

CHAPTER 985

PUBLICATION OF LEGAL NOTICES; PUBLIC NEWSPAPERS; FEES

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985.01 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Insertion" when used to indicate the publication of a legal notice more than one time, means once each week for consecutive weeks, the last of which shall be at least one week before the act or event, unless otherwise specified by law.

(2) The term "legal notice" is every notice required by law or by order of a court to be published in a newspaper or other publication and includes:

(a) Every publication of laws, ordinances, resolutions, financial statements, budgets and proceedings intended to give notice in an area;

(b) Every notice and certificate of election, facsimile ballot, referenda, notice of public hearing before a governmental body, and notice of meetings of private and public bodies required by law; and

(c) Every summons, order, citation, notice of sale or other notice which is intended to inform a person that the person may or shall do an act or exercise a right within a designated period or upon or by a designated date.

(d) The provisions of this chapter do not apply to notices required by private and local laws to be published in newspapers.

(3) "Municipality" has the meaning in s. 345.05 (1) (c) and "governing body" the meaning in s. 345.05 (1) (b) with reference to such municipality.

(4) "Proceedings", when published in newspapers, mean the substance of every official action taken by a local governing body at any meeting, regular or special.

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

(6) "Substance" is an intelligible abstract or synopsis of the essential elements of the official action taken by a local governing body, including the subject matter of a motion, the persons making and seconding the motion and the roll call vote on the motion, except that ordinances and resolutions published as required by law need not be republished in proceedings, but a reference to their subject matter shall be sufficient.

History: 1981 c. 372; 1983 a. 189 ss. 327, 328, 329 (31); 1993 a. 486.

985.02 Method of notification. (1) Except as otherwise provided by law, a legal notice shall be published in a newspaper likely to give notice in the area or to the person affected. Whenever the law requires publication in a newspaper published in a designated municipality or area and no newspaper is published therein publication shall be made in a newspaper likely to give notice.

(2) If the governing body of a municipality elects to post under s. 985.05 (1) it shall post in the following manner:

(a) The notice must be posted in at least 3 public places likely to give notice to persons affected.

(b) The notice posted before the act or event requiring notice shall be posted no later than the time specified for the first newspaper publication.

(c) The notice posted after the act or event requiring notice shall be posted within one week after the act or event. Actions of governing bodies posted after the act or event shall be effective upon posting.

(d) The affidavit of the officer or person posting the legal notice containing the time, place and manner of the posting is presumptive evidence of the facts stated therein.

985.03 Qualifications of newspapers. (1) (a) No publisher of any newspaper in this state shall be awarded or be entitled to any compensation or fee for the publishing of any legal notice unless, for at least 2 of the 5 years immediately before the date of the notice publication, the newspaper has been published regularly and continuously in the city, village or town where published, and has had a bona fide paid circulation:

1. That has constituted 50% or more of its circulation; and,

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

(b) Suspension of publication resulting from the mobilization of troops being called to active duty with the armed forces, strike, lockout or damage, or destruction due to war, fire or act of God, shall not count as an interval in publication.

(bm) A period of disqualification not to exceed 2 years due only to the place of publication shall not count as an interval in publication.

(c) A newspaper, under this chapter, is a publication appearing 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. The definition includes a daily newspaper published in a county having a population of 500,000 or more, devoted principally to business news and publishing of records, which has been designated by the courts of record of the county for publication of legal notices for a period of 6 months or more.

(2) Any person charged with the duty of causing legal notices to be published, and who causes any legal notice, to be published in any newspaper not eligible to so publish under the requirements of sub. (1), or who fails to cause such legal notice to be published in any newspaper eligible under this section, may be fined not to exceed \$100 for each offense. Each day in which a legal notice should have been but was not published as required by law shall constitute a separate offense hereunder. A newspaper in order to be eligible under this section shall also file a certificate with the

county clerk stating that it qualifies under this section and stating its place of publication.

History: 1975 c. 341; 1989 a. 31.

This section does not violate equal protection; discussion of term "paid circulation" as requirement under (1)(a) *Community Newspapers v West Allis*, 156 W(2d) 350, 456 NW (2d) 646 (Ct. App. 1990).

