

**MEMORANDUM**

TO: Transportation, Infrastructure, Energy and Environment Committee

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

SUBJECT: **Public Hearing:** Bill 2-14, Environmental Sustainability – Buildings - Benchmarking

Bill 2-14, Environmental Sustainability – Buildings - Benchmarking, sponsored by Councilmembers Berliner, Floreen, Riemer, Andrews, and Navarro, was introduced on January 28, 2014. A Transportation, Infrastructure, Energy and Environment Committee worksession is tentatively scheduled for February 26, 2014 at 9:30 a.m.

Bill 2-14 would require the owners of certain buildings to benchmark the energy use of certain buildings and retro-commission certain building systems to improve their energy efficiency. Modeled after laws in New York, Chicago, and the District of Columbia, Bill 2-14 would require building owners to measure the energy efficiency of their buildings, make that information public, and periodically commit to assuring that their energy efficiency equipment is working properly.

This Bill is designed to work with the recently enacted PACE program to create market-based incentives for building owners to increase the efficiency of their buildings. Information provided would aid tenants in forecasting future utility costs.

Councilmember Berliner explained the purpose of this Bill in his January 14 memorandum describing his proposed energy/environmental package (see ©20).

The Fiscal and Economic Impact statement for this Bill will be transmitted after March 17 (see ©24).

This packet contains:	<u>Circle #</u>
Bill 2-14	1
Legislative Request Report	19
Councilmember Berliner Memo	20
OMB and Finance Memo	24

Bill No. 2-14  
Concerning: Environmental Sustainability  
- Buildings - Benchmarking  
Revised: 1/16/2014 Draft No. 4  
Introduced: January 28, 2014  
Expires: July 28, 2015  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: \_\_\_\_\_  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Berliner, Floreen, Riemer, Andrews and Navarro

**AN ACT** to:

- (1) require the owners of certain buildings to benchmark the energy use of certain buildings;
- (2) require the Director of the Department of Permitting Services to issue an annual report to review and evaluate energy efficiency in certain covered buildings;
- (3) require the Director make certain benchmarking information readily available to the public;
- (4) allow the Director to waive certain requirements;
- (5) require the owners of certain buildings to have an energy audit performed on certain buildings;
- (6) require the owners of certain buildings to assure that retro-commissioning is performed on certain buildings; and
- (7) generally amend County law regarding energy efficiency and environmental sustainability.

By adding

Montgomery County Code  
Chapter 18A, Environmental Sustainability  
Article 5  
Sections 18A-34, 18A-35, 18A-36, and 18A-37  
Article 6  
Sections 18A-38, 18A-37, 18A-38, 18A-39, 18A-40, 18A-41, 18A-42, and 18A-43  
Article 7  
Sections 18A-44, 18A-45, 18A-46, 18A-47, 18A-48, 18A-49, and 18A-50

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<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. Chapter 18A is amended by adding Article 5, consisting of**  
 2        **Sections 18A-34, 18A-35, 18A-36, and 18A-37; Article 6, consisting of Sections**  
 3        **18A-38, 18A-39, 18A-40, 18A-41, 18A-42, and 18A-43; and Article 7,**  
 4        **consisting of Sections 18A-44, 18A-45, 18A-46, 18A-47, 18A-48, 18A-49, and**  
 5        **18A-50; as follows:**

6            **Article 5. Commercial Property Assessed Clean Energy Program.**

7        **18A-34 – 18A-37. Reserved.**

8            **Article 6. Building Energy Use Benchmarking.**

9        **18A-38. Definitions.**

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

11        *Benchmark* means to track and input a building's energy consumption data  
 12        and other relevant building information for 12 consecutive months, as  
 13        required by the benchmarking tool, to quantify the building's energy use.

14        *Benchmarking tool* means the website-based software, commonly known as  
 15        ENERGY STAR Portfolio Manager, or any successor system, developed  
 16        and maintained by the United States Environmental Protection Agency to  
 17        track and assess the relative energy use of buildings nationwide.

18        *Certificate of use and occupancy* means the certificate issued by the Director  
 19        that allows a building to be occupied and used.

20        *Covered building* means any Group 1 covered building or Group 2 covered  
 21        building, as defined in this Article. *Covered building* does not include any  
 22        building with more than 10% occupancy which is used for

23        (1) public assembly in a building without walls;

24        (2) warehousing;

25        (3) self storage; or

26        (4) a use classified as manufacturing and industrial or transportation,  
 27        communication, and utilities.

