

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 745 Session of 2017

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MARTIN AND SCARNATI, JUNE 7, 2017

REFERRED TO LOCAL GOVERNMENT, JUNE 7, 2017

AN ACT

1 Amending Title 45 (Legal Notices) of the Pennsylvania
2 Consolidated Statutes, in legal advertising, further
3 providing for additional publication in legal journals;
4 providing for electronic publication of legal notices by
5 local government units; and making an appropriation.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 308(a) of Title 45 of the Pennsylvania
11 Consolidated Statutes is amended to read:

12 § 308. Additional publication in legal journals.

13 (a) General rule.--Except as otherwise provided by statute,
14 every notice or advertisement required by law or rule of court
15 to be published in one or more newspapers of general circulation
16 or permitted by Chapter 4 (relating to electronic publication of
17 legal notices by local government units) to be electronically
18 published, unless dispensed with by special order of court,
19 shall also be published in the legal newspaper, issued at least

1 weekly, in the county, designated by rules of court for the
2 publication of court or other legal notices, if such newspaper
3 exists. Publication in such legal newspaper shall be made as
4 often as required or, in the case of a notice electronically
5 published, as often as would otherwise be required to be made in
6 [such] newspapers [in] of general circulation, and shall be
7 subject to the same stipulations and regulations as those
8 imposed for the like services upon all newspapers.

9 * * *

10 Section 2. Title 45 is amended by adding a chapter to read:

11 CHAPTER 4

12 ELECTRONIC PUBLICATION OF LEGAL NOTICES

13 BY LOCAL GOVERNMENT UNITS

14 Sec.

15 401. Scope and applicability of chapter.

16 402. Definitions.

17 403. Statewide Bid and Notice Database.

18 404. Duties of office.

19 405. Election to participate in database.

20 406. Local government unit responsibilities.

21 § 401. Scope and applicability of chapter.

22 (a) Scope.--This chapter relates to the authorization of
23 local government units to use electronic means to publish
24 certain legally required notices.

25 (b) Applicability.--A local government unit which publishes
26 notices and advertisements consistent with section 308 (relating
27 to additional publication in legal journals) may, in lieu of
28 publication in newspapers of general circulation, electronically
29 publish legal notices in addition to publication in legal
30 journals. Electronic publication in accordance with this chapter

1 shall substitute for and satisfy the requirements for
2 publication of legal notice in newspapers of general circulation
3 by a local government unit imposed by any provision of law.

4 § 402. Definitions.

5 The following words and phrases when used in this chapter
6 shall have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 "Database." The Statewide Bid and Notice Database
9 established under this chapter.

10 "Electronic publication" or "electronically publish." The
11 public advertisement of a legal notice in hypertext markup
12 language (HTML) format, or an equivalent language format, on a
13 publicly accessible Internet website in accordance with this
14 chapter.

15 "Local government unit." A county, city, borough,
16 incorporated town, township, school district, vocational school
17 district, county institution district, home rule municipality,
18 local authority of any joint or cooperative body of local
19 government units or any instrumentality, authority or
20 corporation thereof which has authority to enter into a
21 contract.

22 "Notice" or "legal notice." An advertisement, publication,
23 request for bid or proposal, solicitation, statement or report,
24 or an abstract of a notice, advertisement, publication,
25 statement or report required by law, rule or regulation to be
26 published in a newspaper relating to any of the following
27 activities of a local government unit:

28 (1) A meeting of a governing body of a local government
29 unit or its committees.

30 (2) An ordinance or resolution.

1 (3) A budget, auditor's report or financial statement.

2 (4) A contract, agreement, request for bids or proposals
3 or other documentation related to the procurement of
4 supplies, services or construction.

5 (5) A sale or disposition of real or personal property,
6 including property sold for municipal taxes or claims.

7 (6) A proceeding requiring public notice in accordance
8 with the act of July 31, 1968 (P.L.805, No.247), known as the
9 Pennsylvania Municipalities Planning Code.

10 (7) A proceeding requiring public notice in accordance
11 with applicable laws governing zoning or subdivision and land
12 development in municipalities not subject to the Pennsylvania
13 Municipalities Planning Code.

14 Inclusion of an activity in paragraphs (1), (2), (3), (4), (5),
15 (6) and (7) does not relieve a local government unit of the
16 requirement to publish in a legal journal if otherwise required
17 by section 308 (relating to additional publication in legal
18 journals).

19 "Office." The Office of Open Records of the Commonwealth.

20 "Resolution." A legislative enactment by a local government
21 unit.

22 § 403. Statewide Bid and Notice Database.

23 (a) Establishment.--The office of Open Records shall
24 establish and maintain a Statewide Internet website database
25 accessible to the general public on which notices shall be
26 published. The database shall meet the requirements of section
27 404 (relating to duties of office).

28 (b) Records and reporting.--

29 (1) All Commonwealth and local government unit records
30 relating to the database shall be subject to the act of

1 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know
2 Law.

