

Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1017

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AN ACT to amend the Indiana Code concerning state and local administration.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 5-3-1-0.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2016]: **Sec. 0.2. As used in this section, "locality newspaper" means a publication that meets all the following requirements:**

- (1) Is regularly issued at least one (1) time per week.**
- (2) Contains in each issue news of general or community interest, community notices, or editorial commentary by different authors.**
- (3) Has, in more than one-half (1/2) of its issues published during the previous twelve (12) month period, not more than seventy-five percent (75%) advertising content.**
- (4) Has been published continuously for at least three (3) years.**
- (5) Has the capability to add subscribers to its distribution list and must add any person:**
  - (A) who requests to be added as a new subscriber; and**
  - (B) whose mailing address is within the political subdivision in which the locality newspaper generally circulates.**
- (6) Is a publication of general circulation in the political subdivision that is responsible for the publication of notice.**

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**(7) Is circulated by United States mail, free of charge, to addresses that are located within the political subdivision responsible for the publication of notice.**

**(8) Has its circulation verified by an annual independent audit of the publication.**

**(9) Contains advertisements from numerous unrelated advertisers in each issue.**

**(10) Is not owned by, or under the control of, the owners or lessees of a shopping center, a merchant's association, or a business that sells property or services (other than advertising) whose advertisements for their sales of property or services constitute the predominant advertising in the publication.**

**(11) Has continuity as to title and general nature of content from issue to issue.**

**(12) Does not constitute a book, either singly or when successive issues are combined.**

**(13) Has a known office location in the county in which the locality newspaper is published.**

SECTION 2. IC 5-3-1-1, AS AMENDED BY P.L.141-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) The cost of all public notice advertising which any elected or appointed public official or governmental agency is required by law to have published, or orders published, for which the compensation to the newspapers, **locality newspapers**, or qualified publications publishing such advertising is drawn from and is the ultimate obligation of the public treasury of the governmental unit concerned with the advertising shall be charged to and collected from the proper fund of the public treasury and paid over to the newspapers, **locality newspapers**, or qualified publications publishing such advertising, after proof of publication and claim for payment has been filed.

(b) The basic charges for publishing public notice advertising shall be by the line and shall be computed based on a square of two hundred and fifty (250) ems at the following rates:

(1) Before January 1, 1996, three dollars and thirty cents (\$3.30) per square for the first insertion in newspapers or qualified publications plus one dollar and sixty-five cents (\$1.65) per square for each additional insertion in newspapers, or qualified publications.

(2) After December 31, 1995, and before December 31, 2005, a newspaper or qualified publication may, effective January 1 of

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any year, increase the basic charges by five percent (5%) more than the basic charges that were in effect during the previous year. However, the basic charges for the first insertion of a public notice in a newspaper, or qualified publication may not exceed the lowest classified advertising rate charged to advertisers by the newspaper, or qualified publication for comparable use of the same amount of space for other purposes.

(3) After December 31, 2009, **and before January 1, 2017**, a newspaper or qualified publication may, effective January 1 of any year, increase the basic charges by not more than two and three-quarters percent (2.75%) more than the basic charges that were in effect during the previous year. However, the basic charges for the first insertion of a public notice in a newspaper or qualified publication may not exceed the lowest classified advertising rate charged to advertisers by the newspaper or qualified publication for comparable use of the same amount of space for other purposes and must include all multiple insertion discounts extended to the newspaper's other advertisers.

**(4) After December 31, 2016, a newspaper, locality newspaper, or qualified publication may, effective January 1 of any year, increase the basic charges by not more than two and three-quarters percent (2.75%) more than the basic charges that were in effect during the previous year. However, the basic charges for the first insertion of a public notice in a newspaper, locality newspaper, or qualified publication may not exceed the lowest classified advertising rate charged to advertisers by the newspaper, locality newspaper, or qualified publication for comparable use of the same amount of space for other purposes and must include all multiple insertion discounts extended to the newspaper's, locality newspaper's, or qualified publication's other advertisers.**

An additional charge of fifty percent (50%) shall be allowed for the publication of all public notice advertising containing rule or tabular work.

(c) All public notice advertisements shall be set in solid type that is at least 7 point type, without any leads or other devices for increasing space. All public notice advertisements shall be headed by not more than two (2) lines, neither of which shall total more than four (4) solid lines of the type in which the body of the advertisement is set. Public notice advertisements may be submitted by an appointed or elected official or a governmental agency to a newspaper, **locality newspaper,**

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or qualified publication in electronic form, if the newspaper, **locality newspaper**, or qualified publication is equipped to accept information in compatible electronic form.

