
Wisconsin Legislative Council

ACT MEMO



Prepared by: Melissa Schmidt, Senior Staff Attorney, and Abby Moe, Legal Intern

June 16, 2021

2021 Wisconsin Act 32 [2021 Senate Bill 51]

Newspaper Qualifications for Publication of Legal Notices

State law specifies when a governmental body must inform the public of governmental activity by publishing or posting legal notice of the action. State law also specifies when a newspaper may be compensated, or entitled to compensation, for the publication of such notices. For example, a newspaper must have a bona fide paid circulation and satisfy certain qualifications set forth in ch. 985, Stats. Prior law defined a “bona fide paid circulation” as a paid circulation, 50 percent or more of which was sold, that met subscriber minimums based upon whether the local government is a 1st or 2nd class city, or a 3rd or 4th class city, village, or town.¹

Three methods exist by which a newspaper with a bona fide paid circulation can receive compensation for publishing a legal notice. Under prior law, the three methods available were:

- **For at least two of the five years immediately before the date of the publication of the notice**, the newspaper was published regularly and continuously in the city, village, or town where published.
- The newspaper was a successor to such a newspaper and resumed publication within 30 days of succession.
- The newspaper merged or consolidated with one or more newspapers and one of the newspapers had been continuously published at regular intervals of at least once each week for at least 50 issues each year for at least one year prior to the first publication of the notice.

Also, if there was no newspaper with a bona fide paid circulation which qualified under one of the three methods in a city, village, or town, state law provided an alternative method by which a newspaper may qualify for compensation for the publication of a legal notice. Under prior law, a newspaper could be compensated or entitled to compensation or a fee for the publication of legal notices if there was no qualifying newspaper in that city, town, or village and the newspaper was:

- Published **regularly and continuously** in the city, village, or town and publishing was likely to give notice in the area or to the affected person.
- Otherwise qualified as provided under current law.

2021 WISCONSIN ACT 32

2021 Wisconsin Act 32 amends the general and alternative qualification methods a newspaper must satisfy to be awarded compensation, or entitled to compensation, for the publication of legal notices.

¹ The publisher of the newspaper has actual subscribers at each publication of not less than 1,000 copies in 1st and 2nd class cities or 300 copies in 3rd and 4th class cities, villages, or towns. [s. 985.01(1b)(b), Stats.]

First, the act amends what constitutes “bona fide paid circulation” of a newspaper by removing the requirement that a newspaper sell 50 percent of the circulation and adds language to provide that the actual subscribers may be either for print, digital, or electronic subscriptions.

Second, the act amends one of the methods by which a newspaper may qualify for compensation. Specifically, the act replaces the requirement that the newspaper has been published regularly and continuously for at least two of the five previous years with the requirement that the newspaper satisfies either of the following:

- Has been **published at least once a week for at least 50 consecutive issues** prior to the first publication of the notice.
- **Verifies with the Department of Administration that the newspaper has been circulated to the minimum number of print, digital, or electronic subscribers** required under current law (300 or 1,000 depending upon the municipality) prior to issuance of its mailing permit from its place of publication.

Third, the act amends the requirements for a newspaper to qualify for compensation for the publication of a legal notice under the alternative method when there is no newspaper published in a city, village, or town that qualifies under the general qualification methods. Specifically, the act replaces the requirement that a newspaper must be published regularly and continuously with the requirement that **the newspaper must be circulated at least once a week for at least 50 consecutive issues** for the year prior to the first publication of a legal notice in that city, village, or town.

Fourth, in addition to changing the methods for compensation qualification, the act requires a newspaper that publishes a legal notice to have an internet site with a legal notices section made available at no cost to the public. The website must contain a prominent link to the newspapers’ legal notices section on its homepage. The act also specifies that tear sheet proof of multiple insertions may be sent electronically.

Lastly, the act adds to the definition of a “newspaper” the requirement that a publication must publish a minimum of 50 issues each year and an exception for newspapers qualifying under the alternative requirements consistent with the various provisions of the act.

Effective date: May 23, 2021

MS:AM:mca;ty