

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 254

By: Bullard

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5
6 AS INTRODUCED

7 An Act relating to publication of legal notices;
8 amending 19 O.S. 2011, Sections 350 and 444, which
9 relate to county commissioners and publication of
10 proceedings; modifying certain publication
11 requirement; amending 25 O.S. 2011, Sections 106 and
12 311, as last amended by Section 4, Chapter 3, O.S.L.
13 2020 (25 O.S. Supp. 2020, Section 311), which relate
14 to newspapers and public notices and notices of
15 public bodies; modifying definition; requiring
16 publication of certain notices on certain websites;
17 amending 28 O.S. 2011, Section 121, which relates to
18 public printing; establishing maximum rate to be
19 charged for certain posting; establishing
20 requirements for online publication of legal notices;
21 establishing requirements for certain electronic mail
22 notifications; amending 68 O.S. 2011, Sections 3106,
23 as amended by Section 5, Chapter 25, O.S.L. 2020 and
24 3127 (68 O.S. Supp. 2020, Section 3106), which relate
25 to collection of delinquent taxes; modifying
26 frequency of certain publication requirements;
27 modifying certain procedures for public notices;
28 updating statutory language; and providing an
29 effective date.

30
31 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

32 SECTION 1. AMENDATORY 19 O.S. 2011, Section 350, is
33 amended to read as follows:
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1 Section 350. The county commissioners and members of the county
2 excise board of each county shall designate and publish or post on a
3 newspaper's website or a government website between the 1st and 20th
4 of January each year which holidays the county offices will be
5 closed.

6 SECTION 2. AMENDATORY 19 O.S. 2011, Section 444, is
7 amended to read as follows:

8 Section 444. It shall be the mandatory duty of the board of
9 county commissioners to ~~cause to be published~~ publish in a newspaper
10 published in the county, or placed on a newspaper's website or a
11 government website, a full and complete report of all its official
12 proceedings at each regular and special meeting, except blanket
13 purchase orders, within the time provided for in Sections 445 and
14 446 of this title, and the board of county commissioners shall pay
15 for the same from the appropriation as provided in this section.
16 The board of county commissioners may also order the publication of
17 the official proceedings ~~in a newspaper~~ to be printed in any other
18 than the English Language whenever it shall deem it necessary for
19 the better information of the inhabitants. The board of county
20 commissioners may omit the listing of all employees and their
21 salaries approved for payment in the monthly publication of
22 proceedings. However, it shall be the mandatory duty of the board
23 of county commissioners to cause to be published a full and complete
24 report of all the county employees and their salaries paid annually.

1 ~~An asterisk shall be placed in front of the names of employees paid~~
2 ~~for less than the full twelve (12) months of the preceding calendar~~
3 ~~year. The listing shall reflect the gross salary of every employee~~
4 ~~reported to the Internal Revenue Service on the W-2 Form of the~~
5 ~~employee. Such annual publication of the employees and their~~
6 salaries shall be published annually in the month of February for
7 the preceding calendar year in a newspaper of the county ~~which meets~~
8 ~~the requirements set forth in Section 106 of Title 25 of the~~
9 ~~Oklahoma Statutes~~ or placed on a newspaper's website or a government
10 website.

11 It shall also be the mandatory duty of the board of county
12 commissioners and the county excise board, each fiscal year, to take
13 such steps as may be necessary and proper under the statutes
14 relating to estimates of needs and appropriations, to appropriate,
15 in the General Government account within the general fund of the
16 county, an amount sufficient to pay for the publication of all such
17 proceedings during the fiscal year, ~~at the legal rate therefor, but~~
18 ~~in no event less than the total of legal claims for publication of~~
19 ~~such proceedings during the immediately preceding fiscal year.~~

20 SECTION 3. AMENDATORY 25 O.S. 2011, Section 106, is
21 amended to read as follows:

22 Section 106. No legal notice, advertisement, or publication of
23 any kind required or provided for by the laws of this state to be
24 published in a newspaper shall have force or effect unless published

