

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 805 Session of 2011

INTRODUCED BY ROBBINS, SCARNATI, ERICKSON, FERLO, FOLMER,  
FONTANA, ORIE, PICCOLA AND SMUCKER, MARCH 8, 2011

REFERRED TO LOCAL GOVERNMENT, MARCH 8, 2011

AN ACT

1 Amending Title 45 (Legal Notices) of the Pennsylvania  
2 Consolidated Statutes, further providing for additional  
3 publication in legal journals; and providing for electronic  
4 publication of legal advertising.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Section 308(a) of Title 45 of the Pennsylvania  
8 Consolidated Statutes is amended to read:

9 § 308. Additional publication in legal journals.

10 (a) General rule.--Except as otherwise provided by statute,  
11 every notice or advertisement required by law or rule of court  
12 to be published in one or more newspapers of general circulation  
13 or permitted by section 403 (relating to authorization) to be  
14 electronically published, unless dispensed with by special order  
15 of court, shall also be published in the legal newspaper, issued  
16 at least weekly, in the county, designated by rules of court for  
17 the publication of court or other legal notices, if such  
18 newspaper exists. Publication in such legal newspaper shall be  
19 made as often as required to be made in such newspapers in

1 general circulation, and shall be subject to the same  
2 stipulations and regulations as those imposed for the like  
3 services upon all newspapers.

4 \* \* \*

5 Section 2. Title 45 is amended by adding a chapter to read:

6 CHAPTER 4

7 ELECTRONIC PUBLICATION OF LEGAL ADVERTISING

8 Sec.

9 401. Scope of chapter.

10 402. Definitions.

11 403. Authorization.

12 404. Election to electronically publish legal notices.

13 405. Administration.

14 § 401. Scope of chapter.

15 This chapter relates to public notice modernization.

16 § 402. Definitions.

17 The following words and phrases when used in this chapter  
18 shall have the meanings given to them in this section unless the  
19 context clearly indicates otherwise:

20 "Department." The Department of Community and Economic  
21 Development of the Commonwealth.

22 "Electronic publication" or "electronically publish." The  
23 public advertisement of a legal notice in hypertext markup  
24 language (HTML) format, or an equivalent language format, on an  
25 official Internet website in accordance with this chapter.

26 "Government unit." Any municipality, school district, local  
27 authority or council of government or similar intergovernmental  
28 cooperative entity.

29 "Legal notice." A notice, advertisement, publication,  
30 statement or report or an abstract of a notice, advertisement,

publication, statement or report required by law, rule or regulation to be published in a newspaper relating to any of the following:

(1) A meeting of the governing body of the government unit or its committees.

(2) An ordinance or resolution.

(3) A budget, auditor's report or financial statement.

(4) A contract, agreement, request for bids or proposals or other documentation related to the procurement of supplies, services or construction.

(5) A sale of real or personal property, including property sold for municipal taxes or claims.

(6) A proceeding requiring public notice in accordance with the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code.

(7) A proceeding requiring public notice in accordance with applicable laws governing zoning or subdivision and land development in municipalities not subject to the Pennsylvania Municipalities Planning Code.

"Notice website." An official Internet website or other Internet website that is maintained by a government unit or by a third party under contract with the government unit that contains links to the legal notices designated for electronic publication by the government unit.

"Official Internet website." The official Internet location designated by a government unit as its primary source of information about the government unit.

"Ordinance." A legislative enactment of a municipality.

"Resolution." A legislative enactment of a government unit other than a municipality.

1 § 403. Authorization.

2 (a) General rule.--In accordance with the provisions of this  
3 chapter, a government unit which publishes legal notices and  
4 advertisements consistent with section 308 (relating to  
5 additional publication in legal journals) shall have the  
6 authority to electronically publish legal notices in lieu of  
7 newspaper advertisements required under Chapter 3 (relating to  
8 legal advertising) or any other law.

9 (b) Publication in newspapers of general circulation.--

10 (1) In order to be effective, any legal notice  
11 electronically published in accordance with this chapter  
12 shall also be advertised once in a newspaper of general  
13 circulation no more than five days prior to, but no later  
14 than the same date, the notice is first available on the  
15 government unit notice website. The newspaper publication  
16 shall set forth all of the following:

17 (i) A brief description of the subject matter of the  
18 legal notice.

