

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1087 Session of
2007

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FERLO, NOVEMBER 1, 2007

REFERRED TO COMMUNICATIONS AND TECHNOLOGY, NOVEMBER 1, 2007

AN ACT

1 Amending Title 45 (Legal Notices) of the Pennsylvania
2 Consolidated Statutes, providing for electronic publication
3 of legal advertising.

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

6 Section 1. Title 45 of the Pennsylvania Consolidated
7 Statutes 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 § 401. Scope of chapter.

This chapter relates to public notice modernization.

§ 402. Definitions.

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

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

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

"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 or local authority.

"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.

(6) A proceeding requiring public notice in accordance

1 with the act of July 31, 1968 (P.L.805, No.247), known as the
2 Pennsylvania Municipalities Planning Code.

3 (7) A proceeding requiring public notice in accordance
4 with applicable laws governing zoning or subdivision and land
5 development in municipalities not subject to the act of July
6 31, 1968 (P.L.805, No.247), known as the Pennsylvania
7 Municipalities Planning Code.

8 "Notice website." An official Internet website or other
9 Internet website that is maintained by a government unit or by a
10 third party under contract with the government unit that
11 contains links to the legal notices electronically published by
12 the government unit designated for publication of notices.

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

16 § 403. Authorization.

17 (a) General rule.--In accordance with the provisions of this
18 chapter, a government unit shall have the authority to
19 electronically publish legal notices in lieu of newspaper
20 advertisements required under Chapter 3 (relating to legal
21 advertising) or any other law.

22 (b) Effect of electronic publication.--Electronic
23 publication in accordance with this chapter shall substitute for
24 and satisfy the requirements for legal notice by a government
25 unit imposed by any other provision of law.

26 § 404. Election to electronically publish legal notices.

27 (a) Ordinance or resolution.--A municipality may, by
28 ordinance, and a school district or local authority may, by
29 resolution, elect to electronically publish legal notices in
30 accordance with this chapter. The ordinance or resolution shall

1 be adopted prior to electronic publication.

2 (b) Specification of notices.--The ordinance or resolution
3 adopted under subsection (a) shall specify which type of legal
4 notices are subject to electronic publication under this
5 chapter.

6 (c) Center for Local Government Services.--Within 90 days of
7 the enactment of an ordinance or resolution under subsection
8 (a), the government unit shall furnish the Center for Local
9 Government Services a copy of the ordinance or resolution and
10 all website addresses applicable to the electronic publication
11 of legal notices for compilation and posting.

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

20 Internet Posting of Public Notices: (name of government
21 unit).

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

elected to publish electronically).

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

If someone is unable to access the Internet,
individual copies of notices can be obtained by calling
(insert appropriate government unit phone number).

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

§ 405. Administration.

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

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

(2) All notices electronically published shall be
available for review in printed form in the appropriate
office of the government unit. The government unit shall
provide a copy of the notice to any individual at cost.

(3) A government unit's official Internet website shall
prominently display the link to any other notice website. The
notice website shall include an indexed web page containing a
list of all current electronically published notices of the

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

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

19 (ii) The government unit shall review all complaints
20 reported pursuant to subparagraph (i) to determine the
21 cause of any access problem and shall document the
22 findings and any action taken to resolve it.

23 (iii) The government unit shall keep and make
24 available for public inspection all records of complaints
25 and service accessibility failures reported pursuant to
26 subparagraph (i). The documentation shall also be filed
27 with the Center for Local Government Services.

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 (6).

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) The government unit shall provide for certification
16 indicating that the legal notice was electronically published
17 for the period required under paragraph (5)(i) and the
18 beginning and ending dates of the continuous electronic
19 publication of the legal notice. The certification shall be a
20 printed or written statement, identifying the website on
21 which the electronically published notice appeared. A copy of
22 the legal notice, exactly as electronically published, shall
23 be attached to the certification. The certification shall
24 also state that all of the allegations of the statement as to
25 the time, place and character of publication are true. The
26 certification shall be signed by an official or employee of
27 the government unit responsible for electronically published
28 legal notices and an agent of the notice website contractor,
29 if applicable. The certification shall constitute a public
30 record as defined in the act of June 21, 1957 (P.L.390,

1 No.212), referred to as the Right-to-Know Law. The completed
2 certification shall constitute proof of publication for the
3 purpose of complying with the requirement for legal notice by
4 a government unit in accordance with this chapter or any
5 other provision of law. A proof of publication may be
6 rebutted by clear and convincing evidence establishing that
7 the legal notice was not electronically published as set
8 forth in the certification.

9 (7) The government unit shall maintain a copy of each
10 legal notice in accordance with standards relating to records
11 retention.

12 § 406. Department responsibilities.

13 (a) List of government units electing electronic
14 publication.--As soon as is reasonably possible, after the
15 effective date of this section, the Center for Local Government
16 Services shall create and maintain a list of the names and
17 Internet websites of all government units for which it has
18 received a copy of an enactment to advertise under this chapter
19 in accordance with section 404 (relating to election to
20 electronically publish legal notices). The list shall be
21 accessible through the department's website and may be organized
22 to correspond with any existing database the Center for Local
23 Government Services may maintain. The list shall contain links
24 to the government units' official websites.

25 (b) List of all notices to be published electronically.--The
26 government unit shall provide notification of the publication of
27 a legal notice to the Center for Local Government Services, in a
28 form and structure prescribed by the Center for Local Government
29 Services. The notification shall include the name of the
30 municipality, the date the notice is published, the subject

1 matter of the notice and the Internet address to connect to the
2 notice website. The Center for Local Government Services shall
3 maintain a list of all notifications received. Notifications of
4 the publication of a legal notice shall remain on the list for
5 at least 24 months. The list shall be accessible through the
6 department's website and may be organized to correspond with any
7 existing database the Center for Local Government Services may
8 maintain. The department shall use RSS feeds or similar
9 technology to enable users to receive notification when the list
10 is updated.

11 (c) Failure to comply.--Notwithstanding any other provision
12 of law, the failure of a government unit to provide notice to
13 the Center for Local Government Services to maintain lists under
14 subsections (a) and (b) shall not invalidate any action for
15 which electronic publication has been made.

16 § 407. Reporting.

17 The department shall prepare a report on the use of this
18 chapter 12 months after the effective date of this chapter, and
19 biannually thereafter. The report shall be published on the
20 department's website. Notification of the report's publication
21 shall be provided to the President pro tempore of the Senate,
22 the Majority Leader of the Senate, the Minority Leader of the
23 Senate, the chairman and minority chairman of the Local
24 Government Committee of the Senate, the Speaker of the House of
25 Representatives, the Majority Leader of the House of
26 Representatives, the Minority Leader of the House of
27 Representatives and the chairman and the minority chairman of
28 the Local Government Committee of the House of Representatives.

29 Section 2. This act shall take effect in 60 days.