28 Data center means a space designed and equipped to meet the needs of high  
29 density computing equipment such as server racks, used for data storage and  
30 processing, as defined by the benchmarking tool.

31 Department means the Department of Permitting Services.

32 Director means the Director of the Department or the Director's designee.

33 Energy performance score or ENERGY STAR score means the numerical  
34 score produced by the benchmarking tool, or any successor score, that  
35 assesses a building's energy performance compared to similar buildings,  
36 based on source energy use, operating characteristics, and geographic  
37 location.

38 Energy use intensity or EUI means a numeric value calculated by the  
39 benchmarking tool that represents the energy consumed by a building  
40 relative to its size.

41 Group 1 covered building means any building, or any group of buildings that  
42 have the same property identification number, that equals or exceeds  
43 250,000 square feet gross floor area, as identified by the Director.

44 Group 2 covered building means any building, or any group of buildings that  
45 have the same property identification number, that equals or exceeds 50,000  
46 square feet gross floor area but is less than 250,000 square feet gross floor  
47 area, as identified by the Director.

48 Gross floor area means the sum of the gross horizontal area of the several  
49 floors of a building or structure measured from the exterior faces of the  
50 exterior walls or from the center line of party walls. In a covered but  
51 unenclosed area, such as a set of gasoline pumps or a drive-through area,  
52 gross floor area means the covered area. Gross floor area does not include  
53 any:

54 (a) basement or attic area with a headroom less than 7 feet 6 inches;

- 55 (b) area devoted to unenclosed mechanical, heating, air conditioning, or  
56 ventilating equipment;
- 57 (c) parking structure; or
- 58 (d) accessory structure to a residential building.

59 Licensed professional means a professional engineer or a registered architect  
60 licensed in the State, or another trained individual as defined in applicable  
61 County regulations.

62 Reported benchmarking information means the descriptive information  
63 about a building, its operating characteristics, and information generated by  
64 the benchmarking tool regarding the building's energy consumption and  
65 efficiency. Reported benchmarking information includes the building  
66 identification number, address, gross floor area, energy performance score,  
67 energy use intensity, and annual greenhouse gas emissions.

68 Residential occupancy means the occupancy of dwelling units in any  
69 building that includes one or more dwellings.

70 **18A-39. Energy use benchmarking.**

- 71 (a) Group 1 covered buildings. No later than June 1, 2014, and every  
72 June 1 thereafter, the owner of any Group 1 covered building must  
73 benchmark the building for the previous calendar year. However, the  
74 owner of any Group 1 covered building with at least 10% residential  
75 occupancy, as measured by square footage, must benchmark the  
76 building for the previous calendar year no later than June 1, 2015, and  
77 no later than June 1st each year thereafter. The owner must report the  
78 benchmarking information to the Department no later than July 1 each  
79 year.
- 80 (b) Group 2 covered buildings. No later than June 1, 2015, and no later  
81 than June 1st each year thereafter, the owner of any Group 2 covered

82 building must benchmark the building for the previous calendar year.  
 83 However, the owner of any Group 2 covered building with 10% or  
 84 more residential occupancy must benchmark the building for the  
 85 previous calendar year no later than June 1, 2016, and no later than  
 86 June 1st each year thereafter. The owner must report the  
 87 benchmarking information to the Department no later than July 1 each  
 88 year.

89 (c) Retention of information. The owner of any covered building must  
 90 retain all information tracked and input into the benchmarking tool for  
 91 at least three 3years after the date benchmarking was required.

92 (d) Waiver. The Director may waive the requirements of this Section if  
 93 the owner of a covered building documents, in a form required by  
 94 regulation, that the building:

95 (1) is in financial distress, defined as a building that:

96 (A) is the subject of a tax lien sale or public auction due to  
 97 property tax arrearages;

98 (B) is controlled by a court appointed receiver; or

99 (C) was recently acquired by a deed in lieu of foreclosure;

100 (2) had average physical occupancy of less than 50% throughout  
 101 the calendar year for which benchmarking is required; or

102 (3) is new construction and received its certificate of use and  
 103 occupancy during the calendar year for which benchmarking is  
 104 required.

