

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING) ORDINANCE NO. 03-993A
METRO CODE CHAPTER 2.02,)
PERSONNEL RULES FOR REPRESENTED) Introduced by Interim Chief Operating Officer,
AND NON-REPRESENTED EMPLOYEES) Mark B. Williams with Concurrence of President
) of the Council, David Bragdon

WHEREAS, Metro Code section 2.02, Personnel Rules have not been comprehensively reviewed and updated since 1994,

WHEREAS, human resources has begun a complete review of the personnel code as well as other policies affecting personnel administration,

WHEREAS, human resources has identified particular sections of the personnel code regarding drug and alcohol abuse, affirmative action/equal employment opportunity and leave donation programs which are in need of immediate revision in order to ensure the safe and effective management of Metro operations,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1: Metro Code Section 2.02.215 is amended to read as follows:

2.02.215 Drug/Alcohol Abuse Policy

~~_____ (a) _____ An employee who believes that he/she has a problem involving the use of alcohol or drugs can ask the supervisor or the office of personnel staff for confidential assistance. No discipline or discrimination will result from an employee asking for such assistance, although a "reentry" or performance contract will be required of an employee once the problems have been identified or assessed and a treatment program started. Failure to sign or to live up to the performance contract or treatment program obligations will be grounds for discipline, including termination.~~

~~_____ Metro also agrees to work jointly with the employee to identify all Metro and, if applicable, union benefits and benefit programs that may be available to help deal with the problem, such as leaves of absence, sick pay, short term or long term disability pay and health insurance. Any continuing rehabilitation treatment will be paid for by the employee and whatever employee coverage for such treatment that is provided by the existing benefits package. The request for assistance and any later treatment program will be kept as confidential as possible under all the factual circumstances.~~

~~_____ Although Metro recognizes that alcohol and drug abuse can sometimes be successfully treated and it is willing to work with employees who may suffer from such problems, it is the employee's responsibility to seek such assistance BEFORE drug or alcohol problems lead to on the job safety or misconduct incidents, or violations of this policy and to corresponding disciplinary action. AFTER a violation of this policy occurs, or AFTER a drug or alcohol related accident, an employee's willingness to seek Metro or outside assistance will NOT "excuse" the violation and generally will have no bearing on the determination of an appropriate disciplinary action.~~

~~(b) Prohibited Conduct~~

~~(1) Alcohol. The possession, transfer, sale, offering, consumption or being under the influence of any intoxicating liquor while on Metro property is prohibited. IMPORTANT: The conduct prohibited includes consumption of any intoxicating liquor prior to reporting to work or during breaks or lunch period or on the job. For purposes of this provision, "under the influence" shall be defined as a blood alcohol content of .02 or higher.~~

~~(2) Drugs. The possession, transfer, sale, offering, consumption or being under the influence of any narcotic, hallucinogen, stimulant, sedative, or drugs (except as authorized and prescribed by a physician and then only if reported to the supervisor prior to beginning work) while on Metro property or time (such as on customer's premises).~~

~~EXCEPTION. The use of medically prescribed or over the counter drugs during working hours is approved, and an employee shall have no obligation to inform his or her supervisor of such usage unless the prescribed or over the counter drug contains a warning notice of possible impairment which may prevent an employee from performing his or her job safely and adequately; for example, operating mechanical equipment. An employee must inform his or her supervisor that he/she is taking prescribed or over the counter drugs which contain a warning of possible impairment prior to beginning work each day he or she uses the medication.~~

~~IMPORTANT. The conduct prohibited by this rule includes consumption of any such substance prior to reporting to work or during breaks or lunch period or on the job. An employee who tests "positive" for any such substances by screening and confirmation tests, including an employee who tests positive as the result of an authorized prescribed substance that was not reported to the supervisor prior to beginning work, will be deemed "under the influence" for the purposes of this rule.~~

~~The only exception is that less than 50 nanograms of THC, the active ingredient in marijuana, will not be considered a positive test.~~

