

LOCAL GOVERNMENT PUBLIC NOTICE ACT

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House Bill 4183

Sponsor: Rep. Amanda Price
Committee: Local Government

Analysis available at
<http://www.legislature.mi.gov>

Complete to 3-3-15

SUMMARY:

House Bill 4183 would create a new act to be known as the "Local Government Public Notice Act," which would revise the manner in which local units of government publish legal notices.

The bill prescribes electronic dissemination and archival protocols; requires the compilation of permanent public notice lists enabling regular or electronic mailings to those desiring notice of legal matters; allows voters to decide if they prefer newspaper publication for up to five years; and requires a notice to citizens if the method of notice dissemination changes. The bill would allow local officials to phase-in new legal notice protocols until January 1, 2025.

A more detailed description of the bill follows.

Now the officials in local units of government must publish legal notices in daily and weekly newspapers whose readership extends to their residents. House Bill 4183 describes other electronic options to ensure that legal notices remain widely accessible to the public.

Under the bill, beginning January 1, 2025, a local government required to provide public notice would do so in the following ways:

- A ***tier A*** public notice would be posted on the 'active notice portion' of a website for 30 days.
- A ***tier A public notice with a link*** would be posted on the 'active notice portion' of a website for 30 days with a link to the full document.
- A ***tier B public notice*** would be posted on the 'active notice portion' of a website for 14 days.
- A ***tier B public notice with a link*** would be posted on the 'active notice portion' of a website for 14 days with a link to the full document.
- A ***tier C public notice*** would be posted on the 'active notice portion' of the website for 14 days.

In addition, a printed copy of the notice would be made available for public inspection by the local government for the duration of time that the notice was required.

During the next 10 years, as the bill describes in considerable detail, there would be two voluntary five-year phase-in periods to enable local officials to post their Tier A, B, and C legal notices both in print and electronically on websites. The first phase-in period would begin on January 1, 2016, and extend to December 31, 2019, while the second would begin on January 1, 2020, and extend to December 31, 2024. Generally, during the phase-in period, the frequency of print publication would diminish as the frequency of electronic publication via a local government's website increased. Throughout both phases, a printed copy of each notice would have to be made available for public inspection.

Local Election. Under House Bill 4183, if 10 percent of electors sign a petition asking them to do so, local officials must submit to electors at the next general November election the question of requiring that public notices be provided in a newspaper for five years. If a majority votes to require newspaper publication for five years, the bill describes in detail how Tier A, B, and C legal notices would be published in print, requiring summaries of linked documents, as well as making the full documents available for public inspection.

Media Outlet Contracts. House Bill 4183 would also allow local government officials to provide public notice by entering into contracts with "local media outlets"—defined to mean a television station or radio broadcast station licensed by the Federal Communications Commission—and describes how legal notices would be published on their websites, as well as requiring, at least once each day during peak listening or viewing hours, a general broadcast or transmission indicating that public notices may be found on the website.

Outside Entity Contracts. The bill specifies that if a local government entered into a contract with an outside entity to host and provide public notices, then that entity's website would meet the requirements of the act. Further, if the local government had a website, it would be required to provide a link on its homepage to the 'active notice portion' of the outside entity's website.

Free and Accessible. Under the bill, a website used for posting public notices under the act would have to meet both of the following requirements:

- The homepage of the website and the portion of the website containing active notices and archival notices would have to be publicly accessible and free.
- The homepage would have to include a prominently displayed link to the active notices and the archival notices.

Online Archives. House Bill 4183 specifies that beginning January 1, 2016, and not later than December 31, 2024, if a local government posted a public notice on its website, it would be required to create an online archive for public notices. In addition, a printed copy

of each public notice would have to be maintained, for not less than five years, in a format that included dates of posting, for archival and verification purposes.

Beginning January 1, 2025, each local government would be required to create an online archive for public notices. Under the bill, a notice posted on a website would have to be maintained on the 'active notice portion' of the website for the duration the notice was required to be posted. After that time, the notice would have to be maintained for at least five years.

In addition, those who operated a publication that qualified as a newspaper (to include websites, under certain circumstances) would be required to maintain a permanent and complete printed copy of each published edition for archival and verification purposes. Those operating newspapers and local media outlets would also have to create—on the first day a notice was posted on the website—a printed copy of any notice, in a format that included the date of posting. That printed copy would have to be maintained for archival and verification purposes.

Permanent Public Notice List & Mailing of Notices. House Bill 4183 would require a local government or other governmental entity to create and maintain a permanent public notice list. Then, a person, organization, firm or corporation could, upon request, receive—by first-class mail or electronic mail—any public notice published or posted. If the notices were mailed, a yearly fee could be charged (not to exceed the cost of printing and postage). If the notices were e-mailed, they would have to be transmitted within 24-hours of being posted.

Notice of Change for Citizens. House Bill 4183 requires that if a local government changed the method by which public notice was published or posted, then it would be required to provide public notice of that change to the citizens, using its most recent publication method.

FISCAL IMPACT:

As written, the bill could reduce expenses for local units of government when they are positioned to take advantage of the lower costs of publishing legal notices electronically. The rate of adoption is likely to vary by local unit over the course of the nine-year phase-in period. There is no impact on state revenues or costs.

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