105 **18A-40. Data Verification.**

106 (a) Verification required. Before the first benchmarking deadline  
 107 required by Section 18A-39, and before each third benchmarking  
 108 deadline thereafter, the owner of each covered building must assure

109 that reported benchmarking information for that year is verified by a  
 110 licensed professional. The verification must be a stamped and signed  
 111 statement by a licensed professional attesting to the accuracy of the  
 112 information. If the Director requests, the owner of a covered building  
 113 must produce the statement available for the most recent year in  
 114 which verification was required.

- 115 (b) Waiver. The Director may waive the requirements of this Section if  
 116 the owner shows that compliance with this Section will cause undue  
 117 financial hardship. If a no-cost or low-cost verification option is  
 118 available, the Director may require the owner to use the alternative  
 119 option.

120 **18A-41. Solicitation of compliance information from tenants.**

- 121 (a) Solicitation of information from tenant. An owner of a covered  
 122 building must request relevant information from any tenant in a  
 123 covered building no later than March 1 of each year in which  
 124 benchmarking is required by Section 18A-39. If the owner receives  
 125 notice that a tenant intends to vacate a unit which is subject to this  
 126 Section, the owner must request the information within 10 days after  
 127 receiving the notice to vacate.

- 128 (b) Tenant response. Within 30 days after receiving a request for  
 129 information from the building owner, each tenant of a unit in a  
 130 covered building must provide the building owner with all  
 131 information that the owner cannot otherwise acquire that is necessary  
 132 to comply with this Article.

- 133 (c) Failure of tenant to provide information.

- 134 (1) If any tenant does not provide the information required under  
 135 this Section to the owner of a covered building, that fact does

136 not relieve the owner of the obligation to benchmark the  
137 building under Section 18A-39, using all information otherwise  
138 available to the owner.

139 (2) If a tenant of a unit in a covered building does not provide  
140 information to the owner of the building under this Section, the  
141 Director must consider the owner to be in compliance with  
142 Section 18A-39 if:

143 (A) the owner shows that the owner requested the tenant to  
144 provide the information under this Section; and

145 (B) the owner benchmarked the building under Section 18A-  
146 39, using all information otherwise available to the  
147 owner.

148 **18A-42. Annual report; disclosure of benchmarking information.**

149 (a) Annual report required. By October 1 of each year, the Director must  
150 submit a benchmarking report to the County Executive and County  
151 Council. The report must review and evaluate energy efficiency in  
152 covered buildings, including:

153 (1) summary statistics on the most recent reported energy  
154 benchmarking information; and

155 (2) discussion of any energy efficiency trends, cost savings, and job  
156 creation resulting from energy efficiency improvements.

157 (b) Disclosure of benchmarking information. The Director must make  
158 reported benchmarking information readily available to the public to  
159 the extent allowed under state law.

160 (c) Exceptions to disclosure. To the extent allowable under state law, the  
161 Director must not make the following readily available to the public:

- 162           (1) any individually-attributable reported benchmarking  
 163           information from the first calendar year that a covered building  
 164           is required to benchmark; and
- 165           (2) any individually-attributable reported benchmarking  
 166           information relating to a covered building that contains a data  
 167           center, television studio, or trading floor that together exceeds  
 168           10% of the gross square footage of the individual building until  
 169           the Director finds that the benchmarking tool can make  
 170           adequate adjustments for these facilities. When the Director  
 171           finds that the benchmarking tool can make adequate  
 172           adjustments, the Director must report this data in the annual  
 173           report.

174 **18A-43. Regulations; penalties.**

- 175           (a) The County Executive may issue Method (2) regulations to administer  
 176           this Article.
- 177           (b) Any violation of this Article is a Class A violation.

178 **Article 7. Energy Audits and Retro-Commissioning of Base Building Systems.**

179 **18A-44. Definitions.**

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

181           ASHRAE means the American Society of Heating, Refrigerating and Air-  
 182           conditioning Engineers, Inc.

183           Base building system means each system or subsystem of a building that  
 184           uses energy or impacts energy consumption, including:

- 185           (1) the building envelope;
- 186           (2) any heating, ventilating, and air conditioning (HVAC) system;
- 187           (3) any conveying system;
- 188           (4) any domestic hot water system; and

189 (5) any electrical or lighting system.

190 Base Building system does not include any industrial process that occurs in a  
191 covered building or any system or subsystem owned by a tenant (other than  
192 a net lessee for a term of 49 years or more, including any renewal option),  
193 condominium unit owner, or cooperative unit shareholder, or a system or  
194 subsystem for which a tenant bears full maintenance responsibility and that  
195 is located in the tenant's leased space or exclusively serves that leased space.

