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FROM	NAME & TITLE	Robert Cename, Budget Director	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Bureau of the Budget and Management Research Room 432, City Hall (410) 396-4774		
	SUBJECT	City Council Bill 20-0615 – The Ban the Burn at Every Turn Act		

DATE:

TO

The Honorable President and
Members of the City Council
City Hall, Room 400

October 1, 2020

Position: Oppose

The Department of Finance is herein reporting on City Council Bill 20-0615, The Ban the Burn at Every Turn Act, the purpose of which is to prohibit the City of Baltimore from entering into contracts that would authorize the use of incinerators or waste-to-fuel facilities on the date it is enacted.

Background

On February 11, 2019, the Baltimore City Council passed Ordinance 18-0306, known as the Baltimore Clean Air Act (BCAA), which was signed into law on March 7, 2019. The BCAA limits emissions, requires Continuous Emissions Monitoring Systems for particulates, and establishes criminal penalties for violations. The BCAA was struck down by the United States District Court on March 27, 2020 due to its preemption of and conflict with State law. BCAA prohibited and criminalized conduct that is permitted under existing facility permits. In addition, the Court ruled that the BCAA undermines the authority of the Maryland Department of the Environment, which is required to set emissions standards that are not more restrictive than necessary to meet the air quality standards' established by the federal government.

The legislation under consideration, The Ban the Burn at Every Turn Act, would effectively end the City's use of Baltimore Refuse Energy Systems Company (BRESKO) incinerator owned by Wheelabrator Baltimore, LP. The City of Baltimore sends 50 percent of its municipal solid waste to BRESKO for processing, which amounts to approximately 150,000 tons. Prohibiting the City from extending its current contract would have a significant operational impact on the City's finances. The City would see a decrease in revenue collected from BRESKO and see in an increase of costs related to waste disposal.

Fiscal Impact

The City's current solid waste disposal arrangement has a number of financial benefits for the City. First, per the agreement with the City, BRESKO pays into the City's General Fund revenue for real property taxes, personal property taxes, surcharge fees, site lease payments, and ash disposal tipping fees. Second, the BRESKO contract essentially lengthens the useful life of Quarantine Road by reducing the volume of waste that goes to the landfill, which in turn reduces the City's long-term costs for landfill development. By eliminating the City's contract with BRESKO, this bill would force the City to look at two immediate alternative options, both of which are significantly more costly for the City:

Expedited Landfill Expansion

The total impact to the General Fund to expedite the landfill expansion is **\$77.9 million** over 5 years.

Expedited Landfill Expansion Expenses	FY22 Projected*	FY23 Projected*	FY24 Projected*	FY25 Projected*	FY26 Projected*	Total*
Lost tipping fee revenue	2.4	5.0	5.1	5.2	5.3	23.0
Additional Landfill Trust contributions	13.3	13.3	3.0	3.0	3.0	35.6
Cost of expanded landfill operations	1.0	2.1	2.1	2.1	2.2	9.5
Additional collection costs	0.6	1.1	1.1	1.1	1.2	5.1
Lost BRESKO revenue	5.2	10.6	10.9	11.1	11.4	49.2
<i>Savings from BRESKO payments</i>	<i>(4.7)</i>	<i>(9.6)</i>	<i>(9.8)</i>	<i>(10.1)</i>	<i>(10.3)</i>	<i>(44.6)</i>
Net Impact	17.8	22.5	12.4	12.5	12.7	77.9

* Dollars in millions

“Lost tipping fee revenue” accounts for new measures the City would need to introduce to limit the material accepted at QRL, including but not limited to restrictions on private haulers, and restrictions on certain types of waste such as construction and demolition debris. “Additional Landfill Trust contributions” represent the amount above baseline projections would be necessary based on a shorter projected landfill expansion timeline. “Cost of expanded landfill operations” and “additional collection costs” demonstrate funds would be necessary to maintain the level of service necessary to facilitate the increased tonnage, which includes personnel costs, vehicle maintenance, and others. In the process, the City would lose tax and fee revenue from BRESKO. The cost is partially offset by tipping fees not paid to BRESKO.

