

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 46-21: ENVIRONMENTAL SUSTAINABILITY — COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM — AMENDMENTS

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Bill 46-21 could widen economic inequities by race and ethnicity but could also narrow health inequities by race and ethnicity. Since the anticipated economic benefit of this bill for White residents is more direct than the anticipated health benefit for residents of color, OLO finds that Bill 46-21 has a minor negative impact on racial equity and social justice (RESJ) in the County. To improve the RESJ impact of Bill 46-21, this statement offers several recommended amendments for Council consideration.

PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of racial equity and social justice (RESJ) impact statements is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF BILL 46-21

Greenhouse gas emissions are a significant driver of climate change. In 2018, greenhouse gas emissions from commercial and residential buildings accounted for half of all emissions in the County.³ To encourage commercial building owners to reduce their greenhouse gas emissions, the Commercial-Property Assessed Clean Energy (C-PACE) program provides financing that is repaid as a property tax surcharge for the following energy upgrades:⁴

- Installation, storm windows or doors, caulking, weather-stripping and sealing;
- Automated energy control systems or heating, ventilation, or air conditioning systems;
- Light fixtures and systems, energy recovery systems and day lighting systems;
- Electrical wiring, outlets or other installations or modifications that decrease energy consumption;
- Measures that increase water efficiency or expand renewable energy sources; and
- Renewable energy systems or fixtures that generate electricity.

Bill 46-21 would amend the C-PACE program to replace the list of eligible upgrades with climate related improvements that address renewable energy, energy and water efficiency, environmental remediation, grid resilience, or property resilience.⁵ The bill would allow property owners to retroactively finance C-PACE eligible measures purchased over the past 12 months and clarify new construction participation requirements.⁶ Further, the bill would create a five-year pilot that would allow loans to increase from 20 percent up to 30 percent of the value of a commercial property.⁷ Bill 46-21 would create a C-PACE loan product that stays with the property and establishes the County's Green Bank as the County's designated C-PACE lender.⁸ Bill 46-21 was introduced to the Council on November 30, 2021.⁹

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ECONOMIC OPPORTUNITY, THE CLIMATE GAP, AND RACIAL EQUITY

Understanding the impact of Bill 46-21 on racial equity and social justice requires understanding the historical context that shapes economic opportunities and the climate gap – the disproportionate and unequal impact that global warming has on people of color and low-income communities. To describe this context, this section describes the drivers of and data on racial inequities in economic opportunity and climate change impact.

Inequities in Economic Opportunity. Historically inequitable policies have fostered racial and ethnic inequities in economic development among business owners and employees. As noted by the Federal Reserve Bank of Boston:¹⁰

“(T)he practices and policies that laid the groundwork for and built the U.S. were explicitly designed to ensure an absolute accumulation of intergenerational wealth and concentrated power for white people, particularly men. A legacy of land theft, slavery, racial segregation, disenfranchisement, and other exclusive policies against Black and Indigenous people and people of color produced a racialized economy that decimated these communities and intentionally barred survivors and descendants from building wealth, socioeconomic well-being and resilience.”

Inequities in economic opportunity have created sizable disparities in business ownership by race and ethnicity. Nationally, Black and Latinx residents represent about 28 percent of the population, but only eight percent of the nation’s business owners with employees.¹¹ Locally, Black and Latinx firms each accounted for 15 percent of firms in 2012 and Asian firms accounted for 14 percent of firms, yet Asian firms accounted for only four percent of business revenue, Black and Latinx firms each accounted for less than two percent of business revenue.¹² Economic inequities also foster racial and ethnic disparities in property ownership as 75 percent of White and Asian households resided in owner-occupied units in Montgomery County in 2019 compared to 50 percent of Latinx and Native American households and 42 percent of Black households.¹³

Inequities in Climate Change. The policies and practices that fostered gaps in economic opportunity have fostered gaps in housing opportunities that have placed BIPOC communities at greater risk for health disparities. More specifically:

- Redlining, racial covenants, exclusionary zoning, the Federal Housing Administration, the Social Security Act, GI Bill, and Departments of Transportation policies and practices have fostered **housing segregation** by race and ethnicity that have undermined wealth building and housing equity for Black, Indigenous, and other people of color (BIPOC) residents.¹⁴ Housing segregation has also fostered the concentration of BIPOC residents into densely populated neighborhoods with fewer trees and larger amounts of impervious surfaces that make them more vulnerable to effects of excessive heat and flood events exacerbated by climate change.¹⁵
- Inequities in housing, income, employment and health has fostered **“the climate gap”** - the unequal impact that climate change has on BIPOC and low-income communities due to their higher risk of experiencing the consequences of climate change combined with a lack of resources to adjust to the consequences of climate change.¹⁶ The heightened risk for experiencing the negative consequences of climate change and the diminished ability to adjust to climate change means that BIPOC and low-income communities will suffer more during heat waves with increased illness and deaths, will breathe even dirtier air due to global warming, will pay more for basic necessities, and may have fewer job opportunities with increased climate change.¹⁷

