



WISCONSIN LEGISLATIVE COUNCIL

PUBLICATION OF GOVERNMENT DOCUMENTS AND LEGAL NOTICES

Legislative Council Large Conference Room
One East Main Street, Suite 401, Madison

October 10, 2016
10:00 a.m. – 2:35 p.m.

[The following is a summary of the October 10, 2016 meeting of the Study Committee on the Publication of Government Documents and Legal Notices. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.wisconsin.gov/lc>.]

Call to Order and Roll Call

Chair Spiros called the committee to order. The roll was called and a quorum was determined to be present.

COMMITTEE MEMBERS PRESENT: Representative John Spiros, Chair; Senator Mark Miller, Vice Chair; Representatives Eric Genrich and André Jacque; and Public Members Matt Blessing, Caroline Burmaster, Tim Lyke, Heather Rogge, Michael Schlaak, Mark Stodder, and Maribeth Witzel-Behl.

COUNCIL STAFF PRESENT: Scott Grosz, Principal Attorney, and Steve McCarthy, Staff Attorney.

***ATTENTION:** This was the final meeting of the Study Committee on Publication of Government Documents and Legal Notices. Committee members are requested to send any corrections regarding these Minutes to the Legislative Council staff. After the incorporation of any corrections, these Minutes will be considered approved by the committee.

Approval of the Minutes From the Committee's August 30, 2016 Meeting

Senator Miller moved, seconded by Representative Genrich, that the minutes from the committee's August 30, 2016 meeting be approved. The motion was approved by unanimous consent.

Review of Materials Distributed to Committee Members

Mr. McCarthy and Mr. Grosz presented the committee with a review of Memo No. 2, *Options for Committee Recommendations*, and noted the distribution of correspondence from Curt Witynski, Assistant Director, League of Wisconsin Municipalities, pertaining to the memorandum.

Discussion of Memo No. 2, *Options for Committee Recommendations*

Following the brief review of Memo No. 2, *Options for Committee Recommendations*, by Legislative Council Staff, the committee began its discussion of each item described in the Memo.

Municipality Internet Site Navigation Standards

Senator Miller began discussion of options relating to internet site navigation standards for municipalities that may post notice pursuant to 2015 Wisconsin Act 79 by describing his efforts to survey websites of local units of government. He recommended a link or button on the homepage of a municipal website that would direct readers to a page reserved for notices, noting it would be too cumbersome to post notices directly on a homepage. Ms. Witzel-Behl suggested that this request should be clarified to require a link in order to minimize any technical requirements associated with providing an electronic "button."

Committee members next discussed the merits of specifying additional archival and organizational requirements for a website used to post notice under Act 79. After discussing options for notice archives, searching and sorting functions, and authentication requirements, the committee also noted the impact such requirements would have on the complexity of municipal websites.

Chair Spiros asked for a motion to recommend legislation that would require a municipality that was authorized to post notice electronically under Act 79 to include an easily identifiable link to its notices on the municipality's website homepage.

Mr. Stodder moved, seconded by Senator Miller. The committee passed the motion on a unanimous voice vote.

Content of Mandatory Published Notices and Electronic Publication of Class 2 and 3 Notices

The committee next directed its attention to the second and third options described in Memo No. 2. Committee members discussed the merits and impacts of newspaper publication. Mr. Stodder raised the question of whether newspaper publication was in fact a significant burden on local government, and posed the question of whether any savings to local government would offset reductions in accountability provided by newspaper publication. Ms. Witzel-Behl asked whether the small text of newspaper notice was sufficient in comparison to more easily-read text available online. Ms. Rogge shared information she had received regarding the usage of municipal websites by residents versus nonresidents. Mr. Lyke asked whether information was available regarding viewership of newspaper websites. Mr. Stodder suggested that the presence of notices in newspapers provides better opportunity for inadvertent discovery of the information as compared to notices placed on municipal websites. Mr. Blessing offered his advice that website viewership data is often inaccurate.

