


COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

MEMORANDUM

To: Members of the Council

From: Nyasha Smith, Secretary to the Council
Date: November 22, 2013
Subject: Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on Wednesday, November 6, 2013. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Sustainable DC Omnibus Act of 2013", B20-573

INTRODUCED BY: Chairman Mendelson at the request of the Mayor

The Chairman is referring specific subtitles of this legislation as indicated below:

Title I – Jobs

Subtitle A – *Improving Building Benchmarking Data through Direct Electronic Reporting* – Government Operations for 120 days, or until March 19, 2014, then to Transportation and the Environment

Subtitle B – *Assisting Building Owners by Clarifying Responsibility for Benchmarking Data* - Government Operations for 120 days, or until March 19, 2014, then to Transportation and the Environment

Subtitle C – *Improving Energy Efficiency through Comprehensive Energy Planning* - Transportation and the Environment

Title II – Health and Wellness

Subtitle A – *Improving Indoor Air Quality through Expanded Radon Contractor Certification* - Transportation and the Environment

Subtitle B – *Encouraging Alternative Fuels through Tax Incentives* – Finance and Revenue for 120 days, or until March 19, 2014, then to Transportation and the Environment

Subtitle C – *Encouraging Alternative Fuel Infrastructure Installation through Tax Incentives* – Finance and Revenue for 120 days, or until March 19, 2014, then to Transportation and the Environment

Environment

Title III – Equity and Diversity

Subtitle A – *Reducing Single Occupancy Vehicle Use by Encouraging Transit Benefits* – Business, Consumer and Regulatory Affairs for 120 days, or until March 19, 2014, then to Transportation and the Environment

Subtitle B – *Encouraging Environmental Stewardship through Education and Outreach* - Education for 120 days, or until March 19, 2014, then to Transportation and the Environment

Title IV – Climate and the Environment

Subtitle A – *Protecting the District’s Waterways through Pollution Prevention* - Business, Consumer and Regulatory Affairs for 120 days, or until March 19, 2014, then to Transportation and the Environment

Subtitle B – *Promoting Urban Agriculture through Program Improvement* - Transportation and the Environment

Subtitle C – *Growing the Urban Canopy through Enhanced Tree Management* - Transportation and the Environment

Attachment

cc: General Counsel
Budget Director
Legislative Services



VINCENT C. GRAY
MAYOR

NOV - 6 2013

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Ave., Suite 402
Washington, D.C. 20004

Dear Chairman Mendelson:

Today, I am transmitting a legislative package for consideration by the Council entitled the "Sustainable DC Omnibus Act of 2013."

Last year's *Sustainable DC Act of 2012* represented an initial "down payment" on my vision for a more sustainable future – one that we expect will, in one generation, make the District of Columbia the healthiest, greenest, and most livable city in the United States. We have accomplished much in the past year, and the *Sustainable DC Omnibus Act of 2013* will enable changes to the legislative and regulatory landscape that ensure we move further along the path to making the District an international destination for people and investment, and a model of innovative policies and practices that improve the quality of life and economic opportunity for all District residents through energy conservation, environmental protection and transportation enhancement.

Listed below are descriptions of the individual titles that make up the *Sustainable DC Omnibus Act of 2013*.

Energy Conservation

Aggregate Benchmarking Data Access

The act would require the electric and natural gas utilities to provide aggregated whole building data to building owners or managers electronically to facilitate their ease of reporting required data under the Benchmarking regulations on a monthly basis, provided that the owner provided

enough information to identify the building meters. This service will be available both for aggregated data and individual account data—either from the customer’s account or an account they have been granted access to via a signed waiver and provided that privacy interests are protected.

Benchmarking Data Transfer Improvement

This act would require the seller to transfer all information needed to report benchmarking data at the time of a change in ownership of any building covered by the benchmarking regulation. Ideally, this will be done by transferring the building record in Portfolio Manager from one account to another. This will prevent an up to 10% flux in the buildings reporting each year.

Clean and Affordable Energy Public Engagement Enhancement

The act would amend the Clean and Affordable Energy Act to create a broad public engagement venue that will allow District residents and engaged stakeholders to participate in an open public process each quarter that allows for information sharing and program examination for all of the various energy efficiency and conservation programs in the District. This combination of private market efficiency, represented by the Sustainable Energy Utility, and federally funded grant programs administered by the District Department of the Environment will allow for comprehensive improvement and planning across all programs.

Environmental Protection

Anacostia Pollution Prevention

The act would prohibit the sale, use, or providing of polystyrene containers for food services. It would allow an exemption for prepackaged food and the packaging of raw meats or seafood. Further the law encourages the use of compostable or recyclable containers and allows the Mayor to define the scope of compostable and recyclable materials in the District.

Environmental Literacy Plan Adoption

This act amends the *DC Healthy Schools Act* to provision program support for an Environmental Literacy Program to support and implement the Environmental Literacy Plan called for in the original legislation. My act would grant program support through staff and institutionalization in the Office of the State Superintendent of Education.

Radon Contractor Proficiency

This act provides the Director of the District Department of the Environment the ability to designate through regulations certain programs as suitable to certify contractors as proficient to perform Radon mitigation work. The presence of a clear and transparent certification process is vitally important to preserving the health and safety of current and future housing stocks, particularly in the absence of an EPA certification program.

Sustainable Urban Agriculture Apiculture

This act amends the *Sustainable Urban Agriculture Apiculture Act of 2012* to remove many of the statutory provisions that are better suited for regulations from the law and requires the Mayor to promulgate regulations that will create a responsive program that takes into account the available resources of the Department and the needs of local beekeepers.

