



2003 ASSEMBLY BILL 546

September 30, 2003 - Introduced by Representatives JESKEWITZ, AINSWORTH, KERKMAN, KESTELL, ALBERS, GRONEMUS, SUDER, BIES, GUNDRUM, GUNDERSON, HINES, STONE and M. LEHMAN, cosponsored by Senators LAZICH and STEPP. Referred to Committee on Judiciary.

1 **AN ACT** *to renumber and amend* 985.03 (2); *to amend* 985.01 (5) and 985.14;
2 *to repeal and recreate* 985.03 (1) (a); and *to create* 985.03 (3) of the statutes;
3 **relating to:** the qualifications of newspapers permitted to publish legal
4 notices.

Analysis by the Legislative Reference Bureau

Under current law, a newspaper must meet certain qualifications to be eligible to receive compensation for publishing legal notices. Currently, to receive that compensation, a newspaper must have been published regularly and continuously in the city, village, or town where published for at least two of the last five years. In addition, the newspaper must have a paid circulation that is at least 50% of its circulation and have actual subscribers of not less than 1,000 copies if in a first or second class city, or 300 copies if in a third or fourth class city or in a village or town.

Under this bill, newspapers that have been in existence for at least two years and are published and delivered, without requiring a subscription fee, to 80% of the households and businesses in the newspaper's coverage area are also eligible to receive compensation for publishing legal notices for cities, villages, and towns. Also, these free newspapers are not required to publish news.

The bill also allows a second, third, or fourth class city, village, town, sewerage district, school district, drainage district, or county (municipality) to designate a newspaper as the official newspaper for publishing legal notices even if the newspaper does not meet the other statutory requirements if the newspaper is published at least weekly and is determined, after a public hearing, to give better

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notice to more people affected by the notice than a newspaper that does meet the other statutory requirements. The municipality's governing body must consider certain criteria in designating the official newspaper, such as the newspaper's cost and frequency of publication.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 985.01 (5) of the statutes is amended to read:

2 985.01 (5) A newspaper is “published” at the place from which its mailing
3 permit is issued, ~~except that if the place where the newspaper has its major~~
4 ~~concentration of circulation has no primary post office, then at the place it shall~~
5 ~~designate that the newspaper designates~~ as its place of publication in the affidavit
6 certificate required by s. 985.03 (2), but no newspaper shall have more than one place
7 of publication during the same period of time.

8 **SECTION 2.** 985.03 (1) (a) of the statutes is repealed and recreated to read:

9 985.03 (1) (a) Except as provided in sub. (3), no publisher of any newspaper in
10 this state shall be awarded or be entitled to any compensation or fee for the
11 publishing of any legal notice unless one of the following conditions are met:

12 1. For at least 2 of the 5 years immediately before the date of the notice
13 publication, the newspaper has been published regularly and continuously, has had
14 a bona fide paid circulation that has constituted 50% or more of its circulation, and
15 has had actual subscribers at each publication of not less than 1,000 copies in 1st and
16 2nd class cities, or 300 copies if in 3rd and 4th class cities, villages, or towns.

17 2. For at least 2 continuous years the newspaper has been in existence and has
18 been published and delivered, without requiring a subscription fee, to at least 80%
19 of the households and businesses in the newspaper's coverage area, which includes

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1 the city, village, or town that uses the newspaper to publish a legal notice, as
2 demonstrated by an annual, independent audit. Notwithstanding s. 985.03 (1) (c),
3 a newspaper under this subdivision is not required to contain at least 4 pages or 20%
4 of the publication space, whichever is greater, of reports of happenings of recent
5 occurrence of a varied character, such as political, social, moral, and religious
6 subjects, designed to inform the general reader.

7 **SECTION 3.** 985.03 (2) of the statutes is renumbered 985.03 (2) (a) and amended
8 to read:

9 985.03 (2) (a) Any person charged with the duty of causing legal notices to be
10 published, and who causes any legal notice, to be published in any newspaper not
11 eligible to so publish under the requirements of sub. (1) or (3), or who fails to cause
12 such legal notice to be published in any newspaper eligible under this section, may
13 be fined not to exceed \$100 for each offense. Each day in which a legal notice should
14 have been but was not published as required by law shall constitute a separate
15 offense hereunder. This penalty does not apply if the person also publishes the same
16 legal notice in a newspaper eligible to publish a legal notice under sub. (1) or (3).

17 (b) A newspaper, in order to be eligible to publish a legal notice under this
18 section, shall also file a certificate with the county clerk stating that it qualifies
19 under this section and stating its place of publication.

20 **SECTION 4.** 985.03 (3) of the statutes is created to read:

21 985.03 (3) Notwithstanding sub. (1), a 2nd, 3rd, or 4th class city, or a village,
22 town, school district, sewerage district, drainage district, or county may designate
23 as an official newspaper for publishing legal notices any newspaper that is published
24 at least once a week in the area where the city, village, town, school district, sewerage
25 district, drainage district, or county is located if the governing body of that political

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1 subdivision finds, after a public hearing, that the designated newspaper would
2 generally give better notice to more persons affected by the notice than a newspaper
3 qualified to publish a legal notice under sub. (1). In designating an official
4 newspaper under this subsection, the governing body of the city, village, town, school
5 district, sewerage district, drainage district, or county shall consider all of the
6 following criteria:

7 (a) The cost of the newspaper.

8 (b) The frequency of the newspaper's publication.

9 (c) The number of residents who receive the newspaper, as determined by an
10 independent audit.

11 (d) The extent to which the newspaper covers news related specifically to the
12 city, village, town, school district, sewerage district, drainage district, or county.

13 **SECTION 5.** 985.14 of the statutes is amended to read:

14 **985.14 Refusal to publish.** When there is only one newspaper in a county and
15 the publisher thereof refuses to publish a legal notice, such or if there is no
16 newspaper in the county that is qualified to publish a legal notice under s. 985.03,
17 the legal notice may be published in a newspaper printed in an adjoining county; and
18 proof. Proof by affidavit of the reason why such publication was made in an adjoining
19 county shall accompany the proof of publication, or the order for publication, when
20 any is necessary, may be made or amended by the court or judge so as to designate
21 a newspaper in an adjoining county, upon affidavit showing the necessity therefor.
22 Whenever a legal notice is required by law to be published in a newspaper in any
23 county having a village or city situated partly in said that county and partly in an
24 adjoining county where and there is no newspaper printed in such that village or city
25 within the county first mentioned, but there is a newspaper published in such that

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1 village or city within ~~such~~ the adjoining county, ~~such~~ the notice may be published in
2 ~~such last mentioned~~ that newspaper.

3 (END)