(d) Each newspaper, **locality newspaper**, or qualified publication publishing public notice advertising shall submit proof of publication and claim for payment in duplicate on each public notice advertisement published. For each additional proof of publication required by a public official, a charge of one dollar (\$1) per copy shall be allowed each newspaper, **locality newspaper**, or qualified publication furnishing proof of publication.

(e) The circulation of a newspaper, **locality newspaper**, or qualified publication is determined as follows:

(1) For a newspaper, by the circulation stated on line 10.C. (Total Paid and/or Requested Circulation of Single Issue Published Nearest to Filing Date) of the Statement of Ownership, Management and Circulation required by 39 U.S.C. 3685 that was filed during the previous year.

**(2) For a locality newspaper, by a verified affidavit filed with each agency, department, or office of the political subdivision that has public notices the locality newspaper wants to publish. The affidavit must:**

**(A) be filed with the agency, department, or office of the political subdivision before January 1 of each year; and**

**(B) attest to the circulation of the locality newspaper for the issue published nearest to October 1 of the previous year, as determined by an independent audit of the locality newspaper performed for the previous year.**

~~(2)~~ **(3) For a qualified publication, by a verified affidavit filed with each governmental agency that has public notices the qualified publication wants to publish. The affidavit must:**

**(A) be filed with the governmental agency before January 1 of each year; and**

**(B) attest to the circulation of the qualified publication for the issue published nearest to October 1 of the previous year.**

SECTION 3. IC 5-3-1-1.5, AS ADDED BY P.L.141-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1.5. (a) This section applies ~~after June 30, 2009~~; to a notice that must be published in accordance with this chapter.

(b) If a newspaper **or locality newspaper** maintains an Internet web site, a notice that is published in the newspaper **or locality newspaper** must also be posted on the ~~newspaper's~~ web site **of the newspaper or locality newspaper**. The notice must appear on the web site on the

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same day the notice appears in the newspaper **or locality newspaper**.

(c) The state board of accounts shall develop a standard form for notices posted on a newspaper's **or locality newspaper's** Internet web site.

(d) A newspaper **or locality newspaper** may not charge a fee for posting a notice on the newspaper's **or locality newspaper's** Internet web site under this section.

SECTION 4. IC 5-3-1-2, AS AMENDED BY P.L.122-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) This section applies only when notice of an event is required to be given by publication in accordance with this chapter.

(b) If the event is a public hearing or meeting concerning any matter not specifically mentioned in subsection (c), (d), (e), (f), (g), (h), or (i), notice shall be published one (1) time, at least ten (10) days before the date of the hearing or meeting.

(c) If the event is an election, notice shall be published one (1) time, at least ten (10) days before the date of the election.

(d) If the event is a sale of bonds, notes, or warrants, notice shall be published two (2) times, at least one (1) week apart, with:

- (1) the first publication made at least fifteen (15) days before the date of the sale; and
- (2) the second publication made at least three (3) days before the date of the sale.

(e) If the event is the receiving of bids, notice shall be published two (2) times, at least one (1) week apart, with the second publication made at least seven (7) days before the date the bids will be received.

(f) If the event is the establishment of a cumulative or sinking fund, notice of the proposal and of the public hearing that is required to be held by the political subdivision shall be published two (2) times, at least one (1) week apart, with the second publication made at least three (3) days before the date of the hearing.

(g) If the event is the submission of a proposal adopted by a political subdivision for a cumulative or sinking fund for the approval of the department of local government finance, the notice of the submission shall be published one (1) time. The political subdivision shall publish the notice when directed to do so by the department of local government finance.

(h) If the event is the required publication of an ordinance, notice of the passage of the ordinance shall be published one (1) time within thirty (30) days after the passage of the ordinance.

(i) If the event is one about which notice is required to be published

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after the event, notice shall be published one (1) time within thirty (30) days after the date of the event.

(j) If any officer charged with the duty of publishing any notice required by law is unable to procure ~~advertisement~~: **publication of notice**:

(1) at the price fixed by law;

(2) because ~~the newspaper refuses~~ **all newspapers or locality newspapers that are qualified to publish the notice refuse** to publish the ~~advertisement~~; **notice**; or

(3) because ~~the newspaper refuses~~ **newspapers or locality newspapers referred to in subdivision (2) refuse** to post the ~~advertisement notice~~ **notice** on the ~~newspaper's~~ **newspapers' or locality newspapers'** Internet web ~~site~~ **sites** (if required under section 1.5 of this chapter);

it is sufficient for the officer to post printed notices in three (3) prominent places in the political subdivision, instead of publication of the notice in newspapers **or locality newspapers** and on an Internet web site (if required under section 1.5 of this chapter).