Urban Forest Amendment

To accomplish the District's goal of planting 8,600 trees per year and reach the 40% canopy goal the District needs to be able to immediately offset the loss of a tree at the point of its destruction or removal. Currently, property owners are allowed to offset through planting which can lead to several years before the replacement tree is planted, delaying the contribution to the tree canopy and missing those potential years of tree growth. By restricting the options to compensation through payment instead of providing a choice of paying or planting, the District will be able to replace trees and improve the tree canopy on public spaces throughout the city immediately. The delay in compensation that planting or planting/paying creates reduces the time that the District has to get a newly planted tree growing. This will delay the growth of the canopy and extend the time needed to reach 40% canopy goal thus reduce the environmentally benefits of higher canopy cover.

Transportation Enhancement

Alternative Fuel Infrastructure Incentive

The act would provide a partial tax rebate to entities attempting to defray a portion of the cost to install a compressed natural gas (CNG), liquefied natural gas (LNG), or a propane refueling site, or to install an electric recharging site that is accessible to the public.

Alternative Fuel Vehicle Conversion

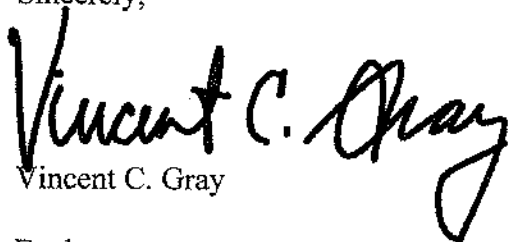
The act would provide a partial tax rebate to vehicle owners who would like to defray a portion of the cost of converting a gasoline or diesel vehicle to an alternative fuel vehicle including, but not limited to, compressed natural gas, biodiesel, propane, electricity.

Transit Benefits Requirement

This act would require all employers in the District above a set size threshold to make available to all employees that qualify for at least minimum wage to be provided access to existing programs, such as a pre-tax payroll deduction, for alternative modes of transportation.


I urge the Council's prompt approval of this legislation.

Sincerely,



Vincent C. Gray

Enclosures


Chairman Phil Mendelson
at the request of the Mayor

A BILL

THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Phil Mendelson, at the request of the Mayor, introduced the following bill, which was referred to the Committee on _____.

To amend the Clean and Affordable Energy Act of 2008 to require the electric and gas utilities to provide building owners with automated electronic access to aggregated consumption data in order to facilitate energy benchmarking and conservation consistent with the purpose of the Clean and Affordable Energy Act of 2008, and to amend the Retail Electric Competition and Consumer Protection Act of 1999 to clarify consumer protection provisions; to amend the Green Building Act of 2006 to clarify the responsibility for the transfer of benchmarking data upon the sale of a privately-owned building covered by the act and to designate the party responsible for reporting the benchmarking data for the calendar year in which the sale occurred; to amend the Clean and Affordable Energy Act of 2008 to dissolve the Sustainable Energy Advisory Board and establish the Public Engagement Forum as a method of public engagement that facilitates the planning of energy conservation policy and practices in the District of Columbia; to amend chapter 42 of title 28 of the District of Columbia Official Code to authorize the Mayor to designate certifying bodies for the proficiency of radon contractors; to amend An Act To provide for the annual inspection of all motor vehicles in the District of Columbia to prohibit the registration of a motor vehicle that operates exclusively on the combustion of petroleum diesel fuel, and to amend Chapter 18 of Title 47 to provide tax credits to individuals, corporations, and unincorporated businesses for the conversion of petroleum diesel or petroleum derived gasoline into alternative fuel vehicles; to amend Chapter 18 of Title 47 to provide tax credits to individuals, corporations, and unincorporated businesses for the construction of alternative fuel infrastructure installation accessible to the public; to require covered employers to provide a transportation benefit program to its covered employees; to amend the Healthy Schools Act of 2010 to establish an environmental literacy program, to create financial support for such a program, and to establish a reporting requirement for the Program; to restore the health of the District's waterways through the prohibition of the sale, use, or provision of polystyrene containers for food service, to define polystyrene, and to require the Mayor to implement rules; to amend the Sustainable Urban Agriculture Apiculture Act of 2012 to modify and supplement statutory definitions, to increase the flexibility of the Mayor's authority to regulate beekeeping, to refine the responsibilities of beekeepers, to enable the Mayor to regulate the management of colony density and distance from property lines and manage colony disposition, and to enable the Mayor to establish

1 appropriate fines for non-compliance with the act; to amend the Urban Forest
2 Preservation Act of 2002 to facilitate the more rapid enhancement of the urban tree
3 canopy by the Urban Forest Preservation Program, to require the payment for removal of
4 special trees at the time of application for a removal permit, and to remove the option of
5 deferred replacement by planting.
6

7 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
8 act may be cited as the “Sustainable DC Omnibus Act of 2013”.
9

10 **TITLE I. JOBS AND ECONOMY**

11 **SUBTITLE A. IMPROVING BUILDING BENCHMARKING DATA THROUGH**
12 **DIRECT ELECTRONIC REPORTING.**

13 Sec. 101. The Clean and Affordable Energy Act of 2008, effective October 22, 2008
14 (D.C. Law 17-250; D.C. Official Code §8-1773.01 *et seq.*), is amended as follows:

15 (a) Section 101 (D.C. Official Code §8-1773.01) is amended by adding a new paragraph
16 (4A) to read as follows:

17 “(4A) “ENERGY STAR Portfolio Manager” means the ENERGY STAR Portfolio
18 Manager tool developed by the Environmental Protection Agency that rates the performance of a
19 qualifying building, relative to similar buildings nationwide, accounting for the impacts of year-
20 to-year weather variations, building size, location, and several operating characteristics, using the
21 Environmental Protection Agency’s national energy performance rating system.”.