~~(c) Right to Test. When Metro reasonably suspects that an employee has consumed or is under the influence of alcohol or any other substance or is otherwise in violation of this policy, Metro may require that the employee submit to appropriate tests for alcohol or prohibited drugs or substances in his/her system, including urinalysis. Failure to promptly give written consent, without qualification, to such testing and failure to provide samples for such testing will be grounds for immediate suspension pending further investigation and consideration, and for possible discipline, including termination.~~

~~Metro will bear the expense of all testing under this provision requested by Metro. A positive test must be confirmed by a second test which uses a different methodology than the one which was used for the initial positive result. An employee subject to testing will, upon request, receive a sample of the tested substance so that the employee can submit it to an independent lab (one chosen by the employer) for verification.~~

~~An employee determined to have violated this rule for the first time will not automatically be subject to discipline or discharge depending on the circumstances of the violation and whether he or she agrees to complete an approved substance abuse program. Second or subsequent violations of this rule may result in discipline, up to and including discharge.~~

~~The results of all investigations, tests and discipline will be kept strictly confidential to the extent permitted by law, except that such information will be made available on request by the employee.~~

2.02.215 Drug and Alcohol Policy

(a) Purpose

The purpose of the Drug and Alcohol Policy is to assist Metro in providing and maintaining a safe, healthy, and productive work environment for employees. The Metro Drug and Alcohol Policy is applicable to all Metro employees. This policy authorizes drug and alcohol testing if there is reasonable suspicion of drug or alcohol impairment, as well as return-to-duty and follow-up testing. Drug testing shall be conducted in accordance with procedures established and administered by the Personnel Director.

(b) Employee Conduct

- (1) All employees are prohibited from engaging in the unlawful possession, dispensation, distribution, manufacture or use of alcohol or any controlled substance at any time while on duty, or in a Metro owned or operated vehicle(s).
- (2) It is the responsibility of any employee with a substance abuse problem to seek assistance, including any resources which may be required from Metro or Metro's employee assistance program, before drug and alcohol problems adversely affect the ability to perform his or her job or lead to violations of this policy.
- (3) All employees shall report to work in an appropriate mental and physical condition to work safely and effectively. No employee shall report to work or engage in work while under the influence of alcohol, or having the presence of illegal drugs, or any other disabling or controlled substance in his or her system.
- (4) Any employee who observes or has knowledge of another employee on duty in violation of this policy, and in a condition which poses a hazard to the safety or welfare of others, shall report the information to his or her immediate supervisor, the employee's supervisor, or the Personnel Director.
- (5) This policy is not violated when an employee possesses and uses a physician-prescribed medication in accordance with the prescription.

(c) Drug and Alcohol Testing

Metro may require a current employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during work hours. "Reasonable suspicion" means an articulable belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs or alcohol. Testing shall be conducted pursuant to standards and procedures administered by the Personnel Director.

(d) Definitions

For the purposes of this policy:

- (1) An employee has a controlled substance "in his or her system" when the employee tests "positive" in any blood or urine test administered if the result of such test meets or exceeds the level set forth in 49 CFR Part 40.

- (2) An employee is “under the influence” of alcohol when the employee has an alcohol test with the result showing an alcohol concentration level of 0.02 or greater.
- (3) The term “controlled substance” means marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP) as specified in Schedule I or Schedule II of the Controlled Substances Act (21 USC § 812).

(e) Drug Related Convictions

As required by the Drug Free Workplace Act of 1998, Metro employees shall notify Metro of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction.

(f) Refusal to Consent; Employees

An employee who refuses to consent to drug and alcohol testing when reasonable suspicion of drug or alcohol use has been identified, is subject to disciplinary action up to and including termination. The reasons for the refusal shall be considered in determining the appropriate disciplinary action.

(g) Program Administration

The Drug and Alcohol Policy and program are administered by the Personnel Director.

SECTION 2: Section 3 of this ordinance is added to and made a part of Metro Code Chapter 2.02.

SECTION 3: 2.02.447 Drug and Alcohol Policy

(a) Purpose

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- (3) All employees shall report to work in an appropriate mental and physical condition to work safely and effectively. No employee shall report to work or engage in work while under the influence of alcohol, or having the presence of illegal drugs, or any other disabling or controlled substance in his or her system.
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The Drug and Alcohol Policy and program are administered by the Personnel Director.

