

MEMORANDUM

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *A. Mihill*
MF Michael Faden, Senior Legislative Attorney

SUBJECT: **Introduction:** Bill 6-14, Environmental Sustainability – Office of Sustainability - Established

Bill 6-14, Environmental Sustainability – Office of Sustainability - Established, sponsored by Councilmembers Berliner, Floreen, and Riemer, Council Vice President Leventhal, and Councilmember Andrews, is scheduled to be introduced on January 21, 2014. A public hearing is tentatively scheduled for February 11, 2014 at 7:30 p.m.

Bill 6-14 would create an Office of Sustainability in the Department of Environmental Protection. In 2008, the Council tasked a Sustainability Working Group with the responsibility of guiding the County's greenhouse gas reduction implementation. The Working Group has not met or produced anything in recent years.

Councilmember Berliner explained the purpose of this Bill in his January 14 memorandum describing his proposed energy/environmental package. See ©20 of Bill 2-14, Agenda Item 4A.

This packet contains:

Bill 6-14

Legislative Request Report

Circle #

1

19

Bill No. 6-14
Concerning: Environmental Sustainability
- Office of Sustainability - Established
Revised: 1/10/2014 Draft No. 1
Introduced: January 21, 2014
Expires: July 21, 2015
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Councilmembers Berliner, Floreen, and Riemer, Council Vice President Leventhal, and
Councilmember Andrews

AN ACT to:

- (1) create a Office of Sustainability in the Department of Environmental Protection;
- (2) specify the duties of the Office;
- (3) repeal and reassign the duties of the Sustainability Working Group; and
- (4) generally amend County law on environmental sustainability.

By amending

Montgomery County Code
Chapter 8, Buildings
Section 8A-14B

Chapter 18A, Environmental Sustainability
Sections 18A-12, 18A-13, 18A-14, 18A-17, 18A-19, 18A-20, and 18A-23

Chapter 40, Real Property
Section 40-13B

By deleting

Chapter 8, Buildings
Section 8-14C and 8-53
Chapter 18A, Environmental Sustainability
Sections 18A-15 and 18A-16

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

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

1 **Sec. 1. Sections 8-14B, 18A-12, 18A-13, 18A-14, 18A-17, 18A-19, 18A-20,**
2 **18A-23, and Section 40-13B are amended, and Sections 8-14C, 8-53, 18A-15, and**
3 **18A-16 are deleted as follows:**

4 **8-14B. County buildings - energy unit savings plans, energy cost savings**
5 **plans, and energy performance contracts.**

6 (a) *Definitions.* In this Section, the following words have the meanings
7 indicated:

8 [“]County building[”] means a building which is owned or leased by the
9 County.

10 [“]Energy baseline[”] means the amount of energy consumed each year
11 by a County building based on historical metered data, engineering
12 calculations, submetering of buildings or energy consuming systems,
13 building load simulation models, statistical regression analysis, or any
14 combination of those methods.

15 [“]Energy cost savings plan[”] means a plan to reduce a County
16 building’s energy costs, including related operation and maintenance
17 costs.

18 [“]Energy performance contract[”] means a contract which provides for
19 the performance of services for the design, acquisition, installation,
20 testing, operation, maintenance, or repair of an identified energy
21 conservation measure or series of measures in a County building.

22 [“]ENERGY STAR rating[”] means the ENERGY STAR rating
23 developed by the federal Environmental Protection Agency which
24 reflects a building’s energy efficiency.

25 [“]Energy unit savings plan[”] means a plan to reduce the amount of
26 energy used by a County building, as measured in kilowatt hours or
27 British thermal units.

28 Office of Sustainability or Office means the Office of Sustainability
 29 created under Section 18A-13.

30 [“*National energy performance rating system*”] means the rating
 31 system developed by the federal Environmental Protection Agency
 32 under which a building may obtain the ENERGY STAR rating.

33 [“Sustainability Working Group” means the Group defined in Section
 34 18A-13.]

