

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 432*

Short Title: Increase Teacher Supplement/Electronic Notice. (Public)

Sponsors: Representatives McGrady, Brawley, and Blust (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government II, if favorable, Finance

March 23, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO MODERNIZE PUBLICATION OF LEGAL ADVERTISEMENTS AND
3 NOTICES, REQUIRE INTERNET WEB SITE PUBLICATION OF LEGAL NOTICES,
4 ALLOW THE GOVERNING BOARDS OF COUNTIES AND CITIES TO OPT TO
5 PROVIDE FOR PUBLIC NOTICES TO BE GIVEN ELECTRONICALLY, AND
6 ALLOW COUNTIES TO OPT TO POST LEGAL ADVERTISEMENTS AND NOTICES
7 ON THE COUNTY WEB SITE FOR A FEE WITH MONIES COLLECTED TO BE
8 USED FOR LOCAL SUPPLEMENTS FOR TEACHER SALARY AND OTHER
9 COUNTY NEEDS.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** Article 50 of Chapter 1 of the General Statutes reads as rewritten:

12 "Article 50.

13 "General Provisions as to Legal Advertising.

14 **"§ 1-595. Advertisement of public sales.**

15 (a) When a statute or written instrument stipulates that an advertisement of a sale shall
16 be made for any certain number of weeks, a publication once a week for the number of weeks
17 so indicated is a sufficient compliance with the requirement, unless contrary provision is
18 expressly made by the terms of the instrument.

19 (b) When a statute or written instrument stipulates that an advertisement of a sale shall
20 be made for any certain number of weeks, publication via the county Web site in accordance
21 with G.S. 1-602 for the number of weeks so indicated is a sufficient compliance with the
22 requirement.

23 **"§ 1-596. Charges for legal advertising.**

24 (a) The publication of all advertising required by law to be made in newspapers in this
25 State shall be paid for at not to exceed the local commercial rate of the newspapers selected.
26 Any public or municipal officer or board created by or existing under the laws of this State that
27 is now or may hereafter be authorized by law to enter into contracts for the publication of legal
28 advertisements is hereby authorized to pay therefor prices not exceeding said rates.

29 No newspaper in this State shall accept or print any legal advertising until said newspaper
30 shall have first filed with the clerk of the superior court of the county in which it is published a
31 sworn statement of its current commercial rate for the several classes of advertising regularly
32 carried by said publication, and any owner or manager of a newspaper violating the provisions
33 of this section shall be guilty of a Class 1 misdemeanor.

34 (b) When a notice is required by statute to be published by a unit of government more
35 than once and is paid for by the unit of government and the cost of publication is not paid in



1 advance by or allowed to be recouped from private parties, the unit of government may not be
2 charged for the second and successive publications of that notice at a rate greater than
3 eighty-five percent (85%) of the rate charged for the first publication in the series.

4 **"§ 1-597. Regulations for newspaper publication of legal notices, advertisements, etc.**

5 (a) Whenever a notice or any other paper, document or legal advertisement of any kind
6 or description shall be authorized or required by any of the laws of the State of North Carolina,
7 heretofore or hereafter enacted, or by any order or judgment of any court of this State to be
8 published or advertised in a newspaper, such publication, advertisement or notice shall be of no
9 force and effect unless it shall be published in a newspaper with a general circulation to actual
10 paid subscribers ~~which newspaper at the time of such publication, advertisement or notice, shall~~
11 ~~have been admitted to the United States mails in the Periodicals class in the county or political~~
12 ~~subdivision where such publication, advertisement or notice is required to be published, and~~
13 ~~which shall have been regularly and continuously issued in the county in which the publication,~~
14 ~~advertisement or notice is authorized or required to be published, at least one day in each~~
15 ~~calendar week for at least 25 of the 26 consecutive weeks immediately preceding the date of the~~
16 ~~first publication of such advertisement, publication or notice; provided that in the event that a~~
17 ~~newspaper otherwise meeting the qualifications and having the characteristics prescribed by~~
18 ~~G.S. 1-597 to 1-599, should fail for a period not exceeding four weeks in any calendar year to~~
19 ~~publish one or more of its issues such newspaper shall nevertheless be deemed to have~~
20 ~~complied with the requirements of regularity and continuity of publication prescribed herein.~~
21 ~~Provided further, that where any city or town is located in two or more adjoining counties, any~~
22 ~~newspaper published in such city or town shall, for the purposes of G.S. 1-597 to 1-599, be~~
23 ~~deemed to be admitted to the mails, issued and published in all such counties in which such~~
24 ~~town or city of publication is located, and every publication, advertisement or notice required to~~
25 ~~be published in any such city or town or in any of the counties where such city or town is~~
26 ~~located shall be valid if published in a newspaper published, issued and admitted to the mails~~
27 ~~anywhere within any such city or town, regardless of whether the newspaper's plant or the post~~
28 ~~office where the newspaper is admitted to the mails is in such county or not, if the newspaper~~
29 ~~otherwise meets the qualifications and requirements of G.S. 1-597 to 1-599. This provision~~
30 ~~shall be retroactive to May 1, 1940, and all publications, advertisements and notices published~~
31 ~~in accordance with this provision since May 1, 1940, are hereby validated.~~satisfying all of the
32 following:

- 33 (1) The newspaper has a content that appeals to the public generally.
- 34 (2) The newspaper has more than a de minimis number of actual paid
35 subscribers in the county or political subdivision where such publication,
36 advertisement, or notice is required to be published.
- 37 (3) The newspaper's paid subscriber distribution is not entirely limited
38 geographically to one community, or section, of the county or political
39 subdivision where such publication, advertisement, or notice is required to
40 be published.
- 41 (4) The newspaper is available to anyone in the county or political subdivision
42 where such publication, advertisement, or notice is required to be published
43 who wishes to subscribe to it.

44 (b) Notwithstanding the provisions of G.S. 1-599, whenever a notice or any other paper,
45 document or legal advertisement of any kind or description shall be authorized or required by
46 any of the laws of the State of North Carolina, heretofore or hereafter enacted, or by any order
47 or judgment of any court of this State to be published or advertised in a newspaper qualified for
48 legal advertising in a county and there is no newspaper qualified for legal advertising as
49 defined in this section in such county, then it shall be deemed sufficient compliance with such
50 laws, order or judgment by publication of such notice or any other such paper, document or
51 legal advertisement of any kind or description in a newspaper published in an adjoining county

1 or in a county within the same district court district as defined in G.S. 7A-133 or superior court
2 district or set of districts as defined in G.S. 7A-41.1, as the case may be; provided, if the clerk
3 of the superior court finds as a fact that such newspaper otherwise meets the requirements of
4 this section and has a general circulation in such county where no newspaper is published
5 meeting the requirements of this section.

6 (c) If the newspaper maintains an Internet Web site displaying the contents of the
7 newspaper, then, at no additional charge, each notice must be placed on that newspaper's
8 Internet Web site on the same day that the notice appears in the print newspaper. A hyperlink to
9 legal notices shall be provided on the front page of the newspaper's Internet Web site that
10 provides access to the legal notices without charge. If there is a specified size and placement
11 required for a printed legal notice, the size and placement of the notice on the newspaper's
12 Internet Web site should optimize its online visibility in keeping with the print requirement.
13 The newspaper's Internet Web site pages that contain legal notices shall present the legal
14 notices as the dominant subject matter of those pages. The newspaper's Internet Web site shall
15 contain a search function to facilitate searching legal notices.

16 (d) Upon request of a person, newspapers that publish notices shall provide electronic
17 mail notification to that person of legal notices when such notices are printed in the newspaper
18 and added to the newspaper's Internet Web site. The electronic mail notification shall be
19 provided without charge and notification for the electronic mail registry shall be available on
20 the front page of the legal notices section of the newspaper's Internet Web site. For any legal
21 notice required to be published more than once, electronic mail notification required by this
22 subsection shall apply only to the first publication in the series of that notice.

23 (e) Any error in the placement of a governmental legal notice on a newspaper's Internet
24 Web site shall be considered harmless error and the requirement of proper legal notice shall be
25 deemed to have been met if the governmental entity placing the notice also places the notice on
26 its own Internet Web site under an ordinance adopted in accordance with G.S. 153A-52.2.

