



**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB**  
**ITEM # 7**  
**01/17/08**

**MEMORANDUM**

**DATE:** January 10, 2008  
**TO:** Montgomery County Planning Board  
**VIA:** Mary Dolan, Acting Chief, Countywide Planning  
Jorge Valladares, P.E., Chief, Environmental Planning  
**FROM:** Marion Clark, Environmental Planning  
**PURPOSE:** Legislation (Bills) pertaining to Greenhouse Gas Emissions, Climate Protection, Energy and Environmental Advocacy, Renewable Energy, and Energy Efficiency

**BILL:** No. 29-07, 30-07, 31-07, 32-07, 33-07, 34-07 and 35-07

**REVIEW BASIS:** Advisory to the County Council

**INTRODUCED BY:** Councilmembers Berliner, Elrich, Floreen, Leventhal, and Council Vice President Knapp (Bill 29-07); Councilmember Berliner, Council President Praisner, and Councilmembers Elrich, Floreen, and Trachtenberg (Bill 30-07); Councilmembers Berliner and Elrich (Bill 31-07); Councilmembers Berliner, Leventhal, Andrews, Elrich, and Floreen (Bill 32-07); Councilmembers Berliner, Ervin, Council President Praisner, and Councilmembers Elrich, Floreen, Trachtenberg, and Leventhal (Bill 33-07); Councilmember Berliner, Council President Praisner, and Councilmembers Andrews, Elrich, Floreen, Trachtenberg, and Leventhal (Bill 34-07); and Councilmembers Berliner, Ervin, Andrews, Elrich, Floreen, and Leventhal (Bill 35-07)

**INTRODUCED DATE:** November 20, 2007

**PLANNING BOARD REVIEW:** January 17, 2008

**PUBLIC HEARING:** January 17, 2008, 7:30 pm

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**STAFF RECOMMENDATION:** Transmit comments to County Council as follows:

- Staff strongly supports the intent of the bills to increase energy efficiency and reduce greenhouse gas emissions in Montgomery County.
- Bill 29-07: Support
- Bill 30-07: Support

- **Bill 31-07: Support**
- **Bill 32-07: Deferral**
- **Bill 33-07: Approval with modifications**
- **Bill 34-07: Deferral**
- **Bill 35-07: Support**

## **PURPOSE AND BACKGROUND**

The following seven bills propose legislative changes designed to combat global climate change by taking action in Montgomery County. They address increasing energy efficiency and promoting alternative energy sources in transportation and buildings for both public and private sector. The bills require county agencies to analyze, plan and implement actions to reduce greenhouse gas emissions. And they use a combination of incentives, mandates and programs to accomplish a goal of 80% reduction of greenhouse gas emissions by 2050.

### **Bill No. 29-07 - Concerning: Environmental Sustainability- Climate Protection - Motor Vehicles:** This bill requires:

- County vehicles to use biodiesel fuel.
- The Director of the Department of Public Works and Transportation (DPWT) to conduct an annual inventory of sport utility vehicles in the County fleet and ensure that the County fleet meets average fuel efficiency standards of 44 miles per gallon for cars and 33 mpg for light trucks by January 1, 2012.
- DPWT to evaluate the costs and benefits of creating a car share program.
- The Department of Human Resources to prepare a Telecommuting Action Plan.
- Private sector fuel retailers to sell low carbon fuel after the fuel is found widely available in the County by the Director of DPWT.

### **Bill No. 30-07- Concerning: Buildings - Energy Efficiency:** This bill requires:

- Buildings subject to the Green Building Law to meet ENERGY STAR standards;
- The Director of DPWT to develop an energy baseline, energy unit savings plan, and energy cost savings plan for each County building, that includes a plan to use an energy performance contract, unless using the contract outweighs the benefit.
- a building owner to pay an Environmental Sustainability Fee if the building does not comply with energy efficiency and environmental design standards.

### **Bill No. 31-07 - Concerning: Real Property – Energy Performance Audits:**

This bill requires:

- a home energy audit be conducted as a part of a home inspection

completed in connection with the sale of a single-family residential building.

**Bill No. 32-07- Concerning: Environmental Sustainability - Climate Protection Plan:** This bill requires:

- the Montgomery County Code to establish goals to reduce Countywide greenhouse gas emissions by 80% by 2050;
- the Director of the Department of Environmental Protection (DEP) to prepare a Climate Protection Plan designed to achieve Countywide goals for greenhouse gas emissions;
- the Directors of DEP and the Department of Finance to evaluate costs and benefits of converting the fuel energy tax to a carbon tax;
- the Director of the DEP to recommend whether the County should join a cap and trade program.

**Bill No. 33-07 - Concerning: Renewable Energy:** This bill:

- requires the Director of DEP to develop a Renewable Energy Action Plan after evaluating options for increasing the use of renewable energy in and by the County, including the feasibility of creating a Sustainable Energy Utility;
- prohibits enforcement of deed restrictions, covenants, rules, or regulations that would prohibit the installation of renewable energy devices;
- creates a property tax credit for the installation of solar, wind or geothermal energy devices, in the amount of 50% of the eligible costs or \$5000 for a heating system or \$1500 for a hot water supply system;
- amends the law to allow maximum tax credits of \$250,000 per fiscal year,
- the maximum credit is not to exceed the County property tax for that property in that tax year, and permits carryover for two years if the full amount of tax credit is not taken in the tax year that the application is approved.

**Bill No. 34-07**

**Concerning: Planning Procedures – Greenhouse Gas Emissions:** This bill requires:

- the Montgomery County Planning Board, when preparing master and sector plans, to assess a plan's potential impact on greenhouse gas emissions in the County and
- consider options that would minimize those emissions.

**Bill No. 35-07 Concerning: Consumer Protection – Energy and Environmental Advocacy:** This bill requires:

- the Office of Consumer Protection to represent the County's interest in obtaining the lowest possible rates consistent with environmental stewardship for gas, electricity, and other energy sources by participating in matters pending before appropriate federal and state agencies.

## ANALYSIS

**Planning staff is very supportive of these initiatives with certain modifications.**

*The General Plan Refinement of the Goals and Objectives for Montgomery County* approved and adopted in 1993 carries key concepts that support this legislation. Environmental concepts to manage the impacts of human activity on the environment and protect the public health and safety are clearly addressed by these bills, as are objectives to promote an awareness of environmental issues, to protect and improve water quality and protect and improve air quality.

By creating plans and programs to reduce greenhouse gas emissions, the legislation also supports the mission of the Montgomery County Department of Park and Planning to improve the quality of life by conserving and enhancing the natural and developed environment for current and future generations.

Planning staff does not know the fiscal impact these bills may have on our operations. Funding may be needed for consulting fees to provide expertise in quantitative analysis and producing the plan.

These bills assist in our efforts to reduce global climate change. In the package of seven, Bills 29-07, 30-07, 31-07 and 35-07 do not directly affect the work of the Planning Department but may have some impact on Park operations. These bills are more applicable to County agencies and may have impacts not discussed here. While we generally support these bills, others may have specific concerns with their implementation. Bills 32-07, 33-07 and 34-07 are the three bills that directly affect the work of the Planning Department and M-NCPPC interests. Staff makes the following recommendations:

**Bill 32-07 - Study is needed to determine roles and responsibilities of county agencies with respect to scope of services, division of responsibilities and budgets for planning efforts to fulfill climate protection goals.** This bill requires the Director of the Department of Environmental Protection to prepare a Climate Protection plan designed to achieve countywide goals for greenhouse gas emissions. The Plan is directed to identify ways to increase carbon sequestration by increasing tree canopy; identifying short-, mid-, and long-term goals to reduce greenhouse gas emissions 80% by 2050; recommending changes to the energy policy; planning education and outreach for residents and businesses; and investigating and recommending whether a cap and trade program is appropriate for the County.

Consolidating environmental information may be efficient, effective, and economically beneficial, for public leaders and private citizens in understanding environmental goals of the County. The Planning Department is already engaged in a Green Infrastructure Plan and an Energy and Environment Plan both of which will likely have recommendations that overlap and dovetail with the

Climate Protection Plan. For example, the Green Infrastructure Plan will analyze forest and tree canopy on a countywide basis in order to identify an interconnected network of green resources and gaps in coverage and make recommendations for increasing coverage.

Since a large measure of greenhouse gas emissions come from automobiles, the Planning Department will study vehicle miles traveled, a function of land use, in the Energy and Environment Plan. The plan will also address ways to reduce emissions in land use and transportation. Recommendations for public outreach, increasing tree cover, changes to the energy policy, and determining goals for reducing greenhouse gas emissions will need to be coordinated between agencies. We will need to determine an appropriate division of labor to produce the plans in the most effective manner.

To avoid overlap and fragmentation of climate protection issues and initiatives, the Department of Environmental Protection and the Planning Department should work together to craft a planning direction for information included in the Climate Protection Plan, the Energy and Environment Plan and the Green Infrastructure Plan before final action on this bill.

**Bill 33-07 - Modify language to allow enforcement of deed restrictions, covenants, rules and regulations when installing renewable energy devices for forest conservation easements and historic preservation review.** The Forest Conservation Law requires easements to be placed on land to protect forest resources. These easements play an important role in reducing greenhouse gas emissions, because they protect trees and forest that is sequestering and storing carbon dioxide. Removing forest to install a renewable energy device will reduce the amount of greenhouse gas emissions saved.

