

Bill No. 18-15
Concerning: Environmental Sustainability
– Montgomery County Green Bank
Revised: 6/30/2015 Draft No. 5
Introduced: April 21, 2015
Enacted: June 30, 2015
Executive: July 7, 2015
Effective: October 6, 2015
Sunset Date: None
Ch. 35, Laws of Mont. Co. 2015

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Berliner
Co-Sponsors: Council President Leventhal and Councilmembers Hucker, Riemer, Elrich, Rice,
Navarro and Katz

AN ACT to:

- (1) authorize County government to designate a County Green Bank to promote the investment in clean energy technologies;
- (2) specify the process to designate a nonprofit corporation to function as the Green Bank;
- (3) define the nature and powers of the Green Bank;
- (4) establish a Green Bank Work Group to review the application of Chapter 18A, Article 7 and make recommendations regarding the implementation of the Montgomery County Green Bank; and
- (5) generally amend the environmental sustainability law.

By adding

Montgomery County Code
Chapter 18A, Environmental Sustainability
Article 7
Sections 18A-44, 18A-45, 18A-46, 18A-47, 18A-48, 18A-49, and 18A-50

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. Article 7 (Sections 18A-44, 18A-45, 18A-46, 18A-47, 18A-48, 18A-49,**
 2 **and 18A-50) is added as follows:**

3 **Article 7. Montgomery County Green Bank.**

4 **18A-44. Purpose.**

5 The County Government should support the formation of a Montgomery
 6 County Green Bank to promote the investment in clean energy technologies in the
 7 County. The Green Bank must be able to:

- 8 [(a) develop separate programs to support clean energy investment in
 9 residential, municipal, small business, and larger commercial projects;
 10 (b) finance investment in clean energy technologies in accordance with a
 11 comprehensive plan developed by it to foster the growth, development,
 12 and commercialization of renewable energy sources and related
 13 enterprises;]]
- 14 (a) serve and support the deployment of clean energy technologies in any
 15 sector, including residential single family homes and multifamily,
 16 commercial, industrial, non-profit, municipal governments, universities
 17 and colleges, schools, and hospitals;
- 18 (b) offer a range of financing structures, forms and techniques, such as senior
 19 loans, subordinate loans, credit enhancements, guarantees, warehousing,
 20 securitization, and other techniques that can both lower the cost of
 21 financing and increase private investment in clean energy technologies;
- 22 (c) leverage private investment in energy projects through financing
 23 mechanisms that support, enhance, or complement private investment;
- 24 (d) consider the inclusion of any non-energy or supporting improvements
 25 ancillary to the primary energy efficiency or renewable energy project,
 26 up to a stated limit in scope or amount, in each program or mechanisms
 27 it offers;

- 28 (e) accept capital from the county, the state, the federal government, from
 29 non-profits, from foundations, and any other capital source that the Green
 30 Bank governance deems to be attractive and useful;
- 31 (f) recapitalize its funds by selling assets (loans) through private placement
 32 or other securitization;
- 33 [[c]] (g) stimulate the demand for clean energy and the deployment of clean
 34 energy technologies that serve end-use customers;
- 35 [[d]] (h) before making [[an]] a loan, loan guarantee, or other form of financing
 36 support for clean energy technologies, develop rules, policies, and
 37 procedures to specify borrower eligibility and any other term or condition
 38 of financial support;
- 39 [[e] provide financing for clean energy technologies;]
- 40 [[f]] (i) provide by resolution for the issuance of [[negotiable]] revenue bonds
 41 to finance clean energy technologies;
- 42 (j) provide information regarding best practices for overseeing energy
 43 projects and other appropriate consumer protection information;
- 44 (k) recognize that equity investments carry more risk and may require longer
 45 term commitment to a project, justifying compliance with strict
 46 investment guidelines to be established by the Board of Directors;
- 47 [[g]] (l) assess reasonable fees on its financing activities to cover its reasonable
 48 costs and expenses, as determined by the Board of Directors appointed
 49 under Section 18A-47;
- 50 [[h]] (m) make information regarding rates, terms, and conditions for all of its
 51 financing support transactions available to the public for inspection,
 52 including formal annual reviews by both a private auditor and the
 53 Director of Finance, and provide details to the public on the Internet
 54 unless such disclosure includes a trade secret, confidential commercial

- 55 information, or confidential financial information;
 56 [(i)] (n) provide leadership on environmental issues at both the County and
 57 State levels;
 58 [(j)] (o) maintain close liaison with government agencies and elected
 59 representatives at both the County and State levels to achieve the goals of
 60 the Green Bank; and
 61 [(k)] (p) undertake any other activities deemed by the Board of Directors to
 62 support the mission of the Green Bank.

