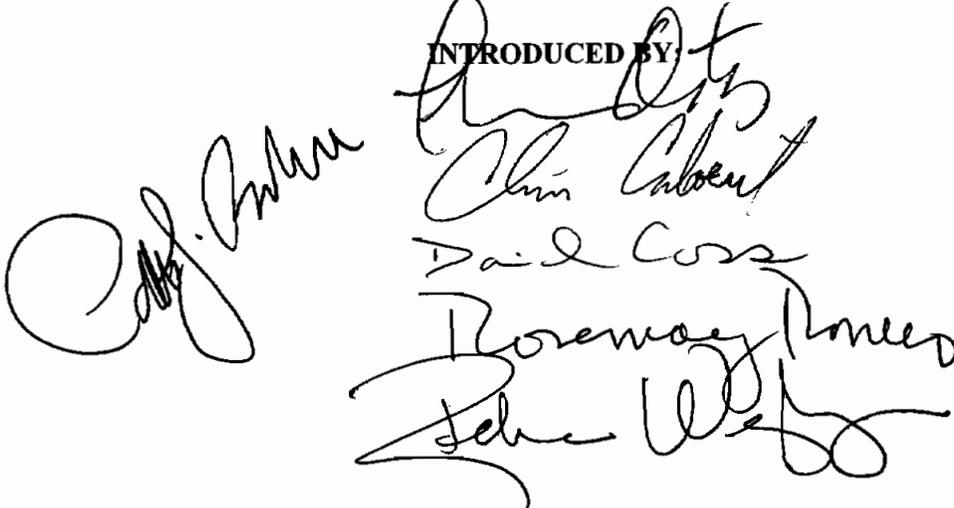


CITY OF SANTA FE, NEW MEXICO

BILL NO. 2009-47

INTRODUCED BY:



Handwritten signatures of city officials, including names like Chris Cabert, David Cross, Rosemary Jones, and John Webb.

AN ORDINANCE

AMENDING CERTAIN PROVISIONS OF ARTICLE 6-16 SFCC 1987 REGARDING THE ETHICS AND CAMPAIGN REVIEW BOARD AS IT RELATES TO THE PUBLIC CAMPAIGN FINANCE CODE.

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

Section 1. Section 6-16.2 SFCC 1987 (being Ord. No. 2005-14, §18 as amended) is amended to read:

6-16.2 Powers and Duties.

A. The board shall enforce the provisions of the Code of Ethics ([Section] Article 1-7 SFCC 1987) [and], the Campaign Code ([Section] Article 9-2 SFCC 1987) and the Public Campaign Finance Code (Article 9-3 SFCC 1987) in accordance with the procedures prescribed in this section and such rules as the board may adopt.

B. The board shall establish reasonable rules of practice and procedure which are not in conflict with the provisions of city code or other city rules of practice and procedure, timetables and explanatory materials designed to educate the public, to encourage voluntary compliance and to ensure

1 fair and prompt disposition of alleged violations.

2 C. The board may give advisory opinions regarding matters related to the Code of Ethics  
3 [~~or~~], the Campaign Code or the Public Campaign Finance Code.

4 D. The board shall periodically review and recommend changes for improving the Code of  
5 Ethics [~~or~~], the Campaign Code or the Public Campaign Finance Code, particularly following a municipal  
6 election.

7 E. In the exercise of its responsibilities, the board may audit campaign or other records.  
8 After each election campaign the board may contract for professional reviews or audits of randomly  
9 selected finance statements and shall file their results with the city clerk's office.

10 **Section 2. Section 6-16.3 SFCC 1987 (being Ord. No. 2005-14, §19) is amended to read:**

11 **6-16.3 Complaints.**

12 Any person may make a sworn written complaint, under penalty of perjury, of a violation of the  
13 Code of Ethics [~~or~~], the Campaign Code or the Public Campaign Finance Code. The complaint shall state  
14 the specific provision which has allegedly been violated and the facts which the complainant believes  
15 support the complaint. The sworn complaint shall be filed with the city clerk, who shall promptly refer  
16 the complaint to the board and furnish a copy of the complaint and any supporting documentation to each  
17 respondent who is alleged therein to have violated the Code of Ethics [~~or~~], the Campaign Code or the  
18 Public Campaign Finance Code. The complaint shall be filed within one (1) year after the complainant  
19 first discovered or reasonably should have discovered the facts on which the complaint is based.

20 **Section 3. Section 6-16.4 SFCC 1987 (being Ord. No. 2005-14, §20 as amended) is**  
21 **amended to read:**

22 **6-16.4 Determination of Legal Sufficiency; Setting a Hearing.**

23 A. Upon receipt of the complaint, the board shall determine the following:

24 (1) If the face of the complaint sets forth legally sufficient facts which, if true, show  
25 probable cause to believe that there was a violation;

1 (2) If the complaint was filed within one (1) year after the complainant first  
2 discovered or reasonably should have discovered the facts on which the complaint is based;

3 (3) If the complaint is frivolous or intended solely to harass or intimidate; and

4 (4) If the board lacks jurisdiction to adjudicate the complaint.

