



# Ohio Legislative Service Commission

## Bill Analysis

Bethany Boyd

### H.B. 220

128th General Assembly  
(As Introduced)

**Reps.** Chandler, Blair, Brown, Derickson, Gardner, Hagan, Harwood, Letson, Skindell, Weddington, B. Williams, Yuko

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## BILL SUMMARY

The bill implements recommendations of the Local Government Public Notice Task Force, as follows:

- Revises the requirements for a newspaper to qualify as a "newspaper of general circulation" in which local governments are required to publish notices and advertisements.
- Eliminates the requirement that publication be made in a newspaper *published in* a political subdivision, in two newspapers, or in two newspapers of opposite politics and the requirement that a newspaper have second-class postal privileges; instead, uses the standard of publishing notices and advertisements in a newspaper of general circulation in a political subdivision.
- Establishes an arbitration procedure if a newspaper's qualifications as a newspaper of general circulation are in question.
- Specifies that if a local government is required to publish a notice or advertisement two or more times in a newspaper, the local government may satisfy the multiple publication requirement by publishing the first notice or advertisement in its entirety in a newspaper of general circulation and by publishing a second abbreviated notice or advertisement in that newspaper and on the newspaper's Internet web site, if any; the abbreviated notice must refer to a web site operated and maintained by the local government and on which the complete notice or advertisement must be posted.
- Requires each newspaper to establish a "government rate" for publication of local government public notices and advertisements, which cannot exceed the lowest

non-contract classified rate paid by other advertisers, and to post the notices and advertisements on the newspaper's Internet web site, if the newspaper has one.

- Allows county auditors to make the cost of publishing delinquent real property or delinquent manufactured home tax lists a lien on tax delinquent parcels or manufactured homes.
- Authorizes publication of a succinct summary of a local government's ordinance, resolution, or rule in a newspaper of general circulation, rather than the entire ordinance, resolution, or rule.

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## **CONTENT AND OPERATION**

### **Background**

Sub. H.B. 101 of the 126th General Assembly created the Local Government Public Notice Task Force, consisting of 22 members, and assigned the Task Force the task of reviewing public notice requirements for local governments to decide if the notice requirements are still needed, to determine if there are other methods to fulfill those requirements, and to determine if any changes in the publication methods would enhance public availability and provide cost savings to local governments. The Task Force issued a report of its findings on May 31, 2008. The bill implements some of the Task Force's recommendations.

The bill does not revise the publication requirements for state government or state agencies, or for the courts.

### **Publication standard: "newspaper of general circulation"**

#### **Qualifications**

(R.C. 7.12(A); repeal of R.C. 7.14 and 701.04)

The bill modifies the requirements for a newspaper to qualify as a "newspaper of general circulation" in which legal publication of notices and advertisements are made by political subdivisions. Under existing law, to qualify as a newspaper in which notices and advertisements may be published, the newspaper must be *published in* the political subdivision, or if no newspaper is published in the subdivision, it must be of general circulation therein. If there are less than two newspapers published in the political subdivision, then publication must be made in a newspaper regularly issued at stated intervals from a known office of publication located in the political subdivision. Under existing law, the newspaper must bear a title or name, be regularly issued at least once a week for a definite price or consideration paid for by not less than 50% of

those to whom distribution is made, having a second-class mailing privilege, being not less than four pages, published continuously during the immediately preceding one-year period, and circulated generally in the subdivision in which it is published. Additionally, the newspaper must be of a type to which the general public resorts for passing events of a political, religious, commercial, and social nature, current happenings, announcements, miscellaneous reading matter, advertisements, and other notices.

The bill revises numerous local government notice and advertisement statutes throughout the Revised Code to provide that publication must be made in a newspaper of general circulation in a political subdivision, rather than in a newspaper published in the political subdivision. The bill eliminates the requirements of publication in newspapers of opposite politics, in two newspapers, or in newspapers with second-class mailing privileges and instead uses the standard of publishing notices and advertisements in a newspaper of general circulation in the political subdivision. The bill defines a "newspaper" or "newspaper of general circulation" as a publication bearing a title or name that is regularly issued at least once a week, and that:

- Is printed in the English language using traditional printing methods, being not less than eight pages in the broadsheet format or its equivalent.
- Contains at least 25% editorial content consisting of news of general public interest, including local news, political information, local sports, and editorial commentary.
- Has not less than 50% of those to whom the publication is distributed pay a definite price for it.
- Has been in circulation continuously for at least three years in the political subdivision responsible for placing the legal notice.
- Is the area's newspaper of record, i.e., it is circulated generally in the political subdivision by United States mail or carrier delivery to a minimum of 30% of the households in the political subdivision, or if that percentage cannot be met, the publication has the highest household circulation percentage of all the qualifying publications circulated in the subdivision.
- Has the ability to add subscribers in the political subdivision to its distribution list.

The bill repeals two provisions (R.C. 7.14 and 701.04) that allow publication of notices in a newspaper of general circulation when no newspaper is published in the place designated in a statute or when a publisher refuses to insert a notice in the

publisher's newspaper. This "out" is no longer needed because the bill establishes the general standard that notices and advertisements are to be published in a newspaper of general circulation in the political subdivision.