35 (b) *Requirements.* The Office of Sustainability [Working Group] must:

- 36 (1) develop an energy baseline, energy unit savings plan, and energy
 37 cost savings plan for each County building;
- 38 (2) submit an initial report to the County Executive and County
 39 Council by January 15, [2009] 2015 which summarizes the
 40 energy baseline, energy unit savings plan, and energy cost
 41 savings plan for each County building; and
- 42 (3) submit an annual report to the County Executive and County
 43 Council by January 15 of each year that summarizes the steps
 44 taken in the preceding fiscal year to implement the energy unit
 45 savings plan and energy cost savings plan for each County
 46 building.

47 (c) *Energy performance contracts.* Each energy unit savings plan and
 48 energy cost savings plan that the [Sustainability Working Group] Office
 49 prepares under subsection (b) must include a plan to use an energy
 50 performance contract unless the [Sustainability Working Group] Office
 51 finds that the cost of using an energy performance contract outweighs
 52 the benefit.

53 **[8-14C. Private buildings - incentives.]**

54 [(a) *Study.* The Sustainability Working Group must evaluate:

- 55 (1) options for creating incentives for the owners of commercial,
- 56 multi-family residential, or single-family residential buildings to
- 57 modify the buildings to increase their energy efficiency and
- 58 (2) options to minimize the impact on affordable housing of
- 59 achieving the ENERGY STAR rating under the national energy
- 60 performance rating system.

61 (b) *Report.* The Sustainability Working Group must submit a report to the
 62 County Executive and County Council by January 15, 2009 regarding
 63 the Group’s findings and recommendations.]

64 **[8-53. ASHRAE/USGBC/IESNA standards.]**

65 [(a) Definitions.
 66 “ASHRAE/USGBC/IESNA Standard 189.1” means the standard for
 67 high-performance green buildings developed by the American Society
 68 of Heating, Refrigerating and Air-Conditioning Engineers, the U.S.
 69 Green Buildings Council, and the Illuminating Engineering Society of
 70 North America.

71 (b) The Sustainability Working Group must:
 72 (1) evaluate the costs and benefits of adopting the
 73 ASRAE/USGBVC/IESNA Standard 189.1; and
 74 (2) recommend to the County Executive and County Council by
 75 January 15, 2009, whether the County should adopt the
 76 ASHRAE/USGBC/IESNA Standard 189.1, particularly the
 77 energy efficiency section, or any other building performance
 78 standard.]

79 **18A-12. Definitions.**

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

81 ["*Cap and trade program*"] means a program that places a limit on the
 82 aggregate net greenhouse gas emissions of the participants, while allowing the
 83 transfer or sale of greenhouse gas emission allowances.

84 ["*Carbon dioxide equivalent*"] means a given weight of a greenhouse gas
 85 that has the same global warming potential, measured over a specified time, as
 86 a given weight of carbon dioxide.

87 ["*Climate Protection Plan*"] means the plan to reduce the level of
 88 Countywide greenhouse gas emissions prepared under Section 18A-14.

89 ["*Countywide greenhouse gas emissions*"] means the total annual greenhouse
 90 gas emissions in the County, measured in tons of carbon dioxide equivalents,
 91 including all emissions from electricity generated outside the County but
 92 consumed in the County.

93 ["*Department*"] means the Department of Environmental Protection.

94 ["*Director*"] means the Director of the Department or the Director's
 95 designee.

96 ["*Greenhouse gas*"] includes carbon dioxide, methane, nitrous oxide,
 97 hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, and any other
 98 gas or substance the Director finds to be a significant contributor to global
 99 warming.

100 Office of Sustainability or Office means the Office of Sustainability created in
 101 Section 18A-13.

102 **18A.13. [Sustainability Working Group] Office of Sustainability.**

103 [(a) *Definition.* In this Section, "Group" means the Sustainability Working
 104 Group.]

105 [(b) *Established.* The Executive must appoint, subject to confirmation by
 106 the Council, a Sustainability Working Group.]