5 B. The city attorney, or a qualified attorney designated by the city attorney, may file a  
6 complaint with the board on the basis of information referred by the board or obtained otherwise, upon  
7 their independent determination that probable cause exists of a violation of the Code of Ethics [øf], the  
8 Campaign Code or the Public Campaign Finance Code.

9 C. To promote public participation, and to preserve the board's transparency, credibility, and  
10 stature, all final board determinations, including board decisions on complaints, advisory opinions, and  
11 settlements, shall be made during public meetings in compliance with the Open Meetings Act. No  
12 complaint shall be dismissed without a prior evidentiary hearing or prior board discussion in a public  
13 meeting of the reasons for the determination.

14 D. If the board determines that the complaint is legally sufficient, was filed timely and is not  
15 frivolous, and that the board has jurisdiction to adjudicate the complaint, the board shall at the same  
16 meeting set a schedule for hearing the complaint. The board shall conduct a public hearing regarding the  
17 complaint in accordance with due process of law. The chair of the board has authority to order appropriate  
18 discovery and issue subpoenas for the attendance of witnesses or the production of documents. Any  
19 decision of the chair with respect to discovery or with respect to the issuance of subpoenas shall be  
20 reviewable by the board upon request of any affected person. The board may seek enforcement of  
21 administrative subpoenas or discovery requests in district court.

22 E. The city clerk may require electronic posting of all documents generated pursuant to the  
23 Code of Ethics Code [øf], the Campaign Code or the Public Campaign Finance Code, in an accessible and  
24 searchable format, including the proceedings of the ethics and campaign review board.

25 **Section 4. Section 6-16.6 SFCC 1987 (being Ord. No. 2005-14, §21) is amended to read:**

1           **6-16.6 Investigations.**

2           The board may conduct an investigation of allegations brought before it rather than simply  
3 hearing charges; to do this, it shall temporarily contract with qualified investigators. No such  
4 investigation shall be undertaken unless it is specifically authorized and defined by the board. All public  
5 officials and public employees shall promptly furnish the board or its investigator with requested  
6 information and records within their custody which are germane to an investigation authorized by the  
7 board. Public officials and public employees may be required to appear as witnesses in hearings  
8 concerning charges of Ethics Code [ø], Campaign Code or Public Campaign Finance Code violations  
9 heard by the board.

10           **Section 5.       Section 6-16.7 SFCC 1987 (being Ord. No. 2005-14, §22 as amended) is**  
11 **amended to read:**

12           **6-16.7 Sanctions.**

13           A.       To encourage compliance and deter Campaign Code violations, the city clerk shall assess  
14 such fines as provided for in subsection 9-2.10 SFCC 1987 and subsection 9-2.15 SFCC 1987. The fine  
15 shall be payable within ten (10) calendar days to the city of Santa Fe. Respondents may contest the  
16 validity of such fine by filing a written appeal to the board within five (5) calendar days of its assessment,  
17 which the board shall promptly affirm or reject.

18           B.       Except as set forth in paragraph C. below, if the board following a hearing determines  
19 that there has been a violation of the Code of Ethics [ø], the Campaign Code or the Public Campaign  
20 Finance Code, it may:

- 21                   (1)       Issue a public reprimand;
- 22                   (2)       Impose a fine not to exceed five hundred dollars (\$500.00) per violation. Each  
23 day of a continuing or repetitive violation may be deemed a separate offense;
- 24                   (3)       Recommend removal or suspension from office of a public official by the  
25 governing body; [~~and~~]

1 (4) Refer complaints against public officials, where appropriate, to the district  
2 attorney's office for investigation and prosecution[-]; and

3 (5) In the case of a violation of the Public Campaign Finance Code, revoke a  
4 candidate's certification as a participating candidate or order repayment or refund by a candidate  
5 of any money received by the candidate from the Public Campaign Finance Fund pursuant to  
6 Section 9-3.10 SFCC 1987 or Section 9-3.13 SFCC 1987.

7 C. Although the sanctions set forth in paragraphs A. and B. above do not apply to public  
8 employees, disciplinary actions for violations of the Code of Ethics [~~or~~], the Campaign Code or the Public  
9 Campaign Finance Code regarding public employees shall be in accordance with the personnel rules and  
10 regulations of the city of Santa Fe and applicable collective bargaining agreements. For the purposes of  
11 this paragraph C, public employee is not intended to include any public official or exempt employee.

12 D. The sanctions set forth in paragraphs A., B. and C. do not preclude the enforcement of  
13 applicable existing state and federal statutes.

14 E. A respondent may submit a written waiver of hearing.

15 APPROVED AS TO FORM:

16   
17 Kelly A. Brennan, for  
18 FRANK D. KATZ, CITY ATTORNEY