



# HOUSE BILL 35: Various County Public Notices.

2021-2022 General Assembly

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<b>Committee:</b>	House Judiciary 4. If favorable, re-refer to Local Government. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	February 15, 2021
<b>Introduced by:</b>	Reps. Warren, Adams, Hanig	<b>Prepared by:</b>	Sarah Pilon
<b>Analysis of:</b>	PCS to First Edition H35-CSCG-2		Staff Attorney

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**OVERVIEW:** *House Bill 35 would allow the counties of Cabarrus, Catawba, Currituck, Davidson, Forsyth, Haywood, Jackson, Montgomery, Richmond, Rockingham, Rowan, Rutherford, Stanly, and Swain (including the municipalities located within), to adopt ordinances authorizing electronic publication of notices on their websites, in lieu of publication in a newspaper, and would allow the listed counties to adopt ordinances authorizing legally required notices from the private or governmental entities to be published on the county website.*

*The Proposed Committee Substitute (PCS) to House Bill 35 makes the following changes: add to the list of counties Burke, Davie, and Iredell; removes from the list of counties Cabarrus, Forsyth, Haywood, Jackson, and Swain; require municipalities (located wholly within the listed counties) that have adopted an ordinance to utilize their respective county board of commissioner's website for electronic publication; and allow a county board of elections in a county that has adopted an ordinance to publish its notices on the website of the board of county commissioners.*

**CURRENT LAW:** North Carolina law requires various legal notices and advertisements to be published in a newspaper of general circulation in the area impacted by the legal notice. Examples include judicial sales under Article 29A of Chapter 1 of the General Statutes, administration of estates under Chapter 28A of the General Statutes, and execution sales under Article 29B of Chapter 1 of the General Statutes.

More specifically, the general statutes and sometimes local acts, require governing boards of counties and cities to publish notice or to advertise prior to taking certain actions. When publishing notices, the county or city does so by inserting the notice in a newspaper qualified under G.S. 1-597 in that county or city. Some of the items that require notice or advertisement are:

- Various public hearings statutorily required prior to the county or city taking action or adopting certain ordinances, such as zoning ordinances. Often, the statute requiring the public hearing will specify how notice of the public hearing is to be given, usually publication in a newspaper of general circulation within a specified timeframe of the public hearing.
- Budget ordinance. Chapter 159.
- Sale and disposition of property. Article 12 of Chapter 160A.
- Purchase and contract bids. Article 8 of Chapter 143.
- Changes in form of government. Article 4 of Chapter 153A and Article 5 of Chapter 160A.
- Assessments. Article 9 of Chapter 153A and Article 10 of Chapter 160A.
- Boundary disputes. Article 1 of Chapter 153A.
- Development agreements. Article 18 of Chapter 153A and Article 19 of Chapter 160A.

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# House PCS 35

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- Dates of primary, general and special elections, and hours the voting places that will be open for those elections. Chapter 163.

## **BILL ANALYSIS:**

The PCS to House Bill 35 does the following:

### **Section 1:**

- Allow city councils (municipalities located wholly within the county) and the board of county commissioners in the listed counties to adopt an ordinance authorizing electronic publication of public notices and advertisements that are ordinarily required to be published in the newspaper.
- Require that an ordinance adopted under this section by a city council or the board of commissioners may control notice given by any board appointed by that that respective council or board. This includes: planning boards, boards of social services, and boards of health.
- Allow a city council to adopt an ordinance under this section to utilize their respective board of county commissioner's website for electronic publication of the notice if that county has also adopted an ordinance.
- Allow a county board of elections to publish notice electronically on the website of the board of commissioners if the county board of commissioners has adopted an ordinance.

### **Section 2:**

- Allow the listed counties to electronically publish, on the county's own website, any notice permitted or required by law to be published in a newspaper by another private or governmental entity, if that county's board of commissioners has adopted an ordinance establishing the county website as the central location for publishing or advertising legal notices. Counties must comply with certain conditions when publishing notices electronically.

**EFFECTIVE DATE:** The act becomes effective when it becomes law and applies to notices published on or after that date.

**BACKGROUND:** The following local governments are permitted to use electronic notice for public hearings: **Cabarrus** County (S.L. 2003-81), City of **Raleigh** and Town of **Lake Waccamaw** (S.L. 2003-161), Towns of **Apex**, **Garner**, and **Knightdale** (S.L. 2007-86), and Town of **Cary** (S.L. 2008-5), **Guilford** County, **Archdale**, **Burlington**, **Gibsonville**, **Greensboro**, **High Point**, **Jamestown**, **Kernersville**, **Oak Ridge**, **Pleasant Garden**, **Sedalia**, **Stokesdale**, **Summerfield**, and **Whitsett** (S.L. 2017-210).

*\*Staff Attorneys Erika Churchill and Billy R. Godwin substantially contributed to this summary.*