



Reprinted
March 24, 2023

ENGROSSED HOUSE BILL No. 1438

DIGEST OF HB 1438 (Updated March 23, 2023 2:05 pm - DI 87)

Citations Affected: IC 5-3.

Synopsis: Publication of local government notices. Provides that a towing service is subject to the same public notice advertising rates as a government agency if the service: (1) acts as an agent of a government agency; and (2) provides the notice required to dispose of abandoned vehicles or parts. Provides for the creation of a public notice task force (task force) to study notice publication statutes for the purpose of streamlining the process and maximizing value to Indiana citizens. Provides the following: (1) The task force must publish a report with its determinations and recommendations for legislation not later than December 1, 2023. (2) The task force expires December 31, 2023.

Effective: Upon passage; July 1, 2023.

Miller D, Wesco

(SENATE SPONSORS — DORIOT, GARTEN, BUCK, YODER, FORD J.D.)

January 17, 2023, read first time and referred to Committee on Government and Regulatory Reform.

February 21, 2023, amended, reported — Do Pass.

February 23, 2023, read second time, ordered engrossed.

February 24, 2023, engrossed.

February 27, 2023, read third time, passed. Yeas 94, nays 0.

SENATE ACTION

March 6, 2023, read first time and referred to Committee on Local Government.

March 20, 2023, reported favorably — Do Pass.

March 23, 2023, read second time, amended, ordered engrossed.

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First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1438

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

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

1 SECTION 1. IC 5-3-1-1, AS AMENDED BY P.L.147-2016,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 1. (a) The cost of all public notice advertising
4 which any elected or appointed public official or governmental agency
5 is required by law to have published, or orders published, for which the
6 compensation to the newspapers, locality newspapers, or qualified
7 publications publishing such advertising is drawn from and is the
8 ultimate obligation of the public treasury of the governmental unit
9 concerned with the advertising shall be charged to and collected from
10 the proper fund of the public treasury and paid over to the newspapers,
11 locality newspapers, or qualified publications publishing such
12 advertising, after proof of publication and claim for payment has been
13 filed.

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

17 (1) Before January 1, 1996, three dollars and thirty cents (\$3.30)

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1 per square for the first insertion in newspapers or qualified
2 publications plus one dollar and sixty-five cents (\$1.65) per
3 square for each additional insertion in newspapers, or qualified
4 publications.

5 (2) After December 31, 1995, and before December 31, 2005, a
6 newspaper or qualified publication may, effective January 1 of
7 any year, increase the basic charges by five percent (5%) more
8 than the basic charges that were in effect during the previous year.
9 However, the basic charges for the first insertion of a public
10 notice in a newspaper, or qualified publication may not exceed the
11 lowest classified advertising rate charged to advertisers by the
12 newspaper, or qualified publication for comparable use of the
13 same amount of space for other purposes.

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

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

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

41 (c) All public notice advertisements shall be set in solid type that is
42 at least 7 point type, without any leads or other devices for increasing



1 space. All public notice advertisements shall be headed by not more
 2 than two (2) lines, neither of which shall total more than four (4) solid
 3 lines of the type in which the body of the advertisement is set. Public
 4 notice advertisements may be submitted by an appointed or elected
 5 official or a governmental agency to a newspaper, locality newspaper,
 6 or qualified publication in electronic form, if the newspaper, locality
 7 newspaper, or qualified publication is equipped to accept information
 8 in compatible electronic form.

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

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

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

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

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

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

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

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

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

40 **(f) This subsection applies to a towing service acting as an agent**
 41 **of a governmental agency to facilitate the removal of abandoned**
 42 **vehicles or parts. A towing service shall be charged the basic rates**



1 **charged for all public notice advertising in subsection (b)(4) for**
 2 **providing the notice required under IC 9-22-1-23.**

3 SECTION 2. IC 5-3-6 IS ADDED TO THE INDIANA CODE AS
 4 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
 5 PASSAGE]:

6 **Chapter 6. Local Government Public Notice Task Force**

7 **Sec. 1. As used in this chapter, "political subdivision" means a**
 8 **county, township, city, town, school corporation, library district,**
 9 **fire protection district, public transportation corporation, local**
 10 **hospital authority or corporation, local airport authority district,**
 11 **special service district, special taxing district, or other separate**
 12 **local governmental entity that may sue and be sued.**

13 **Sec. 2. As used in this chapter, "task force" refers to the local**
 14 **government public notice task force established by section 3 of this**
 15 **chapter.**

16 **Sec. 3. The local government public notice task force is**
 17 **established.**

18 **Sec. 4. (a) The task force consists of the following eighteen (18)**
 19 **members:**

20 **(1) Two (2) members of the house of representatives,**
 21 **appointed as follows:**

22 **(A) One (1) member appointed by the speaker, who shall**
 23 **serve as co-chair of the task force.**

24 **(B) One (1) member appointed by the minority leader.**

25 **(2) Two (2) members of the senate, appointed as follows:**

26 **(A) One (1) member appointed by the president pro**
 27 **tempore, who shall serve as co-chair of the task force.**

28 **(B) One (1) member appointed by the minority leader.**

29 **(3) The chief information officer of the office of technology**
 30 **appointed under IC 4-13.1-2-3 or the chief information**
 31 **officer's designee.**

