

IC 5-3

ARTICLE 3. PUBLICATION OF NOTICES

IC 5-3-1

Chapter 1. Publication Procedures

IC 5-3-1-0.4

"Newspaper" defined

Sec. 0.4. As used in this chapter, "newspaper" refers to a newspaper:

(1) that:

(A) is a daily, weekly, semiweekly, or triweekly newspaper of general circulation;

(B) has been published for at least three (3) consecutive years in the same city or town;

(C) has been entered, authorized, and accepted by the United States Postal Service for at least three (3) consecutive years as mailable matter of the periodicals class; and

(D) has at least fifty percent (50%) of all copies circulated paid for by subscribers or other purchasers at a rate that is not nominal; or

(2) that:

(A) is a daily, weekly, semiweekly, or triweekly newspaper of general circulation;

(B) has been entered, authorized, and accepted by the United States Postal Service as mailable matter of the periodicals class;

(C) has at least fifty percent (50%) of all copies circulated paid for by subscribers or other purchasers at a rate that is not nominal; and

(D) meets the greater of the following conditions:

(i) The newspaper's paid circulation during the preceding year is equal to at least fifty percent (50%) of the paid circulation for the largest newspaper with a periodicals class permit located in the county in which the newspaper is published, based on the average paid or requested circulation for the preceding twelve (12) months reported in the newspaper's United States Postal Service Statement of Ownership published by the newspaper in October of each year or based on the newspaper's initial application for a permit from the United States Postal Service.

(ii) The newspaper has an average daily paid circulation of one thousand five hundred (1,500) based on the average paid or requested circulation for the preceding twelve (12) months reported in the newspaper's United States Postal Service Statement of Ownership published by the newspaper in October of each year or based on the newspaper's initial application for a permit from the United States Postal Service.

As added by P.L.64-1995, SEC.1. Amended by P.L.38-1997, SEC.1; P.L.169-2006, SEC.1.

IC 5-3-1-0.6

Place of publication

Sec. 0.6. (a) For purposes of this chapter, a newspaper or qualified publication is published at the place where the newspaper or qualified publication has its original entry for mail privileges authorized by the United States Postal Service.

(b) For purposes of this chapter, a newspaper or qualified publication is considered published at only one (1) place. The place of publication does not include places at which additional entry offices have been established with the authorization of the United States Postal Service.

As added by P.L.64-1995, SEC.2. Amended by P.L.38-1997, SEC.2.

IC 5-3-1-0.7

"Qualified publication" defined

Sec. 0.7. (a) As used in this chapter, "qualified publication" means a publication that:

- (1) is published daily, weekly, semiweekly, or triweekly;
- (2) is of general circulation to the public;
- (3) has been published for at least three (3) consecutive years in the same city or town;
- (4) has continuity as to title and general nature of content from issue to issue;
- (5) contains news of general or community interest, community notices, or editorial commentary;
- (6) contains advertisements from unrelated advertisers in each issue;
- (7) has, in more than one-half (1/2) of its issues published during the previous twelve (12) month period, not more than seventy-five percent (75%) advertising content;
- (8) has a known office location in the county in which it is published; and
- (9) has been entered, authorized, and accepted by the United States Postal Service as mailable matter of standard mail (A) class for the time published.

(b) A publication is not a qualified publication if any of the following apply:

- (1) The publication is owned by, or under the control of, the owners or lessees of a shopping center or a merchant's association.
- (2) The publication is owned by, or under the control of, a business that sells property or services (other than advertising) and the predominant advertising in the publication is advertising for the business's sales of property or services.
- (3) The publication is a mail order catalog or other catalog, advertising flier, travel brochure, house organ, theater program, telephone directory, restaurant guide, shopping center

advertising sheet, or other similar publication.

(4) The publication is primarily devoted to matters of specialized interest such as a labor, fraternal, society, political, religious, sporting, or trade news publication or journal.

(5) The publication is a magazine, racing form, or tip sheet.

As added by P.L.64-1995, SEC.3. Amended by P.L.38-1997, SEC.3.

