



TIMOTHY M. KELLER, MAYOR

CITY OF ALBUQUERQUE
OFFICE OF THE MAYOR/ CHIEF ADMINISTRATIVE OFFICE

INTEROFFICE MEMORANDUM

TO: CITY COUNCIL

FROM: TIMOTHY M. KELLER, MAYOR 

SUBJECT: VETO OF O-26-54, AMENDING ROA 1994, CHAPTER 2, ARTICLE 7, PART 2,
RELATED TO THE CITY ATTORNEY AND THE CITY LEGAL DEPARTMENT AND
REPEALING SECTION 3-2-5 OF THE CODE OF RESOLUTIONS

DATE: SEPTEMBER 3, 2026

Upon reviewing this legislation, I have found that while well intended and no doubt the result of past challenges, that I fully admit we have had regarding the role of attorneys in our processes; this specific piece of legislation creates an unworkable conflict with the City Charter and with the New Mexico Rules of Professional Conduct for attorneys, and would better be addressed and resolved through alternative legislation or the Charter review process and, pending confirmation, with the guidance of our next City Attorney.

Albuquerque has a long history of using a comprehensive Charter review process to consider significant changes to how our city government works. With fundamental questions about our governing structure once again before us, I believe it is time to undertake that process again, and this particular issue would best be addressed in conjunction with any other changes to ensure conflicting pieces of law are prevented.

Also, O-26-54 makes several changes to the relationship between the City Attorney, the City Council, the Administration and the Legal Department. Some of the changes create a conflicting situation for the City Attorney with both the Administration and City Council, other changes directly conflict with parts of our City Charter, and still other changes written in this version would put the City Attorney in a position that likely violates their oath to the Rules of Professional Conduct under Rule Set 16 – Rules of Professional Conduct for New Mexico.

The process is also timely as I have submitted a nominee for City Attorney for Council's consideration. I have discussed this issue with him and added it to conditions of his appointment, which he is in full support of, to work on this issue to alleviate City Council concerns in this area, and with respect to his own communications and sharing of information with City Council.

There are alternative amendments to the City Attorney Ordinance and operational standards that would meet the expressed goals seemingly within this bill. The next City Attorney should be given the opportunity to cooperatively work with city leadership, both City Council and the Administration, as per Rule Set 16 -Rules of Professional Conduct, to articulate language that meets the City Council's goals and expectations.

I am confident that if we can move forward together with this type of comprehensive approach, we will be able to work through any differences and propose and implement appropriate changes that are in the best interest of our city and our residents.

For these reasons I am vetoing O-26-54 and respectfully ask City Council uphold the veto.

CITY OF ALBUQUERQUE
CITY COUNCIL

INTEROFFICE MEMORANDUM

TO: Timothy M. Keller, Mayor

FROM: Isaac Padilla, Director of Council Services

Tim / For IEP

SUBJECT: Transmittal of Legislation

Transmitted herewith is Bill No. O-26-54 Amending ROA 1994, Chapter 2, Article 7, Part 2, Related To The City Attorney And The City Legal Department And Repealing Section 3-2-5 Of The Code Of Resolutions (Fiebelkorn, Champine), which was passed at the Council meeting of August 17, 2026, by a vote of 6 FOR AND 2 AGAINST.

FOR: Baca, Champine, Fiebelkorn, Grout, Lewis, Telles

AGAINST: Bassan, Rogers

EXCUSED: Peña

In accordance with the provisions of the City Charter, your action is respectfully requested.

CITY of ALBUQUERQUE

TWENTY SEVENTH COUNCIL

COUNCIL BILL NO. O-26-54 ENACTMENT NO. _____

SPONSORED BY: Tammy Fiebelkorn and Dan Champine

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ORDINANCE

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AMENDING ROA 1994, CHAPTER 2, ARTICLE 7, PART 2, RELATED TO THE
CITY ATTORNEY AND THE CITY LEGAL DEPARTMENT AND REPEALING
SECTION 3-2-5 OF THE CODE OF RESOLUTIONS.

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BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
ALBUQUERQUE:

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SECTION 1. ROA 1994, Chapter 2, Article 7, Part 2 is hereby amended as
follows:

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PART 2: LEGAL DEPARTMENT; CITY ATTORNEY.

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§ 2-7-2-1 CREATION OF THE LEGAL DEPARTMENT; CITY ATTORNEY.

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There is created a department of the City, the Legal Department. The head
of the Legal Department shall be the City Attorney.

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§ 2-7-2-2 AUTHORITY AND DUTIES OF THE CITY ATTORNEY.