SECTION 4: Metro Code Section 2.02.070 is amended to read as follows:

2.02.070 Affirmative Action Policy

(a) Policy Statement. Metro states as its policy a commitment to provide equal employment opportunities without regard to race, color, religion, national origin, sex, age, disability, sexual orientation, or marital or familial status, except where a bona fide occupational qualification exists.

(b) Affirmative Action Program. ~~The council has adopted an affirmative action policy and program which is set forth in a separate document which is available throughout Metro facilities. All employees are encouraged to familiarize themselves with Metro's affirmative action policies.~~ The chief operating officer or his/her designee will adopt an affirmative action policy and program as well as appropriate anti-discrimination and harassment polices which will be set forth in separate documents. Such policies and programs will be distributed to employees at hire and be made available throughout Metro facilities. All employees are expected to familiarize themselves with these policies.

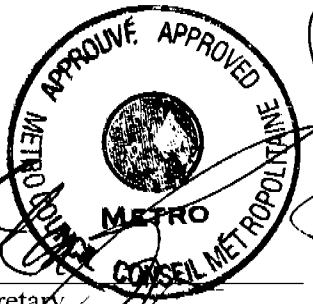
SECTION 5: Metro Code Section 2.02.365 is amended to read as follows:

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ADOPTED by the Metro Council this 1st day of May 2003.



ATTEST:

[Signature]
Recording Secretary

[Signature]
David Bragdon, Council President

Approved as to Form:

[Signature]
Daniel B. Cooper, Metro Attorney

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2.02.215 Drug and Alcohol Policy

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(d) Definitions

For the purposes of this policy:

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As required by the Drug Free Workplace Act of 1998, Metro employees shall notify Metro of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction.

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An employee who refuses to consent to drug and alcohol testing when reasonable suspicion of drug or alcohol use has been identified, is subject to disciplinary action up to and including termination. The reasons for the refusal shall be considered in determining the appropriate disciplinary action.

(g) Program Administration

The Drug and Alcohol Policy and program are administered by the Personnel Director.

SECTION 2: Section 3 of this ordinance is added to and made a part of Metro Code Chapter 2.02.

SECTION 3: 2.02.447 Drug and Alcohol Policy

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- (2) It is the responsibility of any employee with a substance abuse problem to seek assistance, including any resources which may be required from Metro or Metro’s employee assistance program, before drug and alcohol problems adversely affect the ability to perform his or her job or lead to violations of this policy.

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(g) Program Administration

The Drug and Alcohol Policy and program are administered by the Personnel Director.

SECTION 4: Metro Code Section 2.02.135 is amended to read as follows:

2.02.135 Vacation

The following provisions are applicable to permanent employees only:

(a) All regular and regular part-time employees shall be granted annual vacation leave with pay.

(b) Upon successful completion of their initial probationary period, employees may be granted accrued vacation leave by approval of the Department Director. Department Director vacations shall be approved by the Chief Operating Officer.

(c) Employees shall not accumulate more than 250 hours of vacation leave. If the operating needs of the department prohibit granting a vacation leave request, additional hours in excess of the 250-hour limit may be accrued or may be compensated at the discretion of the Department Director and with the written approval of the Chief Operating Officer. Such written authorization shall be filed in the finance and management information department, accounting division, with a copy to the office of personnel.

(d) Department Directors shall schedule vacation requests consistent with the operational needs of the department. Vacation schedules may be amended to allow the department to meet emergency situations.

(e) An employee who has successfully completed his/her initial probationary period, and terminates for any reason, shall be entitled to payment for accrued unused vacation leave. In no case shall payment be more than the maximum allowable 250-hour accrual limit. An employee who terminates for any reason during the initial probationary period shall not be entitled to any accumulated vacation leave payment.