985.04 Official state newspaper. The joint committee on legislative organization shall recommend to the legislature to designate some newspaper published in Wisconsin to be the official state newspaper, which shall publish all legal notices required to be published therein. Any such publication from any of the state agencies shall be deemed official. The joint committee may invite bids from all newspapers which meet the requirements of s. 985.03, but if it does so, it is not required to recommend the lowest bidder as the official state newspaper. The joint committee shall introduce its recommendation in the legislature in the form of a joint resolution. No designation takes effect until the joint resolution is adopted. A newspaper which is designated the official state newspaper shall continue as such until the legislature designates another newspaper to be the official state newspaper.

History: 1977 c. 29; 1979 c. 34; 1981 c. 372 ss. 12, 13

See note to art. IV, sec. 17, citing 63 Atty. Gen. 346

985.05 Official municipal newspapers. (1) The governing body of every municipality not required to have an official newspaper may designate a newspaper published or having general circulation in the municipality and eligible under s. 985.03 as its official newspaper or utilize the same for specific notices. The governing body of such municipality may, in lieu of newspaper publication, direct other form of publication or posting under s. 985.02 (2). Other publication or posting, however, shall not be substituted for newspaper publication in proceedings relating to: tax redemptions or sales of land acquired by the county or city authorized to act under s. 74.87 for delinquent taxes, charges or assessments; civil annexations, detachments, consolidations or incorporations under chs. 59 to 66; or legal notices directed to specific individuals. Posting may not be substituted for publication in school board elections conducted under s. 120.06 or publication under s. 60.80 (2) of town ordinances imposing forfeitures. If an eligible newspaper is published in the municipality, other publication or posting shall not be substituted for newspaper publication under s. 61.32 or 61.50.

(2) When any municipality has designated an official newspaper, all legal notices published in a newspaper by such municipality shall be published in such newspaper unless otherwise specifically required by law.

(3) In lieu of the requirements of this chapter, a school board may publish or publicize under s. 120.11 (4).

History: 1975 c. 138; 1983 a. 532; 1985 a. 225; 1987 a. 378

A county board may not designate more than one newspaper having a general circulation in the county as its official newspaper. However, the county board may direct that a particular legal notice also appear in one or more other county newspapers. 60 Atty. Gen. 95.

985.06 Official city newspaper. (1) In 2nd and 3rd class cities, the clerk shall, on or before the 2nd Tuesday of April, advertise in the official city newspaper, or if there is none, in a newspaper published in the city and eligible under s. 985.03, for separate proposals to publish in English the council proceedings and the city's legal notices, respectively, for the ensuing year, inviting bids from all daily and weekly newspapers published in such city which are eligible under s. 985.03, also stating the security required with each bid, which shall be previously fixed by the council, and requiring delivery of the bids in writing, sealed, at the clerk's office by 12 noon of the first Tuesday of May. At that hour, the clerk shall, in the presence of the mayor or an alderperson, open the bids and enter them in a record kept for that purpose. No bid from other than a newspaper legally invited to bid, or for more than the legal rate for like work, shall be of any effect. The paper making the lowest effective bid for the city's legal notices shall be awarded the contract therefor. If 2 or more effective bids are for the same price, and no lower effective bid is filed, the clerk shall

transmit such tie bids to the council at its next meeting and the council shall designate the successful bid. If no effective bid is received, the council may direct the clerk to readvertise as before. Each successful bidder shall execute a contract in accordance with the bid and file such bond for its performance as the council requires. No such paper shall receive more or less than the contract price nor any other compensation for the work. The paper securing the contract for the publishing of the city's legal notices shall be the official city newspaper.

(2) In cities of the fourth class, the council, at its first meeting or as soon as may be, shall designate one or more newspapers eligible under s. 985.03 and published in the city, if any, otherwise published in the county and having a general circulation in the city, for publication of the council proceedings and as the official city newspaper for the publication of the city's legal notices for the ensuing year. The council shall fix the price at not to exceed the legal rate for like work.

(3) The publisher, before the claim for the publication is audited, shall file with the clerk proof of publication by affidavit of the printer or foreman, attached to a copy of the matter published, stating the date or dates of publication. Such affidavit shall be conclusive evidence of publication for the purpose of audit.