32 **(4) The following thirteen (13) members appointed by the**
 33 **lieutenant governor:**

34 **(A) An individual representing Indiana newspapers.**

35 **(B) An individual representing Indiana cities and towns.**

36 **(C) An individual representing county councils.**

37 **(D) An individual representing county commissioners.**

38 **(E) An individual representing county auditors.**

39 **(F) An individual representing rural communities.**

40 **(G) An individual representing school corporations.**

41 **(H) An individual representing the Indiana State Bar**
 42 **Association.**



- 1 **(I) An individual representing Indiana sheriffs.**
 2 **(J) An individual representing the aged population (as**
 3 **described in IC 12-7-2-8).**
 4 **(K) An individual representing Indiana veterans.**
 5 **(L) An individual representing Indiana financial**
 6 **institutions.**
 7 **(M) An individual representing townships.**
 8 **(b) A vacancy on the task force must be filled by the**
 9 **appointment of a replacement member by the appointing authority**
 10 **identified in subsection (a).**
 11 **(c) Initial appointments to the task force shall be made by the**
 12 **appropriate appointing authority not later than July 1, 2023.**
 13 **Sec. 5. Each legislative member and each lay member of the**
 14 **commission is entitled to receive the same per diem, mileage, and**
 15 **travel allowances paid to individuals serving as legislative and lay**
 16 **members, respectively, on an interim study committee established**
 17 **by the legislative council.**
 18 **Sec. 6. (a) Ten (10) members of the task force constitute a**
 19 **quorum.**
 20 **(b) The affirmative vote of at least a majority of the members at**
 21 **a meeting at which a quorum is present is necessary for the task**
 22 **force to take official action other than to meet and take testimony.**
 23 **(c) The task force shall meet at the call of the co-chairs.**
 24 **Sec. 7. All meetings of the task force shall be open to the public**
 25 **in accordance with and subject to IC 5-14-1.5. All records of the**
 26 **task force are subject to the requirements of IC 5-14-3.**
 27 **Sec. 8. (a) The task force shall study existing statutory notice**
 28 **publication requirements for political subdivisions with a focus on**
 29 **amending these requirements to maximize value for Indiana**
 30 **citizens. The task force shall study the following topics:**
 31 **(1) Streamlining notice publication processes and identifying**
 32 **efficiencies without endangering due process.**
 33 **(2) The viability of use of print and digital media for**
 34 **providing notice.**
 35 **(3) Increasing awareness of and accessibility to public notice**
 36 **for all citizens.**
 37 **(4) The viability of using digital platforms to host public**
 38 **notices.**
 39 **(5) Evaluating cost savings to political subdivisions by having**
 40 **political subdivisions:**
 41 **(A) publish notices on their web page; and**
 42 **(B) maintain notice publication data as required by statute.**



- 1 **(6) Reviewing publication of notice statutes and making any**
 2 **recommendations to modernize the publication of notice**
 3 **requirements.**
 4 **(b) The task force may, at the discretion of the co-chairs,**
 5 **examine any issue to:**
 6 **(1) study the issues set forth in subsection (a); or**
 7 **(2) develop the recommendations and issue the report**
 8 **required by section 9 of this chapter.**
 9 **Sec. 9. The task force shall:**
 10 **(1) issue a report setting forth:**
 11 **(A) the task force's determinations under section 8 of this**
 12 **chapter; and**
 13 **(B) any recommendations for legislation for introduction**
 14 **in the 2024 regular session based upon its determinations;**
 15 **and**
 16 **(2) not later than December 1, 2023, submit the report:**
 17 **(A) in an electronic format under IC 5-14-6 to the**
 18 **executive director of the legislative services agency for**
 19 **distribution to the members of the general assembly; and**
 20 **(B) to the governor.**
 21 **Sec. 10. The legislative services agency shall provide staff**
 22 **support to the task force.**
 23 **Sec. 11. This chapter expires December 31, 2023.**
 24 **SECTION 3. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1438, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1438 as introduced.)

MILLER D

Committee Vote: yeas 10, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred House Bill No. 1438, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1438 as printed February 21, 2023.)

BUCK, Chairperson

Committee Vote: Yeas 9, Nays 0

SENATE MOTION

Madam President: I move that Engrossed House Bill 1438 be amended to read as follows:

Page 4, line 18, delete "seventeen (17)" and insert "**eighteen (18)**".

Page 4, line 32, delete "twelve (12)" and insert "**thirteen (13)**".

Page 4, between lines 37 and 38, begin a new line double block indented and insert:

"**(E) An individual representing county auditors.**".

Page 4, line 38, delete "(E)" and insert "**(F)**".

Page 4, line 39, delete "(F)" and insert "**(G)**".

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Page 4, line 40, delete "(G)" and insert "**(H)**".
Page 4, line 42, delete "(H)" and insert "**(I)**".
Page 5, line 1, delete "(I)" and insert "**(J)**".
Page 5, line 3, delete "(J)" and insert "**(K)**".
Page 5, line 4, delete "(K)" and insert "**(L)**".
Page 5, line 6, delete "(L)" and insert "**(M)**".
Page 5, line 17, delete "Nine (9)" and insert "**Ten (10)**".

(Reference is to EHB 1438 as printed March 21, 2023.)

DORIoT

