

Legislative Analysis



PUBLICATION OF LEGAL NOTICES: DEFINITION OF "NEWSPAPER"

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House Bills 5826-5828

Sponsor: Rep. Pam Byrnes

Committee: Judiciary

Complete to 5-11-10

A SUMMARY OF HOUSE BILLS 5826-5828 AS INTRODUCED 2-17-10

Taken together, the bills would provide a new definition of the term "newspaper" for use in state statutes that require the publication of legal notices. A "newspaper" would be defined as a print publication except in cases where no newspaper existed. In such cases an online publication that was the continuation of a previously printed newspaper would qualify as a newspaper.

House Bills 5826 and 5827 are tie-barred to each other and to House Bill 5828; House Bill 5828 is tie-barred only to House Bill 5826.

House Bill 5826 would amend the Revised Judicature Act to repeal Sections 600.1461 and 600.1950. Both sections contain definitions of "newspaper" for the purposes of publishing notices regarding civil actions.

House Bill 5827 would amend the Natural Resources and Environmental Protection Act (MCL 324.2133) to delete a reference to the definition of "newspaper" in the RJA that would be repealed by House Bill 5826 and instead reference the definition of "newspaper" in Public Act 247 of 1963, as modified by House Bill 5828.

House Bill 5828 would amend Public Act 247 of 1963 (MCL 691.1051), which defines the term "newspaper" as used in state statutes regarding publication of legal notices. The bill would, among other things, delete a reference to the definition of "newspaper" contained in the Revised Judicature Act (which House Bill 5826 would repeal); specify that "newspaper" would, with some exceptions, mean a "print publication;" and use the term "required area" as a replacement for the list of types of local governmental units in which legal notices must be published.

Definition of Newspaper

As modified by House Bill 5828, "newspaper," as used in any statute of the state in relation to the publication of a notice (unless the statute expressly provided otherwise) would mean a print publication published in English for the dissemination of local news of a general character or for the dissemination of legal news to which all of the following would apply:

- The newspaper has a bona fide list of paying subscribers or has been published at not less than weekly intervals in the same community without interruption for at least two years. (This is current law.)
- The newspaper has been published and of general circulation at not less than weekly intervals without interruption for at least one year in the required area.
- The newspaper annually averages at least 25 percent news and editorial content per issue. (This is current law.)

If no newspaper met the above definition, "newspaper" would mean a website on the Internet that met all of the following requirements:

** Is identified as a continuous online version of a newspaper that previously met the definition above and was published and of general circulation in the required area.

** Is published in English for the dissemination of local news of a general character or for the dissemination of legal news for the required area.

** Has been established and operating without interruption for at least two years.

** Contains substantial news and editorial content.

** Published and posted regularly news content on the website that was updated at least every seven days for the preceding two years.

** Listed contact information (e.g., staff located in the required area); address and telephone number; and the address in the required area where public notices could be sent for posting, where complaints could be made, and where printed copies of notices could be viewed by the public.

** Included a clearly designated area for public notices accessible via a conspicuously displayed and clearly labeled link from the homepage of the website and the posted notices were maintained permanently in a searchable database accessible on the website.

If no newspaper in the required area met either of the definitions above (print or online newspaper), "newspaper" would mean a newspaper in an adjoining county, township, city, village, district, or other geographic territory, as applicable, that met the definition of a print or online newspaper.

Printed Archival Copies

Further, the bill would require a newspaper to maintain a permanent and complete printed copy of each published newspaper edition for archival and verification purposes in the required area. A website that qualified as a newspaper would have to create a printed copy of any notice, in a format that included the date of publication, on the first day that

the notice was published on the website and would be required to maintain the printed copy in the required area for archival and verification purposes.

Other Provisions

A newspaper that met the definitions of "newspaper" contained in the bill but that was controlled by the person on whose behalf the notice was published or by an officer, employee, agent, or affiliate of the person would not be qualified to act as a newspaper for publication of the notice.

The bill would define the terms "controlled," "Internet," "news and editorial content," "notice," "required area," and "website."

FISCAL IMPACT:

House Bill 5826 would have no fiscal impact on state or local government.

House Bill 5827 would have no fiscal impact on the DNRE or local units of government.

House Bill 5828 would have an indeterminate, but likely negligible, fiscal impact on state or local government.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.