27 **"§ 1-598. Sworn statement prima facie evidence of qualifications; affidavit of**
28 **publication-publication by a newspaper.**

29 (a) Whenever any owner, partner, publisher, or other authorized officer or employee of
30 any newspaper which has published a notice or any other paper, document or legal
31 advertisement within the meaning of G.S. 1-597 has made a written statement under oath taken
32 before any notary public or other officer or person authorized by law to administer oaths,
33 stating that the newspaper in which such notice, paper, document, or legal advertisement was
34 published, was, at the time of such publication, a newspaper meeting all of the requirements
35 and qualifications prescribed by G.S. 1-597, such sworn written statement shall be received in
36 all courts in this State as prima facie evidence that such newspaper was at the time stated
37 therein a newspaper meeting the requirements and qualifications of G.S. 1-597. When filed in
38 the office of the clerk of the superior court of any county in which the publication of such
39 notice, paper, document or legal advertisement was required or authorized, any such sworn
40 statement shall be deemed to be a record of the court, and such record or a copy thereof duly
41 certified by the clerk shall be prima facie evidence that the newspaper named was at the time
42 stated therein a qualified newspaper within the meaning of G.S. 1-597. Nothing in this section
43 shall preclude proof that a newspaper was or is a qualified newspaper within the meaning of
44 G.S. 1-597 by any other competent evidence. Any such sworn written statement shall be prima
45 facie evidence of the qualifications on any newspaper at the time of any publication of any
46 notice, paper, document, or legal advertisement published in such newspaper at any time from
47 and after the first day of May, 1940.

48 (b) The owner, a partner, publisher or other authorized officer or employee of any
49 newspaper in which such notice, paper, document or legal advertisement is published, when
50 such newspaper is a qualified newspaper within the meaning of G.S. 1-597, shall include in the
51 affidavit of publication of such notice, paper, document or legal advertisement a statement that

1 at the time of such publication such newspaper was a qualified newspaper within the meaning
2 of G.S. 1-597.

3 **"§ 1-599. Application of two preceding sections.**

4 The provisions of G.S. 1-597 and G.S. 1-598 shall not apply in counties wherein only one
5 newspaper is published, although it may not be a newspaper having the qualifications
6 prescribed by G.S. 1-597; nor shall the provisions of G.S. 1-597 and G.S. 1-598 apply in any
7 county wherein none of the newspapers published in such county has the qualifications and
8 characteristics prescribed in G.S. 1-597.

9 **"§ 1-600. Proof of publication of notice in newspaper; prima facie evidence.**

10 (a) Publication of any notice permitted or required by law to be published in a
11 newspaper may be proved by a printed copy of the notice together with an affidavit made
12 before some person authorized to administer oaths, of the publisher, proprietor, editor,
13 managing editor, business or circulation manager, advertising, classified advertising or any
14 other advertising manager or foreman of the newspaper, showing that the notice has been
15 printed therein and the date or dates of publication. If the newspaper is published by a
16 corporation, the affidavit may be made by one of the persons hereinbefore designated or by the
17 president, vice president, secretary, assistant secretary, treasurer, or assistant treasurer of the
18 corporation.

19 (b) Such affidavit and copy of the notice shall constitute prima facie evidence of the
20 facts stated therein concerning publication of such notice.

21 (c) The method of proof of publication of a notice provided for in this section is not
22 exclusive, and the facts concerning such publication may be proved by any competent
23 evidence.

24 **"§ 1-601. Certain legal advertisements validated.**

25 Legal advertisements published prior to June 1, 1983, by a newspaper that met every
26 requirement for publication of legal notices and advertisements under G.S. 1-597 when the
27 advertisement was published except that the newspaper had a second class United States mail
28 permit in a county adjacent to the county in which the advertisement was published instead of
29 the county in which it was published may not be held to be invalid because of the lack of a
30 second class United States mail permit in the proper county.

31 **"§ 1-602. Publication via county-maintained Web site.**

32 (a) In lieu of publishing in a newspaper in accordance with this Article, publication of
33 any notice permitted or required by law to be published in a newspaper may be accomplished
34 by contracting with a county who has adopted an ordinance under G.S. 153A-458 to publish
35 such notice on the county-maintained Web site.