22 (b) Section 207 (D.C. Official Code §8-1774.07) is amended by adding a new subsection
23 (f) to read as follows:

24 “(f) (1) The electric company shall undertake the following actions to provide
25 building owners with easier and more complete access to energy consumption data needed in
26 order to comply with the benchmarking and reporting requirements in section 4 of the Green
27 Building Act of 2006, effective March 8, 2007 (D.C. Law 16-234; D.C. Official Code §6-
28 1451.03(c)):

1 “(A) Upon written or secure electronic authorization of a building owner
2 or their authorized agent, the electric company shall aggregate the energy consumption of all
3 meters identified as being in the building and provide the data, aggregated by month, provided
4 the following conditions are met:

5 “(i) Sufficient information is provided to identify the building and
6 meters.

7 “(ii) At least 5 customer accounts are being aggregated, so as to
8 obscure any customer-specific information; and

9 “(iii) No account of a customer (other than an account registered to
10 the building owner making the request) represents more than 80% of the total energy
11 consumption for the building.

12 “(B) The electric company shall provide aggregate data for up to 2 years
13 prior to the initial request, and shall then automatically update the monthly data on an ongoing
14 basis no less than once every 45 calendar days.

15 “(C) The electric company shall provide an online portal for commercial
16 customers to use in order to request the provision and transfer of aggregate account data, or
17 individual customer account data they are duly authorized to access, to manage requests made,
18 and to discontinue active requests.

19 “(D) The electric company shall upload requested electric consumption
20 data automatically on a monthly basis to the requestor’s ENERGY STAR Portfolio Manager
21 account, as well as making the data available for download by the account holder in a common
22 format.

1 “(2) Access to consumption data under this section shall be subject to any rules
2 and regulations the Commission has adopted or may choose to adopt, where such rules do not
3 conflict with this section.”.

4 (c) Section 208 (D.C. Official Code §8-1773.08) is amended by adding a new subsection
5 (d) to read as follows:

6 “(d) (1) The gas company undertake the following actions to provide building owners
7 with easier and more complete access to energy consumption data needed in order to comply
8 with the benchmarking and reporting requirements in section 3 of the Green Building Act of
9 2006, effective March 8, 2007 (D.C. Law 16-234; D.C. Official Code §6-1451.03(c)):

10 “(A) Upon written or secure electronic authorization of a building owner
11 or their authorized agent, the gas company shall aggregate the energy consumption of all meters
12 identified as being in the building and provide the data, aggregated by month, provided the
13 following conditions are met:

14 “(i) Sufficient information is provided to identify the building and
15 meters;

16 “(ii) At least 5 customer accounts are being aggregated, so as to
17 obscure any customer-specific information; and

18 “(iii) No account of a customer (other than an account registered to
19 the building owner making the request) represents more than 80% of the total energy
20 consumption for the building.

21 “(B) The gas company shall provide aggregate data for up to 2 years prior
22 to the initial request, and shall then automatically update the monthly data on an ongoing basis
23 no less than once every 45 calendar days.

1 “(C) The gas company shall provide an online portal for commercial
2 customers to use in order to request the provision and transfer of aggregate account data, or
3 individual customer account data they are duly authorized to access, to manage requests made,
4 and to discontinue active requests.

5 “(D) The gas company shall upload requested electric consumption data
6 automatically on a monthly basis to the requestor’s ENERGY STAR Portfolio Manager account,
7 as well as making the data available for download in a common format by the account holder.

8 “(2) Access to consumption data under this section shall be subject to any rules
9 and regulations the Commission has adopted or may choose to adopt, where such rules do not
10 conflict with this section.”.

11 Sec. 102. Section 108(a) of the Retail Electric Competition and Consumer Protection Act
12 of 1999, effective May 9, 2000 (D.C. Law 13-107; D.C. Official Code §34-1507(a)), is amended
13 by adding a new paragraph (3) to read as follows:

14 “(3) Aggregated consumption data shall be deemed to not be about a customer if:

15 “(A) At least 5 customer accounts are being aggregated, so as to obscure any
16 customer-specific information;

17 “(B) No single customer account represents more than 80% of the total
18 aggregated energy consumption; and

19 “(C) No individual customer-identifying information is included, unless:

20 “(i) The customer-identifying information is supplied by the person
21 requesting the consumption data; and

22 “(ii) The person requesting the consumption data is the owner of the
23 building for which the consumption data is requested.”.

1 **SUBTITLE B. ASSISTING BUILDING OWNERS BY CLARIFYING**
2 **RESPONSIBILITY FOR BENCHMARKING DATA.**

3 Sec. 111. Section 4(c)(2) of The Green Building Act of 2006, effective March 8, 2007
4 (D.C. Law 16-234; D.C. Official Code §6-1451.03(c)(2)) is amended by adding a new
5 subparagraph (E) to read as follows:

6 “(E) If ownership of a building covered by this paragraph is transferred, the buyer and the
7 seller shall arrange for the seller to provide to the buyer all information necessary for the buyer
8 to timely report benchmarking data for the year in which the transfer occurred. The new owner
9 shall then be responsible for making the benchmarking data for that full calendar year available
10 to DDOE by April 1 of the following year.”.

11 **SUBTITLE C. IMPROVING ENERGY EFFICIENCY THROUGH**
12 **COMPREHENSIVE ENERGY PLANNING.**

13 Sec. 121. The Clean and Affordable Energy Act of 2008, effective October 22, 2008
14 (D.C. Law 17-250; D.C. Official Code §8-1773.01 *et seq.*), is amended as follows:

15 (a) Section 101(D.C. Official Code §8-1773.01(20)) is amended as follows:

16 (1) A new paragraph (11A) is added to read as follows:

17 “(11A) “Public Engagement Forum” means the vehicle of public participation
18 established by the Mayor under section 214 that creates a venue for public engagement that the
19 Mayor establishes to facilitate a comprehensive understanding and facilitate feedback by the
20 public of the energy initiatives and programs available to residents of the District.”.

21 (2) Paragraph (20) is amended to read as follows:

22 “(20) “Sustainable Energy Utility Advisory Board”, “Advisory Board”, or “Board”
23 means the board established by section 203.”.