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- The locating of BIPOC and low-income communities near polluting and environmentally hazardous industries¹⁸ foster **health inequities and disparities** that manifest as higher rates of cancer, lung conditions, heart attacks, asthma, low birth weights, and high blood pressure.¹⁹ The County's Climate Action Plan, for example, show that communities with high concentrations of BIPOC and low-income residents are located in areas of the County with higher levels of traffic and air pollution.²⁰ Local data also show that Black residents had the highest rates of emergency room visits for chronic lower respiratory diseases at more than 1,538 visits per 100,000 followed by Latinx residents at 815 visits per 100,000 compared to 543 visits per 100,000 White residents.²¹

ANTICIPATED RESJ IMPACTS

Considering the anticipated racial equity and social justice impact of Bill 46-21 requires considering the impact of the bill on four sets of stakeholders: commercial property owners, clean energy business owners and employees, commercial property renters, and County residents at large. OLO's analysis of the anticipated impact of Bill 46-21 on each stakeholder group and their respective demographics to understand the anticipated RESJ impact of this bill follows.

- **Commercial Property Owners – Primary/Direct Beneficiaries.** The C-PACE program primarily serves property owners as it provides them financing to increase the energy efficiency of their buildings. Data on homeownership suggests that commercial property owners in Montgomery County are disproportionately White and in turn will disproportionately benefit from the amendments proposed to the C-PACE program. These benefits include access to subsidized loans that improve their building's efficiency and property values that in turn potentially increase commercial property owner's long-term wealth.
- **Clean Energy Business Owners and Employees – Primary/Direct Beneficiaries.** Contracting opportunities for business owners to retrofit existing buildings with cleaner energy systems will increase under Bill 46-21. Data on business ownership and revenue suggests the businesses benefiting from increased C-PACE investments in Montgomery County are also disproportionately White. However, additional data is needed to discern the demographics of workers most likely to benefit from additional C-PACE subsidized investments.
- **Commercial Renters – Secondary/Indirect Beneficiaries.** Increased energy efficiency for commercial building owners that make energy investments with C-PACE financing could reduce energy use and costs among commercial renters. Alternatively, these energy saving benefits to commercial renters could be offset by increased rents that offset commercial building owners' increased costs for C-PACE financed energy upgrades via the property tax surcharge. Data on business owners suggest that commercial renters are mostly White.
- **County Residents at Large – Secondary/Indirect Beneficiaries.** If Bill 46-21 works as intended and spurs building owners to invest in cleaner energies, all residents will benefit from reductions in greenhouse emissions. Further, BIPOC residents and communities may disproportionately benefit from reductions in greenhouse emissions since they are more vulnerable to the negative consequences of climate change. A reduction in greenhouse gases could in turn narrow some of the health disparities that BIPOC residents experience.

Overall, OLO finds that Bill 46-21 primarily delivers economic benefits to commercial property and business owners that are disproportionately White while offering secondary benefits to County residents that may narrow health inequities by race and ethnicity. As such, OLO anticipates that Bill 46-21 could widen economic inequities but narrow health inequities. Since the economic impact of this bill on property and business owners is more direct than the health impact on County residents, OLO finds that Bill 46-21 has a minor negative impact on RESJ in the County.

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RECOMMENDED AMENDMENTS

The County's Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.²² OLO finds that Bill 46-21 has a minor negative impact on racial equity and social justice in the County as the economic benefits it derives mainly for White residents may exceed the health benefits that could derive for residents of color. Should the Council seek to improve the racial equity and social justice impact of Bill 46-21, the following recommended amendments and practices could be considered.

