

ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 01/13/16
FOR CITY COUNCIL MEETING OF 01/04/16

ISSUE:

6. Request for Approval of an Ordinance Amending Subsection 1-7.7 SFCC 1987 to Prohibit an Elected Official from Accepting Employment with the City of Santa Fe within One (1) Year of Leaving Office. (Councilor Lindell) (Zachary Shandler)

Committee Review:

Ethics and Campaign Review Board (postponed)	09/24/15
Ethics and Campaign Review Board (approved)	12/17/15
City Council (request to publish)	01/13/16
City Council (public hearing)	02/10/16

Fiscal Impact – No

FINANCE COMMITTEE ACTION:

Approved as Discussion item.

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

STAFF FOLLOW-UP:

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR TRUJILLO	Excused		
COUNCILOR RIVERA	X		
COUNCILOR LINDELL	X		
COUNCILOR MAESTAS	X		
CHAIRPERSON DOMINGUEZ	Excused		

4-13-15

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

Bill No. 2016-3

Code of Ethics – Elected Official Paid Employment

SPONSOR(S): Councilor Lindell

SUMMARY: The proposed bill amends Subsection 1-7.7 SFCC 1987 to prohibit an elected official from accepting employment with the City of Santa Fe within one (1) year of leaving office.

PREPARED BY: Rebecca Seligman, Legislative Liaison Assistant

FISCAL IMPACT: Yes

DATE: September 30, 2015

ATTACHMENTS: Bill
FIR

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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2016-3

INTRODUCED BY:

Councilor Signe I. Lindell

AN ORDINANCE

AMENDING SUBSECTION 1-7.7 SFCC 1987 TO PROHIBIT AN ELECTED OFFICIAL FROM ACCEPTING EMPLOYMENT WITH THE CITY OF SANTA FE WITHIN ONE (1) YEAR OF LEAVING OFFICE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Subsection 1-7.7 SFCC 1987 (being Ord. 2014-15, as amended) is amended to read:

1-7.7 Improper Gifts; Improper Transactions; Representation of Private Interests; Conflicts of Interest; and Other Prohibitions.

A. *Improper Gifts to Public Officials and Employees.* A public official or public employee shall not request or receive, directly or indirectly, a gift or other financial benefit, including, but not limited to, travel and accommodations, from any person or entity which, to the knowledge of the public official or public employee, has any prospect of direct or indirect pecuniary gain or loss from any official act to be performed by the public official or public employee, other than a gain or loss shared with a substantial segment of the general public. If a

1 public official or public employee has received a gift or other financial benefit from a person or
2 entity within the last calendar year and then discovers that this person or entity has any prospect
3 of direct or indirect pecuniary gain or loss from any official act to be performed by the public
4 official or public employee, that public official or public employee shall return the gift or shall be
5 deemed to have a conflict of interest and shall deal with that conflict under the provisions of
6 subsection 1-7.7 M. SFCC 1987. However, nothing in this paragraph A. shall be deemed to
7 prohibit any of the following:

8 (1) An occasional meal or nonpecuniary gift with a fair market value not to
9 exceed fifty dollars (\$50.00) valued in a manner consistent with Internal Revenue Service
10 (IRS) rules.

11 (a) If relevant to the performance of his or her official duties,
12 members of the governing body, the city manager, the city attorney, or the city
13 clerk may receive an occasional non-pecuniary gift not to exceed two hundred
14 fifty dollars (\$250.); however, such person shall report the gift, its value and the
15 provider to the city clerk's office within ten (10) days of receipt of the gift, and
16 such gift report shall be immediately posted by the city clerk, on the city's
17 website.

18 (b) If relevant to the performance of his or her official duties, a
19 public employee may receive an occasional non-pecuniary gift not to exceed two
20 hundred fifty dollars (\$250.); however, such person shall report the gift, its value
21 and the provider to the city manager and the public employee shall obtain the
22 manager's approval prior to receiving the gift, and if approved, such gift report
23 shall be immediately posted by the city clerk, on the city's website;

24 (2) An award, publicly presented in recognition of public service, having a
25 fair market value not to exceed fifty dollars (\$50.00) valued in a manner consistent with

1 IRS rules except for employee of the month recognition or non-profit or civic recognition
2 of a public employee that does not otherwise violate the Code of Ethics;

3 (3) A campaign contribution that is properly received and reported in the
4 manner required by Section 9-2 SFCC 1987;

5 (4) A commercially reasonable loan made in the ordinary course of business
6 by an institution authorized by the laws of the state to engage in the business of making
7 loans; or

8 (5) Compensation for services rendered or capital invested or payment for a
9 sale of property which is normal and reasonable in amount, commensurate with the value
10 of the property sold or services rendered or the magnitude of the risk undertaken on the
11 investment, and in no way increased or enhanced by reason of the recipient's position as a
12 public official or public employee.

