

LEGAL NOTICE REVISIONS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

House Sponsor: Logan Wilde

LONG TITLE

General Description:

This bill amends legal notice publication requirements.

Highlighted Provisions:

This bill:

- defines average advertisement rate;
- permits a person to satisfy a part of legal notice publication requirements, in certain circumstances, by serving legal notice directly on all parties to whom legal notice is required;
- amends restrictions on newspapers in relation to legal notices; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

45-1-101, as last amended by Laws of Utah 2011, Chapter 422

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **45-1-101** is amended to read:

45-1-101. Legal notice publication requirements.

(1) As used in this section:

(a) "Average advertisement rate" means:

(i) in determining a rate for publication on the public legal notice website or in a newspaper that primarily distributes publications in a county of the third, fourth, fifth, or sixth class, a newspaper's gross advertising revenue for the preceding calendar quarter divided by the gross column-inch space used in the newspaper for advertising for the previous calendar quarter[-]; or

(ii) in determining a rate for publication in a newspaper that primarily distributes publications in a county of the first or second class, a newspaper's average rate for all qualifying advertising segments for the preceding calendar quarter for an advertisement:

(A) published in the same section of the newspaper as the legal notice; and

(B) of the same column-inch space as the legal notice.

(b) "Column-inch space" means a unit of space that is one standard column wide by one inch high.

(c) "Gross advertising revenue" means the total revenue obtained by a newspaper from all of its qualifying advertising segments.

(d) (i) "Legal notice" means:

(A) a communication required to be made public by a state statute or state agency rule; or

(B) a notice required for judicial proceedings or by judicial decision.

(ii) "Legal notice" does not include:

(A) a public notice published by a public body in accordance with the provisions of Sections 52-4-202 and 63F-1-701; or

(B) a notice of delinquency in the payment of property taxes described in Section 59-2-1332.5.

(e) "Local district" is as defined in Section 17B-1-102.

(f) "Public legal notice website" means the website described in Subsection (2)(b) for the purpose of publishing a legal notice online.

(g) (i) "Qualifying advertising segment" means, except as provided in Subsection

(1)(g)(ii), a category of print advertising sold by a newspaper, including classified advertising, line advertising, and display advertising.

(ii) "Qualifying advertising segment" does not include legal notice advertising.

(h) "Special service district" is as defined in Section 17D-1-102.

(2) Except as provided in Subsections (8) and (9), notwithstanding any other legal notice provision established by law, a person required by law to publish legal notice shall publish the notice:

(a) (i) as required by the statute establishing the legal notice requirement; ~~and~~ or

(ii) by serving legal notice, by certified mail or in person, directly on all parties for whom the statute establishing the legal notice requirement requires legal notice, if:

(A) the direct service of legal notice does not replace publication in a newspaper that primarily distributes publications in a county of the third, fourth, fifth, or sixth class;

(B) the statute clearly identifies the parties;

(C) the person can prove that the person has identified all parties for whom notice is required; and

(D) the person keeps a record of the service for at least two years; and

(b) on a public legal notice website established by the combined efforts of Utah's newspapers that collectively distribute newspapers to the majority of newspaper subscribers in the state.

(3) The public legal notice website shall:

(a) be available for viewing and searching by the general public, free of charge; and

(b) accept legal notice posting from any newspaper in the state.

(4) A person that publishes legal notice as required under Subsection (2) is not relieved from complying with an otherwise applicable requirement under Title 52, Chapter 4, Open and Public Meetings Act.

(5) If legal notice is required by law ~~[to be published]~~ and one option for complying with the requirement is publication in a newspaper, or if a local district or a special service district publishes legal notice in a newspaper, the newspaper:

(a) may not charge more for publication than the newspaper's average advertisement rate; and

(b) shall publish the legal notice on the public legal notice website at no additional cost.

(6) If legal notice is not required by law ~~[to be published]~~, if legal notice is required by law and the person providing legal notice, in accordance with the requirements of law, chooses not to publish the legal notice in a newspaper, or if a local district or a special service district with an annual operating budget of less than \$250,000 chooses to publish a legal notice on the public notice website without publishing the complete notice in the newspaper, a newspaper:

(a) may not charge more than an amount equal to 15% of the newspaper's average advertisement rate for publishing five column lines in the newspaper to publish legal notice on the public legal notice website;

(b) may not require that the legal notice be published in the newspaper; and

(c) at the request of the person publishing on the legal notice website, shall publish in the newspaper up to five column lines, at no additional charge, that briefly describe the legal notice and provide the web address where the full public legal notice can be found.

(7) If a newspaper offers to publish the type of legal notice described in Subsection (5), it may not refuse to publish the type of legal notice described in Subsection (6).

(8) Notwithstanding the requirements of a statute that requires the publication of legal notice, if legal notice is required by law to be published by a local district or a special service district with an annual operating budget of \$250,000 or more, the local district or special service district shall satisfy its legal notice publishing requirements by:

(a) mailing a written notice, postage prepaid:

(i) to each voter in the local district or special service district; and

(ii) that contains the information required by the statute that requires the publication of legal notice; or

(b) publishing the legal notice in a newspaper and on the legal public notice website as described in Subsection (5).

114 (9) Notwithstanding the requirements of a statute that requires the publication of legal
115 notice, if legal notice is required by law to be published by a local district or a special service
116 district with an annual operating budget of less than \$250,000, the local district or special
117 service district shall satisfy its legal notice publishing requirements by:

118 (a) mailing a written notice, postage prepaid:

119 (i) to each voter in the local district or special service district; and

120 (ii) that contains the information required by the statute that requires the publication of
121 legal notice; or

122 (b) publishing the legal notice in a newspaper and on the public legal notice website as
123 described in Subsection (5); or

124 (c) publishing the legal notice on the public legal notice website as described in
125 Subsection (6).