

OFFICE OF THE
SECRETARY

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MURIEL BOWSER
MAYOR

January 16, 2020

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Ave. NW, Suite 504
Washington, DC 20004

Dear Chairman Mendelson:

Enclosed for consideration and approval by the Council of the District of Columbia are an emergency declaration, emergency bill, and temporary bill titled the "CleanEnergy DC Omnibus Emergency Declaration Resolution of 2020"; the "CleanEnergy DC Omnibus Emergency Amendment Act of 2020"; and the "CleanEnergy DC Omnibus Temporary Amendment Act of 2020."


The legislation amends the CleanEnergy DC Omnibus Amendment Act of 2018 ("the Act") to extend the timeline for smaller buildings to comply with the building energy performance standards program established in the Act, to allow DOEE to issue building energy performance standards every 6 years instead of every 5 years, and to clarify language requiring buildings to comply with the building energy performance standards. The legislation would also extend the deadline for DGS to develop the Strategic Energy Management Plan for District buildings from January 1, 2020, to January 1, 2021, and extend the deadline for DMV to issue rules revising the vehicle excise tax from January 1, 2020 to January 1, 2021.

As described in the emergency declaration, passage of this legislation will allow the District of Energy and Environment to move forward with implementation of the building energy performance standards program in an efficient manner, and will provide DGS and DMV needed flexibility in completing their obligations under the Act.

Sincerely,


Muriel Bowser

Enclosures


Chairman Phil Mendelson
at the request of the Mayor

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis, Title III of the CleanEnergy DC Omnibus Amendment Act of 2018, and the amendments that Act made to the District of Columbia Traffic Act, 1925, in order to revise the timeline for DOEE to implement the Building Energy Performance Standards Program, and to allow additional time for DMV to issue rules revising the vehicle excise tax calculation.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “CleanEnergy DC Omnibus Emergency Amendment Act of 2020”.

Sec. 2. Title III of The CleanEnergy DC Omnibus Amendment Act of 2018, effective March 22, 2019 (D.C. Law 22-257; 66 DCR 3973), is amended as follows:

(a) Section 301 (D.C. Official Code § 8-1772.21) is amended as follows:

(1) Subsection (a) is amended as follow:

(A) Paragraph (2) is amended by striking the phrase “January 1, 2023” and inserting the phrase “January 1, 2027” in its place.

(B) Paragraph (3) is amended by striking the phrase “January 1, 2026” and inserting the phrase “January 1, 2033” in its place.

(2) Subsection (b)(1)(A) is amended by striking the phrase “every 5 years” and inserting the phrase “every 6 years” in its place.

(3) Subsection (c) is amended to read as follows:

35 “(c) All buildings below the energy performance standard for their property type,
36 established pursuant to paragraphs (b)(1) and (2), shall have 5 years from the date the
37 performance standards are established to meet the building energy performance requirements
38 established by DOEE.”

39 (b) The lead-in language in section 303 (D.C. Official Code § 8-1772.22) is amended to
40 read as follows:

41 “By January 1, 2020, the Department of General Services (“DGS”) shall develop a draft
42 strategic energy management plan for reducing energy and water use across the DGS portfolio of
43 buildings. A final version of the plan shall be delivered no later than September 30, 2020. The
44 plan shall include timelines and cost estimates for implementing:”

45 Sec. 3. Section 6(j)(1A) of the District of Columbia Traffic Act, 1925, approved March ,
46 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(j)) is amended as follows:

47 (a) Subparagraph (A) is amended by striking the phrase “January 1, 2020” and inserting
48 the phrase “January 1, 2021” in its place.

49 (b) Subparagraph (E) is revised to read as follows:

50 “(E) Changes to the vehicle excise tax made pursuant to this paragraph
51 shall be revenue neutral or revenue positive.”.

52 Sec. 4. Fiscal impact statement.

53 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact
54 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
55 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

56 Sec. 5. Effective date.

57 This act shall take effect following approval by the Mayor (or in the event of veto by the
58 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
59 90 days, as provided for emergency acts of the Council of the District of Columbia in section
60 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
61 D.C. Official Code § 1-204.12(a)).

