

**MEMORANDUM**

April 17, 2015

TO: County Council

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

SUBJECT: **Introduction:** Bill 18-15, Environmental Sustainability – Montgomery County Green Bank

Bill 18-15, Environmental Sustainability – Montgomery County Green Bank, sponsored by Lead Sponsor Councilmember Berliner and Co-Sponsors Councilmembers Leventhal, Hucker, Riemer, Elrich, Rice, and Navarro is scheduled to be introduced on April 21, 2015. A public hearing is tentatively scheduled for June 9 at 1:30 p.m.

Bill 18-15 would:

- (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.

This packet contains:

Bill 18-15

Legislative Request Report

Circle #

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Bill No. 18-15  
Concerning: Environmental Sustainability  
– Montgomery County Green Bank  
Revised: 4/16/2015 Draft No. 3  
Introduced: April 21, 2015  
Enacted: October 21, 2015  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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

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**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

<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. 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          (c) stimulate the demand for clean energy and the deployment of clean  
15           energy technologies that serve end-use customers;  
16          (d) before making an loan, loan guarantee, or other form of financing support  
17           for clean energy technologies, develop rules, policies, and procedures to  
18           specify borrower eligibility and any other term or condition of financial  
19           support;  
20          (e) provide financing for clean energy technologies;  
21          (f) provide by resolution for the issuance of negotiable revenue bonds to  
22           finance clean energy technologies;  
23          (g) assess reasonable fees on its financing activities to cover its reasonable  
24           costs and expenses, as determined by the Board of Directors appointed  
25           under Section 18A-47;  
26          (h) make information regarding rates, terms, and conditions for all of its  
27           financing support transactions available to the public for inspection,

28 including formal annual reviews by both a private auditor and the  
 29 Director of Finance, and provide details to the public on the Internet  
 30 unless such disclosure includes a trade secret, confidential commercial  
 31 information, or confidential financial information;

32 (i) provide leadership on environmental issues at both the County and State  
 33 levels;

34 (j) maintain close liaison with government agencies and elected  
 35 representatives at both the County and State levels to achieve the goals of  
 36 the Green Bank; and

37 (k) undertake any other activities deemed by the Board of Directors to  
 38 support the mission of the Green Bank.

39 **18A-45. Definitions.**

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

41 *Clean energy technologies* means energy resources and emerging technologies  
 42 that have significant potential for commercialization and do not involve the  
 43 combustion of coal, petroleum or petroleum products, municipal solid waste, or  
 44 nuclear fission. *Clean energy technologies* includes renewable energy sources,  
 45 renewable energy projects, energy efficiency projects, alternative fuels used for  
 46 electricity generation, alternative fuel vehicles and related infrastructure such as  
 47 electric vehicle charging station infrastructure, and smart grid.

48 *Energy efficiency project* means a permanent improvement made to an existing  
 49 single-family home that:

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

51 (A) caulking and weatherstripping doors and windows;

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

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

- 55                   (ii) installing a device to modify flue openings that increases the
- 56                               energy efficiency or the heating system;
- 57                   (iii) any electrical or mechanical furnace ignition system which
- 58                               replaces a standing gas pilot; and
- 59                   (iv) any tune-up that increases the operating efficiency;
- 60                   (C) a programmable thermostat;
- 61                   (D) ceiling, attic, wall, or floor insulation;
- 62                   (E) whole house air sealing;
- 63                   (F) water heater tune-up, water heater insulation, pipe insulation, or
- 64                               change out to an ENERGY STAR qualified water heater;
- 65                   (G) storm windows or doors or ENERGY STAR qualified window or
- 66                               door replacement;
- 67                   (H) air distribution system improvements, including duct insulation
- 68                               and air sealing;
- 69                   (I) any device which controls demand of appliances and aids load
- 70                               management; and
- 71                   (J) any other conservation device, renewable energy technology, and
- 72                               specific home improvement that reduces the consumption of
- 73                               energy in the home; and
- 74                   (2) meets safety and performance standards set by a nationally recognized
- 75                               testing laboratory for that kind of device, if these standards are available.
- 76                   Energy efficiency project does not include a standard household appliance, such
- 77                               as a washing machine or clothes dryer.
- 78                   Green Bank means the Green Bank that the County has designated to promote
- 79                               the investment in clean energy technologies and provide financing for clean
- 80                               energy technologies, including renewable energy and energy efficiency
- 81                               projects.

82 Maryland Open Meetings Act means the Maryland Open Meetings Act, codified  
 83 at Sections 3-101 through 3-501 of the General Provisions Article of the  
 84 Maryland Code.

85 Renewable energy project means a project that:

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

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

- 96 (1) non-hazardous, organic biomass material;
- 97 (2) solar electric and solar thermal energy;
- 98 (3) wind energy;
- 99 (4) geothermal energy; and
- 100 (5) methane gas captured from a landfill.

101 **18A-46. Designation.**

102 (a) The County Council must designate, by resolution approved by the  
 103 County Executive, a single nonprofit corporation which complies with all  
 104 requirements and criteria of this Article as the County’s Green Bank. If  
 105 the Executive disapproves the resolution within 10 days after receiving  
 106 it, the Council may readopt the resolution with at least 6 affirmative votes.

