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SENATE BILL

**57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

INTRODUCED BY

William E. Sharer

AN ACT

RELATING TO MUNICIPALITIES; AUTHORIZING MUNICIPALITIES TO ACQUIRE, OPERATE AND MAINTAIN A MUNICIPAL UTILITY TO PROVIDE FOR STORM WATER SERVICE AND CHARGE A FEE OR ADVANCE PAYMENT FOR THE STORM WATER SERVICE; ADDING STORM WATER FACILITIES TO THE DEFINITION OF "MUNICIPAL UTILITY" IN THE MUNICIPAL CODE.

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

SECTION 1. A new section of the Municipal Code is enacted to read:

"[NEW MATERIAL] STORM WATER MUNICIPAL UTILITY--AUTHORITY TO ACQUIRE FACILITIES AND PROVIDE SERVICE--FEE.--

A. A municipality may, by ordinance, acquire, operate and maintain a municipal utility to provide for storm water service for the collection, treatment, storage or disposal of storm water.

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1           B. A municipality may require each person owning or  
2 controlling real property in the municipality to pay a just and  
3 reasonable fee for storm water service provided by a municipal  
4 utility."

5           **SECTION 2.** Section 3-1-2 NMSA 1978 (being Laws 1965,  
6 Chapter 300, Section 14-1-2, as amended) is amended to read:

7           "3-1-2. DEFINITIONS.--As used in the Municipal Code:

8           A. "acquire" or "acquisition" means purchase,  
9 construct, accept or any combination of purchasing,  
10 constructing or accepting;

11           B. "business" means any person, occupation,  
12 profession, trade, pursuit, corporation, institution,  
13 establishment, utility, article, commodity or device engaged in  
14 making a profit, but does not include an employee;

15           C. "census" means any enumeration of population of  
16 a municipality conducted under the direction of the government  
17 of the United States, the state of New Mexico or the  
18 municipality;

19           D. "county" means the county in which the  
20 municipality or land is situated;

21           E. "district court" means the district court of the  
22 district in which the municipality or land is situated;

23           F. "governing body" means the city council or city  
24 commission of a city, the board of trustees of a town or  
25 village, the council of incorporated counties and the board of

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1 county commissioners of H class counties;

2 G. "municipal" or "municipality" means any  
3 incorporated city, town or village, whether incorporated under  
4 general act, special act or special charter, incorporated  
5 counties and H class counties;

6 H. "municipal utility" means sewer facilities,  
7 water facilities, gas facilities, electric facilities, storm  
8 water facilities, generating facilities or any interest in  
9 jointly owned generating facilities owned by a municipality and  
10 serving the public. A municipality that owns both electric  
11 facilities and any interest in jointly owned generating  
12 facilities may, by ordinance, designate such interest in  
13 jointly owned generating facilities as part of its electric  
14 facilities. Generating facilities shall be considered as part  
15 of a municipality's electric facilities unless the municipality  
16 designates, by ordinance, the generating facilities as a  
17 separate municipal utility, such designation being conclusive  
18 subject to any existing property rights or contract rights;

19 I. "public ground" means any real property owned or  
20 leased by a municipality;

21 J. "publish" or "publication" means printing in a  
22 newspaper that maintains an office in the municipality and is  
23 of general circulation within the municipality or, if such  
24 newspaper is a nondaily paper that will not be circulated to  
25 the public in time to meet publication requirements or if there

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1 is no newspaper that maintains an office in the municipality  
2 and is of general circulation within the municipality, then  
3 "publish" or "publication" means posting in six public places  
4 within the municipality on the first day that publication is  
5 required in a newspaper that maintains an office in the  
6 municipality and is of general circulation within the  
7 municipality. One of the public places where posting shall be  
8 made is the office of the municipal clerk, who shall maintain  
9 the posting during the length of time necessary to comply with  
10 the provisions relating to the number of times publication is  
11 required in a newspaper of general circulation within the  
12 municipality. The municipal clerk may, in addition to posting,  
13 publish one or more times in a newspaper of general circulation  
14 in the municipality;

15 K. "qualified elector" means any person who is a  
16 resident of the municipality and is registered to vote under  
17 the provisions of the Election Code. Persons who would  
18 otherwise be qualified electors if land on which they reside is  
19 annexed to a municipality shall be deemed to be qualified  
20 electors:

21 (1) upon the effective date of the municipal  
22 ordinance effectuating the terms of the annexation as certified  
23 by the board of arbitration pursuant to Section 3-7-10 NMSA  
24 1978;