107 [(c) *Members.*

- 108 (1) The Group has 26 members.
- 109 (2) The Executive must appoint a representative from each of the
110 following Departments to serve as an ex officio member:
- 111 (A) Environmental Protection;
- 112 (B) Economic Development;
- 113 (C) Finance;
- 114 (D) General Services;
- 115 (E) Management and Budget;
- 116 (F) Permitting Services;
- 117 (G) Public Information; and
- 118 (H) Transportation
- 119 (3) The Executive must invite one representative from each of the
120 following to serve as an ex officio member:
- 121 (A) County Council;
- 122 (B) County Planning Board;
- 123 (C) Washington Suburban Sanitary Commission;
- 124 (D) Montgomery County Public Schools;
- 125 (E) Montgomery College;
- 126 (F) a municipal government in the County; and
- 127 (G) an appropriate regional organization.
- 128 (4) The Executive must appoint 11 public members. The public
129 members should include:
- 130 (A) representatives of the business community;
- 131 (B) representatives of land development or building interests;
- 132 (C) representatives of energy distribution or supply firms;
- 133 (D) persons with expertise in stormwater management;
- 134 (E) persons with expertise in clean energy and air quality;

- 135 (F) persons with expertise in forest and habitat protection;
 136 (G) members of civic organizations active in County affairs;
 137 (H) persons with scientific and academic expertise; and
 138 (I) representatives of communications and media interests.
- 139 (5) The term of each member is 3 years. If a member is appointed to
 140 fill a vacancy before a term expires, the successor serves the rest
 141 of the unexpired term.]

142 [(d) *Voting, officers, chairs, meetings, and compensation.*

- 143 (1) Each member of the Group is a voting member.
 144 (2) The Executive must designate the Director of the Department of
 145 Environmental Protection and a public member to be Co-chairs.
 146 (3) The Group meets at the call of the Co-chairs. The Group must
 147 meet as often as necessary to perform its duties, but not less than
 148 quarterly.
 149 (4) A member serves without compensation. However, a member
 150 may request reimbursement for mileage and dependent care costs
 151 at rates established by the County.]

152 [(e) *Subcommittees.* The Co-chairs, with the approval of the Group, may
 153 create one or more subcommittees to assist in carrying out any function
 154 of the Group. Any subcommittee must consist of at least 3 members.
 155 Any subcommittee action is not the action of the Group and must not
 156 bind the Group or its members. The Co-chairs must select the chair and
 157 members of each subcommittee, which may include persons who are
 158 not members of the Group. However, the chair of each subcommittee
 159 must be a member of the Group.]

160 [(f) *Duties.* By January 15, 2009, the Group must:

- 161 (1) conduct the greenhouse gas emissions inventory and recommend
162 the Climate Protection Plan as required under Section 18A-14;
- 163 (2) conduct the annual inventory of the County's sport utility
164 vehicles and develop criteria to identify positions in County
165 government that should be assigned sports utility vehicles as
166 required under Section 18A-19;
- 167 (3) evaluate the costs and benefits of a car share program as required
168 under Section 18A-22;
- 169 (4) prepare a Telecommuting Action Plan as required under Section
170 33-24;
- 171 (5) develop an energy baseline, energy unit savings plan, and energy
172 cost savings plan for each County building as required under
173 Section 8-14B;
- 174 (6) evaluate options to create incentives for owners of commercial,
175 multi-family residential, and single-family residential buildings to
176 modify those buildings to increase their energy efficiency as
177 required under Section 8-14C;
- 178 (7) evaluate options to minimize the impact on affordable housing of
179 achieving the ENERGY STAR rating as required under Section
180 8-14C;
- 181 (8) evaluate options to encourage homeowners to conduct energy
182 audits as required under Section 40-13B;
- 183 (9) prepare a Renewable Energy Action Plan as required under
184 Section 18A-16 and
- 185 (10) evaluate the costs and benefits of adopting the
186 ASHRAE/USGBC/IESNA Standard 189.1 as required under
187 Section 8-53.]

