



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 156: Legal Notices/Require Internet Publi

2015-2016 General Assembly

Committee:	Senate Finance	Date:	June 9, 2015
Introduced by:	Reps. Avila, Malone, Davis, Harrison	Prepared by:	R. Erika Churchill
Analysis of:	PCS to Second Edition H156-CSST		Staff Attorney

SUMMARY: *The PCS for House Bill 156 does all of the following:*

- *Limits the amount that newspapers can charge a governmental entity for the second or subsequent publication of a legal notice that is required to be published more than once where the governmental entity does not recoup the cost of publication from a private party.*
- *Requires each legal notice to be placed on the newspaper's Web site on the same day it appears in the printed newspaper and requires that access be provided at no charge to such notices.*
- *Requires newspapers to provide, to anyone requesting it, notification by electronic mail the first time that each legal notice within a series is published in the newspaper.*
- *Provides that if there is an error in placing a governmental entity's notice on a newspaper's Web site, the requirement of proper legal notice will be deemed met if the governmental entity places the notice on its own Web site.*
- *Authorizes counties, cities, and county boards of election in a county with a population of more than 150,000 population to adopt an ordinance opting to give electronic notice for any matter in which that city or county is required to publish notice in a newspaper.*
- *Expands the definition of "publish" with respect to counties, cities, and the Local Government Budget and Fiscal Control act to include a news publication with an audited readership of at least 25,000 people circulated in the jurisdiction that is published at least once per week .*

[As introduced, this bill was identical to S129, as introduced by Sens. Sanderson, Apodaca, Hise, which is currently in Rules and Operations of the Senate.]

CURRENT LAW: G.S. 1-596 regulates the charges for legal advertising required by law to be published in newspapers in North Carolina. G.S. 1-597 sets forth requirements applicable to legal notices required to be published in newspapers of general circulation.

Governing boards of counties and cities are required by statute, and sometimes local act, to publish notice or advertise prior to taking certain actions. Local boards of elections are statutorily required to publish certain notices prior to elections in newspapers of general circulation of the county. Some of the items that require notice or advertisement are:

- Notice of public meetings. Article 33B of Chapter 143.
- Various public hearings statutorily required prior to the county or city taking action or adopting certain ordinances, such as zoning ordinances. Often, the statute requiring the public hearing will

O. Walker Reagan
Director



Research Division
(919) 733-2578

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specify how notice of the public hearing is to be given, usually publication in a newspaper of general circulation within a specified timeframe of the public hearing.

- Budget ordinance. Chapter 159.
- Sale and disposition of property. Article 12 of Chapter 160A.
- Purchase and contract bids. Article 8 of Chapter 143.
- Changes in form of government. Article 4 of Chapter 153A and Article 5 of Chapter 160A.
- Assessments. Article 9 of Chapter 153A and Article 10 of Chapter 160A.
- Boundary disputes. Article 1 of Chapter 153A.
- Development agreements. Article 18 of Chapter 153A and Article 19 of Chapter 160A.
- Referendums and special elections, such as fire tax districts, property tax levies, and sales tax levies.
- Dates of primary, general and special elections, and hours the voting places that will be open for those elections.

When publishing notices, the county or city is to do that by inserting the notice in a newspaper qualified under G.S. 1-597 in that county or city. To be qualified under G.S. 1-597, a newspaper must satisfy all of the following:

- Have a general circulation to actual paid subscribers.
- Have been admitted to the United States mails in the Periodicals class in that county or city.
- Have been regularly and continuously issued in the county at least one day in each calendar week for at least 25 of the 26 consecutive weeks. If that newspaper fails for a period not exceeding 4 weeks in any calendar year to publish one or more of its issues, that newspaper still meets the qualifications.

If there is not a newspaper meeting those qualifications, then it is sufficient to use in a newspaper published in an adjoining county or in a county within the same district court or superior court district.

BILL ANALYSIS: The proposed committee substitute does all of the following:

- Amends G.S. 1-596 to provide that if a government notice is required to be published more than once, and the cost of publishing the notice must be paid by the governmental entity without recoupment from a private party, then the rate charged for the second and successive publications of the notice can be no more than 85% of the rate charged for the first publication. (See Section 1.)
- Requires newspapers that maintain Web sites to place each legal notice on the newspaper's Web site on the same day as it appears in the newspaper, with a hyperlink on the front page of the newspaper's Web site providing access to the legal notices without charge. The Web site must provide a search function to facilitate searches of legal notices. (See Section 2.)
- Requires newspapers to provide, at no charge to anyone who requests it, notification by electronic mail the first time that each legal notice is printed in the newspaper and placed on the newspaper's Web site. (See Section 2.)
- Clarifies that an error in placing a government legal notice on the Web site of a newspaper will be deemed harmless error not affecting the validity of the notice if the governmental entity places the notice on its own Web site. (See Section 2.)

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- Provides that the governing board of a county with a population greater than 150,000 people according to the last federal decennial Census, any city located wholly or partly in that county, and the county board of elections in that county, may adopt an ordinance providing that any notice that the city or county must publish or advertise may be published by electronic means, in lieu of or in addition to the newspaper or other statutorily required publication, under the following conditions:
 - Electronic notices must be posted on the city or county website for at least one year.
 - Provides that local boards of election may adopt a policy providing that any notice that the local board is required to provide may be done by electronic means, in lieu of or in addition to the other required publication, under the same parameters as a city or county.
 - Requires the city, county, or local board of elections to print any notice published by electronic means and file it in a notice book.
 - The notice book must be separate and apart from the ordinance book or minute book of the city or county.
 - The notice book must be indexed and maintained for public inspection in the office of the clerk.
 - Requires that cities, counties or local boards of election to mail or e-mail to those persons so requesting, a copy of the notice given. The city, county or local board of elections may require that the request be renewed annually.
 - The ordinance adopted by the county or city does not supersede any State law that or local act that requires notice by mail to certain persons or posting signs on property. (See Sections 3 and 7.)
- Expands the definition of "newspaper" to include a news publication circulated in the county or city, published at least once per week, and with an audited readership of at least 25,000 persons. (See Sections 4, 5, and 6)
- Makes conforming changes to the definition of "publish" in Chapter 153A, Counties; Chapter 160A, Cities; and Chapter 159, Local Government Finance Act. (See Sections 4, 5, and 6)

EFFECTIVE DATE: The act becomes effective October 1, 2015, and applies to notices given on or after that date, except that it does not apply to notices permitted to be published on a government Internet Web site in lieu of newspaper publication pursuant to an ordinance enacted before that date.

BACKGROUND: The following local governments are permitted to use electronic notice for public hearings: Cabarrus County (S.L. 2003-81), City of Raleigh and Town of Lake Waccamaw (S.L. 2003-161), Towns of Apex, Garner, and Knightdale (S.L. 2007-86), and Town of Cary (S.L. 2008-5).

Bill Patterson contributed to this summary.