19 (ii) A statement that the full text of the legal  
20 notice is available on the government unit notice website  
21 along with a contact telephone number for additional  
22 information.

23 (ii) The Internet address for the government unit  
24 notice website.

25 (iv) The date the legal notice will first be  
26 electronically published on the government unit notice  
27 website.

28 (2) If, after a good faith attempt to comply with the  
29 newspaper publication requirement of paragraph (1), the  
30 government unit fails to obtain publication of the legal

1 notice required by this subsection in any newspaper of  
2 general circulation within the jurisdiction of the government  
3 unit, the government unit shall:

4 (i) publish the required notice once in the legal  
5 journal of a county, if any, within which the government  
6 unit is located in the first issue of the legal journal  
7 published after the electronic publication of the legal  
8 notice; and

9 (ii) post the required notice at the principal  
10 office of the government unit.

11 (c) Effect of electronic publication.--Except as set forth  
12 in subsection (b), electronic publication in accordance with  
13 this chapter shall substitute for and satisfy the requirements  
14 for publication of a legal notice in newspapers of general  
15 circulation by a government unit imposed by any provision of  
16 law.

17 § 404. Election to electronically publish legal notices.

18 (a) Ordinance or resolution.--A government unit may enact an  
19 ordinance or adopt a resolution to elect to electronically  
20 publish legal notices in accordance with this chapter. The  
21 ordinance or resolution shall be adopted prior to electronic  
22 publication.

23 (b) Specification of notices.--The ordinance or resolution  
24 adopted under subsection (a) shall specify which type of legal  
25 notices will be subject to electronic publication under this  
26 chapter.

27 (c) Newspaper publication.--

28 (1) Following adoption of an ordinance or resolution  
29 under subsection (a), and prior to electronically publishing  
30 any legal notices, the government unit shall publish a legal

1 advertisement once a week for four successive weeks in one or  
2 more newspapers of general circulation within the  
3 jurisdiction of the government unit, announcing that certain  
4 legal notices will in the future be posted on the government  
5 unit's notice website in the following form:

6 Internet Posting of Public Notices: (name of government  
7 unit).

8 The (name of government unit) announces that legal  
9 notices on the following matters, effective (insert  
10 date), shall no longer be advertised at length by  
11 newspaper publication but shall be posted on (Internet  
12 address for the notice website or the notice website of  
13 the county in which the government unit is located, if  
14 necessary). The following types of notices shall be  
15 subject to electronic publication: (the advertisement  
16 shall then list the legal notices that the government  
17 unit's governing body has elected to publish  
18 electronically).

19 Free public access to the Internet is available at  
20 (list locations within, adjacent to or accessible to the  
21 government unit).

22 If someone is unable to access the Internet,  
23 individual copies of notices can be obtained at the (name  
24 of government unit) at (address) or by calling (insert  
25 appropriate government unit telephone number).

26 (2) If, after a good faith attempt to comply with the  
27 newspaper publication requirement of paragraph (1), the  
28 government unit fails to obtain publication of the legal  
29 notice required by this subsection in any newspaper of  
30 general circulation within the jurisdiction of the government

1 unit, the government unit shall publish the required notice  
2 at least once in the legal journal of a county, if any,  
3 within which the government unit is located and shall post  
4 the required notice on its official Internet website or  
5 notice website and at the principal office of the government  
6 unit.

7 § 405. Administration.

8 A government unit which has elected to provide electronic  
9 publication of legal notices shall comply with all of the  
10 following requirements:

11 (1) Prior to electronically publishing notices, a  
12 government unit or a contractor providing the notice website  
13 shall enter into a service agreement with an Internet service  
14 provider that guarantees the website is accessible to the  
15 public over the Internet at least 98% of the time, 24 hours a  
16 day, 365 days a year.

17 (2) All notices electronically published shall be  
18 available for review in printed form in the appropriate  
19 office of the government unit. The government unit shall  
20 provide a copy of the notice to any individual upon written  
21 or oral request. The notice shall be provided at a cost not  
22 to exceed the cost established under section 1307(b) of the  
23 act of February 14, 2008 (P.L.6, No.3), known as the Right-  
24 to-Know Law.

