
SENATE BILL No. 322

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-3-5; IC 5-14-1.5-5.

Synopsis: Legal notices. Allows a political subdivision, which includes an agency of a political subdivision, to publish legal notices on a notice web site instead of in a newspaper. Establishes requirements regarding availability and accessibility of the web site. Requires the political subdivision to designate an official responsible for the electronic publication of notices. Requires a notice web site to have an electronic mail link that allows a person to submit a complaint to the political subdivision if access to any legal notice fails. Provides that if a political subdivision does not have an official web site, legal notices shall be published on an existing official web site of the county government, if: (1) the county government has an official web site; and (2) the county government web site complies with the electronic publication requirements. Establishes requirements for the duration of the posting of a legal notice and proof of posting. Requires a political subdivision or agency of a political subdivision to publish an advertisement in a newspaper once a week that states the Internet address of the legal notice web site and information regarding Internet accessibility. Provides that a state or local government agency shall provide notice to anyone that makes an annual request for notice by: (1) transmitting the notice by electronic mail, if the agency has the capacity to transmit electronic mail; (2) transmitting the notice by facsimile; or (3) United States mail.

Effective: July 1, 2011.

Banks, Kruse

January 10, 2011, read first time and referred to Committee on Local Government.

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First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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SENATE BILL No. 322



A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-3-5 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2011]:

4 **Chapter 5. Electronic Publication of Legal Notices by Political**
5 **Subdivisions**

6 **Sec. 1. This chapter applies after July 1, 2012, to all political**
7 **subdivisions.**

8 **Sec. 2. As used in this chapter, "electronic publication" or**
9 **"electronically publish" means the public advertisement of a legal**
10 **notice in hypertext markup language format (html), or an**
11 **equivalent language format, on an official government Internet**
12 **web site.**

13 **Sec. 3. As used in this chapter, "legal notice" or "notice" means**
14 **any matter of a political subdivision that by law or rule is required**
15 **to be officially advertised in a newspaper.**

16 **Sec. 4. As used in this chapter, "notice web site" means an**
17 **Internet web site that is maintained by:**



- 1 (1) a political subdivision; or
- 2 (2) a third party under contract with a political subdivision;
- 3 that contains links to legal notices electronically published by the
- 4 political subdivision.

5 **Sec. 5.** As used in this chapter, "official web site" means the
 6 Internet location designated by a political subdivision as its
 7 primary source of information about the political subdivision on
 8 the Internet.

9 **Sec. 6.** As used in this chapter, "political subdivision" has the
 10 meaning set forth in IC 3-5-2-38. The term includes any
 11 administration, agency, authority, board, bureau, commission,
 12 committee, council, department, division, institution, office, officer,
 13 service, or other similar body of a political subdivision created or
 14 established under law.

15 **Sec. 7.** Notwithstanding IC 5-3-1 or any other law or rule, if a
 16 political subdivision is required to publish a legal notice in one (1)
 17 or more newspapers, the notice may be published on a notice web
 18 site instead of a newspaper if all the following requirements are
 19 met:

20 (1) The political subdivision or the host of the notice web site
 21 has a service level agreement with an Internet service
 22 provider that guarantees the web site is accessible to the
 23 public over the Internet at least ninety-eight percent (98%) of
 24 the time, twenty-four (24) hours a day, three hundred
 25 sixty-five (365) days a year.

26 (2) The official web site of the political subdivision containing
 27 the notice web site is registered with the office of technology
 28 established by IC 4-13.1-2-1. The public shall have electronic
 29 access to a list of all the registered official web sites through
 30 the computer gateway administered by the office of
 31 technology.

32 (3) The:
 33 (A) official web site; and
 34 (B) notice web pages containing the actual legal notices;
 35 must comply with the accessibility standards developed under
 36 IC 4-13.1-3.