SECTION 5. IC 5-3-1-4, AS AMENDED BY P.L.141-2009, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) Whenever officers of a political subdivision are required to publish a notice affecting the political subdivision, they shall publish the notice in two (2) newspapers published in the political subdivision.

(b) This subsection applies to notices published by county officers. If there is only one (1) newspaper published in the county, then publication in that newspaper alone is sufficient.

(c) This subsection applies to notices published by city, town, or school corporation officers. If there is only one (1) newspaper published in the municipality or school corporation, then publication in that newspaper alone is sufficient. If no newspaper is published in the municipality or school corporation, then publication **of the notice** shall be made in **one (1) of the following**:

**(1) A locality newspaper that circulates within the municipality or school corporation.**

**(2) A newspaper published in the county in which the municipality or school corporation is located and that circulates within the municipality or school corporation.**

(d) This subsection applies to notices published by officers of political subdivisions not covered by subsection (a) or (b). If there is only one (1) newspaper published in the political subdivision, then the notice shall be published in that newspaper. If no newspaper is

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published in the political subdivision, then publication **of the notice** shall be made in **one (1) of the following:**

**(1) A locality newspaper that circulates within the municipality or school corporation.**

**(2)** A newspaper published in the county and that circulates within the political subdivision.

(e) This subsection applies to a political subdivision, including a city, town, or school corporation. Notwithstanding any other law, if a political subdivision has territory in more than one (1) county, public notices that are required by law or ordered to be published must be given as follows:

(1) By publication in two (2) newspapers published within the boundaries of the political subdivision.

(2) If only one (1) newspaper is published within the boundaries of the political subdivision, by publication **of the notice** in that newspaper and **in one (1) of the following:**

**(A) A locality newspaper that circulates within the political subdivision.**

**(B) In some other another newspaper:**

~~(A)~~ **(i)** published in any county in which the political subdivision extends; and

~~(B)~~ **(ii)** that has a general circulation in the political subdivision.

(3) If no newspaper is published within the boundaries of the political subdivision, by ~~publication~~ **publishing the notice** in two

**(2) publications, consisting of either or both of the following:**

**(A) A locality newspaper that circulates within the political subdivision.**

**(B) A newspapers newspaper that:**

~~(A)~~ **(i) are is** published in any counties into which the political subdivision extends; and

~~(B)~~ **(ii) have has** a general circulation in the political subdivision.

(4) If only one (1) newspaper is published in any of the counties into which the political subdivision extends, by publication **of the notice in one (1) of the following:**

**(A) A locality newspaper that circulates within the political subdivision.**

**(B) in that The newspaper published in the county if it the newspaper circulates within the political subdivision.**

(f) A political subdivision may, in its discretion, publish public notices in a qualified publication or additional newspapers **or locality**

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**newspapers** to provide supplementary notification to the public. The cost of publishing supplementary notification is a proper expenditure of the political subdivision.

SECTION 6. IC 9-22-1-23, AS AMENDED BY P.L.125-2012, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 23. (a) This section applies to a city, town, or county.

(b) Except as provided in subsection (c), if the person who owns or holds a lien upon a vehicle does not appear within twenty (20) days after the mailing of a notice or the notification made by electronic service under section 19 of this chapter, the unit may sell the vehicle or parts by either of the following methods:

(1) The unit may sell the vehicle or parts to the highest bidder at a public sale. Notice of the sale shall be given under IC 5-3-1, except that only one (1) **newspaper** insertion **in an appropriate publication** one (1) week before the public sale is required.

(2) The unit may sell the vehicle or part as unclaimed property under IC 36-1-11. The twenty (20) day period for the property to remain unclaimed is sufficient for a sale under this subdivision.

(c) This subsection applies to a consolidated city or county containing a consolidated city. If the person who owns or holds a lien upon a vehicle does not appear within fifteen (15) days after the mailing of a notice or the notification made by electronic service under section 19 of this chapter, the unit may sell the vehicle or parts by either of the following methods:

(1) The unit may sell the vehicle or parts to the highest bidder at a public sale. Notice of the sale shall be given under IC 5-3-1, except that only one (1) newspaper insertion one (1) week before the public sale is required.

(2) The unit may sell the vehicle or part as unclaimed property under IC 36-1-11. The fifteen (15) day period for the property to remain unclaimed is sufficient for a sale under this subdivision.

SECTION 7. IC 16-18-2-301 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 301. "Publish" or "published" or "cause to be published", for purposes of IC 16-22, means publication of notice in a **newspaper or newspapers an appropriate publication** in accordance with IC 5-3-1, unless otherwise specified.

