

HOUSE BILL No. 1017

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-3-1; IC 9-22-1-23; IC 16-18-2-301; IC 20-48-4-2; IC 36-12-5-3.

Synopsis: Publication of notice by political subdivisions. Provides that in certain circumstances, a political subdivision (other than a county) may publish notice in a locality newspaper that circulates in the political subdivision instead of in a newspaper that is published in the county and circulates in the political subdivision. Establishes requirements for locality newspapers that may publish notice.

Effective: July 1, 2016.

Torr

January 5, 2016, read first time and referred to Committee on Government and Regulatory Reform.



Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1017

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 5-3-1-0.2 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2016]: **Sec. 0.2. As used in this section, "locality newspaper"**
- 4 **means a publication that meets all the following requirements:**
- 5 (1) **Is regularly issued at least one (1) time per week.**
- 6 (2) **Contains in each issue news of general or community**
- 7 **interest, community notices, or editorial commentary by**
- 8 **different authors.**
- 9 (3) **Has, in more than one-half (1/2) of its issues published**
- 10 **during the previous twelve (12) month period, not more than**
- 11 **seventy-five percent (75%) advertising content.**
- 12 (4) **Has been published continuously for at least three (3)**
- 13 **years.**
- 14 (5) **Has the capability to add subscribers to its distribution list**
- 15 **and must add any person:**
- 16 (A) **who requests to be added as a new subscriber; and**
- 17 (B) **whose mailing address is within the political**



- 1 subdivision in which the locality newspaper generally
2 circulates.
- 3 (6) Is a publication of general circulation in the political
4 subdivision that is responsible for the publication of notice.
- 5 (7) Is circulated by United States mail, free of charge, to
6 addresses that are located within the political subdivision
7 responsible for the publication of notice.
- 8 (8) Has its circulation verified by an annual independent audit
9 of the publication.
- 10 (9) Contains advertisements from numerous unrelated
11 advertisers in each issue.
- 12 (10) Is not owned by, or under the control of, the owners or
13 lessees of a shopping center, a merchant's association, or a
14 business that sells property or services (other than
15 advertising) whose advertisements for their sales of property
16 or services constitute the predominant advertising in the
17 publication.
- 18 (11) Has continuity as to title and general nature of content
19 from issue to issue.
- 20 (12) Does not constitute a book, either singly or when
21 successive issues are combined.
- 22 (13) Has a known office location in the county in which the
23 locality newspaper is published.
- 24 SECTION 2. IC 5-3-1-1, AS AMENDED BY P.L.141-2009,
25 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2016]: Sec. 1. (a) The cost of all public notice advertising
27 which any elected or appointed public official or governmental agency
28 is required by law to have published, or orders published, for which the
29 compensation to the newspapers, **locality newspapers**, or qualified
30 publications publishing such advertising is drawn from and is the
31 ultimate obligation of the public treasury of the governmental unit
32 concerned with the advertising shall be charged to and collected from
33 the proper fund of the public treasury and paid over to the newspapers,
34 **locality newspapers**, or qualified publications publishing such
35 advertising, after proof of publication and claim for payment has been
36 filed.
- 37 (b) The basic charges for publishing public notice advertising shall
38 be by the line and shall be computed based on a square of two hundred
39 and fifty (250) ems at the following rates:
- 40 (1) Before January 1, 1996, three dollars and thirty cents (\$3.30)
41 per square for the first insertion in newspapers or qualified
42 publications plus one dollar and sixty-five cents (\$1.65) per



1 square for each additional insertion in newspapers, or qualified
2 publications.

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

12 (3) After December 31, 2009, **and before January 1, 2017**, a
13 newspaper or qualified publication may, effective January 1 of
14 any year, increase the basic charges by not more than two and
15 three-quarters percent (2.75%) more than the basic charges that
16 were in effect during the previous year. However, the basic
17 charges for the first insertion of a public notice in a newspaper or
18 qualified publication may not exceed the lowest classified
19 advertising rate charged to advertisers by the newspaper or
20 qualified publication for comparable use of the same amount of
21 space for other purposes and must include all multiple insertion
22 discounts extended to the newspaper's other advertisers.

