
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 733 Session of
2013

INTRODUCED BY ROBBINS, EICHELBERGER, ALLOWAY, ERICKSON, FARNESE,
FERLO, FOLMER AND FONTANA, MARCH 26, 2013

REFERRED TO LOCAL GOVERNMENT, MARCH 26, 2013

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 Chapter 4 (relating to electronic publication of
14 legal advertising) to be electronically published, unless
15 dispensed with by special order of court, shall also be
16 published in the legal newspaper, issued at least weekly, in the
17 county, designated by rules of court for the publication of
18 court or other legal notices, if such newspaper exists.
19 Publication in such legal newspaper shall be made as often as

1 required, or in the case of a notice electronically published,
2 as often as would otherwise have been required to be made in
3 [such] newspapers [in] of general circulation, and shall be
4 subject to the same stipulations and regulations as those
5 imposed for the like services upon all newspapers.

6 * * *

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

8 CHAPTER 4

9 ELECTRONIC PUBLICATION OF LEGAL ADVERTISING

10 Sec.

11 401. Scope of chapter.

12 402. Definitions.

13 403. Authorization.

14 404. Election to electronically publish legal notices.

15 405. Administration.

16 406. Department responsibilities.

17 407. Reporting.

18 408. Regulations.

19 § 401. Scope of chapter.

20 This chapter relates to public notice modernization.

21 § 402. Definitions.

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

25 "Center." The Governor's Center for Local Government
26 Services within the Department of Community and Economic
27 Development.

28 "Department." The Department of Community and Economic
29 Development of the Commonwealth.

30 "Electronic publication" or "electronically publish." The

public advertisement of a legal notice in hypertext markup language (HTML) format, or an equivalent language format, on an official Internet website in accordance with this chapter.

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

"Legal notice" or "notice." A notice, advertisement, publication, 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

1 contains links to the legal notices designated for electronic
2 publication by the government unit.

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

6 "Ordinance." A legislative enactment of a municipality.

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

9 § 403. Authorization.

10 (a) General rule.--In accordance with the provisions of this
11 chapter, a government unit which publishes notices and
12 advertisements consistent with section 308 (relating to
13 additional publication in legal journals) shall have the
14 authority to, in lieu of publication in newspapers of general
15 circulation, electronically publish legal notices in addition to
16 publication in legal journals.

17 (b) Effect of electronic publication.--Electronic
18 publication in accordance with this chapter shall substitute for
19 and satisfy the requirements for publication of legal notice in
20 newspapers of general circulation by a government unit imposed
21 by any provision of law.

22 § 404. Election to electronically publish legal notices.

23 (a) Ordinance or resolution.--A government unit may enact an
24 ordinance or adopt a resolution to elect to electronically
25 publish legal notices in accordance with this chapter. The
26 ordinance or resolution shall be adopted prior to electronic
27 publication.

28 (b) Specification of notices.--The ordinance or resolution
29 adopted under subsection (a) shall specify which type of legal
30 notices will be subject to electronic publication under this

1 chapter.

2 (c) Center.--Within 90 days of the enactment of an ordinance
3 or resolution under subsection (a), the government unit shall
4 furnish the center a copy of the ordinance or resolution and all
5 official Internet website addresses applicable to the electronic
6 publication of legal notices. Notice to the center shall include
7 a one-time \$100 fee to assist the center to create the list
8 under section 406(a) (relating to department responsibilities).

9 (d) Newspaper publication.--

10 (1) Following adoption of an ordinance or resolution
11 under subsection (a), and prior to electronically publishing
12 any legal notices, the government unit shall publish a legal
13 advertisement once a week for four successive weeks in one or
14 more newspapers of general circulation within the
15 jurisdiction of the government unit, announcing that certain
16 legal notices will in the future be posted on the government
17 unit's notice website in the following form:

18 Internet Posting of Public Notices: (name of government
19 unit).

20 The (name of government unit) announces that legal
21 notices on the following matters, effective (insert
22 date), shall no longer be advertised by general
23 circulation newspaper publication but shall be posted on
24 (Internet address for the notice website or the notice
25 website of the county in which the government unit is
26 located, if necessary). The following types of notices
27 shall be subject to electronic publication: (the
28 advertisement shall then list the legal notices that the
29 government unit's governing body has elected to publish
30 electronically).

1 Free public access to the Internet is available at
2 (list locations within, adjacent to or accessible to the
3 government unit).

4 If someone is unable to access the Internet,
5 individual copies of notices can be obtained at the (name
6 of government unit) at (address) or by calling (insert
7 appropriate government unit phone number).

8 (2) If, after a good faith attempt to comply with the
9 newspaper publication requirement of paragraph (1), the
10 government unit fails to obtain publication of the notice
11 required by this subsection in any newspaper of general
12 circulation within the jurisdiction of the government unit,
13 the government unit may publish the required notice at least
14 once in the legal journal of a county within which the
15 government unit is located and shall post the required notice
16 on its official Internet website or notice website and at the
17 principal office of the government unit.

18 (e) Additional advertisement.--In addition to the newspaper
19 publication required by subsection (d), a government unit may,
20 from time to time, advertise by newspaper or other means the
21 fact that it is electronically publishing specific legal notices
22 as identified in the advertisement.

23 § 405. Administration.

24 A government unit which has elected to provide electronic
25 publication of legal notices shall comply with all of the
26 following requirements:

27 (1) Prior to electronically publishing notices, a
28 government unit or a contractor providing the notice website
29 shall enter into a service agreement with an Internet service
30 provider that guarantees the website is accessible to the

1 public over the Internet at least 98% of the time, 24 hours a
2 day, 365 days a year.