188 [(g) *Additional duties.* The Group may also recommend, as appropriate, any
189 action that promotes the improvement of air and water quality, habitat
190 restoration, economic vitality, and a high quality of life for all County
191 residents. This and other duties of the Group must not infringe on or
192 restrict the County Planning Board's authority under state and County
193 laws to conduct land use and transportation planning and other relevant
194 planning and analysis.]

195 [(h) *Annual report.* By January 15 each year, the Group must submit to the
196 Executive and Council an annual report on:

- 197 (1) its activities, accomplishments, plans, and objectives;
- 198 (2) actions taken to implement the Climate Protection Plan, and
199 whether the County is meeting the goals identified in the Climate
200 Protection Plan as required under Section 18A-14;
- 201 (3) the use of biodiesel fuels in County vehicles, results of the sport
202 utility vehicle inventory, and the average fuel economy for
203 passenger vehicles and light trucks in the County fleet as required
204 under Section 18A-23;
- 205 (4) action taken in the preceding year to implement the
206 Telecommuting Action Plan as required under Section 33-24; and
- 207 (5) steps taking in the preceding year to implement the energy unit
208 savings plan and energy cost savings plan for each County
209 building as required under Section 8-14B.]

210 [(i) *Advocacy.* The Group must not engage in any legislative advocacy at
211 the State or federal levels unless that activity is approved by the Office
212 of Intergovernmental Relations.]

213 [(j) *Staff.* The Chief Administrative Officer must provide appropriate staff
214 to the Group.]

- 215 (a) Created. The Department of Environmental Protection must create an
216 Office of Sustainability.
- 217 (b) Duties. The Office must:
- 218 (1) update the greenhouse gas emissions inventory as required under
219 Section 18A-14;
- 220 (2) conduct the annual inventory of the County's sport utility
221 vehicles and develop criteria to identify positions in County
222 government that should be assigned sport utility vehicles as
223 required under Section 18A-19;
- 224 (3) develop an energy baseline, energy unit savings plan, and energy
225 cost savings plan for each County building as required under
226 Section 8-14B;
- 227 (4) evaluate options to encourage homeowners to conduct energy
228 audits as required under Section 40-13B; and
- 229 (5) prepare an annual report, as required in subsection (c).
- 230 (c) Annual report. By January 15 each year, the Office must submit to the
231 County Executive and County Council an annual report on:
- 232 (1) its activities, accomplishments, plans, and objectives;
- 233 (2) actions taken to implement the Climate Protection Plan, and
234 whether the County is meeting the goals identified in the Climate
235 Protection Plan as required under Section 18A-14;
- 236 (3) the use of biodiesel fuels in County vehicles, results of the sport
237 utility vehicle inventory, and the average fuel economy for
238 passenger vehicles and light trucks in the County fleet as required
239 under Section 18A-23; and

240 (4) steps taken in the preceding year to implement the energy unit
 241 savings plan and energy cost savings plan for each County
 242 building as required under Section 8-14B.

243 **18A-14. Climate Protection Plan.**

244 (a) *Inventory.* The Office of Sustainability [Working Group] must [conduct
 245 a] update the greenhouse gas emissions inventory to determine the
 246 amount of greenhouse gases emitted in the County and submit a written
 247 report on the inventory to the County Executive and County Council by
 248 January 15, [2009] 2015.

249 (b) *Reduction of greenhouse gas emissions.* The [Sustainability Working
 250 Group] Office must [prepare a] update the County Climate Protection
 251 Plan by January 15, [2009 that outlines] 2015. This update must outline
 252 a plan to reduce Countywide greenhouse gas emissions to 80% below
 253 the amount of greenhouse gas emissions in the base year identified in
 254 the inventory prepared under subsection (a) by January 1, 2050,
 255 including a plan to [stop increasing Countywide greenhouse gas
 256 emissions by 2010 and] achieve a 10% reduction every 5 years through
 257 2050.

258 * * *

259 (d) *Preparation.* In preparing the update to the Climate Protection Plan, the
 260 Office [Sustainability Working Group] must:

- 261 (1) consider greenhouse gas emissions reduction programs in other
 262 jurisdictions;
- 263 (2) evaluate the potential costs and benefits of different options for
 264 reducing greenhouse gas emissions to the County's economy,
 265 environment, health, safety, and welfare; and

266 (3) use the best available economic models, emissions estimating
 267 techniques, and other scientific methods.