107 (b) (1) Except as provided in (b)(2), any designation under this Section  
 108 expires at the end of the fifth full fiscal year after the resolution is

109 adopted unless the Council extends the designation by adopting  
 110 another resolution under this Section.

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

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

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

124 **18A-47. Board of Directors.**

125 (a) To qualify as the County's Green Bank, a corporation's Board of  
 126 Directors must have no more than 11 voting members. The corporation's  
 127 bylaws should also allow the Directors of Environmental Protection and  
 128 Finance to serve as ex-officio non-voting members along with any other  
 129 nonvoting members authorized under the bylaws.

130 (b) Each voting member should be a resident of the County. The members  
 131 of the Board of Directors should include:

132 (1) representatives of residential or low-income groups;

133 (2) representatives of environmental organizations;

134 (3) representatives of business organizations;

135 (4) persons with experience in investment fund management;

- 136           (5) persons with banking and lending experience;  
 137           (6) persons with experience in the finance or deployment of renewable  
 138                 energy; and  
 139           (7) persons with experience in research and development or  
 140                 manufacturing of clean energy.
- 141       (c) A member must not be paid for service on the Board but may be  
 142           reimbursed for necessary travel expenses.
- 143       (d) A member is not subject to Chapter 19A because of serving on the Board.  
 144           The Bank's bylaws must include provisions defining and regulating  
 145           conflicts of interest by Board members and Bank staff.
- 146       (e) Notwithstanding any inconsistent provision of Section 19A-21, a  
 147           member of the Board of Directors who engages in legislative or  
 148           administrative advocacy as part of that member's duties on the Board is  
 149           not required to register as a lobbyist under Article V of Chapter 19A  
 150           because of that advocacy.
- 151       (f) The Board must direct the program, management, and finances of the  
 152           corporation.

153 **18A-48. Status; incorporation; bylaws.**

- 154       (a) To qualify as the County's Green Bank, a corporation's articles of  
 155           incorporation must provide that the corporation is:
- 156           (1) a tax-exempt nonprofit corporation;  
 157           (2) not an instrumentality of the County; and  
 158           (3) incorporated for the sole purpose of serving as the County's Green  
 159                 Bank.
- 160       (b) The Green Bank's bylaws may contain any provision, not inconsistent  
 161           with law or the articles of incorporation, necessary to govern and manage  
 162           the Bank. The Green Bank may exercise all powers and is subject to all

163 requirements under the Financial Institutions Article of the Maryland  
 164 Code.

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

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

175 **18A-49. Work program; staff; support from County Government.**

176 (a) The Board of Directors must adopt a work program each year to advance  
 177 the policy objectives and perform the activities listed in Section 18A-44.

178 (b) The Green Bank's work program may include a plan for sponsorship of  
 179 private investment, marketing, and advocacy initiatives.

180 (c) The Board must meet with the Executive and the Council at least semi-  
 181 annually.

182 (d) The Department of Environmental Protection should, if the Board of  
 183 Directors requests, provide administrative support for the Green Bank,  
 184 including contracts, grants, or services in kind, subject to appropriation.

185 (e) Funding sources for the Green Bank may include:

186 (1) federal, State, or County funds provided to it;

187 (2) charitable gifts, grants, or contributions and loans from  
 188 individuals, corporations, university endowments, and  
 189 philanthropic foundations; and

190 (3) earnings and interest derived from financing support activities for  
191 clean energy technologies backed by the Green Bank.

192 The Green Bank may also raise private funds and may accept services  
193 from any source consistent with its purpose.

194 **18A-50. Report**

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

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

198 (a) The Executive must convene a Green Bank Work Group. Members of  
199 the Work Group must include representatives from the County  
200 departments of Environmental Protection, Finance, and Economic  
201 Development; investment and financing industry, such as regional and  
202 national banks, property trusts, and other lending institutions or  
203 companies; building owners and managers; industry trade associations;  
204 nonprofit organizations; and utility companies.

205 (b) The Work Group must:

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

209 (2) submit a report to the County Council and County Executive by [1  
210 year from date of enactment] with recommendations on  
211 implementing Chapter 18A, Article 7, including any proposed  
212 amendments to County Law.

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## LEGISLATIVE REQUEST REPORT

Bill 18-15

*Environmental Sustainability – Montgomery County Green Bank*

<b>DESCRIPTION:</b>	Bill 18-15 would authorize County government to designate a County Green Bank to promote the investment in clean energy technologies; specify the process to designate a nonprofit corporation to function as the Green Bank; define the nature and powers of the Green Bank; 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 generally amend the environmental sustainability law
<b>PROBLEM:</b>	Investing in clean energy technologies can be a cost-effective way to reduce greenhouse gas emissions. However, the lack of accessible financing options is a barrier to many property owners and may prevent them from making these energy efficiency improvements
<b>GOALS AND OBJECTIVES:</b>	To establish a program to provide property owners with a financing option to invest in clean energy technologies.
<b>COORDINATION:</b>	Departments of Finance and Environmental Protection
<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, Legislative Attorney, 240-777-7815
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	To be researched.
<b>PENALTIES:</b>	N/A