



Legislation Text

File #: O-06-34, Version: 3

**CITY of ALBUQUERQUE**  
**SEVENTEENTH COUNCIL**

COUNCIL BILL NO. F/S O-06-34 ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Isaac Benton

ORDINANCE

F/S Amending ROA 1994 to Reserve 3% of the Capital Improvements Program For Energy Conservation and Renewable Energy Projects and Include Enterprise Fund Programs in the Energy Set-Aside; Amending the Energy Conservation Council to Clarify the Powers and Duties of the Council and Change the Name of the Council (Benton)

CREATING A NEW SECTION 2-12-2 ROA 1994 INSERTING DEFINITIONS; AMENDING SECTION 2-12-1 ROA 1994 TO RESERVE 3% OF THE GENERAL FUND CAPITAL IMPROVEMENTS PROGRAM FOR ENERGY CONSERVATION AND RENEWABLE ENERGY PROJECTS AND INCLUDE ENTERPRISE FUND PROGRAMS IN THE ENERGY SET-ASIDE; AMENDING 14-8-5 ROA 1994 RELATING TO THE ENERGY CONSERVATION COUNCIL TO CLARIFY THE POWERS AND DUTIES OF THE COUNCIL AND CHANGE THE NAME OF THE COUNCIL.

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

SECTION 1. FINDINGS.

The Council finds that:

- (A) In Fiscal Years 2004 and 2005 energy costs comprised an average 27.5 million dollars of the total city budget including the enterprise and general funds.
- (B) There is a greater awareness by the citizens of Albuquerque of global warming and its potential impact to the region's quality of life and the importance of conserving energy and

using renewable energy to reduce global warming.

(C) The Mayor of Albuquerque, in concert with the City Council, has in four years signed into law and implemented the nation's first municipal capital set-a-side for energy conservation, restarted and strengthened the Energy Conservation Council, signed into policy a comprehensive renewable energy program, initiated an urban tree program partially for the purposes of reducing "heat island effects", worked to retain and develop the City's renewable energy firms, convened an energy summit to develop realizable goals and objectives for renewable energy and seated an Energy Sustainability and Adjunct Technical Committee.

(D) The projects funded through the 1% for Energy Conservation Set-A-Side program have paid for themselves in General Fund savings within two years creating an annual \$650,000 savings to the General Fund, reducing city fleet fuel use by 8476 gallons a year, eliminating over 2200 tons of air pollutants per year and saving over 4.8 million gallons of water in the production of electricity.

(E) The Federal Government's Standards for projecting energy costs based on anticipated supply and demand in the future should be adopted by the City. The method of pricing the utility of energy conservation projects based on historical costs of conventional energy, currently required by City Ordinance has underestimated the savings achieved through energy conservation due to the declining availability of fossil fuels and subsequent increases in energy prices.

(F) The Enterprise Fund Department's capital program should be included in the 3% Set-A-Side program for Energy Conservation and Renewable Energy. Converting biomass to electricity and recycling the material will provide substantial long-term savings in energy costs and provide the Department with an additional revenue stream.

(G) New Mexico is a leader in the development of renewable energy technology. The manufacture, installation, and maintenance of renewable energy systems will create and maintain high wage jobs in the region.

(H) The City desires to be a leader in developing a sustainable community for generations to come and should be a model for conserving energy and using renewable energy to protect the environment.

(I) Section 14-8-5-1 ROA 1994 of the Albuquerque City Code recognizes that conserving energy in residential, commercial, industrial, transportation uses and energy generation is an important community goal. It is the intent of Section 14-8-5-1 ROA 1994 to

provide for the public welfare by developing and implementing a community-wide effort to conserve energy. The City's role is to provide a mechanism for community leadership in reducing fossil fuel based energy consumption, to facilitate public involvement in energy conservation, and increase the effectiveness of programs carried on by other entities.

(J) Policy 3-D of the Albuquerque Bernalillo County Comprehensive Plan declares that, "Public and private planning decisions should promote energy management and efficient use of energy-related resources to ensure the community is served with a balanced mix of affordable energy supplies."

(K) Section 14-8-5-2 ROA 1994 creates the Energy Conservation Council, consisting of nine members who have responsibility for effecting energy conservation programs within the residential, commercial, industrial, transportation, and utilities sectors of the community or who have leadership roles within the community. Members represent the community at large and are appointed by the Mayor with the advice and consent of the Council.