This bill also raises several concerns for Historic Preservation. Historic Preservation staff believes this bill would have a potentially adverse effect on the County's historic resources and infringe on the powers and duties of the Historic Preservation Commission as established in Chapter 24A of the County Code. Nothing in Chapter 24A would expressly prohibit installation of renewable energy devices on county-designated historic resources. But it is appropriate for the Commission to review all projects affecting historic resources, to ensure that proposed changes may be done in a way that avoids or reduces any adverse effect. It is possible that in many circumstances a property owner could install a renewable energy device in a manner consistent with the historic preservation code with the review and approval of the Commission.

HP also notes that this bill might face opposition from organizations that hold preservation easements on historic resources. These organizations, such as the Maryland Historical Trust, have a legal responsibility to ensure that all alterations to historic resources under easement are done in a manner subject to preservation best practices. These organizations may have an interest in

opposing any local law that would attempt to limit an easement holder's ability to fulfill its legal responsibilities.

**Bill 34-07 - This bill needs further study and clarification before a final recommendation can be made.** There are multiple ways to analyze greenhouse gas emissions. This bill provides no guidance for an approach to use. Sector and master plans can be analyzed quantitatively making a good faith effort to fully explore the effects of greenhouse gas emissions without determining the significance of the emissions. An approach to determine the significance may require baseline historical data that may or may not be available, and if it is available, may not be accurate. Assumptions used in the analysis would need to be verified and may be challenged. Furthermore, a threshold for comparison will need to be set to make goals and recommendations for reductions.

Green house gas emissions from land use and transportation sectors may be better analyzed on a countywide scale and embedded in the Energy Conservation and Environment Plan rather than on a sector or master plan basis. **This bill needs further study and discussion with the Planning Board prior to worksessions with the County Council.**

#### Attachments

1. Proposed Bill 29-07
2. Proposed Bill 30-07
3. Proposed Bill 31-07
4. Proposed Bill 32-07
5. Proposed Bill 33-07
6. Proposed Bill 34-07
7. Proposed Bill 35-07

**MEMORANDUM**

TO: County Council

FROM: Kathleen Boucher, Senior Legislative Attorney *KWB*  
Amanda Mihill, Legislative Analyst

SUBJECT: **Introduction:** Bill 29-07, Environmental Sustainability – Climate Protection – Motor Vehicles

Bill 29-07, Environmental Sustainability – Climate Protection – Motor Vehicles, sponsored by Councilmembers Berliner, Ervin, Elrich and Floreen, is scheduled to be introduced on November 20, 2007. A public hearing is tentatively scheduled for January 17, 2008 at 7:30 p.m. The bill:

- Requires County vehicles with diesel engines to use B20 biodiesel fuel;
- Requires the Department of Public Works and Transportation (DPWT) to conduct an annual inventory of sport utility vehicles in the County fleet and eliminate or replace any sport utility vehicle for which a more fuel-efficient vehicle could reasonably and satisfactorily perform the required function;
- Requires the Director of DPWT to ensure that the County fleet meets certain fuel efficiency standards by January 1, 2012;
- Requires Director of DPWT to evaluate the costs and benefits of creating a car share program for the purpose of reducing the number of motor vehicles in the County fleet and dependence of County residents and businesses on motor vehicle ownership;
- Requires fuel retailers to sell low carbon fuel within 1 year after the Director of the Department of Environmental Protection finds that the fuel is widely available in the County; and
- Requires the Director of the Department of Human Resources to prepare a Telecommuting Action Plan.

This packet contains:

Bill 29-07  
Legislative Request Report

Circle #

1  
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Bill No. 29-07  
Concerning: Environmental Sustainability  
              - Climate Protection - Motor Vehicles  
Revised: 11/16/07 Draft No. 7  
Introduced: November 20, 2007  
Expires: May 20, 2009  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## **COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND**

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By: Councilmembers Berliner, Ervin, Elrich, and Floreen

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### **AN ACT to:**

- (1) require certain County vehicles to use biodiesel fuel;
- (2) require the Director of the Department of Public Works and Transportation to conduct an annual inventory of sport utility vehicles in the County fleet;
- (3) require the Director of the Department of Public Works and Transportation to ensure that the County fleet meets certain fuel efficiency standards by a certain date;
- (4) require the Director of the Department of Public Works and Transportation to evaluate the costs and benefits of creating a car share program;
- (5) require certain fuel retailers to sell low carbon fuel within a certain time after the Director of the Department of Environmental Protection finds that the fuel is widely available in the County;
- (6) require the Director of the Department of Human Resources to prepare a Telecommuting Action Plan;
- (7) make stylistic changes; and
- (8) generally amend the law relating to energy, environmental policy, and motor vehicles.

### **By amending**

Montgomery County Code  
Chapter 18A, Energy Policy  
Sections 18A-1, 18A-5, 18A-8, and 18A-10

### **By adding**

Montgomery County Code  
Chapter 18A, Energy Policy  
Article II. Climate Protection – Motor Vehicles – County Fleet

### **By adding**

Montgomery County Code  
Chapter 18A, Energy Policy  
Article III. Climate Protection – Motor Vehicles – Private Sector



By adding

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Section 33-24

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<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. The title to Chapter 18A and Section 18A-1, Section 18A-5,**  
2       **Section 18A-8 and Section 18A-10 are amended as follows:**

3                   **Chapter 18A. [ENERGY POLICY] ENVIRONMENTAL**  
4                               **SUSTAINABILITY.**

5                               **Article I. Energy.**

6       **18A-1. Findings and statement of purpose.**

7       **(a)** In the interest of maintaining an adequate and reliable energy supply at  
8       reasonable cost, the County government recognizes the need to  
9       institutionalize through legislation an energy policy and energy planning  
10      program. In addition, the efficient use of energy directly benefits air  
11      quality, demonstrating the linkages necessary to achieve essential  
12      environmental goals. For this reason, the responsibilities of the  
13      Advisory Committee on Energy Conservation are expanded to include  
14      an advisory function with respect to air quality.

15      **(b)** The intent of this [Chapter] Article is to provide the initiative for  
16      County government to address energy issues and plan for a future which  
17      may be energy resource-constrained. It establishes the means to  
18      formulate ongoing policies, plans, programs and activities designed to  
19      foster energy conservation and to promote cost-effective alternatives to  
20      existing sources of energy and patterns of energy consumption while  
21      maintaining efforts to meet environmental goals.

22      **(c)** This [Chapter] Article is intended to serve as a vehicle for the  
23      promotion of energy consciousness throughout all segments of the  
24      community and for the development and implementation of immediate  
25      and long-range cooperative energy planning efforts in both the public  
26      and private sectors.

**18A-5. Energy and Air Quality Advisory Committee; establishment; terms of office; ex-officio members; etc.**

- (a) There is hereby established an Advisory Committee on Energy and Air Quality[, hereinafter referred to as the Committee,] to assist the County Council and the County Executive in carrying out the purposes of this [Chapter] Article and Chapter 3. The Committee consists of 15 members appointed by the County Executive, subject to confirmation by the County Council. One member must be designated by the Executive and confirmed by the Council to serve as chair of the Committee. [Appointees] Each appointee must be [citizens] a resident of the County who [are] is technically knowledgeable and interested in energy and air quality.

\* \* \*

**18A-8. Duties and responsibilities.**

The Committee has the following duties:

- (a) Advise the County Executive and the County Council of the activities of the Committee in furthering the goals of this [Chapter] Article and Chapter 3;

\* \* \*

- (f) Carry out [such other] duties [as may be] assigned from time to time by the County Executive and the County Council to assist in fulfilling the purposes of this [Chapter] Article.

**18A-10. Administrative arrangements; support and organizational duties and functions of County government.**

- (a) The County Executive must designate a senior officer or employee of the executive branch of County government to provide executive

direction to the performance of the functions and responsibilities delineated in this [Chapter] Article and to report annually to the Executive and Council on the activities undertaken to further the goals of this [Chapter] Article.

- (b) The County Executive may also establish [such] organizational and administrative arrangements as appropriate to promote the policies and purposes of this [Chapter] Article, including the following functions:

\* \* \*

**Sec. 2. Chapter 18A is amended by adding Article II as follows:**

**Article II. Climate Protection – Motor Vehicles – County Fleet.**

**18A-12. Definitions.**

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

“ASTM” means the American Society for Testing and Materials.

“B20” means a biodiesel blend of 20% biodiesel and 80% petroleum diesel fuels.

“Biodiesel” means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats which conform to ASTM D6751 specifications for use in diesel engines.

“Biodiesel blend” means a blend of biodiesel fuel meeting the requirements of ASTM D6751, designated BXX, where XX represents the volume percentage of biodiesel fuel in the blend.

“Car share program” means a program that allows County employees to conduct County business using motor vehicles which:

- (1) Are owned or leased by the County; and
- (2) County residents and businesses can lease when they are not being used for County business.

"County fleet" means all passenger vehicles and light trucks owned or leased by the County.

"County vehicle" means any motor vehicle owned or leased by the County.

"Department" means the Department of Public Works and Transportation.

"Diesel fuel" means a distillate fuel for use in diesel engines.

"Director" means the Director of the Department or the Director's designee.

"Fuel economy" means the federal Environmental Protection Agency's combined (city and highway) fuel economy estimate for a vehicle.

"Light truck" means a motor vehicle with a gross vehicle weight of less than 8,500 pounds which is:

- (1) Designed primarily for transporting property;
- (2) Designed primarily for transporting persons and has a capacity of more than 12 persons; or
- (3) Available with special features that enable off-road operation or use.

"Miles per gallon" means the distance traveled in a vehicle powered by one gallon of fuel.

