
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 419 Session of
2009

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O'PAKE, ORIE, PICCOLA, PILEGGI AND WAUGH, FEBRUARY 20, 2009

REFERRED TO LOCAL GOVERNMENT, FEBRUARY 20, 2009

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

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

5 * * *

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

7 CHAPTER 4

8 ELECTRONIC PUBLICATION OF LEGAL ADVERTISING

9 Sec.

10 401. Scope of chapter.

11 402. Definitions.

12 403. Authorization.

13 404. Election to electronically publish legal notices.

14 405. Administration.

15 406. Department responsibilities.

16 407. Reporting.

17 § 401. Scope of chapter.

18 This chapter relates to public notice modernization.

19 § 402. Definitions.

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

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

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

28 "Electronic publication" or "electronically publish." The
29 public advertisement of a legal notice in hypertext markup
30 language (HTML) format, or an equivalent language format, on an

1 official Internet website in accordance with this chapter.

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

5 "Legal notice" or "notice." A notice, advertisement,
6 publication, statement or report or an abstract of a notice,
7 advertisement, publication, statement or report required by law,
8 rule or regulation to be published in a newspaper relating to
9 any of the following:

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

12 (2) An ordinance or resolution.

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

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

17 (5) A sale of real or personal property.

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

21 (7) A proceeding requiring public notice in accordance
22 with applicable laws governing zoning or subdivision and land
23 development in municipalities not subject to the act of July
24 31, 1968 (P.L.805, No.247), known as the Pennsylvania
25 Municipalities Planning Code.

26 "Notice website." An official Internet website or other
27 Internet website that is maintained by a government unit or by a
28 third party under contract with the government unit that
29 contains links to the legal notices electronically published by
30 the government unit designated for publication of notices.

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

4 § 403. Authorization.

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

12 (b) Effect of electronic publication.--Electronic
13 publication in accordance with this chapter shall substitute for
14 and satisfy the requirements for publication of legal notice in
15 newspapers of general circulation by a government unit imposed
16 by any other provision of law.

17 § 404. Election to electronically publish legal notices.

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

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

26 (c) Center for Local Government Services.--Within 90 days of
27 the enactment of an ordinance or resolution under subsection
28 (a), the government unit shall furnish the Center for Local
29 Government Services a copy of the ordinance or resolution and
30 all Internet website addresses applicable to the electronic

1 publication of legal notices for compilation and posting.

2 (d) Newspaper publication.--

3 (1) After adopting an ordinance or resolution under
4 subsection (a), and prior to electronically publishing any
5 legal notices, the government unit shall publish a legal
6 advertisement once a week for four successive weeks in one or
7 more newspapers of general circulation within the
8 jurisdiction of the government unit, announcing that certain
9 legal notices will in the future be posted on the government
10 unit's notice website in the following form:

11 Internet Posting of Public Notices: (name of government
12 unit).

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

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

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

29 (2) If, after a good faith attempt to comply with the
30 newspaper publication requirement of paragraph (1), the

1 governmental unit fails to obtain publication of the notice
2 required by this subsection in any newspaper of general
3 circulation within the jurisdiction of the governmental unit,
4 the governmental unit may publish the required notice at
5 least once in the legal journal of a county within which the
6 governmental unit is located and shall post the required
7 notice on its official Internet website and at the principal
8 office of the governmental unit.

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

14 § 405. Administration.

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

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

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

29 (3) A government unit's official Internet website shall
30 prominently display the link to any other notice website. The

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

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

21 (ii) The government unit shall review all complaints
22 reported under paragraph (1) to determine the cause of
23 any access problem and shall document the findings and
24 any action taken to resolve it.

25 (iii) The government unit shall keep and make
26 available for public inspection all records of complaints
27 and service accessibility failures reported under
28 paragraph (1). The documentation shall also be filed with
29 the Center for Local Government Services.

30 (5) (i) Electronic publication shall first be made on

1 any date permitted by law for the initial printed
2 publication of the legal notice and shall remain
3 electronically published at least until the last date
4 that printed publication could be made in accordance with
5 law.

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

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

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

15 (B) Provide for the printed publication of the
16 notice in a newspaper.

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

1 notice website contractor, if applicable. The certification
2 shall constitute a public record as defined in the act of
3 February 14, 2008 (P.L.6, No.3, known as the Right-to-Know
4 Law. The completed certification shall constitute proof of
5 publication for the purpose of complying with the requirement
6 for legal notice by a government unit in accordance with this
7 chapter or any other provision of law. A proof of publication
8 may be rebutted by clear and convincing evidence establishing
9 that the legal notice was not electronically published as set
10 forth in the certification.

11 (7) The government unit shall maintain a copy of each
12 legal notice in accordance with standards relating to records
13 retention established pursuant to law, regulation, policy or
14 other directive.

15 § 406. Department responsibilities.

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

29 (b) List of all notices to be published electronically.--The
30 government unit shall provide notification of the electronic

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

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

20 § 407. Reporting.

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

1 Representatives and the chairman and the minority chairman of
2 the Local Government Committee of the House of Representatives.

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