

HOUSE BILL No. 4002

January 11, 2017, Introduced by Rep. VerHeulen and referred to the Committee on Local Government.

A bill to set forth the methods for local governments and other governmental entities to provide public notices; to prescribe the powers and duties of certain public entities; and to prescribe the duties of certain private entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "local
2 government public notice act".

3 Sec. 2. As used in this act:

4 (a) "Internet" means that term as defined in 47 USC 230.

5 (b) "Local media outlet" means a television station or radio
6 broadcast station, licensed by the Federal Communications
7 Commission.

8 (c) "Required area" means the county, city, township, village,

1 district, or other geographic territory where notice is required to
2 be published or posted.

3 (d) "Website" means a collection of pages of the internet,
4 usually in HTML format, with clickable or hypertext links to enable
5 navigation from 1 page or section to another, that often uses
6 associated graphics files to provide illustration and may contain
7 other clickable or hypertext links.

8 Sec. 3. Except as otherwise provided in sections 4 and 5, as
9 used in this act, "newspaper" means a print publication that is
10 published for the dissemination of local news of a general
11 character or for the dissemination of legal news and to which all
12 of the following apply:

13 (a) The print publication is published and distributed in not
14 less than weekly intervals.

15 (b) Not less than 50% of the words in the print publication
16 are in the English language.

17 (c) The print publication has a bona fide list of subscribers
18 in 1 or more counties in this state or is available to the public
19 at newsstands or other retail locations in 1 or more counties in
20 this state, or both.

21 (d) The print publication accepts and publishes official and
22 other notices.

23 (e) The print publication regularly contains information of a
24 public character or of interest or value to residents, property
25 owners, or the general public.

26 (f) The print publication has been published or distributed
27 for not less than 1 year.

1 Sec. 4. If there is no publication that meets the definition
2 in section 3 published and of general circulation in the required
3 area, "newspaper" means a website on the internet that meets all of
4 the following requirements:

5 (a) The website is identified as a continuing online version
6 of a publication that previously met the definition in section 3
7 and was published and of general circulation in the required area.

8 (b) The website is published in the English language for the
9 dissemination of local news of a general character or for the
10 dissemination of legal news for the required area.

11 (c) The website has been established and operating without
12 interruption for at least 2 years.

13 (d) News content on the website is published and posted and
14 was updated at least every 7 days for the preceding 2 years.

15 (e) The website lists all of the following:

16 (i) Contact information, including a list of staff located in
17 the required area.

18 (ii) An address and telephone number in the required area.

19 (iii) An address in the required area where the public notices
20 may be sent for posting.

21 (iv) An address in the required area where complaints can be
22 made.

23 (v) An address in the required area where printed copies of
24 notices may be viewed by the public.

25 (f) The website includes a clearly designated area for public
26 notices that is accessible via a prominently displayed and clearly
27 labeled link from the homepage of the website and the posted

1 notices are maintained permanently in a searchable database
2 accessible on the website.

3 (g) A majority of visitors to the website are residents of the
4 required area.

5 Sec. 5. If there is no publication or website that meets the
6 definition in section 3 or 4 in the required area, "newspaper"
7 means a publication or website in an adjoining county, city,
8 township, village, district, or other geographic territory, as
9 applicable, that meets the definition in section 3 or 4.

10 Sec. 6. (1) Except as otherwise provided in section 10, and
11 subject to section 11, beginning January 1, 2018 and until December
12 31, 2019, a local government or other governmental entity required
13 to provide public notice under this act shall provide that public
14 notice as follows:

15 (a) For tier A public notice, the notice shall be published
16 once a week for 2 consecutive weeks in a newspaper in the required
17 area and may be posted on the active notice portion of the website
18 of the required area for 30 days.

19 (b) For tier A public notice with a link, the notice shall be
20 published once a week for 2 consecutive weeks in a newspaper in the
21 required area with a summary of the document involved as well as a
22 statement indicating a location where copies of the full document
23 involved are available for public inspection. In addition, the
24 notice may be posted on the active notice portion of the website of
25 the required area for 30 days with a link to the full document
26 involved.

27 (c) For tier B public notice, the notice shall be published

1 once in a newspaper in the required area and may be posted on the
2 active notice portion of the website of the required area for 14
3 days.

