

AN ACT
RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
AMENDING SECTIONS OF THE MUNICIPAL CODE PERTAINING TO
MUNICIPAL SANITARY SEWER AND WATER UTILITIES.

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

Section 1. Section 3-23-2 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-22-2, as amended) is amended to read:

"3-23-2. ELECTION ON QUESTION OF ACQUIRING UTILITY. --

A. No municipality shall acquire a municipal utility from funds acquired from the issuance of revenue bonds until the question of acquiring the utility is submitted, at a regular municipal election or special election, to a vote of the qualified electors of the municipality, and a majority of the votes cast on the question favor the acquisition of the utility; provided that this section is not applicable when gross receipts tax revenue bonds are issued pursuant to Sections 3-31-1 through 3-31-12 NMSA 1978 to construct and install a new municipal wastewater utility in an area that is without public or private wastewater utility service. No special election shall be set for a date ninety days prior to the day of a regular municipal election. The acquisition by a municipality that owns municipal electric facilities on July 1, 1979 of a generating facility or any interest in a

jointly owned generating facility from funds acquired from the issuance of revenue bonds shall not be subject to the election requirement of this section.

B. Each question shall be listed separately on the ballot. The ballot shall:

(1) contain a general description of the property to be acquired; and

(2) allow each voter to indicate whether he favors or opposes the acquisition.

The election shall be called and conducted as provided in Sections 3-8-1 through 3-8-19 NMSA 1978.

C. If a majority of the votes cast on the question favor the acquisition of the utility, the governing body may acquire the utility.

D. If, pursuant to Article 9, Section 12 of the constitution of New Mexico and Sections 3-30-1 through 3-30-9 NMSA 1978, the qualified electors of the municipality and nonresident municipal electors have voted in favor of creating a debt for the acquisition of a municipal utility and the municipality has incurred the debt, the municipality need not hold the election required in this section and it shall be presumed that the acquisition of a municipal utility has been approved, or, if the municipality has owned and operated a municipal utility for a period of more than one year, it shall be presumed that the acquisition of the municipal utility has been approved. "

Section 2. Section 3-23-3 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-22-3, as amended) is amended to read:

"3-23-3. MUNICIPAL UTILITY--APPROVAL OF PUBLIC REGULATION COMMISSION. --

A. If the acquisition of a utility is to be financed from funds received from the issuance and sale of revenue bonds, the price of the acquisition of the utility shall be approved by the public regulation commission, and the commission shall require:

(1) a determination by appraisal or otherwise of the true value of the utility to be purchased; or

(2) an engineer's estimate of the cost of the utility to be constructed.

B. No revenue bonds shall be issued for the acquisition of such a utility until the public regulation commission has approved the issue and its amount, date of issuance, maturity, rate of interest and general provisions.

C. The provisions of Subsections A and B of this section shall not apply to the condemnation by a municipality having a population of twenty-five thousand or more persons according to the 1990 federal decennial census of electricity facilities as authorized by Chapter 3, Article 24 NMSA 1978, sewer facilities as authorized by Chapter 3, Article 26 NMSA 1978 or water facilities as

authorized by Chapter 3,

Article 27 NMSA 1978 and shall not apply when gross receipts tax revenue bonds are issued by a municipality pursuant to Sections 3-31-1 through 3-31-12 NMSA 1978 to construct and install a new municipal wastewater utility in an area that is without public or private wastewater utility service. "=====

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