13 B. *Improper Transactions with the City.* Elected officials shall not accept paid
14 employment from the city of Santa Fe for a period of one (1) year following the leaving of public
15 office. A public official or public employee shall not enter into a contract or transaction with the
16 city of Santa Fe during his or her term of office or employment or for a period of one (1) year
17 following the leaving of public office or public employment when the contract or transaction is a
18 result of an official act by that public official or public employee; provided, however, that nothing
19 in this paragraph B. shall be deemed to prohibit a present or former public official or public
20 employee from seeking or obtaining, on his or her own behalf, a city permit, license or service
21 that is provided by the city on the same terms and conditions to a substantial segment of the
22 general public.

23 C. *Representation of Private Interests.*

24 (1) A governing body member, the city manager, the city attorney and the
25 city clerk shall not, during his or her term of office or within one (1) year after the

1 termination thereof, accept monetary compensation from a third party for consulting
2 with, representing or advising that party regarding any transaction with the city or matter
3 before the city.

4 (2) A public employee shall not, during his or her term of employment or
5 within one (1) year after the termination thereof, accept monetary compensation from a
6 third party for consulting with, representing or advising that party regarding any
7 transaction with the city department that the public employee is or was employed by or
8 any matter before such city department in which the public employee has had or
9 reasonably should expect to have any influence or personal involvement in his or her
10 capacity as a city employee.

11 (3) A governmental body member, excluding members of the governing
12 body, shall not, during his or her term of office or within one (1) year after the
13 termination thereof, accept monetary compensation from a third party for consulting
14 with, representing or advising that party regarding any transaction with such
15 governmental body or matter before such governmental body in which he or she has had
16 or reasonably should expect to have any influence or personal involvement in his or her
17 capacity as a governmental body member.

18 D. *Misuse of Confidential Information.* A public official or public employee shall
19 not use or disclose confidential information when he or she knows or reasonably should know
20 that the use or disclosure will or may result in a financial gain or the avoidance of a financial loss
21 on the part of any person or entity other than the city.

22 E. *Misuse of City Resources.* A public official or public employee shall not use city
23 services, personnel or equipment for personal benefit, convenience or profit, except when such
24 use is generally available to the public.

25 F. *Nepotism.* A public official or public employee shall not perform any act to

1 obtain the employment or to influence the employment by the city of a member of his or her
2 family. No public official or public employee shall serve as the immediate supervisor of a
3 member of his or her family.

4 G. *Financial Dealings with Subordinates.* A public official or public employee shall
5 not knowingly require, expressly or impliedly, or authorize another person to require that any
6 subordinate of the public official or public employee engage in a non-official financial
7 transaction, including a personal loan or charitable contribution.

8 H. *Improper Political Campaigning.* A public official or public employee shall not
9 knowingly request or authorize another person to request that any subordinate of the public
10 official or public employee make a campaign contribution or provide services to a political
11 campaign, and shall not engage in political campaigning while on duty for the city, or use city
12 funds, supplies, vehicles or facilities to benefit or assist a political campaign.

13 I. *City Employment as a Political Reward.* A public official or public employee
14 shall not promise an appointment or the use of his or her influence to obtain an appointment to
15 any position with the city as a reward for any political activity or contribution.

16 J. *Honoraria.* A public official or public employee shall not request or receive an
17 honorarium for a speech or service rendered in the performance of his or her duties as a public
18 official or public employee. For the purposes of this paragraph J., "honorarium" means payment
19 of money, or any other thing of monetary value, but does not include reasonable reimbursement
20 for meals, lodging or actual travel expenses incurred in making the speech or rendering the
21 service. However, the public official or public employee shall report all such reimbursement to
22 the city clerk within ten (10) days of receipt.