"Passenger vehicle" means a motor vehicle, except a light truck or motorcycle, designed to carry no more than 12 persons.

"Public safety vehicle" means a motor vehicle whose primary purpose is patrol, transport, emergency response, or another purpose that requires specialized equipment or capabilities, which is used by:

- (1) The Department of Police;
- (2) The Fire and Rescue Service;
- (3) The Department of Correction and Rehabilitation; or
- (4) Any other County department or agency.

**18B-13. Biodiesel fuel standards.**

(a) Standard. A County vehicle with a diesel engine must use a biodiesel blend of B20 or higher unless the Director finds that there is a compelling reason to use:

(1) A different biodiesel blend; or

(2) Another fuel that achieves greater greenhouse gas reductions.

(b) Applicability. This Section does not apply to any County vehicle for which mechanical failure due to use of biodiesel fuel would void the manufacturer's warranty for that vehicle.

**18A-14. Sport utility vehicles.**

The Director must conduct an annual inventory of the County's sport utility vehicles and:

(a) Identify the function that each sport utility vehicle performs;

(b) Identify the most fuel-efficient type of vehicle that could reasonably and satisfactorily perform the function that each sport utility vehicle performs; and

(c) Eliminate or replace any sport utility vehicle for which a more fuel-efficient vehicle could reasonably and satisfactorily perform the identified function.

**18A-15. Fuel economy standards.**

(a) Standards. The Director must ensure that the County fleet meets the following fuel economy standards by January 1, 2012:

(1) For passenger vehicles, the fleet average fuel economy must be at least 44 miles per gallon; and

(2) For light trucks, the fleet average fuel economy must be at least 33 miles per gallon.

(b) Applicability. This Section does not apply to public safety vehicles.

**18A-16. Car share program.**

(a) Costs and benefits. The Director must evaluate the costs and benefits of creating a car share program for the purpose of reducing the:

(1) Number of motor vehicles in the County fleet; and

(2) Dependence of County residents and businesses on motor vehicle ownership.

(b) Factors to consider. The Director must consider whether:

(1) A car share program will help:

(A) Reduce traffic;

(B) Increase transit use;

(C) Promote walking and biking;

(D) Reduce carbon emissions;

(E) Improve air quality; and

(F) Reduce demand for parking; and

(2) The County should partner with a private entity to develop a car share program.

(c) Report. The Director must submit a report to the County Executive and County Council by July 1, 2008 that includes:

(1) Findings regarding the costs and benefits of a car share program; and

(2) Recommendations as to:

(A) Whether the County should create a car share program; and

(B) The type of car share program that best suits the County's needs.

**18A-17. Annual report.**

By September 1 each year, the Director must submit to the County Executive and County Council a report on the:

- (a) Use of biodiesel in County vehicles, including the quantity, blend, price per gallon, and average fuel consumption;
- (b) Results of the inventory of sport utility vehicles conducted under Section 18A-14; and
- (c) Average fuel economy for passenger vehicles and light trucks in the County fleet.

**Sec. 3. Chapter 18A is amended by adding Article III as follows:**

**Article III. Climate Protection - Motor Vehicles - Private Sector**

**18A-20. Low carbon fuel.**

- (a) Definitions. In this Section, the following words have the meanings indicated:

"Average carbon intensity" means a measurement of a fuel's adverse impact on the global climate, taking into account the fuel lifecycle, which is measured in grams of carbon dioxide equivalent per megajoule of energy in the fuel (gCO<sub>2</sub>e/MJ).

"Director" means the Director of the Department of Environmental Protection or the Director's designee.

"Fuel lifecycle" means the energy required to produce and use a fuel, including the extraction of raw materials, processing, refinement, distribution, and combustion.

"Fuel retailer" means a person that sells transportation fuel in the retail market.



"Low carbon fuel" means a transportation fuel with lower average carbon intensity than gasoline.

(b) Director's responsibilities. The Director must identify and evaluate available and emerging transportation fuels to determine whether each fuel is:

(1) A low carbon fuel; and

(2) Widely available to fuel retailers in the County.

(c) Average carbon intensity. In evaluating whether a transportation fuel is a low carbon fuel, the Department may rely on:

(1) The federal Environmental Protection Agency's findings regarding average carbon intensity; or

(2) Any other nationally recognized assessment of the fuel's average carbon intensity.

(d) Certification. If the Director finds that a low carbon fuel is widely available to fuel retailers in the County, the Director must certify that the fuel is widely available.

(e) Sale of low carbon fuel. If the Director certifies that a low carbon fuel is widely available, a fuel retailer must offer the certified fuel for sale to the public within 1 year after the Director certifies that the fuel is widely available.

(f) Regulations. The County Executive must adopt regulations under method (2) to administer this Section, including regulations that specify procedures for certifying low carbon fuels.

**Sec. 4. Chapter 33 is amended by adding Section 33-24 as follows:**

**33-24. Telecommuting.**

(a) Definitions. In this Section, the following words have the meanings indicated:

"Director" means the Director of the Department of Human Resources or the Director's designee.

"Telecommute" means a work arrangement in which some or all of the work is performed at an alternative work site such as a home or office space near a home.

(b) Telecommuting Action Plan. The Director must prepare a Telecommuting Action Plan that sets out a plan for increasing the number of County employees who telecommute.

(c) Contents. The Telecommuting Action Plan must:

(1) set numerical goals for the number of County employees who telecommute;

(2) identify the circumstances under which a County employee may telecommute; and

(3) identify procedures that a County employee must follow to obtain permission to telecommute.

(d) Annual report. The Director must report to the County Executive and County Council by September 1 of each year on the actions taken in the preceding fiscal year to implement the Telecommuting Action Plan.

*Approved:*

Marilyn J. Praisner, President, County Council

Date

## LEGISLATIVE REQUEST REPORT

Bill 29-07

*Environmental Sustainability – Climate Protection – Motor Vehicles*

**DESCRIPTION:** Requires certain County vehicles to use biodiesel fuel, requires the Department of Public Works and Transportation (DPWT) to conduct an annual inventory of sport utility vehicles in the County, requires DPWT to evaluate the costs and benefits of creating a car share program, requires certain fuel retailers to sell low carbon fuel within a certain time after the Department of Environmental Protection finds that the fuel is widely available in the County, and requires the Department of Human Resources to prepare a Telecommuting Action Plan.

**PROBLEM:** The consumption of gasoline and diesel fuel in vehicles is a significant contributor to carbon emissions. Transportation fuels are increasingly being made available which would substantially reduce carbon emissions. However, the County does not currently have a comprehensive plan to reduce carbon emissions resulting from vehicle use.

**GOALS AND OBJECTIVES:** These measures are designed to reduce carbon emission emitted in the County.

**COORDINATION:** Department of Public Works and Transportation, Department of Environmental Protection, and Department of Human Resources.

**FISCAL IMPACT:** To be requested.

**ECONOMIC IMPACT:** To be requested.

**EVALUATION:** To be requested.

**EXPERIENCE ELSEWHERE:** To be researched.

**SOURCE OF INFORMATION:** Kathleen Boucher, Senior Legislative Attorney (240) 777-7940  
Amanda Mihill, Legislative Analyst (240) 777-7815

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

**PENALTIES:** Class A violation.

**MEMORANDUM**

**TO:** County Council

**FROM:** Kathleen Boucher, Senior Legislative Attorney *KWB*  
Amanda Mihill, Legislative Analyst

**SUBJECT: Introduction: Bill 30-07, Buildings – Energy Efficiency**

Bill 30-07, Buildings - Energy Efficiency, sponsored by Councilmembers Berliner, Praisner, Elrich and Floreen, is scheduled to be introduced on November 20, 2007. A public hearing is tentatively scheduled for January 17, 2008 at 7:30 p.m. This bill:

- Requires new commercial, multi-family residential, and single-family residential buildings to meet ENERGY STAR standards;
- Requires the Director of the Department of Public Works and Transportation (DPWT) to develop an energy baseline, energy unit savings plan, and energy cost savings plan for each County building;
- Requires each energy unit savings plan and energy cost savings plan to include a plan for using an energy performance contract unless the Director finds that the cost of using an energy performance contract outweighs the benefit; and
- Requires a building owner to pay an Environmental Sustainability Fee if the building does not comply with Green Building or energy efficiency standards set out in County law.

**This packet contains:**

Bill 30-07  
Legislative Request Report

**Circle #**

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Bill No. 30-07  
Concerning: Buildings - Energy Efficiency  
Revised: 11/16/07 Draft No. 9  
Introduced: November 20, 2007  
Expires: May 20, 2009  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Councilmember Berliner, Council President Praisner, and Councilmembers Elrich and Floreen

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**AN ACT to:**

- (1) require certain commercial, multi-family residential, and single-family residential buildings to meet certain ENERGY STAR standards;
- (2) require the Director of the Department of Public Works and Transportation to develop an energy baseline, energy unit savings plan, and energy cost savings plan for each County building;
- (3) require that each energy unit savings plan and energy cost savings plan include a plan for using an energy performance contract unless the Director finds that the cost of using an energy performance contract outweighs the benefit;
- (4) require a building owner to pay an Environmental Sustainability Fee if the building does not comply with certain energy efficiency and environmental design standards; and
- (5) generally amend the law relating to buildings, energy, and environmental policy.