1 (b) Section 202 (D.C. Official Code §8-1774.02) is amended as follows:

2 (1) Subsection (g) is amended by striking the phrase “The SEU contract shall be
3 revocable” and insert the phrase “The Mayor may revoke the SEU contract” in its place.

4 (2) Subsection (k) is amended by striking the phrase “the DDOE and Board” and
5 inserting the phrase “the DDOE and make available to the public.” in its place.

6 (c) Section 203 (D.C. Official Code §8-1774.03) is amended as follows:

7 (1) Subsection (a) is amended to read as follows:

8 “(a) There is established a Sustainable Energy Utility Advisory Board whose purpose
9 shall be to provide advice, technical expertise, and recommendations to the DDOE regarding the
10 initial solicitation, procurement, and award of the SEU contract including the initial formation of
11 the benchmarks necessary to achieve the goals articulated in section 201(d).”.

12 (2) Subsection (e) is amended by inserting the phrase “; provided, that all terms
13 shall expire upon dissolution of the Board pursuant to section 204(k)” before the period at the
14 end.

15 (d) Section 204 (D.C. Official Code §8-1774.04) is amended by adding a new subsection
16 (k) to read as follows:

17 “(k) The Advisory Board shall dissolve after the initial award of the contract.”.

18 (e) Section 205 (D.C. Official Code §8-1774.05) is amended as follows:

19 (1) Subsection (a)(2) is amended by inserting the phrase “and the Public
20 Engagement Forum;” before the semicolon at the end.

21 (2) Subsection (k) is amended by striking the phrase “Board and”.

22 (f) Section 210(c) (D.C. Official Code §8-1774.10(c)) is amended by inserting the phrase
23 “or the Public Engagement Forum” after the word “Board”.

1 (g) A new Section 215 is added to read as follows:

2 “Sec. 215. Public Engagement Forum.

3 “(a) DDOE shall convene each quarter a Public Engagement Forum that shall serve as a
4 method of public engagement, coordination, education, and outreach to the residents of the
5 District regarding the various programs and plans for energy conservation within the District.

6 “(b) Each quarter, DDOE shall publish on its website and make available to the public,
7 performance and program data for the sustainable energy programs in the District. The data shall
8 be published at least 30 days before the Public Engagement Forum for that quarter and shall
9 provide information for the prior quarter, the fiscal year to date, and the life of the program.

10 “(c) DDOE shall invite Public Engagement Forum participation from the following
11 agencies, interest groups, and experts:

12 “(1) The electric company;

13 “(2) The gas company;

14 “(3) The Public Service Commission;

15 “(4) The Office of the People’s Counsel;

16 “(5) Renewable energy industrialists;

17 “(6) Environmental advocates;

18 “(7) Low-income and underserved communities;

19 “(8) Building management professionals;

20 “(9) Building construction experts;

21 “(10) Economic and professional development experts, with a particular focus on
22 green-collar jobs; and

1 “(11) Additional persons with the technical expertise, knowledge, or experience
2 related to energy conservation programs.”.

3 **TITLE II. HEALTH AND WELLNESS**

4 **SUBTITLE A. IMPROVING INDOOR AIR QUALITY THROUGH EXPANDED**
5 **RADON CONTRACTOR CERTIFICATION.**

6 Sec. 201. Chapter 42 of title 28 of the District of Columbia Official Code is amended as
7 follows:

8 (a) Section 28-4201(a) is amended to read as follows:

9 “(a) No person or company shall conduct or offer to conduct any radon screening, testing,
10 or mitigation in the District for a fee unless the employee that performs such services has been:

11 “(1) Listed as proficient by the United States Environmental Protection Agency to
12 offer radon screening, testing, or mitigation services; or

13 “(2) Received a certificate of proficiency from an organization recognized by the
14 Mayor to offer radon screening, testing, or mitigation services.”.

15 (b) Section 28-4202 is amended as follows:

16 (1) The first sentence is amended by striking the phrase “issue proposed rules”
17 and inserting the phrase “promulgate rules to implement this chapter, including rules” in its
18 place.

19 (2) The second sentence is stricken in its entirety.

20 **SUBTITLE B. ENCOURAGING ALTERNATIVE FUEL VEHICLES THROUGH**
21 **TAX INCENTIVES.**

1 Sec. 211. Section 2 of An Act To provide for the annual inspection of all motor vehicles
2 in the District of Columbia, approved February 18, 1938 (52 Stat. 78; D.C. Official Code §50-
3 1501 *et seq.*) is amended by adding a new subsection (j) to section 50-1501.02 read as follows:

4 “(I) Beginning January 1, 2018, the Mayor, or his designee, shall not register any motor
5 vehicle for operation within the District, that was not previously registered within the District,
6 which operates exclusively on the combustion of petroleum diesel fuel.”.

7 Sec. 212. Chapter 18 of Title 47 of the District of Columbia Official Code is amended as
8 follows:

9 (a) The table of contents is amended by adding new section designations to read as
10 follows:

11 (1) “47-1806.13. Tax on residents and non-residents – Credits – Alternative fuel
12 vehicle conversion credit.”.

13 (2) “47-1807.11. Tax on corporations – Credits – Alternative fuel vehicle
14 conversion credit.”.

15 (3) “47-1808.11. Tax on unincorporated businesses – Credits – Alternative fuel
16 vehicle conversion credit.”.

17 (b) A new section 47-1806.13 is added to read as follows:

18 “§47-1806.13. Tax on residents and non-residents – Credits – Alternative fuel vehicle
19 conversion credit.

20 “(a) For the purposes of this section, the term “alternative fuel” means a fuel produced to
21 power a motor vehicle, which consists of one or more of the following:

22 “(A) At least 85% ethanol;

23 “(B) Natural gas;

- 1 “(C) Compressed natural gas;
- 2 “(D) Liquefied natural gas;
- 3 “(E) Liquefied petroleum gas;
- 4 “(F) 100% biodiesel, excluding kerosene;
- 5 “(G) Electricity provided by a vehicle charging station; or
- 6 “(H) Hydrogen.