196 Building management system means a computer-based system that monitors  
197 and controls a building's mechanical and electrical equipment, such as its  
198 HVAC, lighting, power, fire, and security system, including, at least, control  
199 of the heating equipment using interior temperature sensors.

200 County building means a covered building that is owned by the County and  
201 for which the County regularly pays all or part of the energy bills.

202 Covered building means

203 (1) 1 building that exceeds 50,000 gross square feet;

204 (2) 2 or more buildings on the same tax identification number that  
205 together exceed 100,000 gross square feet; or

206 (3) 2 or more buildings held in the condominium form of ownership that  
207 are governed by the same board of managers and that together exceed  
208 100,000 gross square feet.

209 Covered building does not include any 1, 2, or 3-family residential building.

210 Current facility requirements means the owner's current operational needs  
211 and requirements for a building, including temperature and humidity set  
212 points, operating hours, filtration, and any integrated requirements such as  
213 controls, warranty review, and service contract review.

214 Department means the Department of Environmental Protection.

215 Director means the Director of the Department or the Director's designee.

216 Energy audit or audit means a systematic process to identify and develop  
 217 improvements to any base building system, including any alteration of that  
 218 system and the installation of new equipment, insulation, or other generally  
 219 recognized energy efficiency technology to optimize energy performance of  
 220 the building and achieve energy savings.

221 Energy auditor means an individual the Department authorizes to perform  
 222 energy audits and certify audit reports required by this Article.

223 Energy management system means a system incorporating interior  
 224 temperature sensors and a central processing unit and controls, which are  
 225 used to monitor and control electricity, gas, steam, and oil usage, as  
 226 applicable, based on the need for heating.

227 Energy efficiency report means the report required under Section 18A-47.

228 Financial hardship of a building means a building that:

- 229 (1) was included on the Department of Finance’s tax lien sale list within 2  
 230 years before an energy efficiency report was due; or
- 231 (2) is exempt from real property taxes under Maryland Code, Tax-  
 232 Property Article, Sections 7-201, 7-202, and 7-204, or any successor  
 233 provisions, and had negative revenue less expenses during the 2 tax  
 234 years before an energy efficiency report was due.

235 Green Building Council means the U.S. Green Building Council, an  
 236 organization that has developed and published the LEED rating system to  
 237 measure the energy and environmental performance of a building.

238 LEED refers to the series of Leadership in Energy and Environmental  
 239 Design (LEED) rating systems developed by the Green Building Council.

240 Owner means:

- 241 (1) the owner of record of a covered building;

242 (2) the net lessee in the case of a net lease of an entire building for a term  
 243 of 49 years or more, including any renewal option;

244 (3) the board of directors or similar body if the covered building is a  
 245 cooperative apartment or condominium corporation.

246 Registered design professional has the meaning in the latest version of the  
 247 ICC International Building Code or another building code that the County  
 248 adopts.

249 Retro-commissioning means a systematic process applied to an existing  
 250 building that has never been commissioned to assure that the building's  
 251 systems are designed, installed, functionally tested, and can be operated and  
 252 maintained according to the owner's operational needs.

253 Simple payback means the number of years for projected annual energy  
 254 savings to equal the amount invested in an energy conservation measure, as  
 255 determined by dividing the investment by the annual energy savings.

256 Space means an area in a building enclosed by floor to ceiling walls,  
 257 partitions, windows and doors.

258 **18A-45. Energy audits required.**

259 (a) Audit required. The owner must assure that an energy audit is  
 260 performed on the base building systems of a covered building before  
 261 filing an energy efficiency report required by this Article. Except as  
 262 otherwise provided in Section 18A-49, an energy audit must be  
 263 performed by or under the supervision of an energy auditor and must  
 264 be performed in accordance with applicable regulations. The audit  
 265 process must cover the base building system and must at least  
 266 identify:

267 (1) any reasonable measure, including any capital improvement,  
 268 that would reduce energy use or the cost of operating the

