



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-3836/1  
TKK:kjf&amn

## 2017 ASSEMBLY BILL 731

December 7, 2017 - Introduced by Representatives KITCHENS, BALLWEG, BERCEAU, DUCHOW, MURSAU, NOVAK, QUINN, ROHRKASTE, STEFFEN, WICHGERS and E. BROOKS, cosponsored by Senator COWLES. Referred to Committee on Rural Development and Mining.

1     **AN ACT to repeal** 985.03 (1) (a) 1. and 985.03 (1) (a) 2.; **to renumber and amend**  
2             985.03 (1) (c); **to amend** 985.01 (5), 985.02 (1), 985.03 (1) (a) (intro.) and 985.03  
3             (2); and **to create** 985.01 (1b), 985.01 (3g), 985.03 (1) (a) 1m., 985.03 (1) (a) 2m.,  
4             985.03 (1) (a) 3., 985.03 (1) (am) and 985.03 (1) (cm) of the statutes; **relating**  
5             **to:** qualification of newspapers to receive compensation for publication of legal  
6             notice.

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### ***Analysis by the Legislative Reference Bureau***

This bill modifies the criteria by which a newspaper may receive compensation for the publication of a legal notice. The bill also makes several technical changes to the structure of the provisions that govern the qualification of newspapers able to receive compensation or a fee for publishing a legal notice. These changes include moving the definitions for bona fide paid circulation and newspaper into the definitions section of the chapter that governs the publication of legal notices.

Currently, when a legal notice is required to be published, the notice must be published in a newspaper likely to give notice in the area or to the person affected by the notice. A newspaper that publishes a legal notice may not receive compensation for publishing the notice unless the newspaper is a qualified newspaper. To be a qualified newspaper, the newspaper must have a bona fide paid circulation, satisfy certain requirements related to continuity of publication, and file a certificate with the county clerk stating its place of publication and that it qualifies

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under current law. Under current law and under the bill, a “bona fide paid circulation” means a paid circulation of a newspaper in which the publisher sells 50 percent or more of the circulation of the newspaper and the publisher has actual subscribers at each publication of not less than 1,000 copies in first and second class cities or 300 copies in third and fourth class cities, villages, or towns. In addition, to be a qualified newspaper, the newspaper must have been published regularly and continuously in the area for at least two of the five years immediately preceding the date of publication of the notice (durational requirement).

This bill broadens the scope of qualified newspapers to include both of the following: 1) a newspaper that has had a bona fide paid circulation, is a successor to a newspaper that satisfies the durational requirement, and has resumed publication following succession within 30 days; and 2) a newspaper that has had a bona fide paid circulation, has merged or consolidated with one or more newspapers, and one of the newspapers has 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 publication of the notice.

Also under this bill, if no newspaper in a city, village, or town satisfies the bona fide paid circulation and durational requirements under current law and created under the bill, a newspaper that is published regularly and continuously in the city, village, or town and that meets the other qualifications for receiving a fee may be awarded or entitled to a fee for publishing a legal notice if publication in the newspaper is likely to give notice in the area or to the affected person.

Finally, the bill modifies the definition for newspaper. Under current law, a newspaper is defined, in part, as “a publication that is published at regular intervals and at least once a week, containing reports of happenings of recent occurrence of a varied character, such as political, social, moral and religious subjects, designed to inform the general reader.” Under the bill, the publication must contain, on average, 25 percent news content per issue. The bill defines news content to mean “written information and images, other than advertisements, that are printed in a publication.”

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

- 1           **SECTION 1.** 985.01 (1b) of the statutes is created to read:
- 2           985.01 **(1b)** “Bona fide paid circulation” means the paid circulation of a
- 3 newspaper that satisfies all of the following:
- 4           (a) The publisher of the newspaper sells 50 percent or more of the circulation
- 5 of the newspaper.

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

4 **SECTION 2.** 985.01 (3g) of the statutes is created to read:

5 985.01 (3g) "News content" means written information and images, other than  
6 advertisements, that are printed in a publication.

7 **SECTION 3.** 985.01 (5) of the statutes is amended to read:

8 985.01 (5) A newspaper is "published" at the place from which its mailing  
9 permit is issued, except that if the place where the newspaper has its major  
10 concentration of circulation has no primary post office, then at the place it shall  
11 designate as its place of publication in the affidavit required by s. 985.03 (2) (1) (cm),  
12 but no newspaper shall have more than one place of publication during the same  
13 period of time.

