A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Renewable Portfolio Standard Act of 2004 to increase the Renewable Portfolio Standard to 100% by 2032, to establish a solar energy standard after 2032, to require that electricity suppliers obtain a certain percentage of their energy from long-term purchase agreements with renewable generators, and to clarify the factors that the Office of the People’s Counsel and the Public Service Commission must consider in making decisions; to amend the Clean and Affordable Energy Act of 2008 to remove restrictions on the types of energy efficiency measures that the Sustainable Energy Utility must offer; to increase the Sustainable Energy Trust Fund fee assessments, to add an assessment on fuel oil, and to expand the uses of the Sustainable Energy Trust Fund; to establish a building energy performance standard program at the Department of Energy and Environment; to amend The Green Building Act of 2006 to expand the Department of Energy and Environment’s benchmarking program to include buildings of 10,000 square feet or more by 2024; to authorize the Mayor to commit the District to participation in regional programs with the purpose of limiting greenhouse gas emissions; to require the Department of Motor Vehicles to issue regulations tying the vehicle excise tax to fuel efficiency

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “CleanEnergy DC Omnibus Amendment Act of 2018”.

SUBTITLE I. RENEWABLE ENERGY AMENDMENTS

(a) Section 3 (D.C. Official Code § 34-1431) is amended as follows:

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

“(7A) “Long-term purchase agreement” means an agreement between an electricity supplier and an electricity generator for the purchase of electricity or renewable energy credits over a term of at least 7 years.”

(2) Paragraph (10) is amended by striking the phrase “PJM Interconnection region or within a state that is adjacent to the PJM Interconnection region” and inserting the phrase “PJM Interconnection region” in its place.

(b) Section 4 (D.C. Official Code § 34-1432) is amended as follows:

(1) Subsection (c)(9), (10), (11), (12), (13), (14) (15), (16), (17), (18), (19), (20), (21), and (22) are amended to read as follows:

“(9) In 2019, not less than 17.5% from tier one renewable sources, 0.5% from tier two renewable sources, and not less than 1.5% from solar energy;

“(10) In 2020, not less than 20% from tier one renewable sources, 0% from tier two renewable sources, and not less than 1.7% from solar energy;

“(11) In 2021, not less than 26.25% from tier one renewable sources, 0% from tier two renewable sources, and not less than 1.85% from solar energy;

“(12) In 2022, not less than 32.5% from tier one renewable sources, 0% from tier two renewable sources, and not less than 2.175% from solar energy;

“(13) In 2023, not less than 38.75% from tier one renewable sources, 0% from tier two renewable sources, and not less than 2.5% from solar energy;
“(14) In 2024, not less than 45.0% from tier one renewable sources, 0% from tier
two renewable sources, and not less than 2.6% from solar energy;

“(15) In 2025, not less than 51.25% from tier one renewable sources, 0% from tier
two renewable sources, and not less than 2.85% from solar energy;

“(16) In 2026, not less than 57.5% from tier one renewable sources, 0% from tier
two renewable sources, and not less than 3.15% from solar energy;

“(17) In 2027, not less than 63.75% from tier one renewable sources, 0% from tier
two renewable sources, and not less than 3.45% from solar energy;

“(18) In 2028, not less than 70% from tier one renewable sources, 0% from tier
two renewable sources, and not less than 3.75% from solar energy;

“(19) In 2029, not less than 76.25% from tier one renewable sources, 0% from tier
two renewable sources, and not less than 4.1% from solar energy;

“(20) In 2030, not less than 82.5% from tier one renewable sources, 0% from tier
two renewable sources, and not less than 4.5% from solar energy;

“(21) In 2031, not less than 88.75% from tier one renewable sources, 0% from tier
two renewable sources, and not less than 4.75% from solar energy; and

“(22) In 2032, not less than 95% from tier one renewable sources, 0% from tier
two renewable sources, and not less than 5.0% from solar energy.”.

(2) A new subsection (c-1) is added to read as follows:

“(c-1)(1) Notwithstanding subsection (c) of this section, beginning in 2020, if the solar
energy achieved in a given year exceeds the solar energy standard in that year, the solar energy
standard of the subsequent year shall increase by one plus the percentage difference between the
solar energy standard in that year and the actual percentage of solar achieved for that year,
multiplied by the subsequent year’s solar energy standard; provided, that the solar energy
standard shall not exceed a percentage that equates to a total installed capacity of 1.68 gigawatts.

“(2) Beginning in 2033, the solar energy standard of each year shall be
determined by multiplying the actual percentage of solar energy achieved in the year 2 years
prior multiplied by one plus the average percentage increase in solar energy capacity added in
the prior 2 years; provided, that the solar energy standard shall not exceed a percentage that
equates to a total installed capacity of 1.68 gigawatts.