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(A) The City Attorney, both personally and through assistant city attorneys,
shall represent the City of Albuquerque in the courts.

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(B) The City Attorney, both personally and through assistant city attorneys,
shall advise the Mayor and the City Council as to legal matters.

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(C) The City Attorney and assistant city attorneys, while acting in the
course and scope of their duties, are prohibited from engaging in policy
advocacy relating to matters upon which the City Legal Department has or is
likely to be called upon for advisement or representation. Nothing herein shall
prohibit the City Attorney or assistant city attorneys from expressing their
personal views on any issue while acting outside the scope of their duties.

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§ 2-7-2-3 APPOINTMENT OF THE CITY ATTORNEY.

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The City Attorney shall be appointed by the Mayor with the advice and
consent of the Council.

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1 § 2-7-2-4 RELATIONSHIP BETWEEN THE CITY COUNCIL AND THE CITY
2 ATTORNEY AND LEGAL DEPARTMENT.

3 (A) It is the duty of the City Attorney, in addition to other duties prescribed
4 by law, City Charter, and city Ordinances, to attend all meetings of the City
5 Council, both regular and special.

6 (B) The City Attorney is the legal advisor of the City Council and shall
7 render advice on all legal questions affecting the City, whenever requested to
8 do so by the City Council. The City Council or individual Councilors may, at
9 their discretion, request privileged legal advice from other attorneys in the
10 Legal Department other than the City Attorney.

11 (C) It is the duty of the City Attorney to draft or review upon request of the
12 City Council, ordinances, resolutions, or acts creating rights covering any
13 subjects within the power of the City. The City Council or individual
14 Councilors may, at their discretion, request privileged drafting and review
15 from other attorneys in the Legal Department other than the City Attorney.

16 (D) All duties herein specified may be delegated by the City Attorney in
17 their discretion to qualified members of the Legal Department.

18 (E) Notwithstanding the provision of divisions (B) and (C) above, the City
19 Attorney shall decline to represent both the executive and the Council, when
20 the legal positions of the parties are in conflict. In such case, the parties will
21 obtain representation by other attorneys of their selection and the City
22 Attorney shall not participate in the legal case for either party.

23 (F) The City Attorney shall keep the City Council and its General Counsel
24 informed of the status of all legal matters involving the City. The City Attorney
25 shall provide legal updates no less than once each month and shall provide
26 timely written responses to update requests submitted by the Council's
27 General Counsel. Legal updates shall include information concerning legal
28 matters to the extent permitted by law and shall be presented by the City
29 Attorney together with deputy city attorneys and any other attorneys
30 requested by the City Council.

31 (G) In all litigation and other legal matters involving City Council action, the
32 City Attorney shall include the City Council's General Counsel, or their
33 designee, in communications, strategy discussions, decision-making, and the

1 review of filings, settlement proposals, and other legal documents. The City
2 Attorney shall provide the City Council's General Counsel, or their designee, a
3 meaningful opportunity to participate in the development of legal strategy and
4 offer legal advice throughout the course of the litigation or other legal matter.
5 Nothing in this section shall be construed to require the City Council's
6 General Counsel, or their designee, to enter appearance in litigation or to
7 direct, control, or manage litigation.

8 (H) The City Attorney shall ensure that the City Attorney, Legal Department,
9 and the Council's General Counsel communicate regularly and effectively,
10 coordinate legal services where appropriate, and maintain sufficient legal
11 coverage to provide responsive, high-quality legal representation to the City
12 Council.

13 **§ 2-7-2-5 CITY COUNCIL PERFORMANCE REVIEW OF THE CITY ATTORNEY.**

14 The City Council shall conduct a performance evaluation of the City
15 Attorney within 90 days following every 18-month period of consecutive
16 service as City Attorney. The 18-month period shall begin after the Council's
17 approval, the City Attorney's appointment, or after the prior performance
18 evaluation, whichever is more recent. The Council shall develop written
19 evaluation criteria for this purpose. The City Council shall present its findings
20 in a public written report to the Mayor and Chief Administrative Officer.

21 **§ 2-7-2-6 CONTRACTING WITH ATTORNEYS TO PROVIDE LEGAL SERVICES.**

22 (A) It is the policy of the City to use attorneys who are city employees for
23 litigation unless there are special reasons for using contract attorneys. When
24 the City Attorney weighs whether outside legal counsel should be retained to
25 handle litigation, the City Attorney shall elect to hire or propose such outside
26 counsel only when:

27 (1) There is a conflict of interest within the Legal Department that
28 ethically requires outside counsel to be used;

29 (2) The City has no staff attorney with both the expertise and the time
30 available to handle the needed work;

31 (3) When the City has an insurance policy in which the insurer reserves
32 the right to select defense counsel; or

1 (4) The litigation involves City Council action and the City Council has
2 requested outside counsel. The City Attorney shall not terminate
3 representation by such outside counsel without the Council's express
4 consent.