(4) If for any reason any city is at any time without an official city newspaper, matters required to be published shall be published in a newspaper eligible under s. 985.03, designated by the council, at not more than the legal rate for like work.

History: 1993 a. 184, 491

985.065 Publication and printing; counties with population of 250,000 or more. (2) (a) In counties having a population of 250,000 or more, the county board of supervisors,

at its annual meeting shall direct the county clerk to invite proposals from the English newspapers published daily in said county, for the publication and printing of the proceedings of said board, and all other notices or advertisements as shall be authorized or required to be published or printed by the said board and all officers, boards and departments of said county, during the next ensuing year, which publications and advertising may be divided and classified if the said board shall so order.

(b) Such proposals shall name a price per standard line, or shall name a price per standard line per thousand of average daily circulation in such county for the period of 6 months next preceding the date of such proposals, as shown by the affidavit of an authorized officer or agent of such proponent, or shall name a price for such advertising space as may be required or ordered by the board at any time during the year for which awards are made, or, at the option of the proponent, shall include any or all of such separate proposals as aforesaid.

(c) The said board may by resolution suspend the publication of proceedings in newspapers and provide for the printing thereof in pamphlet form until the further action of the board in relation thereto. Separate bids may be called for if so ordered by said board, from printers in the county, for the printing of the proceedings of said county board in pamphlet form in such quantities as shall be determined by said board.

(d) Each bid shall be accompanied by a certificate of the county treasurer that the bidder has deposited with the county treasurer a United States bond, corporate surety bond or certified check in the sum of \$500, or the cash deposit of a like amount, conditioned that said bidder will, if successful, enter into a contract as provided in the resolution of said board or invitation for such bids. The county clerk shall on the date named in said invitation for bids, in the presence of the committee on printing and stationery of said board, open all such proposals and enter upon his or her minutes a record thereof, all of which shall be reported to the board at its next meeting, together with the recommendations of said committee. The said board shall thereupon consider such proposals and by its resolution designate and award such advertising and printing to the lowest bidder or to the lower bidder based upon a rate per thousand of average daily circulation in such county, or said board may

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award such publication and printing to the lowest bidder and also to the lowest bidder per thousand of average daily circulation as aforesaid, or said board may award any division or classification of such publication and printing made under the provisions hereof, to the lowest bidder and award the remaining division or divisions, or classification, to the lowest bidder per thousand of circulation aforesaid. If the board elects to print its proceedings in pamphlet form only, the invitation for bids and the award may be made to the lowest responsible bidder, at a rate per standard line, or per page, or such other basis as the board determines.

(e) Upon the award of the contract, or contracts, the deposits of unsuccessful bidders, and upon execution of proper contracts by successful bidders, the deposits shall severally be returned. The contract, or contracts, shall be accompanied by a good and sufficient bond in such amount as shall be fixed by said board conditional for the faithful performance of such contract.

(f) The said board of supervisors may, in lieu of the foregoing provisions, provide by ordinance, a method of printing and publication of its proceedings and notices, and the method of obtaining bids and contracts therefor.

(g) In any case where it shall be deemed advisable, the county board may provide for further or additional publication of notices in appropriate trade mediums.

(h) The rates provided by s. 985 08 for legal notices shall not apply to printing or publications hereunder.

History: 1983 a. 192; 1993 a. 486.

985.07 Classes and frequency of legal notices.

There shall be 3 classes of legal notices under this chapter. The designated number of insertions is the minimum required by law, and the frequency may be increased at the discretion of the requisitioning agency.

(1) **CLASS 1 NOTICES** All notices designated as class 1 notices require one insertion.

(2) **CLASS 2 NOTICES** All notices designated as class 2 notices require 2 insertions.

(3) **CLASS 3 NOTICES** (a) All notices designated as class 3 notices require 3 insertions.

(b) Any legal notice not otherwise designated shall be a class 3 notice unless the time permitted by law necessitates a class 2 or class 1 notice, except that any notice required by law on January 2, 1966, which is not otherwise designated, shall be a class 1 notice.