23 **(4) After December 31, 2016, a newspaper, locality**
24 **newspaper, or qualified publication may, effective January 1**
25 **of any year, increase the basic charges by not more than two**
26 **and three-quarters percent (2.75%) more than the basic**
27 **charges that were in effect during the previous year.**
28 **However, the basic charges for the first insertion of a public**
29 **notice in a newspaper, locality newspaper, or qualified**
30 **publication may not exceed the lowest classified advertising**
31 **rate charged to advertisers by the newspaper, locality**
32 **newspaper, or qualified publication for comparable use of the**
33 **same amount of space for other purposes and must include all**
34 **multiple insertion discounts extended to the newspaper's,**
35 **locality newspaper's, or qualified publication's other**
36 **advertisers.**

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

40 (c) All public notice advertisements shall be set in solid type that is
41 at least 7 point type, without any leads or other devices for increasing
42 space. All public notice advertisements shall be headed by not more



1 than two (2) lines, neither of which shall total more than four (4) solid
 2 lines of the type in which the body of the advertisement is set. Public
 3 notice advertisements may be submitted by an appointed or elected
 4 official or a governmental agency to a newspaper, **locality newspaper**,
 5 or qualified publication in electronic form, if the newspaper, **locality**
 6 **newspaper**, or qualified publication is equipped to accept information
 7 in compatible electronic form.

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

15 (e) The circulation of a newspaper, **locality newspaper**, or qualified
 16 publication is determined as follows:

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

22 **(2) For a locality newspaper, by a verified affidavit filed with**
 23 **each agency, department, or office of the political subdivision**
 24 **that has public notices the locality newspaper wants to**
 25 **publish. The affidavit must:**

26 **(A) be filed with the agency, department, or office of the**
 27 **political subdivision before January 1 of each year; and**

28 **(B) attest to the circulation of the locality newspaper for**
 29 **the issue published nearest to October 1 of the previous**
 30 **year, as determined by an independent audit of the locality**
 31 **newspaper performed for the previous year.**

32 ~~(2)~~ **(3) For a qualified publication, by a verified affidavit filed**
 33 **with each governmental agency that has public notices the**
 34 **qualified publication wants to publish. The affidavit must:**

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

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

39 SECTION 3. IC 5-3-1-1.5, AS ADDED BY P.L.141-2009,
 40 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2016]: Sec. 1.5. (a) This section applies ~~after June 30, 2009,~~
 42 to a notice that must be published in accordance with this chapter.



1 (b) If a newspaper **or locality newspaper** maintains an Internet web
 2 site, a notice that is published in the newspaper **or locality newspaper**
 3 must also be posted on the newspaper's web site **of the newspaper or**
 4 **locality newspaper**. The notice must appear on the web site on the
 5 same day the notice appears in the newspaper **or locality newspaper**.

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

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

12 SECTION 4. IC 5-3-1-2, AS AMENDED BY P.L.122-2015,
 13 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2016]: Sec. 2. (a) This section applies only when notice of an
 15 event is required to be given by publication in accordance with this
 16 chapter.

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

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

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

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

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

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

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

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



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

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

7 (j) If any officer charged with the duty of publishing any notice
 8 required by law is unable to procure ~~advertisement~~: **publication of**
 9 **notice**:

10 (1) at the price fixed by law;

11 (2) because ~~the newspaper refuses~~ **all newspapers or locality**
 12 **newspapers that are qualified to publish the notice refuse to**
 13 **publish the advertisement; notice; or**

14 (3) because ~~the newspaper refuses~~ **newspapers or locality**
 15 **newspapers referred to in subdivision (2) refuse to post the**
 16 **advertisement notice on the newspaper's newspapers' or locality**
 17 **newspapers' Internet web site sites** (if required under section 1.5
 18 of this chapter);

19 it is sufficient for the officer to post printed notices in three (3)
 20 prominent places in the political subdivision, instead of publication of
 21 the notice in newspapers **or locality newspapers** and on an Internet
 22 web site (if required under section 1.5 of this chapter).

23 SECTION 5. IC 5-3-1-4, AS AMENDED BY P.L.141-2009,
 24 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2016]: Sec. 4. (a) Whenever officers of a political subdivision
 26 are required to publish a notice affecting the political subdivision, they
 27 shall publish the notice in two (2) newspapers published in the political
 28 subdivision.

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

32 (c) This subsection applies to notices published by city, town, or
 33 school corporation officers. If there is only one (1) newspaper
 34 published in the municipality or school corporation, then publication
 35 in that newspaper alone is sufficient. If no newspaper is published in
 36 the municipality or school corporation, then publication **of the notice**
 37 shall be made in **one (1) of the following**:

38 **(1) A locality newspaper that circulates within the**
 39 **municipality or school corporation.**

40 **(2) A newspaper published in the county in which the**
 41 **municipality or school corporation is located and that circulates**
 42 **within the municipality or school corporation.**



1 (d) This subsection applies to notices published by officers of
 2 political subdivisions not covered by subsection (a) or (b). If there is
 3 only one (1) newspaper published in the political subdivision, then the
 4 notice shall be published in that newspaper. If no newspaper is
 5 published in the political subdivision, then publication **of the notice**
 6 shall be made in **one (1) of the following:**

7 **(1) A locality newspaper that circulates within the**
 8 **municipality or school corporation.**

9 **(2) A newspaper published in the county and that circulates**
 10 **within the political subdivision.**

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

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

18 (2) If only one (1) newspaper is published within the boundaries
 19 of the political subdivision, by publication **of the notice** in that
 20 newspaper and **in one (1) of the following:**

21 **(A) A locality newspaper that circulates within the political**
 22 **subdivision.**

23 **(B) In some other another newspaper:**

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

26 ~~(B)~~ **(ii)** that has a general circulation in the political
 27 subdivision.

