

Opinion No. 60-161

September 2, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Mr. Frank C. Boyce City Attorney City of Alamogordo Alamogordo, New Mexico

QUESTION

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May outstanding water revenue bonds payable solely from revenues derived from the operation of municipal water works be refinanced from funds derived by the issuance of general obligation water refunding bonds?

CONCLUSION

No.

OPINION

{*550} **ANALYSIS**

Water revenue bonds may not be refunded in whole or in part by the issuance of general obligation water refunding bonds for the reason that, in the opinion of this office, the statutory grant of such power is lacking. Sec. 11-6-23 through Sec. 11-6-33, N.M.S.A., 1953 Comp. (as amended) permits a municipality to issue general obligation refunding bonds "for the purpose of refunding the bonded indebtedness of the municipality."

From this language it is clear that the legislative mandate limits refunding issues to "bonded indebtedness." This office is of the opinion that water revenue bonds do not constitute a "bonded indebtedness" of the municipality inasmuch {*551} as such revenue bonds are payable only from the net revenue of the water works system. See *Seward v. Bowers*, 37 N.M. 385, 24 P. 2d 253.

By: Patricio S. Sanchez

Assistant Attorney General