

Expedited Bill No. 34-03
Concerning: [[Finance]] Fuel-Energy
Tax – Agricultural Energy [[Cost
Assistance]] Use
Revised: Oct. 28, 2003 Draft No. 7
Introduced: September 9, 2003
Enacted: October 28, 2003
Executive: November 7, 2003
Effective: November 7, 2003
Sunset Date: [[June 30, 2005]] None
Ch. 28, Laws of Mont. Co. 2003

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President Subin and Councilmembers Knapp, Praisner, and Floreen.

AN EXPEDITED ACT to:

- (1) [establish a fund to provide payments] allow the Council to set different fuel-energy tax rates for fuel and energy delivered for various categories of uses, including an agricultural rate for fuel-energy delivered to qualified County residents to reduce the economic impact on agriculture of higher fuel and energy costs; [[and]]
- (2) make technical, stylistic, and conforming changes; and
- (3) generally amend County law regarding the cost and taxation of fuel and energy used for agricultural purposes.

By [[adding]] amending

Montgomery County Code
[[Chapter 20, Finance
Article XV, Agricultural Energy Cost Rebate]]
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:

Section 1. [[Article XV. of Chapter 20]] Section 52-14 of the Code is

[[added]] amended as follows:

[[Article XV. Agricultural Energy Cost Assistance.]]

[[20-82. Agricultural Energy Cost Assistance Fund.]]

[[a) The Director of Finance must establish an Agricultural Energy Cost Assistance Fund. The Fund is continuing and non-lapsing.]]

[[b) The Fund consists of:

- (1) all funds appropriated to the Fund by the County Council; and
- (2) all funds received from any other public or private entity.]]

[[c) The purpose of the fund is to provide financial assistance to help offset increases in the cost of energy used for agriculture in the County.]]

[[20-83. Payments from the Fund.]]

[[The Director must make payments from this Fund to applicants who meet eligibility requirements established by regulation adopted under method (1). The regulations must require:]]

[[a) an applicant to submit all necessary eligibility information in a form specified by the Director;]]

[[b) evidence that the applicant was affected by an energy cost increase outside the applicant’s control, such as a tax increase or general change in supply or demand, that was not attributable to increased energy consumption by the applicant;]]

[[c) evidence, or a reasonable presumption, that the higher-cost energy was delivered and used for agricultural purposes; and]]

[[d) that the payments promote and preserve agriculture and agricultural land in the County.]]

[[20-84. Administration.]]

27 [(a) The Executive may adopt regulations under method (1) to administer
 28 the Fund and provide for an equitable distribution of payments if the
 29 number of eligible applicants is expected to exceed the funds available
 30 in the Fund during the fiscal year.]]

31 [(b) The Executive must report by March 15 each year on the status and use
 32 of the Fund. This report can be included in the Executive's proposed
 33 operating budget.]]

34 **52-14. Fuel-energy tax.**

35 (a) [[There is hereby]] A tax is levied and imposed [[a tax upon]] on every
 36 person transmitting, distributing, manufacturing, producing, or
 37 supplying electricity, gas, steam, coal, fuel oil, or liquefied petroleum
 38 gas in the [[county, after July 1, 1975, at the following rates in dollars:]]
 39 County.

<u>[[Electricity</u>	<u>\$0.0010404</u>	<u>per kilowatt hour]]</u>
<u>[[Gas</u>	<u>\$0.0093864</u>	<u>per therm]]</u>
<u>[[Steam</u>	<u>\$0.011736</u>	<u>per therm]]</u>
<u>[[Coal</u>	<u>\$2.436</u>	<u>per ton]]</u>
<u>[[Fuel Oil</u>		
<u>No. 1</u>	<u>\$0.01284</u>	<u>per gallon</u>
<u>No. 2</u>	<u>\$0.01332</u>	<u>per gallon</u>
<u>No. 3</u>	<u>\$0.01332</u>	<u>per gallon</u>
<u>No. 4</u>	<u>\$0.013632</u>	<u>per gallon</u>
<u>No. 5</u>	<u>\$0.013896</u>	<u>per gallon</u>
<u>No. 6</u>	<u>\$0.014208</u>	<u>per gallon]]</u>
<u>[[Liquefied petroleum gas</u>	<u>\$0.002028</u>	<u>per pound]]</u>

40 The [[council may]] County Council must set the rates for various forms
 41 of fuel and energy by resolution adopted [[after advertisement and a
 42 public hearing made and held in accordance with]] according to the
 43 [[provisions]] requirements of [[subsection (c) of section]] Section
 44 52-17(c)[[,]]. The Council may, from time to time, revise, amend,