1 in a legal newspaper of the county. A legal newspaper of the county
2 is any newspaper which, during a period of one hundred four (104)
3 consecutive weeks immediately prior to the first publication of such
4 notice, advertisement, or publication:

5 1. ~~has~~ Has maintained a paid general subscription circulation
6 in the county; and

7 2. ~~has~~ Has been admitted to the United States mails as paid
8 second-class mail matter; and

9 3. ~~has~~ Has been continuously and uninterruptedly published in
10 the county. If there is no legal newspaper in a county, then all
11 legal notices, advertisements, or publications of any kind required
12 or provided for by the laws of this state shall be published in a
13 legal newspaper in an adjoining county of this state, which
14 newspaper has general circulation in the county or political
15 subdivision in which such notice is required; and

16 4. Has maintained a newspaper Internet website or has access to
17 a statewide Internet website established and maintained by a press
18 association in Oklahoma as a repository for such legal notices.

19 Nothing in this section shall invalidate the publication of such
20 legal notices, advertisements, or publications in a newspaper which
21 has moved its place of publication from one location in the county
22 to another location in the same county without breaking the
23 continuity of its regular issues for the requisite length of time,
24 or the name of which may have been changed when ~~said~~ the change of

1 location was made as permitted by United States postal laws and
2 regulations. Failure to issue or publish ~~said~~ the newspaper for a
3 period of fourteen (14) days due to fire, accident, or other
4 unforeseen cause, or by reason of the pendency of mortgage
5 foreclosure, attachment, execution, or other legal proceedings
6 against the type, presses, or other personal property used by the
7 newspaper, shall not be deemed a failure to maintain continuous and
8 consecutive publication as required by the provisions of this
9 section, nor shall ~~said~~ the failure invalidate the publication of a
10 notice otherwise valid. Failure to issue or publish a newspaper
11 qualified to publish legal notices, advertisements, or publications
12 of any kind, for a period totaling not more than fourteen (14)
13 consecutive days during a calendar year shall not be deemed a
14 failure to maintain continuous and consecutive publication as
15 required by the provisions of this section, nor shall ~~said~~ the
16 failure invalidate the publication of a notice otherwise valid.

17 SECTION 4. AMENDATORY 25 O.S. 2011, Section 311, as last
18 amended by Section 4, Chapter 3, O.S.L. 2020 (25 O.S. Supp. 2020,
19 Section 311), is amended to read as follows:

20 Section 311. A. Notwithstanding any other provisions of law,
21 all regularly scheduled, continued or reconvened, special or
22 emergency meetings of public bodies shall be preceded by public
23 notice as follows:
24

1 1. All public bodies shall give notice in writing by December
2 15 of each calendar year of the schedule showing the date, time and
3 place of the regularly scheduled meetings of such public bodies for
4 the following calendar year;

5 2. All state public bodies, including, but not limited to,
6 public trusts and other bodies with the state as beneficiary, shall
7 give such notice to the Secretary of State;

8 3. All county public bodies including, but not limited to,
9 public trusts and any other bodies with the county as beneficiary,
10 shall give such notice to the county clerk of the county wherein
11 they are principally located;

12 4. All municipal public bodies, including, but not limited to,
13 public trusts and any other bodies with the municipality as
14 beneficiary, shall give such notice to the municipal clerk of the
15 municipality wherein they are principally located;

16 5. All multicounty, regional, areawide or district public
17 bodies including, but not limited to, district boards of education,
18 shall give such notice to the county clerk of the county wherein
19 they are principally located, or if no office exists, to the county
20 clerk of the county or counties served by such public body;

21 6. All governing boards of state institutions of higher
22 education, and committees and subcommittees thereof, shall give such
23 notice to the Secretary of State. All other public bodies covered
24 by the provisions of the Oklahoma Open Meeting Act which exist under

1 the auspices of a state institution of higher education, but a
2 majority of whose members are not members of the institution's
3 governing board, shall give such notice to the county clerk of the
4 county wherein the institution is principally located;