**By adding**

Montgomery County Code  
Chapter 8, Buildings  
Section 8-14B and 8-14C

**By amending**

Montgomery County Code  
Chapter 8, Buildings  
Article VII. Energy Efficiency and Environmental Design  
Sections 8-48, 8-49, 8-50, and 8-51

**By adding**

Montgomery County Code  
Chapter 8, Buildings  
Article VIII. Energy Efficiency

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<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. Section 8-14B and Section 8-14C are added as follows:

2   **8-14B.     County buildings – energy unit savings plans, energy cost savings**  
3       **plans, and energy performance contracts.**

4       (a) Definitions. In this Section, the following words have the meanings  
5       indicated:

6       “County building” means a building which is owned or leased by the  
7       County.

8       “Department” means the Department of Public Works and  
9       Transportation.

10      “Director” means the Director of the Department or the Director’s  
11      designee.

12      “Energy baseline” means the amount of energy consumed each year  
13      by a County building based on historical metered data, engineering  
14      calculations, submetering of buildings or energy consuming systems,  
15      building load simulation models, statistical regression analysis, or any  
16      combination of those methods.

17      “Energy cost savings plan” means a plan to reduce a County  
18      building’s energy costs, including related operation and maintenance  
19      costs.

20      “Energy performance contract” means a contract which provides for  
21      the performance of services for the design, acquisition, installation,  
22      testing, operation, maintenance, or repair of an identified energy  
23      conservation measure or series of measures in a County building.

24 "Energy unit savings plan" means a plan to reduce the amount of  
 25 energy used by a County building, as measured in kilowatt hours or  
 26 British thermal units.

27 (b) Requirements. The Director must:

- 28 (1) Develop an energy baseline, energy unit savings plan, and energy  
 29 cost savings plan for each County building;  
 30 (2) Submit an initial report to the County Executive and County  
 31 Council by September 1, 2008 which summarizes the energy  
 32 baseline, energy unit savings plan, and energy cost savings plan  
 33 for each County building; and  
 34 (3) Submit an annual report to the County Executive and County  
 35 Council by September 1 of each year that summarizes the steps  
 36 taken in the preceding fiscal year to implement the energy unit  
 37 savings plan and energy cost savings plan for each County  
 38 building.

- 39 (c) Energy performance contracts. Each energy unit savings plan and  
 40 energy cost savings plan that the Director prepares under subsection (b)  
 41 must include a plan to use an energy performance contract unless the  
 42 Director finds that the cost of using an energy performance contract  
 43 outweighs the benefit.

44 **8-14C. Private buildings – incentives**

- 45 (a) Study. The Director must evaluate options for creating incentives for  
 46 the owners of commercial, multi-family residential, or single-family  
 47 residential buildings to modify the buildings to increase their energy  
 48 efficiency.



(b) Report. The Director must submit a report to the County Executive and County Council by July 1, 2008 regarding the Director's findings and recommendations.

Sec. 2. The title to Article VII of Chapter 8 and Section 8-48, Section 8-49, Section 8-50, and Section 8-51 are amended as follows:

[ARTICLE VII. ENERGY EFFICIENCY AND ENVIRONMENTAL DESIGN.] Article VII. Energy Efficiency and Environmental Design.

**8-48. Definitions.**

In this Article, in addition to any term defined elsewhere in this Chapter [or in regulations adopted under this Chapter], the following words have the meanings indicated:

\* \* \*

"ENERGY STAR rating" means the ENERGY STAR rating developed by the federal Environmental Protection Agency which reflects a building's energy efficiency.

\* \* \*

"National energy performance rating system" means the rating system developed by the federal Environmental Protection Agency under which a building may obtain the ENERGY STAR rating.

\* \* \*

"Professional engineer" means an engineer who is licensed by the State of Maryland.

"Temporary use and occupancy certificate" means a certificate that authorizes the use and occupancy of a building for up to 18 months.

**8-49. Standards and requirements.**

- 74 (a) County buildings. Any County building must, in addition to any action  
75 required under Section 8-14A, achieve:
- 76 (1) [a] A silver-level rating in the appropriate LEED rating system,  
77 as certified by the Green Building Council;
- 78 (2) [a] A silver-level rating in the appropriate LEED rating system,  
79 as verified by the Director or a qualified person approved by the  
80 Director; or
- 81 (3) [energy] Energy and environmental design standards that the  
82 Director identifies as equivalent to a silver-level rating in the  
83 appropriate LEED rating system, as verified by the Director or  
84 a qualified person approved by the Director.
- 85 (b) Other covered buildings. Any other covered building must achieve:
- 86 (1) [a] A certified-level rating in the appropriate LEED rating  
87 system, as certified by the Green Building Council;
- 88 (2) [a] A certified-level rating in the appropriate LEED rating  
89 system, as verified by the Director or a qualified person  
90 approved by the Director; or
- 91 (3) [energy] Energy and environmental design standards that the  
92 Director identifies as equivalent to a certified-level rating in the  
93 appropriate LEED rating system, as verified by the Director or  
94 a qualified person approved by the Director.
- 95 (c) Energy efficiency. In addition to complying with subsection (a) or (b),  
96 any covered building must achieve the ENERGY STAR rating under  
97 the national energy performance rating system.

(d) Additions. However, for any building for which an application for all necessary building permits was filed before September 1, 2008, any later addition to that building must achieve the requirements of a subsection (a) or (b), whichever applies, and subsection (c) only if the addition would increase the building's:

- (1) [land] Land coverage by at least 100%; and
- (2) [gross] Gross floor area by at least 10,000 square feet.

**8-50. Building permits; [use-and-occupancy permit] use and occupancy certificates.**

(a) Design plans. The applicant for a building permit for a covered building must submit to the Department:

- (1) [design] Design plans for the building which are likely to achieve the applicable standard under:

(A) [Section 8-49] Section 8-49(a) or (b), whichever applies, as certified or otherwise approved by the Green Building Council or verified by the Director or a qualified person designated by the Department; and

(B) Section 8-49(c), as verified by a professional engineer; and

- (2) [any] Any other document or information the Department finds necessary to decide whether the building will achieve the applicable [standard] standards under Section 8-49.

(b) Building permit. The Department must require compliance with Section 8-49 as a condition of any building permit issued for a covered building.

(c) Final use and occupancy certificate. The Department must not issue a final [certificate of] use and occupancy certificate for a covered building unless it finds that the building has achieved the applicable [standard] standards under Section 8-49.

(d) Temporary use and occupancy certificate. If a covered building has not achieved the applicable standards under Section 8-49 but the Department finds that a process is in place to achieve those standards within 18 months, the Department may issue a temporary use and occupancy certificate which is valid for up to 18 months.

(e) Environmental Sustainability Fee.

(1) If a temporary use and occupancy certificate expires before a covered building complies with the applicable standards under Section 8-49, the building owner must pay an Environmental Sustainability Fee that is equal to the cost of bringing the building into compliance.

(2) The fees collected under paragraph (1) must be used to fund programs that help mitigate the energy and environmental impacts of buildings.

#### **8-51. Regulations.**

The County Executive must adopt regulations under method (2) to administer this Article. Those regulations must specify:

(a) [the] The LEED rating system, and any equivalent energy and environmental design standard, that applies to each type of covered building under [Section 8-49] Section 8-49(a) and (b).

- (b) [the] The process to verify that a covered building complies with any applicable standard under Section 8-49, including the types of persons who are qualified to verify compliance;
- (c) [any] Any standards and procedures under which the Director may approve full or partial waivers of Section 8-49 when compliance would be impractical or unduly burdensome and the public interest would be served by the waiver; [and]
- (d) The methodology that the Department will use to determine the amount of the Environmental Sustainability Fee that must be paid under Section 8-50(e); and
- (e) [standards] Standards and procedures for any enforcement mechanism[, such as a performance bond,] that the Department finds necessary to accomplish the purposes of this Article.

**Sec. 3. Article VIII is added to Chapter 8 as follows:**

**Article VIII. Energy Efficiency**

**8-53. Definitions.**

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

"Covered building" means a newly constructed:

- (1) Single-family residential building; or
- (2) Multi-family residential building which is:
  - (A) Not a covered building under Section 8-48; and
  - (B) Eligible to earn the ENERGY STAR rating.

"Department" means the Department of Environmental Protection.

"Director" means the Director of the Department or the Director's designee.

"ENERGY STAR rating" means the ENERGY STAR rating developed by the federal Environmental Protection Agency which measures a building's energy efficiency.

"Home Energy Rating System" or "HERS" means the energy efficiency rating system for residential buildings developed by RESNET.

"Qualified home energy performance rater" means an individual who:

(1) Is certified by RESNET as a home energy performance rater; or

(2) Meets other equivalent requirements approved by the Director.

"RESNET" means the Residential Energy Services Network.

"Performance path" means the process developed by the federal Environmental Protection Agency under which a building may achieve the ENERGY STAR rating if it:

(1) Achieves the applicable HERS index score; and

(2) Is verified and field-tested by a qualified home energy performance rater.

"Prescriptive path" means the process developed by the federal Environmental Protection Agency under which a building may achieve the ENERGY STAR rating if it:

(1) Complies with the applicable ENERGY STAR Builder Option Package; and

(2) Is verified and field-tested by a qualified home energy performance rater.

**8-54. ENERGY STAR standard.**

A covered building must achieve the ENERGY STAR rating under the performance or prescriptive path.

**8-55. Building permits; use and occupancy certificates.**

(a) Design plans. An applicant for a building permit for a covered building must submit to the Department:

(1) Design plans for the building that are likely to achieve the standard under Section 8-54, as certified by a qualified home energy performance rater; and

(2) Any other document or information the Department finds necessary to decide whether the building will achieve the standard under Section 8-54.

(b) Building permit. The Department must require compliance with Section 8-54 as a condition of any building permit issued for a covered building.

