

1 HOUSE BILL 288

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Zachary J. Cook

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9  
10 AN ACT

11 RELATING TO MUNICIPALITIES; AMENDING THE MUNICIPAL CODE TO  
12 INCREASE THE VALUE OF REAL PROPERTY THAT A MUNICIPALITY MAY  
13 LEASE OR SELL; INCREASING THE VALUE OF PERSONAL PROPERTY THAT A  
14 MUNICIPALITY MAY SELL.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 3-54-1 NMSA 1978 (being Laws 1983,  
18 Chapter 115, Section 1, as amended) is amended to read:

19 "3-54-1. AUTHORITY TO SELL OR LEASE MUNICIPAL UTILITY  
20 FACILITIES OR REAL PROPERTY--NOTICE--REFERENDUM.--

21 A. A municipality may lease or sell and exchange  
22 any municipal utility facilities or real property having a  
23 value of [~~twenty-five thousand dollars (\$25,000)~~] two hundred  
24 fifty thousand dollars (\$250,000) or less by public or private  
25 sale or lease any municipal facility or real property of any

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1 value normally leased in the regular operations of such  
2 facility or real property, and such sale or lease shall not be  
3 subject to referendum.

4 B. A municipality may lease or sell and exchange  
5 any municipal utility facilities or real property having an  
6 appraised value in excess of [~~twenty-five thousand dollars~~  
7 ~~(\$25,000)~~] two hundred fifty thousand dollars (\$250,000) by  
8 public or private sale or lease, subject to the referendum  
9 provisions set forth in this section. The value of municipal  
10 utility facilities or real property to be leased or sold and  
11 exchanged shall be determined by the appraised value of the  
12 municipal utility facilities or real property and not by the  
13 value of the lease. An appraisal shall be made by a qualified  
14 appraiser and submitted in writing to the governing body. If  
15 the sale price is less than the appraised value, the governing  
16 body shall cause a detailed written explanation of that  
17 difference to be prepared, and the written explanation shall be  
18 made available to any interested member of the public upon  
19 demand.

20 C. If a public sale is held, the bid of the highest  
21 responsible bidder shall be accepted unless the terms of the  
22 bid do not meet the published terms and conditions of the  
23 proposed sale, in which event the highest bid [~~which~~] that does  
24 meet the published terms and conditions shall be accepted;  
25 provided, however, a municipality may reject all bids. Terms

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1 and conditions for a proposed public sale or lease shall be  
2 published at least twice, not less than seven days apart, with  
3 the last publication no less than fourteen days prior to the  
4 bid opening, and in accordance with the provisions of  
5 Subsection J of Section 3-1-2 NMSA 1978.

6 D. Any sale or lease of municipal utility  
7 facilities or real property entered into pursuant to Subsection  
8 B of this section shall be by ordinance of the municipality.  
9 Such an ordinance shall be effective forty-five days after its  
10 adoption, unless a referendum election is held pursuant to this  
11 section. The ordinance shall be published prior to adoption  
12 pursuant to the provisions of Subsection J of Section 3-1-2  
13 NMSA 1978 and Section 3-17-3 NMSA 1978 and shall be published  
14 after adoption at least once within one week after adoption  
15 pursuant to the provisions of Subsection J of Section 3-1-2  
16 NMSA 1978. Such publications shall concisely set forth at  
17 least:

- 18 (1) the terms of the sale or lease;
- 19 (2) the appraised value of the municipal  
20 utility facilities or real property;
- 21 (3) the time and manner of payments on the  
22 lease or sale;
- 23 (4) the amount of the lease or sale;
- 24 (5) the identities of the purchasers or  
25 lessees; and

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1 (6) the purpose for the municipality making  
2 the lease or sale.

3 E. In order to call for a referendum election on a  
4 sale or lease ordinance, a petition shall be filed with the  
5 municipal clerk:

6 (1) no later than thirty days after the  
7 adoption of the sale or lease ordinance;

8 (2) containing the names, addresses and  
9 signatures of at least fifteen percent of the qualified  
10 electors of the municipality; and

11 (3) containing the following heading on each  
12 page of the petition reprinted as follows:

13 "PETITION FOR A REFERENDUM

14 We, the undersigned registered voters of . . . . .  
15 . . . . . (insert name of  
16 municipality) petition the governing body of . . . . .  
17 . . . . . (insert name of municipality) to  
18 conduct a referendum election on ordinance number . . . . .  
19 . Ordinance number . . . . . would cause a . . . . .  
20 . . . . . (insert "sale" or "lease") of municipal  
21 . . . . . (insert "real  
22 property" or "utility facilities").