5 7. The Secretary of State and each county clerk or municipal
6 clerk shall keep a record of all notices received in a register open
7 to the public for inspection during regular office hours, and, in
8 addition, shall make known upon any request of any person the
9 contents of the register;

10 8. If any change is to be made of the date, time or place of
11 regularly scheduled meetings of public bodies, then notice in
12 writing shall be given to the Secretary of State or county clerk or
13 municipal clerk, as required herein, not less than ten (10) days
14 prior to the implementation of any such change;

15 9. In addition to the advance public notice in writing required
16 to be filed for regularly scheduled meetings, described in paragraph
17 1 of this subsection, all public bodies shall, at least twenty-four
18 (24) hours prior to such regularly scheduled meetings, display
19 public notice of the meeting by at least one of the following
20 methods:

- 21 a. by posting information that includes date, time, place
22 and agenda for the meeting in prominent public view at
23 the principal office of the public body or at the
24 location of the meeting if no office exists, or

1 b. by posting on the public body's Internet website the
2 date, time, place and agenda for the meeting in
3 accordance with Section 3106.2 of Title 74 of the
4 Oklahoma Statutes. Additionally, the public body
5 shall offer and consistently maintain an email
6 distribution system for distribution of such notice of
7 a public meeting required by this subsection, and any
8 person may request to be included without charge, and
9 their request shall be accepted. The emailed notice
10 of a public meeting required by this subsection shall
11 include in the body of the email or as an attachment
12 to the email the date, time, place and agenda for the
13 meeting and it shall be sent no less than twenty-four
14 (24) hours prior to the meeting. Additionally, except
15 as provided in subparagraph c of this paragraph, the
16 public body shall make the notice of a public meeting
17 required by this subsection available to the public in
18 the principal office of the public body or at the
19 location of the meeting during normal business hours
20 at least twenty-four (24) hours prior to the meeting,
21 or

22 c. ~~upon the effective date of this act on March 18, 2020,~~
23 and until November 15, 2020, or the Governor declaring
24 the state of emergency to be terminated, whichever

1 date first occurs, the public body shall not be
2 required to make the notice of a public meeting
3 available to the public in the principal office of the
4 public body or at the location of the meeting during
5 normal business hours at least twenty-four (24) hours
6 prior to the meeting;

7 10. The twenty-four (24) hours required in paragraph 9 of this
8 subsection shall exclude Saturdays, Sundays and holidays legally
9 declared by the State of Oklahoma. The posting or distribution of a
10 notice of a public meeting as described in paragraph 9 of this
11 subsection shall not preclude a public body from considering at its
12 regularly scheduled meeting any new business. "New business", as
13 used herein, shall mean any matter not known about or which could
14 not have been reasonably foreseen prior to the time of the posting;

15 11. In the event any meeting is to be continued or reconvened,
16 public notice of such action including date, time and place of the
17 continued meeting, shall be given by announcement at the original
18 meeting. Only matters appearing on the agenda of the meeting which
19 is continued may be discussed at the continued or reconvened
20 meeting;

21 12. Special meetings of public bodies shall not be held without
22 public notice being given at least forty-eight (48) hours prior to
23 the meetings. Such public notice of date, time and place shall be
24 given in writing, in person or by telephonic means to the Secretary

