

To: Legislative Council Study Committee on Publication of Government Documents and Legal Notices

From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities

Date: July 26, 2016

Re: Cost to Municipalities of Publishing Legal Notices in Newspapers

Good morning Chairperson Spiros and members of the study committee. My name is Curt Witynski. I'm the Assistant Director of the League of Wisconsin Municipalities. My main job at the League is to serve as the association's chief lobbyist. I previously served as the League's legal counsel. The League is the primary voice for incorporated municipalities in the state capitol. Our membership includes all 190 cities in the state and all but a dozen of the 411 villages in Wisconsin. Thank you for inviting me to testify before the committee at its inaugural meeting.

I'm very pleased to say that I'm joined today by Sandra Wesolowski, the longtime clerk for the City of Franklin. After I finish my testimony Sandi will describe her city's fairly typical experience with publishing legal notices in newspapers.

### **Background on Publication Requirements Applicable to Municipalities**

Municipal bodies are often required to inform the public of municipal matters by the publication or posting of legal notices. These notice requirements are found throughout the statutes. Chapter 985 of the Wisconsin statutes governs the publication of legal notices. The term "legal notice" is defined in ch. 985 to mean every notice required by law or by order of a court to be published in a newspaper or other publication and includes the publication of ordinances, resolutions, financial statements, budgets and the proceedings of governmental bodies. "Legal notices" also include election notices, notices of public hearings held by governmental bodies and certain judicial notices and notices of sale intended to inform persons of their duty or right to exercise certain rights within a specified time period. Sec. 985.01(2).

**Official newspaper.** Cities are required to designate newspapers for the publication of council proceedings and other city legal notices. Sec. 985.06. Such newspapers must be published in the city, although a fourth class city in which there is no eligible paper published may designate a newspaper published in the county and having a general circulation in the city. Sec. 985.06(2).

In contrast to cities, a village is not required but may choose to designate a newspaper published or having general circulation in the village as its official paper or use it for specific notices. Alternatively, the village board may direct that other forms of publication, such as posting in three public places, be used, except for certain situations that do require actual newspaper

publication. The statutes specifically require the publication of tax redemptions or sales, annexations, detachments, consolidations, incorporations and notices directed to specific individuals. Also, if an eligible newspaper is published in the village, village board proceedings (e.g., Board Minutes) and village ordinances imposing a forfeiture must be published in that newspaper. Wis. Stat. sec. 985.05(1).

I've provided more information on the publication requirements municipalities must comply with in a separate background document that has been distributed to the committee.

### **Cost to Municipalities of Publishing Legal Notices**

We surveyed our members last week on publication costs. We emailed an online survey link to 585 municipalities. As of yesterday, we received responses from 213 for a response rate of just over 36%. We asked the following question: How much did your municipality spend on publishing legal notices in 2015?

Responding municipalities spent a total of \$1,102,677 on publishing legal notices in 2015. The responses ranged from a low of \$0.0 in the Village of Potosi, to \$63,000 for the City of Green Bay. Responding municipalities on average spent \$5,177 on publishing legal notices in 2015. However, for reasons I'll explain later, cities spent significantly more on average than villages. Cities spent \$10,979 on average publishing legal notices in 2015. Villages spent \$1,824 on average.

By the way, these numbers closely mirror the results of a similar survey that we conducted of our members in 2004.

### **Differences between Cities and Villages**

The survey results show a substantial difference between what cities spend on publishing legal notices and the amount spent by villages. This is because villages, regardless of the size or population, have the flexibility under state law to publish legal notices in ways other than newspaper publication. All 190 cities in this state must designate an official newspaper and publish council meeting minutes, ordinances or ordinance summaries, and all other city legal notices in that newspaper. Villages need not designate an official newspaper and instead may choose to publish village legal notices by posting them in three public places or in one public place and on the village's website.

Because of this difference, large villages, such as Menomonee Falls, population 35,710, spent only \$200 on publishing legal notices in 2015 while a small city like Green Lake (pop. 961) spent \$8,489.

### **Recommended Legislation – Extend to all municipalities the option of posting legal notices in one public place and on a municipality's Web site in lieu of Newspaper Publication**

The last major change made to publication law that affected all local governments was 2007 Wis. Act 72, which allowed municipalities the option of publishing a notice summarizing a newly enacted ordinance rather than the entire ordinance. While the League welcomed this

compromise legislation at the time and it almost certainly resulted in cost savings particularly for cities, more modifications to state law are needed.

Last session, we were pleased by the enactment of 2015 Wis. Act 79, which for the first time allows towns and villages that post to meet publication requirements by posting the legal notice in at least one public place and posting the notice electronically on the community's web site.

The League strongly supports and urges the committee to recommend legislation extending Act 79 to all local governments. This would allow cities to accomplish legal notice publication by posting in one public place and on the city's web site in lieu of newspaper publication. We support such a change for the following three reasons:

1. **Cost savings.** Municipalities have operated under state imposed levy limits since 2005. Almost all municipalities face serious budgetary constraints and are searching for ways to more efficiently provide the services their residents expect. While publication costs are a relatively tiny part of a municipality's overall budget, every little bit of savings helps. Allowing cities to post legal notices in public places and on their web sites will dramatically reduce their publication costs.
2. **Publication requirements should be fair, logical, and consistent for all local governments.** Publication requirements should be aimed at providing notice to the public and the rules should be the same for all municipalities. Cities should not be limited solely to the most expensive and arguably least effective option for complying with publication requirements.
3. **More people have access to the internet than read newspapers.** According to the U.S. Census Bureau, in 2013 almost 84% of U.S. households owned computers and over 74% of all households reported internet use. In contrast, according to a 2012 Pew Research Center poll, only 29% of Americans said that they read a newspaper yesterday, with just 23% having read a print newspaper the previous day. Somewhat more (38%) said they regularly read a daily newspaper. This percentage has declined from 54% in 2004. Arguably, by allowing all communities, including cities, to post meeting minutes and other legal notices in a public place and on their official web sites instead of in newspapers, more people will have better access to the notice and may actually read the notice.

## **Conclusion**

Thank you for considering our comments and recommendation. I'm happy to answer any questions the committee may have. Also, if you have questions after today's hearing I can be reached at the League offices. My phone number is (608) 267-3294. My e-mail address is: [Witynski@lwm-info.org](mailto:Witynski@lwm-info.org).