4 (d) For tier B public notice with a link, the notice shall be
5 published once in a newspaper in the required area with a summary
6 of the document involved as well as a statement indicating a
7 location where copies of the full document involved are available
8 for public inspection. In addition, the notice may be posted on the
9 active notice portion of the website of the required area for 14
10 days with a link to the full document involved.

11 (e) Except as otherwise provided in section 9, for tier C
12 public notice, the notice shall be posted on the active notice
13 portion of the website of the required area for 14 days. If the
14 local government or other governmental entity does not have a
15 website, the notice shall be published once in a newspaper in the
16 required area.

17 (2) In addition to the notice requirements under subsection
18 (1), a printed copy of the notice required under subsection (1)
19 shall be made available for public inspection by the local
20 government or other governmental entity for the duration of time
21 that the notice is required under subsection (1).

22 Sec. 7. (1) Except as otherwise provided in section 9 or 10,
23 and subject to section 11, beginning January 1, 2020 and until
24 December 31, 2024, a local government or other governmental entity
25 required to provide public notice under this act shall provide that
26 public notice as follows:

27 (a) For tier A public notice, the notice shall be published

1 once in a newspaper in the required area and shall be posted on the
2 active notice portion of the website of the required area for 30
3 days. If the local government or other governmental entity does not
4 have a website, the notice shall be published once a week for 2
5 consecutive weeks in a newspaper in the required area.

6 (b) For tier A public notice with a link, the notice shall be
7 published once in a newspaper in the required area with a summary
8 of the document involved as well as a statement indicating a
9 location where copies of the full document involved are available
10 for public inspection and shall be posted on the active notice
11 portion of the website of the required area for 30 days with a link
12 to the full document involved. If the local government or other
13 governmental entity does not have a website, the notice shall be
14 published once a week for 2 consecutive weeks in a newspaper in the
15 required area with a summary of the document involved as well as a
16 statement indicating a location where copies of the full document
17 involved are available for public inspection.

18 (c) For tier B public notice, the notice shall be posted on
19 the active notice portion of the website of the required area for
20 14 days. If the local government or other governmental entity does
21 not have a website, the notice shall be published once in a
22 newspaper in the required area.

23 (d) For tier B public notice with a link, the notice shall be
24 posted on the active notice portion of the website of the required
25 area for 14 days with a link to the full document involved. If the
26 local government or other governmental entity does not have a
27 website, the notice shall be published once in a newspaper in the

1 required area with a summary of the document involved as well as a
2 statement indicating a location where copies of the full document
3 involved are available for public inspection.

4 (e) For tier C public notice, the notice shall be posted on
5 the active notice portion of the website of the required area for
6 14 days. If the local government or other governmental entity does
7 not have a website, the notice shall be published once in a
8 newspaper in the required area.

9 (2) In addition to the notice requirements under subsection
10 (1), a printed copy of the notice required under subsection (1)
11 shall be made available for public inspection by the local
12 government or other governmental entity for the duration of time
13 that the notice is required under subsection (1).

14 Sec. 8. (1) Except as otherwise provided in section 9 or 10,
15 and subject to section 11, beginning January 1, 2025, a local
16 government or other governmental entity required to provide public
17 notice under this act shall provide that public notice as follows:

18 (a) For tier A public notice, the notice shall be posted on
19 the active notice portion of the website of the required area for
20 30 days.

21 (b) For tier A public notice with a link, the notice shall be
22 posted on the active notice portion of the website of the required
23 area for 30 days with a link to the full document involved.

24 (c) For tier B public notice, the notice shall be posted on
25 the active notice portion of the website of the required area for
26 14 days.

27 (d) For tier B public notice with a link, the notice shall be

1 posted on the active notice portion of the website of the required
2 area for 14 days with a link to the full document involved.

3 (e) For tier C public notice, the notice shall be posted on
4 the active notice portion of the website of the required area for
5 14 days.

6 (2) In addition to the notice requirements under subsection
7 (1), a printed copy of the notice required under subsection (1)
8 shall be made available for public inspection by the local
9 government or other governmental entity for the duration of time
10 that the notice is required under subsection (1).

11 Sec. 9. (1) Upon receipt of a written petition signed by not
12 less than 10% of the registered electors of a local government, the
13 governing body of that local government shall submit the question
14 of requiring that public notices be provided in a newspaper for 5
15 years to the registered electors of that local government at the
16 next general November election.