(c) Final use and occupancy certificate. The Department must not issue a final use and occupancy certificate for a covered building unless it finds that the building complies with Section 8-54.

(d) Temporary use and occupancy certificate. If a covered building does not comply with Section 8-54 but the Department finds that a process is in place to achieve compliance within 18 months, the Department may issue a temporary use and occupancy certificate which is valid for up to 18 months.

(e) Environmental Sustainability Fee.

(1) If a temporary use and occupancy certificate expires before a covered building complies with Section 8-54, the building owner must pay an Environmental Sustainability Fee that is equal to the cost of bringing the building into compliance.

(2) The fees collected under paragraph (1) must be used to fund programs that help mitigate the energy and environmental impacts of buildings.

**8-56. Regulations.**

The County Executive must adopt regulations under method (2) to administer this Article. Those regulations must specify:

- (a) Any process for becoming a qualified home energy performance rater that the Director finds is equivalent to the RESNET certification process;
- (b) Any standards and procedures under which the Director may approve full or partial waivers of Section 8-54 when compliance would be impractical or unduly burdensome and the waiver would serve the public interest;
- (c) The methodology that the Department will use to determine the amount of the Environmental Sustainability Fee that must be paid under Section 8-55(e); and
- (d) Standards and procedures for any enforcement mechanism that the Department finds necessary to accomplish the purposes of this Article.

**Sec. 3. Applicability; initial regulations.**

- (a) Section 8-49(c), as added by Section 2 of this Act, applies to any covered building, other than a County building, for which a building permit application is filed on or after January 1, 2009.
- (b) Section 8-49(c), as added by Section 2 of this Act, applies to any County building for which design funding is first included in the appropriate capital budget for fiscal year 2009 or any later fiscal year,



or, if design funding is not directly included in the capital budget, for which a building permit application is filed on or after January 1, 2009.

(c) Section 8-54, as added by Section 3 of this Act, applies to any covered building for which a building permit application is filed on or after January 1, 2009.

(d) By March 15, 2008, the County Executive must adopt, and submit to the Council under County Code Section 2A-15, regulations required by Section 8-51, as amended by Section 2 of this Act, and Section 8-56, as added by Section 3 of this Act.

*Approved:*

---

Marilyn J. Praisner, President, County Council

Date

*Approved:*

---

Isaih Leggett, County Executive

Date

*This is a correct copy of Council action.*

---

Linda M. Lauer, Clerk of the Council

Date

## LEGISLATIVE REQUEST REPORT

Bill 30-07

*Buildings – Energy Efficiency*

<b>DESCRIPTION:</b>	Requires certain commercial, multi-family residential, and single-family residential buildings to meet ENERGY STAR standards, requires the Department of Public Works and Transportation to develop and energy baseline, energy unit savings plan, and energy cost savings plan for each County building, requires that each energy unit savings plan and energy cost savings plan include a plan for using an energy performance contract, and requires a building owner to pay an Environmental Sustainability Fee if the building does not comply with certain energy efficiency and environmental design standards.
<b>PROBLEM:</b>	Although the County Green Buildings Law requires certain commercial and multifamily buildings to meet LEED Silver (County buildings) or LEED Certified (private buildings) standards, those standards can be achieved without making any significant reductions in energy consumption. Under current County law, there are no energy or environmental design standards for single family residential buildings. The County has made only modest investments in retrofitting existing government buildings.
<b>GOALS AND OBJECTIVES:</b>	To reduce the energy consumption of commercial, residential, and government buildings in the County.
<b>COORDINATION:</b>	Department of Environmental Protection, Department of Permitting Services
<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>	Kathleen Boucher, Senior Legislative Attorney (240) 777-7940 Amanda Mihill, Legislative Analyst (240) 777-7815

**APPLICATION  
WITHIN  
MUNICIPALITIES:**

To be researched.

**PENALTIES:**

Class A violation.

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AGENDA ITEM 6  
November 20, 2007  
Introduction

MEMORANDUM

TO: County Council

FROM: Kathleen Boucher, Senior Legislative Attorney *KWB*  
Amanda Mihill, Legislative Analyst

SUBJECT: **Introduction:** Bill 31-07, Real Property – Energy Performance Audits

Bill 31-07, Real Property – Energy Performance Audits, sponsored by Councilmembers Berliner and Elrich, is scheduled to be introduced on November 20, 2007. A public hearing is tentatively scheduled for January 17, 2008 at 7:30 p.m.

The bill prohibits the sale of a single-family residential building unless a qualified home energy performance rater conducts a home energy audit and provides a written report to the buyer before the home is sold which: (1) contains findings and recommendations for improving the home's energy efficiency; (2) identifies energy efficiency improvements which would generate energy cost savings that would fully or partially fund the cost of improvements; and (3) identifies any public or private financing mechanism known to the home energy performance rater that could be used to impellent energy efficiency improvements.

This packet contains:

Bill 31-07  
Legislative Request Report

Circle #

1  
4

Bill No. 31-07  
Concerning: Real Property -- Energy  
Performance Audits  
Revised: 11/16/07 Draft No. 1  
Introduced: November 20, 2007  
Expires: May 20, 2009  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Berliner and Elrich

### AN ACT to:

- (1) prohibit the sale of a single-family residential building unless a home energy audit is conducted before the building is sold; and
- (2) generally amend the law relating to real property, energy, and environmental policy.

By adding

Montgomery County Code  
Chapter 40, Real Property  
Section 40-13A

**Boldface**

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

\* \* \*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*

*The County Council for Montgomery County, Maryland approves the following Act:*

1        **Sec. 1. Section 40-13A is added as follows:**

2        **40-13A.    Energy performance audits – single family homes.**

3        (a)    Definitions. In this Section, the following words have the meanings  
4        indicated:

5        “Blower door test” means a test to find air leakage in a building using a  
6        variable speed fan to pressurize or de-pressurize the building.

7        “Department” means the Department of Environmental Protection.

8        “Director” means the Director of the Department or the Director’s  
9        designee.

10       “Home energy audit” means an evaluation of the energy efficiency of a  
11       home which includes:

12       (1)    A blower door test;

13       (2)    A thermographic scan; and

14       (3)    Any other test or diagnostic measurement which the Department  
15       finds necessary to:

16           (A)   Ensure that a home’s energy efficiency is accurately  
17           measured; or

18           (B)   Identify steps that can be taken to improve a home’s  
19           energy efficiency.

20       “Qualified home energy performance rater” means an individual who:

21       (1)    Is certified by RESNET as a home energy performance rater; or

22       (2)    Meets other equivalent requirements approved by the Director.

23       “RESNET” means the Residential Energy Services Network.

24       “Single-family home” means a single-family detached or attached  
25       residential building.

"Thermographic scan" means a test to detect heat loss and air leakage in a building using infrared scanning.

(b) Requirement. Except as provided in subsection (c), a person must not sell a single-family home unless a qualified home energy performance rater conducts a home energy audit and provides a written report to the buyer before the home is sold which:

(1) Contains findings and recommendations for improving the home's energy efficiency;

(2) Identifies energy efficiency improvements which would generate energy cost savings that would fully or partially fund the cost of the improvements; and

(3) Identifies any public or private financing mechanisms known to the home energy performance rater that could be used to implement energy efficiency improvements.

(c) Costs. The buyer must pay for the home energy audit unless the seller agrees to pay for the audit as a condition of a sales contract.

(d) Applicability. This Section does not apply to the initial sale of a covered building under Section 8-54.

**Sec. 2. Applicability.**

(a) Subject to subsection (b), Section 40-15, as added by Section 1 of this Act, applies to any sales contract signed on or after January 1, 2009.

(b) If the Director of the Department of Permitting Services finds that there is an insufficient number of qualified home energy performance raters doing business in the County on January 1, 2009, the Director may delay the applicability of Section 40-15, as added by Section 1 of this Act, for up to 1 year.

## LEGISLATIVE REQUEST REPORT

Bill 31-07

### *Real Property – Energy Performance Audits*

**DESCRIPTION:** Prohibits the sale of a single-family residential building unless a home energy audit is conducted before the building is sold.

**PROBLEM:** Existing homes, particularly older homes, are often energy inefficient. There are currently very few programs that assist homeowners in making important energy efficiency retrofits to reduce energy consumption.

**GOALS AND OBJECTIVES:** To assist homeowners in obtaining an analysis of how a home's energy efficiency can be improved.

**COORDINATION:** Department of Environmental Protection.

**FISCAL IMPACT:** To be requested.

**ECONOMIC IMPACT:** To be requested.

**EVALUATION:** To be requested.

**EXPERIENCE ELSEWHERE:** To be researched.

**SOURCE OF INFORMATION:** Kathleen Boucher, Senior Legislative Attorney (240) 777-7940  
Amanda Mihill, Legislative Analyst (240) 777-7815

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

**PENALTIES:** Class A violation.



AGENDA ITEM 7  
November 20, 2007  
**Introduction**

**MEMORANDUM**

TO: County Council

FROM: Kathleen Boucher, Senior Legislative Attorney *YMB*  
Amanda Mihill, Legislative Analyst

SUBJECT: **Introduction:** Bill 32-07, Environmental Sustainability – Climate Protection Plan

Bill 32-07, Environmental Sustainability – Climate Protection Plan, sponsored by Councilmembers Berliner, Andrews, Elrich and Floreen, is scheduled to be introduced on November 20, 2007. A public hearing is tentatively scheduled for January 17, 2008 at 7:30 p.m. This bill:

- Requires the Director of the Department of Environmental Protection (DEP) to prepare a Climate Protection Plan by January 1, 2009 that outlines a plan to reduce Countywide greenhouse gas emissions by 80% by January 1, 2050;
- Requires the Directors of DEP and the Department of Finance to evaluate the costs and benefits of converting the fuel energy tax to a carbon tax; and
- Requires the Director of DEP to recommend whether the County should join a cap and trade program.