(4) The classification provided herein does not apply to notices of public election or referenda or to notices governed by s. 815.31 but such notices shall be governed by the specific statutes relating thereto.

History: Sup Ct Order, 67 W (2d) 585, 784 (1975).

985.08 Fees for publishing. (1) The fee for publishing a legal notice shall be not more than 14 cents per standard line for the first insertion and not more than 11 cents per standard line for each subsequent insertion. The charge for the publication of a facsimile ballot shall be computed as if the area occupied by the ballot were set in standard lines. If a legal notice contains tabulated matter, then the fees allowable for the area containing such matter shall be increased 50% of the standard line base rate without adjustment for circulation premium. Composed matter shall be interpreted as being tabular when it contains 2 or more justifications per line. The minimum fee for any legal notices shall be \$2. The maximum rate specified in this subsection shall be adjusted each 2 years, the adjustment to be effective on January 1 of each even-numbered year to reflect the relevant change in costs of the newspaper publishing industry as compared with such costs on October 1 of the 3rd year preceding that January 1, as determined by the department of administration in consultation with representatives of the daily and weekly newspaper industry of the state. In making the determination the department shall base the deter-

mination upon the factors of wage and newsprint costs in the proportions determined by the department to be proper.

(2) (a) A standard line shall be 6-point Spartan lightface set on a 6-point slug without spacing between the lines, and 11 picas in length. Nonstandard type faces and line lengths shall be allowed with adjustments in fees according to variations in type set and line length. When a publisher does not have, or elects not to use a 6-point body type, a larger body type may be used; in which case adjustment shall be made in line rate, proportionately decreasing for sizes of type over 6-point to produce the same net average compensation per column area. Such adjustments shall be evaluated by the department of administration which shall certify the same to any newspaper, public official or other interested party upon request, and such certification shall be presumptive evidence of the correct adjustments. A 5 1/2-point type face set on a 6-point slug shall be acceptable in lieu of a standard line, but the rate for the 5 1/2-point type line shall not exceed the rate for a standard line as set forth in sub. (1).

(b) When camera-ready copy for the entire notice or substantial areas thereof is provided, eliminating typesetting, enlargements or reductions, or other changes by the newspaper, the maximum rate is the same as the maximum rate established under sub. (1) for subsequent insertions. To qualify for the subsequent insertion rate for camera-ready copy, the copy may be no larger than 8-point type and shall comply with the column width certified for each newspaper by the department of administration under par. (a).

(3) The publisher may increase rates allowed by this section up to 15 per cent for each 4,000 of circulation or fraction thereof above 8,000 of circulation, based on previous year-end circulation figures, but not to exceed an additional increase of 75 per cent.

(4) In all counties having a population of 500,000 or more, the fees for the publication of a legal notice may be equal to, but not in excess of, the regular publishing rate actually required of private advertisers for similar advertising matter.

(5) Except as otherwise provided in this section, no fee shall be paid and no public funds shall be used for subsidizing any privately owned newspaper for payment for any legal notice, which newspaper has not previously qualified as a public newspaper as defined in s. 985 03.

(6) In addition to required legal notice, the requisitioning agency may also publish such notice in other media such as trade journals and newspapers published in this state devoted substantially to the publication of official notices to bidders, but such additional notice shall not be construed as a legal notice.

(7) Fees established herein are applicable to legal notices and are not intended to restrict the use of classified and display advertising which is not required by statute to be published or legal notices which the requisitioning agency orders to be published in a classified or display manner. The discretion of utilizing the display method of publishing official materials shall be vested solely in the public authority ordering such publication and the rate charged for publication in this instance shall not exceed the regular commercial display advertising rate of the publisher.

(8) Upon request, a tear sheet proof of a multiple insertion notice shall be mailed to the advertiser or the advertiser's attorney within 72 hours after the first insertion, and an additional charge of \$1 for such tear sheet proof may be made.

History: 1977 c. 418; 1979 c. 34; 1987 a. 142; 1993 a. 486

Municipality may not expend funds to publish legal notice in shopper paper which does not meet qualifications in 985 03 (1) (a). 71 Atty Gen 177

985.09 Computation of time, Sundays, legal holidays. (1) The time for publication of legal notices shall be computed so as to exclude the first day of publication and include the day on which the act or event, of which notice is given, is to happen or which completes the full period required for publication.