7 “(b) For taxable years commencing with the taxable year beginning on January 1, 2014,
8 through the taxable year beginning January 1, 2026, there shall be allowed against the tax
9 imposed by §47-1806.03 a credit in the amount of 50% of the equipment and labor costs directly
10 attributable to the cost to convert a petroleum diesel or petroleum derived gasoline fueled motor
11 vehicle licensed in the District to a operate on an alternative fuel source.

12 “(c) The credit claimed under this section in any one tax year may not exceed the
13 taxpayer’s tax liability under §47-1806.03 for that year and shall not be refundable.”.

14 (c) A new section 47-1807.11 is added to read as follows:

15 “§47-1807.11. Tax on corporations – Credits – Alternative fuel vehicle conversion credit.

16 “(a) For the purposes of this act, the term “alternative fuels” shall have the same meaning
17 set forth in section 47-1806.13(a).

18 “(b) For taxable years commencing with the taxable year beginning on January 1, 2014,
19 through the taxable year beginning January 1, 2026, there shall be allowed against the tax
20 imposed by §47-1807.02 a credit in the amount of 50% of the equipment and labor costs directly
21 attributable to the cost to convert a petroleum diesel or petroleum derived gasoline fueled motor
22 vehicle licensed in the District to a operate on an alternative fuel source.

1 “(c) The credit claimed under this section in any one tax year may not exceed the
2 taxpayer’s tax liability under §47-1807.02 for that year and shall not be refundable.”.

3 (d) A new section 47-1808.11 is added to read as follows:

4 “§47-1808.11. Tax on unincorporated businesses – Credits – Alternative fuel vehicle
5 conversion credit.”.

6 “(a) For the purposes of this act, the term “alternative fuels” shall have the same meaning
7 set forth in section 47-1806.13(a).

8 “(b) For taxable years commencing with the taxable year beginning on January 1, 2014,
9 through the taxable year beginning January 1, 2026, there shall be allowed against the tax
10 imposed by §47-1808.03 a credit in the amount of 50% of the equipment and labor costs directly
11 attributable to the cost to convert a petroleum diesel or petroleum derived gasoline fueled motor
12 vehicle licensed in the District to a operate on an alternative fuel source.

13 “(c) The credit claimed under this section in any one tax year may not exceed the
14 taxpayer’s tax liability under §47-1808.03 for that year and shall not be refundable.”.

15 **SUBTITLE C. ENCOURAGING ALTERNATIVE FUEL INFRASTRUCTURE**
16 **INSTALLATION THROUGH TAX INCENTIVES.**

17 Sec. 221. Chapter 18 of Title 47 of the District of Columbia Official Code is amended as
18 follows:

19 (a) The table of contents is amended by adding new section designations to read as
20 follows:

21 (1) “47-1806.12. Tax on residents and non-residents — Credits — Alternative
22 fuel infrastructure credit.”.

1 (2) “47-1807.10. Tax on corporations — Credits — Alternative fuel
2 infrastructure credit.”.

3 (3) “47-1808.10. Tax on unincorporated businesses — Credits — Alternative
4 fuel infrastructure credit.”.

5 (b) A new section 47-1806.12 is added to read as follows:

6 “§ 47-1806.12. Tax on residents and non-residents — Credits — Alternative fuel
7 infrastructure credit.

8 “(a) For the purposes of this section, the term:

9 “(1) “Alternative fuel” means a fuel produced to power a motor vehicle, which
10 consists of one or more of the following:

11 “(A) At least 85% ethanol;

12 “(B) Natural gas;

13 “(C) Compressed natural gas;

14 “(D) Liquefied natural gas;

15 “(E) Liquefied petroleum gas;

16 “(F) 100% biodiesel, excluding kerosene;

17 “(G) Electricity provided by a vehicle charging station; or

18 “(H) Hydrogen.

19 “(2) “Eligible applicant” means a resident that is the owner or lessee of a qualified
20 alternative fuel vehicle refueling property.

21 “(3) “Qualified alternative fuel vehicle refueling property” means a property
22 within the District that is owned or leased by an eligible applicant and that contains equipment

1 used for storing and dispensing alternative fuels to power motor vehicles that is available for use
2 by the public.

3 “(b) For taxable years commencing with the taxable year beginning on January 1, 2014,
4 through the taxable year beginning January 1, 2026, there shall be allowed against the tax
5 imposed on eligible applicant by §47-1806.03 a credit in the amount of 50% of the equipment
6 and labor costs directly attributable to the purchase and installation of alternative fuel storage and
7 dispensing or charging equipment on a qualified alternative fuel vehicle refueling property.

8 “(c) The equipment and labor costs for which a tax credit may be claimed under this
9 section shall not include:

10 “(1) Costs associated with the purchase of land, or access to land, to be used as a
11 qualified alternative fuel vehicle refueling property;

12 “(2) Costs associated with the purchase of an existing qualified alternative fuel
13 vehicle refueling property; or

14 “(3) Costs for the construction or purchase of any structure.

15 “(d) The credit claimed under this section in any one tax year may not exceed the
16 taxpayer’s tax liability under §47-1806.03 for that year.

17 “(e) If the amount of the tax credit permitted under this section exceeds the tax otherwise
18 due under §47-1806.03, the amount of the credit not used may be carried forward for up to 2 tax
19 years. The credit shall not be refundable.

20 “(f) If the alternative fuel storage and dispensing equipment on a qualified alternative fuel
21 vehicle refueling property is no longer used to dispense or sell alternative fuel to the public, any
22 unused tax credit shall be forfeited and the taxpayer may not claim a tax credit under this

1 subsection for the portion of the tax year after the date on which the alternative fuel storage and
2 dispensing equipment is no longer used to dispense or sell alternative fuel to the public .”.