25 (3) A government unit's official Internet website shall  
26 prominently display the link to any other notice website. The  
27 notice website shall include an indexed web page containing a  
28 list of all current electronically published notices of the  
29 government unit, with links to the full text of those  
30 notices. The index web page shall also contain a search

1 function and may contain other features that improve public  
2 accessibility to electronically published notices. If a  
3 government unit does not have an official Internet website,  
4 the county in which the government unit is located may agree,  
5 under terms and conditions as the county may require, to  
6 provide space on the Internet website of the county necessary  
7 to serve as the government unit's notice website for purposes  
8 of this chapter. If the county provides space on its Internet  
9 website, the publication required by section 404 (relating to  
10 election to electronically publish legal notices) shall  
11 include the county's official Internet website address.

12 (4) (i) An e-mail address of the government unit shall  
13 be displayed on any website on which its legal notices  
14 are provided and on each page of any official Internet  
15 website that contains a link to each notice website or  
16 index page of any notice website.

17 (ii) The government unit shall review all complaints  
18 reported under paragraph (1) to determine the cause of  
19 any access problem and shall document the findings and  
20 any action taken to resolve it.

21 (iii) The government unit shall keep and make  
22 available for public inspection all records of complaints  
23 and service accessibility failures reported under  
24 paragraph (1).

25 (iv) The government unit shall ensure that all  
26 website and e-mail addresses required by this chapter are  
27 updated when a change occurs.

28 (5) (i) Electronic publication shall first be made on  
29 any date permitted by law for the initial printed  
30 publication of the legal notice and shall remain



1 electronically published at least until the last date  
2 that printed publication could be made in accordance with  
3 law.

4 (ii) Electronic publication for the period specified  
5 under subparagraph (i) shall be sufficient for purposes  
6 of certification of publication under paragraph (7).

7 (iii) A government unit that electronically  
8 publishes a notice for the period under subparagraph (i)  
9 may do any of the following:

10 (A) Continue to electronically publish the  
11 notice for up to 180 days after the last date for  
12 publication under subparagraph (i).

13 (B) Provide for the printed publication of the  
14 notice in a newspaper.

15 (6) A government unit that elects to provide electronic  
16 publication of legal notices shall establish a system to  
17 provide e-mail notification of legal notices to individuals  
18 who register with the government unit to receive e-mail  
19 notification.

20 (7) The government unit shall obtain a proof of  
21 publication from the newspaper of general circulation or  
22 legal journal utilized for the advertisement required by  
23 section 403(b) (relating to authorization) and prepare a  
24 written certification that the legal notice was  
25 electronically published for the period required under  
26 paragraph (5)(i), which shall include the time, place,  
27 character of notice and beginning and ending dates of the  
28 continuous electronic publication of the legal notice. The  
29 certification shall be a printed or written statement,  
30 identifying the Internet website on which the legal notice

1 was posted. A copy of the legal notice, exactly as  
2 electronically published, the proof of publication of the  
3 notice required by section 403(b) and copies of notifications  
4 under paragraph (6) shall be attached to the certification.  
5 The certification shall also state that the time, place,  
6 character of notice and dates are true. The certification  
7 shall be signed by an official or employee of the government  
8 unit responsible for electronically published legal notices  
9 and an agent of the notice website contractor, if applicable.  
10 The certification shall constitute a public record as defined  
11 in the act of February 14, 2008 (P.L.6, No.3), known as the  
12 Right-to-Know Law. The completed certification shall  
13 constitute proof of publication for compliance with legal  
14 notice requirements by a government unit in accordance with  
15 this chapter or any other provision of law. Proof of  
16 publication may be rebutted by clear and convincing evidence  
17 establishing that the legal notice was not electronically  
18 published as set forth in the certification.

19 (8) The government unit shall maintain a copy of each  
20 legal notice, certifications of legal notices and electronic  
21 transmissions as required by paragraph (6) in accordance with  
22 standards relating to records retention established pursuant  
23 to law, regulation, policy or other directive.

24 Section 3. This act shall take effect in 60 days.