3 (2) The office shall keep and make available for public
4 inspection all records of complaints and service
5 accessibility failures reported. The office shall review all
6 complaints reported to determine the cause of an access
7 problem and shall document the findings and any action taken
8 to resolve the problem.

9 (3) The office shall report to the General Assembly on
10 the implementation and use of the database two years after
11 the database begins operation and every two years thereafter.

12 (c) Regulations.--The office may promulgate rules and
13 regulations it deems necessary to operate the database and to
14 verify the publication of notices in compliance with this
15 chapter.

16 § 404. Duties of office.

17 (a) Maintenance.--The database shall be maintained by the
18 office and meet the following requirements:

19 (1) Be accessible to the public via a publicly
20 accessible Internet website 24 hours a day, 365 days a year.

21 (2) Include an index containing a list of all local
22 government units participating in the database. The index
23 shall include all current electronically published notices of
24 the local government units.

25 (3) List contact information for each participating
26 local government unit and any link to a government unit's own
27 publicly accessible Internet website.

28 (4) Provide access to the full text of all notices.

29 (5) Contain a search function to allow for a search by
30 keyword, by type of notice and by local government unit. The

1 database may contain other features to improve public
2 accessibility to electronically published notices.

3 (6) Be based, to the maximum extent possible, on widely
4 available nonproprietary hardware and software to allow for
5 maximum participation by local government units and the
6 public.

7 (b) Fees.--

8 (1) The office may not charge a member of the public a
9 fee to search the database.

10 (2) The office may set a schedule of annual membership
11 fees to be paid by local government units based on the local
12 government's usage of the database.

13 (c) Contracting.--The office may contract with the
14 Legislative Data Processing Center to develop, implement or
15 maintain the database.

16 § 405. Election to participate in database.

17 (a) Resolution.--A local government unit may adopt a
18 resolution to elect to electronically publish notices on the
19 database in accordance with this chapter. The resolution shall
20 be adopted prior to usage of the database.

21 (b) Specification of notices.--The resolution adopted under
22 subsection (a) shall specify which type of notices will be
23 subject to electronic publication under this chapter.

24 § 406. Local government unit responsibilities.

25 A local government unit which elects to provide electronic
26 publication of notices shall comply with all of the following:

27 (1) All electronically published notices shall also be
28 available for review in printed form in the appropriate
29 office of the local government unit. The local government
30 unit shall provide a copy of the notice to an individual upon

1 request and the notice shall be provided at a cost not to
2 exceed the cost established under section 1307(b) of the act
3 of February 14, 2008 (P.L.6, No.3), known as the Right-to-
4 Know Law.

5 (2) If the local government unit maintains a publicly
6 accessible Internet website, all notices shall be posted on
7 the website and it shall prominently display the link to the
8 database.

9 (3) (i) A notice shall first be made on a date
10 permitted by law for the initial printed publication of
11 the notice and shall remain on the database until the
12 last date that printed publication could be made in
13 accordance with law.

14 (ii) Electronic publication for the period specified
15 under subparagraph (i) shall be sufficient for purposes
16 of certification of publication under paragraph (5).

17 (iii) A local government unit that electronically
18 publishes a notice for the period required under
19 subparagraph (i) may do any of the following:

20 (A) Continue to electronically publish the
21 notice for up to 180 days after the last date for
22 publication under subparagraph (i).

23 (B) Provide for the printed publication of the
24 notice in a newspaper of general circulation.

25 (4) All notices electronically published shall be mailed
26 by first class mail or facsimile to the newspaper of general
27 circulation no later than the date the notice is posted on
28 the database. The local government unit may establish an
29 alternative method to notify the newspaper of general
30 circulation via electronic means, including e-mail.

1 (5) (i) An official or employee of a local government
2 unit responsible for the publication of notices under
3 this chapter shall sign a written certification that the
4 notice was electronically published on the database for
5 the period required under paragraph (3)(i) and the time,
6 place, character of notice and beginning and ending dates
7 of the continuous electronic publication of the notice. A
8 copy of the notice, exactly as electronically published,
9 shall be attached to the certification.

10 (ii) The certification shall constitute a public
11 record as defined in section 102 of the Right-to-Know
12 Law.

13 (iii) Proof of publication as provided in this
14 paragraph may be rebutted by clear and convincing
15 evidence establishing that the notice was not
16 electronically published as provided in the
17 certification.

18 (6) The local government unit shall ensure that all
19 publicly accessible Internet websites and other contact
20 information, including e-mail addresses, required by this
21 chapter be updated when a change occurs.

22 (7) The local government unit shall maintain a copy of
23 all notices, certifications of legal notices, electronic
24 transmissions required by paragraph (3) and facsimile
25 transmission reports in accordance with standards relating to
26 records retention established pursuant to law, regulation,
27 policy or other directive.

28 Section 3. The sum of \$100,000 is hereby appropriated to the
29 Office of Open Records for the establishment of the Statewide
30 Bid and Notice Database under this act.

1 Section 4. This act shall take effect in 60 days.