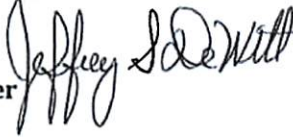
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: December 12, 2019

SUBJECT: Fiscal Impact Statement – CleanEnergy DC Omnibus Emergency
Amendment Act of 2019

REFERENCE: Draft Bill as shared with the Office of Revenue Analysis on December
11, 2019

Conclusion

Funds are sufficient in the fiscal year 2020 through fiscal year 2023 budget and financial plan to implement the bill. This fiscal impact statement accounts for the implementation of this emergency bill and a temporary version of the bill. At this time, a permanent version of the bill is not being introduced.¹ While the temporary version of the bill is expected to expire prior to the bill's revised strategic energy management plan reporting date of January 1, 2021, the Department of General Services (DGS) indicates it can absorb any fiscal year 2021 costs associated with the finalization of the plan.

Background

In 2018, the Council passed a series of reforms and new requirements around renewable energy, energy efficiency, transportation emissions, building performance standards, and energy-related employment programs.² One of the specific provisions requires the Department of Energy and Environment (DOEE) to establish building energy performance standards for all buildings in the District over 10,000 square feet and provide options for buildings to meet those standards. Private buildings over 50,000 square feet and District-owned buildings over 10,000 square feet are the first buildings required to meet the standards and must do so beginning on January 1, 2021. Private

¹ Emergency legislation is in effect for 90 days and temporary legislation is in effect for 225 days.

² Clean Energy DC Omnibus Amendment Act of 2018, effective March 22, 2019 (D.C. Law 22-257; D.C. Official Code § 8-1772.21 et seq.).

The Honorable Phil Mendelson

FIS: "CleanEnergy DC Omnibus Emergency Amendment Act of 2019," Draft Bill as shared with the Office of Revenue Analysis on December 11, 2019

buildings over 25,000 square feet and over 10,000 square feet must meet the standards beginning on January 1, 2023 and January 1, 2026, respectively. DOEE must review the standards every five years for all building types.

The bill delays the start date for private buildings over 25,000 square feet and over 10,000 square feet to be compliant with the performance standards until January 1, 2027 and January 1, 2033, respectively. The bill also extends to six years the cycle under which DOEE must review the standards.

The current law³ also requires DGS to develop a strategic energy management plan to reduce energy and water use across District-owned buildings by January 1, 2020. The bill delays the plan's delivery date by one year to January 1, 2021.

Another of 2018 Act's provisions requires the Department of Motor Vehicles (DMV) to adjust motor vehicle excise tax rates higher and lower for vehicles whose fuel efficiencies are below or above a benchmark standard.⁴ The Act required that the adjustments to the excise tax be revenue neutral. The bill amends this provision to require that any changes be revenue neutral or positive. The bill also delays the requirement that DMV issue rules to implement this change from January 1, 2020 to January 1, 2021.

Financial Plan Impact

Funds are sufficient in the fiscal year 2020 through fiscal year 2023 budget and financial plan to implement the bill. The bill delays two of the dates whereby private buildings need to begin meeting DOEE's building energy performance standards. There are no costs associated with giving buildings more time to start complying with the standards. There are also no costs associated with extending DOEE's standard review and update cycle from five to six years.

DGS can spend up to \$250,000 in fiscal year 2020 from the Renewable Energy Development Fund⁵ on the strategic energy management plan, but it will not be able to complete the final plan by January 1, 2020. DGS can absorb any costs associated with completing the plan in fiscal year 2021 in order to deliver the plan by the new completion date of January 1, 2021.

Current law requires the changes to the motor vehicle excise tax to be revenue neutral, but the District has determined that it would be difficult to implement precisely. The bill authorizes the changes to also be revenue positive, so that taxing at different rates will not negatively impact the District's excise tax revenues. The District collects approximately \$45 million annually in excise taxes. DMV is not proposing the revised tax rates at this time.

³ D.C. Official Code § 8-0442.22.

⁴ D.C. Official Code § 50-2201.03(j)(1A).

⁵ Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340; D.C. Official Code § 34-1436).

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division

MEMORANDUM

TO: Gianelle Rivera
Acting Executive Director
Office of Policy and Legislative Affairs

FROM: Brian K. Flowers
Deputy Attorney General
Legal Counsel Division

DATE: December 11, 2019

SUBJECT: Legal Sufficiency Review – Updated Draft CleanEnergy DC Technical
Amendment Emergency and Temporary Legislation
(AE-19-756 B)

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

A handwritten signature in black ink that reads "Brian K. Flowers". The signature is written in a cursive style with a long, sweeping underline.

Brian K. Flowers