

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 35
Committee Substitute Favorable 2/17/21

Short Title: Various County Public Notices.

(Local)

Sponsors:

Referred to:

February 2, 2021

1 A BILL TO BE ENTITLED
2 AN ACT ALLOWING LOCAL GOVERNMENTS IN THE COUNTIES OF BURKE,
3 CURRITUCK, DAVIDSON, DAVIE, IREDELL, MONTGOMERY, RICHMOND,
4 ROCKINGHAM, ROWAN, RUTHERFORD, AND STANLY TO PUBLISH PUBLIC
5 NOTICES ELECTRONICALLY ON THE COUNTY-MAINTAINED WEBSITE AND TO
6 SET REASONABLE FEES TO COVER THE COST OF PROVIDING ELECTRONIC
7 NOTICE.

8 The General Assembly of North Carolina enacts:

9 SECTION 1.(a) Part 3 of Article 4 of Chapter 153A of the General Statutes is
10 amended by adding a new section to read:

11 "**§ 153A-52.3. Electronic notice for notices required to be published by governing board.**

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

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

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

25 (1) The notice is published on the website of the board of county commissioners
26 no later than the time that publication is required under the applicable statute
27 or local act.

28 (2) The website is maintained by the board of county commissioners, with
29 sufficient staff to maintain that website.

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

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

34 (5) 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



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1 the office of the clerk or in the office of another individual who is an employee
2 of the governing board, as designated in the ordinance adopted pursuant to
3 this section.

4 (6) A copy of the notice shall be mailed or emailed to any person who has filed a
5 written request for notice with the clerk or secretary of the governing board or
6 with some other person designated by the governing board. The governing
7 board may require each person submitting such a written request for notice to
8 renew that request annually.

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

12 (e) The ordinance adopted by the governing board may control notice given by any board
13 appointed by the governing board, including the planning board, board of social services, and
14 board of health. The board of elections of a county where the board of county commissioners has
15 adopted an ordinance may also publish notices on the website of the board of county
16 commissioners, as provided in G.S. 163-33.

17 (f) A city council may adopt an ordinance pursuant to subsection (a) and publish notices
18 in compliance with this section through publication on the website of the board of county
19 commissioners where the city council is located, if the county has also adopted an ordinance
20 pursuant to subsection (a) of this section.

21 (g) For purposes of this section, "governing board" means the body elected or appointed
22 as the board of county commissioners or city council.

23 (h) This section applies only to the counties of Burke, Currituck, Davidson, Davie,
24 Iredell, Montgomery, Richmond, Rockingham, Rowan, Rutherford, and Stanly and any
25 municipality located wholly in one of those counties."

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

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

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

31 b. Electronic notice, as provided in G.S. 153A-52.3, if an ordinance has
32 been adopted by the governing board."

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

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

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

38 b. Electronic notice, as provided in G.S. 153A-52.3, if an ordinance has
39 been adopted by the governing board."

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

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

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

45 b. Electronic notice, as provided in G.S. 153A-52.3, if an ordinance has
46 been adopted by that governing board."

47 **SECTION 1.(e)** G.S. 163-33(8) reads as rewritten:

48 **"§ 163-33. Powers and duties of county boards of elections.**

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

1 ...
 2 (8) To provide for the issuance of all notices, advertisements, and publications
 3 concerning elections required by law. If the election is on a State bond issue,
 4 an amendment to the Constitution, or approval of an act submitted to the
 5 voters of the State, the State Board of Elections shall reimburse the county
 6 boards of elections for their reasonable additional costs in placing such
 7 notices, advertisements, and publications. In addition, the county board of
 8 elections shall give notice at least 20 days prior to the date on which the
 9 registration books or records are closed that there will be a primary, general
 10 or special election, the date on which it will be held, and the hours the voting
 11 places will be open for voting in that election. The notice also shall describe
 12 the nature and type of election, and the issues, if any, to be submitted to the
 13 voters at that election. Notice shall be given either by (i) advertisement at least
 14 once weekly during the 20-day period in a newspaper having general
 15 circulation in the county and by posting a copy of the notice at the courthouse
 16 ~~door~~ door or (ii) electronic publication on the website of the board of county
 17 commissioners if the board of county commissioners of that county has
 18 adopted an ordinance pursuant to G.S. 153A-52.3. Notice may additionally be
 19 made on a radio or television station or both, but such notice shall be in
 20 addition to the newspaper and other required notice. This subdivision shall not
 21 apply in the case of bond elections called under the provisions of Chapter
 22 159. Chapter 159 of the General Statutes."

