

CITY OF ALBUQUERQUE
Albuquerque, New Mexico
Office of the Mayor

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

November 2, 2023

TO: Pat Davis, President, City Council

FROM: Timothy M. Keller, Mayor

A handwritten signature in black ink, appearing to be 'TK' or similar initials, written over the printed name 'Timothy M. Keller, Mayor'.

SUBJECT: O-23-88 Repealing Chapter 9, Article 5, Part 1 ROA 1994, The Joint Air Quality Control Board Ordinance; Abolishing The Current Albuquerque-Bernalillo County Air Quality Control Board; Adopting Chapter 9, Article 5, Part 1 ROA 1994, The Joint Air Quality Control Ordinance; Creating The Albuquerque-Bernalillo County Air Quality Control Board (Lewis) and R-23-176 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)

Councilor Dan Lewis, District 5, has introduced two bills, O-23-88 and R-23-176 concerning the Albuquerque-Bernalillo County Air Quality Control Board. State law authorizes the local board to enforce clean air regulations. The proposed legislation, if enacted, would interfere with the Board's required duties regarding the City and County complying with all state and federal regulations that ensure Albuquerque has clean, breathable air.

The proposed legislation would halt adoption of regulations by the Board by delaying their implementation, and by giving City Council the authority to void proposed regulations before they are adopted by the joint city-county board. This is a troubling proposition as these bills would subject expert determinations to political pressures, and they have the potential to undermine the board's ability to maintain air quality standards.

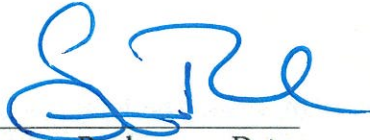
More concerning, the County has not been consulted about how this proposed change would affect the County's air or the County's authority, although it would have an impact on both. The result of an inconsistency between county and city legal requirements would likely both render the board subject to lawsuit and result in the state revocation of air quality powers granted to our city all together.

For the foregoing reasons, the Administration concurs with the Bernalillo County Commission's

resolution (enacted on Oct. 24, 2023) respectfully requesting that Council and my administration engage with and consult collaboratively before moving forward with any changes to the Board's authority or procedures.

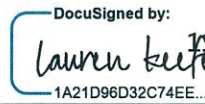
Memo regarding O-23-88 Repealing Chapter 9, Article 5, Part 1 ROA 1994, The Joint Air Quality Control Board Ordinance; Abolishing The Current Albuquerque-Bernalillo County Air Quality Control Board; Adopting Chapter 9, Article 5, Part 1 ROA 1994, The Joint Air Quality Control Ordinance; Creating The Albuquerque-Bernalillo County Air Quality Control Board (Lewis) and R-23-176 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)

Approved:



Lawrence Rael Date
Chief Administrative Officer

Approved as to Legal Form:

DocuSigned by:
 11/3/2023 | 2:19 PM MDT
1A21D96D32C74EE...

Date
City Attorney

County Manager's Office

415 Silver Ave. SW
Albuquerque, New Mexico 87102
Office: 505-468-7000
manager@bernco.gov
www.bernco.gov



November 1, 2023

Tim Keller, Mayor
City of Albuquerque
Post Office Box 1293
Albuquerque, NM 87103

Pat Davis, City Council President
City of Albuquerque
Post Office Box 1293
Albuquerque, NM 87103

Re: Albuquerque Bernalillo County Joint Air Quality Control Board Ordinance Amendments and Moratorium

Dear Mayor Keller and Council President Davis:

Please find attached Administrative Resolution AR 2023-111, which passed with a vote of 4 to 1 at the Board of County Commissioners' October 24, 2023, Administrative Meeting.

The resolution respectfully requests the deferral of the proposed ordinance amendments as introduced on October 16, 2023, Albuquerque City Council Meeting (O-23-88) and moratorium (R-23-176) until meaningful consultation between the Bernalillo County Board of Commissioners and the Albuquerque City Council take place on matters relating to any moratorium on the work of the Joint Air Quality Control Board or any repeal and reorganization of the ordinance(s) of the Albuquerque Bernalillo County Joint Air Quality Control Board.

Please contact me with any questions, and we look forward to your engagement on the issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Morgas Baca".

