

1 HB128
2 203655-1
3 By Representative Sorrell
4 RFD: State Government
5 First Read: 04-FEB-20

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8 SYNOPSIS: Under existing law, various public notices
9 are required to be published in newspapers.

10 This bill would require the Secretary of
11 State to create, maintain, host, and operate a
12 website on which public notices may be published
13 with legal effect.

14 This bill would require that the public
15 notice website be available free of charge at all
16 times and that both current and archived public
17 notices be searchable by keyword, file number, or
18 area, and that public notices of local legislation,
19 both current and archived, be publicly searchable
20 by keyword, by sponsor, by subject matter, and by
21 county.

22 This bill would allow the Secretary of State
23 to require the person or entity purporting to
24 provide the notice to pay a reasonable fee, not to
25 exceed \$50, which reflects the actual cost of
26 publication. There would be no fee charged for any
27 other usage of the public notice website.

1 This bill would also provide a method by
2 which a county commission may vote to opt that
3 county out of the public notice website, as well as
4 a method by which the governing body of a
5 municipality may vote to opt its area of
6 incorporation out of the public notice website.

7 This bill would also provide for delivery of
8 public notices to the Secretary of State for
9 publishing on the public notice website.

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT

14
15 Relating to public notices; to provide for
16 electronic publication of public notices on a public notice
17 website operated by the Secretary of State; to provide for
18 fees for publication; to allow counties and municipalities to
19 opt out under certain conditions; and to provide for delivery
20 of public notices to the Secretary of State for publication on
21 the public notice website.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. This act shall be known and may be cited
24 as the Legal Notice Savings and Modernization Act.

25 Section 2. As used in this act, the following terms
26 shall have the following meanings:

1 (1) LOCAL LEGISLATION. Any legislation for which
2 notice of intent to apply for is required to be published in a
3 newspaper of general circulation under Section 106 or Section
4 107 of the Constitution of Alabama of 1901.

5 (2) PUBLIC NOTICE, LEGAL NOTICE, or NOTICE. Any
6 matter that, pursuant to law or rule, is required to be
7 published in a newspaper of general circulation. For purposes
8 of this act, this term includes, but is not limited to: Local
9 legislation, notices of foreclosure by banks, contractor
10 notices, publication of voter rolls, and any notice required
11 under any local law.

12 (3) PUBLIC NOTICE WEBSITE. An Internet website or
13 the existing Secretary of State's website, upon which public
14 notices, legal notices, and notices may be posted with legal
15 effect and which has the capacity and ability to receive and
16 upload notices from a majority of newspapers in this state.

17 Section 3. (a) The Secretary of State shall create,
18 maintain, host, and operate a public notice website or may
19 contract with a third party for the creation, maintenance,
20 hosting, and operation of the public notice website.

21 (b) If the Secretary of State contracts with a third
22 party and the Secretary of State requires a quality review,
23 the third party must provide full access to the technical
24 informational operations of the public notice website.

25 Section 4. (a) Notwithstanding any other provision
26 of law to the contrary, and except as provided in subsections
27 (b) and (c), beginning October 1, 2021, whenever public notice

1 is required by law to be published in a newspaper publication,
2 notice may be made in the same form on the Internet through a
3 public notice website meeting the requirements of this act.

4 (b) If the county commission of any county finds by
5 majority vote that a public notice website would not provide
6 adequate notice to the intended audience within that county,
7 then notice through a public notice website pursuant to this
8 act shall not be sufficient to fulfill public notice
9 requirements within that county, and any public notice within
10 that county shall continue to be made by newspaper as
11 authorized by law until the county commission, by majority
12 vote, finds that a public notice website would provide
13 adequate notice to the intended audience.

14 (c) If the governing body of any municipality finds
15 by majority vote that a public notice website would not
16 provide adequate notice to the intended audience within that
17 municipality, then notice through a public notice website
18 pursuant to this act shall not be sufficient to fulfill public
19 notice requirements within that municipality, and any public
20 notice within that municipality shall continue to be made by
21 newspaper publication as authorized by law until the governing
22 body of the municipality, by majority vote, finds that a
23 public notice website would provide adequate notice to the
24 intended audience.