This packet contains:

Bill 32-07  
Legislative Request Report

Circle #

1  
9

Bill No. 32-07  
Concerning: Environmental Sustainability  
              - Climate Protection Plan  
Revised: 11/16/07 Draft No. 10  
Introduced: November 20, 2007  
Expires: May 20, 2009  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Berliner, Andrews, Elrich, and Floreen

### AN ACT to:

- (1) establish goals to reduce Countywide greenhouse gas emissions by a certain amount by a certain date;
- (2) require the Director of the Department of Environmental Protection to prepare a Climate Protection Plan designed to achieve Countywide goals for greenhouse gas emissions;
- (3) require the Directors of the Department of Environmental Protection and Department of Finance to evaluate the costs and benefits of converting the fuel energy tax to a carbon tax;
- (4) require the Director of the Department of Environmental Protection to recommend whether the County should join a cap and trade program;
- (5) make stylistic changes; and
- (6) generally amend the law relating to energy and environmental policy.

### By amending

Montgomery County Code  
Chapter 18A, Energy Policy  
Sections 18A-1, 18A-5, 18A-8, and 18A-10

### By adding

Montgomery County Code  
Chapter 18A, Energy Policy  
Article II. Climate Protection

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<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. The title to Chapter 18A and Section 18A-1, Section 18A-5,**  
2       **Section 18A-8, and Section 18A-10 are amended as follows:**

3                   **Chapter 18A. [ENERGY POLICY] ENVIRONMENTAL**  
4                               **SUSTAINABILITY.**

5                               **Article I. Energy.**

6       **18A-1. Findings and statement of purpose.**

7           **(a)** In the interest of maintaining an adequate and reliable energy supply at  
8           reasonable cost, the County government recognizes the need to  
9           institutionalize through legislation an energy policy and energy planning  
10          program. In addition, the efficient use of energy directly benefits air  
11          quality, demonstrating the linkages necessary to achieve essential  
12          environmental goals. For this reason, the responsibilities of the  
13          Advisory Committee on Energy Conservation are expanded to include  
14          an advisory function with respect to air quality.

15          **(b)** The intent of this [Chapter] Article is to provide the initiative for  
16          County government to address energy issues and plan for a future which  
17          may be energy resource-constrained. It establishes the means to  
18          formulate ongoing policies, plans, programs and activities designed to  
19          foster energy conservation and to promote cost-effective alternatives to  
20          existing sources of energy and patterns of energy consumption while  
21          maintaining efforts to meet environmental goals.

22          **(c)** This [Chapter] Article is intended to serve as a vehicle for the  
23          promotion of energy consciousness throughout all segments of the  
24          community and for the development and implementation of immediate  
25          and long-range cooperative energy planning efforts in both the public  
26          and private sectors.

**18A-5. Energy and Air Quality Advisory Committee; establishment; terms of office; ex-officio members [; etc].**

- (a) There is hereby established an Advisory Committee on Energy and Air Quality[, hereinafter referred to as the Committee,] to assist the County Council and the County Executive in carrying out the purposes of this [Chapter] Article and Chapter 3. The Committee consists of 15 members appointed by the County Executive, subject to confirmation by the County Council. One member must be designated by the Executive and confirmed by the Council to serve as chair of the Committee. [Appointees] Each appointee must be [citizens] a resident of the County who [are] is technically knowledgeable and interested in energy and air quality.

\* \* \*

**18A-8. Duties and responsibilities.**

The Committee has the following duties:

- (a) Advise the County Executive and the County Council of the activities of the Committee in furthering the goals of this [Chapter] Article and Chapter 3;

\* \* \*

- (f) Carry out [such other] duties [as may be] assigned from time to time by the County Executive and the County Council to assist in fulfilling the purposes of this [Chapter] Article.

**18A-10. Administrative arrangements; support and organizational duties and functions of county government.**

- (a) The County Executive must designate a senior officer or employee of the executive branch of County government to provide executive

direction to the performance of the functions and responsibilities delineated in this [Chapter] Article and to report annually to the Executive and Council on the activities undertaken to further the goals of this [Chapter] Article.

- (b) The County Executive may also establish [such] organizational and administrative arrangements as appropriate to promote the policies and purposes of this [Chapter] Article, including the following functions:

\* \* \*

**Sec. 2. Chapter 18A is amended by adding Article II. Climate Protection as follows:**

**Article II. Climate Protection.**

**18A-12. Definitions**

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

“Cap and trade program” means a program that places a limit on the aggregate net greenhouse gas emissions of the participants, while allowing the transfer or sale of greenhouse gas emission allowances.

“Carbon dioxide equivalent” means a given weight of a greenhouse gas that has the same global warming potential, measured over a specified time, as a given weight of carbon dioxide.

“Climate Protection Plan” means the plan to reduce the level of Countywide greenhouse gas emissions prepared under Section 18A-13

“Countywide greenhouse gas emissions” means the total annual greenhouse gas emissions in the County, measured in tons of carbon dioxide equivalents, including all emissions from electricity generated outside the County but consumed in the County.

“Department” means the Department of Environmental Protection.

79 "Director" means the Director of the Department or the Director's designee.

80 "Greenhouse gas" includes carbon dioxide, methane, nitrous oxide,  
81 hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, and any other  
82 gas or substance the Director finds to be a significant contributor to global  
83 warming.

84 **18A-13. Climate Protection Plan.**

85 (a) Inventory. The Director must conduct a greenhouse gas emissions  
86 inventory to determine the amount of greenhouse gases emitted in the  
87 County and submit a written report on the inventory to the County  
88 Executive and County Council by July 1, 2008.

89 (b) Reduction of greenhouse gas emissions. The Director must prepare a  
90 Climate Protection Plan by January 1, 2009 that outlines a plan to  
91 reduce Countywide greenhouse gas emissions to 80% below the amount  
92 of greenhouse gas emissions in the base year identified in the inventory  
93 prepared under subsection (a) by January 1, 2050.

94 (c) Climate Protection Plan. The Climate Protection Plan must:

95 (1) Identify a strategy, including short-, mid-, and long-term goals, to  
96 reduce Countywide greenhouse gas emissions to the level  
97 required in subsection (b);

98 (2) Explain how the Climate Protection Plan relates to the Energy  
99 Policy approved by the Council under Section 18A-3 and  
100 identifies any recommended changes to the Energy Policy that  
101 are needed to implement the Climate Protection Plan;

102 (3) Identify existing cap and trade programs and recommends  
103 whether the County should join a cap and trade program;

-6-

(4) Identify ways to increase sequestration of greenhouse gases, including a Tree Canopy Initiative that contains a plan for increasing the County's tree canopy;

(5) Include an education and outreach plan designed to educate County residents and businesses about:

(A) Global climate change;

(B) County efforts to reduce greenhouse gas emissions;

(C) Sequestration of carbon; and

(D) Best practices for reducing greenhouse gas emissions; and

(6) Estimate the time and resources necessary to implement the Climate Protection Plan.

(d) Preparation. In preparing the Climate Protection Plan, the Director must:

(1) Consider greenhouse gas emissions reduction programs in other jurisdictions;

(2) Evaluate the potential costs and benefits of different options for reducing greenhouse gas emissions to the County's economy, environment, health, safety, and welfare; and

(3) Use the best available economic models, emissions estimating techniques, and other scientific methods.

(e) Annual report. The Director must submit a report to the County Executive and County Council by September 1 of each year that specifies:

(1) The actions taken to implement the Climate Protection Plan in the preceding fiscal year; and



(2) Whether the County is meeting the goals identified in the Climate Protection Plan.

**18A-14. Carbon tax.**

(a) In this Section, the following words have the meanings indicated:

"Carbon tax" means a tax that is proportionate to the amount of carbon dioxide produced by an energy source.

"Fuel energy tax" means the fuel energy tax imposed under Section 52-14.

(b) The Directors of the Department of Environmental Protection and Department of Finance must:

(1) Evaluate the costs and benefits of converting the fuel energy tax to a carbon tax; and

(2) Submit findings and recommendations to the County Executive and County Council by July 1, 2008, including a recommended methodology for converting the fuel energy tax to a carbon tax.

*Approved:*

\_\_\_\_\_  
Marilyn J. Praisner, President, County Council

\_\_\_\_\_  
Date

*Approved:*

\_\_\_\_\_  
Isaih Leggett, County Executive

\_\_\_\_\_  
Date

*This is a correct copy of Council action.*

\_\_\_\_\_  
Linda M. Lauer, Clerk of the Council

\_\_\_\_\_  
Date

## LEGISLATIVE REQUEST REPORT

Bill 32-07

### *Environmental Sustainability – Climate Protection Plan*

<b>DESCRIPTION:</b>	Establishes goals to reduce Countywide greenhouse gas emissions by 80 percent by the year 2050, requires the Director of the Department of Environmental Protection to prepare a Climate Protection Plan designed to achieve Countywide goals for greenhouse gas emissions, requires the Directors of the Department of Environmental Protection and the Department of Finance to evaluate the costs and benefits of converting the fuel energy tax to a carbon tax, and requires the Director of the Department of Environmental Protection to recommend whether the County should join a cap and trade program.
<b>PROBLEM:</b>	There is a consensus among the world's leading scientists that global warming caused greenhouse gas emissions is among the most significant problems facing the world today and scientists have projected that stabilization of climate change in time to minimize such impacts will require a reduction of global warming emissions to 80 percent below current levels by the year 2050. Montgomery County has a unique role to play in reducing greenhouse gas emissions and preparing for the impacts of climate change through its regional jurisdiction over policy areas such as air quality, land use planning, transportation, zoning, forest preservation, water conservation, and wastewater and solid waste management. However, the County does not currently have a comprehensive plan in place to achieve significant reductions in greenhouse gas emissions.
<b>GOALS AND OBJECTIVES:</b>	To provide a comprehensive approach to reducing Countywide greenhouse gas emissions by requesting various departments in the Executive branch to address key elements of the comprehensive approach.
<b>COORDINATION:</b>	Department of Environmental Protection, Department of Finance.
<b>FISCAL IMPACT:</b>	To be requested.
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EVALUATION:</b>	To be requested.
<b>EXPERIENCE</b>	To be researched.