IC 5-3-1-1

Cost of advertising; form of legal advertisements; determination of circulation

Sec. 1. (a) The cost of all public notice advertising which any elected or appointed public official or governmental agency is required by law to have published, or orders published, for which the compensation to the newspapers or qualified publications publishing such advertising is drawn from and is the ultimate obligation of the public treasury of the governmental unit concerned with the advertising shall be charged to and collected from the proper fund of the public treasury and paid over to the newspapers or qualified publications publishing such advertising, after proof of publication and claim for payment has been filed.

(b) The basic charges for publishing public notice advertising shall be by the line and shall be computed based on a square of two hundred and fifty (250) ems at the following rates:

(1) Before January 1, 1996, three dollars and thirty cents (\$3.30) per square for the first insertion in newspapers or qualified publications plus one dollar and sixty-five cents (\$1.65) per square for each additional insertion in newspapers or qualified publications.

(2) After December 31, 1995, and before December 31, 2005, a newspaper or qualified publication may, effective January 1 of any year, increase the basic charges by five percent (5%) more than the basic charges that were in effect during the previous year. However, the basic charges for the first insertion of a public notice in a newspaper or qualified publication may not exceed the lowest classified advertising rate charged to advertisers by the newspaper or qualified publication for comparable use of the same amount of space for other purposes.

(3) After December 31, 2009, a newspaper or qualified publication may, effective January 1 of any year, increase the basic charges by not more than two and three-quarters percent (2.75%) more than the basic charges that were in effect during the previous year. However, the basic charges for the first insertion of a public notice in a newspaper or qualified publication may not exceed the lowest classified advertising rate charged to advertisers by the newspaper or qualified publication for comparable use of the same amount of space for other purposes and must include all multiple insertion discounts extended to the newspaper's other advertisers.

An additional charge of fifty percent (50%) shall be allowed for the publication of all public notice advertising containing rule or tabular

work.

(c) All public notice advertisements shall be set in solid type that is at least 7 point type, without any leads or other devices for increasing space. All public notice advertisements shall be headed by not more than two (2) lines, neither of which shall total more than four (4) solid lines of the type in which the body of the advertisement is set. Public notice advertisements may be submitted by an appointed or elected official or a governmental agency to a newspaper or qualified publication in electronic form, if the newspaper or qualified publication is equipped to accept information in compatible electronic form.

(d) Each newspaper or qualified publication publishing public notice advertising shall submit proof of publication and claim for payment in duplicate on each public notice advertisement published. For each additional proof of publication required by a public official, a charge of one dollar (\$1) per copy shall be allowed each newspaper or qualified publication furnishing proof of publication.

(e) The circulation of a newspaper or qualified publication is determined as follows:

(1) For a newspaper, by the circulation stated on line 10.C. (Total Paid and/or Requested Circulation of Single Issue Published Nearest to Filing Date) of the Statement of Ownership, Management and Circulation required by 39 U.S.C. 3685 that was filed during the previous year.

(2) For a qualified publication, by a verified affidavit filed with each governmental agency that has public notices the qualified publication wants to publish. The affidavit must:

(A) be filed with the governmental agency before January 1 of each year; and

(B) attest to the circulation of the qualified publication for the issue published nearest to October 1 of the previous year.

(Formerly: Acts 1927, c.96, s.1; Acts 1957, c.16, s.1; Acts 1967, c.89, s.1.) As amended by Acts 1979, P.L.33, SEC.1; P.L.52-1987, SEC.1; P.L.64-1995, SEC.4; P.L.141-2009, SEC.1.

IC 5-3-1-1.5

Posting notice on newspaper web site

Sec. 1.5. (a) This section applies after June 30, 2009, to a notice that must be published in accordance with this chapter.

(b) If a newspaper maintains an Internet web site, a notice that is published in the newspaper must also be posted on the newspaper's web site. The notice must appear on the web site on the same day the notice appears in the newspaper.

(c) The state board of accounts shall develop a standard form for notices posted on a newspaper's Internet web site.

