



City of Albuquerque

City of Albuquerque
Government Center
One Civic Plaza
Albuquerque, NM 87102

Legislation Details (With Text)

File #: O-09-89
Type: Ordinance **Status:** Enacted and Published
File created: 9/9/2009 **In control:** City Council
Final action: 11/2/2009
Enactment date: 11/19/2009 **Enactment #:** O-2009-029
Effective date: 11/20/2009

Title: Amending Article XII of the City Charter, the Code of Ethics, to Place Term Limits on Members of the Board of Ethics and Campaign Practices; to Specify the Board's Authority to Compel Testimony; to Place an Additional Limit on the Authority of a Member of the Board to Continue to Hear a Case after the End of the Member's Term (Winter, Garduño)

Sponsors: Brad Winter, Rey Garduño

Indexes:

Code sections:

Attachments: 1. O-89.pdf, 2. O-89final.pdf

Date	Ver.	Action By	Action	Result
11/19/2009	2	City Clerk	Published	
11/10/2009	2	Mayor	Not Signed by the Mayor	
11/9/2009	1	City Council	Sent to Mayor for Signature	
11/2/2009	1	City Council	Do Pass	Pass
10/19/2009	1	City Council	Accepted with a Recommendation Do Pass	
10/12/2009	1	Finance & Government Operations Committee	Sent to Council with a recommendation of Do Pass	Pass
9/9/2009	1	President	Referred	
9/9/2009	1	City Council	Introduced and Referred	

CITY of ALBUQUERQUE

EIGHTEENTH COUNCIL

COUNCIL BILL NO. O-09-89 ENACTMENT NO. _____

SPONSORED BY: Rey Garduño, Brad Winter

ORDINANCE

Amending Article XII of the City Charter, the Code of Ethics, to Place Term Limits on Members of the Board of Ethics and Campaign Practices; to Specify the Board's Authority to Compel

Testimony; to Place an Additional Limit on the Authority of a Member of the Board to Continue to Hear a Case after the End of the Member's Term (Winter, Garduño)

AMENDING ARTICLE XII OF THE CITY CHARTER, THE CODE OF ETHICS, TO PLACE TERM LIMITS ON MEMBERS OF THE BOARD OF ETHICS AND CAMPAIGN PRACTICES; TO SPECIFY THE BOARD'S AUTHORITY TO COMPEL TESTIMONY; TO PLACE AN ADDITIONAL LIMIT ON THE AUTHORITY OF A MEMBER OF THE BOARD TO CONTINUE TO HEAR A CASE AFTER THE END OF THE MEMBER'S TERM.

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

SECTION 1. Article XII, Section 3 of the City Charter, the Code of Ethics, is amended to read as follows:

“Section 3. BOARD OF ETHICS AND CAMPAIGN PRACTICES.

(a) The Board shall be made up of seven members, who shall be chosen as follows: The Council shall appoint three members and the Mayor shall appoint three members. The six members so appointed shall select a seventh person to serve as Chairperson of the Board. The appointment of a Board member by one appointing authority shall not be approved or disapproved by the other two appointing authorities. Each member shall be a qualified elector of the city, and no member shall be an official or employee of the city or the spouse, parent or child of an official or city employee. There shall be a public comment period for any individual proposed for membership on the Board of Ethics and Campaign Practices by the Mayor, the Council and for the seventh member selected by the Board. The name and resume of any individual proposed for membership shall be posted on the city's website at least two weeks prior to the date when final action is taken to appoint that individual. Any person shall be allowed to submit comments about the proposed member by written submission, electronically or otherwise, to the City Clerk. The members of the Board of Ethics and Campaign Practices shall receive at least six hours of training prior to acting in the capacity of a Board member. The training shall be provided by the City Attorney and shall cover the ethical responsibility of Board members and the content of the Code of Ethics and the Election Code as those codes relate to the duties of the Board. The training requirement shall not apply to any current Board member, who shall continue to serve their unexpired term, or to any Board member reappointed at the end of a term.

(b) All members shall serve terms of four years, and be eligible for reappointment for additional terms, not to exceed two terms consecutively. Terms are staggered and shall continue

with the same term cycle as currently exists. Any vacancy shall be filled for an unexpired term by the same authority that made the original selection and appointment of the member vacating his or her position.

(c) No violation of the Code of Ethics shall be found by the Board of Ethics and Campaign Practices except upon the concurrence of a majority of the Board.

(d) The Board shall have the authority to administer oaths, and power to issue administrative subpoenas to compel witnesses to testify and produce records and documents before the Board. The Board may promulgate rules and regulations establishing procedures for issuance of subpoenas. The Board may request the City Attorney to enforce such subpoenas in a court of proper jurisdiction.

(e) The Board may issue to candidates and officials advisory opinions concerning the Code of Ethics and the Election Code. A request for an advisory opinion and the opinion approved by the Board shall become public records at the time the Board votes on such opinion. Advisory opinions shall only concern prospective matters. Specifically, no advisory opinion shall be issued with respect to an event that has already occurred. Advisory opinions shall only be issued with respect to conduct in which the requestor of the opinion intends to engage. No advisory opinion shall be given unless approved by four members of the Board. Approved opinions shall be kept as permanent records by the City Clerk. The Board may promulgate rules and regulations establishing procedures for issuing advisory opinions and limitations on the use of advisory opinions as a defense to violations of the Code of Ethics or the Election Code. The Board may issue consent orders and may promulgate rules and regulations establishing procedures of issuance of consent orders.

(f) A Board member who has participated in any hearing on a case concerning a complaint alleging a violation of the Code of Ethics or the Election Code shall continue to serve as a Board member on such case until the completion of the case, regardless of the expiration of that Board member's term, but only when the Board has voted on a matter concerning the case. A replacement Board member shall not serve on such cases.

(g) Board members shall not hear complaints involving candidates or Measure Finance Committees to which they have contributed or have participated in their campaign activities nor shall they hear cases involving complaints concerning candidates and Measure Finance Committees who are in opposition to the candidates or Measure Finance Committees to which the Board member contributed or participated in their campaign activities.”

SECTION 2. SEVERABILITY CLAUSE.

If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

SECTION 3. COMPILATION. This Ordinance shall be incorporated in and made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect five days after publication by title and general summary.

X:\SHARE\Legislation\Eighteen\O-89final.doc