37 (4) An official web site must prominently display a link to the
 38 notice web site. The notice web site must be an index web page
 39 containing:

- 40 (A) a list of all current legal notices of the political
- 41 subdivision;
- 42 (B) hypertext links to the full text of the legal notices and

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1 not to summaries of the notices; and
2 (C) a search function and other features that improve
3 public accessibility to legal notices.
4 **Sec. 8. (a) If a political subdivision does not have an official web**
5 **site, legal notices of the political subdivision shall be published on**
6 **an existing official web site of the county government in which the**
7 **political subdivision is located, if the county government has an**
8 **official web site and the official web site meets the requirements of**
9 **this chapter.**
10 **(b) This chapter does not require a county to establish an**
11 **official web site or alter the county government's official web site**
12 **in order to comply with this section.**
13 **Sec. 9. (a) Each:**
14 **(1) web page on an official web site with a link to the notice**
15 **web site or index web page; and**
16 **(2) notice web site;**
17 **must contain an electronic mail link that allows a person to submit**
18 **a complaint to the political subdivision if access to any legal notice**
19 **fails.**
20 **(b) The political subdivision shall:**
21 **(1) review all complaints reported to determine the cause of**
22 **any access problem; and**
23 **(2) document the findings and any action taken to resolve the**
24 **access problem.**
25 **(c) The political subdivision shall keep and make available for**
26 **public inspection all records of complaints and service accessibility**
27 **failures reported.**
28 **Sec. 10. If an individual is unable to access an electronic**
29 **publication of a legal notice, the political subdivision shall provide**
30 **a copy of the notice to the individual free of charge.**
31 **Sec. 11. Notices shall remain available on the notice web site**
32 **until at least the later of the following:**
33 **(1) The last posting date required by law has expired.**
34 **(2) The event described in the notice has taken place.**
35 **Sec. 12. (a) The political subdivision shall:**
36 **(1) create, or have provided by the notice web site contractor;**
37 **and**
38 **(2) keep on file;**
39 **an affidavit of the posting for each legal notice in the same manner**
40 **as for notices published in a newspaper.**
41 **(b) The affidavit shall state that the notice was posted from the**
42 **initial date through the later of the following:**

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- (1) The last posting date required by law.
- (2) The date when the event described in a notice takes place.

Sec. 13. The political subdivision shall:

- (1) designate an official to be responsible for electronic publications; and
- (2) post the official's name and contact information on the notice web site.

Sec. 14. Proof of publication of an electronically published legal notice for the purpose of complying with public notice requirements is satisfied and considered conclusive upon the provision of the affidavit described in section 12 of this chapter:

- (1) executed by the official designated as responsible for the electronic publication under section 13 of this chapter; and
- (2) stating that the notice was posted from the initial date until the last posting date required by law.

Sec. 15. A political subdivision may electronically publish legal notices on a notice web site if:

- (1) dial-up access to the Internet is available without telephone toll charges generally throughout the jurisdiction of the political subdivision;
- (2) regular public Internet access is available without charge within the jurisdiction of the political subdivision through the public library or at some other location; or
- (3) the political subdivision publishes a legal advertisement once a week in at least one (1) newspaper of general circulation within the political subdivision announcing that legal notices are posted on a notice web site.

Sec. 16. The legal advertisement described in section 15(3) of this chapter must be published in the following form:

Internet Posting of Public Notices: (name of political subdivision)

The (name of political subdivision) announces that public notices on the following matters (insert list of synopses of notices posted) are posted on the (name of political subdivision) legal notice web site: http://www._____ (substitute Internet address protocol in common usage if different).

Free public access to the Internet is available within the (insert name of the political subdivision) at (list all known locations). If you are unable to access the Internet, individual copies of notices can be obtained by calling (insert appropriate phone number of political subdivision or agency).