Senator Miller offered the suggestion to allow municipalities to summarize the content of subsequent newspaper notices, under certain conditions, following an initial publication in the newspaper. Legislative Council staff identified this proposal as relating to the third option in Memo No. 2. Committee members discussed the proposal and made suggestions to clarify the conditions under which such summaries could be provided.

Senator Miller moved, seconded by Mr. Schlaak, to recommend legislation that would allow a municipality the option to publish a summary, instead of publishing any full-text content that may be required under current law, for the second and third insertions that are required for publication of Class 2 and 3 notices, if the summarized notice also indicates that the full-text content may be viewed at the following sources:

- The newspaper in which the initial insertion of the Class 2 or 3 notice was published.
- The municipal website.
- The Wisconsin Newspapers Association website.
- A physical location maintained by the municipality.

The committee clarified that the proposed legislation would apply only to a notice that relates to municipal business and that is not related to a court proceeding, and that the proposed legislation would not apply to any notice required to be published by a party other than a municipality. The motion passed on a unanimous voice vote.

Following discussion of option three from Memo No. 2, the committee revisited its discussion related to option two from the Memo. Ms. Witzel-Behl suggested that the committee explore the option of allowing a summary to be posted for *ex post* notices, if they include reference to where full-text content may be obtained. Chair Spiros suggested that public interest relating to publication of notice may be different for notices that relate to municipal action that has already occurred. Mr. Stodder raised the point that newspaper publication serves an archival function as well as an announcement function. Mr. Lyke offered a recent example of a school board that revisited its action on an issue following public interest in the published minutes of a meeting. Following lunch, committee members continued discussion of the public benefits of newspaper publication and the relationship between reporting on municipal news versus publication of municipal notice.

Representative Jacque moved, seconded by Ms. Witzel-Behl, to recommend legislation to allow a municipality the permissive option to publish notice that directs the public to the substance of board proceedings, rather than directly publishing the substance of those proceedings. The motion failed on a vote of Ayes, 5 (Reps. Spiros and Jacque; and Public Members Burmaster, Schlaak, and Witzel-Behl); Noes, 6 (Sen. Miller; Rep. Genrich; and Public Members Blessing, Lyke, Rogge, and Stodder).

Permissive Electronic Publication

Chair Spiros asked Legislative Council staff to describe options relating to permissive electronic publication, including the question of whether an option for electronic posting should be authorized for any type of legal notice.

Members discussed their general consensus that the committee should retain the current requirements for print publication of legal notices and maintenance of the statewide public notice website. The committee discussed the likelihood that future technological advancements and changes in how people access information may necessitate broader changes to the law, but agreed that this committee should not be making those changes at this time. Chair Spiros tabled the option and no votes on any questions were taken.

Other Business

Representative Jacque raised the issue of whether the state should pay the cost of publication of municipal legal notices, noting that he considered those costs to be an unfunded mandate.

At the committee's request, Legislative Council staff restated the committee's scope of study, and several members objected to the option as outside the committee's scope. Chair Spiros questioned how the state would fund an assumption of costs for local government publication of legal notices.

Representative Jacque moved, seconded by Representative Genrich, to recommend legislation that would transfer the responsibility for municipalities' costs of legal notice publication to the state. The motion was defeated by a vote of Ayes, 3 (Reps. Genrich and Jacque; and Public Member Witzel-Behl); Noes, 7 (Rep. Spiros; Sen. Miller; and Public Members Burmaster, Lyke, Rogge, Schlaak, and Stodder); and Not voting, 1 (Public Member Blessing).

Plans for Future Meetings

The committee agreed to vote on final approval of the forthcoming bill drafts via mail ballot. If concerns regarding the content of the bill drafts result in disapproval of one or both drafts, Chair Spiros explained that he will consider the need for the committee to meet again.

Adjournment

The meeting was adjourned at 2:35 p.m.

SG:ksm