63 **18A-45. Definitions.**

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

65 Clean energy technologies means energy resources and emerging technologies
 66 that [[have significant potential for commercialization and]] do not involve the
 67 combustion of coal, petroleum or petroleum products, municipal solid waste, or
 68 nuclear fission. Clean energy technologies includes renewable energy sources,
 69 renewable energy projects, energy efficiency projects, alternative fuels used for
 70 electricity generation, alternative fuel vehicles and related infrastructure such as
 71 electric vehicle charging station infrastructure, and smart grid and battery
 72 storage.

73 Energy efficiency project means a permanent improvement made to an existing
 74 [[single-family home]] property that[[:]] reduces consumption of energy.

75 [(1) reduces the consumption of energy in the home, including:

76 (A) caulking and weatherstripping doors and windows;

77 (B) heating and cooling system efficiency modifications, including:

78 (i) replacing a burner, furnace, heat pump, or boiler, or air
 79 conditioner with a high efficiency model;

80 (ii) installing a device to modify flue openings that increases the
 81 energy efficiency or the heating system;

- 82 (iii) any electrical or mechanical furnace ignition system which
- 83 replaces a standing gas pilot; and
- 84 (iv) any tune-up that increases the operating efficiency;
- 85 (C) a programmable thermostat;
- 86 (D) ceiling, attic, wall, or floor insulation;
- 87 (E) whole house air sealing;
- 88 (F) water heater tune-up, water heater insulation, pipe insulation, or
- 89 change out to an ENERGY STAR qualified water heater;
- 90 (G) storm windows or doors or ENERGY STAR qualified window or
- 91 door replacement;
- 92 (H) air distribution system improvements, including duct insulation
- 93 and air sealing;
- 94 (I) any device which controls demand of appliances and aids load
- 95 management; [and]
- 96 (J) any other conservation device, renewable energy technology, and
- 97 specific home improvement that reduces the consumption of
- 98 energy in the home; and
- 99 (2) meets safety and performance standards set by a nationally recognized
- 100 testing laboratory for that kind of device, if these standards are
- 101 available.]]

102 [[Energy efficiency project does not include a standard household appliance,

103 such as a washing machine or clothes dryer.]]

104 Energy efficiency and/or renewable energy improvement or improvement means

105 any equipment, device, or material that:

- 106 (1) meets safety and performance standards set by a nationally recognized
- 107 testing laboratory for that kind of device, if these standards are available,
- 108 and

- 109 (2) is intended to decrease energy consumption or expand use of renewable
110 energy sources, including:
- 111 (A) heating, ventilation, and cooling and distribution system
112 [[efficiency modifications, including]] modification or
113 replacement, such as:
- 114 (i) replacing existing equipment [[a burner, furnace, heat
115 pump, or boiler, or air conditioner]] with a high efficiency
116 model;
- 117 (ii) installing a device or retrofit to existing equipment that
118 increase energy efficiency and conservation [[to modify flue
119 openings that increases the energy efficiency or the heating
120 system]];
- 121 (iii) any electrical or mechanical furnace ignition system which
122 replaces a standing gas pilot;
- 123 (iv) any tune-up or maintenance activity that increases the
124 operating efficiency;
- 125 (B) a programmable thermostat;
- 126 (C) ceiling, attic, wall, roof, foundation, or floor insulation;
- 127 (D) whole house air sealing;
- 128 (E) water heater tune-up, water heater insulation, pipe insulation, or
129 change out to an ENERGY STAR qualified water heater;
- 130 (F) storm windows or doors or ENERGY STAR-qualified window or
131 door replacement;
- 132 (G) caulking and weather-stripping doors and windows;
- 133 (H) air distribution system improvements, including duct insulation
134 and air sealing;
- 135 (I) any device or energy management system which controls demand

- 136 of appliances or equipment and aides load management manually,
- 137 remotely, and/or automatically;
- 138 (J) a measure that reduces the usage of water or increases the
- 139 efficiency of water usage;
- 140 (K) an energy recovery system;
- 141 (L) electric vehicle infrastructure, such as installation of electric
- 142 vehicle charging station(s) and any necessary installation or
- 143 upgrades to electrical wiring or outlets;
- 144 (M) commercial-scale lighting upgrades or daylighting system;
- 145 (N) any measure or system that makes use of or expands a renewable
- 146 source of energy, including solar thermal and solar electric, wind
- 147 turbine, biomass, hydroelectric, geothermal electric, geothermal
- 148 heat pumps, anaerobic digestion, tidal or wave produced energy,
- 149 fuel cells using renewable fuels and geothermal direct-use; or
- 150 (O) any other installation or modification of equipment, device,
- 151 infrastructure, structure, or other material necessary to:
- 152 (i) install, operate, or maintain the improvement being
- 153 installed; or
- 154 (ii) resolve any structural, mechanical, electrical, or other issue
- 155 that directly jeopardizes the well-being or safety of the
- 156 building occupants, quality of the indoor environment, or
- 157 the durability or longevity of the structure on which the
- 158 project is being installed.

