

Opinion No. 16-1780

April 13, 1916

BY: FRANK W. CLANCY, Attorney General

TO: Mr. Willard E. Holt, Box 35, Gallup, N. M.

A majority only is required in a vote on the issuance of municipal water bonds.

OPINION

{*352} I have just received your letter of Monday last in which you say that the vote on water bonds in Gallup last week was 84 in the affirmative against 60 in the negative, and that some persons say a two-thirds majority is necessary, while others say a bare majority is all that is required.

The difference of opinion must be due to the fact that in the original act of our legislature, which is to be found as Chapter 35 of the Laws of 1907, on the question of the issuance of such bonds. two-thirds of the qualified voters were required to vote affirmatively for an issuance before they could be issued. This statute, in this particular, followed the requirements of an act of congress on the same subject. When the Constitution was adopted, however, it was provided in Section 12 of Article IX, that no municipal debt should be created until the question should be submitted to such qualified electors as have paid a property tax during the preceding year, but required only a majority of those voting on the question to authorize the issuance of the bonds. In the Codification of last year, the act of 1907 reappears beginning with Section 3654, but that section is so changed as to relate only to bonds for the improvement of streets, while the provisions as to water works and sewer bonds are to be found in the article beginning with Section 3716 which reproduces Chapter 76 of the Laws of 1912, and by Section 3718 only a majority of those voting on the question is required.

{*353} Therefore, the Gallup bonds appear to have been authorized by the vote of which you speak in your letter.