“(3) For every year that the solar energy standard in a given year exceeds 5%, the
tier one renewable sources standard for that year shall be reduced by the same amount that the
solar energy standard exceeds 5%.”

(3) A new subsection (d-1) is added to read as follows:
“(d-1) Beginning January 1, 2022, an electricity supplier shall meet its renewable
portfolio standard by obtaining at least 70% of its renewable energy credits from renewable
sources with which the supplier has a long-term purchase agreement.

(c) Section 6 (D.C. Official Code § 34-1434) is amended by adding a new section (c-1) to
read as follows:
“(c-1) Any payment of a compliance fee due pursuant to subsection (c) shall be submitted
to DOEE for deposit into the Fund by November 1 of the calendar year following the year of
compliance.”

(d) Section 11(b) (D.C. Official Code § 34-1439(b)) is amended by striking the phrase
“credits generated by the utilities meeting the requirements of section 4, and” and inserting the
phrase “credits generated by the utilities meeting the requirements of section 4, the estimated
total amount of alternative compliance fees to be paid by electricity suppliers, the aggregate
amount of the District's electric supply that is or will be exempted pursuant to section 4 of the
Renewable Energy Portfolio Standard Expansion Amendment Act of 2016, effective October 8,
2016 (D.C. Law 21-154; 63 DCR 10138), that year and annually through 2022, and" in its place.
Sec. 102. Section 109(c) of The Retail Electric Competition and Consumer Protection
Act of 1999, effective May 9, 2000 (D. C. Law 13-107; D.C. Official Code § 34-1509(c)) is
amended as follows:

(a) Paragraph (3) is amended by striking the phrase "; and" and inserting a semicolon in
its place.

(b) Paragraph (4) is amended by striking the period at the end an inserting the phrase ";
and" in its place; and

(c) New paragraphs (5), (6), and (7) are added to read as follows:

"(5) Beginning January 1, 2020, a requirement that at least 26% of the supplier’s
electric supply be obtained pursuant to a long-term power purchase agreement with a tier one
renewable source, as those terms are defined in section 3 of The Renewable Energy Portfolio
1431).

"(6) Beginning January 1, 2021, a requirement that at least 52% of the supplier’s
electric supply be obtained pursuant to a long-term power purchase agreement with a tier one
renewable source, as those terms are defined in section 3 of The Renewable Energy Portfolio
1431).

"(7) Beginning January 1, 2022, and each year thereafter, a requirement that at
least 80% of the supplier’s electric supply be obtained pursuant to a long-term power purchase
agreement with a tier one renewable source, as those terms are defined in Section 3 of The
D.C. Official Code § 34-1431).”.

Sec. 103. Section 1(b) of An Act To provide a People’s Counsel for the Public Service
Commission in the District of Columbia, and for other purposes, approved January 2, 1975 (88
Stat. 1975; D.C. Official Code § 34-804(e)), is amended by striking the phrase, “and the
preservation of environmental quality” and inserting the phrase “and the preservation of
environmental quality, including effects on global climate change and the District’s public
climate commitments” in its place.

Sec. 104. Section 8(97B) of An Act Making appropriations to provide for the expenses of
the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen
hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 974; D.C.
Official Code §34-808.02), is amended by striking the phrase, “and the preservation of
environmental quality” and inserting the phrase “and the preservation of environmental quality,
including effects on global climate change and the District’s public climate commitments” in its
place.

SUBTITLE II. SUSTAINABLE ENERGY TRUST FUND EXPANSION

Sec. 201. The Clean and Affordable Energy Act of 2008, effective October 22, 2008
(D.C. Law 17-250; D.C. Official Code § 8-1773.01 et seq.), is amended as follows:

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

(1) Subsection (h) is repealed.

(2) Subsection (i) is repealed.

(3) Subsection (j) is repealed.
(b) Section 210 (D.C. Official Code § 8-1774.10) is amended as follows:

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

(A) Paragraph (1) is amended as follows:

(i) Subparagraph (D) is amended by striking the phrase “and each year thereafter.” and inserting the phrase “through fiscal year 2019;” in its place.

(ii) A new subparagraph (E) is added to read as follows:

“(E) The amount of $.04515 in fiscal year 2020 and each year thereafter.”.

(B) Paragraph (2) is amended as follows:

(i) Subparagraph (D) is amended by striking the phrase “and each year thereafter.” and inserting the phrase “through fiscal year 2019;” in its place.