268 (e) *Annual report.* The [Sustainability Working Group] Office must submit
 269 a report to the County Executive and County Council by January 15 of
 270 each year that specifies:

271 (1) the actions taken to implement the Climate Protection Plan in the
 272 preceding fiscal year; and

273 (2) whether the County is meeting the goals identified in the Climate
 274 Protection Plan.

275 **[18A-15. Carbon tax] Reserved.**

276 [(a) In this Section, the following words have the meanings indicated:

277 “Carbon tax” means a tax that is proportionate to the amount of carbon
 278 dioxide produced by an energy source.

279 “Fuel energy tax” means the fuel energy tax imposed under Section 52-
 280 14.

281 (b) The Sustainability Working Group must:

282 (1) evaluate the costs and benefits of converting the fuel energy tax
 283 to a carbon tax; and

284 (2) submit findings and recommendations to the County Executive
 285 and County Council by January 15, 2009, including a
 286 recommended methodology for converting the fuel energy tax to
 287 a carbon tax.]

288 **18A-16. [Renewable Energy Action Plan] Reserved.**

289 [(a) *Definitions.* In this Section, the following words have the meanings
 290 indicated:

291 “Department” means the Department of Environmental Protection.

292 “Director” means the Director of the Department or the Director’s
293 designee.

294 “Renewable energy” means the following energy sources or technology:

- 295 (1) solar;
- 296 (2) wind;
- 297 (3) geothermal;
- 298 (4) tidal;
- 299 (5) methane from anaerobic decomposition of organic materials in a
300 landfill or wastewater treatment plant; and
- 301 (6) any other energy source or technology which the Director finds is
302 derived from natural processes that do not involve the
303 consumption of exhaustible resources.

304 “Sustainability Energy Fund” means a non-profit organization which:

- 305 (1) develops end-user markets for products and services relating to
306 energy efficiency and renewable energy; and
- 307 (2) serves as a point-of-contact for end-users to obtain information
308 about products and services relating to energy efficiency and
309 renewable energy.

310 “Sustainability Working Group” means the Group defined in Section
311 18A-13.]

312 [(b) *Study.* The Sustainability Working Group must prepare a Renewable
313 Energy Action Plan after evaluating the costs and benefits of options to
314 increase renewable energy use in and by the County, including the
315 feasibility of creating a Sustainability Energy Fund.]

316 [(c) *Initial report.* The Sustainability Working Group must submit a report
317 to the County Executive and County Council by January 15, 2009 that
318 identifies the components of the Renewable Energy Action Plan.]

345 ["*Light truck*"] means a motor vehicle with a gross vehicle weight of less
 346 than 8,500 pounds which is:

- 347 (1) designed primarily for transporting property;
- 348 (2) designed primarily for transporting persons and has a capacity of more
 349 than 12 persons; or
- 350 (3) available with special features that enable off-road operation or use.

351 ["*Miles per gallon*"] means the distance traveled in a vehicle powered by one
 352 gallon of fuel.

353 Office of Sustainability or Office means the Office of Sustainability created in
 354 Section 18A-13.

355 ["*Passenger vehicle*"] means a motor vehicle, except a light truck or
 356 motorcycle, designed to carry no more than 12 persons.

357 ["*Public safety vehicle*"] means a motor vehicle whose primary purpose is
 358 patrol, transport, emergency response, or another purpose that requires
 359 specialized equipment or capabilities, which is used by:

- 360 (1) the Department of Police;
- 361 (2) the Fire and Rescue Service;
- 362 (3) the Department of Correction and Rehabilitation; or
- 363 (4) any other County department or agency.

364 ["Sustainability Working Group" means the Group defined in Section 18A-
 365 13.]

