

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

BILL NO. 2014-7

Campaign Contributions by City Contractors

SPONSOR(S): Calvert

SUMMARY: The bill proposes to amend the Code of Ethics, Section 1-7 SFCC 1987 and the Campaign Code, Section 9-2 SFCC 1987 in the following manner:

1. Broadens the definition of "conflict of interest" in §1-7.5 of the Code of Ethics by including certain additional relationships and lowering to \$250, the threshold amount of campaign contributions that may give rise to such conflicts;
2. Amends §9-2.14 of the Campaign Code alerting campaign contributors to potential conflicts of interest arising from campaign contributions over \$250;
3. Amends §9-2.3(J) of the Campaign Code to eliminate a gap in the definition of "contributor"; and
4. Conforms the above amendment to §9-2.11(A) of the Campaign Code.

PREPARED BY: Melissa Byers, Legislative Liaison

DATE: January 9, 2014

ATTACHMENTS: Bill

1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2014-7

3 INTRODUCED BY:

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6 Councilor Chris Calvert

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10 AN ORDINANCE

11 RELATING TO CAMPAIGN CONTRIBUTIONS FROM CITY CONTRACTORS;
12 AMENDING THE CODE OF ETHICS, SECTION 1-7 SFCC 1987 AND THE CAMPAIGN
13 CODE, SECTION 9-2 SFCC 1987 TO REGULATE CONFLICTS OF INTEREST ARISING
14 FROM CAMPAIGN CONTRIBUTIONS FROM CITY CONTRACTORS AND FOR
15 RELATED PURPOSES.

16
17 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

18 Section 1. Subsection 1-7.5 SFCC 1987 (being Ord. #2005-15, §14, as amended) is
19 amended to read:

20 1-7.5 Definitions.

21 As used in the Code of Ethics:

22 *Business* means a corporation, partnership, sole proprietorship, firm, or other profit-making
23 enterprise.

24 *Confidential information* means information which is acquired by a public official or public
25 employee by reason of his or her public office or public employment, which has not previously been

1 made public, and which is not required to be made available to the public under the Inspection of
2 Public Records Act (§§10-15-1 et seq. NMSA 1978).

3 *Conflict of interest* means a specific and identifiable prospect of pecuniary gain or loss, other
4 than a gain or loss that is de minimis in amount or shared with a substantial segment of the general
5 public, to any of the individuals or entities here listed from an official act of any public official or
6 employee:

7 (1) The public official or public employee who is to perform the official act;

8 (2) Any member of his or her family;

9 (3) Any business of which he or she or any member of his or her household is an owner;

10 (4) Any employer, client or customer from whom the public official or public employee
11 knows or reasonably should know that he or she or any member of his or her household or any
12 business of which he or she is an owner has received remuneration of more than five hundred dollars
13 (\$500.00) during the year preceding the official act;

14 (5) Any civic group, labor union, or social, charitable or religious organization of which
15 the public official or public employee or a member of his or her household is an officer or director; or

16 (6) ~~[Any "contributor" who has made "contributions," as those terms are defined in~~
17 ~~subsection 9-2.3G. and H. SFCC 1987,] Any business or any of its owners, if the public official or
18 public employee knows or reasonably should know that the business or any of its owners, has made
19 "contributions" or has directed the making of "contributions," as that term is defined in subsection 9-
20 2.3(I) SFCC 1987, to the public official's or public employee's campaign for elected office in an
21 aggregate amount greater than two hundred fifty dollars (\$250) during the two (2) years preceding the
22 official act [of more than one thousand dollars (\$1,000.) in the aggregate for councilor position and
23 of more than two thousand five hundred dollars (\$2,500.) in the aggregate for mayor position]. A
24 contribution made before [the effective date of this ordinance], shall not be counted toward the
25 aggregate total.~~

1 *Employer, in the case of a person who is employed by a governmental entity other than the*
2 *city, means the governmental department for which the person works.*

3 *Family of an individual* means members of the individual's household, his or her children,
4 step-children, brothers, sisters, parents, step-parents, domestic partner and all persons claimed as
5 dependents on the individual's latest federal income tax return.