14 **SECTION 4.** 985.02 (1) of the statutes is amended to read:

15 985.02 (1) Except as otherwise provided by law, a legal notice shall be published  
16 in a newspaper likely to give notice in the area or to the person affected. Whenever  
17 the law requires publication in a newspaper published in a designated municipality  
18 or area and no newspaper that satisfies the requirements under s. 985.03 (1) (a) or  
19 (am) is published therein, publication shall be made in a newspaper likely to give  
20 notice.

21 **SECTION 5.** 985.03 (1) (a) (intro.) of the statutes is amended to read:

22 985.03 (1) (a) (intro.) No Except as provided in par. (am), no publisher of any  
23 newspaper in this state shall be awarded or be entitled to any compensation or fee  
24 for the publishing of any legal notice unless, ~~for at least 2 of the 5 years immediately~~  
25 ~~before the date of the notice publication, the newspaper has been published regularly~~

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1 ~~and continuously in the city, village or town where published, and has had a bona fide~~  
2 ~~paid circulation and one of the following applies:~~

3 **SECTION 6.** 985.03 (1) (a) 1. of the statutes is repealed.

4 **SECTION 7.** 985.03 (1) (a) 1m. of the statutes is created to read:

5 985.03 (1) (a) 1m. For at least 2 of the 5 years immediately before the date of  
6 the publication of the notice, the newspaper has been published regularly and  
7 continuously in the city, village, or town where published.

8 **SECTION 8.** 985.03 (1) (a) 2. of the statutes is repealed.

9 **SECTION 9.** 985.03 (1) (a) 2m. of the statutes is created to read:

10 985.03 (1) (a) 2m. The newspaper is a successor to a newspaper described in  
11 subd. 1m. and the successor newspaper has resumed publication following  
12 succession within 30 days.

13 **SECTION 10.** 985.03 (1) (a) 3. of the statutes is created to read:

14 985.03 (1) (a) 3. The newspaper has merged or consolidated with one or more  
15 newspapers and one of the newspapers subject to the consolidation or merger has  
16 been continuously published at regular intervals of at least once each week for at  
17 least 50 issues each year for at least one year prior to the first publication of the  
18 notice.

19 **SECTION 11.** 985.03 (1) (am) of the statutes is created to read:

20 985.03 (1) (am) If there is not a newspaper in a city, village, or town that  
21 satisfies the requirements under par. (a), the publisher of a newspaper that satisfies  
22 all of the following may be awarded or be entitled to compensation or a fee for the  
23 publishing of a legal notice:

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1           1. The newspaper is published regularly and continuously in the city, village,  
2 or town and publishing in the newspaper is likely to give notice in the area or to the  
3 affected person.

4           2. The newspaper is otherwise qualified under this section.

5           **SECTION 12.** 985.03 (1) (c) of the statutes is renumbered 985.01 (3r) and  
6 amended to read:

7           985.01 (3r) ~~A newspaper, under this chapter, is~~ “Newspaper” means a  
8 publication that is published at regular intervals and at least once a week,  
9 containing, on average, 25 percent news content per issue, including reports of  
10 happenings of recent occurrence of a varied character, such as political, social, moral  
11 and religious subjects, designed to inform the general reader. ~~The definition~~  
12 “Newspaper” includes a daily newspaper published in a county having a population  
13 of 500,000 or more, devoted principally to business news and publishing of records,  
14 which has been designated by the courts of record of the county for publication of  
15 legal notices for a period of 6 months or more.

16           **SECTION 13.** 985.03 (1) (cm) of the statutes is created to read:

17           985.03 (1) (cm) A newspaper in order to be eligible under this section shall also  
18 file a certificate with the county clerk stating that it qualifies under this section and  
19 stating its place of publication.

20           **SECTION 14.** 985.03 (2) of the statutes is amended to read:

21           985.03 (2) Any person charged with the duty of causing legal notices to be  
22 published, and who causes any legal notice, to be published in any newspaper not  
23 eligible to so publish under the requirements of sub. (1), or who fails to cause such  
24 legal notice to be published in any newspaper eligible under this section, may be  
25 fined not to exceed \$100 for each offense. Each day in which a legal notice should

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**SECTION 14**

1 have been but was not published as required by law shall constitute a separate  
2 offense hereunder. ~~A newspaper in order to be eligible under this section shall also~~  
3 ~~file a certificate with the county clerk stating that it qualifies under this section and~~  
4 ~~stating its place of publication.~~

5 (END)