

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 28-23: TAXATION – FUEL ENERGY TAX – GREEN BANK

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 28-23 would have an indeterminant impact on racial equity and social justice (RESJ) in the County. Absent demographic data regarding the primary beneficiaries of Green Bank investments overall, and for climate resiliency investments in particular, it is impossible to discern whether the proposed funding restrictions on resiliency projects would have a negative, positive, or no impact on RESJ in the County.

PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements (RESJIS) 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 28-23

Montgomery County levies a fuel-energy tax on every person transmitting, distributing, manufacturing, producing, or supplying electricity, gas, steam, coal, fuel oil, or liquefied petroleum gas in the County.³ On February 1, 2022, the County Council enacted Bill 44-21 authorizing that 10 percent of the County's annual fuel-energy revenue would be allocated to the Montgomery County Green Bank to support energy efficiency, renewable energy, and clean energy investment in the County.⁴ (See Appendix A, Table 1, Green Bank Related Legislation).

The purpose of Bill 28-23 is to restrict the use of fuel energy tax funds expended by the Green Bank to exclusively support clean energy technologies, including renewable energy and energy efficiency projects.⁵ More specifically, the Bill would prohibit the Green Bank's use of fuel energy tax revenue for climate resilience activities and projects.⁶

The Green Bank was established in 2015 as a publicly chartered 501(c)(3) nonprofit corporation. The Green Bank relies on funding from the County and other public and private funders.⁷ Earlier this year, the Council enacted Bill 3-23 to enable the Green Bank to support climate resilience activities in the same manner as it supports energy efficiency and renewable energy projects. Specific climate resiliency activities authorized by Bill 3-23 include measures to support:⁸

- Property or community resilience, reliability, and environmental sustainability;
- Property or community environmental health and environmental safety;
- Property or community water conservation and on-site management;
- Sustainable waste treatment;
- Sustainable agricultural activities; and
- Adaption of systems to manage changes to the climate, such as activities responding to extreme weather events.

RESJ Impact Statement

Bill 28-23

Bill 28-23, Taxation – Fuel Energy Tax – Green Bank, was introduced by the Council on June 20, 2023.

In February 2023, OLO published a RESJIS for Bill 3-23 Environmental Sustainability – Montgomery County Green Bank.⁹ Please refer to this RESJIS for background on climate change and racial equity.

ANTICIPATED RESJ IMPACTS

OLO anticipates Bill 28-23 would have an indeterminant impact on RESJ in the County if enacted. For Bill 3-23, which granted the Green Bank the authority to support climate resiliency investments, OLO found the anticipated RESJ impact to be indeterminant.¹⁰ In the RESJIS for Bill 3-23, OLO observed that BIPOC constituents could benefit from increased investment in climate resiliency projects since they are disproportionately harmed by climate change. However, it was unclear from available information whether Black, Indigenous, and Other People of Color (BIPOC) constituents would be the primary beneficiaries of Green Bank investments.¹¹

Data required to assess the anticipated RESJ impact of Green Bank investments remains unavailable. Moreover, in the absence of demographic data describing the primary beneficiaries of climate resiliency investments, it is impossible to discern whether the Bill would have a negative, positive, or no impact on RESJ in the County. As such, OLO finds the anticipated RESJ impact of Bill 28-23 to be indeterminant.

RECOMMENDED AMENDMENTS

The 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.¹² OLO anticipates that Bill 28-23 will have an indeterminant impact on RESJ in the County because it is unclear from available information whether BIPOC constituents will be the primary beneficiaries of Green Bank investments regardless of the proposed restriction on fuel energy tax funds for resilience activities and projects. As such, OLO does not offer recommended amendments.

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.

CONTRIBUTIONS

OLO staffer Elsabett Tesfaye, Performance Management and Data Analyst, drafted this RESJ impact statement.