(d) A newspaper may not charge a fee for posting a notice on the newspaper's Internet web site under this section.

As added by P.L.141-2009, SEC.2.

IC 5-3-1-2

Public hearings or meetings, elections, and other events; requirements for publication of notice; posting instead of publication

Sec. 2. (a) This section applies only when notice of an event is required to be given by publication in accordance with this chapter.

(b) If the event is a public hearing or meeting concerning any matter not specifically mentioned in subsection (c), (d), (e), (f), (g), or (h) notice shall be published one (1) time, at least ten (10) days before the date of the hearing or meeting.

(c) If the event is an election, notice shall be published one (1) time, at least ten (10) days before the date of the election.

(d) If the event is a sale of bonds, notes, or warrants, notice shall be published two (2) times, at least one (1) week apart, with:

(1) the first publication made at least fifteen (15) days before the date of the sale; and

(2) the second publication made at least three (3) days before the date of the sale.

(e) If the event is the receiving of bids, notice shall be published two (2) times, at least one (1) week apart, with the second publication made at least seven (7) days before the date the bids will be received.

(f) If the event is the establishment of a cumulative or sinking fund, notice of the proposal and of the public hearing that is required to be held by the political subdivision shall be published two (2) times, at least one (1) week apart, with the second publication made at least three (3) days before the date of the hearing.

(g) If the event is the submission of a proposal adopted by a political subdivision for a cumulative or sinking fund for the approval of the department of local government finance, the notice of the submission shall be published one (1) time. The political subdivision shall publish the notice when directed to do so by the department of local government finance.

(h) If the event is the required publication of an ordinance, notice of the passage of the ordinance shall be published one (1) time within thirty (30) days after the passage of the ordinance.

(i) If the event is one about which notice is required to be published after the event, notice shall be published one (1) time within thirty (30) days after the date of the event.

(j) If the event is anything else, notice shall be published two (2) times, at least one (1) week apart, with the second publication made at least three (3) days before the event.

(k) If any officer charged with the duty of publishing any notice required by law is unable to procure advertisement:

(1) at the price fixed by law;

(2) because the newspaper refuses to publish the advertisement;

or

(3) because the newspaper refuses to post the advertisement on the newspaper's Internet web site (if required under section 1.5 of this chapter);

it is sufficient for the officer to post printed notices in three (3)

prominent places in the political subdivision, instead of publication of the notice in newspapers and on an Internet web site (if required under section 1.5 of this chapter).

(l) If a notice of budget estimates for a political subdivision is published as required in IC 6-1.1-17-3, and the published notice contains an error due to the fault of a newspaper, the notice as presented for publication is a valid notice under this chapter.

(m) Notwithstanding subsection (j), if a notice of budget estimates for a political subdivision is published as required in IC 6-1.1-17-3, and if the notice is not published at least ten (10) days before the date fixed for the public hearing on the budget estimate due to the fault of a newspaper, the notice is a valid notice under this chapter if it is published one (1) time at least three (3) days before the hearing.

(Formerly: Acts 1927, c.96, s.2.) As amended by Acts 1981, P.L.45, SEC.1; P.L.23-1984, SEC.6; P.L.36-1986, SEC.1; P.L.53-1987, SEC.1; P.L.54-1987, SEC.1; P.L.10-1989, SEC.19; P.L.1-1990, SEC.49; P.L.64-1995, SEC.5; P.L.153-1999, SEC.1; P.L.90-2002, SEC.14; P.L.141-2009, SEC.3.

IC 5-3-1-2.3

Validity of notice containing errors or omissions; correction of errors and omissions

Sec. 2.3. (a) A notice published in accordance with this chapter or any other Indiana statute is valid even though the notice contains errors or omissions, as long as:

- (1) a reasonable person would not be misled by the error or omission; and
- (2) the notice is in substantial compliance with the time and publication requirements applicable under this chapter or any other Indiana statute under which the notice is published.

