

Representative Bradley M. Daw proposes the following substitute bill:

LEGAL NOTICE AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: Bradley M. Daw

LONG TITLE

General Description:

This bill addresses the publication of statutorily required legal notices.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a newspaper that publishes a legal notice in the newspaper to charge no more than its average advertisement rate;
- ▶ requires a newspaper that publishes a legal notice in the newspaper to publish the legal notice on a public legal notice website at no additional cost;
- ▶ establishes legal notice requirements for special service districts;
- ▶ eliminates an exception from publication requirements for a county of the first or second class;
- ▶ exempts a notice of delinquency in the payment of property taxes from certain publication requirements; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **45-1-101**, as last amended by Laws of Utah 2010, Chapters 90 and 254

30 **59-2-1332.5**, as last amended by Laws of Utah 2009, Chapter 388

31 REPEALS:

32 **45-1-202**, as last amended by Laws of Utah 2009, Chapter 144 and renumbered and
33 amended by Laws of Utah 2009, Chapter 388



35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **45-1-101** is amended to read:

37 **45-1-101. Legal notice publication requirements.**

38 (1) As used in this section:

39 (a) "Average advertisement rate" means a newspaper's gross advertising revenue for the
40 preceding calendar quarter divided by the gross column-inch space used in the newspaper for
41 advertising for the previous calendar quarter.

42 (b) "Column-inch space" means a unit of space that is one standard column wide by
43 one inch high.

44 (c) "Gross advertising revenue" means the total revenue obtained by a newspaper from
45 all of its qualifying advertising segments.

46 [~~(a)~~] (d) (i) "Legal notice" means:

47 [~~(i)~~] (A) a communication required to be made public by a state statute or state agency
48 rule; or

49 [~~(ii)~~] (B) a notice required for judicial proceedings or by judicial decision.

50 [~~(b)~~] (ii) "Legal notice" does not include:

51 (A) a public notice published by a public body in accordance with the provisions of
52 Sections 52-4-202 and 63F-1-701[-]; or

53 (B) a notice of delinquency in the payment of property taxes described in Section
54 59-2-1332.5.

55 (e) "Public legal notice website" means the website described in Subsection (2)(b) for
56 the purpose of publishing a legal notice online.

57 (f) (i) "Qualifying advertising segment" means, except as provided in Subsection
58 (1)(f)(ii), a category of print advertising sold by a newspaper, including classified advertising,
59 line advertising, and display advertising.

60 (ii) "Qualifying advertising segment" does not include legal notice advertising.

61 (g) "Special service district" is as defined in Section 17D-1-102.

62 ~~(2) [(a) Notwithstanding]~~ Except as provided in Subsections (8) and (9),
63 notwithstanding any other legal notice provision established [in this Utah Code] by law, a
64 person required by law to publish legal notice shall publish the notice:

65 ~~[(i) until January 1, 2010, shall publish as required by the statute establishing the legal~~
66 ~~notice requirement; and]~~

67 ~~[(ii) beginning on January 1, 2010, shall publish legal notice:]~~

68 ~~[(A)] (a)~~ as required by the statute establishing the legal notice requirement; and

69 ~~[(B)] (b)~~ on a public legal notice website established by the [collective] combined
70 efforts of Utah's newspapers[:] that collectively distribute newspapers to the majority of
71 newspaper subscribers in the state.

72 (3) The public legal notice website shall:

73 (a) be available for viewing and searching by the general public, free of charge; and

74 (b) accept legal notice posting from any newspaper in the state.

