

No. 92, A.]

[Published October 24, 1961.

CHAPTER 586

AN ACT to repeal 62.10 (5), 331.25 and 331.26; to renumber 35.63, 35.64, 328.19, 331.23 and 331.24; to renumber and amend 62.10 (1) to (4), 331.19, 331.20, 331.21, 331.22, 331.27 and 331.275; to amend 35.01 (5), 35.56 (subheading following), 35.68, 35.69 (2) and 985.12 (1), as renumbered; and to create title XLVIII and chapter 985 of the statutes, relating to official newspapers, a separate chapter containing provisions governing required newspaper publication and related matters.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 35.01 (5) of the statutes is amended to read:

35.01 (5) Class 5 * * * *Legal notices.*

SECTION 2. The subheading following 35.56 of the statutes is amended to read:

LEGAL NOTICES; CLASS 5.

SECTION 3. 35.63 of the statutes is renumbered 985.04 (1).

SECTION 4. 35.64 of the statutes is renumbered 985.04 (2).

SECTION 5. 35.68 of the statutes is amended to read:

35.68 REQUISITION PROCEDURE. The secretary of state shall provide printer's copy for the printing * * * of all laws in newspapers. Every state agency required by law to publish any matter in a newspaper shall furnish printer's copy to the director with requisition therefor. All such printing shall be in the English language. * * *

SECTION 6. 35.69 (2) of the statutes is amended to read:

35.69 (2) The costs of publication * * * of legal notices shall, unless otherwise provided by law, be charged to the appropriation of the agency on whose order such publication is made.

SECTION 7. 62.10 (1) to (4) of the statutes are renumbered 985.06 (1) to (4) and amended to read:

985.06 OFFICIAL CITY NEWSPAPER. (1) In cities of the second and third class, the clerk shall, on or before the second Tuesday of April, advertise in the official city newspaper, or if there * * * is none, in a newspaper published in the city and eligible under s. 985.03, for separate proposals to publish in English (a) the council proceedings, and (b) the * * * city's legal notices, respectively, for the ensuing year, inviting bids from all daily and weekly newspapers * * * published * * * in such city * * * which are eligible under s. 985.03, also stating the security required with each bid, which shall be previously fixed by the council, and requiring delivery of the bids in writing, sealed, at the clerk's office by 12 * * * noon of the first Tuesday of May. At that hour, the clerk shall, in the presence of the mayor or an alderman, open the bids and enter them in a record kept for that purpose. No bid from other than a newspaper legally invited to bid, or for more than the legal rate for like work, shall be of any effect. The paper making the lowest effective bid for * * * the city's legal notices shall be awarded the contract therefor. If 2 or more effective bids are for the same price, and no lower effective bid is filed, the clerk shall transmit such tie bids to the council at its next meeting and the council shall designate the successful bid. If no effective bid * * * is received, the council may direct the clerk to readvertise as before. Each successful bidder shall execute a contract in accordance with the bid and file such bond for its performance as the council * * * requires. No such paper shall receive more or less than the contract price nor any other compensation for the work. The paper securing the contract for the * * * publishing of the city's legal notices shall be the official city newspaper.

(2) In cities of the fourth class, the council, at its first meeting or as soon as may be, shall designate one or more newspapers eligible under s. 985.03 and published in the city, if any, otherwise published in the county and having a general circulation in the city, for publication of the council proceedings and as the official city newspaper for the publication of the * * * city's legal notices for the ensuing year. The council shall fix the price at not to exceed the legal rate for like work * * *.

(3) The publisher, before the claim for the publication is audited, shall file with the clerk proof of publication by affidavit of the printer or foreman, attached to a copy of the matter published, stating the date or dates of publication. Such affidavit shall be conclusive evidence of publication for the purpose of audit.

(4) If for any reason any city * * * is at any time * * * without an official city newspaper, matters required to be published * * * shall be published in * * * a newspaper * * * eligible under s. 985.03, designated by the council, at not more than the legal rate for like work * * *.

SECTION 8. 62.10 (5) of the statutes is repealed.

SECTION 9. 328.19 of the statutes is renumbered 985.12 and 985.12 (1), as renumbered, is amended to read:

985.12 (1) The affidavit of the editor, publisher, printer or proprietor of any newspaper, or of his foreman or principal clerk, of the publication of any legal notice * * *, annexed to a copy of such notice * * * clipped from such newspaper, and specifying the * * * *date of each publication*, and the paper in which it was published, shall be received in all cases as presumptive evidence of such publication and of the facts stated therein.