(b) This subsection applies if:

- (1) a county auditor publishes a notice concerning a tax rate, tax levy, or budget of a political subdivision in the county;
- (2) the notice contains an error or omission that causes the notice to inaccurately reflect the tax rate, tax levy, or budget actually proposed or fixed by the political subdivision; and
- (3) the county auditor is responsible for the error or omission described in subdivision (2).

Notwithstanding any other law, the department of local government finance may correct an error or omission described in subdivision (2) at any time. If an error or omission described in subdivision (2) occurs, the county auditor must publish, at the county's expense, a notice containing the correct tax rate, tax levy, or budget as proposed or fixed by the political subdivision.

As added by P.L.1-1990, SEC.50. Amended by P.L.169-2006, SEC.2.

IC 5-3-1-2.5

repealed

(Repealed by P.L.31-1992, SEC.2.)

IC 5-3-1-3

Cities, towns, and school corporations; publication of annual reports of receipts and expenditures

Sec. 3. (a) Within sixty (60) days after the expiration of each calendar year, the fiscal officer of each civil city and town in Indiana shall publish an annual report of the receipts and expenditures of the city or town during the preceding calendar year.

(b) Not earlier than August 1 or later than August 15 of each year, the secretary of each school corporation in Indiana shall publish an annual financial report.

(c) In the annual financial report the school corporation shall include the following:

(1) Actual receipts and expenditures by major accounts as compared to the budget advertised under IC 6-1.1-17-3 for the prior calendar year.

(2) The salary schedule for all certificated employees (as defined in IC 20-29-2-4) as of June 30, with the number of employees at each salary increment. However, the listing of salaries of individual teachers is not required.

(3) The extracurricular salary schedule as of June 30.

(4) The range of rates of pay for all noncertificated employees by specific classification.

(5) The number of employees who are full-time certificated, part-time certificated, full-time noncertificated, and part-time noncertificated.

(6) The lowest, highest, and average salary for the administrative staff and the number of administrators without a listing of the names of particular administrators.

(7) The number of students enrolled at each grade level and the total enrollment.

(8) The assessed valuation of the school corporation for the prior and current calendar year.

(9) The tax rate for each fund for the prior and current calendar year.

(10) In the general fund, capital projects fund, and transportation fund, a report of the total payment made to each vendor for the specific fund in excess of two thousand five hundred dollars (\$2,500) during the prior calendar year. However, a school corporation is not required to include more than two hundred (200) vendors whose total payment to each vendor was in excess of two thousand five hundred dollars (\$2,500). A school corporation shall list the vendors in descending order from the vendor with the highest total payment to the vendor with the lowest total payment above the minimum listed in this subdivision.

(11) A statement providing that the contracts, vouchers, and bills for all payments made by the school corporation are in its possession and open to public inspection.

(12) The total indebtedness as of the end of the prior calendar

year showing the total amount of notes, bonds, certificates, claims due, total amount due from such corporation for public improvement assessments or intersections of streets, and any and all other evidences of indebtedness outstanding and unpaid at the close of the prior calendar year.

(d) The school corporation may provide an interpretation or explanation of the information included in the financial report.

(e) The department of education shall do the following:

(1) Develop guidelines for the preparation and form of the financial report.

(2) Provide information to assist school corporations in the preparation of the financial report.

(f) The annual reports required by this section and IC 36-2-2-19 and the abstract required by IC 36-6-4-13 shall each be published one (1) time only, in accordance with this chapter.

(g) Each school corporation shall submit to the department of education a copy of the financial report required under this section. The department of education shall make the financial reports available for public inspection.

(Formerly: Acts 1927, c.96, s.3; Acts 1929, c.200, s.1; Acts 1959, c.262, s.1.) As amended by Acts 1981, P.L.45, SEC.2; P.L.36-1986, SEC.2; P.L.342-1989(ss), SEC.1; P.L.1-1991, SEC.30; P.L.19-1992, SEC.2; P.L.38-1993, SEC.2; P.L.1-1994, SEC.17; P.L.24-1994, SEC.1; P.L.340-1995, SEC.40; P.L.34-1996, SEC.1; P.L.98-2000, SEC.1; P.L.102-2001, SEC.1; P.L.1-2005, SEC.73.