(L) Global issues pertaining to energy supplies and air quality have impacted the Community and the Council finds that the role and duties of the Energy Conservation Council should be amended from solely Energy Conservation to include Best Energy Practices.

(M) A committee comprised of city technical staff, with consultation from the Energy Conservation Council (to be renamed in this Legislation the City of Albuquerque Energy Council), shall approve expenditures for the 3% for Energy Conservation and Renewable Energy Set-Aside.

SECTION 2. Insert a new Section 2 "DEFINITIONS" to Article 2-12 ROA 1994 reading as follows and renumber all subsequent paragraphs accordingly.

**"2-12-2 DEFINITIONS.**

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BEST ENERGY PRACTICES,** Management of energy production and consumption to reduce energy use and costs, implement renewable energy, promote clean energy sources and the efficiency and maintenance of the city's energy infrastructure.

**ENERGY CONSERVATION.** Building materials, equipment and machinery and supplies that reduce energy costs for Enterprise and General Fund Programs by demonstrably reducing energy consumption or by further in the implementation of renewable energy sources.

**RENEWABLE ENERGY.** Any energy resource that is naturally regenerated over a short time

scale and is generated by use of low-or zero-emissions technology with substantial long-term production potential or generated by renewable energy sources that may include (1) solar, wind, hydropower and geothermal resources; (2) fuel cells that are not fossil fueled; and (3) biomass resources, such as agricultural or animal waste, small diameter timber, salt cedar and other phreatophyte or woody vegetation, landfill gas and anaerobically digested waste biomass and new technologies as they emerge. Renewable Energy, does not include electric energy generated by use of fossil fuel, waste products from fossil sources or nuclear energy.”

SECTION 3. Section 2-12-1 ROA 1994 is amended to read.

“§2-12-1 CAPITAL IMPROVEMENTS PROGRAM INTENT; SCOPE;

(A) The Capital Improvement Program (CIP) plan shall include, and take as a starting point, an inclusive perspective of all capital expenditures regardless of fund source (including, but not limited to City, State, Federal funds, and private contributions-in-aid) including those expended by the City directly and those undertaken by other public agencies within the city limits that are related to the City's adopted goals. The City-funded public purposes capital improvements shall be considered as a component of this over-all perspective.

(B) The Capital Improvement Program shall be linked to the City's adopted Five Year Goals, Program Strategies, and to the Performance Plan of city departments.

(C) The Capital Improvement Program shall be consistent with and carry out the policies contained in the City/County Comprehensive Plan.

(D) The first priority of the City's Capital Improvement Program shall be to rehabilitate, replace, and maintain in good condition the capital assets of the City. Pursuant to this priority, facility plans shall be developed and maintained by all City departments, coordinated according to a common set of standards by the CIP office. These plans shall include the condition of the City's major capital assets and a program of necessary annual capital expenditures to restore, replace, and maintain the facilities, vehicles and equipment in good condition. These inventories and plans shall be completed by the 2003 CIP. The plan for streets and hydrology shall be based on the Planned Growth Strategy findings.

(E) City-funded public-purpose capital improvements are undertaken in order to implement the city's adopted goals and objectives: normally, these have been adopted in city plans for urban development and conservation. In order to maximize the effectiveness of capital improvements in advancing such goals and objectives in a coordinated manner, and in order to efficiently use public funds, the Mayor shall develop and submit to the Council a proposed Capital

Improvements Program, which shall include all city-funded public-purpose capital projects proposed to be built within ten years. The program shall include but is not limited to all projects financed by general obligation bonds, revenue bonds, Urban Enhancement Fund monies, Tax Increment Fund monies, Consolidated Plan monies, tax and rate revenues, Federal and State grants, metropolitan redevelopment bonds and special assessment districts. Projects built with industrial development bonds are not normally included.