25 (d) A county commission or municipal governing body
26 that determines a public notice website to be insufficient
27 under subsection (b) or (c) shall deliver to the Secretary of

1 State a written notice of those findings within 30 calendar
2 days of that vote. A county commission or municipal governing
3 body that thereafter determines that a public notice would
4 provide adequate notice must deliver to the Secretary of State
5 a written notice of that determination within 30 calendar days
6 of that vote.

7 (e) The submission for Internet publication of a
8 public notice shall be made through the Secretary of State by
9 the duly authorized person or entity purporting to provide the
10 notice.

11 (f) The Secretary of State may charge a fee which
12 reasonably reflects the actual cost of publication to the duly
13 authorized person or entity purporting to provide the notice.
14 Neither the state nor any state officer or employee, except
15 the Secretary of State, is responsible for providing personnel
16 for the operation or maintenance of a public notice website.

17 (g) (1) With regard to the publication of local
18 legislation, on the next business day following proper
19 completion of the required period of publication for any local
20 legislation, the Secretary of State shall certify the
21 completion in writing to the Secretary of the Senate and the
22 Clerk of the House of Representatives, along with an exact
23 copy of the local legislation as published on the public
24 notice website.

25 (2) Upon receipt of a written certification of
26 proper completion of the required period of advertising
27 publication of the local legislation, the Secretary of the

1 Senate and the Clerk of the House shall verify that all
2 statutory and constitutional requirements have been satisfied.
3 Upon introduction of that local legislation in the Senate or
4 House, the Secretary of the Senate and the Clerk of the House
5 shall enter proof of publication into the journal.

6 Section 5. (a) No later than October 1, 2020, the
7 Secretary of State shall develop and test the public notice
8 website and ensure proper functionality pursuant to this act.

9 (b) In addition to other requirements contained in
10 this act, the Secretary of State shall also do all of the
11 following:

12 (1) Develop, create, maintain, host, and operate the
13 public notice website.

14 (2) Maintain the public notice website without
15 interruption 24 hours per day, seven days a week, each day of
16 the year; and the public notice website, including all its
17 features, must be fully publicly accessible at all times.

18 (3) Ensure that the public notice website has the
19 capability to accept and display any public notice forwarded
20 from a newspaper publishing a required notice, free of charge
21 to that newspaper or the duly authorized person or entity
22 purporting to provide the notice.

23 (4) Ensure that individual notices are displayed for
24 not less than the length of time requested by the duly
25 authorized person or entity purporting to provide the notice.
26 At the end of the posting time, the Secretary of State, with
27 prior approval of the person or entity that arranged for the

1 posting and for a reasonable fee, may send a reminder to the
2 entity that the notice is due to expire.

3 (5) Include within the public notice website an
4 archives feature which is accessible free of charge to the
5 public at all times, and also include a function which allows
6 the public to determine which notices have been posted in a
7 given county.

8 (6) Provide that public notices of local
9 legislation, both current and archived, are publicly
10 searchable on the public notice website by keyword, by
11 sponsor, by subject matter, and by county.

12 (7) Make a report to the Legislature upon the
13 successful development and testing of the public notice
14 website.

15 (c) The Secretary of State may not charge a fee to a
16 person accessing, searching, or using the public notice
17 website, except for the fee for posting of a notice as allowed
18 by this act.

19 Section 6. (a) Prior to September 1, 2020, each
20 county and each municipality shall publish a notice informing
21 the public about the change to Internet publication of public
22 notice, legal notices, and notices within the state.

23 (1) This notice shall run at least once a week for
24 four consecutive weeks in a newspaper of general circulation
25 qualified to publish public notice in that county or
26 municipality under Section 6-8-60 of the Code of Alabama 1975.

1 (2) If there is no newspaper of general circulation
2 qualified to publish public notice in the county or
3 municipality, then this requirement may be satisfied by
4 posting the notice for four consecutive weeks at five
5 different public places in the county or municipality.

6 (b) This section shall not apply to any county or
7 municipality of which the governing body has determined and
8 declared, pursuant to Section 3, that a public notice website
9 pursuant to this act is not sufficient to fulfill public
10 notice requirements within that county or municipality, until
11 that county or municipality finds and declares that a public
12 notice website would provide adequate notice to the intended
13 audience.