- **Target C-PACE investments in neighborhoods with the worst air and greenhouse gas emissions.**²³ Currently any commercial building owner is eligible for C-PACE financing. To align C-PACE financed investments with community needs, the County could amend the C-PACE law to offer Bill 46-21's retroactive financing and five-year pilot provisions to commercial properties in vulnerable neighborhoods. Towards this end, researchers recommend using mapping to identify vulnerable neighborhoods, measuring the success of mitigation strategies by whether they protect everyone, and designing research that identifies opportunities for targeting greenhouse gas reductions to reduce toxic air emissions in highly polluted neighborhoods.²⁴
- **Create a C-PACE set aside for Equity Emphasis Areas.** Equity Emphasis Areas, neighborhoods in the County with high concentrations of poverty and racially and linguistically diverse residents, account for 26 percent of the County's population.²⁵ To ensure all communities in the County equitably benefit from C-PACE financed energy improvements, the Council could consider encouraging the County's Green Bank to set aside a certain percentage of C-PACE financing to commercial buildings or making some of the key provisions of Bill 46-21 (e.g. retroactive financing) exclusive to commercial buildings in Equity Emphasis Areas.
- **Require the Green Bank to encourage commercial property owners to partner with Minority Business Enterprises for C-PACE investments.** The economic benefits of Bill 46-21 are significant and to the extent possible, should be used to reduce racial inequities in business ownership rather than widen them. Encouraging commercial property owners to seek out minority-owned businesses to deliver services and partnering with minority vendors and business associations toward this end could foster equitable economic development that benefits a broader set of business interests in the County by race and ethnicity.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

¹ Definition of racial equity and social justice adopted from "Applying a Racial Equity Lens into Federal Nutrition Programs" by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools <https://www.raciaequitytools.org/glossary>

² Ibid

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³ Montgomery County Climate Action Plan, June 2021

⁴ Article 5. Commercial Property Assessed Clean Energy Program

<https://www.montgomerycountymd.gov/BONDS/Resources/Files/C-PACE%20Law.pdf>

⁵ Montgomery County Council, Bill 46-21, Environmental Sustainability – Commercial Property Assessed Clean Energy Program - Amendments

⁶ Ibid

⁷ Ibid

⁸ Ibid

⁹ Ibid

¹⁰ Field Note, 2020-2, December 2020 – Turning the Floodlights on the Root Causes of Today’s Racialized Economic Disparities: Community Development Work at the Boston Fed Post-2020, Regional and Community Outreach

¹¹ Joseph Parilla and Darin Redus, How a new Minority Business Accelerator grant program can close the racial entrepreneurship gap. Brookings, December 9, 2020

¹² Jupiter Independent Research Group, Racial Equity Profile Montgomery County, OLO Report 2019-7, Office of Legislative Oversight, July 15, 2019

¹³ Calculations based on American Community Survey, 2019 1-Year Estimates, Table ID S2502.

¹⁴ Kilolo Kijakazi, et al, The Color of Wealth in the Nation’s Capital, November 2016

<https://www.urban.org/research/publication/color-wealth-nations-capital>

¹⁵ Iverson, L.R. and E.A. Cook, Urban Forest Cover of the Chicago Region and Its Relation to Household Density and Income, Urban Ecosystems, 2000 cited in Zero Cities Project, Equity Assessment Tool and Rolf Pendall, A Building Block for Inclusive Housing for Community Level Diversity, Participation and Cohesion, Urban Institute, September 2017 cited in Zero Cities Project, Equity Assessment Tool https://www.usdn.org/uploads/cms/documents/equity_assessment_tool_-_zero_cities_project_-_race_forward_2019.pdf

¹⁶ Rachel Morello-Frosch, et al, The Climate Gap: Inequities in How Climate Change Hurts Americans and How to Close the Gap, Dornsife Center, University of Southern California, 2009

¹⁷ Ibid

¹⁸ Iverson, L.R. and E.A. Cook, Urban Forest Cover of the Chicago Region and Its Relation to Household Density and Income, Urban Ecosystems, 2000 cited in Zero Cities Project, Equity Assessment Tool and Rolf Pendall, A Building Block for Inclusive Housing for Community Level Diversity, Participation and Cohesion, Urban Institute, September 2017 cited in Zero Cities Project, Equity Assessment Tool https://www.usdn.org/uploads/cms/documents/equity_assessment_tool_-_zero_cities_project_-_race_forward_2019.pdf

¹⁹ Rolf Pendall and American Public Health Association, Climate Change, Health, and Equity: A Guide for Local Health Departments, https://www.apha.org/-/media/Files/PDF/topics/climate/Guide_Section2.ashx

²⁰ Montgomery County Climate Action Plan

²¹ Health in Montgomery County, 2008 – 2016: A surveillance report on population health,

<https://www.montgomerycountymd.gov/HHS/Resources/Files/Reports/PopHealthReportFINAL.pdf>

²² Montgomery County Council, Bill 27-19, Administration – Human Rights - Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee - Established

²³ Recommendation consistent with Montgomery County Climate Action Plan goal to prioritize people and communities that are the most vulnerable and most sensitive to the impact of climate change.

²⁴ Rachel Morello-Frosch, et al.

²⁵ Montgomery Planning, The Equity Focus Area Analysis