Shipping Municipal Solid Waste

The total impact to the General Fund to ship municipal solid waste for disposal to an alternate location is **\$62.5 million** over 5 years.

Shipping Municipal Solid Waste Expenses	FY22 Projected*	FY23 Projected*	FY24 Projected*	FY25 Projected*	FY26 Projected*	Total*
Cost to ship waste	3.7	9.6	9.8	10.1	10.3	43.4
Cost of expanded NWTs operations	1.0	2.1	2.1	2.2	2.2	9.7
Additional collection costs	0.5	1.1	1.1	1.1	1.2	5.0
Lost BRESKO revenue	5.2	10.6	10.8	11.0	11.2	48.9
<i>Savings from BRESKO payments</i>	<i>(4.7)</i>	<i>(9.6)</i>	<i>(9.8)</i>	<i>(10.1)</i>	<i>(10.3)</i>	<i>(44.6)</i>
Net Impact	5.7	13.8	14.1	14.3	14.6	62.5

* Dollars in millions

“Cost to ship waste” is the amount above baseline the Department of Public Works (DPW) would need to make arrangements to use the Northwest Transfer Station (NWTs) to its fully permitted capacity of 150,000 tons per year to accept waste intended for BRESKO. This figure represents an operating cost of \$75 per ton, which includes the costs of transportation and disposal and excludes current operating costs. As in the previous scenario, “cost of expanded NWTs operations” and “additional collection costs” is held equal as the previous scenario to demonstrate funds necessary to maintain the level of service to facilitate the increased tonnage including personnel costs, vehicle maintenance, and others. The cost is partially offset by tipping fees not paid to BRESKO.

Other Considerations

The inability to extend the City's contract with BRESKO will likely increase illegal dumping. Due to the need to utilize the full capacity of the NWTs for waste intended for BRESKO, the Small Haulers Program and a critical, convenient collection site will not be able to operate out of this facility, effectively eliminating these programs as they currently exist and having an effect on the entire City.

The impact of BRESKO goes beyond the City's municipal solid waste disposal. In 2019, BRESKO processed nearly 550,000 tons of waste from the commercial sector and other neighboring jurisdictions. BRESKO also produces steam for the City's district heating network operated by Vicinity Energy (formerly Veolia), generates electricity for sale to the electric grid, and recovers metals for recycling that would otherwise be landfilled.

Other implementation concerns persist in the legislation. As technology improves and waste disposal methods, including incineration, become more clean, safe, and efficient, the City would be restricted from using such technology. Additionally, the legislation altogether prohibits contracting with entities that use incineration as a disposal method. Strict prohibitions on generally accepted waste management practices will result in uncompetitive and extremely difficult procurement process that can lead to future unbounded costs.

Conclusion

Half of the City's solid waste and nearly 550,000 tons of other waste generated in the region is sent to BRESKO for disposal. If this facility were no longer a waste disposal option, the City would have to either expedite the planned expansion of the landfill at an additional cost of \$77.9 million over 5 years or ship waste intended for BRESKO to an interim location for disposal at a cost of \$62.5 million over 5 years.

The additional costs associated with the alternatives are prohibitively expensive and would virtually eliminate the possibility of new investments in source reduction and waste diversion DPW has been exploring. Both options lead to increased landfilling in the interim, which the United States Environmental Protection Agency regards as the least preferred form of waste disposal and has significant long-term environmental effects. In addition, prohibiting the City from contracting with BRESKO will either result in the facility suffering financial insolvency creating a ripple effect in regional waste management and energy generation practices or, more likely, continuing to operate with new clients having the same negative impacts for Baltimore City residents.

For the reasons stated above, the Department of Finance opposes City Council Bill 20-0615.

cc: Henry Raymond
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