Julie Morgas Baca
County Manager

Enclosure

Cc: Albuquerque City Councilors
Board of County Commissioners

County Commissioners

Barbara Baca, Chair, District 1 • Adriann Barboa, Vice-Chair, District 3
Steven Michael Quezada, District 2 • Walt Benson, District 4 • Eric C. Olivas, District 5

Elected Officials

Damian R. Lara, Assessor • Linda Stover, Clerk • Cristy J. Carbón-Gaul, Probate Judge
John D. Allen, Sheriff • Nancy M. Bearce, Treasurer

County Manager
Julie Morgas Baca

BERNALILLO COUNTY

BOARD OF COUNTY COMMISSIONERS

ADMINISTRATIVE RESOLUTION NO. 2023-111

A RESOLUTION REQUESTING DEFERRAL OF PROPOSED AMENDMENTS TO THE ALBUQUERQUE BERNALILLO COUNTY JOINT AIR QUALITY BOARD ORDINANCE 0-23-88 AS IT WAS INTRODUCED AT THE OCTOBER 16, 2023, CITY COUNCIL MEETING

1 **WHEREAS**, the current Albuquerque Bernalillo County Joint Air Quality Control Board
2 was formed on March 17, 1994;

3 **WHEREAS**, the Albuquerque Bernalillo County Joint Air Quality Control Board
4 represents the interests of 674,393 persons living in Bernalillo County, including 111,000
5 persons living in unincorporated Bernalillo County, and 563,393 persons living in the City of
6 Albuquerque, Village of Los Ranchos de Albuquerque, and the Village of Tijeras;

7 **WHEREAS**, the Albuquerque Bernalillo County Joint Air Quality Control Board is
8 comprised of four members appointed by the City of Albuquerque and three members appointed
9 by the Bernalillo County Board of Commissioners;

10 **WHEREAS**, the powers and duties prescribed to the Albuquerque Bernalillo County
11 Joint Air Quality Control Board and associated agency are delegated to the board from New
12 Mexico Air Quality Control Act, NMSA 1978, Sections 74-2-1 through 22, City of Albuquerque
13 Ord. 9-5-1-3, and Bernalillo County Ord. 94-5-3.A

14 **WHEREAS**, the Albuquerque Bernalillo County Joint Air Quality Control Board was
15 created as a joint local authority acting on behalf of both the county and the city;

16 **WHEREAS**, the Albuquerque Bernalillo County Joint Air Quality Control Board and
17 agency perform vital regulatory, monitoring, and compliance services on behalf of the residents
18 of Bernalillo County and across the state of New Mexico given the unrestricted movement of air
19 and air pollution;

CONTINUATION PAGE 2, ADMINISTRATIVE RESOLUTION AR 2023-111 .

1 **WHEREAS** Council Bill O-23-88, introduced at the October 16, 2023, meeting of the
2 Albuquerque City Council, would significantly alter the composition of the board and change the
3 overall function and administration of Air Quality regulations in the City and County. R-23-176
4 was also introduced at the same time. R-176 would cease some board functions through February
5 2024.;

6 **WHEREAS** Bernalillo County was not consulted or considered in the proposed
7 legislation that would affect all residents in Bernalillo County, including those living outside of
8 Albuquerque City limits not represented by the Albuquerque City Council;

9 **WHEREAS** Bernalillo County would lose representation on the Albuquerque Bernalillo
10 County Joint Air Quality Control Board under the proposed ordinance. The proposed ordinance
11 would extend the powers of the Albuquerque City Council over unincorporated areas as it relates
12 to the regulation of air quality, thus usurping the role and authority of the Bernalillo County
13 Commission, the governing body of Bernalillo County;

14 **WHEREAS** Bernalillo County has a significant interest in the function of the
15 Albuquerque Bernalillo County Joint Air Quality Control Board and associated agencies;

16 **WHEREAS** the City of Albuquerque and Bernalillo County have recently shown
17 significant progress in partnering on major issues. The City Council and Board of
18 Commissioners have recently committed to partnerships such as the Middle Rio Grande Housing
19 Collaborative and the Joint City-County Planning of Opioid Settlement Funds. Other
20 longstanding partnerships include the Albuquerque Bernalillo County Library System, the
21 Albuquerque Bernalillo County Community School partnership, and others; and

22 **WHEREAS**, with the significant challenges our region faces, this is the time for more
23 partnership between our state's two largest local government entities.

