

2001 ASSEMBLY BILL 591

October 29, 2001 – Introduced by Representatives DUFF, LADWIG, STARZYK, GRONEMUS, GUNDERSON, KRAWCZYK, BIES, MCCORMICK, JESKEWITZ, TURNER, AINSWORTH, M. LEHMAN, STONE, OWENS and LIPPERT. Referred to Committee on Urban and Local Affairs.

1 **AN ACT** *to renumber and amend* 985.03 (2); *to amend* 985.01 (5), 985.03 (1)
2 (c) and 985.14; *to repeal and recreate* 985.03 (1) (a); and *to create* 985.03 (3)
3 of the statutes; **relating to:** the qualifications of newspapers permitted to
4 publish legal 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 1st or 2nd class city, or 300 copies if in a 3rd or 4th 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 75% 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.

The bill also allows a 2nd, 3rd, or 4th class city, village, town, sewerage district, drainage district, or county 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 notice to more people affected by the notice than a newspaper that does meet the other statutory requirements.

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Current law defines a “newspaper,” for purposes of receiving compensation for the publication of a legal notice, as a publication that appears at regular intervals of at least once per week and that contains reports of recent happenings that are designed to inform the general reader. This bill changes that definition to require the publication to contain reports of recent happenings that are designed to inform the general reader in at least four pages or 20% of the publication space, whichever is greater. The bill requires the publication to meet this new standard in at least 33% of the publication’s issues in the six months immediately preceding the publication of the notice.

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.

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1 2. For at least 2 continuous years the newspaper has been in existence and has
2 been published and delivered, without requiring a subscription fee, to at least 75%
3 of the households and businesses in the newspaper's coverage area, which includes
4 the city, village, or town that uses the newspaper to publish a legal notice.

5 **SECTION 3.** 985.03 (1) (c) of the statutes is amended to read:

6 985.03 (1) (c) A newspaper, under this chapter, is a publication appearing at
7 regular intervals and at least once a week, containing at least 4 pages or 20% of the
8 publication space, whichever is greater, of reports of happenings of recent occurrence
9 of a varied character, such as political, social, moral and religious subjects, designed
10 to inform the general reader. The publication must meet this standard in the
11 publication's coverage area in at least 33% of the publication's issues in the 6 months
12 immediately preceding the publication of the notice. The definition includes a daily
13 newspaper published in a county having a population of 500,000 or more, devoted
14 principally to business news and publishing of records, which has been designated
15 by the courts of record of the county for publication of legal notices for a period of 6
16 months or more.

17 **SECTION 4.** 985.03 (2) of the statutes is renumbered 985.03 (2) (a) and amended
18 to read:

19 985.03 (2) (a) Any person charged with the duty of causing legal notices to be
20 published, and who causes any legal notice, to be published in any newspaper not
21 eligible to so publish under the requirements of sub. (1) or (3), or who fails to cause
22 such legal notice to be published in any newspaper eligible under this section, may
23 be fined not to exceed \$100 for each offense. Each day in which a legal notice should
24 have been but was not published as required by law shall constitute a separate

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1 offense hereunder. This penalty does not apply if the person also publishes the same
2 legal notice in a newspaper eligible to publish a legal notice under sub. (1) or (3).

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

6 **SECTION 5.** 985.03 (3) of the statutes is created to read:

7 985.03 (3) Notwithstanding sub. (1), a 2nd, 3rd, or 4th class city, or a village,
8 town, sewerage district, drainage district, or county may designate as an official
9 newspaper for publishing legal notices any newspaper that is published at least once
10 a week in the area where the city, village, town, sewerage district, drainage district,
11 or county is located if the governing body of that political subdivision finds, after a
12 public hearing, that the designated newspaper would generally give better notice to
13 more persons affected by the notice than a newspaper qualified to publish a legal
14 notice under sub. (1).

15 **SECTION 6.** 985.14 of the statutes is amended to read:

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

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1 adjoining county ~~where~~ and there is no newspaper printed in ~~such~~ that village or city
2 within the county first mentioned, but there is a newspaper published in ~~such~~ that
3 village or city within ~~such~~ the adjoining county, ~~such~~ the notice may be published in
4 ~~such last mentioned~~ that newspaper.

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(END)