25 (2) upon thirty days after the filing of an

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1 order of annexation by the municipal boundary commission  
2 pursuant to Sections 3-7-15 and 3-7-16 NMSA 1978 if no appeal  
3 is filed or, if an appeal is filed, upon the filing of a  
4 nonappealable court order effectuating the annexation; or

5 (3) upon thirty days after the filing of an  
6 ordinance pursuant to Section 3-7-17 NMSA 1978 if no appeal is  
7 filed or, if an appeal is filed, upon the filing of a  
8 nonappealable court order effectuating the annexation;

9 L. "revenue producing project" means any  
10 municipally owned self-liquidating projects that furnish public  
11 services to a municipality and its ~~[citizens]~~ residents,  
12 including but not necessarily limited to public buildings;  
13 facilities and equipment for the collection or disposal of  
14 trash, refuse or garbage; swimming pools; golf courses and  
15 other recreational facilities; cemeteries or mausoleums or  
16 both; airports; off-street parking garages; and transportation  
17 centers, which may include but are not limited to office  
18 facilities and customary terminal facilities for airlines,  
19 trains, monorails, subways, intercity and intracity buses and  
20 taxicabs. "Revenue producing project" does not mean a  
21 municipal utility as defined in Subsection H of this section;

22 M. "street" means any thoroughfare that can  
23 accommodate pedestrian or vehicular traffic, is open to the  
24 public and is under the control of the municipality;

25 N. "warrant" means a warrant, check or other

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1 negotiable instrument issued by a municipality in payment for  
2 goods or services acquired by the municipality or for the  
3 payment of a debt incurred by the municipality;

4 O. "mayor" means the chief executive officer of  
5 municipalities having the mayor-council form of government. In  
6 municipalities having other forms of government, the presiding  
7 officer of the governing body and the official head of the  
8 government, without executive powers, may be designated mayor  
9 by the governing body. Wherever the Municipal Code requires an  
10 act to be performed by the mayor with the consent of the  
11 governing body, in municipalities not having the mayor-council  
12 form of government, the act shall be performed by the governing  
13 body;

14 P. "generating facility" means any facility located  
15 within or outside the state necessary or incidental to the  
16 generation or production of electric power and energy by any  
17 means and includes:

18 (1) any facility necessary or incidental to  
19 the acquisition of fuel of any kind for the production of  
20 electric power and energy, including the acquisition of fuel  
21 deposits, the extraction of fuel from natural deposits, the  
22 conversion of fuel for use in another form, the burning of fuel  
23 in place and the transportation and storage of such fuel; and

24 (2) any facility necessary or incidental to  
25 the transfer of the electric power and energy to the

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1 municipality, including without limitation step-down  
2 substations or other facilities used to reduce the voltage in a  
3 transmission line in order that electric power and energy may  
4 be distributed by the municipality to its retail customers;

5 Q. "jointly owned generating facility" means any  
6 generating facility in which a municipality owns any undivided  
7 or other interest, including without limitation any right to  
8 entitlement or capacity; and

9 R. "joint participant" means any municipality in  
10 New Mexico or any other state; any public entity incorporated  
11 under the laws of any other state having the power to enter  
12 into the type of transaction contemplated by the Municipal  
13 Electric Generation Act; the state of New Mexico; the United  
14 States; Indian tribes; and any public electric utility,  
15 investor-owned electric utility or electric cooperative subject  
16 to general or limited regulation by the public regulation  
17 commission or a similar commission of any other state."

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

20 "3-23-1. MUNICIPAL UTILITY--SERVICE CHARGES--DEPOSITS--  
21 DISCONTINUANCE OF WATER SERVICE FOR NONPAYMENT OF CHARGES--  
22 SUPPLEMENTAL METHOD.--

23 A. A municipality, including an entity established  
24 pursuant to Section 72-1-10 NMSA 1978, may require a reasonable  
25 payment in advance or a reasonable deposit for water,

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1 electricity, gas, sewer service, geothermal energy, refuse  
2 collection service, ~~[or]~~ street maintenance or storm water  
3 service.

4 B. If payment of any price, rent, fee or other  
5 charge for water, sewer service, refuse collection or street  
6 maintenance is not made within thirty days from the date the  
7 payment is due, the water service may be discontinued and shall  
8 not be again supplied to the person liable for the payment  
9 until the arrears with interest and penalties have been fully  
10 paid.

11 C. The provisions of this section are intended to  
12 afford an additional method of enforcing payment of charges for  
13 water, sewer service, refuse collection, ~~[or]~~ street  
14 maintenance or storm water service furnished by the  
15 municipality."