

**THIS AMENDMENT WAS WITHDRAWN BY SPONSOR.**

**CITY COUNCIL  
of the  
CITY OF ALBUQUERQUE**

**November 8<sup>th</sup>, 2023**

**FLOOR AMENDMENT NO.        1                        TO      O-23-88**

**AMENDMENT SPONSORED BY COUNCILOR: Patrick Davis**

1. On Page 1, strike lines 8 through 22.
2. On Page 2, strike Lines 7 through 9.
3. On Page 6, line 9, reinsert paragraph: [(1) Members of the Board previously appointed and serving at the time §§9-5-1-1 et seq. are enacted shall continue serving their terms on the Board. The length and termination date of their terms of office shall not be affected by the passage of §§9-5-1-1 et seq.]
4. On Page 6, line 28, following “division (a)”, insert as follows: [after January 1, 2024, as members come up for appointment].
5. On Page 8, strike lines 20 through 23, and renumber subsequent sections.
6. On Page 8, strike lines 27 through 28.
7. On Page 10, lines 7 through 11 strike [~~If a potential conflict of interest is raised during a meeting a member of the board shall submit the question to the entire Board for a determination of whether disqualification is necessary. The member with the potential conflict being voted on shall not vote in this determination. The Board’s determination of whether disqualification is necessary shall be final.~~]
8. On Page 11, line 7, following “The Director,” add the following: [or their designee,]
9. On Page 11, strike lines 10 through 11 and renumber subsequent sections.
10. Page 14, strike lines 8 through page 15, line 1 and re-letter subsequent sections.
11. Page 15, line 33 append the following: [The hearing officer must be a lawyer with at least 5 years of administrative and/ or regulatory law experience.]
12. Page 16, line 3 strike: [~~before a petition is expected to be filed and at no time~~].
13. Page 16, strike lines 7 through 27 and replace with “(K) No” and reletter subsequent sections.
14. Page 20, line 24 strike: [~~before a petition is expected to be filed and at no time~~].
15. Page 22, line 18 strike: [~~before a petition is expected to be filed and at no time~~].



## Explanation:

The intent of the amendment is to maintain the current board and add clarity to the objectives and requirements of the board. It also changes the requirements for the members' backgrounds but allows the current board members to finish their respective terms so as not to prevent a quorum. Additionally, the amendment requires a hearing officer and adds qualification that the hearing officer must be an attorney.

The detailed description of the changes is as follows:

1. Removes various whereas clauses
2. Removes a whereas clause
3. Reinserts original verbiage to allow members to continue to serve until replaced as is the case with other boards and commissions
4. Makes it clear that new requirements for member backgrounds go into effect moving forward
5. Removes additional reasons under which the Council or Commission could remove members
6. Removes a new clause saying members not complying with background is reason for removal since current members will need to finish their terms and future members will not be appointed without meeting background requirements
7. Removes a new ability for the board to vote to recuse another member
8. Adds language to allow for the Director of Environmental health to appoint a designee
9. Removes unnecessary language regarding City staff for clarity
10. Removes new vague requirements regarding a requirement for engagement before a petition is filed.
11. Adds qualification requirements for the hearing officer
12. Removes a requirement that board members not talk about a petition before it is filed as it is not enforceable
13. Removes a requirement that the Department of Health present all regulatory changes to the Council. Removes new powers for the Council to stay or disapprove of decisions by the Board. Removes new process for any person affected by the rule to appear the decisions to council and court of appeals.
14. Removes a requirement that board members not talk about a petition before it is filed as it is not enforceable
15. Removes a requirement that board members not talk about a petition before it is filed as it is not enforceable



**THIS AMENDMENT FAILED ON AN 3-6 VOTE.  
For: Benton, Davis and Peña  
Against: Bassan, Fiebelkorn, Grout, Jones, Lewis and Sanchez**

**CITY COUNCIL  
of the  
CITY OF ALBUQUERQUE**

**November 8<sup>th</sup>, 2023**

**FLOOR AMENDMENT NO. 2 TO O-23-88**

**AMENDMENT SPONSORED BY COUNCILOR: Klarissa Peña**

1. On Page 2, Line 7, insert the following:

**[WHEREAS, the board shall focus on communities negatively affected by environmental impacts; and]**

2. On Page 6, Line 9, insert the following and renumber subsequent subsections:

**[(1) Members of the Board previously appointed and serving at the time §§ 9-5-1-1 et seq. are enacted shall continue serving their terms on the Board. The length and termination date of their terms of office shall not be affected by the passage of §§ 9-5-1-1 et seq.]**

Explanation:

This amendment adds a whereas clause to emphasize the board should focus its efforts on communities that have been adversely affected by environmental policies.