- 269 building;
- 270 (2) for each measure, the associated annual energy savings, the cost
- 271 to implement, and the simple payback, calculated by a method
- 272 approved by the Department;
- 273 (3) the building's benchmarking output consistent with the United
- 274 States Environmental Protection Administration Portfolio
- 275 Manager tool or another method the Director finds equivalent;
- 276 (4) a break-down of energy usage by system and predicted energy
- 277 savings by system after any proposed measures are
- 278 implemented; and
- 279 (5) a general assessment of how the major energy consuming
- 280 equipment and systems used in tenant spaces impact the energy
- 281 consumption of the base building systems, based on a
- 282 representative sample of spaces.
- 283 (b) Audit process. The energy audit process must be at least as stringent
- 284 as the Level II Energy Survey and Engineering Analysis of the 2004
- 285 edition of Procedures for Commercial Building Energy Audits
- 286 published by the ASHRAE, or another process the Director finds
- 287 equivalent.
- 288 (c) Qualifications of auditor. An energy auditor must be a registered
- 289 design professional with any other certification or qualification the
- 290 Director finds appropriate.
- 291 (d) Contents of audit report. The energy auditor must prepare and certify
- 292 a report of the energy audit. Except as otherwise provided in Section
- 293 18A-49, the audit report must include information relating to the audit
- 294 as required by applicable regulations, including the date when the
- 295 audit was completed and the information required by subsection (a).

- 296 (e) Compliance with landmarks laws. The cost estimates for any covered  
297 building that is regulated by any state or federal law regulating  
298 landmarks or historic buildings must include all added costs necessary  
299 for the proposed work to comply with that law.
- 300 (f) Timing of energy audit. Except as otherwise provided in Section 18A-  
301 49, the energy audit must be completed no earlier than 4 years before  
302 the date when a covered building's energy efficiency report is filed  
303 under this Article.
- 304 (g) Exceptions. An energy audit is not required if a registered design  
305 professional certifies that the building complies with any of the  
306 following requirements:
- 307 (1) The covered building received an EPA Energy Star label for at  
308 least 2 of the 3 years before the building's energy efficiency  
309 report is filed.
- 310 (2) No EPA Energy Star rating is available for the building type,  
311 and a registered design professional documents that the  
312 building's energy performance is 25 or more points better than  
313 the performance of an average building of its type over a 2-year  
314 period during the 3 years before an energy efficiency report is  
315 filed, consistent with the methodology of the Leadership in  
316 Energy and Environmental Design 2009 rating system for  
317 Existing Buildings published by the United States Green  
318 Building Council or other rating system or methodology for  
319 existing buildings, as determined by the Department.
- 320 (3) The covered building received certification under the LEED  
321 2009 rating system for Existing Buildings, or another rating  
322 system for existing buildings the Director finds equivalent,

323                   within 4 years before the building's energy efficiency report is  
324                   filed.

325 **18A-46. Retro-commissioning required.**

326       (a) Retro-commissioning required. The owner of a covered building must  
327       assure that retro-commissioning is performed on the base building  
328       system of a covered building before filing an energy efficiency report  
329       as required by this Article. Except as otherwise provided in Section  
330       18A-49, retro-commissioning must be performed by or under the  
331       supervision of a retro-commissioning agent, as required by applicable  
332       regulations issued under subsection (b).

333       (b) Regulations. The County Executive must issue regulations requiring  
334       that sufficient analysis, corrections and testing have been done so that  
335       each base building system demonstrates efficient operation.

336       (c) Contents of retro-commissioning report. The retro-commissioning  
337       agent must prepare and certify a retro-commissioning report. Each  
338       retro-commissioning report must include information relating to the  
339       retro-commissioning as specified in applicable regulations.

340       (d) Timing of retro-commissioning Except as otherwise provided in  
341       Section 18A-49, each retro-commissioning must be completed no  
342       earlier than 4 years before a covered building's energy efficiency  
343       report is filed with the Department under this Article.

344       (e) Documentation of retro-commissioning. The owner must maintain a  
345       copy of the latest up-to-date equipment manual and the most recent  
346       retro-commissioning report at every covered building and must make  
347       either available to the Department for inspection on request.

348       (f) Exceptions. A retro-commissioning is not required if the covered  
349       building received certification under the LEED 2009 rating system for

350 Existing Buildings, or another rating system for existing buildings the  
351 Department finds equivalent, within 2 years before the building's  
352 energy efficiency report is filed and earned the LEED point for  
353 Existing Building Commissioning investigation and analysis and the  
354 LEED point for Existing Building Commissioning implementation.

355 **18A-47. Energy efficiency report required.**

356 (a) Report required. Except as provided in Section 18A-49, the owner of  
357 each covered building must file an energy efficiency report for the  
358 building during the calendar year when the report is due under this  
359 Section and every tenth calendar year thereafter.