159 Green Bank means the Green Bank that the County has designated to promote
 160 the investment in clean energy technologies and provide financing for clean
 161 energy technologies, including renewable energy and energy efficiency
 162 projects.

163 Maryland Open Meetings Act means the Maryland Open Meetings Act, codified
 164 at Sections 3-101 through 3-501 of the General Provisions Article of the
 165 Maryland Code.

166 Renewable energy project means a [[project]] permanent improvement made to
 167 an existing property that[[:

- 168 (1)]] creates, converts, stores, or actively uses renewable energy[[;
 169 (2) is permanently installed on the home or property; and
 170 (3) meets safety and performance standards set by a nationally recognized
 171 testing laboratory for that kind of device, if these standards are
 172 available]]].

173 Renewable energy source means a source of energy that naturally replenishes
 174 over a human, not a geological, time frame and that is ultimately derived from
 175 solar power, water power, or wind power. Renewable energy source does not
 176 include petroleum, nuclear, natural gas, or coal. A renewable energy source
 177 comes from the sun or from thermal inertia of the earth and minimizes the output
 178 of toxic material in the conversion of the energy and includes:

- 179 (1) non-hazardous, organic biomass material;
 180 (2) solar electric and solar thermal energy;
 181 (3) wind energy;
 182 (4) geothermal energy; and
 183 (5) methane gas captured from a landfill.

184 **18A-46. Designation.**

- 185 (a) The County Council must designate, by resolution approved by the
 186 County Executive, a single nonprofit corporation which complies with all
 187 requirements and criteria of this Article as the County's Green Bank. If
 188 the Executive disapproves the resolution within 10 days after receiving
 189 it, the Council may readopt the resolution with at least 6 affirmative votes.

190 (b) (1) Except as provided in (b)(2), any designation under this Section
 191 expires at the end of the fifth full fiscal year after the resolution is
 192 adopted unless the Council extends the designation by adopting
 193 another resolution under this Section.

194 (2) If the Council President does not notify the Chair of the designated
 195 Bank's Board of Directors, not later than June 30 of the fourth full
 196 fiscal year of the designation term, that the Council may allow the
 197 current designation to expire, the designation is automatically
 198 extended for another 5-year term.

199 (c) The Council at any time may suspend or revoke the designation of a
 200 corporation as the County's Green Bank by resolution, adopted after at
 201 least 15 days public notice, that is approved by the Executive, or, if the
 202 Executive disapproves the resolution within 10 days after receiving it, is
 203 readopted by a vote of at least 6 Councilmembers.

204 (d) To continue to qualify as the County's Green Bank, a corporation's
 205 articles of incorporation and bylaws must comply with all requirements
 206 of this Article.

207 **18A-47. Board of Directors.**

208 (a) To qualify as the County's Green Bank, a corporation's Board of
 209 Directors must have no more than 11 voting members. [[The
 210 corporation's bylaws should also allow the Directors of Environmental
 211 Protection and Finance to serve as ex-officio non-voting members along
 212 with any other nonvoting members authorized under the bylaws.]] The
 213 corporation's bylaws should specify that the County Executive may
 214 appoint up to 5 board members, including the Directors of Environmental
 215 Protection and Finance, subject to confirmation by the County Council.