6 *Financial benefit* means any money, service, license, permit, contract, loan, travel,
7 entertainment, gratuity or any other thing of monetary value or any promise of any of these.

8 *Governing body* means the mayor and the city council.

9 *Governmental body* means the governing body and any board, commission or committee
10 appointed by the governing body or by the mayor with the advice and consent of the governing body.

11 *Household of an individual* means all persons whose primary residence is in the individual's
12 home, including non-relatives, who are not rent-payers or employees.

13 *Official act* means an official decision, vote including, but not limited to items on a consent
14 calendar, recommendation, approval, disapproval or other action which involves the use of
15 discretionary authority.

16 *Owner of a business* means each of the business's proprietors, partners or holders of more
17 than two percent (2%) of its outstanding stock.

18 *Public employee* means any exempt, classified, probationary, temporary, term or part-time
19 employee of the city of Santa Fe except the municipal judge, the city manager, the city clerk, the city
20 attorney and the members of the governing body.

21 *Public official* means the city manager, the city attorney, the city clerk and any member of a
22 governmental body, including the governing body.

23 *Subordinate of a public official or public employee* means a public employee over whose
24 work for the city the public official or public employee has direction, supervision or control. All
25 public officials and public employees except other members of the governing body are deemed to be

1 subordinates of each member of the governing body.

2 **Section 2. Subsection 9-2.14 SFCC 1987 (being Ord. #1998-41, §13, as amended) is**
3 **amended to read:**

4 **9-2.14 Spending Limitations.**

5 A. A candidate may volunteer, to limit the candidate's expenditures to one dollar (\$1.00)
6 per registered voter in the city for the mayoral or municipal judgeship or one dollar (\$1.00) per
7 registered voter in the applicable district for the city council election.

8 B. A candidate may volunteer to make no contributions to the candidate's own campaign
9 or political committee of personal assets that in aggregate exceeds ten percent (10%) of the applicable
10 expenditure limits for the mayoral or municipal judgeship position. A candidate may volunteer to
11 make no contributions to the candidate's own campaign or political committee of personal assets that
12 in aggregate exceeds twenty-five percent (25%) of the applicable expenditure limits for the city
13 council position.

14 C. No candidate for councilor or municipal judge or the candidate's political committee
15 shall accept contributions from any one individual, entity or organization which in the aggregate
16 exceed one thousand dollars (\$1000.) in any one election.

17 D. No candidate for mayor or the candidate's political committee shall accept
18 contributions from any one individual, entity or organization which in the aggregate exceed two
19 thousand five hundred dollars (\$2,500.) in any one election.

20 E. Contributions from any one individual, entity or organization to any elected official or
21 his or her election campaign, which in the aggregate exceed two hundred fifty dollars (\$250) during
22 the two years preceding any official act of the elected official affecting the financial interest of the
23 contributor, are subject to the conflict-of-interest provisions of subsections 1-7.5 and 1-7.7(L) SFCC
24 1987.

25 **Section 3. Subsection 9-2.3 (J) SFCC 1987 (being Ord. #Ord. #1998-41, §3, as**

1 amended) is amended to read:

2 J. *Contributor* means:

3 (1) *Individual contributor* means an individual who makes a contribution from
4 their personal assets which are not those of a business, corporation, partnership, labor
5 organization, unincorporated association or political committee.

6 (2) *Business or organizational contributor* means an individual who uses the
7 assets of a business, corporation, partnership, labor organization, unincorporated association
8 or political committee as a contribution, or any business, corporation, partnership, labor
9 organization, unincorporated association or political committee which makes a contribution.

10 Section 4. Subsection 9-2.11 SFCC 1987 (being Ord. #Ord. #1998-41, §10, as

11 amended) is amended to read:

12 **9-2.11 Campaign Finance Statement; Contents.**

13 A. Each campaign finance statement shall be filed in accordance with subsection 9-2.10
14 SFCC 1987. The initial statement shall begin with the date of the first contribution or expenditure.
15 Subsequent statements shall begin on the day after the end date of the previous reporting period.
16 Statements shall contain the following information:

17 (1) The funds on hand at the beginning of the period. This shall include the
18 cumulative total amount of all contributions and expenditures. This includes, but is not
19 limited to, contributions and expenditures in aid of, or in opposition to, candidates or ballot
20 propositions before they qualify for the ballot and contributions and expenditures following
21 the election;

22 (2) The full name, home address, occupation, name of employer, date of receipt
23 and amount of each contribution received from each individual contributor from whom a
24 contribution in money, goods, materials, services, facilities or anything of value has been
25 received and whether the contribution was received in cash, by check, by credit card, by

1 electronic transfer or otherwise;

2 (3) The full name, type of business, physical address, date of receipt and amount
3 of each contribution for each business or organizational contributor, from whom a
4 contribution in money, goods, materials, services, facilities or anything of value has been
5 received, and whether the contribution was received in cash, by check, by credit card, by
6 electronic transfer or otherwise;

7 (4) The date of receipt and amount of any anonymous contribution received by
8 the campaign treasurer or deputy campaign treasurer and the disposition that was made of
9 each such contribution pursuant to subsection 9-2.9B SFCC 1987, including the date when it
10 was donated to the city or to a charity and the identity of the recipient of the donation.

11 (5) The full name and complete mailing address of each individual or business to
12 whom an expenditure has been made, the purpose of each campaign expenditure and the date
13 each expenditure was made. This report shall be itemized with the total amount paid to each
14 individual or business for the goods, services or facilities provided;

15 (6) The full name of the candidate or political committee and the full name and
16 complete address of the campaign treasurer or deputy campaign treasurer;

17 (7) For each contributor, the cumulative total of all contributions made; and

18 (8) Where goods, materials, services, facilities or anything of value other than
19 money is contributed or expended, the monetary value thereof shall be reported at the fair
20 market value.

21 B. Loans of money, property or other things made to a candidate or political committee
22 during the period covered by the campaign finance statement shall be reported separately in the
23 statement, with the following information:

24 (1) The total value of all loans received during the period covered by the
25 campaign finance statement;

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(2) The full name and address of each lender, the date of the loan, the interest rate and the amount of the loan remaining unpaid;

(3) The cumulative total value of all loans received; and

(4) The total amount of loans remaining unpaid.

C. If a loan has been forgiven or paid by a third person, it shall be reported pursuant to this section.

D. Investments made with campaign funds under subsection 9-2.9 SFCC 1987 and interest, dividends and/or other income received shall be reported separately in the statement.

APPROVED AS TO FORM:

Zachary J. Handley for

KELLEY A. BRENNAN, INTERIM 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): AMENDING THE CODE OF ETHICS, THE CAMPAIGN CODE AND THE PUBLIC CAMPAIGN FINANCE CODE FOR THE PURPOSE OF REGULATING CAMPAIGN CONTRIBUTIONS FROM POTENTIAL CITY CONTRACTORS.

Sponsor(s): Councilor Calvert

Reviewing Department(s): City Attorney's Office

Person Completing FIR: Rebecca Seligman Date: 01/23/14 Phone: 955-6501

Reviewed by City Attorney: *Kelley A. Brennan* Date: 1/23/14
(Signature)

Reviewed by Finance Director: *Dorsette Garcia* Date: 1/23/14
(Signature) *Marcos Tapia*

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution.

The purpose of the bill is to amend the Code of Ethics, the Campaign Code and the Public Campaign Finance Code for the purpose of regulating campaign contributions from potential City contractors. Contributions from any one individual, entity or organization to any elected official or his or her election campaign, which in the aggregate exceed two hundred fifty dollars (\$250) during the two years preceding any official act of the elected official affecting the financial interest of the contributor, are subject to the conflict-of-interest provisions of subsections 1-7.5 and 1-7.7(L) SFCC 1987.

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)

(see #3, on page 3) 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**	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
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	_____	"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.)

Not applicable.

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.

If the bill is adopted, there may be additional staff time required to monitor contracts and contributions.

2. Consequences of Not Enacting This Bill/Resolution:

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

There would not be more stringent regulations on campaign contributions by potential City contractors.

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 that staff is aware of

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.

Amending the Code would regulate campaign contributions made by potential City contractors, therefor establishing transparency and trust in our community.

Form adopted: 01/12/05; revised 8/24/05; revised 4/17/08