

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 13-22: BUILDINGS – COMPREHENSIVE BUILDING DECARBONIZATION

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Bill 13-22 will have a favorable impact on racial equity and social justice (RESJ) in the County, as Black, Indigenous, and Other People of Color (BIPOC) residents could disproportionately benefit from the countywide reductions in greenhouse gas emissions driven by building decarbonization. The magnitude of the RESJ impact is indeterminant, since this will depend on how RESJ is centered in new building development and building decarbonization.

PURPOSE OF RESJ IMPACT STATEMENT

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, leadership, and power 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 13-22

Building decarbonization refers to the process of reducing or eliminating the carbon dioxide (a greenhouse gas) emissions that contribute to climate change from a building's energy sources.³ Building decarbonization includes four main components: energy efficiency, electrification, renewable energy, and managed electricity loads. The electrification component involves replacing equipment in buildings that use fossil fuels (e.g. natural gas, oil) with electric technology.⁴

The purpose of Bill 13-22 is to require the County Executive to issue all-electric building standards by January 1, 2024 for new construction, major renovations, and additions.⁵ The Bill codifies a process for the development of all-electric standards, which would eventually require all new buildings to be powered solely with electrical systems, instead of with systems that rely on burning fossil fuels, such as natural gas furnaces and boilers.⁶ The Bill is intended to help the County achieve its zero-greenhouse gas emissions goal, building on the 2021 Climate Action Plan.

The Bill provides exemptions for areas where 100-percent electric is not yet feasible, including for utility generation, emergency back-up systems, and buildings that have certain uses. The Bill also provides an extended compliance timeline for affordable housing and school construction.⁷

Bill 13-22 was introduced to the Council on June 14, 2022.

In September 2021, OLO published a RESJ impact statement (RESJIS) for Expedited Bill 31-21, Property Tax Credit – Energy Conservation Devices and Energy Efficient Buildings – Amendments – a Bill that was also directed towards reducing greenhouse emissions.⁸ OLO builds upon the analysis for Expedited Bill 31-21 for this RESJIS.

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THE CLIMATE GAP AND RACIAL EQUITY

Greenhouse gas emissions from the burning of fossil fuels is the primary cause of current climate change.⁹ Climate change has far-reaching harmful consequences on public health, community assets, and the economy that will impact all residents.¹⁰ BIPOC, especially those who are low-income, are disproportionately harmed by climate change due to a lack of resources and ability to adjust to the consequences of global warming.¹¹

The term “climate gap” refers to the unequal impact that climate change has on BIPOC and low-income communities. As noted by researchers at the University of Southern California, the climate gap means that BIPOC communities and the poor will suffer more during extreme 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.¹² Drivers of the climate gap include inequities in income, education, employment, and access to health services.

Drivers of the climate gap help to explain the role of government in fostering the climate gap. Data on inequities in energy burden, housing, and environmental risk help to explain the increased vulnerability of BIPOC to climate change.

Drivers of the Climate Gap. The disproportionate impact of climate change on BIPOC results from government policies and practices that concentrated housing for BIPOC and low-income residents in close proximity to polluting facilities and infrastructure like major highways. More specifically, the climate gap results from a history of land and wage theft that enriched a subset of White households at the expense of BIPOC and low-income residents. Slavery, the Indian Removal and Homestead Acts, and occupational segregation have undermined the economic development of people of color.¹³

Further, housing segregation through redlining, racial covenants, and exclusionary zoning has contributed to the climate gap as have the policies and practices of the Federal Housing Administration, the Social Security Act, GI Bill, and the Department of Transportation that have reinforced housing segregation and undermined wealth building and housing equity for 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 exceptionally vulnerable to effects of excessive heat and flood events exacerbated by climate change.¹⁵

In short, government efforts to cultivate and protect White wealth by segregating BIPOC residents and excluding them from comparable wealth-building opportunities has resulted in the siting of BIPOC communities in or adjacent to environmentally hazardous areas. As such, government has played a significant role in developing the climate gap.