216 (b) Each voting member should be a resident of the County. The members

- 217 of the Board of Directors should include:
- 218 (1) representatives of residential [[or]] and low-income groups;
- 219 (2) representatives of environmental organizations;
- 220 (3) representatives of business organizations;
- 221 (4) persons with experience in investment fund management;
- 222 (5) persons with banking and lending experience;
- 223 (6) persons with experience in the finance or deployment of renewable
- 224 energy; [[and]]
- 225 (7) persons with experience in research and development or
- 226 manufacturing of clean energy;
- 227 (8) the Director of the Montgomery County Department of
- 228 Environmental Protection or the Director's designee; and
- 229 (9) the Director of the Montgomery County Department of Finance or
- 230 the Director's designee.
- 231 (c) A member must not be paid for service on the Board but may be
- 232 reimbursed for necessary travel expenses.
- 233 (d) A member is not subject to Chapter 19A because of serving on the Board.
- 234 The Bank's bylaws must include provisions defining and regulating
- 235 conflicts of interest by Board members and Bank staff.
- 236 (e) Notwithstanding any inconsistent provision of Section 19A-21, a
- 237 member of the Board of Directors who engages in legislative or
- 238 administrative advocacy as part of that member's duties on the Board is
- 239 not required to register as a lobbyist under Article V of Chapter 19A
- 240 because of that advocacy.
- 241 (f) The Board must direct the program, management, and finances of the
- 242 corporation.
- 243 (g) The Bank's bylaws must provide that, upon dissolution of the Green

244 Bank, all assets must be transferred within 30 days from dissolution to
 245 either its successor Green Bank as authorized by Resolution or to the
 246 County for use permitted by the Green Bank legislation.

247 **18A-48. Status; incorporation; bylaws.**

248 (a) To qualify as the County's Green Bank, a corporation's articles of
 249 incorporation must provide that the corporation is:

250 (1) a tax-exempt nonprofit corporation;

251 (2) not an instrumentality of the County; and

252 (3) incorporated for the sole purpose of serving as the County's Green
 253 Bank.

254 (b) The Green Bank's bylaws may contain any provision, not inconsistent
 255 with law or the articles of incorporation, necessary to govern and manage
 256 the Bank. The Green Bank may exercise all powers and is subject to all
 257 [[requirements under]] applicable provisions of the Financial Institutions
 258 Article of the Maryland Code.

259 (c) The Board must adopt and may amend the Green Bank's bylaws. The
 260 Board must submit any proposed amendment to the articles of
 261 incorporation or bylaws to the Executive and Council for review and
 262 comment at least 60 days before the Board takes final action on the
 263 amendment. The Board must submit a copy of each adopted amendment
 264 to the Executive and Council within 5 days after adoption.

265 (d) The bylaws must require the Green Bank to comply with the Maryland
 266 Open Meetings Act and provide that all meetings of the Board of
 267 Directors must be open to the public except when closed on a recorded
 268 vote of the Board for a reason expressly listed in the state law.

269 **18A-49. Work program; staff; support from County Government.**

270 (a) The Board of Directors must adopt a work program each year to advance

- 271 the policy objectives and perform the activities listed in Section 18A-44.
- 272 (b) The Green Bank's work program may include a plan for sponsorship of
 273 private investment, marketing, and advocacy initiatives.
- 274 (c) The Board must meet with the Executive and the Council at least semi-
 275 annually.
- 276 (d) The Department of Environmental Protection [[should]] may, if the
 277 Board of Directors requests, provide incidental administrative support for
 278 the Green Bank, including contracts, grants, or services in kind, subject
 279 to appropriation.
- 280 (e) Funding sources for the Green Bank may include:
- 281 (1) federal, State, or County funds provided to it;
- 282 (2) charitable gifts, grants, or contributions and loans from
 283 individuals, corporations, university endowments, and
 284 philanthropic foundations; and
- 285 (3) earnings and interest derived from financing support activities for
 286 clean energy technologies backed by the Green Bank.
- 287 The Green Bank may also raise private funds and may accept services
 288 from any source consistent with its purpose.

289 **18A-50. Report**

290 The Board of Directors must report annually on the activities and finances of
 291 the Green Bank to the Executive and Council.

292 **Sec. 2. Green Bank Work Group.**

- 293 (a) The Executive must convene a Green Bank Work Group. Members of
 294 the Work Group must include representatives from the County
 295 departments of Environmental Protection, Finance, and Economic
 296 Development; investment and financing industry, such as regional and
 297 national banks, property trusts, and other lending institutions or

298 companies; energy services companies; building owners and managers;
299 industry trade associations; environmental organizations; nonprofit
300 organizations; and utility companies.

301 (b) The Work Group must:

302 (1) review the application of Chapter 18A, Article 7, as added by
303 Section 1 of this Act, in the context of relevant best practices and
304 local needs; and

305 (2) submit a report to the County Council and County Executive by
306 June 30, 2016 with recommendations on implementing Chapter
307 18A, Article 7, including any proposed amendments to County
308 Law.

309 *Approved:*

310 George Leventhal 7/2/2015
George Leventhal, President, County Council Date

311 *Approved:*

312 Isiah Leggett July 7, 2015
Isiah Leggett, County Executive Date

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

314 Linda M. Lauer 7/9/15
Linda M. Lauer, Clerk of the Council Date

315