SECTION 10. 331.19 of the statutes is renumbered 985.14 and amended to read:

985.14 REFUSAL TO PUBLISH. * * * When there * * * *is only one* * * * newspaper *in a county* and the publisher thereof * * * *refuses to publish* * * * a legal notice, such legal notice may be published in a newspaper printed in an adjoining county * * * ; and proof by affidavit of the reason why such publication was made in an adjoining county shall accompany the proof of publication, or the order for publication, when any is necessary, may be made or amended by the court or judge so as to designate a newspaper in an adjoining county, upon affidavit showing the necessity therefor. * * * Whenever a legal notice is required by law to be published in a newspaper in any county having a village or city situated partly in said county and partly in an adjoining county where there is no newspaper printed in such village or city within the county first mentioned, but there * * * *is a newspaper published in such village or city within such adjoining county*, such notice may be published in such last mentioned newspaper * * * .

SECTION 11. 331.20 of the statutes is renumbered 985.03 and amended to read:

985.03 QUALIFICATIONS OF NEWSPAPERS. (1) No publisher of any newspaper * * * in * * * *this state* * * * shall be awarded or be entitled to any compensation or fee for the publishing of any legal notice * * * unless, for at least 2 years immediately before the date of such notice, * * * such newspaper has had * * * a bona fide paid circulation to actual subscribers of not less than 300 copies at each publication, if in *towns or villages* or in cities of the third and fourth class, and 1,000 copies in cities of the first and second class, and further that such newspaper shall have been regularly and continuously published in such city, village, * * * *or town* * * * for at least 2 years immediately before the date of such notice * * * . *Suspension of publication resulting from the mobilization of troops or being called to active duty with the armed forces shall not count as an interval in publication.* A newspaper in the contemplation of this * * * *subsection* is a publication appearing at regular intervals, which shall be at least once a week, containing reports of happenings of recent occurrence of a varied character, such as political, social, moral and religious subjects, and designed for the information of the general reader. Such definition shall include a daily newspaper published in a county having a population of 500,000 or more, devoted principally to business news and publishing of records, which has been designated by the courts of record of said county for publication of legal notices for a period of 6 years or more * * * .

(2) Any person charged with the duty of causing legal notices * * * to be published, and who * * * *causes* any legal notice * * * , to be published in any newspaper * * * not eligible to so publish under the requirements of sub. (1) * * * , or who * * * *fails* to cause such legal notice * * * to be published in any * * * *newspaper eligible under this section*, may be * * * *fined* not to exceed * * * \$100 for each offense. * * * *Each day in which a legal*

notice should have been but was not published as required by law shall constitute a separate offense hereunder. A newspaper in order to be eligible under this section shall also file a certificate with the county clerk stating that it qualifies under this section.

SECTION 12. 331.21 of the statutes is renumbered 985.13 (2) and amended to read:

985.13 (2) * * * *When a newspaper * * * ceases to be * * * published * * * before the publication of * * * a legal notice * * * is commenced, or when commenced * * * ceases before such publication is completed, the order for publication, when one is required in the first instance, may be amended by order of the court or judge, on proof of the fact by affidavit, so as to designate another newspaper, as may be necessary; and if no order is required in the first instance such publication may be made or completed in any other newspaper; and any time during which such notice * * * is published in the first newspaper shall be reckoned a part of the time required for the publication thereof, proof of which may be made by affidavit of any person acquainted with the facts. The second newspaper may be one published in an adjoining county in the cases mentioned in * * * s. 985.14.*

SECTION 13. 331.22 of the statutes is renumbered 985.13 (1) and amended to read:

985.13 CHANGE OF NAME OR DISCONTINUANCE OF PAPER.

(1) Whenever a legal notice * * * is required or ordered to be published in a particular newspaper and the name of such newspaper * * * is changed before such publication is commenced or before it * * * is completed, the publication shall be made or continued in the newspaper under its new name with the same effect as if the name had not been changed. The proof of the publication, *in addition to other requirements*, shall state the change of name and specify the period of publication in such newspaper under each name.

SECTION 14. 331.23 of the statutes is renumbered 985.09.

SECTION 15. 331.24 of the statutes is renumbered 985.15.

SECTION 16. 331.25 and 331.26 of the statutes are repealed.

SECTION 17. 331.27 of the statutes is renumbered 985.10 and amended to read:

985.10 PUBLICATION ON SUNDAY. Any *legal notice * * ** may be * * * published in a newspaper printed on Sunday, and such * * * publication * * * is a lawful publication and a full compliance with the order of the court or officer ordering such publication * * * ; and any such notice * * * that may, by law or the order of any court, be required to be published for any given number of weeks may be published on any day in each week of such term, and if so published as many weeks and as many times in each week as may be required by such law or order, * * * it shall be * * * a lawful * * * publication thereof * * * .

SECTION 18. 331.275 of the statutes is renumbered 985.11 and 985.11 (1), as renumbered, is amended to read:

985.11 FEES AND WORK ON SUNDAY. (1) In any action to recover compensation for * * * *publication of legal notices*, it shall be no defense that such * * * *publication* was * * * dated, printed or issued on the first day of the week.

SECTION 19. Title XLVIII and chapter 985 of the statutes are created to read:

TITLE XLVIII.

NEWSPAPER PUBLICATION.

CHAPTER 985.

