

SENATE BILL No. 458

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-3-5.

Synopsis: Electronic notice by political subdivisions. 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 notice 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 a link that allows a person to submit a complaint to the political subdivision if access to any notice fails. Provides that if a political subdivision does not have an official web site, and the political subdivision chooses to publish notices electronically, the notices shall be published on an 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 an agency of a political subdivision to publish an advertisement in a newspaper once a week that states the Internet address of the notice web site and information regarding Internet accessibility.

Effective: July 1, 2013.

Banks

January 10, 2013, read first time and referred to Committee on Local Government.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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SENATE BILL No. 458



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, 2013]:

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

6 **Sec. 1. This chapter applies after June 30, 2014, 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 on a notice web site.**

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

14 **Sec. 4. As used in this chapter, "notice web site" means an**
15 **Internet web site that:**

16 **(1) is maintained by:**

17 **(A) a political subdivision; or**



- 1 **(B) a third party under contract with a political**
- 2 **subdivision; and**
- 3 **(2) contains links to legal notices electronically published by**
- 4 **the 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 notice in one (1) or**
 17 **more newspapers, the notice may be published on a notice web site**
 18 **instead of a newspaper if all the following requirements are met:**

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

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

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

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

- 39 **(A) a list of all current legal notices of the political**
- 40 **subdivision;**
- 41 **(B) links to the full text of the legal notices; and**
- 42 **(C) a search function and other features that improve**

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- public accessibility to legal notices.
- (5) Dial-up access to the Internet is available without telephone toll charges generally throughout the jurisdiction of the political subdivision.
- (6) Regular public Internet access is available without charge within the jurisdiction of the political subdivision through the public library or at some other location.
- (7) 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. 8. (a) The legal advertisement described in section 7(7) 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 or, if section 9 of this chapter applies, name of county) 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 telephone number of political subdivision or agency).

(b) The legal advertisement described in section 7(7) of this chapter must also be published on a newspaper's web site if IC 5-3-1-1.5 is applicable.

Sec. 9. (a) If:

(1) a political subdivision does not have an official web site; and

(2) a county in which the political subdivision is located has an official web site that meets the requirements of this chapter; the political subdivision may publish notices on the county's official web site. If a political subdivision elects to electronically publish notices under this section, the county shall publish the notices on the county's official web site.

(b) This chapter does not require a county to:

(1) establish an official web site; or

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- (2) alter the county's official web site; to meet the requirements of this chapter.**
- (c) This subsection applies to a political subdivision that is located in more than one (1) county. A political subdivision that elects to electronically publish notice on an official county web site shall do one (1) of the following:**
 - (1) If all counties in which the political subdivision is located have official web sites that meet the requirements of this chapter, the political subdivision may electronically publish notice on all of the official county web sites.**
 - (2) If at least one (1) county in which the political subdivision is located has an official web site that meets the requirements of this chapter and any other county in which the political subdivision is located does not have an official web site that meets the requirements of this chapter, the political subdivision may:**
 - (A) electronically publish notice on one (1) official county web site in a county in which the political subdivision is located that meets the requirements of this chapter; and**
 - (B) publish in a newspaper the legal advertisement described in section 8 of this chapter.**
- Sec. 10. (a) Each:**
 - (1) web page on an official web site that has a link to the notice web site or index web page; and**
 - (2) notice web site;****must contain a link that allows a person to submit a complaint to the political subdivision if access to a notice fails.**
 - (b) The 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) The political subdivision shall keep and make available for public inspection all records of complaints and service accessibility failures that are reported.**
- Sec. 11. If an individual is unable to access an electronic publication of a legal notice, the political subdivision shall provide a copy of the notice to the individual free of charge.**
- Sec. 12. Notices must remain available on the notice web site until at least the later of the following:**
 - (1) The last posting date required by law has expired.**
 - (2) The event described in the notice has taken place.**

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1 **Sec. 13. (a) The political subdivision shall:**
2 **(1) create or have provided by the notice web site contractor;**
3 **and**
4 **(2) keep on file;**
5 **a proof of publication for each legal notice in the same manner as**
6 **for notices published in a newspaper.**
7 **(b) The proof of publication shall state that the notice was**
8 **posted from the initial date through the later of the following:**
9 **(1) The last posting date required by law.**
10 **(2) The date when the event described in a notice takes place.**
11 **Sec. 14. The political subdivision shall:**
12 **(1) designate an official of the political subdivision to be**
13 **responsible for electronic publications; and**
14 **(2) post the official's name and contact information on the**
15 **notice web site.**
16 **Sec. 15. Proof of publication of an electronically published legal**
17 **notice for the purpose of complying with public notice**
18 **requirements is satisfied and considered conclusive upon the**
19 **provision of the proof of publication described in section 13 of this**
20 **chapter:**
21 **(1) executed by the official designated as responsible for the**
22 **electronic publication under section 14 of this chapter; and**
23 **(2) stating that the notice was posted from the initial date until**
24 **the last posting date required by law.**
25 **Sec. 16. Any provision regarding an error or omission in a legal**
26 **notice published in a newspaper also applies to the electronic**
27 **publication of a legal notice, including the following:**
28 **(1) IC 5-3-1-2(l) and IC 5-3-1-2(m).**
29 **(2) IC 5-3-1-2.3.**

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