

Senator John W. Hickman proposes the following substitute bill:

SALE OF MUNICIPAL POWER SYSTEMS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: John W. Hickman

This act modifies the Utah Municipal Code to clarify provisions relating to a municipality's sale or lease of its electric power system. This act authorizes the municipal legislative body to accept or reject a bid and to add or subtract from the appraised value of the power system. The act clarifies the authority of a municipal legislative body in the process of selling or leasing a municipal power system and modifies that process. The act also makes technical changes.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

10-7-15, Utah Code Annotated 1953

10-7-16, Utah Code Annotated 1953

10-7-17, Utah Code Annotated 1953

10-7-18, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-7-15** is amended to read:

10-7-15. Sale or lease of electrical generation and distribution system -- Appraisal and vote required -- Manner of conducting the election.

~~[Whenever in the judgment of the board of commissioners or city council of any city, or the board of trustees of any town, it shall be deemed advisable to sell or lease the works or plant, constructed, purchased or used by such city or town]~~

(1) (a) Before selling or leasing in their entirety the works and plant constructed, purchased, or used by the municipality for the purpose of generating or distributing electrical



26 energy for light, heat [~~or power purposes, such board of commissioners, city council or board of~~
27 ~~trustees, as the case may be, shall cause an appraisal~~], or power purposes, the municipal
28 legislative body shall:

29 (i) cause an appraisal of the property proposed to be sold or leased to be made [~~by~~] under
30 the supervision of three resident taxpayers of [such city or town] the municipality, to be appointed
31 by the [~~commissioners, city council or board of trustees, and shall~~] municipal legislative body; and

32 (ii) provide for submitting to the registered voters of the municipality the question of the
33 sale or lease of [~~such property to the qualified electors of such city or town as shall have paid a~~
34 ~~property tax in the year preceding such election~~] the property, at the next general election or at a
35 special election called for that purpose. [~~Such election~~]

36 (b) The value of the property determined in an appraisal under Subsection (1)(a)(i) shall
37 include all items that the municipal legislative body determines to add value to or subtract value
38 from the property.

39 (2) (a) Subject to Subsection (2)(b), each election under Subsection (1)(a)(ii) shall be
40 called and conducted in the same manner as provided by statute for the issue of bonds in Section
41 10-7-8, the necessary changes in the form of the ballot being made.

42 (b) Each notice of election required under Section 11-14-3 for an election held under
43 Subsection (1)(a)(ii) shall include:

44 (i) a summary of the appraisal made under Subsection (1)(a)(i), including the amount of
45 the appraisal; and

46 (ii) the name of each bidder who submitted a bid that was opened and considered under
47 Section 10-7-17 and the amount of each bid.

48 (3) In the process of selling or leasing in their entirety the municipality's electrical works
49 and plant, a municipal legislative body may take whatever action it considers appropriate and in
50 the sequence it considers appropriate, subject to the requirements of this section and Sections
51 10-7-16 and 10-7-17.

52 Section 2. Section **10-7-16** is amended to read:

53 **10-7-16. Call for bids -- Notice -- Contents.**

54 [~~In case a majority of the qualified electors of any city or town voting thereon at any~~
55 ~~general election or special election called for that purpose shall vote in favor of selling or leasing~~
56 ~~any]~~

57 (1) (a) Before holding an election under Subsection 10-7-15(1)(a)(ii), the municipal
58 legislative body shall open to bid the sale or lease of the property mentioned in Section 10-7-15[;
59 the board of commissioners, city council or board of trustees, as the case may be,].

60 (b) The municipal legislative body shall cause notice of the bid process to be given by
61 publication [thereof] for at least [twenty] 20 days in a newspaper published or having general
62 circulation in the city or town, giving a general description of the property to be sold or leased, and
63 specifying the time when sealed bids for the [said] property, or for a lease [thereon] on the
64 property, will be received, and the time when and the place where the [same] bids will be opened.

65 (2) (a) As used in this section and in Section 10-7-17, "responsible bidder" means an entity
66 with a proven history of successful operation of an electrical generation and distribution system,
67 or an equivalent proven history.

68 (b) Subject to Subsection (2)(c), a municipal legislative body may receive or refuse to
69 receive any bid submitted for the sale or lease of the electrical works and plant.

70 (c) A municipal legislative body may not receive a bid unless the municipal legislative
71 body determines that the bid is submitted by a responsible bidder.

72 Section 3. Section **10-7-17** is amended to read:

73 **10-7-17. Opening of bids -- Amount to equal or exceed appraised value and amount**
74 **of outstanding indebtedness.**

75 At the time and place mentioned in [~~such notice~~] the notice under Section 10-7-16, all bids
76 received by the municipal legislative body for the property sought to be sold or leased shall be
77 opened and considered, and the [commissioners, city council or trustees] municipal legislative
78 body shall, subject to approval of voters at an election held under Section 10-7-15, accept the bid
79 of the highest responsible bidder[; provided, that such bid, if for the purchase of the works or
80 plant], as defined in Section 10-7-16, if the bid price:

81 (1) (a) is for an amount equal to or exceeding the appraised value [thereof, and in the
82 judgment of the commissioners, city council or board of trustees is an adequate price for the said
83 property; and provided further, that no offer to purchase the works or plant shall be accepted which
84 does not amount to the total] of the property to be sold, as determined under Subsection
85 10-7-15(1); or

86 (b) in the judgment of the municipal legislative body, is an adequate price for the property;
87 and

88 (2) equals or exceeds the total principal and interest on any outstanding bonds [sold] and
89 other indebtedness issued for the purpose of constructing the [same, together with accumulated
90 interest thereon] works or plant.

91 Section 4. Section **10-7-18** is amended to read:

92 **10-7-18. Disposition of money received.**

93 (1) All [moneys] money received from the sale of property [as in this article provided]
94 under Sections 10-7-15 through 10-7-17 shall be kept in a separate fund, and shall not be
95 expended, or mixed with other funds of [such] the city or town, until all bonds [sold] and other
96 indebtedness issued for the purchase or construction of [such] the plant or works, together with
97 accumulated interest thereon, [shall] have first been paid[; provided, that where].

98 (2) If the property [so] sold [shall bring] brings an amount in excess of the outstanding
99 bonds and other indebtedness issued for the purchase or construction of the property [so] sold
100 [such], the excess shall be deposited in a bank in this state under direction of the [board of
101 commissioners, city council or board of trustees at interest] municipal legislative body, and may
102 not thereafter be expended except for some municipal purpose by authority given by the [qualified
103 electors] registered voters of [such] the city or town at a general or special election called and
104 conducted in the manner set forth in Sections 10-7-7 and 10-7-8.