360 (b) Content of report. Except as otherwise provided in Section 18A-49,  
361 each energy efficiency report must include, in a format approved by  
362 the Department:

363 (1) the building's energy audit report or documentation that an  
364 exception applies to the building; and

365 (2) the building's retro-commissioning report or documentation  
366 that an exception applies to the building.

367 (c) Due dates. The first energy efficiency report for each covered  
368 building in existence on July 1, 2014, and for each new building must  
369 be due, beginning with calendar year 2015, in the calendar year with a  
370 final digit that is the same as the last digit of the building's property  
371 identification number, as illustrated in the following chart:

372

<u>Last digit of property ID number</u>	<u>0</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>
<u>Year first EER is due</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>

373        (d) Deferral of energy efficiency report. An owner of a covered building  
 374        may defer submitting an energy efficiency report for a covered  
 375        building until the tenth year after the year identified in subsection (c)  
 376        if the building:

- 377        (1) is less than 10 years old at the beginning of its first assigned  
 378        calendar year; or
- 379        (2) has undergone substantial rehabilitation, as certified by a  
 380        registered design professional, within 10 years before the  
 381        calendar year when an energy efficiency report is due, if at the  
 382        beginning of the calendar year the base building systems of the  
 383        building comply with County law in effect for new buildings  
 384        constructed on and after July 1, 2010 or in effect on the date of  
 385        the substantial rehabilitation, whichever is later.

386        (e) Exceptions.

- 387        (1) The Director may allow an extension of time to file an energy  
 388        efficiency report if the building's owner shows that, despite the  
 389        owner's good faith efforts, the owner could not complete the

390 required energy audit and retro-commissioning before the due  
 391 date for the report. The Director may allow no more than 2  
 392 extensions of no more than one year each. Any extension  
 393 allowed under this Section must not extend the scheduled due  
 394 dates for any later energy efficiency report.

395 (2) The Director may allow one or more annual extensions of time  
 396 to file an energy efficiency report because of financial hardship  
 397 of the building.

398 (f) Due dates for County buildings. The first due dates for County  
 399 buildings must follow a staggered schedule, from calendar year 2015  
 400 through calendar year 2023, for each building in use on July 1, 2014.  
 401 The Director must add each County building opened to use after that  
 402 date to the schedule within 10 years after the Department of  
 403 Permitting Services issues the certificate of use and occupancy for the  
 404 building.

405 (g) Combined audit and retro-commissioning. An owner may perform  
 406 the audit and retro-commissioning of a building in a combined process  
 407 if that process meets all requirements of Sections 18A-45 and 18A-46.

408 **18A-48. Notice.**

409 The Department must notify the owner of each covered building of the  
 410 requirements of this Article no later than 3 years before the calendar year when the  
 411 covered building's energy efficiency report is due and in the calendar year before  
 412 the calendar year when the report is due.

413 **18A-49. Early compliance.**

414 The Department may allow an owner of a covered building to comply with  
 415 this Article before the deadline specified in Section 18A-47.

416 **18A-50. Regulations; penalties.**

417 (a) The County Executive may issue Method (2) regulations to administer  
418 this Article.

419 (b) Any violation of this Article is a Class A violation.

420 *Approved:*

421

422

---

423 Craig L. Rice, President, County Council Date

424 *Approved:*

425

426

---

427 Isiah Leggett, County Executive Date

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

429

430

---

431 Linda M. Lauer, Clerk of the Council Date

## LEGISLATIVE REQUEST REPORT

Bill 2-14

### *Environmental Sustainability – Buildings - Benchmarking*

<b>DESCRIPTION:</b>	Would require the owners of certain buildings to benchmark the energy use of certain buildings and retro-commission certain building systems to improve their energy efficiency. Modeled after laws in New York, Chicago, and the District of Columbia, would require building owners to measure the energy efficiency of their buildings, make that information public, and periodically commit to ensuring that their energy efficiency equipment is working properly. This Bill is designed to work with the recently enacted PACE program to create market based incentives for building owners to increase the efficiency of their buildings. Information provided would aid tenants in forecasting future utility costs.
<b>PROBLEM:</b>	Insufficient attention is often paid to the energy efficiency of existing commercial buildings.
<b>GOALS AND OBJECTIVES:</b>	To improve the energy efficiency of existing and future commercial buildings.
<b>COORDINATION:</b>	Department of Environmental Protection, Department of Permitting Services
<b>FISCAL IMPACT:</b>	To be requested.
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EVALUATION:</b>	To be requested.
<b>EXPERIENCE ELSEWHERE:</b>	To be researched.
<b>SOURCE OF INFORMATION:</b>	Amanda Mihill, 240-777-7815
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	To be researched.
<b>PENALTIES:</b>	Class A.



