

Opinion No. 46-4839

January 23, 1946

BY: C. C. McCULLOH, Attorney General

TO: Fred J. Federici District Attorney Eighth Judicial District Raton, New Mexico

{*175} In your letter dated January 21, 1946 you refer to Sections 14-3615 and 14-3624 of the 1941 Compilation relative to calling of elections for bond issues. You also refer to an Attorney General's Opinion appearing at page 224 of the 1937-38 Report in which it was held that the consent of real estate owners is mandatory under Section 14-3624.

Section 14-3615 is general in nature and authorizes the issuance of negotiable bonds for the purpose of securing funds for the construction, purchase, enlargement, improvement or extension of a system of supplying water. This section is a 1921 amendment and the amendment enlarged the purpose for which the bonds may be issued by adding words in addition to "the construction or purchase of a system."

Section 14-3624 was passed in 1921 and carried the emergency clause which made it effective prior to Section 14-3615. It is limited to issuance of bonds to secure funds for the construction or acquirement of a water works system or any part thereof and requires consent of owners of real estate before the election may be held.

Since Section 14-3615 became effective after Section 14-3624, it would supersede 14-3624 in case of conflicts. However, since both sections were passed at the same session of the Legislature, they should be construed together, if possible, and effect given to both sections. Under such a construction 14-3624 requires the consent of real estate owners before an election is held for the original construction or acquirement of a water works system by a municipality, and to that extent 14-3615 would be limited. However, if the purpose of the bond issue is the enlargement, improvement or extension of an existing system, it is my opinion that the other section mentioned would not apply and an election could be called without the consent of the owners of real estate being given.