14 Section 7. The Secretary of State may conduct a
15 public information campaign to inform the public of changes
16 relating to the methods of legal notice within the state, at
17 no cost to the state.

18 Section 8. Sections 6-8-64 and 17-4-1, Code of
19 Alabama 1975, are amended to read as follows:

20 "§6-8-64.

21 "(a) The rate charged for publication of a public
22 notice shall not exceed the lowest classified rate paid by or
23 published on a rate card for commercial customers for an
24 advertisement of similar size, and frequency in the same
25 newspapers in which the public notice appears. The lowest
26 classified rate paid by or published on a rate card for
27 commercial customers for such advertisements shall be

1 calculated to also include all cash discounts, multiple
2 insertion discounts, and any other commercial contract
3 benefits for which the public notice also qualifies.

4 "(b) The newspaper publishing the notice shall place
5 the notice on its own website, if it publishes a website, and
6 shall forward the notice to the Secretary of State in a form
7 suitable for publication on a statewide website at no
8 additional charge to government or to the party in interest or
9 at whose instance the publication of a legal notice is to be
10 given. The amount charged for the notice shall include
11 publication in the print edition of the newspaper; the
12 newspaper's website, if it publishes one; and the statewide
13 website.

14 "(c) The rates established in this section shall
15 apply to any and all legal notices, advertisements,
16 publications, statements, or other matter of whatever kind or
17 character required by the Constitution of Alabama, by general,
18 local, or special law or by rules or orders of courts to be
19 published in newspapers in this state, whether the agency
20 required to cause the publication to be made is an individual,
21 officer, municipality, county, the state, governmental
22 subdivision, or any other legal entity; provided, that rates
23 established in this section shall not apply when a local law
24 prescribes a different rate, in which event the local law
25 shall be applicable.

26 "§17-4-1.

1 "The judge of probate shall publish from the state
2 voter registration list a correct alphabetical list of
3 qualified electors either by county, precinct, district, or
4 subdivision wherein each elector is registered to vote, on a
5 statewide Internet website maintained by the Secretary of
6 State or in some newspaper with general circulation in the
7 county, on or before the twentieth day preceding the regularly
8 scheduled primary election. The list shall be accompanied by a
9 ~~printed~~ certification generated by the state voter
10 registration system verifying that the list contains the names
11 of all qualified electors registered as of the specified time
12 and date when it was printed. The list shall further state
13 that any elector whose name was inadvertently omitted from the
14 list shall have 10 days in which to have his or her name
15 entered upon the list of qualified voters. If within 10 days
16 any voter shall reasonably satisfy the board of registrars by
17 proper proof that any name should be added to the list, the
18 board shall add such name to the list. The supplemental list
19 of registered voters inadvertently omitted from the original
20 list shall be published once on a statewide Internet website
21 or in a newspaper of general circulation in the county on or
22 before the seventh day preceding the date of the primary
23 election. The lists required to be published pursuant to this
24 section may be published, at the discretion of the county
25 commission, as a preprinted or inserted advertising supplement
26 at a cost no greater than the selected newspaper's lowest
27 applicable national insertion rates. If the list is published

1 as a preprinted supplement in the selected newspaper, the
2 supplement size shall conform to the size requirements set by
3 the selected newspaper and shall be printed on standard
4 newsprint paper. The type size shall be no smaller than nine
5 point standard type. The list shall also be delivered to the
6 newspaper for insertion in a manner required for other
7 advertising supplements. The supplement may not contain any
8 other advertising. Any newspaper accepting a preprinted
9 insertion that is not prepared by the newspaper shall not be
10 responsible for the content of such insertion. Nothing in this
11 section shall prohibit a county commission from publishing the
12 list of voters in more than one newspaper within the county at
13 the county commission's discretion. The judge of probate shall
14 forward any list of voters published in a newspaper to the
15 Secretary of State, in a form suitable for publication on an
16 Internet website."

17 Section 9. The Secretary of State may adopt rules to
18 implement this act.

19 Section 10. This act shall become effective on
20 October 1, 2020, following its passage and approval by the
21 Governor, or its otherwise becoming law; but shall not apply
22 to notices of intent to apply for local legislation until the
23 passage and ratification of an amendment to Section 106 of the
24 Constitution of Alabama of 1901, as proposed by HB___ of the
25 2020 Regular Session.