3 (c) A new section 47-1807.10 is added to read as follows:

4 “§47-1807.10. Tax on corporations — Credits — Alternative fuel infrastructure credit.

5 “(a) For the purposes of this section, the term:

6 “(1) “Alternative fuel” shall have the same meaning set forth in § 47-
7 1806.12(a)(1).

8 “(2) “Eligible applicant” means a corporation that is the owner or lessee of a
9 qualified alternative fuel vehicle refueling property.

10 “(3) “Qualified alternative fuel vehicle refueling property” shall have the same
11 meaning set forth in § 47-1806.12(a)(3).

12 “(b) For taxable years commencing with the taxable year beginning on January 1, 2014,
13 through the taxable year beginning January 1, 2026, there shall be allowed against the tax
14 imposed on an eligible applicant by §47-1807.02 a credit in the amount of 50% of the equipment
15 and labor costs directly attributable to the purchase and installation of alternative fuel storage and
16 dispensing or charging equipment on a qualified alternative fuel vehicle refueling property.

17 “(c) The equipment and labor costs for which a tax credit may be claimed under this
18 section shall not include:

19 “(1) Costs associated with the purchase of land, or access to land, to be used as a
20 qualified alternative fuel vehicle refueling property;

21 “(2) Costs associated with the purchase of an existing qualified alternative fuel
22 vehicle refueling property; or

23 “(3) Costs for the construction or purchase of any structure.

1 “(d) The credit claimed under this section in any one tax year may not exceed the
2 taxpayer’s tax liability under §47-1807.02 for that year.

3 “(e) If the amount of the tax credit permitted under this section exceeds the tax otherwise
4 due under § 47-1807.02, the amount of the credit not used may be carried forward for up to 2 tax
5 years. The credit shall not be refundable.

6 “(f) If the alternative fuel storage and dispensing equipment on a qualified alternative fuel
7 vehicle refueling property is no longer used to dispense or sell alternative fuel to the public, any
8 unused tax credit shall be forfeited and the taxpayer may not claim a tax credit under this
9 subsection for the portion of the tax year after the date on which the alternative fuel storage and
10 dispensing equipment is no longer used to dispense or sell alternative fuel to the public .”.

11 (d) A new section 47-1808.10 is added to read as follows:

12 “§47-1808.10. Tax on unincorporated business — Credits — Alternative fuel
13 infrastructure credit.

14 “(a) For the purposes of this section, the term:

15 “(1) “Alternative fuel” shall have the same meaning set forth in § 47-
16 1806.12(a)(1).

17 “(2) “Eligible applicant” means an unincorporated business that is the owner or
18 lessee of a qualified alternative fuel vehicle refueling property.

19 “(3) “Qualified alternative fuel vehicle refueling property” shall have the same
20 meaning set forth in § 47-1806.12(a)(3).

21 “(b) For taxable years commencing with the taxable year beginning on January 1, 2014,
22 through the taxable year beginning January 1, 2026, there shall be allowed against the tax
23 imposed on an eligible applicant by §47-1808.03 a credit in the amount of 50% of the equipment

1 and labor costs directly attributable to the purchase and installation of alternative fuel storage and
2 dispensing or charging equipment on a qualified alternative fuel vehicle refueling property.

3 “(c) The equipment and labor costs for which a tax credit may be claimed under this
4 section shall not include:

5 “(1) Costs associated with the purchase of land, or access to land, to be used as a
6 qualified alternative fuel vehicle refueling property;

7 “(2) Costs associated with the purchase of an existing qualified alternative fuel
8 vehicle refueling property; or

9 “(3) Costs for the construction or purchase of any structure.

10 “(d) The credit claimed under this section in any one tax year may not exceed the
11 taxpayer’s tax liability under §47-1808.03 for that year.

12 “(e) If the amount of the tax credit permitted under this section exceeds the tax otherwise
13 due under § 47-1808.03, the amount of the credit not used may be carried forward for up to 2 tax
14 years, consistent with subsection of this section. The credit shall not be refundable.

15 “(f) If the alternative fuel storage and dispensing equipment on a qualified alternative fuel
16 vehicle refueling property is no longer used to dispense or sell alternative fuel to the public, any
17 unused tax credit shall be forfeited and the taxpayer may not claim a tax credit under this
18 subsection for the portion of the tax year after the date on which the alternative fuel storage and
19 dispensing equipment is no longer used to dispense or sell alternative fuel to the public .”.

20 **TITLE III. EQUITY AND DIVERSITY**

21 **SUBTITLE A. REDUCING SINGLE OCCUPANCY VEHICLE USE BY**

22 **ENCOURAGING TRANSIT BENEFITS**

23 **Sec. 301. Definitions**

1 For the purposes of this act, the term:

2 (1) "Covered employer" means an employer with 50 or more employees.

3 (2) "Employee" shall have the same meaning as set forth in the Minimum Wage
4 Act Revision Act of 1992 (D.C. Official Code §32-1002(3)).

5 (3) "Employer" shall have the same meaning as set forth in the Minimum Wage
6 Act Revision Act of 1992 (D.C. Official Code §32-1002(4)).

7 (4) "Transit pass" shall have the same meaning as set forth in the Internal
8 Revenue Code 26 U.S.C. §132(f)(5)(A), and shall include transit passes for travel by bus,
9 streetcar, or train by the Washington Metropolitan Area Transit Authority, Maryland Area
10 Regional Commuter, Virginia Railway Express, or the National Railroad Passenger Corporation
11 (Amtrak).

12 (5) "Vanpool" means a "commuter highway vehicle" within the meaning of 26 U.S.C.
13 §132(f)(5)(B).