28 (3) If no newspaper is published within the boundaries of the
 29 political subdivision, by ~~publication~~ **publishing the notice** in two

30 **(2) publications, consisting of either or both of the following:**

31 **(A) A locality newspaper that circulates within the political**
 32 **subdivision.**

33 **(B) A newspapers newspaper that:**

34 ~~(A)~~ **(i)** ~~are is~~ published in any counties into which the
 35 political subdivision extends; and

36 ~~(B)~~ **(ii)** ~~have has~~ a general circulation in the political
 37 subdivision.

38 (4) If only one (1) newspaper is published in any of the counties
 39 into which the political subdivision extends, by publication **of the**
 40 **notice in one (1) of the following:**

41 **(A) A locality newspaper that circulates within the political**
 42 **subdivision.**



1 **(B) in that The newspaper published in the county if it the**
 2 **newspaper** circulates within the political subdivision.

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

8 SECTION 6. IC 9-22-1-23, AS AMENDED BY P.L.125-2012,
 9 SECTION 125, IS AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2016]: Sec. 23. (a) This section applies to a
 11 city, town, or county.

12 (b) Except as provided in subsection (c), if the person who owns or
 13 holds a lien upon a vehicle does not appear within twenty (20) days
 14 after the mailing of a notice or the notification made by electronic
 15 service under section 19 of this chapter, the unit may sell the vehicle
 16 or parts by either of the following methods:

17 (1) The unit may sell the vehicle or parts to the highest bidder at
 18 a public sale. Notice of the sale shall be given under IC 5-3-1,
 19 except that only one (1) **newspaper insertion in an appropriate**
 20 **publication** one (1) week before the public sale is required.

21 (2) The unit may sell the vehicle or part as unclaimed property
 22 under IC 36-1-11. The twenty (20) day period for the property to
 23 remain unclaimed is sufficient for a sale under this subdivision.

24 (c) This subsection applies to a consolidated city or county
 25 containing a consolidated city. If the person who owns or holds a lien
 26 upon a vehicle does not appear within fifteen (15) days after the
 27 mailing of a notice or the notification made by electronic service under
 28 section 19 of this chapter, the unit may sell the vehicle or parts by
 29 either of the following methods:

30 (1) The unit may sell the vehicle or parts to the highest bidder at
 31 a public sale. Notice of the sale shall be given under IC 5-3-1,
 32 except that only one (1) newspaper insertion one (1) week before
 33 the public sale is required.

34 (2) The unit may sell the vehicle or part as unclaimed property
 35 under IC 36-1-11. The fifteen (15) day period for the property to
 36 remain unclaimed is sufficient for a sale under this subdivision.

37 SECTION 7. IC 16-18-2-301 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 301. "Publish" or
 39 "published" or "cause to be published", for purposes of IC 16-22,
 40 means publication of notice in a **newspaper or newspapers an**
 41 **appropriate publication** in accordance with IC 5-3-1, unless
 42 otherwise specified.



1 SECTION 8. IC 20-48-4-2, AS ADDED BY P.L.2-2006, SECTION
 2 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2016]: Sec. 2. (a) The board may authorize the trustee to issue
 4 township warrants or bonds to pay for the building or the proportional
 5 cost of it. The warrants or bonds:

- 6 (1) may run for a period not exceeding fifteen (15) years;
 7 (2) may bear interest at any rate; and
 8 (3) shall be sold for not less than par.

9 The township trustee, before issuing the warrants or bonds, shall place
 10 a notice **in accordance with IC 5-3-1-4** in at least one (1) ~~newspaper~~
 11 **appropriate publication** announcing the sale of the bonds in at least
 12 one (1) issue a week for three (3) weeks. The notice must comply with
 13 IC 5-3-1 and must set forth the amount of bonds offered, the
 14 denomination, the period to run, the rate of interest, and the date, place,
 15 and time of selling. The township board shall attend the bond sale and
 16 must concur in the sale before the bonds are sold.

17 (b) The board shall annually levy sufficient taxes each year to pay
 18 at least one-fifteenth (1/15) of the warrants or bonds, including interest,
 19 and the trustee shall apply the annual tax to the payment of the warrants
 20 or bonds each year.

