

LEGAL NOTICE AND PUBLISHING REQUIREMENTS - BACKGROUND MEMORANDUM

House Concurrent Resolution No. 3014 (2017) ([appendix](#)) provides for a study of the various legal notice and publishing requirements of all state agencies and political subdivisions, the related costs, and potential notification alternatives.

BACKGROUND

North Dakota Century Code Section 46-05-01 requires newspapers in the state to meet three qualifications before the newspaper is qualified to publish a legal notice or any matter required by law to be printed or published in some newspaper in the state. The qualifications include being in circulation for at least 1 year, having at least 150 subscribers, being nonsectarian and printed in English, and having complied with the federal laws governing mailing privileges for at least 1 year. Section 46-05-03 requires the Office of Management and Budget to compute a standard price on all legal notices, which are widely published such as ballots, insurance statements, and official proclamations. Section 46-05-06 provides any person that violates the printing requirements is liable to a fine of at least \$25 and may be required to forfeit all proceeds from the unlawful printing.

Section 46-06-01 requires the electors of each county to select one newspaper, every 4 years, to be the official newspaper. Section 46-06-02 provides "a newspaper is qualified to serve as an official newspaper if it meets all the requirements of a legal newspaper set forth in section 46-05-01 and maintains its principal editorial office within the county in which it is a candidate for official newspaper." Section 46-06-02 also provides that if a county does not have a newspaper in which the principal editorial office is also located in the county, a newspaper published in an adjoining county with general circulation in the original county is qualified to serve as that county's official newspaper.

Various Notice Requirements

State agencies have spent an estimated \$3.7 million in recent bienniums for publishing legal notices. A general search of Century Code generated over 4,000 references to "notice" and "legal notice" including:

- Sample ballot - Section 16.1-11-21 requires the county auditor to publish in the official county newspaper notice of a primary election and a copy of the sample ballot for a primary election.
- Sample ballot - Section 16.1-13-05 requires the county auditor to publish in the official county newspaper notice of all general elections and a copy of the sample ballot.
- Issuing bonds - Section 21-03-26 requires the municipality to publish in the official newspaper of the municipality a notice calling for bids for each proposed issue of municipal bonds.
- Rulemaking - Section 28-32-10 requires an agency proposing an adoption, amendment, or repeal of a rule to publish notice at least once in each official county newspaper published in the state.
- Publication of minutes - Section 40-01-09.1 requires the governing body of a municipality to publish in the official newspaper of the municipality complete minutes or a complete summary of a meeting.
- Sale of real property - Section 40-11-04.1 requires a municipality to publish a notice in the city's official newspaper which contains a description of real property of the city to be sold and designates the place where and the day and hour when the sale will be held.
- Election notice - Section 41-21-02 requires the city auditor to publish in the official newspaper of the city notice of the time and place of an election and of the offices to be filled at the election.
- Agreements between public agencies and Indian tribes - Section 54-40.2-03.1 requires the public agency involved in an agreement to publish a notice containing a summary of the agreement in the official newspaper of each county of the state reasonably expected to be affected by the agreement and in any newspaper of general circulation for the benefit of the members of any tribe affected by the agreement.
- Estimated property tax - Section 57-15-02.2 requires the county treasurer to provide written notice to the owner of each parcel of taxable property with a total estimated property tax of at least \$100. Delivery of written notice must be by personal delivery to the property owner, mail addressed to the property owner, or electronic mail to the property owner directed with verification of receipt to an electronic mail address that the property owner has consented to receive notice.
- Rights of county when land not redeemed - Section 57-28-06 requires the county auditor to publish in the official newspaper notice of foreclosure of all property which notice is served upon the owner by certified mail.

- Appropriation of water - Section 61-04-04 requires the State Engineer to publish notice of an application that complies with Chapter 61-04 in the official newspaper of the county where the proposed appropriation site is located.

PROPOSED STUDY APPROACH

The committee may consider gathering information from various political subdivisions, state agencies, and the North Dakota Newspaper Association to develop a better understanding of the legal notice process and costs associated with publication and determine if other viable notification alternatives exist for a lower cost.

ATTACH:1