45 increase, or decrease the [[foregoing]] rates, including establishing
 46 different rates for fuel or energy delivered for different categories of
 47 final consumption, such as residential or agricultural use. The rates [[or
 48 any revisions, amendments, increases or decreases are and shall]] must
 49 be based on a weight or other unit of measure regularly used by such
 50 persons in the conduct of their business [[and are and shall be intended
 51 to be in such amounts as will]]. The rate for each form of fuel or energy
 52 should impose an equal or substantially equal tax [[upon the units of
 53 energy transmitted, distributed, manufactured, produced or supplied by
 54 different persons or classes of persons]] on the equivalent energy
 55 content of each form of fuel or energy for a particular category of use.
 56 The tax [[shall]] does not apply to the transmission or distribution of
 57 electricity, gas, steam, coal, fuel oil, or liquefied petroleum gas in
 58 interstate commerce through the county~~[[, which are excluded from]]~~ if
 59 the tax would exceed the taxing power of the ~~[[county,]]~~ County under
 60 the United States Constitution ~~[[of the United States]]~~. The tax [[shall
 61 not be imposed when the fuels]] does not apply to fuel or [[energies are
 62 used to convert]] energy converted to another form of energy [[which]]
 63 that will [[become]] be subject to a tax under this Section. The tax
 64 [[shall]] must not be imposed at more than one ~~[[1]]~~ point in the
 65 transmission, distribution, manufacture, production, or supply system.
 66 The rates of tax [[shall be applied]] apply to the quantities measured at
 67 the point of delivery for final consumption [[within]] in the ~~[[county]]~~
 68 County.

69 (b) * * *

70

71 (c) Every person [[transmitting, distributing, manufacturing, producing or
 72 supplying]] who transmits, distributes, manufactures, produces, or
 73 supplies fuel or energy [[listed herein within]] in the [[county shall]]
 74 County must pay the tax and [[shall]] report[[, upon such forms and set
 75 forth such information as the director of finance may prescribe. Such
 76 report and payment of said tax shall be made]] any information required
 77 by the Director of Finance for each calendar month on or before the
 78 fifteenth day of [[each]] the following month[[, covering the immediate
 79 preceding calendar month]]. [[Any]] With the written permission of the
 80 Director of Finance, a person [[transmitting, distributing,
 81 manufacturing, producing or supplying energy or fuel regularly
 82 throughout the year may, upon written application to, and with the
 83 consent of, the director of finance,]] who regularly owes taxes under this
 84 Section may pay the tax and make reports [[and remittances]] on a
 85 quarterly basis [[in lieu of the monthly basis hereinbefore provided.
 86 Such quarterly reports and remittances shall be made]], on or before the
 87 fifteenth day of April, July, October, and January in each year [[, and
 88 shall cover]] for the [[three (3) months immediately]] preceding [[the
 89 months in which reports and remittances are required]] 3 months.

90 * * *

91 (h) The Director of Finance may issue regulations to assess, collect, audit,
 92 and otherwise administer the tax imposed by this Section. If the Council
 93 by resolution establishes different rates for different categories of fuel-
 94 energy use, the regulations may specify how the Director will determine
 95 whether a taxpayer qualifies under the resolution for any rate that is less
 96 than the maximum rate.

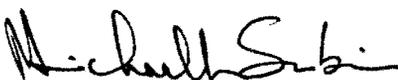
97 [[h]]

98 (i) * * *

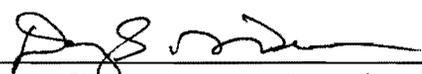
99 Sec. 2. ~~[[Effective]]~~ Expedited effective date.

100 The Council declares that this legislation is necessary for the immediate
101 protection of the public interest. This Act takes effect on ~~[[July 1, 2003, and expires~~
102 ~~on June 30, 2005.~~ Any funds in the Agricultural Energy Cost Assistance Fund
103 established by Article XV of Chapter 20 of the Code, as added by this Act, that are
104 not obligated or encumbered before July 1, 2005, revert to the General Fund.]] the
105 date on which it becomes law.

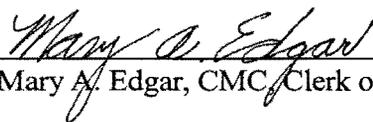
106 *Approved:*

107  10/30/03
Michael L. Subin, President, County Council Date

108 *Approved:*

109  11/7/03
Douglas M. Duncan, County Executive Date

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

111  11/17/03
Mary A. Edgar, CMC, Clerk of the Council Date