

ADMINISTRATIVE RULES NEWSPAPER PUBLICATION COSTS COMPARISON - CURRENT COSTS VERSUS 1997-98 COSTS

This memorandum compares agency rulemaking newspaper notice publication costs under the current statutory requirement and the previous publication requirement, which was amended in 1999. The current statutory provision governing notice publication is contained in North Dakota Century Code (NDCC) Section 28-32-10, which provides in part:

1. An agency shall prepare a full notice and an abbreviated notice of rulemaking.
 - a. The agency's full notice of the proposed adoption, amendment, or repeal of a rule must include a short, specific explanation of the proposed rule and the purpose of the proposed rule, a determination of whether the proposed rulemaking is expected to have an impact on the regulated community in excess of fifty thousand dollars, identify at least one location where interested persons may review the text of the proposed rule, provide the address to which written data, views, or arguments concerning the proposed rule may be sent, provide a telephone number at which a copy of the rules and regulatory analysis may be requested, and, in the case of a substantive rule, provide the time and place set for each oral hearing. The agency's full notice must be filed with the office of the legislative council, and **the agency shall request publication of an abbreviated newspaper publication notice at least once in each official county newspaper published in this state.** The notice filed with the office of the legislative council must be accompanied by a copy of the proposed rules.
 - b. **The abbreviated newspaper publication of notice must be in a display-type format with a minimum width of one column of approximately two inches [5.08 centimeters] and a depth of from three inches [7.62 centimeters] to four inches [10.16 centimeters] with a headline**

describing the general topic of the proposed rules. The notice must also include the address and telephone number to use to obtain a copy of the proposed rules or to submit written comments and the location, date, and time of the public hearing on the rules. (emphasis supplied)

Before 1999 the publication requirement in NDCC Section 28-32-02 required that the agency's notice of rulemaking was to be published in full once each week for two consecutive weeks in each daily newspaper of general circulation published in this state.

In seeking information on publication costs reported to the Administrative Rules Committee by agencies, it is not always apparent how much of reported costs are expended for newspaper publication costs. In some instances, agencies have reported extremely high costs of publication and holding a public hearing, e.g., reported notice and hearing costs for seven rulemaking proceedings in 1997-98 and four rulemaking proceedings in 2001-02 were in excess of \$2,000. It appears likely that some of these reported costs included costs other than newspaper publication costs. Based on rules reviewed by the Administrative Rules Committee from July 29, 1997, through September 30, 1998, which was the interim before the change in the publication requirement from daily newspapers to all county newspapers, and the reports received by the Administrative Rules Committee from July 26, 2001, through July 17, 2002, the following comparisons can be made:

Rules Review Period	Sets of Rules Reviewed	Total Cost Reported	Average Cost Per Rulemaking Action
July 29, 1997, to September 30, 1998	106	\$81,062	\$765
July 26, 2001, to July 17, 2002	59	\$68,653	\$1,164

Based on rates per column inch provided by the North Dakota Newspaper Association for publication of legal notices, it appears the current costs for one publication in each county newspaper would be \$828 for a three-inch publication and \$1,104 for a four-inch publication. Based on the rates provided for two weekly publications in the 10 daily newspapers, the comparable costs would be \$396 for a three-inch publication and \$528 for a four-inch publication.