36 (b) The county shall charge fees as follows for such publication:

37 (1) For foreclosures, except those initiated by that county, four hundred fifty
38 dollars (\$450.00).

39 (2) For other notices, except those by the State or any other political subdivision
40 thereof, one hundred dollars (\$100.00).

41 (3) For notices by the State or any other political subdivision thereof, other than
42 that county, ten dollars (\$10.00).

43 (4) For notices by that county, no fee shall be charged.

44 (c) All fees collected under this section shall be distributed as follows:

45 (1) Ten percent (10%) for administrative costs of the county.

46 (2) Forty percent (40%) to the county general fund.

47 (3) Fifty percent (50%) to the local board of education for payment of local
48 supplements for teachers as defined by G.S. 115C-325.1(6).

49 (d) Whenever a county has published a notice or any other paper, document, or legal
50 advertisement within the meaning of G.S. 1-597 and a county employee makes a written
51 statement under oath taken before any notary public or other officer or person authorized by

1 law to administer oaths, stating that the county placed such notice, paper, document, or legal
2 advertisement upon its Web site, such sworn written statement shall be received in all courts in
3 this State as prima facie evidence that the county placed the notice, paper, document, or legal
4 advertisement upon its Web site for the stated period of time. When filed in the office of the
5 clerk of the superior court of that county, any such sworn statement shall be deemed to be a
6 record of the court, and such record or a copy thereof duly certified by the clerk shall be prima
7 facie evidence that the county placed the notice, paper, document, or legal advertisement upon
8 its Web site for the stated period of time.

9 (e) Nothing in this section requires a county to adopt an ordinance under
10 G.S. 153A-458 and publish notices on a county-maintained Web site.

11 **"§ 1-603. Reserved for future codification purposes.**

12 **"§ 1-604. Reserved for future codification purposes."**

13 **SECTION 2.** Part 3 of Article 4 of Chapter 153A of the General Statutes is
14 amended by adding a new section to read:

15 **"§ 153A-52.2. Electronic notice for notices required to be published by the board.**

16 (a) Except as provided in this section, the governing board may adopt an ordinance
17 providing that any notice it is required by law to publish or advertise, whether under
18 G.S. 1-597, under Article 8 of Chapter 143 of the General Statutes, under any other general
19 law, or under any local act, may be published electronically as provided by this section in lieu
20 of or in addition to the required publication or advertisement. The ordinance may cover all
21 notices required to be published or advertised or a clearly identified category of notices.

22 (b) Upon adoption of an ordinance under subsection (a) of this section, the governing
23 board shall publish specific instructions as to how to access all notices published electronically
24 under the ordinance adopted pursuant to this section at least once a month for 12 months in a
25 newspaper having a general circulation for that jurisdiction, as provided in G.S. 1-597.

26 (c) Any notice published under an ordinance adopted pursuant to subsection (a) of this
27 section shall comply with all of the following:

28 (1) The notice is published on the Web site of the governing board no later than
29 the time that publication is required under the applicable statute or local act.

30 (2) The Web site contains, on its main page, links to all notices or a link to
31 another page with links to all notices.

32 (3) Notices and links to all notices on the Web site shall be maintained on that
33 Web site for at least one year after publication and shall be searchable.

34 (4) A copy of the notice shall be filed in a notice book maintained separate and
35 apart from the ordinance book or minutes of the governing board. The notice
36 book shall be appropriately indexed and maintained for public inspection in
37 the office of the clerk or in the office of another individual who is an
38 employee of the governing board, as designated in the ordinance adopted
39 pursuant to this section.

40 (5) A copy of the notice shall be mailed or e-mailed to any person who has filed
41 a written request for notice with the clerk or secretary of the governing board
42 or with some other person designated by the governing board. The governing
43 board may require each person submitting such a written request for notice
44 to renew that request annually.

45 (d) Ordinances adopted pursuant to this section may not supersede any general law or
46 local act that requires notice by mail to certain persons or classes of persons or the posting of
47 signs on certain property.

48 (e) The ordinance adopted by the governing board may control notice given by any
49 board appointed by the governing board, including the planning board, board of social services,
50 and board of health.