(ii) New subparagraphs (E), (F), (G), (H), (I), (J), (K), (L), (M), (N), (O), (P) and (Q) are added to read as follows:

“(E) The amount of $.0029016 in fiscal year 2020;

“(F) The amount of $.00279279 in fiscal year 2021;

“(G) The amount of $.0027001 in fiscal year 2022;

“(H) The amount of $.00259935 in fiscal year 2023;

“(I) The amount of $.0024986 in fiscal year 2024;

“(J) The amount of $.00239785 in fiscal year 2025;

“(K) The amount of $.0022971 in fiscal year 2026;

“(L) The amount of $.00219635 in fiscal year 2027;

“(M) The amount of $.0020956 in fiscal year 2028;

“(N) The amount of $.00199485 in fiscal year 2029;

“(O) The amount of $.0018942 in fiscal year 2030;
“(P) The amount of $.00179335 in fiscal year 2031;
“(Q) The amount of $.001612 in fiscal year 2032 and each year thereafter.”.

(C) A new paragraph (2A) is added to read as follows:

“(2A) There is imposed upon a person who delivers heating oil or fuel oil to an end-user in the District, whether for industrial, commercial, or residential use, an assessment of $.084 per gallon, calculated on sales.”

(2) Subsection (c) is amended as follows:

(A) Paragraph (2) is amended by striking the phrase “development of” and inserting the phrase “development and implementation of” in its place.

(B) Paragraph (10) is repealed.

(C) New paragraphs (11), (12), (13), (14), and (15) are added to read as follows:

“(11) In Fiscal Year 2020 and each year thereafter, at least 20% of the funds generated by the increases to assessments included in the Clean Energy DC Omnibus Amendment Act of 2018, as introduced on July 10, 2018, (Bill 22-XXX), shall be used by DOEE or the Sustainable Energy Utility to benefit low-income residents, which may include energy bill assistance, energy efficiency, weatherization, and fuel-switching programs, including programs making improvements to commercial and institutional buildings serving low-income residents.

“(12) Implementation of the Building Energy Performance Standard program required by section 301 of the Clean Energy DC Omnibus Amendment Act of 2018, as introduced on July 10, 2018 (Bill 22-XXX)
“(13) In Fiscal Year 2020, transferring $15 million to the Green Finance Authority to support sustainable projects and programs, if such transfer is included in an approved budget and financial plan.

“(14) In Fiscal Year 2021, transferring $15 million to the Green Finance Authority to support sustainable projects and programs, if such transfer is included in an approved budget and financial plan.

“(15) In Fiscal Years 2022, 2023, 2024, and 2025, transferring $10 million to the Green Finance Authority to support sustainable projects and programs, if such transfer is included in an approved budget and financial plan.

TITLE III. BUILDING ENERGY PERFORMANCE STANDARDS AND BENCHMARKING

Sec. 301. Establishment of a Building Energy Performance Standard Program

(a) This section shall apply to:

(1) Beginning January 1, 2020, all privately-owned buildings with at least 50,000 square feet of gross floor area and all District-owned or District instrumentality-owned buildings with at least 10,000 square feet of gross floor area;

(2) Beginning January 1, 2023, all privately-owned buildings with at least 25,000 square feet of gross floor area; and

(3) Beginning January 1, 2026, all privately-owned buildings with at least 10,000 square feet of gross floor area.

(b)(1) No later than January 1, 2020, and every 5 years thereafter, DOEE shall conduct a building energy performance assessment of all buildings to which this section applies and, no
later than March 1, 2018, and every five years thereafter, DOEE shall establish property types and building energy performance standards for each property type.

(2) The building energy performance standard shall be no lower than the District median ENERGY STAR score for buildings of each property type.

(3) DOEE shall establish reporting and data verification requirements for each five-year compliance cycle.

(c) All buildings with a verified ENERGY STAR score below the building energy performance standard for its property type shall have five years to meet the building energy performance requirements established by DOEE.

(d) DOEE may establish multiple compliance pathways for buildings to meet the building energy performance requirements, including:

(1) A performance pathway for buildings to achieve compliance by demonstrating a greater than 20% site energy use intensity decrease over the previous five years;

(2) A prescriptive pathway for buildings to achieve compliance by implementing cost-effective energy efficiency measures; and

(3) Other compliance pathways established by DOEE.

(e) DOEE shall establish exemption criteria for qualifying buildings to delay compliance with the building energy performance requirements for up to 3 years if they demonstrate financial distress, change of ownership, vacancy, major renovation, pending demolition, or other circumstances determined by DOEE.

(f) DOEE shall coordinate with the Sustainability Energy Utility and Green Finance Authority to establish an incentive and financial assistance program for qualifying building owners and affordable housing providers to meet building energy performance requirements.
(g) Buildings failing to comply with the building energy performance requirements at the end of the 5-year compliance period shall pay an alternative compliance penalty established by DOEE.