5 (B) Contract attorneys paid by the City shall report to an overseeing
6 attorney who will evaluate and advise on the appropriateness of the litigation
7 strategy of the contract litigator and will also review and evaluate the billing
8 levels of the contract litigator.

9 (1) The overseeing attorney shall normally be the City Attorney or a city
10 staff attorney assigned by the City Attorney. In cases in which the City
11 Attorney is unable to participate or represent the executive or City Council due
12 to a conflict, the City Attorney shall assign an associate city attorney to serve
13 as overseeing attorney for the executive and the City Council's General
14 Counsel shall serve as the overseeing attorney for the Council. The
15 overseeing attorney shall not be a person overseeing the legal case
16 preparation for another party who may have separate interests from those of
17 the party represented by the contract attorney.

18 (2) If the estimated cost of securing the services of contract attorneys
19 for a case, to be established at the initiation of the legal work, exceeds
20 \$100,000, the City Attorney shall request the Director of the Office of Internal
21 Audit to retain a different contract attorney to review the work of the contract
22 litigator retained by the City. The contract attorney so retained shall advise
23 and consult with the overseeing attorney concerning their conclusions.

24 (3) If the City Attorney believes that they may be named personally as a
25 defendant in the suit in question or a related suit, or if they believe that the
26 Mayor, the Chief Administrative Officer, or a Deputy or Assistant Chief
27 Administrative Officer may be similarly named in the litigation and they are
28 personally implicated based on the specific facts of the lawsuit, the City
29 Attorney shall request the Director of the Office of Internal Audit to retain a
30 different contract attorney to review the work of the contract litigator retained
31 by the City. The contract attorney so retained shall advise and consult with the
32 overseeing attorney concerning their conclusions.

(4) If the overseeing attorney believes the contract litigator is not acting in the best interests of the City but when so advised the contract litigator elects not to alter their approach, the overseeing attorney shall report this to the person who appointed the overseeing attorney. Such report by the overseeing attorney shall be at the conclusion of the litigation unless the overseeing attorney feels the problem is one that must be immediately addressed by the City. Following receipt of such a report, the City Attorney shall share the concern with the Mayor and the President of the City Council. The Director of the Office of Internal Audit, after receipt of such report, shall share the report with the Accountability in Government Oversight Committee. For cases in which the City is the client, members of the City Council and authorized members of the City Council staff shall have unrestricted access to the overseeing attorney and the case record during the course of the legal work and after its conclusion.

(5) In cases for which it has been estimated that the cost of securing the services of contract attorneys exceeds \$100,000, the overseeing attorney shall forward for review all legal billings to the Risk Management Division of the Department of Finance and Management. Staff of the Risk Management Division shall work with the overseeing attorney to evaluate the reasonableness of billings and to control contract attorney costs.

(6) The above provisions of division (B) do not apply to defense of Workers' Compensation cases; in those cases, the City Risk Manager shall provide oversight of contract litigators' litigation strategy and billing levels.

SECTION 2. Section 3-2-5 of the Code of Resolutions, "Relationship Between the City Council and the City Attorney" is repealed in its entirety.

SECTION 3. SEVERABILITY. If any section, paragraph, sentence, clause, word or phrase of this Ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

1 **SECTION 4. COMPILATION.** Section 1 of this Ordinance amends, is
2 incorporated in, and is to be compiled as part of the Revised Ordinances of
3 Albuquerque, New Mexico, 1994. Section 2 of this Ordinance amends, is
4 incorporated in, and is to be compiled as part of the City of Albuquerque Code
5 of Resolutions.

6 **SECTION 5. EFFECTIVE DATE.** This Ordinance takes effect five days after
7 publication by title and general summary.

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1 PASSED AND ADOPTED THIS 17th DAY OF August, 2026
2 BY A VOTE OF: 6 FOR 2 AGAINST.

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FOR: Baca, Champine, Fiebelkorn, Grout, Lewis, Telles
AGAINST: Bassan, Rogers
EXCUSED: Peña


Klarissa J. Peña, President
City Council

APPROVED THIS 3 DAY OF September, 2026

Bill No. O-26-54

VETO ^R

Timothy M. Keller, Mayor
City of Albuquerque

ATTEST:

Ethan Watson, City Clerk

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