RESJ Impact Statement

Bill 28-23

Appendix A

Table 1: Montgomery County Green Bank-Related Legislation		
Bill	Enacted	Purpose
Bill 18-15 Environmental Sustainability - Montgomery County Green Bank	6/30/15	To Establish the Montgomery County Green Bank. Enacted by the Council on June 30, 2015 and was signed into law by the County Executive on July 7, 2015.
Bill 44-21 Montgomery County Green Bank —Funding— Fuel-Energy tax revenue	2/1/ 22	<p>To mandate that the Council annually appropriate 10% of the fuel-energy tax revenue to the County Green Bank.</p> <p>Added new language: Chapter 52, Taxation</p> <p>52-14(j) The Council must appropriate 10% of the revenue received by the County from the fuel-energy tax each year to the nonprofit corporation designated as the Montgomery County Green Bank under Section 18A-46.</p>
Bill-3-23 Environmental Sustainability – Montgomery County Green Bank	3/ 21/23	<p>To modify the enabling language in Article 7, Section 18A of the Montgomery County Code to allow the Montgomery County Green Bank to engage in activities related to climate resilience in the same manner as energy efficiency and renewable energy.¹³</p> <p>New Language Added-Chapter 18-A. Environmental Sustainability Article 7-Montgomery County Green Bank 18A-45 Definitions: Resiliency, sustainability, or climate adaptive projects <u>“(D)esigned to support property or community resilience, reliability, and environmental sustainability; property or community environmental health and environmental safety; property or community water conservation and on-site management; sustainable waste treatment; sustainable agricultural activities; and adaption of systems to manage changes to the climate, such as activities responding to extreme weather events.”</u></p> <p>New Language Added- Chapter 18-A. Environmental Sustainability 18A-49 : Work program; staff; support from County Government 18A-49 (e)((2) <u>County funds, including a portion of the fuel-energy tax revenue received by the County, provided that any funds given to the Green Bank under Chapter 52, Sec. 52-14 must only be used to promote the investment in clean energy technologies and to provide financing for clean energy technologies, including renewable energy and energy efficiency projects and must not be used for resiliency activities.</u></p>
Bill-28-23 Taxation – Fuel Energy Tax – Green Bank (Introduced June 20, 2023)	New	<p>Restricts the use of fuel energy tax funds by the Montgomery County’s Green Bank to only support activities that promote the investment in clean energy technologies and to provide financing for clean energy technologies, including renewable energy and energy efficiency projects and not resiliency activities.¹⁴</p> <p>New Language added: Chapter 52, Taxation 52-14 Fuel Energy Tax 52-14 (k) <u>Any funds which under this section are given to the nonprofit corporation designated as the Montgomery County Green Bank under Section 18A-46 must only be used to promote the investment in clean energy technologies and to provide financing for clean energy technologies, including renewable energy and energy efficiency projects and must not be used for resiliency activities.</u></p>

RESJ Impact Statement

Bill 28-23

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.

³ Fuel Energy Tax Information. Montgomery County Government. MC311 Customer Service Center. Last Update 09/03/21 <https://www3.montgomerycountymd.gov/311/Solutions.aspx?SolutionId=1-2FSHUH>

⁴ Montgomery County Council. Legislative Information Management System (LIMS). Council Legislation - Bill Details. Bill 44-21 - Montgomery County Green Bank - Funding - Fuel-energy tax revenue <https://apps.montgomerycountymd.gov/ccllms/BillDetailsPage?RecordId=2735&fullTextSearch=44-21>

⁵ Memorandum from Khandikile Mvunga Sokoni, Legislative attorney introducing Agenda Item. Bill-28-23 Fuel Energy Tax – Green Bank. June 20, 2023. https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230620/20230620_1A.pdf

⁶ Ibid.

⁷ Montgomery County Green Bank. Making a green dream a reality. <https://mcgreenbank.org/about-us/>

⁸ Montgomery County Council. Legislative Information Management System (LIMS). Council Legislation - Bill Details Bill 3-23 - Environmental Sustainability – Montgomery County Green Bank <https://apps.montgomerycountymd.gov/ccllms/BillDetailsPage?RecordId=2778>

⁹ Janmarie Peña. Racial Equity and Social Justice (RESJ) Impact Statement. Office of Legislative Oversight. February 22, 2023 <https://www.montgomerycountymd.gov/OLO/Resources/Files/resjis/2023/Bill3-23.pdf>

¹⁰ Ibid.

¹¹ Ibid.

¹² Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

¹³ Montgomery County Council. Legislative Information Management System (LIMS). Council Legislation - Bill Details Bill 3-23 - Environmental Sustainability – Montgomery County Green Bank

¹⁴ Memorandum from Khandikile Mvunga Sokoni. June 20,2023