17 (2) Subject to section 11, if a majority of the registered
18 electors voting on the question vote in favor of requiring that
19 public notices be provided in a newspaper for 5 years, the local
20 government shall provide public notice as follows:

21 (a) For tier A public notice, the notice shall be published
22 once a week for 2 consecutive weeks in a newspaper in the required
23 area and may be posted on the active notice portion of the website
24 of the required area for 30 days.

25 (b) For tier A public notice with a link, the notice shall be
26 published once a week for 2 consecutive weeks in a newspaper in the
27 required area with a summary of the document involved as well as a

1 statement indicating a location where copies of the full document
2 involved are available for public inspection. In addition, the
3 notice may be posted on the active notice portion of the website of
4 the required area for 30 days with a link to the full document
5 involved.

6 (c) For tier B public notice, the notice shall be published
7 once in a newspaper in the required area and may be posted on the
8 active notice portion of the website of the required area for 14
9 days.

10 (d) For tier B public notice with a link, the notice shall be
11 published once in a newspaper in the required area with a summary
12 of the document involved as well as a statement indicating a
13 location where copies of the full document involved are available
14 for public inspection. In addition, the notice may be posted on the
15 active notice portion of the website of the required area for 14
16 days with a link to the full document involved.

17 (e) For tier C public notice, the notice shall be published
18 once in a newspaper in the required area and may be posted on the
19 active notice portion of the website of the required area for 14
20 days.

21 (3) In addition to the notice required under subsection (2), a
22 printed copy of the notice required under subsection (2) shall be
23 made available for public inspection by the local government for
24 the duration of time that the notice is required under subsection
25 (2).

26 (4) A petition under this section, including the circulation
27 and signing of the petition, is subject to section 488 of the

1 Michigan election law, 1954 PA 116, MCL 168.488. A person who
2 violates a provision of the Michigan election law, 1954 PA 116, MCL
3 168.1 to 168.992, applicable to a petition described in this
4 section is subject to the penalties for a violation in the Michigan
5 election law, 1954 PA 116, MCL 168.1 to 168.992.

6 (5) As used in this section only, "newspaper" means a print
7 publication that is published for the dissemination of local news
8 of a general character or for the dissemination of legal news and
9 to which all of the following apply:

10 (a) The print publication is published and distributed in not
11 less than weekly intervals.

12 (b) Not less than 50% of the words in the print publication
13 are in the English language.

14 (c) The print publication has a bona fide list of subscribers
15 in 1 or more counties in this state or is available to the public
16 at newsstands or other retail locations in 1 or more counties in
17 this state, or both.

18 (d) The print publication accepts and publishes official and
19 other notices.

20 (e) The print publication regularly contains information of a
21 public character or of interest or value to residents, property
22 owners, or the general public.

23 (f) The print publication has been published or distributed
24 for not less than 1 year.

25 Sec. 10. (1) Except as otherwise provided in section 9, if a
26 local government or other governmental entity required to provide
27 public notice under this act enters into a contract with a local

1 media outlet regarding the provision of public notice, then the
2 local government or other governmental entity shall provide public
3 notice as follows:

4 (a) For tier A public notice, the notice shall be posted on
5 the active notice portion of the website of the local media outlet
6 for 30 days.

7 (b) For tier A public notice with a link, the notice shall be
8 posted on the active notice portion of the website of the local
9 media outlet for 30 days with a link to the full document involved.

10 (c) For tier B public notice, the notice shall be posted on
11 the active notice portion of the website of the local media outlet
12 for 14 days.

13 (d) For tier B public notice with a link, the notice shall be
14 posted on the active notice portion of the website of the local
15 media outlet for 14 days with a link to the full document involved.

16 (e) For tier C public notice, the notice shall be posted on
17 the active notice portion of the website of the local media outlet
18 for 14 days.

19 (2) In addition to the notice requirements under subsection
20 (1), both of the following apply:

21 (a) The local media outlet shall, at least once each day
22 during its peak listening or viewing hours, make a general
23 broadcast or transmission indicating that public notices may be
24 found on the website of the local media outlet.

25 (b) A printed copy of the notice required under subsection (1)
26 shall be made available for public inspection by the local
27 government or other governmental entity for the duration of time

1 that the notice is required under subsection (1).