23 Date Name (printed) Address Signature".

24 F. Section 3-1-5 NMSA 1978 shall apply to all  
25 petitions filed calling for a referendum election on a sale or

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1 lease ordinance.

2 G. If the municipal clerk certifies to the  
3 municipal governing body that the petition does contain the  
4 minimum number of valid names, addresses and signatures  
5 required to call a referendum election on the sale or lease  
6 ordinance, the municipal governing body shall adopt an election  
7 resolution within fourteen days after the date the clerk makes  
8 such certification, calling for a referendum election on the  
9 sale or lease ordinance. The election resolution shall be  
10 adopted and published pursuant to the provisions of the  
11 Municipal Election Code governing special elections and shall  
12 also concisely set forth:

- 13 (1) the terms of the sale or lease;
- 14 (2) the appraised value of the municipal  
15 utility facilities or real property;
- 16 (3) the time and manner of payments on the  
17 lease or sale;
- 18 (4) the amount of the lease or sale;
- 19 (5) the identities of all purchasers or  
20 lessees; and
- 21 (6) the purpose for the municipality making  
22 the lease or sale.

23 H. The referendum election on the sale or lease  
24 ordinance shall be held not later than ninety days after the  
25 election resolution is adopted. Such election shall be held at

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1 a special or regular municipal election and shall be conducted  
2 as a special election in the manner provided in the Municipal  
3 Election Code. Any qualified elector of the municipality may  
4 vote in such a referendum election.

5 I. If a majority of the votes cast are to approve  
6 the sale or lease ordinance, the sale or lease ordinance shall  
7 be effective after the election results have been canvassed and  
8 certified. If a majority of the votes cast are to disapprove  
9 the sale or lease ordinance, the ordinance shall not be  
10 effective."

11 SECTION 2. Section 3-54-2 NMSA 1978 (being Laws 1967,  
12 Chapter 126, Section 1, as amended) is amended to read:

13 "3-54-2. SALE, EXCHANGE AND GIFT OF PROPERTY.--

14 A. A municipality may sell personal property for  
15 cash at public or private sale without notice where it is shown  
16 to the governing body that such property does not exceed the  
17 value of [~~two thousand five hundred dollars (\$2,500)~~] twenty-  
18 five thousand dollars (\$25,000).

19 B. A municipality may sell personal property having  
20 a value of more than [~~two thousand five hundred dollars~~  
21 ~~(\$2,500)~~] twenty-five thousand dollars (\$25,000) at public or  
22 private sale. If a private sale is held under this subsection,  
23 such sale shall be held only after notice is published at least  
24 twice, pursuant to the provisions of Subsection J of Section  
25 3-1-2 NMSA 1978, not less than seven days apart, with the last

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1 publication not less than fourteen days prior to the sale.

2 C. If a public sale is held, the bid of the highest  
3 responsible bidder shall be accepted unless the terms of the  
4 bid do not meet the published terms and conditions of the  
5 municipality, in which event the highest bid ~~[which]~~ that does  
6 meet the published terms and conditions shall be accepted;  
7 provided, however, a municipality may reject all bids. Terms  
8 and conditions for a proposed sale or lease shall be published  
9 at least twice, not less than seven days apart, with the last  
10 publication no less than fourteen days prior to the bid  
11 opening, and shall be published according to the provisions of  
12 Subsection J of Section 3-1-2 NMSA 1978.

13 D. A municipality may sell, at a private or public  
14 sale, exchange or donate real or personal property to the  
15 state, to any of its political subdivisions or to the federal  
16 government if such sale, exchange or gift is in the best  
17 interests of the public and is approved by the local government  
18 division of the department of finance and administration. The  
19 provisions of Section 6-6-11 NMSA 1978 shall not apply to such  
20 sale, exchange or a donation."