CONTINUATION PAGE 3, ADMINISTRATIVE RESOLUTION AR 2023-111 .


1 NOW, THEREFORE, it be resolved by the Board of County Commissioners, the
2 governing body of the County of Bernalillo, that

3 The Bernalillo County Board of Commissioners respectfully requests a deferral of the
4 proposed ordinance changes (O-23-88) and a deferral of the moratorium (R-23-176)
5 until:

- 6 1. Meaningful engagement and consultation between the Bernalillo County Board of
7 Commissioners and the Albuquerque City Council take place on matters relating to
8 any moratorium on the work of the Joint Air Quality Board or any repeal and/or
9 reorganization of the ordinance(s) of the Albuquerque Bernalillo County Joint Air
10 Quality Control Board; and
- 11 2. That any changes to or moratorium on the work and structure of the Albuquerque
12 Bernalillo County Joint Air Quality Control Board Ordinance(s) be mutually agreed
13 upon by the Bernalillo County Board of Commissioners and the Albuquerque City
14 Council.
- 15 3. This resolution and its request shall be promptly delivered to the President of the
16 Albuquerque City Council, all members of the Albuquerque City Council, and the
17 Mayor of the City of Albuquerque.
- 18 4. In addition to the request above, The Bernalillo County Board of Commissioners
19 hereby authorizes the Bernalillo County Attorney and Bernalillo County Manager to
20 take all necessary actions to protect the health, well-being, and best interest of the
21 citizens of Bernalillo County as it relates to matters involving the Albuquerque
22 Bernalillo County Joint Air Quality Control Board including but not limited to
23 pursuing mediation and/or litigation as it relates to unilateral changes to the
24 Albuquerque Bernalillo County Joint Air Quality Control Board.

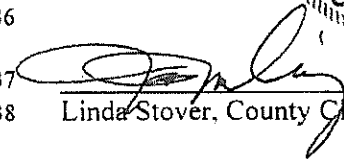
25
26 DONE, this 24th day of October 2023.

27 APPROVED AS TO FORM

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29 _____
30 W. Ken Martinez, County Attorney



35 ATTEST:

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Linda Stover, County Clerk

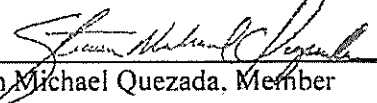
BOARD OF COUNTY COMMISSIONERS



Barbara Baca, Chair



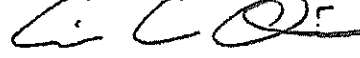
Adriann Barboa, Vice-Chair



Steven Michael Quezada, Member

Voted "No"

Walt Benson, Member



Eric C. Olivas, Member

BERNALILLO COUNTY

BOARD OF COUNTY COMMISSIONERS

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6 was also introduced at the same time. R-176 would cease some board functions through February 2024.;

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2 partnership between our state’s two largest local government entities.

3 **NOW, THEREFORE**, it be resolved by the Board of County Commissioners, the
4 governing body of the County of Bernalillo, that

5 The Bernalillo County Board of Commissioners respectfully requests a deferral of the
6 proposed ordinance changes until:

- 7 1. Meaningful engagement and consultation with the county and the Board of
- 8 Commissioners is had on any rewrite or reorganization of the ordinance(s) outlining the
- 9 Albuquerque Bernalillo County Joint Air Quality Control Board; and
- 10 2. The Bernalillo County Board of Commissioners hereby authorizes the Bernalillo
- 11 County Attorney and Bernalillo County Manager to take all necessary actions to protect
- 12 the interests of the citizens of Bernalillo County as it relates to matters involving the
- 13 Albuquerque Bernalillo County Joint Air Quality Control Board including but not
- 14 limited to pursuing mediation and/or litigation as it relates to unilateral changes to the
- 15 Albuquerque Bernalillo County Joint Air Quality Control Board.

16
17 **DONE**, this 24th day of October 2023.

BOARD OF COUNTY COMMISSIONERS

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Barbara Baca, Chair

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Adriann Barboa, Vice-Chair

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Steven Michael Quezada, Member

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Walt Benson, Member

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Eric C. Olivas, Member

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36 **APPROVED AS TO FORM:**

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W. Ken Martinez, County Attorney

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CONTINUATION PAGE 4, ADMINISTRATIVE RESOLUTION AR 2023-_____ .

1 ATTEST:

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Linda Stover, County Clerk