(F) The proposed Capital Improvements Program shall consist of a ten-year plan of capital expenditures, including a more detailed two-year Capital Improvements Budget. The proposed Capital Improvements Program shall include a listing of projects in order of priority and proposed year of construction or acquisition. Data on each project shall include:

- (1) The anticipated capital cost of each project;
- (2) The anticipated source of capital funds for each project;
- (3) The estimated annual operating cost or savings for each project;
- (4) The estimated completion date of each project;
- (5) The adopted plan or policy, if any, which each project would help to implement;
- (6) The viable alternatives that were considered for each project and the reasons the proposed project is the most cost-effective and practical alternative for meeting the stated objective;
- (7) The project's ranking in whatever sequencing/priority-setting system is used as a basis for proposed programming; and
- (8) The impacts of proposed capital improvements on user rates (for enterprise fund projects); and
- (9) The percentage allocations of each project as "growth", "rehabilitation", "deficiency", and "mandate", which categories are defined in Bill No. F/S R-37 (Enactment 118-2000), establishing priorities for the 2001 Capital Improvement Plan; and
- (10) The capital projects of the enterprise funds shall be evaluated by the Capital Improvements Program staff in a similar manner as those for the General Fund.

(G) All assets included in projects to be funded in part or in total from proceeds of general obligation bond issues or revenue bond issues shall have a minimum service life expectancy at least equal to the term of the relevant bond issue.

(H) All CIP project items with a two year programmed amount in the General Fund and a one year programmed amount in the Enterprise Funds of \$100,000 or more shall be

included in the CIP bill as a separate line item.

(I) Separate bond issues shall be sold to fund vehicles and equipment, the term of which bonds shall not exceed five years.

(J) Three percent of the CIP for the general fund in the 2007, 2009 and 2011 bond elections shall be reserved to fund the design, installation, purchase, user training and monitoring of Energy Conservation and/or Renewable Energy that reduce fossil fuel based energy costs for General Fund and Enterprise Fund Programs that will demonstrably reduce energy consumption. This fund shall be known as the 3% for Energy Conservation and Renewable Energy Set-A-Side for Capital Improvements. The Planning for the fund shall be consistent with the requirements set forth in Article 2-12 ROA 1994.

(K) The Department of Finance and Administrative Services will budget 3% of the General Obligation Bond Program for the 3% for Energy Conservation and Renewable Energy Set-A-Side for Capital Improvements.

(L) Departmental applications for the 3% for the Energy Conservation and Renewable Energy Set-A-Side for Capital Improvements shall be submitted to the Facility, Energy & Security Management Division. A committee of City fiscal and technical staff shall approve selected projects based on established criteria. The committee may consult with subject matter experts outside of the City Government in the selection of projects. Criteria shall include but are not limited to:

(1) The capital expenses of a project should be regained from energy savings generated from the project within the expected life of the equipment and, projects using renewable energy shall have a lower life cycle cost than a project using conventional energy based on the projected cost per unit by year for an energy resource as published in the United States Department of Energy, Energy Information Administration, Annual Energy Outlook Report or other sources identified by the committee. Preference shall be given to alternatives that meet the energy cost criteria.

(2) If a proposal is for construction or installation, the scope of the project shall only be for Energy Conservation and/or Renewable Energy in existing facilities.

(3) The monetary amount allocated to any one project shall not exceed 40% of the funding allocated to the 3% Energy Conservation and Renewable Energy Set-A-Side, during any one bond cycle unless approved by the City Council.

(4) The project shall be consistent with the requirements set forth in

Paragraph (D) of this Section.”

SECTION 4. Section 14-8-5-1 ROA 1994 "INTENT" for the Energy Conservation Council shall be amended to read.

“§ 14-8-5-1 INTENT.

The City hereby recognizes that fossil fuel based energy conservation in residential, commercial, industrial, transportation uses, city government and energy generation is an important community goal. It is the intent of §§14-8-5-1 et seq. to serve the public welfare by developing and implementing a community-wide effort to conserve energy and reduce the use of fossil fuels in the production of energy and overall promote best energy practices. The city's role is to provide mechanisms for community leadership in reduction of energy consumption, to facilitate public involvement in promoting best energy practices, conserving energy and implementing renewable energy, and to increase the effectiveness of programs carried on by other entities.”

SECTION 5. A new Section 14-8-5-2 is inserted to read as follows.

Renumber succeeding section accordingly.