366 **18A-19. Sport utility vehicles.**

367 (a) The Office of Sustainability [Working Group] must conduct an annual
 368 inventory of the County's sport utility vehicles and:

- 369 (1) identify the function that each sport utility vehicle performs;

370 (2) identify the most fuel-efficient type of vehicle that could
 371 reasonably and satisfactorily perform the function that each sport
 372 utility vehicle performs; and

373 (3) eliminate or replace any sport utility vehicle for which a more
 374 fuel-efficient vehicle could reasonably and satisfactorily perform
 375 the identified function.

376 (b) The [Sustainability Working Group] Office must develop criteria to
 377 identify which positions in County government should be assigned a
 378 sport utility vehicle from the County fleet. The Director must follow
 379 this criteria when assigning vehicles from the County fleet.

380 **18A-20. Fuel economy standards.**

381 (a) The Office of Sustainability [Working Group] must develop a strategy
 382 to achieve a significant improvement in average County fleet fuel
 383 economy standards as part of the Climate Protection Plan required
 384 under Section 18A-14.

385 (b) [*Applicability.*] This Section does not apply to public safety vehicles.

386 **18A-23. Annual report.**

387 By January 15 each year, the Office of Sustainability [Working Group] must
 388 submit to the County Executive and County Council a report on the:

389 (a) use of biodiesel in County vehicles, including the quantity, blend, price
 390 per gallon, and average fuel consumption;

391 (b) results of the inventory of sport utility vehicles conducted under Section
 392 18A-19; and

393 (c) average fuel economy for passenger vehicles and light trucks in the
 394 County fleet.

395 **40-13B. Energy performance audits—single family homes.**

396 (a) *Definitions.* In this Section, the following words have the meanings
397 indicated:

398 [“]Department[”] means the Department of Environmental Protection.

399 [“]Director[”] means the Director of the Department or the Director’s
400 designee.

401 [“]Home energy audit[”] means an evaluation of the energy efficiency
402 of a home which includes any test or diagnostic measurement which the
403 Department finds necessary to:

404 (1) ensure that a home’s energy efficiency is accurately measured; or

405 (2) identify steps that can be taken to improve a home’s energy
406 efficiency.

407 Office of Sustainability or Office means the Office of Sustainability
408 created in Section 18A-13.

409 [“]Single-family home[”] means a single-family detached or attached
410 residential building.

411 [“Sustainability Working Group” means the Group defined in Section
412 18A-13.]

413 (b) Before signing a contract for the sale of a single-family home, the seller
414 must provide the buyer with:

415 (1) material approved by the Department that gives information
416 about home energy efficiency improvements, including the
417 benefit of conducting a home energy audit; and

418 (2) copies of the electric, gas, and home heating oil bills or cost and
419 usage history for the single-family home for the immediate prior
420 12 months, unless the single-family home was unoccupied for
421 the entire prior 12 months. If the seller did not occupy the single-
422 family home for the entire prior 12 months, the seller must

423 provide the buyer with the required information for that part of
424 the prior 12 months, if any, that the seller occupied the single-
425 family home.

426 (c) The Office of Sustainability [Working Group] must evaluate options to
427 encourage homeowners to conduct a home energy audit, including
428 whether the County should require a home energy audit to be conducted
429 before the sale of a single-family home.

430 *Approved:*

431

Craig L. Rice, President, County Council

Date

432 *Approved:*

433

Isiah Leggett, County Executive

Date

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

435

Linda M. Lauer, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Bill 6-14

Environmental Sustainability – Office of Sustainability - Established

DESCRIPTION: Would create an Office of Sustainability in the Department of Environmental Protection.

PROBLEM: In 2008, the Council tasked a Sustainability Working Group with the responsibility of guiding our County's greenhouse gas reduction implementation. The Working Group has not met or produced anything in recent years.

GOALS AND OBJECTIVES: To make greenhouse gas reduction policy and its implementation a fundamental responsibility of County government, with concomitant accountability.

COORDINATION: Department of Environmental Protection, Office of Management and Budget, County Executive

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Amanda Mihill, 240-777-7815

APPLICATION WITHIN MUNICIPALITIES: To be researched.

PENALTIES: Not applicable.