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1 **Sec. 17. The legal advertisement described in section 16 of this**
2 **chapter must also be published on a newspaper web site if**
3 **IC 5-3-1-1.5 is applicable.**

4 **Sec. 18. Any provision regarding an error or omission in a legal**
5 **notice published in a newspaper also applies to the electronic**
6 **publication of a legal notice, including the following:**

7 **(1) IC 5-3-1-2(l) and IC 5-3-1-2(m).**

8 **(2) IC 5-3-1-2.3.**

9 SECTION 2. IC 5-14-1.5-5, AS AMENDED BY P.L.177-2005,
10 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2011]: Sec. 5. (a) Public notice of the date, time, and place of
12 any meetings, executive sessions, or of any rescheduled or reconvened
13 meeting, shall be given at least forty-eight (48) hours (excluding
14 Saturdays, Sundays, and legal holidays) before the meeting. This
15 requirement does not apply to reconvened meetings (not including
16 executive sessions) where announcement of the date, time, and place
17 of the reconvened meeting is made at the original meeting and recorded
18 in the memoranda and minutes thereof, and there is no change in the
19 agenda.

20 (b) Public notice shall be given by the governing body of a public
21 agency ~~by:~~ **as follows:**

22 **(1) The governing body of a public agency shall give public**
23 **notice by** posting a copy of the notice at the principal office of the
24 public agency holding the meeting or, if no such office exists, at
25 the building where the meeting is to be held. ~~and~~

26 **(2) The governing body of a public agency shall give public**
27 **notice by** delivering notice to ~~all news media which deliver by~~
28 ~~January~~ **any person, including news media, that delivers an**
29 **annual written request for such the notices not later than**
30 **December 31** for the next succeeding calendar year to the
31 governing body of the public agency. The governing body shall
32 give notice by one (1) of the following methods **determined by**
33 **the governing body:**

34 (A) Depositing the notice in the United States mail with
35 postage prepaid.

36 (B) Transmitting the notice by electronic mail, **if the public**
37 **agency has the capacity to transmit electronic mail.**

38 (C) Transmitting the notice by facsimile (fax).

39 If a governing body comes into existence after ~~January 1,~~ **December**
40 **31**, it shall comply with this ~~subdivision~~ **subsection** upon receipt of a
41 written request for notice. In addition, a state agency (as defined in
42 IC 4-13-1-1) shall provide electronic access to the notice through the

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1 computer gateway administered by the office of technology established
2 by IC 4-13.1-2-1.

3 (c) Notice of regular meetings need be given only once each year,
4 except that an additional notice shall be given where the date, time, or
5 place of a regular meeting or meetings is changed. This subsection does
6 not apply to executive sessions.

7 (d) If a meeting is called to deal with an emergency involving actual
8 or threatened injury to person or property, or actual or threatened
9 disruption of the governmental activity under the jurisdiction of the
10 public agency by any event, then the time requirements of notice under
11 this section shall not apply, but:

12 (1) news media which have requested notice of meetings **under**
13 **subsection (b)** must be given the same notice as is given to the
14 members of the governing body; and

15 (2) the public must be notified by posting a copy of the notice
16 according to this section.

17 (e) This section shall not apply where notice by publication is
18 required by statute, ordinance, rule, or regulation.

19 (f) This section shall not apply to:

20 (1) the department of local government finance, the Indiana board
21 of tax review, or any other governing body which meets in
22 continuous session, except that this section applies to meetings of
23 these governing bodies which are required by or held pursuant to
24 statute, ordinance, rule, or regulation; or

25 (2) the executive of a county or the legislative body of a town if
26 the meetings are held solely to receive information or
27 recommendations in order to carry out administrative functions,
28 to carry out administrative functions, or confer with staff
29 members on matters relating to the internal management of the
30 unit. "Administrative functions" do not include the awarding of
31 contracts, the entering into contracts, or any other action creating
32 an obligation or otherwise binding a county or town.

33 (g) This section does not apply to the general assembly.

34 (h) Notice has not been given in accordance with this section if a
35 governing body of a public agency convenes a meeting at a time so
36 unreasonably departing from the time stated in its public notice that the
37 public is misled or substantially deprived of the opportunity to attend,
38 observe, and record the meeting.

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