21 (c) A debt of the township may not be created except by the
 22 township board in the manner specified in this section. The board may
 23 bring an action in the name of the state against the bond of a trustee to
 24 recover for the use of the township funds expended in the unauthorized
 25 payment of a debt. The board may appropriate and the township trustee
 26 shall pay from township funds a reasonable sum for attorney's fees for
 27 this purpose.

28 (d) If a taxpayer serves the board with a written demand that the
 29 board bring an action as described in subsection (c), and after thirty
 30 (30) days the board has not brought an action, a taxpayer may bring an
 31 action to recover for the use of the township funds expended in the
 32 unauthorized payment of a debt. An action brought under this
 33 subsection shall be brought in the name of the state.

34 SECTION 9. IC 36-12-5-3, AS AMENDED BY P.L.13-2013,
 35 SECTION 156, IS AMENDED TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) The library board of a public
 37 library may file with the township trustee and legislative body a
 38 proposal of expansion and an intent to file a petition for acceptance of
 39 the proposal of expansion. Not later than ten (10) days after the filing,
 40 the township trustee shall publish notice of the proposal of expansion
 41 in the manner provided in IC 5-3-1. **Publication of the notice must be**
 42 **in accordance with IC 5-3-1-4** in a ~~newspaper~~ **an appropriate**



1 **publication** of general circulation in the township. Beginning the first
 2 day after the notice is published, and during the period that ends sixty
 3 (60) days after the date of the publication of the notice, an individual
 4 who is a registered voter of the affected township or part of the affected
 5 township subject to expansion may sign one (1) or both of the
 6 following:

7 (1) A petition for acceptance of the proposal of expansion that
 8 states that the registered voter is in favor of the establishment of
 9 an expanded library district.

10 (2) A remonstrance in opposition to the proposal of expansion
 11 that states that the registered voter is opposed to the establishment
 12 of an expanded library district.

13 (b) A registered voter of the township or part of the township may
 14 file a petition or a remonstrance, if any, with the clerk of the circuit
 15 court in the county where the township is located. A petition for
 16 acceptance of the proposal of expansion must be signed by at least
 17 twenty percent (20%) of the registered voters of the township, or part
 18 of the township, as determined by the most recent general election.

19 (c) The following apply to a petition that is filed under this section
 20 or a remonstrance that is filed under subsection (b):

21 (1) The petition or remonstrance must show the following:

22 (A) The date on which each individual signed the petition or
 23 remonstrance.

24 (B) The residence of each individual on the date the individual
 25 signed the petition or remonstrance.

26 (2) The petition or remonstrance must include an affidavit of the
 27 individual circulating the petition or remonstrance, stating that
 28 each signature on the petition or remonstrance:

29 (A) was affixed in the individual's presence; and

30 (B) is the true signature of the individual who signed the
 31 petition or remonstrance.

32 (3) Several copies of the petition or remonstrance may be
 33 executed. The total of the copies constitute a petition or
 34 remonstrance. A copy must include an affidavit described in
 35 subdivision (2). A signer may file the petition or remonstrance, or
 36 a copy of the petition or remonstrance. All copies constituting a
 37 petition or remonstrance must be filed on the same day.

38 (4) The clerk of the circuit court in the county in which the
 39 township is located shall do the following:

40 (A) If a name appears more than one (1) time on a petition or
 41 on a remonstrance, the clerk must strike any duplicates of the
 42 name until the name appears only one (1) time on a petition or



- 1 a remonstrance, or both, if the individual signed both a petition
2 and a remonstrance.
- 3 (B) Strike the name from either the petition or the
4 remonstrance of an individual who:
- 5 (i) signed both the petition and the remonstrance; and
6 (ii) personally, in the clerk's office, makes a voluntary
7 written and signed request for the clerk to strike the
8 individual's name from the petition or the remonstrance.
- 9 (C) Certify the number of signatures on the petition and on any
10 remonstrance that:
- 11 (i) are not duplicates; and
12 (ii) represent individuals who are registered voters in the
13 township or the part of the township on the day the
14 individuals signed the petition or remonstrance.
- 15 The clerk of the circuit court may only strike an individual's name
16 from a petition or a remonstrance as set forth in clauses (A) and
17 (B).
- 18 (d) The clerk of the circuit court shall complete the certification
19 required under subsection (c) not more than fifteen (15) days after the
20 petition or remonstrance is filed. The clerk shall:
- 21 (1) establish a record of certification in the clerk's office; and
22 (2) file the original petition, the original remonstrance, if any, and
23 a copy of the clerk's certification with the legislative body.