PUBLICATION OF LEGAL NOTICES; PUBLIC
NEWSPAPERS; FEES.

- | | |
|--|---|
| 985.01 Definitions. | |
| 985.02 Method of notification. | 985.09 Computation of time, Sundays and legal holidays. |
| 985.03 Qualifications of newspapers. | 985.10 Publication on Sunday. |
| 985.04 Official state newspaper. | 985.11 Fees and work on Sunday. |
| 985.05 Official municipal newspapers. | 985.12 Proof of publication. |
| 985.06 Official city newspaper. | 985.13 Change of name or discontinuance of paper. |
| 985.07 Classes and frequency of legal notices. | 985.14 Refusal to publish. |
| 985.08 Fees for publishing. | 985.15 Forfeiture for refusal to publish. |

985.01 DEFINITIONS. As used in this chapter, unless the context requires otherwise:

(1) The term "legal notice" is every notice required by law or by order of a court to be published in a newspaper and includes:

(a) Every publication of laws, ordinances, resolutions, financial statements, budgets and proceedings intended to give notice in an area;

(b) Every notice and certificate of election, facsimile ballot, referendum, notice of public hearing before a governmental body, and notice of meetings of private and public bodies required by law; and

(c) Every summons, order, citation, notice of sale or other notice which is intended to inform a person that he may or shall do an act or exercise a right within a designated period or upon or by a designated date.

(d) The provisions of this chapter do not apply to notices required by private and local laws to be published in newspapers.

(2) (a) "Proceedings", when published in newspapers, mean the substance of every official action taken by a local governing body at any meeting, regular or special.

(b) "Substance" is an intelligible abstract or synopsis of the essential elements of the official action taken by a local governing body, including the subject matter of a motion, the persons making and seconding the motion and the roll call vote on the motion.

(c) Ordinances and resolutions published as required by law need not be republished in proceedings, but a reference to their subject matter shall be sufficient.

985.02 METHOD OF NOTIFICATION. Except as otherwise provided by law, a legal notice shall be published in a newspaper likely to give notice in the area or to the person affected.

985.05 OFFICIAL MUNICIPAL NEWSPAPERS. (1) The governing body of every municipality required by law to publish any legal notice in a newspaper may designate a newspaper eligible under s. 985.03 as its official newspaper. If there is no newspaper published in the municipality, the governing body may designate a newspaper eligible under s. 985.03, having general circulation in the area, or shall publish or post in such manner as the governing body directs.

(2) As used in this section "municipality" has the meaning in s. 345.05 (1) (a) and "governing body" the meaning in s. 345.05 (1) (b) with reference to such municipality.

985.08 FEES FOR PUBLISHING. (1) The fee for publishing a legal notice shall be not more than 11 cents per standard line for the first insertion and not more than 9 cents per standard line for each subsequent insertion. The charge for the publication of a facsimile ballot shall be computed as if the area occupied by the ballot were set in standard lines. If a legal notice contains tabulated matter, then the fees allowable for the area containing such matter shall be increased 50 per cent. Composed matter shall be interpreted as being tabular when it contains 3 or more justifications per line.

(2) A standard line shall be 6-point Spartan lightface set on a 6-point slug without spacing between the lines, and 11 picas in length. Nonstandard type faces and line lengths shall be allowed with adjustments in fees according to variations in type set and line length. When a publisher does not have, or elects not to use a 6-point body type, a larger body type may be used; in which case adjustment shall be made in line rate, proportionately decreasing for sizes of type over 6-point to produce the same net average compensation per column area. Such adjustments shall be evaluated by the department of administration which shall certify the same to any newspaper, public official or other interested party upon request, and such certification shall be presumptive evidence of the correct adjustments.

(3) The publisher may increase rates allowed by this section up to 15 per cent for each 4,000 of circulation or fraction thereof above 8,000 of circulation, based on previous year-end circulation figures, but not to exceed an additional increase of 75 per cent.

(4) In all counties having a population of 500,000 or more, the fees for the publication of a legal notice may be equal to, but not in excess of, the regular publishing rate actually required of private advertisers for similar advertising matter.

(5) Except as otherwise provided in this section, no fee shall be paid and no public funds shall be used for subsidizing any privately owned newspaper for payment for any legal notice, which newspaper has not previously qualified as a public newspaper as defined in s. 985.03.

(6) In addition to required legal notice, the requisitioning agency may also publish such notice in other media such as trade journals, but such additional notice shall not be construed as a legal notice.

(7) Fees established herein are applicable to legal notices and are not intended to restrict the use of classified and display advertising which is not required by statute to be published or legal notices which the requisitioning agency orders to be published in a classified or display manner. The discretion of utilizing the display method of publishing official materials shall be vested solely in the public authority ordering such publication and the rate charged for publication in this instance shall not exceed the regular commercial display advertising rate of the publisher.

(8) This chapter shall apply to all legal notices the first publication of which occurs after December 31, 1961.

Approved October 17, 1961.