MONTGOMERY COUNTY COUNCIL  
ROCKVILLE, MARYLAND

ROGER BERLINER  
COUNCILMEMBER  
DISTRICT I

CHAIRMAN  
TRANSPORTATION, INFRASTRUCTURE  
ENERGY & ENVIRONMENT COMMITTEE

January 14, 2014

Dear Colleagues,

Next week I will be introducing a package of 13 energy/environmental measures that are designed to ensure that Montgomery County remains at the sustainability forefront. I would be pleased to have you cosponsor some or all of these measures.

These measures focus on renewable energy, energy efficiency, transportation, and government accountability. I have attached a fact sheet that gives a brief description of each of them, and of course would be happy to discuss any of them in greater detail should you have questions.

I was inspired by our Council's decision to assert its leadership in the context of reducing the gap in income disparities by passing a local minimum wage law. I think all of us appreciate that the federal government has become so dysfunctional that we can expect little progress on many of the issues we care deeply about. Indeed, Bruce Katz of Brookings recently described the federal government as a "large health insurance company with an army." His thesis, which I share, is that our governing paradigm has shifted from a top down led by the federal government to a bottom up led by local governments like ours.

I say all of this because we need to do more if we are to address climate change. It is obviously not a hoax and we know what we need to do to address it. We need to use less energy and cleaner energy. Period. This package of bills is taken in many instances from what other leading jurisdictions are doing – from Chicago to Seattle to California and New York states. They are a mix of leading by example, rewarding green businesses, supporting market forces, adopting more exacting standards, and holding our county government accountability.

Holding ourselves accountable is important. When the Council passed a similar package in 2008, we tasked a Sustainability Working Group with the principle responsibility for guiding our County to achieve our formal goal of reducing greenhouse gas emissions by 80 percent by 2050. It is time now to make this a core government

responsibility, and this package includes a measure that will create an Office of Sustainability within DEP whose principal responsibility will be to monitor how we are doing and to help develop the policies and practices that will get us to where we need to be.

I hope you will join me in making sure Montgomery County burnishes its reputation as a community that embraces sustainability at our core.

Sincerely,

A handwritten signature in black ink, appearing to be the initials 'JBL' followed by a horizontal flourish.

**FACT SHEET ON  
COUNCILMEMBER BERLINER'S 13 ENERGY/ENVIRONMENT LEGISLATIVE INITIATIVES**

Councilmember Roger Berliner (D-1), Chair of the Montgomery County Transportation, Infrastructure, Energy & Environment Committee, will be introducing 13 energy/environmental measures on January 21. The measures are designed to underscore and support the County's commitment to sustainability and would (1) promote increased energy efficiency; (2) increase use of renewable energy; (3) decrease consumption of gasoline and support electric vehicles; and (4) create more accountability and responsibility within County government for achieving the County's goal of reducing greenhouse gas emissions 80% by 2050. Below is a brief description of each of these measures:

**Renewable Energy**

- **Renewable Energy Purchasing** --50% Renewables by 2015; 100% by 2020 -- Today the County purchases approximately 30% of its energy from renewable energy resources. Washington, DC; Austin, Texas; and Portland, Oregon are already at 100% renewable energy.
- **Renewables Onsite** -- This bill, modeled after a recently passed law in Prince George's County, would require new or extensively remodeled county buildings, to generate at least 1 kilowatt of renewable energy for every 1,000 square feet of floor area.
- **Greentaping Solar** -- Two of the impediments to increased solar utilization are the cost and time involved in getting permits. This measure, patterned after a successful program in Chicago, requires our Department of Permitting Services to devise an expedited and less costly process for solar related permits.
- **Solar Zoning Accommodation**-- Current set back requirements limit the use of solar in residential dwellings. This ZTA would modestly amend our zoning laws to permit solar to extend 2 feet into the side or rear setback.