IC 5-3-1-3.5

Publication of annual report of certain political subdivisions

Sec. 3.5. (a) This section applies to each political subdivision that has:

(1) an annual budget of at least three hundred thousand dollars (\$300,000); and

(2) the power to levy taxes.

(b) This section does not apply to a political subdivision that is required to publish an annual report under any other statute.

(c) As used in this section, "political subdivision" has the meaning set forth in IC 36-1-2-13.

(d) Not later than sixty (60) days after the expiration of each calendar year, a political subdivision shall publish an annual report of the receipts and expenditures of the political subdivision during the preceding calendar year.

(e) The annual reports required by this section shall be published only one (1) time per year.

As added by P.L.141-2009, SEC.4.

IC 5-3-1-4

Notices by political subdivisions and school corporations; requirements; notice in multiple counties; supplementary notices

Sec. 4. (a) Whenever officers of a political subdivision are required to publish a notice affecting the political subdivision, they

shall publish the notice in two (2) newspapers published in the political subdivision.

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

(c) This subsection applies to notices published by city, town, or school corporation officers. If there is only one (1) newspaper published in the municipality or school corporation, then publication in that newspaper alone is sufficient. If no newspaper is published in the municipality or school corporation, then publication shall be made in a newspaper published in the county in which the municipality or school corporation is located and that circulates within the municipality or school corporation.

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

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

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

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

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

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

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

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

(B) have a general circulation in the political subdivision.

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

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

(Formerly: Acts 1927, c.96, s.4.) As amended by Acts 1981, P.L.45, SEC.3; Acts 1981, P.L.46, SEC.1; Acts 1982, P.L.33, SEC.1; P.L.48-1983, SEC.1; P.L.5-1988, SEC.30; P.L.1-1990, SEC.51; P.L.35-1990, SEC.5; P.L.64-1995, SEC.6; P.L.38-1997, SEC.4;

P.L.98-2000, SEC.2; P.L.141-2009, SEC.5.

IC 5-3-1-5

Repealed

(Repealed by Acts 1981, P.L.45, SEC.105.)

IC 5-3-1-6

Notices published in newspapers or by state; electronic access

Sec. 6. (a) In all cases where notices are required by law to be published in the public newspaper by or under the supervision of any state officer, board, commission, or institution of the state of Indiana, said notices are hereby required to be published in each of two (2) daily newspapers published in the city of Indianapolis and in such other cities as is required by law, said notices to be in all cases published in two (2) newspapers in each city where they are required to be published. In all cases where the officer, board, commission, or institution making said publication is located outside of the city of Indianapolis, said notices shall also be published in newspapers published within the county where said officer, board, commission, or institution maintains its office. The rate charged for all such notices and advertising shall be the same as is set out in section 1 of this chapter.

(b) In addition to the requirements of subsection (a), a state officer, board, commission, or institution of the state of Indiana that is required by law to publish a notice of a public meeting shall also provide electronic access to the notice through the computer gateway administered by the office of technology established by IC 4-13.1-2-1.

(Formerly: Acts 1927, c.96, s.6.) As amended by P.L.25-1986, SEC.12; P.L.251-1999, SEC.3; P.L.177-2005, SEC.13.

IC 5-3-1-7

Repealed

(Repealed by Acts 1981, P.L.45, SEC.105.)

IC 5-3-1-8

Utility regulatory commission hearings; notice

Sec. 8. Whenever the utility regulatory commission shall order a hearing in any city, town, county, or township of the state, notice of such hearing shall be published in two (2) newspapers of general circulation in such city, town, county, or township, by one (1) publication in each of such newspapers, not less than ten (10) days prior to the day on which such hearing will be held.

(Formerly: Acts 1927, c.96, s.8.) As amended by P.L.23-1988, SEC.6.

IC 5-3-1-9

Violations; offense

Sec. 9. A person who fails to comply with this article commits a Class C infraction.

(Formerly: Acts 1927, c.96, s.9.) As amended by Acts 1978, P.L.2,

SEC.504.