9

**ELSEWHERE:**

**SOURCE OF  
INFORMATION:**

Kathleen Boucher, Senior Legislative Attorney (240) 777-7940  
Amanda Mihill, Legislative Analyst (240) 777-7815

**APPLICATION  
WITHIN  
MUNICIPALITIES:**

To be researched.

**PENALTIES:**

N/A.

F:\LAW\BILLS\0732 Environmental Sustainability - Climate Protection Plan\LRR.Doc

AGENDA ITEM 8  
November 20, 2007  
Introduction

MEMORANDUM

TO: County Council

FROM: Kathleen Boucher, Senior Legislative Attorney *KMB*  
Amanda Mihill, Legislative Analyst *AM*

SUBJECT: **Introduction:** Bill 33-07, Renewable Energy

Bill 33-07, Renewable Energy, sponsored by Councilmembers Berliner, Ervin, Council President Praisner, and Councilmembers Elrich and Floreen, is scheduled to be introduced on November 20, 2007. A public hearing is tentatively scheduled for January 17, 2008 at 7:30 p.m. This bill:

- Requires the Director of the Department of Environmental Protection (DEP) to develop a Renewable Energy Action Plan;
- Requires the Director of DEP to study the feasibility of creating a Sustainable Energy Utility;
- Prohibits enforcement of any deed restriction, covenant, rule, or regulation which would prohibit the owner of any building from installing a renewable energy device; and
- Creates a property tax credit for residential property that uses a solar or geothermal energy device.

This packet contains:

Bill 33-07  
Legislative Request Report

Circle #

1  
8

Bill No. 33-07  
Concerning: Renewable Energy  
Revised: 11/1607 Draft No. 7  
Introduced: November 20, 2007  
Expires: May 20, 2009  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Berliner, Ervin, Council President Praisner, and Councilmembers Elrich and Floreen

### AN ACT to:

- (1) require the Director of the Department of Environmental Protection to develop a Renewable Energy Action Plan after evaluating options for increasing the use of renewable energy in and by the County, including the feasibility of creating a Sustainable Energy Utility;
- (2) prohibit enforcement of certain deed restrictions, covenants, rules, or regulations relating to renewable energy devices;
- (3) create a property tax credit for the installation of certain renewable energy devices; and
- (4) generally amend the law relating to energy and property tax credits.

### By adding

Montgomery County Code  
Chapter 18A, Energy Policy  
Section 18A-12

Chapter 40, Real Property  
Section 40-3A

Chapter 52, Taxation  
Section 52-18Q

#### **Boldface**

#### Underlining

**[Single boldface brackets]**

Double underlining

**[[Double boldface brackets]]**

\* \* \*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*

1

*The County Council for Montgomery County, Maryland approves the following Act:*

Sec. 1. Section 18A-12, Section 40-3A, and Section 52-18Q are added as follows:

**18A-12. Renewable Energy Action Plan.**

(a) Definitions. In this Section, the following words have the meanings indicated:

"Department" means the Department of Environmental Protection.

"Director" means the Director of the Department or the Director's designee.

"Renewable energy" means the following energy sources or technology:

(1) Solar;

(2) Wind;

(3) Geothermal;

(4) Tidal;

(5) Methane from anaerobic decomposition of organic materials in a landfill or wastewater treatment plant; and

(6) Any other energy source or technology which the Director finds is derived from natural processes that do not involve the consumption of exhaustible resources.

"Sustainable Energy Utility" means a non-profit organization which:

(1) Develops end-user markets for products and services relating to energy efficiency and renewable energy; and

(2) Serves as a point-of-contact for end-users to obtain information about products and services relating to energy efficiency and renewable energy.

(b) Study. The Director must prepare a Renewable Energy Action Plan after evaluating the costs and benefits of options to increase renewable

energy use in and by the County, including the feasibility of creating a Sustainable Energy Utility.

(c) Initial report. The Director must submit a report to the County Executive and County Council by July 1, 2008 that identifies the components of the Renewable Energy Action Plan.

(d) Energy work program. The County Executive's energy work program, required by Section 18A-2, must identify any action necessary to implement the Renewable Energy Action Plan.

**40-3A. Renewable energy devices.**

(a) Definitions. In this Section, the following words have the meanings indicated:

"Renewable energy" means the following energy sources or technology:

- (1) Solar;
- (2) Wind; and
- (3) Geothermal.

"Renewable energy device" means a device that:

- (1) Creates, converts, or actively uses renewable energy; and
- (2) Meets safety and performance standards set by a nationally recognized testing laboratory for that kind of device.

"Owner of any building" includes a unit owner in a condominium, a lot owner in a homeowner's association, and a shareholder in a cooperative housing corporation.

(b) Prohibition. A person must not create or enforce any deed restriction, covenant, rule, or regulation, or take any other action, which would prohibit the owner of any building from installing a renewable energy device.



(c) Applicability. This Section applies to all deed restrictions, covenants, rules, and regulations adopted before and after this Section became law.

**52-18Q. Property tax credit – renewable energy.**

(a) Definitions. In this Section, the following words have the meanings indicated:

“Director” means the Director of the Department of Finance or the Director’s designee.

“Eligible cost” means the cost of buying or installing a solar or geothermal energy device, including any part, component, or accessory necessary to operate the device, that is installed within 12 months before a property owner submits an application to the Department of Finance under subsection (f).

“Geothermal energy device” means a device that:

- (1) Uses geothermal energy to heat or cool a structure, to provide hot water for use in the structure, or to generate electricity to be used in the structure; and
- (2) Meets safety and performance standards set by a nationally recognized testing laboratory for that kind of device.

“Solar energy device” means a device that:

- (1) Uses solar energy to heat or cool a structure, to provide hot water for use in the structure, or to generate electricity to be used in the structure; and
- (2) Meets safety and performance standards set by a nationally recognized testing laboratory for that kind of device.

“Tax-Property Article” means the Tax-Property Article of the Maryland Code.

(b) Credit. As authorized by §9-203 of the Tax-Property Article, an owner of residential property that uses a solar or geothermal energy device may receive a credit against the County property tax.

(c) Amount of Credit. The credit allowed under this Section is the lesser of:

(1) 50% of the eligible costs; or

(2) \$5,000 for a heating system or \$1,500 for a hot water supply system.

(d) Annual aggregate limit.

(1) During any fiscal year, the total credits granted under this Section must not exceed \$250,000.

(2) Credits must be granted in the order in which the Department of Finance receives complete applications under subsection (f).

(3) A complete application that, if granted, would cause the limit set in paragraph (1) of this subsection to be exceeded, must be granted in the next fiscal year or years based on the order in which the Department of Finance received the application.

(e) Carry Over.

(1) The amount of a credit in any tax year must not exceed the amount of the County property tax imposed on the property in that tax year.

(2) Any amount of a credit not taken in the tax year in which an application is approved may be carried over for an additional two years.

(3) When a credit is carried over under this subsection, the full amount of the credit must be counted towards the annual

aggregate limit established in subsection (d) in the year in which  
an application is approved.

(f) Application.

(1) A property owner must submit an application to the Director on  
or before the date that the Director sets.

(2) An application must:

(A) Be on the form that the Director requires;

(B) Demonstrate that the taxpayer is entitled to the credit; and

(C) Include a certification from the Department of Permitting  
Services, indicating that the device for which the credit is  
sought:

(i) Is a solar or geothermal energy device; and

(ii) Has been properly installed.

(g) Applicability. The credit authorized by this Section applies to any tax  
year beginning after June 30, 2008

*Approved:*

\_\_\_\_\_  
Marilyn J. Praisner, President, County Council

\_\_\_\_\_  
Date

*Approved:*

\_\_\_\_\_  
Isaih Leggett, County Executive

\_\_\_\_\_  
Date

*This is a correct copy of Council action.*

\_\_\_\_\_  
Linda M. Lauer, Clerk of the Council

\_\_\_\_\_  
Date

## LEGISLATIVE REQUEST REPORT

Bill 33-07  
*Renewable Energy*

**DESCRIPTION:** Requires the Director of the Department of Environmental Protection to develop a Renewable Energy Action Plan and study the feasibility of creating a Sustainable Energy Utility, prohibits the enforcement of certain deed restrictions, covenants, rules, or regulations relating to renewable energy devices, and creates a property tax credit for the installation of certain renewable energy devices.

**PROBLEM:** Although the County has committed to buy 20 percent of its own power from wind, the County does not currently have a comprehensive plan to maximize the use of renewable energy sources by County government, businesses, and private citizens.

