the levels
99 required in subsection (b);

100 (2) Explain how the Climate Protection Plan relates to the Energy
101 Policy approved by the Council under Section 18A-3 and
102 identifies any recommended changes to the Energy Policy that
103 are needed to implement the Climate Protection Plan;

- 104 (3) Identify existing cap and trade programs and recommends
 105 whether the County should join a cap and trade program;
- 106 (4) Identify ways to increase sequestration of greenhouse gases,
 107 including a Tree Canopy Initiative that contains a plan for
 108 increasing the County's tree canopy;
- 109 (5) Include an education and outreach plan designed to educate
 110 County residents and businesses about:
- 111 (A) Global climate change;
- 112 (B) County efforts to reduce greenhouse gas emissions;
- 113 (C) Sequestration of carbon; and
- 114 (D) Best practices for reducing greenhouse gas emissions; and
- 115 (6) Estimate the time and resources necessary to implement the
 116 Climate Protection Plan.
- 117 (d) Preparation. In preparing the Climate Protection Plan, the Director
 118 must:
- 119 (1) Consider greenhouse gas emissions reduction programs in other
 120 jurisdictions;
- 121 (2) Evaluate the potential costs and benefits of different options for
 122 reducing greenhouse gas emissions to the County's economy,
 123 environment, health, safety, and welfare; and
- 124 (3) Use the best available economic models, emissions estimating
 125 techniques, and other scientific methods.
- 126 (e) Annual report. The Director must submit a report to the County
 127 Executive and County Council by September 1 of each year that
 128 specifies:

- 129 (1) The actions taken to implement the Climate Protection Plan in the
- 130 preceding fiscal year; and
- 131 (2) Whether the County is meeting the goals identified in the Climate
- 132 Protection Plan.

18A-14. Carbon tax.

134 (a) In this Section, the following words have the meanings indicated:
 135 “Carbon tax” means a tax that is proportionate to the amount of carbon
 136 dioxide produced by an energy source.

137 “Fuel energy tax” means the fuel energy tax imposed under Section 52-
 138 14.

139 (b) The Directors of the Department of Environmental Protection and
 140 Department of Finance must:

141 (1) Evaluate the costs and benefits of converting the fuel energy tax
 142 to a carbon tax; and

143 (2) Submit findings and recommendations to the County Executive
 144 and County Council by July 1, 2008, including a recommended
 145 methodology for converting the fuel energy tax to a carbon tax.

146 *Approved:*

149 Marilyn J. Praisner, President, County Council

Date

150 *Approved:*

151 Isaih Leggett, County Executive

Date

LEGISLATIVE REQUEST REPORT

Bill 32-07

Environmental Sustainability – Climate Protection Plan

- DESCRIPTION:** Establishes goals to reduce Countywide greenhouse gas emissions by 80 percent by the year 2050, requires the Director of the Department of Environmental Protection to prepare a Climate Protection Plan designed to achieve Countywide goals for greenhouse gas emissions, requires the Directors of the Department of Environmental Protection and the Department of Finance to evaluate the costs and benefits of converting the fuel energy tax to a carbon tax, and requires the Director of the Department of Environmental Protection to recommend whether the County should join a cap and trade program.
- PROBLEM:** There is a consensus among the world's leading scientists that global warming caused greenhouse gas emissions is among the most significant problems facing the world today and scientists have projected that stabilization of climate change in time to minimize such impacts will require a reduction of global warming emissions to 80 percent below current levels by the year 2050. Montgomery County has a unique role to play in reducing greenhouse gas emissions and preparing for the impacts of climate change through its regional jurisdiction over policy areas such as air quality, land use planning, transportation, zoning, forest preservation, water conservation, and wastewater and solid waste management. However, the County does not currently have a comprehensive plan in place to achieve significant reductions in greenhouse gas emissions.
- GOALS AND OBJECTIVES:** To provide a comprehensive approach to reducing Countywide greenhouse gas emissions by requesting various departments in the Executive branch to address key elements of the comprehensive approach.
- COORDINATION:** Department of Environmental Protection, Department of Finance.
- FISCAL IMPACT:** To be requested.
- ECONOMIC IMPACT:** To be requested.
- EVALUATION:** To be requested.
- EXPERIENCE** To be researched.

ELSEWHERE:

**SOURCE OF
INFORMATION:**

Kathleen Boucher, Senior Legislative Attorney (240) 777-7940
Amanda Mihill, Legislative Analyst (240) 777-7815

**APPLICATION
WITHIN
MUNICIPALITIES:**

To be researched.

PENALTIES:

N/A.

F:\LAWBILLS\0732 Environmental Sustainability - Climate Protection Plan\LRR.Doc