

**Public Hearing**

**MEMORANDUM**

October 7, 2011

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *A. Mihill*

SUBJECT: **Public Hearing:** Expedited Bill 28-11, Property Tax Credit – Renewable Energy – Amendments

Expedited Bill 28-11, Property Tax Credit – Renewable Energy - Amendments, sponsored by Council Vice President Berliner and Councilmembers Leventhal, Floreen, and Riemer, was introduced on September 20, 2011. A Government Operations and Fiscal Policy Committee worksession is tentatively scheduled for October 31 at 10:30 a.m.

Bill 28-11 would suspend the property tax credit program for solar and geothermal energy devices as of September 20. New applications for the credit could only be granted after September 20, 2011 if an individual enters into a contract for eligible costs on or before September 20, 2011 and applies for the credit on or before September 20, 2012. Bill 28-11 would address the backlog of applications for the credit as described in an August 8 memorandum from Joseph Beach, Director of Finance (©4). Bill 28-11 would also clarify that a property owner must own a solar or geothermal energy device or energy conservation device to be eligible to receive a certain property tax credit (i.e., leased devices would not be eligible for the credit).

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Expedited Bill No. 28-11  
Concerning: Property Tax Credit -  
Renewable Energy - Amendments  
Revised: 9/17/2011 Draft No. 1  
Introduced: September 20, 2011  
Expires: March 20, 2013  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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

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**AN EXPEDITED ACT** to:

- (1) suspend the property tax credit for solar or geothermal energy devices;
- (2) clarify that a property owner must own a solar or geothermal energy device or energy conservation device to be eligible to receive a property tax credit; and
- (3) generally amend County law related to the renewable energy property tax credit.

By amending

Montgomery County Code  
Chapter 52, Taxation  
Section 52-18R

<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:*



## LEGISLATIVE REQUEST REPORT

Expedited Bill 28-11

*Property Tax Credit – Renewable Energy - Amendments*

**DESCRIPTION:** Expedited Bill 28-11 would clarify that a property owner must own a solar or geothermal energy device or energy conservation device to be eligible to receive the property tax credit; and suspend the property tax credit for solar or geothermal energy devices.

**PROBLEM:** There is currently an approximate 6 year backlog of applications for the property tax credit for solar and geothermal energy devices. Additionally, current law is ambiguous as to whether a person can lease, or must own, a device to be eligible for the property tax credit.

**GOALS AND OBJECTIVES:** To suspend the property tax program for renewable energy devices and clarify existing law.

**COORDINATION:** Department of Finance.

**FISCAL IMPACT:** To be requested.

**ECONOMIC IMPACT:** To be requested.

**EVALUATION:** To be requested.

**EXPERIENCE ELSEWHERE:** To be researched.

**SOURCE OF INFORMATION:** Amanda Mihill, Legislative Attorney, 240-777-7815

**APPLICATION WITHIN MUNICIPALITIES:** To be researched.

**PENALTIES:** N/A

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DEPARTMENT OF FINANCE

Isiah Leggett  
County Executive

Joseph F. Beach  
Director

MEMORANDUM

August 8, 2011

TO: Valerie Ervin  
Council President **064342**

FROM: Joseph F. Beach  
Director of Finance

SUBJECT: Renewable Energy Credit backlog



As a result of strong demand by County residents for the Renewable Energy Credit, which has an annual funding cap of \$400,000, there is a current and significantly growing backlog of applications for the credit. The purpose of this memorandum is to make the County Council aware of this trend.

The Renewable Energy Credit program was introduced effective levy year 2008 (Fiscal Year 2009) with an initial annual funding cap of \$250,000. This property tax credit is provided for eligible geothermal and solar energy devices and is the lesser of \$5,000 or 50% of the cost of the system that provides heating or cooling, or generates electricity. The credit is the lesser of \$1,500 or 50% of the cost of the system for a solar or geothermal hot water heater. In 2009, the County Council increased the annual funding to \$400,000 (Bill 39-09), effective levy year 2009. Although the increase in annual funding allowed more taxpayers to receive the credit on their property tax bill, the demand for the credit quickly exceeded the annual funding cap.

Even though the program has been in existence for only three years, due to the excess demand for the credit, the backlog in issuing credits by reducing the property tax bill for applicants has doubled each year to 501 at the close of levy year 2010 (Fiscal Year 2011). To illustrate the trend, the backlog after the first year (levy year 2008) was only 100, but grew to 245 (levy year 2009), and to 501 (levy year 2010). Since the majority of applications qualify for the \$5,000 credit, that suggests a \$2.5 million backlog. Assuming a \$400,000 annual cap indicates that some taxpayers that have been approved for the credit but are in the queue may have to wait six years before they see the credit reflected on their property tax bill. Meanwhile, new applications will be received making the backlog even longer over the coming years.

Office of the Director

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Valerie Ervin, Council President

August 8, 2011

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Renewable Energy Tax Credit Data							
	New Applications Processed	Prior Year Applications Processed	Total Applications Processed	Amount Processed	Applications Received	Annual Backlog	Cumulative Backlog
LY 2008	55	0	55	\$ 250,000	155	100	100
LY 2009	59	44	103	\$ 400,000	204	145	245
LY 2010	61	57	118	\$ 400,000	317	256	501

Note: Amounts based on maximum \$5,000 credit value multiplied by applications  
Total Applications is sum of new and prior year applications processed  
LY2008 is first year of credit

The table above illustrates the trend of increasing applications, from 155 (2008) to 317 (2010), and shows that even though the number of taxpayers receiving the credit more than doubled from 2008 to 2010 (from 55 to 118) – the amount of funding available was insufficient to prevent the backlog from rising to 501 by the end of June 2011.

Since we recognize that some taxpayers have made the investment in this technology expecting the credit within a reasonable timeframe, and that this unintended delay in receiving the credit may create financial hardship for some County residents, the Department of Finance has placed a notice on our website to inform applicants of the delay in receiving the credit. Finance will also work with the Department of Environmental Protection (DEP) to obtain a list of contractors that install the renewable energy devices and inform them of the time delay.

I also want to take this opportunity to inform the County Council that Finance is administering the credit in compliance with the County law, which requires issuing the credit on a first-come-first-serve basis and with a maximum allowable credit amount of \$400,000 for this program in each fiscal year. In this case, however, the success of the credit program exceeds the allowable funding creating an immediate customer service challenge and a long-term funding liability in excess of what was anticipated at the onset.

JFB:cmc