

SENATE, No. 2072

STATE OF NEW JERSEY
214th LEGISLATURE

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Sponsored by:
Senator BRIAN P. STACK
District 33 (Hudson)

SYNOPSIS

Permits publication of legal notices by governments and individuals on official government website instead of newspaper.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning electronic publication of certain legal notices
2 and supplementing Title 35 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the "Electronic
8 Publication of Legal Notices Act."

9

10 2. The Legislature finds and declares:

11 a. There has been a steady decline in newspaper readership in
12 the past several decades, while, at the same time there has been an
13 increase in the number of households with access to the Internet.

14 b. The State of New Jersey, its 21 counties, and many of its
15 566 municipalities maintain official government websites that are
16 available to the public 24 hours per day.

17 c. Many legal notices published solely in newspapers go
18 unread and unnoticed by the public because casual newspaper
19 readers generally do not read the legal notice section.

20 d. Permitting the publication of legal notices on official
21 government websites will make those notices more easily accessible
22 to a greater number of people, thereby promoting increased public
23 participation in government.

24

25 3. For the purposes of this act:

26 "Electronic publication" or "electronically publish" means the
27 public advertisement of a legal notice in hypertext markup language
28 format (html), or an equivalent language format, on an official
29 government Internet website in accordance with P.L. ,

30 c. (C.) (pending before the Legislature as this bill).

31 "Government agency" or "agency" means any public entity under
32 the laws of New Jersey required to publish legal notices.

33 "Legal notice" or "notice" means any matter of a government
34 agency or an individual that, pursuant to law, rule or regulation is
35 required to be officially advertised in a newspaper in accordance
36 with R.S.35:1-1 et seq.

37 "Notice website" means an Internet website that is maintained by
38 a government agency, or by a third party under contract with the
39 agency, that contains links to the legal notices electronically
40 published by the agency.

41 "Official Internet website" or "official website" means the
42 Internet location designated by a government agency as its primary
43 source of information about the agency on the Internet.

44

45 4. Whenever a government agency or an individual is required
46 by law to publish a legal notice in one or more newspapers, the
47 government agency or individual may cause the required notice to
48 be published on an official government notice website instead of a

1 newspaper, provided all of the following requirements are met:

2 a. The government agency, or the host of the notice website,
3 shall enter into a service level agreement with an Internet service
4 provider that guarantees the site is accessible to the public over the
5 Internet at least 98% of the time, 24 hours a day, 365 days a year;
6 and

7 b. The government agency's official Internet website, the notice
8 webpage containing links to the legal notices, and the webpages
9 containing the actual legal notices, shall be designed to comply with
10 the accessibility standards of section 508 of the "Rehabilitation Act
11 of 1973," as amended (29 U.S.C. s.794d); and

12 c. The government agency's official Internet website
13 containing the notice website shall be registered with the State
14 Office of Information Technology, in but not of the Department of
15 the Treasury, for posting on the State Internet website that lists
16 Internet sites of agencies; and

17 d. The government agency's official Internet website shall
18 prominently display a link to the notice website, which shall be an
19 index webpage containing a list of all current legal notices of the
20 agency, with links to the full text of those notices, not just to
21 summaries of those notices. The index webpage shall also contain a
22 search function and other features that improve public accessibility
23 to legal notices; and

24 e. (1) Each webpage on the official website with a link to the
25 notice website or index webpage, as well as the notice website
26 itself, shall contain an e-mail link to submit a complaint to the
27 government agency if access to any legal notice fails;

28 (2) The government agency shall review all complaints reported
29 pursuant to paragraph (1) of this subsection to determine the cause
30 of any access problem and shall document the findings and any
31 action taken to resolve it;

32 (3) The government agency shall keep and make available for
33 public inspection all records of complaints and service accessibility
34 failures reported pursuant to paragraph (1) of this subsection; and

35 f. Whenever an individual is unable to access an electronic
36 publication of a government notice, the government agency shall
37 provide a copy of the notice to the individual free of charge; and

38 g. Notices shall remain available on the notice website at least
39 until the last posting date required by law has expired or until the
40 event described in a notice has taken place, whichever is later; and

41 h. The government agency shall create, or have provided by the
42 notice website contractor, and keep on file a certification or
43 affidavit of posting required for each legal notice in the same
44 manner as is done for printed notices. The affidavit or certification
45 shall state that the notice was posted from the initial date through
46 either the last posting date required by law or the date when the
47 event described in a notice takes place, whichever occurs later,
48 except that a certification shall not be required to be notarized; and

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1 i. The government agency shall designate one or more contact
2 persons to handle the intake and processing of legal notices
3 requested to be published by an individual, and shall comply with
4 the additional requirements of section 7 of P.L. , c. (C.)
5 (pending before the Legislature as this bill), concerning the Internet
6 publication of legal notices required to be published by an
7 individual.

8 j. The government agency shall designate an official to be
9 responsible for electronic publications and shall post that official's
10 name and contact information on the notice website.

11

12 5. Proof of publication of an electronically published legal
13 notice for the purpose of complying with public notice requirements
14 shall be satisfied and deemed conclusive upon the provision of the
15 certification or affidavit described in subsection h. of section 4 of
16 P.L. , c. (C.) (pending before the Legislature as this bill) by
17 the official responsible for the electronic publication, stating that
18 the notice was posted from the initial date until the last posting date
19 required by law.