1 of State or to the county clerk or to the municipal clerk by public
2 bodies in the manner set forth in paragraphs 2, 3, 4, 5 and 6 of
3 this subsection. The public body also shall cause written notice of
4 the date, time and place of the meeting to be mailed or delivered to
5 each person, newspaper, wire service, radio station and television
6 station that has filed a written request for notice of meetings of
7 the public body with the clerk or secretary of the public body or
8 with some other person designated by the public body. Such written
9 notice shall be mailed or delivered at least forty-eight (48) hours
10 prior to the special meeting. The public body may charge a fee of
11 up to Eighteen Dollars (\$18.00) per year to persons or entities
12 filing a written request for notice of meetings, and may require
13 such persons or entities to renew the request for notice annually.
14 In addition, all public bodies shall, at least twenty-four (24)
15 hours prior to such special meetings, display public notice of the
16 meeting, setting forth thereon the date, time, place and agenda for
17 the meeting. Only matters appearing on the posted agenda may be
18 considered at the special meeting. Such public notice shall be
19 posted in prominent public view at the principal office of the
20 public body or at the location of the meeting if no office exists.
21 Twenty-four (24) hours prior public posting shall exclude Saturdays,
22 Sundays and holidays legally declared by the State of Oklahoma. In
23 lieu of the public posting requirements of this paragraph, a public
24 body may elect to follow the requirements found in subparagraph b of

1 paragraph 9 of this subsection, provided that forty-eight-hour
2 notice is required for special meetings and that the forty-eight-
3 hour requirement shall exclude Saturdays, Sundays and holidays
4 legally declared by the State of Oklahoma; and

5 13. In the event of an emergency, an emergency meeting of a
6 public body may be held without the public notice heretofore
7 required. Should an emergency meeting of a public body be
8 necessary, the person calling such a meeting shall give as much
9 advance public notice as is reasonable and possible under the
10 circumstances existing, in person or by telephonic or electronic
11 means.

12 B. 1. All agendas required pursuant to the provisions of this
13 section shall identify all items of business to be transacted by a
14 public body at a meeting including, but not limited to, any proposed
15 executive session for the purpose of engaging in deliberations or
16 rendering a final or intermediate decision in an individual
17 proceeding prescribed by the Administrative Procedures Act.

18 2. If a public body proposes to conduct an executive session,
19 the agenda shall:

- 20 a. contain sufficient information for the public to
21 ascertain that an executive session will be proposed,
22 b. identify the items of business and purposes of the
23 executive session, and

1 c. state specifically the provision of Section 307 of
2 this title authorizing the executive session.

3 C. In addition to the requirements for publication of public
4 notice pursuant to this section, a public body or other governmental
5 entity shall publish any required notice on the website of the
6 public body or governmental entity, if available.

7 SECTION 5. AMENDATORY 28 O.S. 2011, Section 121, is
8 amended to read as follows:

9 Section 121. A. In all cases where publication of legal
10 notices is required or allowed by law, the person or official
11 desiring publication shall be required to pay:

12 1. For all matters other than tabular matter, fourteen cents
13 (\$0.14) per word for first insertion, and thirteen cents (\$0.13) per
14 word for each subsequent insertion, with each separate group of
15 numerals included in the matter to be counted as one word,
16 regardless of the number of digits involved;

17 2. Effective November 1, 2005, for all matters other than
18 tabular matter, fifteen cents (\$0.15) per word for first insertion,
19 and fourteen cents (\$0.14) per word for each subsequent insertion,
20 with each separate group of numerals included in the matter to be
21 counted as one word, regardless of the number of digits involved;
22 and

23 3. For all tabular matter, in not to exceed eight-point type,
24 including but not limited to, lists of persons, firms, and
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1 corporations whose personal property taxes are delinquent and lists
2 of lands and town lots upon which taxes are delinquent, seventy
3 cents (\$0.70) per line per newspaper column in width, for first
4 insertion, and sixty-five cents (\$0.65) per line per newspaper
5 column in width, for each subsequent insertion.

6 B. The county treasurer shall collect the cost of publication
7 of lists of lands and town lots sold for delinquent taxes at
8 original sale or resale from the individuals purchasing the lands
9 and town lots at the sale or resale involved, and shall deposit all
10 monies collected to the credit of the fund of the county which paid
11 the cost of publication. The publisher of the notice shall be paid
12 for the publication of the notice from the general fund of the
13 county or, if monies are not available in the general fund of the
14 county at the time of publication, from the "Resale-Property Fund"
15 of the county.