23 **SECTION 1.(f)** This section applies only to the counties of Burke, Currituck,
 24 Davidson, Davie, Iredell, Montgomery, Richmond, Rockingham, Rowan, Rutherford, and Stanly
 25 and any municipality located wholly in one of those counties.

26 **SECTION 1.(g)** This section is effective when it becomes law and applies to notices
 27 published on or after that date.

28 **SECTION 2.(a)** Article 50 of Chapter 1 of the General Statutes is amended by adding
 29 a new section to read:

30 **"§ 1-602.1. Publication via county-maintained website.**

31 (a) In lieu of publishing in a newspaper in accordance with this Article, publication of
 32 any notice permitted or required by law to be published in a newspaper may be accomplished by
 33 contracting with a county who has adopted an ordinance authorizing the county to publish such
 34 notice on the county-maintained website pursuant to this section. The board of commissioners
 35 may adopt an ordinance establishing the county website as a central location for publishing or
 36 advertising legal notices in accordance with this section, if the county complies with all of the
 37 following:

- 38 (1) The county maintains its own website, with sufficient staff to maintain that
 39 website.
- 40 (2) The county has sufficient staff to complete affidavits as needed for all legal
 41 notices as required by subsection (b) of this section.
- 42 (3) The county collects and remits fees as authorized in subsection (b) of this
 43 section.
- 44 (4) The county provides notice that public notices may be published on the
 45 county-maintained website, in a newspaper, or both.

46 (b) Whenever a county has published a notice or any other paper, document, or legal
 47 advertisement within the meaning of G.S. 1-597 and a county employee makes a written
 48 statement under oath taken before any notary public or other officer or person authorized by law
 49 to administer oaths, stating that the county placed such notice, paper, document, or legal
 50 advertisement upon its website, such sworn written statement shall be received in all courts in
 51 this State as prima facie evidence that the county placed the notice, paper, document, or legal

1 advertisement upon its website for the stated period of time. When filed in the office of the clerk
2 of the superior court of that county, any such sworn statement shall be deemed to be a record of
3 the court and such record or a copy thereof duly certified by the clerk shall be prima facie
4 evidence that the county placed the notice, paper, document, or legal advertisement upon its
5 website for the stated period of time. The county may charge fees for the administrative costs to
6 the county.

7 (c) Notwithstanding G.S. 1-595, when a statute or written instrument stipulates that an
8 advertisement of a sale shall be made for any certain number of weeks, publication via the
9 county-maintained website in accordance with this section for the number of weeks so indicated
10 is a sufficient compliance with the requirement.

11 (d) Any newspaper that publishes public notices shall provide notice that public notices
12 may be published on the county-maintained website, in the newspaper, or both.

13 (e) Nothing in this section requires a county to adopt an ordinance authorizing the county
14 to publish notices on a county-maintained website.

15 (f) This section applies only to the counties of Burke, Currituck, Davidson, Davie,
16 Iredell, Montgomery, Richmond, Rockingham, Rowan, Rutherford, and Stanly."

17 **SECTION 2.(b)** This section applies only to the counties of Burke, Currituck,
18 Davidson, Davie, Iredell, Montgomery, Richmond, Rockingham, Rowan, Rutherford, and
19 Stanly.

20 **SECTION 2.(c)** This section is effective when it becomes law and applies to notices
21 published on or after that date.

22 **SECTION 3.** This act is effective when it becomes law.