1 (f) For purposes of this section, "governing board" means the body elected or appointed
2 as the board of county commissioners, city council, or county board of elections."

3 **SECTION 3.** G.S. 160A-1(7) reads as rewritten:

4 "(7) "Publish," "publication," and other forms of the verb "to publish" mean
5 ~~insertion~~ any of the following:

6 a. Insertion in a newspaper qualified under G.S. 1-597 to publish legal
7 advertisements in the county or counties in which the city is located.

8 b. Electronic notice, as provided in G.S. 153A-52.2, if an ordinance has
9 been adopted by the governing board."

10 **SECTION 4.** G.S. 153A-1(6) reads as rewritten:

11 "(6) "Publish," "publication," and other forms of the verb "to publish" mean
12 ~~insertion~~ any of the following:

13 a. Insertion in a newspaper qualified under G.S. 1-597 to publish legal
14 advertisements in the county.

15 b. Electronic notice, as provided in G.S. 153A-52.2, if an ordinance has
16 been adopted by the governing board."

17 **SECTION 5.** G.S. 159-1(b)(5) reads as rewritten:

18 "(5) "Publish," "publication," and other forms of the word "publish" mean
19 ~~insertion~~ any of the following:

20 a. Insertion in a newspaper qualified under G.S. 1-597 to publish legal
21 advertisements.

22 b. Electronic notice, as provided in G.S. 153A-52.2, if an ordinance has
23 been adopted by that governing board."

24 **SECTION 6.** G.S. 163-33(8) reads as rewritten:

25 **"§ 163-33. Powers and duties of county boards of elections.**

26 The county boards of elections within their respective jurisdictions shall exercise all powers
27 granted to such boards in this Chapter, and they shall perform all the duties imposed upon them
28 by law, which shall include the following:

29 ...

30 (8) To provide for the issuance of all notices, advertisements, and publications
31 concerning elections required by law. If the election is on a State bond issue,
32 an amendment to the Constitution, or approval of an act submitted to the
33 voters of the State, the State Board of Elections shall reimburse the county
34 boards of elections for their reasonable additional costs in placing such
35 notices, advertisements, and publications. In addition, the county board of
36 elections shall give notice at least 20 days prior to the date on which the
37 registration books or records are closed that there will be a primary, general
38 or special election, the date on which it will be held, and the hours the voting
39 places will be open for voting in that election. The notice also shall describe
40 the nature and type of election, and the issues, if any, to be submitted to the
41 voters at that election. Notice shall be given by advertisement at least once
42 weekly during the 20-day period in a newspaper having general circulation
43 in the county and by posting a copy of the notice at the courthouse door.
44 Notice may additionally be made on a radio or television station or both, but
45 such notice shall be in addition to the newspaper and other required notice.
46 This subdivision shall not apply in the case of bond elections called under
47 the provisions of Chapter 159. The county board may adopt a policy in
48 accordance with G.S. 153A-52.2 to provide for notices, advertisements, and
49 publications to be given electronically."

50 **SECTION 7.** Article 23 of Chapter 153A of the General Statutes is amended by
51 adding a new section to read:

1 **"§ 153A-458. County Web site as central location for legal notices.**

2 The board of commissioners may adopt an ordinance establishing the county Web site as a
3 central location for publishing or advertising legal notices in accordance with G.S. 1-602, if the
4 county complies with all of the following:

5 (1) The county maintains its own Web site, with sufficient staff to maintain that
6 Web site.

7 (2) The county has sufficient staff to complete affidavits as needed for all legal
8 notices as stated in G.S. 1-602(d).

9 (3) The county collects and remits fees as provided in G.S. 1-602(b) and (c)."

10 **SECTION 8.** The validation of any publication, advertisement, or notice pursuant
11 to a previous enactment of G.S. 1-597 remains in effect and is not affected by any
12 modifications of that statute enacted by Section 2 of this act.

13 **SECTION 9.** This act becomes effective October 1, 2017, and applies to notices
14 that must be published on or after that date, except that it does not apply to notices permitted to
15 be published on a government Internet Web site in lieu of newspaper publication pursuant to an
16 ordinance enacted before that date.