

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 4429**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 15, 2016

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4429, with committee amendments.

As amended, this bill allows government agencies and persons to publish legal notices on official government notice websites instead of in newspapers. The bill permits the electronic publication of legal notices in every instance in which the law requires newspaper publication. This option would be available with respect to a government agency if the government agency has, for a three month period beginning on or after the enactment date, published all legal notices both on its official website and in newspapers and provided notice both on its official website and in newspapers that the government agency may exclusively publish legal notices electronically going forward.

The bill requires that a government agency that meets these requirements and elects to exclusively publish legal notices electronically must create a notice website on which the required legal notices would be electronically published; designate officials to be responsible for these electronic publications and serve as contact persons who handle the intake and processing of electronic publication requests made by persons; and receive and review any complaints with respect to electronically published legal notices, which complaints would have to be made available for public inspection.

Whenever a legal notice that has been electronically published pursuant to the bill is inaccessible for 25 percent or more of the publication timeframe provided by law, the legal notice would have to be electronically published for the entirety of that timeframe beginning anew from the day on which access to the notice is restored, and the action for which the legal notice is required would be delayed accordingly.

The Office of Information Technology would be required to establish on the State Internet website a webpage containing a directory of all government agency notice websites, and continuously maintain the directory webpage and update the directory webpage to include the notice website of a government

agency within 10 days after receiving notice from the government agency that it has created a notice website.

Savings that a local government agency realizes from publishing legal notices electronically instead of in newspapers pursuant to the bill would have to be used solely and exclusively to reduce the amount required to be raised by the local property tax levy.

The bill amends several sections of current law requiring notices to be published in newspapers in order to further clarify that these notices may be published electronically instead of in a newspaper. Although the bill does not amend every statute with a legal notice newspaper publication requirement, the amended statutes account for the vast majority of the legal notices published in newspapers, and therefore warrant further clarity on the availability of the option to publish electronically. The bill's general provisions allowing for the electronic publication of legal notices would still apply to all other sections of law with legal notice newspaper publication requirements, but which are not amended by the bill to reflect the availability of the electronic publication option.

This bill does not affect existing notice content and publication timeframes, which would still apply to any legal notices that are electronically published. The bill also does not affect the ability of government agencies and persons to opt to meet legal notice publication requirements through newspaper publication as set forth under current law.

The Chief Technology Officer of the Office of Information Technology, in consultation with the Director of the Division of Local Government Services, is to promulgate rules and regulations to effectuate the bill.

FISCAL IMPACT:

The Office of Legislative Services (OLS) notes that the bill will have an indeterminate fiscal impact on the State and local government agencies. The OLS notes that this bill is permissive and does not require the State or any local government entity to post its legal notices on the Internet rather than in an official newspaper. Government agencies that exercise this option may experience a reduction in expenditures, if their volume of legal notices is significant enough that the savings from discontinuing publication in newspapers outweigh the costs of creating and maintaining a notice website as required by the bill. The OLS has no information upon which to base an estimate of those costs, whether an agency uses its own staff or a third party contractor, as the bill authorizes.

Detailed information on State government expenditures associated with the publication of official notices is not readily available. The Administrative Office of the Courts has indicated that the bill would not affect the Judiciary because the courts do not publish any legal notices. Expenditures associated with the publication of legal notices

are charged to the budget of the Executive Branch department or agency responsible for a particular notice. Information on the total costs incurred by State government entities for the publication of official notices is not accessible through the State budget. The Office of Information Technology (OIT) has informally indicated that achieving collaboration between all government agencies and ensuring uniformity, consistent updates, and website accuracy would create a significant workload for OIT, and it may thus incur additional, indeterminate costs to discharge its responsibilities under the bill.

A local government agency that chooses to publish its legal notices on the Internet will likely achieve some level of savings because it will not incur costs associated with legal notices that must be published annually, such as the annual budget summary, the annual tax sale notice (for municipalities), and notices for meetings of the governing body (i.e., municipal council, board of education, or an authority board of commissioners). Additional expenditure reductions may be achieved if a local entity chooses to post on its website legal notices for actions that occur only periodically, such as the sale of government property or the sale of local bonds. In 2010, the New Jersey Press Association indicated that, local governments spend approximately \$20 million on the legally required publication of official notices. Approximately 60% of this amount is reimbursed to the local governments by private parties. \$8 million is funded by the local governments only. No more recent data on these costs has been obtained by the OLS.

Detailed data on costs incurred by local government agencies is not available because these data are not reported as a separate line-item appropriation their annual budgets. The OLS has obtained limited information on local government costs associated with the publication of legal notices. The New Jersey Association of Counties (NJAC) has indicated that county governments spend \$1 million to \$1.25 million annually for the publication of legal notices. The NJAC noted that this figure did not include costs associated with the publication of legal notices for sheriff's sales. The New Jersey State League of Municipalities conducted two surveys, in 2009 and 2015, in which it asked municipalities to provide information on expenditures for legal notices. In 2009, 78 municipalities reported approximately \$600,000 in total costs; in 2016, 146 municipalities reported approximately \$1 million in total expenditures for 2015.

Data on the costs incurred by local boards of education for the publication of official notices is also not easily attainable. These costs are included in school district appropriations for the "Miscellaneous Purchased Services" category under "Support Services - General Administration." While these data are reported to the New Jersey Department of Education, the OLS is unable to identify the amount expended for the publication of legal notices, as opposed to other forms of miscellaneous purchased services. The New Jersey

Association of School Business Officers has indicated that the most expensive legal notice published by a board of education is the summary of the annual budget. A school district spends approximately \$1,000 for publication of the annual budget summary.

COMMITTEE AMENDMENTS:

The amendments:

(1) provide that election dates and deadlines would not be delayed if an electronically published election legal notice is inaccessible for 25 percent or more of the publication timeframe provided by law;

(2) delete the requirement that local government agencies which elect to electronically publish legal notices must also electronically publish all public contracts for goods and services;

(3) clarify that only legal notices relating to real property that are required by law to be published by a county sheriff may be electronically published on the notice website of the sheriff; and

(4) make technical amendments adjusting cross-references in sections 6 and 8 of the bill.