

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.

HOUSE ENROLLED ACT No. 1438

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 5-3-1-1, AS AMENDED BY P.L.147-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: 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.

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

(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.

(f) This subsection applies to a towing service acting as an agent of a governmental agency to facilitate the removal of abandoned vehicles or parts. A towing service shall be charged the basic rates charged for all public notice advertising in subsection (b)(4) for providing the notice required under IC 9-22-1-23.

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



PASSAGE]:

Chapter 6. Local Government Public Notice Task Force

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

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

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

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

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

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

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

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

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

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

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

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

(A) An individual representing Indiana newspapers.

(B) An individual representing Indiana cities and towns.

(C) An individual representing county councils.

(D) An individual representing county commissioners.

(E) An individual representing county auditors.

(F) An individual representing rural communities.

(G) An individual representing school corporations.

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

(I) An individual representing Indiana sheriffs.

(J) An individual representing the aged population (as described in IC 12-7-2-8).

(K) An individual representing Indiana veterans.



(L) An individual representing Indiana financial institutions.

(M) An individual representing townships.

(b) A vacancy on the task force must be filled by the appointment of a replacement member by the appointing authority identified in subsection (a).

(c) Initial appointments to the task force shall be made by the appropriate appointing authority not later than July 1, 2023.

Sec. 5. Each legislative member and each lay member of the commission is entitled to receive the same per diem, mileage, and travel allowances paid to individuals serving as legislative and lay members, respectively, on an interim study committee established by the legislative council.

Sec. 6. (a) Ten (10) members of the task force constitute a quorum.

(b) The affirmative vote of at least a majority of the members at a meeting at which a quorum is present is necessary for the task force to take official action other than to meet and take testimony.

(c) The task force shall meet at the call of the co-chairs.

Sec. 7. All meetings of the task force shall be open to the public in accordance with and subject to IC 5-14-1.5. All records of the task force are subject to the requirements of IC 5-14-3.

Sec. 8. (a) The task force shall study existing statutory notice publication requirements for political subdivisions with a focus on amending these requirements to maximize value for Indiana citizens. The task force shall study the following topics:

(1) Streamlining notice publication processes and identifying efficiencies without endangering due process.

(2) The viability of use of print and digital media for providing notice.

(3) Increasing awareness of and accessibility to public notice for all citizens.

(4) The viability of using digital platforms to host public notices.

(5) Evaluating cost savings to political subdivisions by having political subdivisions:

(A) publish notices on their web page; and

(B) maintain notice publication data as required by statute.

(6) Reviewing publication of notice statutes and making any recommendations to modernize the publication of notice requirements.

(b) The task force may, at the discretion of the co-chairs,



examine any issue to:

- (1) study the issues set forth in subsection (a); or
- (2) develop the recommendations and issue the report required by section 9 of this chapter.

Sec. 9. The task force shall:

- (1) issue a report setting forth:
 - (A) the task force's determinations under section 8 of this chapter; and
 - (B) any recommendations for legislation for introduction in the 2024 regular session based upon its determinations; and
- (2) not later than December 1, 2023, submit the report:
 - (A) in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly; and
 - (B) to the governor.

Sec. 10. The legislative services agency shall provide staff support to the task force.

Sec. 11. This chapter expires December 31, 2023.

SECTION 3. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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