14 Sec. 302. Transportation benefit program.

15 Each covered employer shall provide at least one of the following transportation benefit
16 programs to each of its covered employees:

17 (1) A pre-tax election transportation fringe benefits program that:

18 (A) Is consistent with 26 U.S.C. §132(f);

19 (B) Provides benefits at a level at least equal to the maximum amount
20 that may be deducted from an employee's gross income pursuant to 26 U.S.C. §132(f)(2) ;
21 provided, the program need not provide benefits for parking.

22 (2) An employer-paid benefit program whereby the employer supplies, at the
23 election of the employee, a transit pass for the public transit system requested by each covered

1 employee or reimbursement of vanpool costs in amount at least equal to the purchase price of a
2 transit pass for an equivalent trip on a public transit system; or

3 (3) Employer-provided transportation at no cost to the covered employee in a
4 vanpool or bus operated by or for the employer.

5 Sec. 303. Rules

6 The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act,
7 approved October 21, 1968 (82 Stat. 1204; D.C. Official Code §2-501 *et seq.*), shall promulgate
8 rules to implement the provisions of this act.

9 **SUBTITLE B. ENCOURAGING ENVIRONMENTAL STEWARDSHIP**
10 **THROUGH EDUCATION AND OUTREACH**

11 Sec. 311. The Healthy Schools Act of 2010, effective July 17, 2010 (D.C. Law 18-209;
12 D.C. Official Code §38-825.01 *et seq.*), is amended as follows:

13 (a) Section 102 (D.C. Official Code §38-821.02) is amended as follows:

14 (1) Subsection (c) is amended by adding a new paragraph (8) to read as follows:

15 “(8) To support the development and implementation of an Environmental
16 Literacy Program.”

17 (2) Subsection (g) is amended by striking the phrase “subsection (c)(6) and (7) of
18 this section” and inserting the phrase “subsection (c)(6), (7), and (8) of this section” in its place.

19 (b) Section 502 (D.C. Official Code §38-825.02) is amended to read as follows:

20 “Sec. 502. Environmental Literacy Program.

21 “(a) An Environmental Literacy Program is established within the Office of the State
22 Superintendent of Education. The Environmental Literacy Program shall:

1 “(1) Coordinate the efforts of the District Department of the Environment, the
2 District of Columbia Public Schools, the Public Charter School Board, the Office of the State
3 Superintendent of Education, the State Board of Education, the University of the District of
4 Columbia, the Department of Parks and Recreation, the Department of General Services, and the
5 Department of Employment Services to triennially develop an environmental literacy plan for
6 public schools, public charter schools, and participating private schools;

7 “(2) Establish and convene an Environmental Literacy Advisory Committee,
8 composed of community organizations, District government agencies, and other interested
9 persons;

10 “(3) Collect data on the location and types of environmental education programs
11 in public schools, public charter schools, and participating private schools;

12 “(4) Provide environmental education guidance and technical assistance to public
13 schools, public charter schools, and participating private schools; and

14 “(5) Provide training, support, and assistance for environmental literacy programs
15 in public schools, public charter schools, and participating private schools.”

16 “(b) The environmental literacy plan shall, at minimum, describe the following:

17 “(1) Relevant teaching and learning standards adopted by the State Board of
18 Education;

19 “(2) Professional development opportunities for teachers;

20 “(3) Suitable metrics to measure environmental literacy;

21 “(4) Suitable methods to increase environmental literacy;

22 “(5) Governmental and nongovernmental entities that can assist schools in the
23 achievement of those goals; and

1 “(6) A proposed implementation method for the plan.”

2 “(c) One year after the effective date of this act and triennially thereafter, The
3 Environmental Literacy Program shall issue a report about the state of environmental education
4 in the District of Columbia, plans for expansion, and recommendations for improving the
5 program.”.

6 (c) Section 601(b)(2) (D.C. Official Code §38-826.01(b)(2)), is amended as follows:

7 (1) Paragraph (B) is amended by striking the word “and”.

8 (2) Paragraph (C) is amended by inserting the phrase “; and” at the end.

9 (3) A new paragraph (D) is added to read as follows:

10 “(D) Developing and implementing an Environmental Literacy Program.”.

11 **TITLE IV. CLIMATE AND THE ENVIRONMENT**

12 **SUBTITLE A. PROTECTING THE DISTRICT’S WATERWAYS THROUGH**
13 **POLLUTION PREVENTION.**

14 Sec. 401. Definitions.

15 For the purposes of this act, the following terms shall mean:

16 (1) “Expanded polystyrene” means blown polystyrene and expanded and extruded
17 foams which are thermoplastic petrochemical materials utilizing a styrene monomer and
18 processed by any number of techniques including, but not limited to, fusion of polymer spheres
19 (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding
20 (extruded foam polystyrene).

21 (2) “Expanded polystyrene food service products” means food containers, plates,
22 “clamshells,” hot and cold beverage cups, meat and vegetable trays, egg cartons, and other

1 products, made of expanded polystyrene and used for selling or providing food for consumption
2 on or off the premises.

3 (3) "Food service business" means full-service restaurants, limited-service
4 restaurants, fast food restaurants, cafes, delicatessens, coffee shops, supermarkets, grocery stores,
5 vending trucks or carts, food trucks, business or institutional cafeterias, and other businesses
6 selling or providing food within the District for consumption on or off the premises.

7 Sec. 402. Prohibition on the use of expanded polystyrene food service products.

8 (a) Food service businesses shall not sell or provide food, for consumption on or off the
9 premises, in expanded polystyrene food service products.

10 (b) Subsection (a) shall not apply to prepackaged soup or other food that a food service
11 business sells or otherwise provides to its customers in expanded polystyrene containers that
12 have been filled and sealed prior to receipt by the food service business.

13 Sec. 403. Rules; enforcement.

14 (a) The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure
15 Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code §2-501 *et seq.*), may
16 promulgate rules to implement the provisions of this act.

17 (b) Civil fines and penalties may be imposed as sanctions for any infraction of the
18 provisions of this act or any rules promulgated under the authority of this act, pursuant to the
19 Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October
20 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.*) ("Civil Infractions
21 Act"). Enforcement and adjudication of an infraction shall be pursuant to the Civil Infractions
22 Act.