**Energy Efficiency**

- **Benchmarking Buildings** -- This legislation, modeled after laws in New York, Chicago, and the District of Columbia, would require building owners to measure the energy efficiency of their buildings, make that information public, and periodically commit to ensuring that their energy efficiency equipment is working properly. It is designed to work with the recently passed PACE program to create market based incentives for building owners to increase the efficiency of their buildings. Information provided would aid tenants in forecasting future utility costs.
- **Silver LEED for New Buildings** -- Current county law requires new commercial buildings to be LEED certified, while county buildings must meet the more environmentally stringent Silver standard. This bill would require all new commercial buildings to meet Silver LEED.

- Cost of Carbon -- The use of conventional fuels, particularly coal, extracts a cost on society that is not reflected in its price. These "external" costs should be factored into the cost/benefit calculations that the county utilizes when it assesses the potential for energy efficiency improvements. This bill would require the County to use EPA's "social cost of carbon" calculation or a comparable methodology for those purposes.
- LED Street Lighting -- It is generally recognized that LED lighting is far more energy efficient and requires far less maintenance. This bill would require DOT, upon the expiration of its current contract for street lighting, to contract with an LED company.

### Transportation

- EV Infrastructure – Electric Vehicles will only become mainstream when there are sufficient charging stations to inspire confidence in the public. California recently passed legislation requiring all new buildings over a certain size to be "EV ready." This ZTA would require all new buildings to install 1 EV charging station for every 50 parking spaces.
- Greentaping EV stations – Just as in solar installations, EV charging stations can be subject to a lengthy and costly permitting process. This bill would require DPS to institute an expedited and less costly permitting process.
- Teleworking – Teleworking is becoming far more common and accepted. Other jurisdictions, including Fairfax, have made significantly more progress in establishing teleworking goals and meeting them. This legislation would require the County Executive to publish regulations that set forth a definitive teleworking policy and a requirement to designate a telecommuting manager.

### Government Incentives & Accountability

- Create an Office of Sustainability within DEP – This bill would create a new Office of Sustainability within DEP. When the Council passed legislation in 2008, it tasked a Sustainability Working Group with the responsibility of guiding our County's greenhouse gas reduction implementation. It is now time to make this a fundamental responsibility of the county government and to hold ourselves accountable.
- County Green Certified Businesses – The County has created a program whereby a local business can be "green certified" by adopting good sustainable practices. This bill calls upon the County Executive to issue regulations that would give a preference in contracting to local businesses that are green certified.



ROCKVILLE, MARYLAND

MEMORANDUM

February 5, 2014

TO: Craig Rice, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget  
Joseph F. Beach, Director, Department of Finance

SUBJECTS: Bill 2-14, Environmental Sustainability – Buildings – Benchmarking  
Bill 3-14, Buildings – Energy Efficiency – Energy Standards  
Bill 4-14, Street and Roads – County Street Lights  
Bill 5-14, Environmental Sustainability – Social Cost of Carbon Assessments  
Bill 6-14, Environmental Sustainability - Office of Sustainability – Established  
Bill 7-14, Contracts and Procurement – Certified Green Business Program  
Bill 8-14, Buildings – County Buildings – Clean Energy Renewable Technology  
Bill 9-14, Environmental Sustainability – Renewable Energy – County Purchase  
Bill 10-14, Buildings – Solar Permits – Expedited Review  
Bill 11-14, Buildings – Electric Vehicle Charging Station Permits – Expedited Review

As required by Section 2-81A of the County Code, we are informing you that transmittal of the fiscal and economic impact statements for the above referenced legislation will be delayed because more time is needed to coordinate with the affected departments, collect information, and complete our analysis of the fiscal and economic impacts. While we are not able to conduct the required detailed analyses at this time, it is clear that a number of these bills could have significant fiscal impacts.

Due to this year's heavy workload on Executive branch staff in developing both a full capital budget and an operating budget, the fiscal and economic statements will be transmitted after March 17, 2014.

JAH:fz

cc: Bonnie Kirkland, Assistant Chief Administrative Officer  
Lisa Austin, Offices of the County Executive  
Joy Nurmi, Special Assistant to the County Executive  
Patrick Laceyfield, Director, Public Information Office  
Marc P. Hansen, Office of the County Attorney  
Robert Hagedoorn, Department of Finance  
David Platt, Department of Finance  
Alex Espinosa, Office of Management and Budget  
Mary Beck, Office of Management and Budget  
Naeem Mia, Office of Management and Budget  
Felicia Zhang, Office of Management and Budget