



2007 ASSEMBLY BILL 55

February 1, 2007 - Introduced by Representatives JESKEWITZ, OWENS, KERKMAN, LOTHIAN, VOS, STONE, HONADEL, MURSAU, BALLWEG, KESTELL, SMITH and A. OTT. Referred to Committee on State Affairs.

1 **AN ACT** *to renumber and amend* 985.03 (2); *to amend* 985.01 (5) and 985.14;
2 *to repeal and recreate* 985.03 (1) (a); and *to create* 985.02 (3) and 985.03 (3)
3 of the statutes; **relating to:** the qualifications of newspapers permitted to
4 publish legal notices and allowing mailing of legal notices instead of publishing.

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 percent of its circulation and have actual subscribers of not less than 1,000 copies if in a first or second class city, or 300 copies if in a third or fourth 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 80 percent 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. Also, these free newspapers are not required to publish news.

The bill also allows a second, third, or fourth class city, village, town, sewerage district, school district, drainage district, or county (municipality) 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

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notice to more people affected by the notice than a newspaper that does meet the other statutory requirements. The municipality's governing body must consider certain criteria in designating the official newspaper, such as the newspaper's cost and frequency of publication.

Finally, this bill allows a municipality to mail a notice to each person affected by the notice instead of publishing the notice in a newspaper.

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.** 985.02 (3) of the statutes is created to read:

9 985.02 (3) The governing body of a municipality may elect to mail a notice to
10 each person affected instead of publishing under this chapter.

11 **SECTION 3.** 985.03 (1) (a) of the statutes is repealed and recreated to read:

12 985.03 (1) (a) Except as provided in sub. (3), no publisher of any newspaper in
13 this state shall be awarded or be entitled to any compensation or fee for the
14 publishing of any legal notice unless one of the following conditions is met:

15 1. For at least 2 of the 5 years immediately before the date of the notice
16 publication, the newspaper has been published regularly and continuously, has had
17 a bona fide paid circulation that has constituted 50 percent or more of its circulation,

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1 and has had actual subscribers at each publication of not less than 1,000 copies in
2 1st and 2nd class cities, or 300 copies if in 3rd and 4th class cities, villages, or towns.

3 2. For at least 2 continuous years the newspaper has been in existence and has
4 been published and delivered, without requiring a subscription fee, to at least 80
5 percent of the households and businesses in the newspaper's coverage area, which
6 includes the city, village, or town that uses the newspaper to publish a legal notice,
7 as demonstrated by an annual, independent audit. Notwithstanding par. (c), a
8 newspaper under this subdivision is not required to contain at least 4 pages or 20
9 percent of the publication space, whichever is greater, of reports of happenings of
10 recent occurrence of a varied character, such as political, social, moral, and religious
11 subjects, designed to inform the general reader.

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

14 985.03 (2) (a) Any person charged with the duty of causing legal notices to be
15 published, and who causes any legal notice, to be published in any newspaper not
16 eligible to so publish under the requirements of sub. (1) or (3), or who fails to cause
17 such legal notice to be published in any newspaper eligible under this section, may
18 be fined not to exceed \$100 for each offense. Each day in which a legal notice should
19 have been but was not published as required by law shall constitute a separate
20 offense hereunder. This penalty does not apply if the person also publishes the same
21 legal notice in a newspaper eligible to publish a legal notice under sub. (1) or (3).

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

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

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

12 (a) The cost of the newspaper.

13 (b) The frequency of the newspaper's publication.

14 (c) The number of residents who receive the newspaper, as determined by an
15 independent audit.

16 (d) The extent to which the newspaper covers news related specifically to the
17 city, village, town, school district, sewerage district, drainage district, or county.

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

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

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1 a newspaper in an adjoining county, upon affidavit showing the necessity therefor.
2 Whenever a legal notice is required by law to be published in a newspaper in any
3 county having a village or city situated partly in said that county and partly in an
4 adjoining county ~~where~~ and there is no newspaper printed in ~~such~~ that village or city
5 within the county first mentioned, but there is a newspaper published in ~~such~~ that
6 village or city within ~~such~~ the adjoining county, ~~such~~ the notice may be published in
7 ~~such last mentioned~~ that newspaper.

8 (END)