1 (c) In addition to the enforcement authority provided to the Mayor under the Civil
2 Infractions Act, the Mayor may seek injunctive relief or other appropriate remedy, in any court
3 of competent jurisdiction, to enforce compliance with the provisions of this act.

4 **SUBTITLE B. PROMOTING URBAN AGRICULTURE THROUGH PROGRAM**
5 **IMPROVEMENT**

6 Sec. 411. The Sustainable Urban Agriculture Apiculture Act of 2012, effective April 20,
7 2013 (D.C. Law 19-262; 60 DCR 1311) is amended to read as follows:

8 (a) Section 212 (60 DCR 1311) is amended as follows:

9 (1) A new paragraph (7A) is added to read as follows:

10 “(7A) “Director” means the Director of the District Department of the
11 Environment.

12 (2) Paragraph (8) is amended by striking the word “intended” and inserting the
13 word “used” in its place.

14 (3) Paragraph (9) is amended to read as follows:

15 “(9) “Honey bee” means *Apis mellifera* or another species designated as suitable
16 for an urban environment by the Director.”

17 (4) Paragraph (10) is amended by striking the phrase “Multi-unit” and inserting
18 the phrase “Multi-unit building” in its place.

19 (5) Paragraph (11) is amended by striking the phrase “private entity” and
20 inserting the phrase “legal entity” in its place.

21 (6) Paragraph (12) is repealed.

22 (b) Section 213 (60 DCR 1311) is amended to read as follows:

23 “Sec. 213. General authorization and restrictions.

1 “A person may only keep a colony in the District if the colony is established and
2 maintained in a manner consistent with this act and any regulations promulgated pursuant to this
3 act.”.

4 (c) Section 214 (60 DCR 1311) is amended to read as follows:

5 “Sec. 214. Responsibilities of beekeepers.

6 “(a) All colonies kept in the District shall be registered annually with the Department.

7 “(b) No person shall bring into the District a colony or portion of a colony, bees on
8 combs, empty used combs, used hives, or other used apiary appliances without complying with
9 the procedures established by the Department under this act.

10 “(c) The Department shall establish by rulemaking the procedures by which a person may
11 keep and maintain hives to prevent overcrowding and deter swarming.

12 “(d) The property owner shall be responsible for the remediation of bee swarms and
13 nuisance conditions.”.

14 (d) Section 215 (60 DCR 1312) is repealed.

15 (e) Section 216 (60 DCR 1312) is repealed.

16 (f) Section 217(a) (60 DCR 1312) is amended to read as follows:

17 “(a) The Department shall establish procedures and may take measures to control the
18 spread of bee diseases and may order a beekeeper to take measures to control the spread of bee
19 diseases.”

20 (g) Section 218 (60 DCR 1313) is repealed.

21 (h) Section 219 (60 DCR 1313) is amended as follows:

22 (1) Subsection (a) is amended by inserting the following sentence at the end: “The
23 rules may establish fees necessary or useful to the implementation of this act.”.

1 (2) Subsection (d) is repealed.

2 (3) A new subsection (e) is added to read as follows:

3 “(e) The Mayor may require a beekeeper to reimburse the District for the
4 District’s costs resulting from implementation of this act with respect to the beekeeper.”.

5 **SUBTITLE C. GROWING THE URBAN CANOPY THROUGH ENHANCED**
6 **TREE MANAGEMENT**

7 Sec. 421. The Urban Forest Preservation Act of 2002, effective June 12, 2003 (D.C. Law
8 14-309; D.C. Official Code §8-651.01 *et seq.*) is amended as follows:

9 (a) Section 104 (D.C. Official Code §8-651.04) is amended as follows:

10 (1) Subsection (b) is amended as follows:

11 (A) Paragraph (2) is amended by inserting the word “or” at the end.

12 (B) Paragraph (3) is amended by striking the phrase “; or” and inserting a
13 period in its place.

14 (C) Paragraph (4) is repealed.

15 (2) Subsection (c) is repealed.

16 (b) Section 107(b) (D.C. Official Code §8-651.07(b)) is amended by inserting the phrase
17 “or maintain” after the word “plant”.

18 **TITLE V. FISCAL IMPACT STATEMENT, APPLICABILITY, AND**
19 **EFFECTIVE DATE**

20 Sec. 501. Fiscal impact statement.

21 The Council adopts the fiscal impact statement contained in the committee report as the
22 fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule
23 Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)(2001)).

1 Sec. 502. Applicability.

2 (a) Title I, Sections 101 and 102 shall apply as of January 1, 2018.

3 (b) Title I, Section 111 shall apply as of January 1, 2016.

4 (c) Title II, Subtitle B and Subtitle C shall apply upon the inclusion of its fiscal effect in
5 an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget
6 Director of the Council in a certification published by the Council in the District of Columbia
7 Register.

8 (d) Title III, Subtitle A shall not take effect until January 1, 2016 and the Mayor has
9 promulgated regulations to implement the provisions of this act.

10 (e) Title IV, Subtitle A shall apply as of January 1, 2018.

11 Sec. 503. Effective date.

12 This act shall take effect after approval by the Mayor (or in the event of veto by the
13 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
14 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
15 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)(2001)), and publication in the
16 District of Columbia Register.

17

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



Legal Counsel Division

TO: Zachary Weaver
Policy Analyst
Office of Policy and Legislative Affairs, Executive Office of the Mayor

FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division

DATE: November 6, 2013

SUBJECT: Legal Sufficiency Review of Draft Bill entitled the "Sustainable DC Act of 2013"
(AE-13-861)

This is to Certify that this Office has reviewed the above-referenced Draft Bill and found it to be legally unobjectionable. If you have any questions in this regard, please do not hesitate to call me at 724-5524.


Janet M. Robins