

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING AND ) RESOLUTION NO. 03-3320  
DIRECTING THE CHIEF OPERATING )  
OFFICER TO AWARD FULL REGIONAL )  
SYSTEM FEE AND EXCISE TAX CREDITS ) Introduced by:  
THROUGH JUNE 2003 ) Councilor Rod Monroe

WHEREAS, Metro Code section 5.02.047(e) states that the aggregate amount of credits granted against the Regional System Fee for material recovery efforts shall not exceed the dollar amount budgeted without the prior review and approval of the Metro Council; and,

WHEREAS, Metro Code section 7.01.020(g)(2) contains similar language for credits against the Metro excise tax; and,

WHEREAS, the dollar amounts budgeted for these credits in the approved FY 2002-03 budget are projected to be reached in April 2003; and,

WHEREAS, it is the policy of the Metro Council to provide credits for each month in which facility operators are eligible to receive, and qualify for, credits; and,

WHEREAS, there is sufficient appropriation authority in the approved budget to pay for all such credits through June 2003; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer shall issue Regional System Fee and excise tax credits through June 2003: (1) based on valid applications from qualifying operators; and (2) pursuant to the credit schedules in Metro Code sections 5.02.047(a) and 7.01.020(g)(1). The Chief Operating Officer shall also issue credits for any back-differences between the dollar amount of credits paid and credits due under a valid application submitted by a qualifying operator after January 2003.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

WITHDRAWN  
David Bragdon, Council President

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

**STAFF REPORT**

**IN CONSIDERATION OF RESOLUTION NO. 03-3320 FOR THE PURPOSE OF AUTHORIZING AND DIRECTING THE CHIEF OPERATING OFFICER TO AWARD FULL REGIONAL SYSTEM FEE AND EXCISE TAX CREDITS THROUGH JUNE 2003**

Date: April 17, 2003

Presented by: Councilor Rod Monroe

*This resolution authorizes payment of Regional System Fee and excise tax credits above the FY 2002-03 budgeted amounts. The Solid Waste & Recycling Department has recently made over \$900,000 in cuts from the budget, in order to exceed the 110% bond covenant with a safe planning cushion. Approval of this resolution would bring the coverage back down to 117%. At this level, a fluctuation of less than one-quarter of one percent in tonnage would reduce revenues sufficiently to violate the coverage requirement.*

**BACKGROUND**

Last year, when the Metro Council approved changes to the Regional System Fee Credit Program, the Council was aware that the total dollar amount of credit applications might exceed the line item in the budget. The Council was not interested in cutting off credits in mid-year if the budget were reached. Instead, the Council expressed its desire to have “a twelve-month program.” The Solid Waste and Recycling Director has recently informed the Council that expenditures are on a track to exceed the budget this year. For reasons outlined below, the Department has proposed to pro-rate (*not* cut off) the remaining budget through the end of the fiscal year. In contrast, this resolution would authorize issuance of the full credits due under the program approved by Council last year.

The Council’s policy on the program was expressed most completely during the discussion of Ordinance No. 02-951, “For the purpose of amending Metro Code Chapter 5.02 to modify the Region System Fee Credit Program,” on July 17, 2002 at the Solid Waste & Recycling Committee. The discussants, Committee Chair Atherton and Councilors Monroe and McLain, agreed to a budgetary limit on credits, but also insisted on maintaining Council’s discretion over whether to exceed that limit. The Committee Chair directed counsel to draft language to this effect. The amended version of the ordinance (02-951B) was approved by Council on August 8, 2002. These amendments are now part of Metro code:

During any Fiscal Year, the total aggregate amount of credits granted under the Regional System Fee credit program shall not exceed the dollar amount budget[sic] without the prior review and authorization of the Metro Council. [§ 5.02.047(e)]

During any Fiscal Year, the total aggregate amount of excise tax credits granted under the provisions of this subsection shall not exceed the dollar amount budgeted for such purpose without the prior review and authorization of the Metro Council. [§ 7.01.020(g)(2)]

In a memo to the Metro Council dated March 13, 2003, the Director of the Solid Waste & Recycling Department wrote that credits against the Regional System Fee “to date this fiscal year are \$641,773 compared to the budget of \$900,000. At this rate of expenditure, the total for the year would be \$1,120,587....At [this] rate, we will reach our \$900,000 budget during April.” Since that memo was issued, additional applications have been received and the RSF credit expenditure projection has been revised to \$1,165,300—\$295,300 over budget.

Other factors that affect this issue:

- If the Department sticks to the FY 2002-03 budget, the rate covenant of the bonds will be violated again this year.
- To meet the 110 percent coverage requirement, the Department is implementing more than \$900,000 in reductions from the budget.
  - As a result of these cuts, the coverage ratio for FY 2003-03 is now projected at 131%.
  - The cushion over the 110% requirement is important, as a drop in revenue during the remainder of the year could jeopardize meeting the coverage.
- The Department proposed to stay within the budget for the RSF credits by allocating the remaining the funds through the end of the fiscal year.
  - The Chief Operating Officer has directed the Department to proceed with the allocation process, in order to stay within the budget and meet Metro Code.
  - The allocations commenced with the February credits, resulting in disbursements to 5 facilities totaling \$51,645 against applications totaling \$86,567.

## INFORMATION/ANALYSIS

1. **Known Opposition.** None known.
2. **Legal Antecedents.** Metro.
3. **Anticipated Effects:** With a reduction in the February—June credits, recovery of about 5,800 tons of material might be jeopardized. This is the February—June portion of the 14,000 annual tons that facilities recover above their 25 percent minimum requirement. The loss of 5,800 tons would drop about one-quarter of one point (0.25%) off of the 49% regional recovery rate.

This resolution is expected to maintain the recovery of those 5,800 tons.

4. **Budget Impacts.** Approval of this resolution would result in the expenditure of over \$265,000 in additional operating expenses and about \$60,000 in foregone excise tax revenue above budget this fiscal year. The solid waste funds would be drawn from the fund balance. The excise tax revenues would be reflected as a reduction in contributions to the Recovery Rate Reserve.

Because the credits are operating expenses, the expenditure would reduce net operating revenue (as defined for the bond covenants). The result of this resolution would be to drop the projected coverage to 117%. At this level, a fluctuation of less than one-quarter of one percent in tonnage would jeopardize meeting the coverage.

## RECOMMENDATION

Councilor Rod Monroe recommends approval of Resolution No. 03-3320.