



February 2, 2021

HOUSE BILL No. 1498

DIGEST OF HB 1498 (Updated February 2, 2021 11:08 am - DI 87)

Citations Affected: IC 5-3; noncode.

Synopsis: Publication of local government notices. Allows a political subdivision to publish legal notices on a legal notice web site instead of in a newspaper. Establishes requirements regarding availability and accessibility of a legal notice web site. Requires a political subdivision to designate an official responsible for the electronic publication of legal notices, if the political subdivision publishes legal notices electronically. Provides that if a political subdivision does not have an official web site, legal notices may be published on an official web site of the county government. Establishes requirements for the duration of the posting of a legal notice and proof of posting. Provides that a towing service acting as an agent of a government agency that provides the notice required to dispose of abandoned vehicles or parts is subject to the same public notice advertising rates as a governmental agency.

Effective: July 1, 2021.

Miller D

January 14, 2021, read first time and referred to Committee on Government and Regulatory Reform.
February 2, 2021, amended, reported — Do Pass.

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February 2, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1498

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, 2021]: 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 5-3-5 IS ADDED TO THE INDIANA CODE AS
 4 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 5 1, 2021]:

6 **Chapter 5. Electronic Publication of Legal Notices by Political**
 7 **Subdivisions**

8 **Sec. 1. This chapter applies after June 30, 2022, to all political**
 9 **subdivisions.**

10 **Sec. 2. As used in this chapter, "electronic publication" or**
 11 **"electronically publish" means the public advertisement of a legal**
 12 **notice on a legal notice web site.**

13 **Sec. 3. As used in this chapter, "legal notice" means any matter**
 14 **of a political subdivision that by law or rule is required to be**
 15 **published in a newspaper.**

16 **Sec. 4. As used in this chapter, "legal notice web site" means an**
 17 **Internet web site that:**

18 **(1) is maintained by:**

19 **(A) a political subdivision; or**

20 **(B) a third party under contract with a political**
 21 **subdivision; and**

22 **(2) contains links to legal notices electronically published by**
 23 **the political subdivision.**

24 **Sec. 5. As used in this chapter, "official web site" means the**
 25 **Internet location designated by a political subdivision as its**
 26 **primary source of information about the political subdivision on**
 27 **the Internet.**

28 **Sec. 6. As used in this chapter, "political subdivision" has the**
 29 **meaning set forth in IC 3-5-2-38. The term includes any**
 30 **administration, agency, authority, board, bureau, commission,**
 31 **committee, council, department, division, institution, office, officer,**
 32 **service, or other similar body of a political subdivision created or**
 33 **established under law.**

34 **Sec. 7. Notwithstanding IC 5-3-1 or any other law or rule, if a**
 35 **political subdivision is required to publish a legal notice in one (1)**
 36 **or more newspapers within Indiana, the political subdivision may**
 37 **publish the legal notice on a legal notice web site instead of in a**
 38 **newspaper, if the political subdivision complies with this chapter.**

39 **Sec. 8. A political subdivision that electronically publishes**
 40 **notices shall ensure the following:**

41 **(1) The public has access to the official web site at all times,**
 42 **other than during web site maintenance or due to causes**



beyond the operator's control.

(2) The official web site of the political subdivision containing the legal notice web site must be registered with the office of technology established by IC 4-13.1-2-1. The public must have electronic access to a list of all the registered official web sites through the computer gateway administered by the office of technology.

(3) An official web site must prominently display a link to the legal notice web site. The legal notice web site must be an index web page containing:

(A) a list of all current legal notices of the political subdivision;

(B) links to the full text of the legal notices; and

(C) a search function and other features that improve public accessibility to legal notices.

(4) Regular public Internet web site access must be made available without charge within the jurisdiction of the political subdivision or within the county where the political subdivision is located through the public library or at some other location.

Sec. 9. (a) If:

(1) a political subdivision does not have an official web site; and

(2) a county in which the political subdivision is located has an official web site;

the political subdivision may publish legal notices on the county's official web site. A county shall publish on the county's official web site any legal notice provided to the county by a political subdivision under this chapter.

(b) A political subdivision that is located in more than one (1) county and electronically publishes on a county web site shall electronically publish legal notices on the official county web sites of all the counties in which the political subdivision is located.

Sec. 10. Legal notices must remain available on legal notice web sites not less than ninety (90) days after the last posting date required by law has expired.

Sec. 11. (a) The political subdivision or contractor of an official web site shall:

(1) create a printed copy of any legal notice posted on the legal notice web site in a format that includes the date of publication, on the first day that the legal notice is published on the legal notice web site; and



- 1 **(2) maintain a printed copy of any legal notice for archival**
 2 **and verification purposes.**
- 3 **(b) A proof of publication that complies with section 12 of this**
 4 **chapter must be furnished upon request. The proof of publication**
 5 **must state that the legal notice was posted from the initial date**
 6 **through the last posting date required by law.**
- 7 **Sec. 12. Proof of publication of an electronically published legal**
 8 **notice for the purpose of complying with public legal notice**
 9 **requirements is satisfied and considered conclusive upon the**
 10 **provision of the proof of publication described in section 11 of this**
 11 **chapter:**
- 12 **(1) executed by the official designated as responsible for the**
 13 **electronic publication under section 13 of this chapter; and**
 14 **(2) stating that the legal notice was posted from the initial**
 15 **date through the last posting date required by law.**
- 16 **Sec. 13. The political subdivision shall:**
- 17 **(1) designate an official of the political subdivision to be**
 18 **responsible for electronic publications; and**
 19 **(2) post the official's name and contact information on the**
 20 **legal notice web site.**
- 21 **Sec. 14. IC 5-3-1-2.3 and any other provisions regarding an**
 22 **error or omission in a legal notice published in a newspaper also**
 23 **apply to the electronic publication of a legal notice.**
- 24 **SECTION 3. [EFFECTIVE JULY 1, 2021] (a) The legislative**
 25 **council shall provide for the preparation and introduction of**
 26 **legislation in the 2022 session of the general assembly to correct**
 27 **cross-references and make other changes to the Indiana Code, as**
 28 **necessary, to bring provisions into conformity with this act.**
 29 **(b) This SECTION expires July 1, 2023.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1498, 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:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"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, 2021]: 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 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:

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(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."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1498 as introduced.)

MILLER D

Committee Vote: yeas 10, nays 3.