75 ~~[(b)] (4) A [person's publishing] person that publishes legal notice as required under~~
76 ~~Subsection (2)[(a)] [does] is not [relieve the person] relieved from complying with an~~
77 ~~otherwise applicable requirement under Title 52, Chapter 4, Open and Public Meetings Act.~~

78 ~~[(3) Beginning on January 1, 2012, notwithstanding any provision of law requiring~~
79 ~~publication of legal notice in a newspaper, a person who publishes legal notice that is required~~
80 ~~to be given in a county of the first or second class:]~~

81 ~~[(a) is not required to comply with the requirement to publish legal notice in a~~
82 ~~newspaper;]~~

83 ~~[(b) is required to publish legal notice on the website described in Subsection~~
84 ~~(2)(a)(ii)(B); and]~~

85 ~~[(c) may, in addition to complying with Subsection (3)(b), publish legal notice in a~~
86 ~~newspaper.]~~

87 ~~[(4) The website described in Subsection (2)(a)(ii)(B) may not:]~~

88 ~~[(a) charge a fee to publish a legal notice on the website before January 1, 2012; and]~~
89 ~~[(b) charge more than \$10 to publish a legal notice on the website on or after January 1,~~
90 ~~2012.]~~

91 (5) If legal notice is required by law to be published in a newspaper, or if a special
92 service district publishes legal notice in a newspaper, the newspaper:

93 (a) may not charge more for publication than the newspaper's average advertisement
94 rate; and

95 (b) shall publish the legal notice on the public legal notice website at no additional
96 cost.

97 (6) If legal notice is not required by law to be published in a newspaper, or if a special
98 service district with an annual operating budget of less than \$250,000 chooses to publish a
99 legal notice on the public notice website without publishing the complete notice in the
100 newspaper, a newspaper:

101 (a) may not charge more than an amount equal to 15% of the newspaper's average
102 advertisement rate for publishing five column lines in the newspaper to publish legal notice on
103 the public legal notice website;

104 (b) may not require that the legal notice be published in the newspaper; and

105 (c) at the request of the person publishing on the legal notice website, shall publish in
106 the newspaper up to five column lines, at no additional charge, that briefly describe the legal
107 notice and provide the web address where the full public legal notice can be found.

108 (7) If a newspaper offers to publish the type of legal notice described in Subsection (5),
109 it may not refuse to publish the type of legal notice described in Subsection (6).

110 (8) Notwithstanding the requirements of a statute that requires the publication of legal
111 notice, if legal notice is required by law to be published by a special service district with an
112 annual operating budget of \$250,000 or more, the special service district shall satisfy its legal
113 notice publishing requirements by:

114 (a) mailing a written notice, postage prepaid:

115 (i) to each voter in the special service district; and

116 (ii) that contains the information required by the statute that requires the publication of
117 legal notice; or

118 (b) publishing the legal notice in a newspaper and on the legal public notice website as

119 described in Subsection (5).

120 (9) Notwithstanding the requirements of a statute that requires the publication of legal
121 notice, if legal notice is required by law to be published by a special service district with an
122 annual operating budget of less than \$250,000, the special service district shall satisfy its legal
123 notice publishing requirements by:

124 (a) mailing a written notice, postage prepaid:

125 (i) to each voter in the special service district; and

126 (ii) that contains the information required by the statute that requires the publication of
127 legal notice; or

128 (b) publishing the legal notice in a newspaper and on the public legal notice website as
129 described in Subsection (5); or

130 (c) publishing the legal notice on the public legal notice website as described in
131 Subsection (6).

132 Section 2. Section **59-2-1332.5** is amended to read:

133 **59-2-1332.5. Mailing notice of delinquency or publication of delinquent list --**
134 **Contents -- Notice -- Definitions.**

135 (1) The county treasurer shall provide notice of delinquency in the payment of property
136 taxes:

137 (a) except as provided in Subsection (4), on or before December 31 of each calendar
138 year; and

139 (b) in a manner described in Subsection (2).