2 (3) If a local government or other governmental entity
3 provides public notice under this section and that local government
4 or other governmental entity has a website, the local government or
5 other governmental entity shall provide a link on its website's
6 homepage to the active notice portion of the website of the local
7 media outlet.

8 Sec. 11. (1) If a local government or other governmental
9 entity required to provide public notice under this act enters into
10 a contract with an outside entity to host and provide public
11 notices, then, as used in sections 6, 7, 8, and 9, "website of the
12 required area" includes the website of the outside entity.

13 (2) If a local government or other governmental entity enters
14 into a contract with an outside entity to host and provide public
15 notices as provided under subsection (1) and that local government
16 or other governmental entity has a website, the local government or
17 other governmental entity shall provide a link on its website's
18 homepage to the active notice portion of the website of the outside
19 entity.

20 Sec. 12. A website used for posting public notices under this
21 act shall meet both of the following requirements:

22 (a) Access to the homepage of the website and the portion of
23 the website containing active notices and archival notices shall be
24 publicly accessible and free.

25 (b) The homepage of the website shall include a prominently
26 displayed link to the active notices and the archival notices.

27 Sec. 13. (1) Subject to subsection (3), beginning January 1,

1 2018 and not later than December 31, 2024, if a local government or
2 other governmental entity posts a public notice on the website of
3 that local government or other governmental entity, the local
4 government or other governmental entity shall create an online
5 archive for public notices. In addition, the local government or
6 other governmental entity shall maintain for not less than 5 years
7 in a format that includes the dates of posting a printed copy of
8 each public notice provided for archival and verification purposes.

9 (2) Subject to subsection (3), beginning January 1, 2025, each
10 local government or other governmental entity shall create an
11 online archive for public notices. In addition, the local
12 government or other governmental entity shall maintain for not less
13 than 5 years in a format that includes the dates of posting a
14 printed copy of each public notice provided for archival and
15 verification purposes.

16 (3) This section does not apply to a local government that
17 provides public notice as set forth in section 9.

18 Sec. 14. A notice posted on a website under this act shall be
19 maintained on the active notice portion of the website for the
20 duration the notice is required to be posted on the website under
21 this act. After that time, the notice shall be maintained in the
22 archival notice portion of the website for not less than 5 years.

23 Sec. 15. A person that operates a publication that qualifies
24 as a newspaper under this act shall maintain a permanent and
25 complete printed copy of each published edition for archival and
26 verification purposes in the required area. A person that operates
27 a website that qualifies as a newspaper or as a local media outlet

1 under this act shall create a printed copy of any notice, in a
2 format that includes the dates of posting, on the first day that
3 the notice is posted on the website and shall maintain the printed
4 copy in the required area for archival and verification purposes.

5 Sec. 16. (1) In addition to the requirements of this act, a
6 local government or other governmental entity shall create and
7 maintain a permanent public notice list. An individual,
8 organization, firm, or corporation may make a written request to be
9 placed on the permanent public notice list to receive by first-
10 class mail or electronic mail any public notice published or posted
11 under this act.

12 (2) If an individual, organization, firm, or corporation on
13 the permanent public notice list requests to receive public notices
14 by first-class mail, upon the requesting party's payment of a
15 yearly fee of not more than the estimated cost for printing and
16 postage of the public notices, the local government or other
17 governmental entity shall send to the individual, organization,
18 firm, or corporation by first-class mail a copy of each public
19 notice published or posted under this act.

20 (3) If an individual, organization, firm, or corporation on
21 the permanent public notice list requests to receive public notices
22 by electronic mail, the local government or other governmental
23 entity shall within 24 hours of each public notice being posted or
24 published under this act transmit to the individual, organization,
25 firm, or corporation an electronic copy of that public notice.

26 Sec. 17. If a local government or other governmental entity
27 required to provide public notice under this act changes the method

1 by which public notice is published or posted as provided in this
2 act, the local government or other governmental entity shall
3 provide public notice of that change by using the most recent
4 method that the local government or other governmental entity uses
5 for publishing or posting public notices.

6 Sec. 18. If a public notice provided under this act is not
7 required to be published in a newspaper under this act, the local
8 government or other governmental entity shall, at no charge and
9 within 24 hours after the public notice is provided under this act,
10 provide by first-class mail or electronic mail a copy of that
11 public notice to a newspaper in the required area.

12 Enacting section 1. This act takes effect 90 days after the
13 date it is enacted into law.