

MEMORANDUM

January 24, 2014

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Introduction:** Bill 7-14, Contracts and Procurement – Certified Green Business Program

Bill 7-14, Contracts and Procurement – Certified Green Business Program, sponsored by Councilmembers Berliner, Floreen, Riemer, Council President Rice, and Councilmembers Elrich, Andrews, and Navarro, is scheduled to be introduced on January 28, 2014. A public hearing is tentatively scheduled for February 11, 2014 at 7:30 p.m.

Bill 7-14 would create a preference for a certified green business in the law governing the County's procurement of goods and services. It would also require the Executive to adopt a regulation implementing the preference for a certified green business.

The Department of Environmental Protection has developed a green business program where it certifies businesses that satisfy a checklist of required actions. However, there is no direct financial incentive for a business to be certified. This bill would provide a potential direct financial incentive for a green business that bids on County contracts. The Bill would encourage businesses to develop strategies for protecting the environment in their day to day operations. Councilmember Berliner explained the purpose of this Bill in his January 14 memorandum describing his proposed energy/environmental measures. See ©20 of Bill 2-14, Agenda Item 5A.

This packet contains:

Bill 7-14
Legislative Request Report

Circle #

1
5

Bill No. 7-14
Concerning: Contracts and Procurement
- Certified Green Business Program
Revised: January 15, 2014 Draft No. 2
Introduced: January 28, 2014
Expires: July 28, 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 President Rice, and Councilmembers Elrich, Andrews, and Navarro

AN ACT to:

- (1) create a preference in the procurement of goods and services by the County for a certified green business;
- (2) require the County Executive to adopt a regulation implementing the preference for a certified green business; and
- (2) generally amend the law governing the County's procurement of goods.

By adding

Montgomery County Code
Chapter 11B, Contracts and Procurement
Article XVII
Section 11B-77

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 **Article XVII is added as follows:**

2 **Article XVII. Certified Green Business Program.**

3 **11B-77. Certified Green Business Program.**

4 (a) Definitions. In this Article the following terms have the following
5 meanings:

6 Certified green business means a business accepted as a green business
7 by the Department of Environmental Protection.

8 Director means the Director of the Department of Environmental
9 Protection.

10 Green business means a forward-looking business that has
11 demonstrated innovative environmental responsibility by embedding
12 issues of sustainability into their day to day operations and supply chain
13 decisions.

14 Green business evaluation factor means an evaluation factor in a
15 request for proposals that gives an offeror credit for being a certified
16 green business.

17 Percentage price preference means the percent by which a responsive
18 bid from a responsible bidder who is a certified green business may
19 exceed the lowest responsive bid submitted by a responsible bidder who
20 is not a certified green business.

21 (b) Regulation. The Executive must adopt a Method 2 regulation that
22 includes:

23 (1) a checklist of required actions necessary for a business to be
24 certified as a green business;

25 (2) an application process for a business to be certified as a green
26 business;

- 27 (3) a percentage price preference for a certified green business under
- 28 a solicitation for competitive sealed bidding;
- 29 (4) a green business evaluation factor for use in a request for
- 30 proposals; and
- 31 (5) a list of approved private organizations and government agencies
- 32 that provide green business certification.

33 (c) Certification. The Director may:

- 34 (1) directly certify a business that satisfies the checklist of required
- 35 actions established by regulation as a green business; or
- 36 (2) accept the green business certification of a green business by any
- 37 private organization or government agency that the Director finds
- 38 substantially duplicates the required actions established by
- 39 regulation.

40 (d) Role of Office of Procurement and Department of Environmental

41 Protection.

- 42 (1) The Office of Procurement must review all specifications of the
- 43 Using Departments and all cooperative purchasing agreements to
- 44 ensure compliance with this Section, appropriate use of a
- 45 percentage price preference or a green business evaluation factor,
- 46 and consistency among Using Departments procuring similar
- 47 goods and services.
- 48 (2) The Department of Environmental Protection must operate the
- 49 green certification process and maintain a list of businesses that
- 50 have been certified as a green business.

51 (e) Report by Office of Procurement. The Director of the Office of

52 Procurement, after consulting with the Director of Environmental

53 Protection, must submit a report to the County Council and County

54 Executive by September 30 each year about implementation of this
55 Section for the prior fiscal year. The report should include:

56 (1) the dollar value of goods and services purchased from a certified
57 green business;

58 (2) to the extent ascertainable, the additional cost of any contracts
59 awarded to a certified green business under a percentage price
60 preference;

61 (3) a summary of applications for certification as a green business
62 made during the year, including the results of each application;

63 (4) a list of certified green businesses;

64 (5) suggested legislative or administrative changes; and

65 (6) any other relevant information.

66 *Approved:*

67 _____
Craig L. Rice, President, County Council Date

68 *Approved:*

69 _____
Isiah Leggett, County Executive Date

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

71 _____
Linda M. Lauer, Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Bill 7-14

Contracts and Procurement – Certified Green Business Program

DESCRIPTION: This Bill would create a preference for a certified green business in the County's procurement regulations.

PROBLEM: The Department of Environmental Protection has developed a green business program where it certifies businesses that satisfy a checklist of required actions. However, there is no direct financial incentive for a business to be certified. This bill would provide a potential direct financial incentive for a green business that bids on County contracts.

GOALS AND OBJECTIVES: The goal is to encourage businesses to develop strategies for protecting the environment in their day to day operations.

COORDINATION: DEP, DGS, County Attorney

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Robert H. Drummer, 240-777-7895

APPLICATION WITHIN MUNICIPALITIES: To be researched.

PENALTIES: None