(2) The time within which an act is to be done or proceeding had or taken, as prescribed by the rules of procedure, shall be com-

puted by excluding the first day and including the last; if the last day be Sunday or a legal holiday the party shall have the next secular day in which to do the act or take such proceeding.

Cross-references: See s. 801.15 for exception as to computation of time. Also see s. 990.001 (4).

985.10 Publication on Sunday. Any legal notice may be published in a newspaper printed on Sunday, and such publication is a lawful publication and a full compliance with the order of the court or officer ordering such publication; and any such notice that may, by law or the order of any court, be required to be published for any given number of weeks may be published on any day in each week of such term, and if so published as many weeks and as many times in each week as may be required by such law or order, it shall be a lawful publication thereof.

985.11 Fees and work on Sunday. (1) In any action to recover compensation for publication of legal notices, it shall be no defense that such publication was dated, printed or issued on the first day of the week.

(2) In any action to recover compensation for labor performed on any newspaper, dated, published or issued on the first day of the week, it shall be no defense that such labor was performed on the first day of the week.

985.12 Proof of publication. (1) AFFIDAVIT OF PRINTING. The affidavit of the editor, publisher, printer or proprietor of any newspaper, or of his or her foreman or principal clerk, of the publication of any legal notice, annexed to a copy of the notice clipped from the newspaper, and specifying the date of each insertion, and the paper in which it was published, shall be received in all cases as presumptive evidence of the publication and of the facts stated therein.

(2) TIME OF FILING. Such affidavit may be filed with the proper officer at any time after the last day of the publication of such notice, unless the filing time is otherwise specified.

(3) SAME. The affidavit of publication of any notice of a sale of real property required by law to be published may be filed, at any time within 6 months after the last day of such publication, with the register of deeds of the county in which the premises are situated.

(4) FEE. The fee for an affidavit of publication shall be \$1.

History: 1993 a. 486.

985.13 Change of name or discontinuance of paper.

(1) Whenever a legal notice is required or ordered to be published in a particular newspaper and the name of such newspaper is

changed before such publication is commenced or before it is completed, the publication shall be made or continued in the newspaper under its new name with the same effect as if the name had not been changed. The proof of the publication, in addition to other requirements, shall state the change of name and specify the period of publication in such newspaper under each name.

(2) When a newspaper ceases to be published before the publication of a legal notice is commenced, or when commenced ceases before such publication is completed, the order for publication, when one is required in the first instance, may be amended by order of the court or judge, on proof of the fact by affidavit, so as to designate another newspaper, as may be necessary; and if no order is required in the first instance such publication may be made or completed in any other newspaper; and any time during which such notice is published in the first newspaper shall be reckoned a part of the time required for the publication thereof, proof of which may be made by affidavit of any person acquainted with the facts. The second newspaper may be one published in an adjoining county in the cases mentioned in s. 985.14.

985.14 Refusal to publish. When there is only one newspaper in a county and the publisher thereof refuses to publish a legal notice, such legal notice may be published in a newspaper printed in an adjoining county; and proof by affidavit of the reason why such publication was made in an adjoining county shall accompany the proof of publication, or the order for publication, when any is necessary, may be made or amended by the court or judge so as to designate a newspaper in an adjoining county, upon affidavit showing the necessity therefor. Whenever a legal notice is required by law to be published in a newspaper in any county having a village or city situated partly in said county and partly in an adjoining county where there is no newspaper printed in such village or city within the county first mentioned, but there is a newspaper published in such village or city within such adjoining county, such notice may be published in such last mentioned newspaper.

985.15 Forfeiture for refusal to publish. If the publisher or printer of a newspaper shall, after payment or tender of the publisher's or printer's legal fees therefor, refuse or wilfully neglect to publish any legal notice required in pursuance of law or a lawful order of publication to be published in the publisher's or printer's newspaper, being able to make such publication, the publisher or printer shall forfeit \$25, one-half to the party prosecuting therefor.

History: 1993 a. 486.