SECTION 8. IC 20-48-4-2, AS ADDED BY P.L.2-2006, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) The board may authorize the trustee to issue township warrants or bonds to pay for the building or the proportional

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cost of it. The warrants or bonds:

- (1) may run for a period not exceeding fifteen (15) years;
- (2) may bear interest at any rate; and
- (3) shall be sold for not less than par.

The township trustee, before issuing the warrants or bonds, shall place a notice **in accordance with IC 5-3-1-4** in at least one (1) ~~newspaper~~ **appropriate publication** announcing the sale of the bonds in at least one (1) issue a week for three (3) weeks. The notice must comply with IC 5-3-1 and must set forth the amount of bonds offered, the denomination, the period to run, the rate of interest, and the date, place, and time of selling. The township board shall attend the bond sale and must concur in the sale before the bonds are sold.

(b) The board shall annually levy sufficient taxes each year to pay at least one-fifteenth (1/15) of the warrants or bonds, including interest, and the trustee shall apply the annual tax to the payment of the warrants or bonds each year.

(c) A debt of the township may not be created except by the township board in the manner specified in this section. The board may bring an action in the name of the state against the bond of a trustee to recover for the use of the township funds expended in the unauthorized payment of a debt. The board may appropriate and the township trustee shall pay from township funds a reasonable sum for attorney's fees for this purpose.

(d) If a taxpayer serves the board with a written demand that the board bring an action as described in subsection (c), and after thirty (30) days the board has not brought an action, a taxpayer may bring an action to recover for the use of the township funds expended in the unauthorized payment of a debt. An action brought under this subsection shall be brought in the name of the state.

SECTION 9. IC 36-12-5-3, AS AMENDED BY P.L.13-2013, SECTION 156, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) The library board of a public library may file with the township trustee and legislative body a proposal of expansion and an intent to file a petition for acceptance of the proposal of expansion. Not later than ten (10) days after the filing, the township trustee shall publish notice of the proposal of expansion in the manner provided in IC 5-3-1. **Publication of the notice must be in accordance with IC 5-3-1-4** in a ~~newspaper~~ **an appropriate publication** of general circulation in the township. Beginning the first day after the notice is published, and during the period that ends sixty (60) days after the date of the publication of the notice, an individual who is a registered voter of the affected township or part of the affected

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township subject to expansion may sign one (1) or both of the following:

(1) A petition for acceptance of the proposal of expansion that states that the registered voter is in favor of the establishment of an expanded library district.

(2) A remonstrance in opposition to the proposal of expansion that states that the registered voter is opposed to the establishment of an expanded library district.

(b) A registered voter of the township or part of the township may file a petition or a remonstrance, if any, with the clerk of the circuit court in the county where the township is located. A petition for acceptance of the proposal of expansion must be signed by at least twenty percent (20%) of the registered voters of the township, or part of the township, as determined by the most recent general election.

(c) The following apply to a petition that is filed under this section or a remonstrance that is filed under subsection (b):

(1) The petition or remonstrance must show the following:

(A) The date on which each individual signed the petition or remonstrance.

(B) The residence of each individual on the date the individual signed the petition or remonstrance.

(2) The petition or remonstrance must include an affidavit of the individual circulating the petition or remonstrance, stating that each signature on the petition or remonstrance:

(A) was affixed in the individual's presence; and

(B) is the true signature of the individual who signed the petition or remonstrance.

(3) Several copies of the petition or remonstrance may be executed. The total of the copies constitute a petition or remonstrance. A copy must include an affidavit described in subdivision (2). A signer may file the petition or remonstrance, or a copy of the petition or remonstrance. All copies constituting a petition or remonstrance must be filed on the same day.

(4) The clerk of the circuit court in the county in which the township is located shall do the following:

(A) If a name appears more than one (1) time on a petition or on a remonstrance, the clerk must strike any duplicates of the name until the name appears only one (1) time on a petition or a remonstrance, or both, if the individual signed both a petition and a remonstrance.

(B) Strike the name from either the petition or the remonstrance of an individual who:

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- (i) signed both the petition and the remonstrance; and
- (ii) personally, in the clerk's office, makes a voluntary written and signed request for the clerk to strike the individual's name from the petition or the remonstrance.

(C) Certify the number of signatures on the petition and on any remonstrance that:

- (i) are not duplicates; and
- (ii) represent individuals who are registered voters in the township or the part of the township on the day the individuals signed the petition or remonstrance.

The clerk of the circuit court may only strike an individual's name from a petition or a remonstrance as set forth in clauses (A) and (B).

(d) The clerk of the circuit court shall complete the certification required under subsection (c) not more than fifteen (15) days after the petition or remonstrance is filed. The clerk shall:

- (1) establish a record of certification in the clerk's office; and
- (2) file the original petition, the original remonstrance, if any, and a copy of the clerk's certification with the legislative body.



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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