23 K. *Workplace Bullying by Governing Body Members.* A governing body member
24 shall not intentionally bully any public employee, including the city manager, city attorney or city
25 clerk. For purposes of this paragraph, workplace bullying means intentional behavior intended to

1 create an abusive work environment for a public employee or public employees. Bullying
2 behavior is behavior in the workplace that a reasonable person would find hostile, offensive, and
3 not obviously related to the city of Santa Fe's legitimate business interests. Workplace bullying
4 includes, but is not limited to the following:

- 5 (1) Use of disrespectful and devaluing language;
- 6 (2) Persistent or constant criticism in front of other persons (including co-
7 workers, vendors, contractors or members of the public) for the purpose of humiliating an
8 employee;
- 9 (3) Behavior or language that frightens, humiliates, belittles or degrades,
10 including criticism that is delivered with yelling and screaming;
- 11 (4) Threats and intimidation, including threats to discipline or terminate a
12 public employee.

13 L. *Retaliation and Whistleblower Protection.* A public official or public employee
14 shall not be dismissed, threatened with dismissal, or otherwise singled out for retaliation for the
15 reason that the person has filed a complaint of violation of this Code of Ethics or any other
16 violation of a legal prohibition or requirement or has given evidence or participated in an
17 investigation of any such violation. Any act in violation of this paragraph L. shall be deemed a
18 violation of the Code of Ethics. The outcome of the original ethics complaint shall not be deemed
19 relevant to the complaint of retaliation itself.

20 M. *Conflicts of Interest.* The following shall govern conflicts of interest:

- 21 (1) A public official or public employee who has a conflict of interest as
22 defined in subsection 1-7.5 SFCC 1987 shall immediately disclose the conflict in the
23 following manner:

- 24 (a) In the case of a member of a governmental body, to the
25 governmental body at a public meeting;

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(b) In the case of the city manager, the city attorney or the city clerk,
to the governing body at a public meeting, and

(c) In the case of a public employee, to the city manager.

(2) A public official or public employee shall not perform an official act or
attempt to influence another person to perform an official act in any matter in which he or
she has a conflict of interest.

(3) If compliance with paragraph M.(2) above by a public official or public
employee would deprive a governmental body of a quorum for taking necessary action or
would render the city unable to take necessary action on any matter, and it is deemed an
emergency, the public official or public employee shall be excused from such compliance
when he or she has made the disclosure required by paragraph M.(1) above.

APPROVED AS TO FORM:



KELLEY A. BRENNAN, CITY ATTORNEY

**City of Santa Fe
Fiscal Impact Report (FIR)**

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. General Information

(Check) Bill: X Resolution: _____

(A single FIR may be used for related bills and/or resolutions)

Short Title(s): AN ORDINANCE AMENDING SUBSECTION 1-7.7 SFCC 1987 TO PROHIBIT AN ELECTED OFFICIAL FROM ACCEPTING EMPLOYMENT WITH THE CITY OF SANTA FE WITHIN ONE (1) YEAR OF LEAVING OFFICE.

Sponsor(s): Councilor Signe Lindell

Reviewing Department(s): Legislative Services

Persons Completing FIR: Jesse Guillen Date: 9/30/15 Phone: 955-6518

Reviewed by City Attorney: Kelly A. Burman Date: 9/30/15
(Signature)

Reviewed by Finance Director: _____ Date: 9-30-2015
(Signature)

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution:
 This bill would amend the Code of Ethics (Subsection 1-7.7 SFCC 1987) for the City of Santa Fe to prohibit an elected official from accepting employment with the City of Santa Fe within one (1) year of leaving office.

Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" – if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: _____

X Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
Expenditure Classification	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs -- Recurring or "NR" Non-recurring	Fund Affected	
Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____	
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____	
Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____	
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____	
Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	_____	
All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____	
Total:	\$ _____			\$ _____				

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs -- Recurring or "NR" Non-recurring	Fund Affected	
_____	\$ _____	_____	\$ _____	_____	_____	
_____	\$ _____	_____	\$ _____	_____	_____	
_____	\$ _____	_____	\$ _____	_____	_____	
Total:	\$ _____		\$ _____			

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

None

Section D. General Narrative

1. Conflicts: Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

N/A

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

Status quo.

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

None

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

Adopting this legislation would prohibit an elected official from accepting employment with the City within one (1) year of leaving office, alleviating any notion of impropriety.