(h) By January 1, 2023, DOEE shall publish a report assessing whether the building energy performance standard should be revised to a standard based on reducing contribution to greenhouse gas emissions, and recommending a method and timeline for doing so, including any statutory changes needed.

(i) DOEE may impose civil infraction penalties, fines, and fees as sanctions for any violation of this section or a regulation issued pursuant to this section, pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 et seq.).

(j) The Attorney General for the District of Columbia may commence a civil action in the Superior Court of the District of Columbia or any other court of competent jurisdiction for damages, cost recovery, reasonable attorney and expert witness fees, and injunctive or other appropriate relief to enforce compliance with this section or the regulations adopted pursuant to this section.

Sec. 302. Section 4(c)(2)(B) of The Green Building Act of 2006, effective March 8, 2007 (D.C. Law 16-234; D.C. Official Code § 6-1451.034(c)(2)(B)), is amended as follows:

(a) Sub-paragraph (B) is amended as follows:

(1) Sub-sub-paragraph (iii) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(2) Sub-sub-paragraph (iv) is amended by striking the period at the end and inserting the phrase "; and" in its place.
(3) New sub-subparagraphs (v) and (vi) are added to read as follows:

“(v) January 1, 2021, for a building with 25,000 square feet of
gross floor area, or more; and

“(vi) January 1, 2024, for a building with 10,000 square feet of
gross floor area, or more.”.

(b) A new subparagraph (F) is added to read as follows:

“(F) Every 3 years the owner or, the owner’s designee, shall perform a
third-party verification of its benchmark and ENERGY STAR statements in accordance with
requirements specified by DOEE.”.

SUBTITLE IV. TRANSPORTATION INITIATIVES

Sec. 401. Authorization to participate in regional programs limiting greenhouse gas
emissions

(a) The Mayor may commit the District to participation or membership in any regional
governmental initiative, agreement, or compact for the purpose of limiting greenhouse gas
emissions from the transportation sector.

(b) Provided that Maryland or Virginia impose a state-wide greenhouse gas emissions fee
on motor fuel sales or distribution, the Mayor may impose a similar fee of up to an equal amount.

Sec. 402. Section 6(j) of The District of Columbia Traffic Act, 1925, approved March 3,
1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(j)(3)(Q)), is amended as follows:

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

“(1A)(A) By January 1, 2020, the Department of Motor Vehicles, in consultation
with the Department of Energy and Environment, and the Office of Tax and Revenue, shall issue
rules revising the calculation of the vehicle excise tax such that the fee amount shall be applied 
as either an increase or decrease to the excise tax amount as described in this paragraph.  
(B) The increase or decrease to the excise tax amount shall be based on the 
difference between the fuel efficiency of the vehicle for which the title is being sought, using 
window label vehicle fuel efficiency figures, and a benchmark standard.  
(C) Vehicles seeking a title with a fuel efficiency below the benchmark 
standard shall pay an increased excise tax amount, with the amount of increased tax increasing 
based on how far below the benchmark standards the vehicle is.  
(D) Vehicles seeking a title with a fuel efficiency above the benchmark 
standard shall pay a decreased excise tax amount, or receive an excise tax rebate, with the 
amount of decreased tax decreasing based on how far above the benchmark standards the vehicle 
is.  
(E) Changes to the vehicle excise tax made pursuant to this paragraph 
shall be revenue neutral, whereby total expenditures on excise tax decreases to vehicles with fuel 
efficiencies above the benchmark standards shall equal the total revenue raised by excise tax 
increases to vehicles with fuel efficiencies below the benchmark standards.  
(F) The Department of Motor Vehicles shall publish and maintain publicly 
available information to help residents understand the vehicle excise tax described in this 
paragraph, and how it might affect the cost of obtaining a title in the District.  
(G) The modification of the vehicle excise tax described in this paragraph 
shall not apply to: 
(i) Vehicles owned by individuals who demonstrate their eligibility 
for the federal Earned Income Tax Credit, or
(ii) Trailers.”

(b) Paragraph (3)(J) is amended to read as follows:

“(J) Electric vehicles.”

SUBTITLE V. RULES; APPLICABILITY; AND EFFECTIVE DATE

Sec. 501. Rulemaking.

The Department of Energy and Environment, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), may issue rules to implement the provisions of this title, including rules that increase the minimum size of the solar zone for particular classes of residential buildings.

Sec. 502. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 503. Fiscal impact statement.

Sec. 504. Effective date.

This act shall take effect following approval of the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.22(c)(1)), and publication in the District of Columbia Register.