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HOUSE BILL 129

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Fred Luna

AN ACT

RELATING TO EMINENT DOMAIN POWERS; AMENDING THE MUNICIPAL CODE TO PROVIDE CONDITIONS FOR CONDEMNATION OF PRIVATE PROPERTY FOR SEWER FACILITIES.

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

Section 1. Section 3-26-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-25-1, as amended) is amended to read:

"3-26-1. SANITARY SEWERS-- AUTHORITY TO ACQUIRE-- CONDEMNATION-- JURISDICTION OVER SYSTEM --

A. In the manner provided in Section 3-23-2 NMSA 1978, a municipality may, within and without the municipality:

(1) acquire and maintain facilities for the collection, treatment and disposal of sewage;

(2) subject to the conditions provided in this section, condemn private property for the construction,

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1 maintenance and operation of ~~[sewer]~~ facilities for the
2 collection, treatment and disposal of sewage; and

3 (3) acquire, maintain, contract for or condemn
4 for use as a municipal utility privately owned ~~[sewer]~~
5 facilities used or to be used for the collection, treatment and
6 disposal of sewage of the municipality or its inhabitants.

7 B. A municipality may condemn private property for
8 facilities for the collection, treatment and disposal of sewage
9 only if:

10 (1) the state engineer makes a determination
11 that water rights appurtenant to the land being condemned have
12 been severed;

13 (2) no suitable land exists in the public
14 domain that is available for the purpose;

15 (3) no alternative exists for the municipality
16 other than condemnation; and

17 (4) the condemnation is the most economical
18 alternative to the municipality.

19 ~~[B-]~~ C. For the purpose of acquiring, maintaining,
20 contracting for, condemning or protecting the sewer facilities,
21 the jurisdiction of the municipality extends to the territory
22 occupied by the sewer facilities. In exercising its
23 jurisdiction to acquire, maintain, contract for or condemn, the
24 municipality shall not act so as to physically isolate and make
25 nonviable any portion of the sewer facilities, within or

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without the municipality.

[~~C.~~] D. Proceedings to obtain any condemnation authorized in this section shall be in the manner provided by the Eminent Domain Code. "