20

21 6. A local government agency may elect to electronically
22 publish legal notices on a notice website in accordance with
23 section 4 of P.L. , c. (C.) (pending before the Legislature as
24 this bill) provided:

25 a. Dial up access to the Internet is available without telephone
26 toll charges generally throughout the jurisdiction of the local
27 government agency; and

28 b. Regular public Internet access is available without charge
29 within the jurisdiction of the local government agency through the
30 public library or at some other location; and

31 c. The local government agency adopts a resolution at the
32 annual meeting at which the official newspaper is designated, if
33 applicable, to provide for electronic publication of legal notices on
34 a notice website; and

35 d. (1) he local government agency publishes a legal
36 advertisement once a week in one or more official newspapers
37 having the highest circulation within the jurisdiction of the local
38 government agency, announcing that legal notices are posted on the
39 agency's notice website, in the following form:

40 "Internet Posting of Public Notices: (name of local government
41 agency)

42 "The (name of agency) announces that public notices on the
43 following matters are posted on the (name of agency) public notice
44 website: http://www._____ (substitute
45 Internet address protocol in common usage if different);"

46 (2) Each legal advertisement required under paragraph (1) of this
47 subsection shall close with the following:

48 "Free public access to the Internet is available within the (insert

1 name of county, municipality or service or jurisdictional area of the
2 local government agency) at (list all known locations). If someone
3 is unable to access the Internet, individual copies of notices can be
4 obtained by calling (insert appropriate agency phone number);" and

5 e. All local government notices electronically published are
6 available in printed form in the office of the clerk of the county
7 board of chosen freeholders, the municipal clerk, the secretary of
8 the local government agency, or other appropriate office, as the case
9 may be; and

10 f. When a municipality does not have an official website, the
11 municipal legal notices shall be published on the existing official
12 website of the county in which the municipality is located, in
13 accordance with the provisions of P.L. , c. (C.) (pending
14 before the Legislature as this bill).

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16 7. An individual required by law to publish an official notice in
17 one or more newspapers may cause the notice to be published on an
18 appropriate State or local government notice website instead of a
19 newspaper, provided:

20 a. The appropriate State or local government agency maintains
21 an official notice website in accordance with P.L. , c. (pending
22 before the Legislature as this bill); and

23 b. The individual shall contact the appropriate State or local
24 government agency and complete a written request for the
25 publication of the legal notice; and

26 c. The appropriate State or local government agency shall
27 cause the notice to be published on its official notice website at no
28 cost to the individual, and the notice shall meet all of the necessary
29 content and time frame requirements stipulated by law; and

30 d. The appropriate State or local government agency shall
31 provide the individual a copy of the electronically published notice,
32 and a copy of the certification or affidavit of publishing required
33 under subsection h. of section 4 of P.L. , c. (C.) (pending
34 before the Legislature as this bill).

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36 8. Within 6 months of the enactment of P.L. , c. (C.)
37 (pending before the Legislature as this bill), the Director of the
38 Division of Local Government Services in the Department of
39 Community Affairs shall promulgate rules and regulations, pursuant
40 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B
41 1-et seq.), in order to effectuate the provisions of this act.

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43 9. This act shall take effect on the first day of the seventh
44 month next following enactment, however, section 8 of this act
45 shall take effect immediately.

1 STATEMENT

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3 This bill authorizes individuals, as well as local, county and State
4 government units, including school districts, to meet publication
5 requirements for legal notices by posting such notices on officially
6 designated government websites, so long as Internet accessibility
7 and reliability requirements are met. Nothing in this bill alters
8 existing notice content and publication time frame requirements,
9 nor does this bill eliminate an individual or government entity's
10 ability to meet publication requirements through newspaper
11 publication as set forth under current law.

12 By giving individuals and government entities the option of
13 Internet publication of legal notices, this bill expands public access
14 to important government information. First, the bill expands the
15 geographic availability of legal notices, many of which need only
16 appear in one local or regional newspaper under current law. Under
17 the provisions of this bill, Internet publication is only available to
18 local governments when the local government can establish that
19 free public Internet access is available in the jurisdiction. This bill
20 further requires that a link to the notice webpage be prominently
21 displayed on the homepage of the publishing government entity and
22 that the notice webpage address be advertised, along with a listing
23 of free public Internet access locations, in one or more newspapers
24 within the jurisdiction. Additionally, publication websites must be
25 accessible online at least 98% of the time on a continuous basis and
26 the government entity must provide free copies of such notices
27 when an interested person is unable to access the official website.

28 Internet publication of legal notices also allows postings to
29 remain available to the public for greater lengths of time. Because
30 websites have far greater capacities than a single print edition of a
31 newspaper, the same legal notice could remain posted on official
32 notice websites for several months or more, thereby allowing
33 residents more opportunity to view the information. Nothing
34 contained in this bill limits the length of time that a legal notice can
35 remain posted on an official website, except to set minimum
36 publication requirements to Internet publication. Therefore, official
37 websites can, under this law, make legal notices available to the
38 public for longer periods of time.

39 Additionally, official websites can be designed to allow
40 flexibility in sorting and searching for legal notices. Official
41 websites could provide users with the ability to search for legal
42 notices by date posted, county or other geographic categories, or the
43 subject of the posting. This bill does require that notice websites
44 have search capabilities and other features to improve content
45 accessibility.

46 This bill also requires an individual wishing to publish a legal
47 notice on an official website to contact the appropriate local, county
48 or State government entity to formally request that the legal notice

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1 be published. Such publication is only available when the
2 applicable government entity maintains a notice website or
3 otherwise publishes legal notices pursuant to the provisions of this
4 bill. Furthermore, when a municipality does not have an official
5 website, this bill allows for municipal legal notices to be published
6 on the website of the county in which the property is located.

7 Proof of publication of all Internet published legal notices shall
8 be ascertained in the same manner as if the notices had been
9 published in a print newspaper. The Director of the Division of
10 Local Government Services in the Department of Community
11 Affairs is required to promulgate any rules and regulations in order
12 to effectuate the provisions of this bill.