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

11 (3) A government unit's official Internet website shall
12 prominently display the link to any other notice website. The
13 notice website shall include an indexed web page containing a
14 list of all current electronically published notices of the
15 government unit, with links to the full text of those
16 notices. The index web page shall also contain a search
17 function and may contain other features that improve public
18 accessibility to electronically published notices. If a
19 government unit does not have an official Internet website,
20 the county in which the government unit is located may agree,
21 under terms and conditions as the county may require, to
22 provide space on the Internet website of the county necessary
23 to serve as the government unit's notice website for purposes
24 of this chapter. If the county provides space on its Internet
25 website, the publication required by section 404 (relating to
26 election to electronically publish legal notices) shall
27 include the county's official Internet website address.

28 (4) (i) An e-mail address of the government unit shall
29 be displayed on any website on which its legal notices
30 are provided and on each page of any official Internet

1 website that contains a link to each notice website or
2 index page of any notice website.

3 (ii) The government unit shall review all complaints
4 reported under paragraph (1) to determine the cause of
5 any access problem and shall document the findings and
6 any action taken to resolve it.

7 (iii) The government unit shall keep and make
8 available for public inspection all records of complaints
9 and service accessibility failures reported under
10 paragraph (1). The records shall also be filed with the
11 center.

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

15 (5) (i) Electronic publication shall first be made on
16 any date permitted by law for the initial printed
17 publication of the legal notice and shall remain
18 electronically published at least until the last date
19 that printed publication could be made in accordance with
20 law.

21 (ii) Electronic publication for the period specified
22 under subparagraph (i) shall be sufficient for purposes
23 of certification of publication under paragraph (8).

24 (iii) A government unit that electronically
25 publishes a notice for the period under subparagraph (i)
26 may do any of the following:

27 (A) Continue to electronically publish the
28 notice for up to 180 days after the last date for
29 publication under subparagraph (i).

30 (B) Provide for the printed publication of the

1 notice in a newspaper of general circulation.

2 (6) All legal notices electronically published by a
3 government unit under this chapter shall be mailed by first
4 class mail, or facsimile, to one or more newspapers of
5 general circulation no later than the date the notice is
6 posted on the notice website. The newspaper may use the
7 notice for research, for monitoring or to print as a public
8 service at no charge to the government unit.

9 (7) A government unit that elects to provide electronic
10 publication of legal notices shall establish a system to
11 provide e-mail notification to individuals who register with
12 the government unit to receive e-mail notification.

13 (8) The government unit shall provide written
14 certification that the legal notice was electronically
15 published for the period required under paragraph (5)(i) and
16 the time, place, character of notice and beginning and ending
17 dates of the continuous electronic publication of the legal
18 notice. The certification shall be a printed or written
19 statement, identifying the Internet website on which the
20 legal notice was posted. A copy of the legal notice, exactly
21 as electronically published, and copies of notifications
22 under paragraph (7) shall be attached to the certification.
23 The certification shall also state that the time, place,
24 character of notice and dates are true. The certification
25 shall be signed by an official or employee of the government
26 unit responsible for electronically published legal notices
27 and an agent of the notice website contractor, if applicable.
28 The certification shall constitute a public record as defined
29 in the Right-to-Know Law. The completed certification shall
30 constitute proof of publication for compliance with legal

1 notice requirements in a newspaper of general circulation by
2 a government unit in accordance with this chapter or any
3 other provision of law. Proof of publication for any other
4 legal notice other than those authorized by this chapter
5 shall be acquired and retained in accordance with existing
6 law. Proof of publication as provided in this paragraph may
7 be rebutted by clear and convincing evidence establishing
8 that the legal notice was not electronically published as set
9 forth in the certification.

10 (9) The government unit shall maintain a copy of each
11 legal notice, certifications of legal notices, electronic
12 transmissions required by paragraph (7) and facsimile
13 transmission reports in accordance with standards relating to
14 records retention established pursuant to law, regulation,
15 policy or other directive.

16 § 406. Department responsibilities.

17 (a) List of government units.--Within six months of the
18 effective date of this section, the center shall create and
19 maintain a list of the names and Internet websites of all
20 government units for which it has received a copy of an
21 ordinance or resolution to permit electronic publication of
22 legal notices under this chapter in accordance with section 404
23 (relating to election to electronically publish legal notices).
24 The list shall be accessible through the department's Internet
25 website and may be organized to correspond with any existing
26 database the center may maintain. The list shall contain links
27 to the government units' official Internet websites.

28 (b) Failure to comply.--Notwithstanding any other provision
29 of law, the failure of a government unit to provide notice to
30 the center under subsection (a) shall not invalidate any action

1 for which electronic publication has been made.

2 § 407. Reporting.

3 The department shall prepare a report on the use of this
4 chapter 12 months after the effective date of this chapter, and
5 biannually thereafter. The report shall be posted on the
6 department's Internet website. Notification of the report's
7 publication shall be provided to the President pro tempore of
8 the Senate, the Majority Leader of the Senate, the Minority
9 Leader of the Senate, the chairman and minority chairman of the
10 Local Government Committee of the Senate, the Speaker of the
11 House of Representatives, the Majority Leader of the House of
12 Representatives, the Minority Leader of the House of
13 Representatives and the chairman and the minority chairman of
14 the Local Government Committee of the House of Representatives.

15 § 408. Regulations.

16 The department shall adopt procedures to verify the
17 publication of legal notices in compliance with this chapter.

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