### **Arbitration procedure if newspaper's qualifications are in question**

(R.C. 7.12(B))

Any person who questions whether a publication is a newspaper of general circulation in which notices or advertisements may be published may request binding arbitration to determine the matter. Under the bill, the person who questions may deliver a written request for binding arbitration to the publisher of the publication and to the court of common pleas of the county in which is located the political subdivision in which the publication is circulated. The court of common pleas must appoint an arbitrator, and the person (the "petitioner") and the publisher of the publication pays the costs of the arbitrator's service in equal amounts.

Not later than 30 days after the arbitrator's appointment, the petitioner and the publisher of the publication each must deliver to the arbitrator a recommendation for resolution of the matter. Not later than 60 days after the arbitrator's appointment, the arbitrator must approve one of the recommendations submitted or decide the dispute based on the arbitrator's judgment. The arbitrator must deliver to the petitioner and the publisher a written statement of the decision. The petitioner and publisher must abide by the decision, which will be enforced, upon petition by either the petitioner or publisher, by the common pleas court that appointed the arbitrator.

### **Alternative publication procedure for notices or advertisements**

(R.C. 7.16)

In many instances, continuing law requires a political subdivision to publish notices or advertisements more than twice. The bill establishes an alternative publication procedure that political subdivisions operating and maintaining Internet web sites may choose to follow for publication of notices and advertisements. The bill provides that if a Revised Code statute requires a political subdivision to publish a notice or advertisement two or more times in a newspaper of general circulation, the statute refers to the alternative publication procedure, and the political subdivision operates and maintains an Internet web site, the *second* publication otherwise required by that statute may be made in abbreviated form in a newspaper of general circulation in the political subdivision designated in that statute and on the newspaper's Internet web site (if any exists), and the political subdivision may eliminate any further newspaper publications, provided that the second, abbreviated notice or advertisement in the newspaper:

(1) Is published in the newspaper in which it was first published and on that newspaper's Internet web site, if the newspaper has one;

(2) Includes a statement that the notice or advertisement is posted in its entirety on the political subdivision's Internet web site;

(3) Includes the political subdivision's and the newspaper's Internet addresses;

(4) Includes instructions for accessing the notice or advertisement on the subdivision's and newspaper's Internet web site; and

(5) Is of sufficient size that it covers at least one-eighth of a page in the newspaper.

In choosing to use this alternative publication procedure, a notice or advertisement published on a political subdivision's web site must be published in its entirety in accordance with the statute that requires publication. The bill further provides that if a political subdivision does not operate and maintain, or ceases to operate and maintain, an Internet web site, the political subdivision cannot publish a notice or advertisement under this alternative procedure, but instead must comply with the original publication requirements.

The bill does not revise laws that already require a less stringent publication standard whereby a local government may refer to its web site in the first newspaper publication of a notice or advertisement, e.g. R.C. 307.37, 505.75, or 731.14 among other statutes. The bill also does not eliminate the requirement that a board of elections post election notices on its web site, if any is operated and maintained by the board, for 30 days prior to an election (*see*, for example, R.C. 511.34 or 5705.196).

## **Government rate for publication**

(R.C. 7.10)

Continuing law allows newspaper publishers to charge the public officers of state and local governments for publication of advertisements, notices, and proclamations, except those relating to proposed amendments to the Ohio Constitution. Under existing law, the publishers may charge the same rates they charge under annual contracts for a like amount of space to other advertisers who advertise in the newspaper's general display advertising columns. The bill requires newspaper publishers to instead establish and charge public officers of a county, municipal corporation, township, school, or other political subdivision (but not public officers of the state) government rates for the publication of advertisements, notices, and

proclamations. The government rate cannot exceed the lowest non-contract classified rate paid by other advertisers.

The bill also provides that advertisements and notices printed in newspapers must be posted on a newspaper's Internet web site, if the newspaper has one.

### **Costs of publishing delinquent tax lists**

(R.C. 4503.06(H) and 5721.04)

Continuing law allows county auditors to apportion the costs of publishing delinquent manufactured home tax lists, delinquent tax lists, delinquent vacant land tax lists, and display notices among the taxing districts in proportion to the amount of delinquent taxes advertised in each taxing district. The bill creates another method by which county auditors may collect publication costs. Under the bill, a county auditor may place the costs of publication upon these tax lists as a lien on each listed home or lands, to be collected as other manufactured home or real property taxes, in the amount of the actual costs of publication, apportioned equally among the owners of homes or property owners on the lists.

### **Publishing summaries of rules, ordinances, and resolutions**

Existing law, for example R.C. 307.791, 705.16, and 731.21 among other statutes, provides that upon passage of a rule, ordinance, or resolution, its complete text, or a succinct summary of it, must be published in the newspaper or, in some cases, in two newspapers of general circulation. The bill requires that a succinct summary of the rule, ordinance, or resolution be published in a newspaper of general circulation, rather than the entire rule, ordinance, or resolution.

The bill also applies the succinct summary publication requirement to the bylaws and rules of boards of park commissioners (R.C. 1545.09) because those boards are required to publish their bylaws and rules in the same manner as municipal corporations' ordinances are published.

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	06-16-09

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