(f) Transfer of Leave Credits. Vacation leave is provided as a benefit to each employee. Under normal circumstances this leave benefit is not transferable; however, upon written request of a regular employee to the Personnel Director the voluntary transfer of vacation leave hours may be authorized on a limited, carefully monitored basis as follows:

(1) Each request will be reviewed and approval granted or denied on a case-by-case basis by the Personnel Director.

(2) Requests must be owing to a catastrophic illness of the requesting employee only. A catastrophic illness of an employee is any non-occupational illness, injury or physical or mental condition of such serious nature as to require long-term absence from work. The Personnel Director shall develop administrative procedures that define "catastrophic illness."

(3) The requesting employee must have no accrued sick leave balance and no accrued vacation leave balance at the time of the request.

(4) Upon approval per (1) above, the requesting employee, or another employee he/she has designated, may initiate a request to Metro employees for the transfer of accrued vacation leave hours.

(5) Employees wanting to voluntarily transfer accrued vacation leave hours to the requesting employee may do so only as follows:

(A) The transferring employee's department director must authorize the transfer of hours by signature, such authorization will indicate the transfer of hours can be accomplished within the departmental fiscal year budget.

(B) The transfer of accrued vacation leave hours cannot exceed a total of 40 hours per transferring employee for each individual requesting employee for each fiscal year.

(C) If the transferring employee's vacation leave balance has reached the capped limit, the employee cannot uncap their accrued hours to allow for a transfer of hours. Transferred hours must be deducted from accrued hours at or below the applicable cap.

(6) Normal leave accruals will not continue for requesting employees while they are on paid leave status as a result of transferred hours. However, health and welfare benefits provided for any other employee on paid leave status will continue for the requesting employee for as long as they remain on paid status.

(7) Any transferred vacation leave hours unused by the requesting employee shall be returned to all transferring employees' vacation leave accrual balances on a pro-rated basis.

SECTION 5: Metro Code Section 2.02.145 is amended to read as follows:

2.02.145 Sick Leave

(a) Permanent employees shall earn sick leave with pay at a rate of 104 hours per year (.05 hours per hour worked); such sick leave shall accrue in an unlimited amount.

(b) Permanent part-time employees shall earn sick leave with pay proportionate to the amount of FTE for the position in the budget; such sick leave shall accrue in an unlimited amount.

(c) Employees may use accrued sick leave when temporarily unable to perform work duties by reason of personal illness, injury, disability, medical or dental care, or illness, injury, or disability of a person living in the employee's household. Sick leave is not to be used for personal time off or to extend holidays or vacation leave. No payment for accrued sick leave shall be provided for any employee upon termination of employment for any reason.

(d) Abuse of the sick leave privilege shall be cause for disciplinary action. An employee who is unable to report to work because of any of the reasons set forth in the above subsection of this section shall report the reason for his/her absence to his/her supervisor. Sick leave with pay may not be allowed unless such report has been made. The supervisor may require sick leave to be supported by a physician's statement attesting to the illness.

(e) Permanent full-time employees who use 24 hours or less of sick leave within one fiscal year period, and who are not at the 250-hour vacation accrual limit, shall accrue eight additional hours of vacation leave in exchange for eight hours of sick leave at the end of the fiscal year period. Permanent part-time employees who use 12 hours or less of sick leave within one fiscal year, and who are not at the 250-hour vacation accrual limit, shall accrue four additional hours of vacation leave in exchange for four hours of sick leave. Permanent employees must work a full fiscal year in order to be eligible for this exchange of accrued hours.

~~(f) Transfer of Leave Credits. Sick leave is provided as a benefit to each employee as insurance for period of illness. Under normal circumstances benefits are not transferable; however, upon written request of a regular employee to the Chief Operating Officer the voluntary transfer of sick leave hours may be authorized on a limited, carefully monitored basis as follows:~~

~~(1) Each request will be reviewed and approval granted or denied on a case-by-case basis by the Chief Operating Officer.~~

~~(2) Requests must be due to a catastrophic, long term, or chronic illness of the requesting employee only.~~

~~(3) The requesting employee must have no more than 40 hours combined accrued sick leave hours and accrued vacation leave hours at the time of the request.~~