**GOALS AND OBJECTIVES:** These measures are designed to encourage and increase the use of renewable energy by and in the County.

**COORDINATION:** Department of Environmental Protection, 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:** Kathleen Boucher, Senior Legislative Attorney (240) 777-7940  
Amanda Mihill, Legislative Analyst (240) 777-7815

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

**PENALTIES:** Class A violation.

Bill No. 34-07  
Concerning: Planning Procedures -  
Greenhouse Gas Emissions  
Revised: 11/19/07 Draft No. 8  
Introduced: November 20, 2007  
Expires: May 20, 2009  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Councilmember Berliner, Council President Praisner, and Councilmembers Andrews, Elrich,  
Floreen, Trachtenberg, and Leventhal

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### AN ACT to:

- (1) require the Montgomery County Planning Board, when preparing certain plans, to assess a plan's potential impact on greenhouse gas emissions in the County and consider options that would minimize those emissions; and
- (2) generally amend the law relating to planning procedures.

### By amending

Montgomery County Code  
Chapter 33A, Planning Procedures  
Section 33A-2

### By adding

Montgomery County Code  
Chapter 33A, Planning Procedures  
Section 33A-4A

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<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. Section 33A-2 is amended and Section 33A-4A is added as follows:**

2        **33A-2.        Definitions.**

3        [For the purpose of this chapter] In this Chapter, the following words [and  
4 phrases shall] have the meanings [respectively ascribed to them by this section]  
5 indicated:

6                “Article 66B” means Article 66B of the Maryland Code.

7        [(a) Commission: The] “Commission” means the Maryland-National Capital  
8 Park and Planning Commission.

9        [(b) District council: The county council for Montgomery County] “District  
10 Council” means the County Council sitting as the [district council]  
11 District Council for that portion of the Maryland-Washington Regional  
12 District [within] in Montgomery County.

13                “Greenhouse gas” includes carbon dioxide, methane, nitrous oxide,  
14 hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, and any  
15 other gas or substance the Director of the Department of Environmental  
16 Protection finds to be a significant contributor to global warming.

17        [(c) Plan.] “Plan” means the General [plan] Plan, an area master plan, a  
18 sector plan, [master plan] the Master Plan of [highways] Highways, a  
19 functional plan, and any amendments [thereto] to those plans, as [further  
20 set forth] described in the Regional District Act.

21                “Planning Board” means the Montgomery County Planning Board.

22        [(d) Regional district act:] “Regional District Act” means Chapter 780 of the  
23 [1959] Laws of Maryland for 1959, as amended and codified in Article  
24 28 of the Maryland Code.

25                                \*        \*        \*

26        **33A-4A.        Preparation of the Plan.**

In addition to the factors and conditions outlined in §7-101 of the Regional District Act and §1.01 and §1.03 of Article 66B, in preparing the Plan, the Planning Board must:

- (a) Assess the Plan's potential impact on greenhouse gas emissions in the County; and
- (b) Consider options that would minimize those emissions.

*Approved:*

---

Marilyn J. Praisner, President, County Council

Date

*Approved:*

---

Isaih Leggett, County Executive

Date

*This is a correct copy of Council action.*

---

Linda M. Lauer, Clerk of the Council

Date

AGENDA ITEM 10  
November 20, 2007  
**Introduction**

## MEMORANDUM

TO: County Council

FROM: Kathleen Boucher, Senior Legislative Attorney *KLB*  
Amanda Mihill, Legislative Analyst *AM*

SUBJECT: **Introduction:** Bill 35-07, Consumer Protection – Energy and Environmental Advocacy

Bill 35-07, Consumer Protection – Energy and Environmental Advocacy, sponsored by Councilmembers Berliner, Ervin, Andrews, Elrich and Floreen, is scheduled to be introduced on November 20, 2007. A public hearing is tentatively scheduled for January 17, 2008 at 7:30 p.m.

The bill requires the Office of Consumer Protection to represent the County's interest in obtaining the lowest possible rates consistent with environmental stewardship for gas, electricity, and other energy sources by participating in matters pending before appropriate federal and state agencies.

This packet contains:

Bill 35-07  
Legislative Request Report

Circle #

1  
5



Bill No. 35-07  
Concerning: Consumer Protection -  
Energy and Environmental Advocacy  
Revised: 11/16/07 Draft No. 7  
Introduced: November 20, 2007  
Expires: May 20, 2009  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Berliner, Ervin, Andrews, Elrich, and Floreen

**AN ACT to:**

- (1) require the Office of Consumer Protection to represent the County's interest in obtaining the lowest possible rates consistent with environmental stewardship for gas, electricity, and other energy sources by participating in matters pending before appropriate federal and state agencies, and
- (2) generally amend County law governing energy and the environment.

**By amending**

Montgomery County Code  
Chapter 11, Consumer Protection  
Section 11-2

<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

1       **Sec. 1. Section 11-2 is amended as follows:**

2       **11-2. Office of Consumer Protection.**

3       (a) Established. The Office of Consumer Protection is a department of  
4       County government.

5       (b) Authority. The Office may:

6       [(a)] (1) [receive] Receive and investigate complaints and initiate its  
7       own investigation of deceptive, unfair, or unconscionable trade  
8       practices against consumers, hold hearings, compel the  
9       attendance of witnesses, administer oaths, take the testimony of  
10      any person under oath and require the production of any  
11      evidence relating to any matter under investigation or in  
12      question by the Office;

13      [(b)] (2) [issue] Issue summonses and subpoenas to compel the  
14      attendance of witnesses and the production of documents,  
15      papers, books, records, and other evidence in any matter to  
16      which this Chapter applies;

17      [(c)] (3) [issue] Issue cease and desist orders and bring enforcement  
18      actions regarding any trade practice that violates this Chapter;

19      [(d)] (4) [report] Report to any appropriate government agency with  
20      jurisdiction over real estate transactions or consumer protection  
21      matters any information concerning violation of any consumer  
22      protection law;

23      [(e)] (5) [communicate] Communicate the interests of consumers and  
24      merchants before administrative and regulatory agencies and  
25      legislative bodies to ensure that both are adequately  
26      represented;

27 [(f)] (6) [assist] Assist, advise, and cooperate with the Better Business  
28 Bureau and local, state, and federal agencies and officials to  
29 protect and promote the interests of County consumers;

30 [(g)] (7) [assist] Assist, develop, and conduct programs of consumer  
31 education and information through public hearings, meetings,  
32 publications, or other materials prepared for distribution to  
33 County consumers;

34            [(h)] (8)     [encourage] Encourage local business and industry to maintain  
35                        high standards of honesty, fair business practices, and public  
36                        responsibility in the production, promotion, and sale of  
37                        consumer goods or services;

38            [(i)]   (9)   [protect] Protect and promote the welfare of County consumers  
39                      and merchants;

(j) (10) [report] Report annually on the number, nature, and disposition  
of complaints filed with the Office. The annual report must  
include any recommendations made by the Advisory  
Committee on Consumer Protection;

44 [(k)] (11) [adopt] Adopt regulations under method (2) to implement this  
45 Chapter;

46            ~~[(1)]~~ (12)    ~~[operate]~~ Operate a voluntary arbitration program; ~~[and]~~

47 [(m)](13) [enforce] Enforce laws pertaining to motor vehicle repair,  
48 electrical appliances, secondhand personal property, and any  
49 other law that the Office is assigned to enforce[.]; and

50 [(n)] (14) [To undertake] Undertake activities and establish procedures to  
51 identify, and assist consumers with respect to, any  
52 discriminatory, predatory, or abusive lending practices.

(c) Energy and environmental advocacy.

(1) The Office must represent the County's interest in obtaining the lowest possible rates consistent with environmental stewardship for gas, electricity, and other energy sources by participating in matters pending before appropriate federal and state agencies, including intervening and filing comments in those matters.

(2) The Office may employ consultants and technical advisors as necessary to implement this subsection in accordance with funds appropriated in the County budget.

(3) By September 1 of each year, the Office must report to the County Executive and County Council on the actions that the Office has taken in the preceding fiscal year to implement this subsection.

*Approved:*

\_\_\_\_\_  
Marilyn J. Praisner, President, County Council

\_\_\_\_\_  
Date

*Approved:*

\_\_\_\_\_  
Isaih Leggett, County Executive

\_\_\_\_\_  
Date

*This is a correct copy of Council action.*

\_\_\_\_\_  
Linda M. Lauer, Clerk of the Council

\_\_\_\_\_  
Date

## LEGISLATIVE REQUEST REPORT

Bill 35-07

*Consumer Protection – Energy and Environmental Advocacy*

**DESCRIPTION:** Requires the Office of Consumer Protection to represent the County's interest in obtaining the lowest possible rates consistent with environmental stewardship for gas, electricity, and other energy sources by participating in matters pending before appropriate federal and state agencies.

**PROBLEM:** Montgomery County has not historically participated in regulatory proceedings before state or federal agencies, which can make critical decisions affecting the County's ratepayers and the environment.

**GOALS AND OBJECTIVES:** To designate an entity in County government charged with representing the County's interest before state and federal agencies.

**COORDINATION:** Office of Consumer Protection.

**FISCAL IMPACT:** To be requested.

**ECONOMIC IMPACT:** To be requested.

**EVALUATION:** To be requested.

**EXPERIENCE ELSEWHERE:** To be researched.

**SOURCE OF INFORMATION:** Kathleen Boucher, Senior Legislative Attorney (240) 777-7940  
Amanda Mihill, Legislative Analyst (240) 777-7815

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

**PENALTIES:** N/A

5