16 C. When a notice is required by statute to be published by a
17 state or local governmental entity more than once and is paid for by
18 the entity and the cost of publication is not paid in advance by or
19 allowed to be recouped from private parties, the governmental entity
20 may not be charged for the second and successive publications of the
21 notice at a rate greater than fifty percent (50%) of the rate
22 charged for the first publication in the series.

23 1. If a newspaper maintains an Internet website or has access
24 to a statewide Internet website established and maintained by a

1 press association that is displaying the contents of the newspaper,
2 then, at no additional charge, each notice shall be placed on the
3 newspaper's Internet website on the same day that the notice appears
4 in the printed newspaper. A hyperlink to legal notices shall be
5 provided on the front page of the newspaper's Internet website that
6 provides access to the legal notices without charge. If there is a
7 specified size and placement required for a printed legal notice,
8 the size and placement of the notice on the newspaper's Internet
9 website should optimize its online visibility in keeping with the
10 print requirement. The newspaper's Internet website shall contain a
11 search function to facilitate searching legal notices and shall
12 present the legal notices as the dominant subject matter of those
13 pages that contain such notices.

14 2. Upon request of a person, newspapers that publish notices
15 shall provide electronic mail notification to that person of legal
16 notices when such notices are printed in the newspaper and added to
17 the newspaper's Internet website. The electronic mail notification
18 shall be provided without charge and notification for the electronic
19 mail registry shall be available on the front page of the legal
20 notices section of the newspaper's Internet website. For any legal
21 notice required to be published more than once, electronic mail
22 notification required by this subsection shall apply only to the
23 first publication in the series of that notice.

1 3. Any error in the placement of a governmental legal notice on
2 a newspaper's Internet website shall be considered harmless error
3 and the requirement of proper legal notice shall be deemed to have
4 been met.

5 SECTION 6. AMENDATORY 68 O.S. 2011, Section 3106, as
6 last amended by Section 5, Chapter 25, O.S.L. 2020 (68 O.S. Supp.
7 2020, Section 3106), is amended to read as follows:

8 Section 3106. A. Except for periods governed by the provisions
9 of subsection C of Section 3148 of this title, the county treasurer,
10 according to the law, shall give notice of delinquent taxes and
11 special assessments by publication once ~~a week for two (2)~~
12 ~~consecutive weeks~~ at any time after April 1, but prior to the end of
13 September following the year the taxes were first due and payable,
14 in some newspaper in the county to be designated by the county
15 treasurer. Such notice shall contain a notification that all lands
16 on which the taxes are delinquent and remain due and unpaid will be
17 sold in accordance with Section 3105 of this title, a list of the
18 lands to be sold, the name or names of the last record owner or
19 owners as of the preceding December 31 or later as reflected by the
20 records in the office of the county assessor, which records shall be
21 updated based on real property conveyed after October 1 each year
22 and the amount of taxes due and delinquent. If the sale involves
23 property upon which is located a manufactured home the notice shall
24 contain the following language: "The sale hereby advertised

1 involves a manufactured home which may be subject to the right of a
2 secured party to repossess. A holder of a perfected security
3 interest in such manufactured home may be able to pay ad valorem
4 taxes based upon the value of the manufactured home apart from the
5 value of real property." In addition to ~~said~~ the published notice,
6 the county treasurer shall give notice by mailing to the record
7 owner of ~~said~~ the real property as of the preceding December 31 or
8 later as reflected by the records in the office of the county
9 assessor, which records shall be updated based on real property
10 conveyed after October 1 each year, a notice stating the amount of
11 delinquent taxes owed and informing the owner that the subject real
12 property will be sold as provided for in Section 3105 of this title
13 if the delinquent taxes are not paid and showing the legal
14 description of the property of the owner being sold. Failure to
15 receive ~~said~~ the notice shall not invalidate ~~said~~ the sale. The
16 county treasurer shall charge and collect in cash, cashier's check
17 or money order, in addition to the taxes, interest and penalty, the
18 publication fees as provided by the provisions of Section 121 of
19 Title 28 of the Oklahoma Statutes, and Five Dollars (\$5.00) plus
20 postage for mailing the notice, which shall be paid into the county
21 treasury or whatever fund the publication and mailing fee expenses
22 came from, and the county shall pay the cost of the publication of
23 such notice. But in no case shall the county be liable for more
24

1 than the amount charged to the delinquent lands for advertising and
2 the cost of mailing.