The second change makes allows the current board members to continue to serve on the board. This means the board would still have a quorum if this ordinance passes.

**THIS AMENDMENT PASSED ON A 6-3 VOTE.  
For: Bassan, Davis, Grout, Lewis, Peña, Sanchez  
Against: Benton, Fiebelkorn, Jones**

**CITY COUNCIL  
of the  
CITY OF ALBUQUERQUE**

**November 8<sup>th</sup>, 2023**

**FLOOR AMENDMENT NO.        3        TO      O-23-88**

**AMENDMENT SPONSORED BY COUNCILOR: Klarissa Peña**

1. On Page 6, Line 27, add the following after the word “amended”

**[The board should be comprised of members who broadly represent the diversity and demographics of the city by way of, including but not limited to, cultural, gender, and geographic diversity.]**

Explanation:

This amendment adds a requirement that the board be comprised of members with diverse backgrounds.

**This Amendment Failed on a 3 to 6 vote.  
For: Grout, Peña, Sanchez  
Against: Bassan, Benton, Davis, Fiebelkorn, Jones, Lewis**

**CITY COUNCIL  
of the  
CITY OF ALBUQUERQUE**

**November 8<sup>th</sup>, 2023**

**FLOOR AMENDMENT NO.       4       TO       O-23-88**

**AMENDMENT SPONSORED BY COUNCILOR: Klarissa Peña**

1. On Page 7, Line 6, insert the following after the word county.

**[After April 1, 2024, at least one board member appointed by the City shall include a community member living in an area negatively affected by permitted sources and facilities.]**

Explanation:

This amendment adds a requirement that the board be comprised of members with different ethnic backgrounds.

The amendment also requires that as new board members are appointed after April 1, 2024, at least one City appointee must live in an area adversely affected by industry.

**THIS AMENDMENT PASSED ON A 8-1 VOTE.  
For: Bassan, Benton, Davis, Fiebelkorn, Grout, Jones, Peña, Sanchez  
Against: Lewis**

**CITY COUNCIL  
of the  
CITY OF ALBUQUERQUE**

**November 8<sup>th</sup>, 2023**

**FLOOR AMENDMENT NO. 5 TO O-23-88**

**AMENDMENT SPONSORED BY COUNCILOR: Klarissa Peña**

1. On Page 16, Lines 7-24, strike § 9-5-1-6(K) as follows:

~~“(K). The Department shall present to City Council any regulatory change promulgated by the Board.~~

~~(1) City Council may grant a stay of any regulatory change or emission control requirement promulgated by the Board after a hearing and upon a determination of good cause, including whether harm to the public interest will result. City Council shall state the length of time the stay is in effect. If City Council fails to approve a stay of any regulatory change within 60 days after presentation, the regulatory change or emission control requirement shall be in full force and effect.~~

~~(2) City Council may disapprove any regulatory change or emission control requirement promulgated by the Board by two-thirds of the entire membership of City Council disapproving the regulatory change or emission control requirement. If City Council fails to disapprove any regulatory change or emission control requirement within 60 days after presentation, the regulatory change or emission control requirements shall be in full force and effect.~~



**~~(3) Any person adversely affected by a City Council decision in divisions (1) and (2) may appeal to the court of appeals.]”~~**

2. On Page 16, Line 25, renumber the subsequent subsection as follows:

**“~~(L)~~ [(K)]”**

3. On Page 16, Line 31, renumber the subsequent subsection as follows:

**“~~(M)~~ [(L)]”**

Explanation:

This amendment strikes §9-5-1-6(K) subsections 1, 2, 3. Striking these subsections eliminates the Council’s ability to stay or disapprove of regulatory changes or emissions control requirements promulgated by the Board.

Section 1 allows the City Council to grant a stay of regulatory changes or emissions control requirements promulgated by the Board.

Section 2 allows the City Council to disapprove any regulatory changes or emissions control requirements promulgated by the Board.

Section 3 details that the appeals procedure for sections 1 and 2 would be to the court of appeals. If sections 1 and 2 are struck there is no need for an appellate process.

This amendment also renumbers subsequent subsections following the deletion of (K).