Data on Energy Burden. In Montgomery County, about 17 percent of households are energy-burdened (expending more than 6 percent of their income on energy bills) and 9 percent are living in energy poverty (expending more than 10 percent of their income on energy bills).¹⁶ Inequities in poverty rates by race and ethnicity suggest that Black and Latinx households face greater energy burdens than White and Asian households. Locally, 10 percent of Black and Latinx households lived below the poverty level compared to 6 percent of Asian households and 4 percent of White households.¹⁷

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Data on Housing. A study of 2005 American Housing Survey data found that 6.3 percent of Latinx and 7.5 percent of Black households resided in substandard housing, compared to 2.8 percent of White households.¹⁸ The older-age of affordable housing in the County and local data on rent-burden suggests that Black and Latinx households in Montgomery County experience higher risks for substandard housing. In 2019, 66.4 percent of Latinx renters and 59.8 percent of Black renters were cost burdened, expending more than 30 percent of their income on rent, compared to 43.4 percent of White renters and 33 percent of Asian renters.¹⁹ Further, 75 percent of White and 73 percent of Asian households resided in owner-occupied units in 2019 compared to 50 percent of Latinx households and 41 percent of Black households.²⁰

Data on Environmental Risk. Nationally, BIPOC and low-income residents often reside in communities located near polluting and environmentally hazardous industries and uses.²¹ This can include proximity to power stations, industrial plants, and infrastructure like major highways. This leads to far greater rates of serious health problems in communities of color, from cancer to lung conditions to heart attacks, as well as a higher prevalence and severity of asthma, lower birth weights, and greater incidence of high blood pressure.²²

The County's Climate Action Plan shows that communities with high concentrations of BIPOC and low-income residents (greater than 25 percent for each) are located in areas of the County with higher levels of traffic and air pollution.²³ Of note, between 2017 and 2019, Black residents had the highest rates of emergency room visits for chronic lower respiratory diseases (including asthma) at 1,594 visits per 100,000.²⁴ The rate of emergency room visits for chronic respiratory diseases was 923 visits per 100,000 for Latinx residents and 526 visits per 100,000 for White residents.²⁵

ANTICIPATED RESJ IMPACTS

The Climate Action Plan found that most of the County's greenhouse gas emissions come from residential and commercial building energy use (50 percent of emissions).²⁶ The decrease in greenhouse emissions anticipated by the required electrification of new buildings could generate favorable public health outcomes. Further, more efficient energy use in all-electric buildings could result in lower utility payments for customers.

Since BIPOC and low-income communities are more vulnerable to the negative consequences of climate change, they may benefit disproportionately from countywide reductions in greenhouse emissions. Thus, OLO anticipates that Bill 13-22 could have a favorable impact on RESJ in the County.

Generally, new development tends to favor higher-income residents, White residents, and White-owned businesses, and has the potential to displace low-income and BIPOC residents. Further, as more buildings move to electrical systems, low-income residents who are not able to transition could be left with increased energy costs from using non-electric systems.²⁷ Thus, the magnitude of the favorable impact is indeterminant, as it will depend on the extent to which RESJ is centered in new building development and decarbonization efforts in general.

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RECOMMENDED AMENDMENTS

The RESJ Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.²⁸ OLO finds that Bill 13-22 could narrow racial and social inequities in the climate gap by requiring the electrification of new buildings in the County. If the Council chooses to implement more significant reductions in the climate gap through incorporating recommended amendments or introducing companion legislation to further promote RESJ, the County's Climate Action Plan offers two relevant recommendations for enhancing equity that could be considered:

- Evaluate the need for financial incentives or financing to help overcome the increased initial costs associated with building under an all-electric code when applied to certain building types and building ownership.
- Offer technical assistance for all-electric code compliance for certain building types or owners.

Additionally, as discussed in 'Anticipated RESJ Impacts,' how RESJ is centered in decarbonization efforts for existing and new buildings will determine the extent to which the Bill will favorably address racial and social inequities. The Greenlining Institute developed a five-step framework for equitable building electrification that could be helpful to consider.²⁹ Further, there are several examples of community-led efforts that are focused on centering RESJ in building decarbonization:

- **Portland:** The Build/Shift Collective, a grassroots group that is primarily composed of low-income BIPOC residents, has been working with the City of Portland to develop the Health, Equitable Energy, Anti-Displacement, Resilience, and Temperature control (HEART) standards.³⁰ The standards would require landlords of the city's largest existing commercial and multifamily residential buildings to properly insulate all units and install air conditioning.
- **California:** The Building Energy, Equity, and Power (BEEP) Coalition, a coalition of environmental justice communities, studied what equitable building decarbonization would look like in California.³¹ Their recently released report includes findings around barriers to participation in clean energy programs, the need for holistic building upgrades, and the need to provide funding for no-cost improvements to low-income households.

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.racialequitytools.org/glossary>

² Ibid

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³ “Building Decarbonization is Essential: Here’s How It Works,” Elevate, February 10, 2022.

<https://www.elevatenp.org/climate/building-decarbonization-is-essential-heres-how-it-works/>

⁴ Ibid

⁵ Bill 13-22, Buildings – Comprehensive Building Decarbonization, Montgomery County, Maryland, Introduced June 14, 2022.