3 B. If personal property taxes become delinquent on a
4 manufactured home which is located on property not owned by the
5 owner of the manufactured home and the county treasurer provides
6 notice pursuant to Sections 3102 and 3103 of this title, such notice
7 shall also be sent to the last-known address of the owner of the
8 real property on which the manufactured home is located.

9 SECTION 7. AMENDATORY 68 O.S. 2011, Section 3127, is
10 amended to read as follows:

11 Section 3127. The county treasurer, according to the law, shall
12 give notice of the resale of such real estate by publication of ~~said~~
13 the notice once a week for ~~four (4)~~ two (2) consecutive weeks
14 preceding such sale, in some newspaper, or newspaper Internet
15 website as described in Section 106 of Title 25 of the Oklahoma
16 Statutes, having been ~~continuously published one hundred four (104)~~
17 ~~consecutive weeks with admission to the United States mails as~~
18 ~~second-class mail matter, with paid circulation and published in the~~
19 ~~county where delivered to the mails, to be designated by the county~~
20 treasurer; and if there be no paper published in the county, or
21 publication is refused, the county treasurer shall give notice by
22 written or printed notice posted on the door of the courthouse.
23 Such notice shall contain a description of the real estate to be
24 sold, the name of the record owner of ~~said~~ the real estate as of the

1 preceding December 31 or later as shown by the records in the office
2 of the county assessor, which records shall be updated based on real
3 property conveyed after October 1 each year, the time and place of
4 sale, a statement of the date on which ~~said~~ the real estate taxes
5 first became due and payable as provided for in Section 2913 of this
6 title, the year or years for which taxes have been assessed but
7 remain unpaid and a statement that the same has not been redeemed,
8 the total amount of all delinquent taxes, costs, penalties and
9 interest accrued, due and unpaid on the same, and a statement that
10 such real estate will be sold to the highest bidder for cash. It
11 shall not be necessary to set forth the amount of taxes, penalties,
12 interest and costs accrued each year separately, but it shall be
13 sufficient to publish the total amount of all due and unpaid taxes,
14 penalties, interest and costs. The county treasurer shall, at least
15 thirty (30) days prior to such resale of real estate, give notice by
16 certified mail, by mailing to the record owner of ~~said~~ the real
17 estate, as shown by the records in the county assessor's office,
18 which records shall be updated based on real property conveyed after
19 October 1 each year, and to all mortgagees of record of ~~said~~ the
20 real estate a notice stating the time and place of ~~said~~ the resale
21 and showing the legal description of the real property to be sold.
22 If the county treasurer does not know and cannot, by the exercise of
23 reasonable diligence, ascertain the address of any mortgagee of
24 record, then the county treasurer shall cause an affidavit to be

1 filed with the county clerk, on a form approved by the State Auditor
2 and Inspector, stating such fact, which affidavit shall suffice,
3 along with publication as provided for by this section, to give any
4 mortgagee of record notice of such resale. Neither failure to send
5 notice to any mortgagee of record of ~~said~~ the real estate nor
6 failure to receive notice as provided for by this section shall
7 invalidate the resale, but the resale tax deed shall be ineffective
8 to extinguish any mortgage on ~~said~~ the real estate of a mortgagee to
9 whom no notice was sent. Beginning on April 24, 2008, no
10 encumbrancer of real property in this state shall be permitted to
11 file any instrument purporting to encumber real property in any
12 county of the state with any county clerk unless the instrument
13 states on its face the mailing address of such encumbrancer.

14 SECTION 8. This act shall become effective November 1, 2021.

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