

SENATE RULES COMMITTEE SUBSTITUTE FOR  
SENATE BILL 855

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

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; DECLARING AN EMERGENCY.

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

1 utility; provided that this section is not applicable if the  
2 revenue bonds issued to acquire a municipal sanitary sewer or  
3 water utility are gross receipts tax revenue bonds issued  
4 pursuant to Sections 3-31-1 through 3-31-12 NMSA 1978. No  
5 special election shall be set for a date ninety days prior to  
6 the day of a regular municipal election. The acquisition by a  
7 municipality [~~which~~] that owns municipal electric facilities on  
8 July 1, 1979 of a generating facility or any interest in a  
9 jointly owned generating facility from funds acquired from the  
10 issuance of revenue bonds shall not be subject to the election  
11 requirement of this section.

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

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

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

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

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

23 D. If, pursuant to Article 9, Section 12 of the  
24 [~~New Mexico~~] constitution of New Mexico and Sections 3-30-1  
25

1 through 3-30-9 NMSA 1978, the qualified electors of the  
 2 municipality and nonresident municipal electors have voted in  
 3 favor of creating a debt for the acquisition of a municipal  
 4 utility and the municipality has incurred the debt, the  
 5 municipality need not hold the election required in this  
 6 section and it shall be presumed that the acquisition of a  
 7 municipal utility has been approved, or, if the municipality  
 8 has owned and operated a municipal utility for a period of more  
 9 than one year, it shall be presumed that the acquisition of the  
 10 municipal utility has been approved."

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

13 "3-23-3. MUNICIPAL UTILITY--APPROVAL OF [~~NEW MEXICO~~]  
 14 PUBLIC [~~UTILITY~~] REGULATION COMMISSION.--

15 A. If the acquisition of a utility is to be  
 16 financed from funds received from the issuance and sale of  
 17 revenue bonds, the price of the acquisition of the utility  
 18 shall be approved by the [~~New Mexico~~] public [~~utility~~]  
 19 regulation commission, and the commission shall require:

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

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

24 B. No revenue bonds shall be issued for the  
 25

underscored material = new  
 [bracketed material] = delete

1 acquisition of such a utility until the [~~New Mexico~~] public  
2 [~~utility~~] regulation commission has approved the issue and its  
3 amount, date of issuance, maturity, rate of interest and  
4 general provisions.

5 C. The provisions of Subsections A and B of this  
6 section shall not apply to the condemnation by a municipality  
7 having a population of twenty-five thousand or more persons  
8 according to the 1990 federal decennial census of electricity  
9 facilities as authorized by Chapter 3, Article 24 NMSA 1978,  
10 sewer facilities as authorized by Chapter 3, Article 26 NMSA  
11 1978 or water facilities as authorized by Chapter 3, Article 27  
12 NMSA 1978; provided that this subsection is not applicable if  
13 the revenue bonds issued to acquire a municipal sanitary sewer  
14 or water utility are gross receipts tax revenue bonds issued  
15 pursuant to Sections 3-31-1 through 3-31-12 NMSA 1978. "

16 Section 3. EMERGENCY. --It is necessary for the public  
17 peace, health and safety that this act take effect immediately.