~~(4) Upon approval per (1) above, the requesting employee, or another employee he/she has designated, may initiate a request to Metro employees for the transfer of accrued sick leave hours.~~

~~(5) Employees wanting to voluntarily transfer accrued sick leave hours to the requesting employee may do so only as follows:~~

~~(A) The transferring employee's Department Director must authorize the transfer of hours by signature. Such authorization will indicate the transfer of hours can be accomplished within the departmental fiscal year budget.~~

~~(B) The transfer of accrued sick leave hours cannot exceed a total of 40 hours per transferring employee for each individual requesting employee for each fiscal year.~~

~~(C) Under no circumstances shall the transferring employee's sick leave balance be reduced to below 120 hours of accrued sick leave because of the voluntary transfer of sick leave hours to another employee.~~

- ~~(6) Normal leave accruals will not continue for requesting employees while they are on paid leave status as a result of transferred hours. However, health and welfare benefits provided for any other employee on paid leave status will continue for the requesting employee for as long as they remain on paid status.~~
- ~~(7) Any transferred sick leave hours unused by the requesting employee shall be returned to all transferring employees' sick leave accrual balances on a pro-rated basis.~~
- ~~(8) Copies of approved requests and approved transfers of hours must be sent to the finance and management information department, accounting division, for implementation and to the office of personnel.~~

SECTION 6: Metro Code Section 2.02.405 is amended to read as follows:

2.02.405 -Sick Leave- Transfer of Vacation Leave Credits

Vacation leave is provided as a benefit to each employee. Under normal circumstances this leave accruals are benefit is not transferable. ~~However,~~ upon written request of a regular employee to the ~~Chief Operating Officer~~ Personnel Director, the voluntary transfer of ~~sick~~ vacation leave hours may be authorized on a limited, carefully monitored basis as follows:

(a) Each request will be reviewed and approval granted or denied on a case-by-case basis by the ~~Chief Operating Officer~~ Personnel Director.

(b) Requests must be ~~due~~ owing to a catastrophic, long term, or chronic illness of the requesting employee only. A catastrophic illness of an employee is any non-occupational illness, injury or physical or mental condition of such serious nature as to require long-term absence from work. The Personnel Direction shall develop administrative procedures that define "catastrophic illness."

(c) The requesting employee must have ~~no more than forty (40) hours, combined accrued sick leave hours balance and no accrued vacation leave hours balance,~~ at the time of the request.

(d) Upon approval per ~~(1a)~~ above, the requesting employee, or another employee he/she has designated, may initiate a request to Metro employees for the transfer of ~~accrued sick~~ vacation leave hours.

(e) Employees wanting to voluntarily transfer ~~accrued sick~~ vacation leave hours to the requesting employee may do so only as follows:

- (1) The transferring employee's ~~department~~ Director must authorize the transfer of hours by signature, such authorization will indicate the transfer of hours can be accomplished within the departmental fiscal year budget.
- (2) The transfer of ~~accrued sick~~ vacation leave hours cannot exceed a total of 40 hours per transferring employee for each individual requesting employee for each fiscal year.

(3) ~~Under no circumstances shall the transferring employee's sick leave balance be reduced to below 120 hours of accrued sick leave because of the voluntary transfer of sick leave hours to another employee. If the transferring employee's vacation leave balance has reached the capped limit, the employee cannot uncapped their accrued hours to allow for a transfer of hours. Transferred hours must be deducted from accrued hours at or below the applicable cap.~~

(f) Normal leave accruals will not continue for requesting employees while they are on paid leave status as a result of transferred hours. However, health and welfare benefits provided for any other employee on paid leave status will continue for the requesting employee for as long as they remain on paid status.

(g) Any transferred ~~sick~~ vacation leave hours unused by the requesting employee shall be returned to all transferring employees' ~~sick~~ vacation leave accrual balances on a pro-rated basis.

