

Opinion No. 49-5207

May 1, 1949

BY: JOE L. MARTINEZ, Attorney General

TO: Charles G. Caldwell, Director Division of Sanitary Engineering and Sanitation
Department of Public Health Santa Fe, New Mexico

{*31} I have your letter of March 3, 1949, requesting the opinion of this office as to whether or not the Department of Public Health {*32} will be complying with Chapter 206 of the Laws of 1947 if it secures the services of the consulting engineer to draw plans and specifications for projects to be constructed under the authority of that act, with payment for such services to be made out of funds appropriated for carrying out the act.

Chapter 206 of the Laws of 1947 is known as the Domestic Water Users Association Act and has for its purpose the installation of sanitary domestic water facilities in rural unincorporated areas. Section 3 of the act provides that all plans and specifications necessary for such projects shall be submitted by the board of directors of the Mutual Domestic Water Consumers' Association to the State Department of Public Health for approval. Section 4 of the act provides that "**payments for such services, purposes and other purposes as are necessary** shall be made from the fund hereinafter created upon voucher drawn by the secretary-treasurer of the Mutual Water Consumers' Association, approved by the Department of Public Health."

You will note, then, that section 3 makes the submission of plans and specifications a necessary prerequisite to aid under the act and further requires that the State Board of Public Health approve such specifications. It is the opinion of this office that since plans and specifications must be submitted and approved by the Department of Public Health, that the Department may require that a consulting engineer draw up the plans and specifications. It is further the opinion of this office that such plans and specifications constitute services under the meaning of section 4 of the act and may be paid from the fund created by the act upon a voucher drawn by the secretary-treasurer of the Mutual Water Consumers' Association involved.