140 (2) A notice of delinquency in the payment of property taxes shall be provided by:

141 (a) (i) mailing a written notice, postage prepaid:

142 (A) to each delinquent taxpayer; and

143 (B) that includes the information required by Subsection (3)(a); and

144 (ii) making available to the public a list of delinquencies in the payment of property
145 taxes:

146 (A) ~~[(F)]~~ by electronic means; and

147 ~~[(H) in accordance with Section 45-1-101; and]~~

148 (B) that includes the information required by Subsection (3)(b); or

149 (b) publishing a list of delinquencies in the payment of property taxes:

- 150 (i) in one issue of a newspaper having general circulation in the county;
- 151 (ii) that lists each delinquency in alphabetical order by:
- 152 (A) the last name of the delinquent taxpayer; or
- 153 (B) if the delinquent taxpayer is a business entity, the name of the business entity; and
- 154 (iii) that includes the information required by Subsection (3)(b).
- 155 (3) (a) A written notice of delinquency in the payment of property taxes described in
- 156 Subsection (2)(a)(i) shall include:
- 157 (i) a statement that delinquent taxes are due;
- 158 (ii) the amount of delinquent taxes due, not including any penalties imposed in
- 159 accordance with this chapter;
- 160 (iii) (A) the name of the delinquent taxpayer; or
- 161 (B) if the delinquent taxpayer is a business entity, the name of the business entity;
- 162 (iv) (A) a description of the delinquent property; or
- 163 (B) the property identification number of the delinquent property;
- 164 (v) a statement that a penalty shall be imposed in accordance with this chapter; and
- 165 (vi) a statement that interest accrues as of January 1 following the date of the
- 166 delinquency unless before January 16 the following are paid:
- 167 (A) the delinquent taxes; and
- 168 (B) the penalty.
- 169 (b) The list of delinquencies described in Subsection (2)(a)(ii) or (2)(b) shall include:
- 170 (i) the amount of delinquent taxes due, not including any penalties imposed in
- 171 accordance with this chapter;
- 172 (ii) (A) the name of the delinquent taxpayer; or
- 173 (B) if the delinquent taxpayer is a business entity, the name of the business entity;
- 174 (iii) (A) a description of the delinquent property; or
- 175 (B) the property identification number of the delinquent property;
- 176 (iv) a statement that a penalty shall be imposed in accordance with this chapter; and
- 177 (v) a statement that interest accrues as of January 1 following the date of the
- 178 delinquency unless before January 16 the following are paid:
- 179 (A) the delinquent taxes; and
- 180 (B) the penalty.

181 (4) Notwithstanding Subsection (1)(a), if the county legislative body extends the date
182 when taxes become delinquent under Subsection 59-2-1332(1), the notice of delinquency in the
183 payment of property taxes shall be provided on or before January 10.

184 (5) (a) In addition to the notice of delinquency in the payment of property taxes
185 required by Subsection (1), a county treasurer may in accordance with this Subsection (5) mail
186 a notice that property taxes are delinquent:

187 (i) to:

188 (A) a delinquent taxpayer;

189 (B) an owner of record of the delinquent property;

190 (C) any other interested party that requests notice; or

191 (D) a combination of Subsections (5)(a)(i)(A) through (C); and

192 (ii) at any time that the county treasurer considers appropriate.

193 (b) A notice mailed in accordance with this Subsection (5):

194 (i) shall include the information required by Subsection (3)(a); and

195 (ii) may include any information that the county treasurer finds is useful to the owner
196 of record of the delinquent property in determining:

197 (A) the status of taxes owed on the delinquent property;

198 (B) any penalty that is owed on the delinquent property;

199 (C) any interest charged under Section 59-2-1331 on the delinquent property; or

200 (D) any related matters concerning the delinquent property.

201 (6) As used in this section, "business entity" means:

202 (a) an association;

203 (b) a corporation;

204 (c) a limited liability company;

205 (d) a partnership;

206 (e) a trust; or

207 (f) a business entity similar to Subsections (6)(a) through (e).

208 **Section 3. Repealer.**

209 This bill repeals:

210 Section **45-1-202, Maximum charge.**