~~(h) Copies of approved requests and approved transfers of hours must be sent to the finance and management information department, accounting division for implementation and to the office of personnel.~~

SECTION 7: Metro Code Section 2.02.070 is amended to read as follows:

2.02.070 Affirmative Action Policy

(a) Policy Statement. Metro states as its policy a commitment to provide equal employment opportunities without regard to race, color, religion, national origin, sex, age, disability, sexual orientation, or marital or familial status, except where a bona fide occupational qualification exists.

~~(b) Affirmative Action Program. The council has adopted an affirmative action policy and program which is set forth in a separate document which is available throughout Metro facilities. All employees are encouraged to familiarize themselves with Metro's affirmative action policies. The chief operating officer or his/her designee will adopt an affirmative action policy and program as well as appropriate anti-discrimination and harassment policies which will be set forth in separate documents. Such policies and programs will be distributed to employees at hire and be made available throughout Metro facilities. All employees are expected to familiarize themselves with these policies.~~

SECTION 8: Metro Code Section 2.02.365 is amended to read as follows:

2.02.365 Affirmative Action Policy

(a) Policy Statement. Metro states as its policy a commitment to provide equal employment opportunities without regard to race, color, religion, national origin, sex, age, disability, sexual orientation, or marital or familial status, except where a bona fide occupational qualification exists.

~~(b) Affirmative Action Program. The council has adopted an affirmative action policy and program which is set forth in a separate document which is available throughout Metro facilities. All employees are encouraged to familiarize themselves with Metro's affirmative action policies.~~

The chief operating officer or his/her designee will adopt an affirmative action policy and program as well as appropriate anti-discrimination and harassment policies which will be set forth in separate documents. Such policies and programs will be distributed to employees at hire and be made available throughout Metro facilities. All employees are expected to familiarize themselves with these policies.

ADOPTED by the Metro Council this ____ day of ____ 2003.

David Bragdon, Council President

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 03-993, FOR THE PURPOSE OF REVISING METRO CODE CHAPTER 2.02, PERSONNEL RULES FOR REPRESENTED AND NON-REPRESENTED EMPLOYEES.

Date: February 20, 2003

Prepared by: Lilly Aguilar, HR Director

BACKGROUND

Since Council's adoption of a major revision to the personnel code in 1994, Metro has not undergone a serious and critical look at the entirety of its personnel code. Public accountability requires that Metro periodically review its personnel code to ensure we create a workplace that supports employees in the work of effective public service. For this very reason Council, in the past, has requested policy development that supports greater consistency between represented and non-represented employee groups and as well as across Metro's various departments.

In fulfillment of this request, human resources is presently leading the effort to identify the various sources of policy that impact personnel conduct and to create a centralized and clear method for managing these policies. Though this project is underway human resources has, in its initial review of all policies, discovered some portions of the personnel code that require immediate revision by council.

The need for the immediate changes is driven by two things, one, some tentative agreements we have been able to make with the unions regarding more effective management of resources that we need to commit to policy as soon as possible, and two the absence of some policies needed for Metro to effectively comply with federal and state laws regarding discrimination and harassment prevention.

The following is an outline of the three changes we are recommending as well as an explanation of why we feel the changes are necessary now.

Part I:

Drug and Alcohol Policy

Metro has had a drug and alcohol abuse prevention policy for its non-represented employees since 1994. Since that time no updates to policies or programs related to substance abuse prevention have been established. In addition, there has never been a policy in place regarding on-the-job substance abuse for represented employees. At this time two things are needed, one, an update to the non-represented drug and alcohol abuse policy and two, a new policy to cover represented employees. This ordinance addresses both issues by implementing an updated policy for Metro's non-represented employees and by implementing this same policy for Metro's represented employees.

Human resources has secured a Letter of Agreement (LOA) with the unions regarding the potential bargaining impact related to the adoption of this policy for represented employees. Consequently, no additional bargaining with the unions will be required if this policy is adopted as recommended. This policy does not provide any substantive change to the non-represented employee drug/alcohol abuse policy that is currently in code. Instead, it creates a new policy that matches the agreement we have reached with represented employees to allow for more effective and consistent policy administration with both represented and non-represented employees.

