



HOUSE BILL 35: Various County Public Notices.

2021-2022 General Assembly

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| Committee: | House Local Government. If favorable, re- refer to Rules, Calendar, and Operations of the House | Date: | February 23, 2021 |
| Introduced by: | Reps. Warren, Adams, Hanig | Prepared by: | Billy R. Godwin Staff Attorney |
| Analysis of: | PCS to Second Edition H35-CSBDf-2 | | |

OVERVIEW: *House Bill 35 would authorize the counties of Burke, Currituck, Davidson, Davie, Iredell, Montgomery, Richmond, Rockingham, Rowan, Rutherford, and Stanly, to adopt an ordinance to:*

- *Allow those counties, and any municipality located wholly in those counties, to electronically publish on the website of the county board of commissioners of those counties, any notice or advertisement those governing boards are required to publish in a newspaper.*
- *Allow electronic publication on the website of the county board of commissioners of those counties any legal notice permitted or required by law to be published in a newspaper.*

The Proposed Committee Substitute to H35 would:

- *Remove county boards of elections in the listed counties from the coverage of Section 1.*
- *Provide that ordinances adopted under Section 1 would not apply to tax lien advertisements.*
- *Clarify that cities located wholly in the listed counties may electronically publish their governing board notices or advertisements on the website of the county board of commissioners.*
- *Modify the long title to more accurately reflect the contents of the bill.*

CURRENT LAW: North Carolina law requires various general legal notices and advertisements to be published in a newspaper of general circulation in the area impacted by the legal notice. Examples include judicial sales under Article 29A of Chapter 1 of the General Statutes, administration of estates under Chapter 28A of the General Statutes, and execution sales under Article 29B of Chapter 1 of the General Statutes.

The General Statutes, and sometimes local acts, also require governing boards of counties and cities to publish notice or to advertise in a newspaper qualified under G.S. 1-597 prior to taking certain actions. Examples include notice or advertisement of the following:

- Public hearings pertaining to development regulations such as adoption of zoning or subdivision ordinances, rezoning of existing parcels, and special use permits. Chapter 160D
- Adoption of a budget ordinance. Chapter 159.
- Consideration of the sale and disposition of property. Article 12 of Chapter 160A.
- Solicitation of bids for public contracts. Article 8 of Chapter 143.

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- Changes in form of government. Article 4 of Chapter 153A and Article 5 of Chapter 160A.
- Special assessments. Article 9 of Chapter 153A and Article 10 of Chapter 160A.

BILL ANALYSIS:

Section 1 of the PCS to House Bill 35 would:

- Allow the listed counties, and any municipality located wholly in those counties, to adopt an ordinance to electronically publish on the website of the county board of commissioners of those counties, any notice or advertisement those governing boards are required to publish in a newspaper.
 - The electronic publication would be in lieu of or in addition to newspaper publication.
 - The electronic publication could include all governing board notices or advertisements or a clearly identified category of notices or advertisements.
- Authorize reasonable fees to cover the cost of providing the electronic notice.
- Require the governing board adopting an electronic publication ordinance to publish in a newspaper for 12 consecutive months, instructions on how to access notices published electronically.
- Set forth website and administrative requirements that must be met for notices or advertisements published electronically.
- Provide that ordinances adopted under this section would not apply to tax lien advertisements.
- Provide that electronic publication authority applies to any board appointed by a county board of commissioners or city council that has adopted an electronic publication ordinance.

Section 2: of the PCS to House Bill 35 would:

- Allow the listed counties to adopt an ordinance to allow electronic publication on the website of the county board of commissioners any legal notice permitted or required by law to be published in a newspaper.
 - The electronic publication would be in lieu of newspaper publication.
- Authorize the county to charge fees to cover the administrative cost of providing the electronic notice.
- Set forth website and administrative requirements that must be met for legal notices or advertisements published electronically.
- Require newspapers that publish legal notices to publish a public notice that public notices may be published on the county-maintained website, in the newspaper, or both.

EFFECTIVE DATE: The bill would become effective when it becomes law and would apply to notices published on or after that date.

BACKGROUND: The following local governments are currently 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),

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Guilford County, Archdale, Burlington, Gibsonville, Greensboro, High Point, Jamestown, Kernersville, Oak Ridge, Pleasant Garden, Sedalia, Stokesdale, Summerfield, and Whitsett (S.L. 2017-210).

**Staff Attorneys Erika Churchill and Jeremy Ray substantially contributed to this summary.*