“14-8-5-2 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BEST ENERGY PRACTICES. Management of energy production and consumption to reduce energy use and costs, implement renewable energy, promote clean energy sources and further the efficiency and maintenance of the city's energy infrastructure.

ENERGY CONSERVATION. Building materials, equipment and machinery and supplies that reduce energy costs for Enterprise and General Fund Programs by demonstrably reducing energy consumption by furthering the implementation of renewable energy.

RENEWABLE ENERGY. Any energy resource that is naturally regenerated over a short time scale and is generated by use of low-or zero-emissions generation technology with substantial long-term production potential or generated by renewable energy uses that may include (1) solar, wind, hydropower and geothermal resources; (2) fuel cells that are not fossil fueled; and (3) biomass resources, such as agricultural or animal waster, small diameter timber, salt cedar and other phreatophyte or woody vegetation, landfill gas and anaerobically digested waste biomass and new technologies as they emerge. Renewable energy does not include electric energy generated by use of fossil fuel, waste products from fossil sources or nuclear

energy.”

SECTION 6. Section 14-8-5-2 ROA 1994 is amended to read.

“14-8-5-2 ENERGY CONSERVATION COUNCIL.

(A) There is hereby created the City of Albuquerque Energy Council which shall consist of nine members who have responsibility for effecting energy management programs within the residential, commercial, industrial, city government, energy conservation and management interest groups, transportation, and utilities sectors of the community or who have leadership roles within the community. No member shall represent a specific agency or organization, but rather the community at large. All members shall be appointed by the Mayor with the advice and consent of the City Council.

(B) The term of each City of Albuquerque Energy Council member shall be three years; of the members first named three shall have terms ending April 30, 1981, three shall have terms ending April 30, 1982 and three shall have terms ending April 30, 1983. The Mayor shall determine which members shall have which terms.”

SECTION 7. Section 14-8-5-3 ROA 1994 is amended to read.

“14-8-5-3 MEMBERSHIP AND ORGANIZATION.

Except as provided in 14-8-5-1 et seq., the qualifications, appointment and conduct of the members of the City of Albuquerque Energy Council and the organization structure of the City of Albuquerque Energy Council shall be governed by 2-6-1-1 et seq.”

SECTION 8. Section 14-8-5-4 ROA 1994 is amended to read.

“14-8-5-4 POWERS AND DUTIES.

The City of Albuquerque Energy Council shall:

(A) Study energy uses and losses and means of reducing energy consumption and implementing renewable energy in the city;

(B) Establish energy saving goals and a community wide energy conservation program for the city;

(C) Work with citizens, city employees, organized groups and businesses to develop and implement energy management programs;

(D) Educate citizens, city employees, professional groups, the business community, builders, educators, elected officials, community organizations, and other key persons about best energy practices;

(E) Promote cooperation and encourage coordination between the city and other



entities which are involved in best energy practices;

(F) Advise the Mayor and Council on legislation, programs and policies which would contribute to best energy practices;

(G) Provide for evaluation of energy conservation and renewable energy programs which have been implemented;

(H) Adopt and promulgate such rules and regulations as may be necessary to implement §§14-8-5-1 et seq.;

(I) Form such committees as are necessary to carry out the City of Albuquerque Energy Council's assigned powers and duties from its membership and from the general public;

(J) Submit an annual written report on its activities and an evaluation of the effectiveness of §§14-8-5-1 et seq. to the Mayor and Council;

(K) April 1st of each calendar year the Mayor and the City of Albuquerque Energy Council shall communicate to the City Council for Receipt an Energy Use Report for all City Programs including the enterprise fund and the general fund. The plan shall include: 1) a ledger itemizing for the last 3 years, at the department division level, the energy consumed by type of energy source and the purpose for which it was consumed, 2) a report of the reasons by department division level for increases or declines in the consumption of a particular source of energy, 3) a list, by department division level of opportunities for Energy Conservation and the implementation of Renewable Energy, and the cost to implement such technologies.

(L) Perform all other duties delegated to it by the Mayor and the Council."

SECTION 9. 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 10. COMPILATION. Sections 2 through 8 of this ordinance shall be incorporated in and made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

SECTION 11. EFFECTIVE DATE. This ordinance shall take effect five days after publication by title and general summary.

X:\SHARE\Legislation\Seventeen\O-34fsfinal.doc