



Legislation Details (With Text)

**File #:** R-23-176  
**Type:** Resolution      **Status:** Adopted  
**File created:** 10/16/2023      **In control:** City Council  
**Final action:** 12/4/2023  
**Enactment date:** 12/5/2023      **Enactment #:** R-2023-097  
**Title:** Establishing A Moratorium For The Albuquerque-Bernalillo County Air Quality Control Board To Act Under Chapter 9, Article 5, Part 1 ROA 1994, The Joint Air Quality Control Board Ordinance Until February 1, 2024 (Lewis)  
**Sponsors:** Dan Lewis  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. R-176, 2. R-176Enacted

Date	Ver.	Action By	Action	Result
12/5/2023	2	City Clerk	Published	
12/4/2023	2	City Council	Override	
11/22/2023	2	Mayor	Vetoed	
11/15/2023	1	City Council	Sent to Mayor for Signature	
11/8/2023	1	City Council	Amended	Pass
11/8/2023	1	City Council	Passed as Amended	Pass
10/16/2023	1	President	To be heard at the Council Meeting	
10/16/2023	1	City Council	Introduced	

**CITY of ALBUQUERQUE**  
**TWENTY FIFTH COUNCIL**

COUNCIL BILL NO.   R-23-176   ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Dan Lewis

RESOLUTION

Establishing A Moratorium For The Albuquerque-Bernalillo County Air Quality Control Board To Act Under Chapter 9, Article 5, Part 1 ROA 1994, The Joint Air Quality Control Board Ordinance Until February 1, 2024 (Lewis)

ESTABLISHING A MORATORIUM FOR THE ALBUQUERQUE-BERNALILLO COUNTY AIR

QUALITY CONTROL BOARD TO ACT UNDER CHAPTER 9, ARTICLE 5, PART 1 ROA 1994, THE JOINT AIR QUALITY CONTROL BOARD ORDINANCE UNTIL FEBRUARY 1, 2024.

WHEREAS, in R-2023-044 Council declared that Petition 2022-3 before the Albuquerque-Bernalillo County Air Quality Board (“Board”) could be harmful to the welfare of the City; and

WHEREAS, the City Council declares the proposed rules in the record for Petition 2022-3 addresses quality of life impacts absent scientific evidence that there is a nexus to air pollution by identifying the quantities and durations of air contaminants that may, with reasonable probability, cause injury, contrary to New Mexico case law as held in *Southwest Organizing Project v. Albuquerque-Bernalillo Cty. Air Quality Control Bd.*, 2021-NMCA-005; and

WHEREAS, the City Council declares the proposed rules in the record for Petition 2022-3 purport to impact on industrial development by design and not as a consequence of preventing or abating air pollution, contrary to New Mexico case law as held in *Service Co. of New Mexico v. New Mexico Environmental Imp. Bd.*, 89 N.M. 223, 549 P.2d 638 (Ct. App. 1976); and

WHEREAS, the City Council is considering making changes to Sections 9-5-1-1 to -99 and needs time to carefully deliberate about further action; and

WHEREAS, the intended purpose of the resolution is to advance the health, safety and welfare of the public and to further goals and policies adopted by the Council.

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

**SECTION 1. ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD.**

The Albuquerque-Bernalillo County Air Quality Board shall have no authority to, and shall not make any regulation or standard to, address quality of life impacts absent scientific evidence that there is a nexus to air pollution by identifying the quantities and durations of air contaminants that may, with reasonable probability, cause injury; or adopt or amend a standard or regulation whereby the impact on industrial development is by design and not a consequence of preventing or abating air pollution until February 1, 2024.

**SECTION 2. CITY OF ALBUQUERQUE.** The City of Albuquerque shall not use its resources to facilitate any action by the Board to make, adopt, or amend any regulation or standard described in Section 1 until February 1.

**SECTION 3.** The City is directed to collaborate with Bernalillo County to address any differences in City and County air quality policies.

**SECTION 4. SEVERABILITY CLAUSE.** If any section, paragraph, sentence, clause, word, or

phrase of this resolution 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 resolution. The Council hereby declares that it would have passed this resolution and each section, paragraph, sentence, clause, word, or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

X:\CL\SHARE\CL-Staff\\_Legislative Staff\Legislation\25 Council\R-176final.docx