We anticipate that adoption of this policy will allow Metro to more effectively prevent drug and alcohol abuse in the workplace and thus more effectively ensure public safety at all of our facilities. We also anticipate that we will be better able to support employees who require professional assistance with a drug and/or alcohol problem.

Part II:

Transfer of Leave Credits.

Under current Metro code employees are permitted to transfer their accumulated sick leave to another employee who requests such donation as a result of a catastrophic, long-term, or chronic illness.

In reviewing the effectiveness of Metro's leave policies and in researching comparable policies and programs in other agencies the need to update Metro's leave transfer policy became evident. Currently, employees are permitted to donate their sick leave accruals to requesting employees. Under this revision, employees would still be permitted to donate time to a requesting employee but the leave donated would now be accrued vacation time and not sick leave.

It should be noted that human resources has made the unions aware of our intent to make this change to the transfer of leave credits policy and that in our discussions regarding this change we secured an understanding with the unions that this topic does not require us to bargain impact.

It is anticipated that this change to the leave donation policy will result in more effective fiscal management of the leave benefits Metro offers its employees, as it allows us to offer the same level of benefits but in a more cost-effective manner. Details of the cost benefit are discussed in the budget impact section of this report.

Part III:

Affirmative Action Policy

Since its adoption of the Affirmative Action Policy and Program (AAP) in 1992 Council has not updated the program. Much has changed in area of affirmative action and equal opportunity employment. In fact, these are areas of the law that change quite rapidly. When the AAP was adopted in 1992 Metro was a much smaller organization, one in which policies regarding employment practices and programs may have been more effectively managed at the Council level. Since that time, however, Metro has grown considerably and employment law continues to advance at a fast clip. For these reasons, we are recommending that Council move the responsibility of adopting an AAP to the COO. That is the COO rather than Council will be charged with promulgating a new bi-annual AAP. Additionally it is recommended that some of the policy regarding harassment prevention and equal opportunity employment, such as the sexual harassment policy, be taken out of the AAP and placed into human resource policy so that it can be updated quickly as needed to comply with the law.

To accomplish this we recommend that the language in the personnel code be revised to incorporate a strong statement of policy regarding Council commitment to the development and implementation of effective affirmative action, equal opportunity and anti-discrimination policies. The COO or his/her designee can then be held responsible for the development, adoption and implementation of such policy.

We anticipate that this change would allow Council to continue to make a very clear statement of policy and provide Metro greater agility in responding to changes in the law.

ANALYSIS/INFORMATION

1. **Known Opposition:** There is no known opposition to this ordinance.
2. **Legal Antecedents:** There are no known legal antecedents to this ordinance.
3. **Anticipated Effects:** More effective management of personnel code.
4. **Budget Impacts:**

Part I: Costs associated with adopting the changes related to the drug and alcohol policy are minimal and already budgeted for in both the Human Resources budget for employee training and/or the Risk Management/Benefits Budget. These costs are:

- Education of all employees regarding substance abuse awareness and prevention.
- Education of all management and supervisory personnel regarding their role in the detection and prevention of substance abuse in the workplace.
- Expenses for costs of testing as required.

Part II: Costs associated with the changes to the leave donation policy will result in a more cost effective management of the leave donation program as:

- Currently, when employees donate sick leave they are donating leave benefits they may never use and would not be paid for at termination of employment. Thus, allowing sick leave is an additional direct benefit cost to Metro, whereas
- By changing the leave donation to vacation leave; employees who donate vacation leave are bearing the cost of the donation themselves as they are donating leave benefits they would otherwise have been paid for either during employment or at the termination of employment.
- Additionally, we anticipate that employees will be more judicious in their donation as they will be choosing to donate the leave to another rather than take the paid leave themselves.

Part III: There are no costs associated with the changes to the affirmative action policy.

RECOMMENDED ACTION

Metro has a responsibility to its employees and the general public it serves to ensure safe and healthy operating and working conditions throughout all its facilities. The changes proposed to the Personnel Code in this ordinance address this responsibility and allow us to immediately improve Metro's personnel administration. For these reasons, the Chief Operating Officer recommends that Ordinance 03-993 be adopted.