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# SENATE BILL No. 562

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-3.

**Synopsis:** Publication of notice by local government units. Provides that publication of notice by a political subdivision requires publication in only one newspaper. 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 that a notice web site must 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.

**Effective:** July 1, 2011.

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**Walker**

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January 20, 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. 562

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 5-3-1-4, AS AMENDED BY P.L.141-2009,  
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2011]: Sec. 4. ~~(a) Whenever officers of a political subdivision~~  
4 ~~are required to publish a notice affecting the political subdivision, they~~  
5 ~~shall publish the notice in two (2) newspapers published in the political~~  
6 ~~subdivision.~~

7 (b) This subsection applies to notices published by county officers.  
8 If there is only one (1) newspaper published in the county, then  
9 publication in that newspaper alone is sufficient.

10 ~~(c)~~ (a) This subsection applies to notices published by city, town, or  
11 school corporation officers. If there is only one (1) newspaper  
12 published in the municipality or school corporation, then **officers of**  
13 **political subdivisions**. Publication in that newspaper alone **one (1)**  
14 **newspaper published in the political subdivision** is sufficient. **In the**  
15 **case of a political subdivision that is not a county**, if no newspaper  
16 is published in the municipality or school corporation, **the political**  
17 **subdivision**, then publication shall be made in a newspaper published



1 in the county in which the ~~municipality or school corporation~~ **political**  
2 **subdivision** is located and that circulates within the ~~municipality or~~  
3 ~~school corporation.~~ **political subdivision.**

4 **(b) A political subdivision satisfies all requirements for legal**  
5 **notice publication if the political subdivision electronically**  
6 **publishes the notice in accordance with IC 5-3-5.**

7 (d) This subsection applies to notices published by officers of  
8 political subdivisions not covered by subsection (a) or (b): If there is  
9 only one (1) newspaper published in the political subdivision, then the  
10 notice shall be published in that newspaper. If no newspaper is  
11 published in the political subdivision, then publication shall be made  
12 in a newspaper published in the county and that circulates within the  
13 political subdivision:

14 (e) This subsection applies to a political subdivision, including a  
15 city, town, or school corporation. Notwithstanding any other law, if a  
16 political subdivision has territory in more than one (1) county, public  
17 notices that are required by law or ordered to be published must be  
18 given as follows:

19 (1) By publication in two (2) newspapers published within the  
20 boundaries of the political subdivision:

21 (2) If only one (1) newspaper is published within the boundaries  
22 of the political subdivision, by publication in that newspaper and  
23 in some other newspaper:

24 (A) published in any county in which the political subdivision  
25 extends; and

26 (B) that has a general circulation in the political subdivision:

27 (3) If no newspaper is published within the boundaries of the  
28 political subdivision, by publication in two (2) newspapers that:

29 (A) are published in any counties into which the political  
30 subdivision extends; and

31 (B) have a general circulation in the political subdivision:

32 (4) If only one (1) newspaper is published in any of the counties  
33 into which the political subdivision extends, by publication in that  
34 newspaper if it circulates within the political subdivision:

35 (f) (c) A political subdivision may, in its discretion, publish public  
36 notices in a qualified publication or additional newspapers to provide  
37 supplementary notification to the public. The cost of publishing  
38 supplementary notification is a proper expenditure of the political  
39 subdivision.

40 SECTION 2. IC 5-3-5 IS ADDED TO THE INDIANA CODE AS  
41 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
42 1, 2011]:

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

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

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

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

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

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

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

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

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

- (1) The political subdivision or the host of the notice web site, has a service level agreement with an Internet service provider that guarantees the web site is accessible to the public over the Internet at least ninety-eight percent (98%) of the time, twenty-four (24) hours a day, three hundred sixty-five (365) days a year.**
- (2) The official web site of the political subdivision containing the notice web site is registered with the office of technology established under IC 4-13.1-2. The office of technology**

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established by IC 4-13.1-2-1 shall ensure that the public has electronic access to a list of all the registered official web sites through the computer gateway administered by the office of technology.

**(3) It is encouraged that:**

- (A) an official web site; and**
- (B) the notice web pages containing the actual legal notices;**

comply with the accessibility standards developed under IC 4-13.1-3.

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

- (A) a list of all current legal notices of the political subdivision;**
- (B) hypertext links to the full text of the legal notices and not to summaries of the notices; and**
- (C) a search function and other features that improve public accessibility to legal notices.**

**Sec. 8. (a) If a political subdivision does not have an official web site, legal notices of the political subdivision shall be published on an official web site of the county government in which the political subdivision is located, if the county government:**

- (1) has an official web site; and**
- (2) the official web site meets the requirements of this chapter.**

**(b) This chapter does not require a county to establish an official web site or alter the county government's official web site to comply with this section.**

**Sec. 9. (a) Each web page on an official web site with a link to the notice web site or index web page and the notice web site must contain an electronic mail link that allows a person to submit a complaint to the political subdivision, if access to any legal notice fails.**

**(b) A political subdivision shall:**

- (1) review all complaints reported to determine the cause of any access problem; and**
- (2) document the findings and any action taken to resolve the access problem.**

**(c) A political subdivision shall keep and make available for public inspection all records of complaints and service accessibility failures reported.**

**Sec. 10. If an individual is unable to access an electronic**

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1 publication of a legal notice, the political subdivision shall provide  
2 a copy of the notice to the individual free of charge.

3 Sec. 11. A notice must remain available on the notice web site  
4 until at least the later of the following:

- 5 (1) The last posting date required by law has expired.
- 6 (2) The event described in the notice has taken place.

7 Sec. 12. (a) The political subdivision shall:

- 8 (1) create, or have provided by the notice web site contractor;
- 9 and
- 10 (2) keep on file;

11 an affidavit of the posting for each legal notice in the same manner  
12 as for notices published in a newspaper.

13 (b) The affidavit must state that the notice was posted from the  
14 initial date through the later of the following:

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

17 Sec. 13. The political subdivision shall:

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

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

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

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

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

42 Sec. 16. The legal advertisement described in section 15(3) of

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1       **this chapter must be published in the following form:**  
2           **Internet Posting of Public Notices: (name of political**  
3           **subdivision)**  
4           **The (name of political subdivision) announces that public**  
5           **notices on the following matters (insert list of synopses of**  
6           **notices posted) are posted on the (name of political**  
7           **subdivision) legal notice web site: http://www.\_\_\_\_\_**  
8           **(substitute Internet address protocol in common usage if**  
9           **different).**  
10          **Free public access to the Internet is available within (insert**  
11          **name of the political subdivision) at (list all known locations).**  
12          **If you are unable to access the Internet, individual copies of**  
13          **notices can be obtained by calling (insert appropriate**  
14          **telephone number of political subdivision or agency).**  
15          **Sec. 17. The legal advertisement described in section 16 of this**  
16          **chapter must also be published on a newspaper web site if**  
17          **IC 5-3-1-1.5 is applicable.**  
18          **Sec. 18. Any provision regarding an error or omission in a legal**  
19          **notice published in a newspaper also applies to the electronic**  
20          **publication of a legal notice, including the following:**  
21               **(1) IC 5-3-1-2(l) and IC 5-3-1-2(m).**  
22               **(2) IC 5-3-1-2.3.**

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