

TITLE XLVIII.

Newspaper Publication.

CHAPTER 985.

PUBLICATION OF LEGAL NOTICES; PUBLIC NEWSPAPERS; FEES.

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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, referenda, 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.

History: 1961 c. 586 s. 19.

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.

History: 1961 c. 586 s. 19.

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.

History: 1961 c. 586 s. 11.

See note to 40.025, citing *Bartlett v. Joint County School Comm.* 11 W (2d) 588, 106 NW (2d) 295.

985.04 Official state newspaper; publication of laws. (1) The legislature shall declare some newspaper published in Wisconsin to be the official state paper, which shall publish all the laws, advertisements, proclamations and communications required to be published. Any such publication from any of the state agencies shall be deemed official. Until a further designation is made the Wisconsin State Journal, Madison, is declared to be the official state paper.

(2) Every law shall be published once in the official state paper immediately after its approval, in type not smaller than 6 point, and the costs charged to the legislature.

History: 1961 c. 586 ss. 3, 4.

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.

History: 1961 c. 586 s. 19.

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.

History: 1961 c. 586 s. 7.

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 of the standard line base rate without adjustment for circulation premium. 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. A 5½-point type face set on a 6-point slug shall be acceptable in lieu of a standard line, but the rate for the 5½-point type line shall not exceed the rate for a standard line as set forth in sub. (1).

(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.

History: 1961 c. 586 s. 19; 1961 c. 657.

985.09 Computation of time, Sundays, legal holidays. (1) The time for publication of legal notices shall be computed so as to exclude the first day of publication and include the day on which the act or event, of which notice is given, is to happen or which completes the full period required for publication.

(2) The time within which an act is to be done or proceeding had or taken, as prescribed by the rules of procedure, shall be computed by excluding the first day and including the last; if the last day be Sunday or a legal holiday the party shall have the next secular day in which to do the act or take such proceeding.

History: 1961 c. 586 s. 14.

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.

History: 1961 c. 586 s. 17.

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.

(2) In any action to recover compensation for labor performed on any newspaper, dated, published or issued on the first day of the week, it shall be no defense that such labor was performed on the first day of the week.

History: 1961 c. 586 s. 18.

985.12 Proof of publication. (1) **AFFIDAVIT OF PRINTING.** 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.

(2) **TIME OF FILING.** Such affidavit may be filed with the proper officer at any time after the last day of the publication of such notice, unless the filing time is otherwise specified.

(3) **SAME.** The affidavit of publication of any notice of a sale of real property required by law to be published may be filed, at any time within 6 months after the last day of such publication, with the register of deeds of the county in which the premises are situated.

History: 1961 c. 586 s. 9.

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.

(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.

History: 1961 c. 586 ss. 12, 13.

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.

History: 1961 c. 586 s. 10.

985.15 Forfeiture for refusal to publish. If the publisher or printer of a newspaper shall, after payment or tender of his legal fees therefor, refuse or wilfully neglect to publish any legal notice required in pursuance of law or a lawful order of publication to be published in his newspaper, being able to make such publication, he shall forfeit \$25, one half to the party prosecuting therefor.

History: 1961 c. 586 s. 15.