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20220614/20220614_3E.pdf

⁶ Memorandum from County Executive and Chair of Planning, Housing, and Economic Development Committee to Council President, Bill 13-22, Buildings – Comprehensive Building Decarbonization

⁷ Ibid

⁸ Racial Equity and Social Justice Impact Statement for Expedited Bill 31-21, Property Tax Credits – Energy Conservation Devices and Energy Efficient Buildings – Amendments, Office of Legislative Oversight, Montgomery County, Maryland, September 10, 2021.

<https://montgomerycountymd.gov/OLO/Resources/Files/resjis/2021/Bill31-21RESJ.pdf>

⁹ “Burning of Fossil Fuels,” Understanding Global Change, University of California Museum of Paleontology, Accessed July 5, 2022.

<https://ugc.berkeley.edu/background-content/burning-of-fossil-fuels/>

¹⁰ “Montgomery County Climate Action Plan: Building a Healthy, Equitable, Resilient Community,” Department of Environmental Protection, Montgomery County, Maryland, June 2021.

<https://www.montgomerycountymd.gov/green/Resources/Files/climate/climate-action-plan-printer-friendly.pdf>

¹¹ Ibid

¹² 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

¹³ “Turning the Floodlights on the Root Causes of Today’s Racialized Economic Disparities: Community Development Work at the Boston Fed Post-2020,” Federal Reserve Bank of Boston, December 2020. <https://www.bostonfed.org/publications/community-development-field-notes/2020/racialized-economic-disparities.aspx>

¹⁴ Kilolo Kijakazi, et al, “The Color of Wealth in the Nation’s Capital,” The Urban Institute, November 2016.

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

¹⁵ Louis R. Iverson and Elizabeth 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).

<https://www.fs.usda.gov/treesearch/pubs/21911>

¹⁶ “Montgomery County Climate Action Plan”

¹⁷ Table S1701: Poverty Status in the Past 12 Months, 2020 American Community Survey, Census Bureau, Accessed July 5, 2022.

<https://data.census.gov/cedsci/table?t=Poverty&g=0500000US24031&tid=ACST5Y2020.S1701>

¹⁸ David E. Jacobs, “Environmental Health Disparities in Housing,” American Journal of Public Health, December 2011.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3222490/>

¹⁹ Table S0201: Selected Population Profile in the United States, 2019 American Community Survey, Census Bureau, Accessed July 5, 2022. <https://data.census.gov/cedsci/table?t=00%20-%20All%20available%20races%3AIncome%20and%20Poverty%3ARace%20and%20Ethnicity&g=0500000US24031&tid=ACSSPP1Y2019.S0201>

²⁰ “Percent Owner-Occupied Households by Race/Ethnicity: Montgomery, MD” National Equity Atlas, Accessed July 5, 2022.

<https://nationalequityatlas.org/indicators/Homeownership#/?geo=04000000000024031>

²¹ 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.urban.org/sites/default/files/publication/93616/a-building-block-for-inclusion_1.pdf

²² Health Equity and Climate Change, “Climate Change, Health, and Equity: A Guide for Local Health Departments,” American Public Health Association, 2018. https://www.apha.org/-/media/Files/PDF/topics/climate/Guide_Section2.ashx

²³ “Montgomery County Climate Action Plan”

²⁴ “Health in Montgomery County, 2010-2019: A Surveillance Report on Population Health,” Department of Health and Human Services, Montgomery County, Maryland, April 2022.

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

²⁵ Ibid

²⁶ “Montgomery County Climate Action Plan”

²⁷ Amulya Yerrapotu, “The Case for Equitable Building Decarb in the Midwest,” Expert Blog, Natural Resources Defense Council, March 23, 2021. <https://www.nrdc.org/experts/amulya-yerrapotu/case-equitable-building-decarb-midwest>

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²⁸ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

²⁹ “Equitable Building Electrification: A Framework for Powering Resilience Communities,” The Greenlining Institute, September 30, 2019. <https://greenlining.org/publications/reports/2019/equitable-building-electrification-a-framework-for-powering-resilient-communities/>

³⁰ Sarah Sax, “Portland Community Leaders Bring the Heat to Building Standards,” High Country News, February 22, 2022. <https://www.hcn.org/issues/54.3/north-energy-industry-portland-community-leaders-bring-the-heat-to-building-standards>

³¹ “Preliminary Report: Community Priorities for Equitable Building Decarbonization,” Building, Energy, Equity, and Power (BEEP) Coalition, March 1, 2022. https://ww2.arb.ca.gov/sites/default/files/2022-03/BEEP%20Letter%20and%20Report_Equitable%20Decarb%20March%202022.pdf