

SJ23: STATE-WIDE REPOSITORY FOR PUBLIC NOTICES

BACKGROUND

At the September meeting, members of the LGIC requested additional information on a possible process to allow public notices to be housed in a "state-wide repository" that could be easily accessible to the public.

This method of public notice would essentially reverse the current roles of public notice: instead of the government entity attempting to "push" the notice out to constituents through a newspaper or other publication, the public is encouraged to access public notices voluntarily. Additional mechanisms may be added to ensure the public is made aware of public notices housed in an online repository, such as allowing email notification subscription services that send a notification to a citizen's email when a certain locale or entity posts a public notice. The public notice site could be searchable to increase ease of use and allow a citizen to access past public notices.

Currently, a statutorily-required or state-operated repository does not exist in Montana; however, the [Montana Newspaper Association](#) maintains a searchable database of public records at www.mtpublicnotices.com/mna/legals. Local newspapers submit electronic copies of legal advertisements which are then searchable by date, city, county, or newspaper.

At least three states, Wisconsin, Florida, and Washington, have similar systems in place that utilize a public notice website created and maintained by the newspapers themselves. For example, "Public Notice Washington State" at www.wapublicnotices.com provides that the "website was created as a public service by the newspapers of Washington State. The website receives uploaded public notices daily from newspapers throughout the state". Wisconsin and Florida utilize similar newspaper-maintained websites which are explained below.

What is the ideal relationship and role of states, local governments, and newspapers when it comes to public notice?

Other states have brought legislation for similar concepts, particularly legislation requiring the state, often through the Secretary of State's office, to create and maintain a public notice website. However, to date, all legislation of this nature has failed¹.

WISCONSIN [SENATE BILL 51](#) – ENACTED IN 2021

Requires a newspaper that publishes a legal notice to publish a hard copy of the notice and:

- place an electronic copy of the notice on the newspaper's website free of charge;
 - in order to qualify to publish legal notices, a newspaper must have a website that includes a prominent link to the newspaper's legal notices section,
 - the legal notices section of the website may not have a "paywall" (must allow free access),
- link to the Wisconsin newspapers legal notices Internet site as defined in 985.01(7).

985.01(7), Wisconsin Statutes: "Wisconsin newspapers legal notices Internet site" means an Internet site **maintained by Wisconsin newspapers** for the purpose of providing and maintaining an electronic version of printed and published legal notices.

Current website meeting the definition above: www.wisconsinpublicnotice.org

- houses all notices originally published in Wisconsin newspapers,
- searchable by keyword, date, newspaper, county, or city,
- links to State Agency Meeting Notices website: Wisconsin Public Meeting Notices & Minutes, <https://publicmeetings.wi.gov/>

Wisconsin also maintains a state "Public Notices" website at www.publicnotices.wi.gov.

- State and local government entities may post to this site which is also searchable. The site implements section 16.75, Wisconsin Statutes, which "allows for the use of the Internet to post due notice for certain procurements". In addition to procurement contracts, government entities may "post other notices such as press releases, meeting notices and meeting minutes". Lastly, the site states that posting to the Public Notices website does not necessarily relieve local governments, state agencies, and other units of government from additional public notice requirements, as defined in statute.

¹ Senate Bill 916 in Rhode Island is technically still pending in the 2021 session. However, the last status of the bill was updated on June 8, 2021 when the Senate Judiciary Committee recommended the measure be held for further study.

DELAWARE [SENATE BILL 91](#) – ENACTED IN 2021

Allows Family Court to publish legal notices on a "legal notices website established by the Court" OR in a newspaper. The bill does not further define the website or offer parameters for the design, implementation, or maintenance of the website.

RHODE ISLAND [SENATE BILL 916](#) – PENDING IN 2021

Requires the Secretary of State (SOS) to create and maintain a state-wide "official website" which may be accessed at no cost to the public.

The Secretary of State must create rules related to the creation of the website that include:

- The ability for the public to sign up for email notifications;
- A search function that allows searching by keyword, date, and statutory citation;
- A mechanism to submit a notice, advertisement, or other item; and
- A mechanism to prohibit the alteration or manipulation of original notice, advertisement, etc.

Effective date: website must be operational on Jan 1, 2022

FLORIDA [SENATE BILL 402](#) – FAILED IN 2021

Original introduced version:

Allows certain public notices for civil and criminal cases to be published in a newspaper OR on a website established by the Supreme Court. The Supreme Court:

- may charge a fee to post to the website (fee based on word count with a maximum of \$500); and
- must publicize the existence of the website by publishing a notice in at least one newspaper of general circulation in each county and by directing each county to post a written notice at the entrance of each county courthouse and post the website address on each clerk of court and judicial circuit court's website, if applicable.

Proposed committee substitute (amendment) by the Committee on Appropriations:

- Creates additional requirements for newspapers to qualify to publish legal notices, including additional data points related to "the total number of online unique monthly visitors to the newspaper's website";
- Allows government agencies to publish notices on a newspaper's website and on the "statewide legal notice website": www.floridapublicnotices.com;
- An agency must:

- hold a public hearing before making the decision to publish notices only electronically;
 - determine that Internet publication of notices is "in the public interest and that the residents within the jurisdiction of the...agency have sufficient access to the Internet by broadband service";
 - publish all Internet-only notices on the website of a newspaper as well as the statewide legal notice website;
 - provide in the print version of a newspaper at least once a week a notice that states the agency's legal notices do not all appear in the print version and that additional notices may be accessed on the newspaper's website and the statewide legal notice website; and
 - post a link on its website homepage to a webpage that lists all of the newspapers that publish the agency's legal notices.
- Requires a newspaper to include in the print edition of the legal notices section a disclaimer alerting the public that additional legal notices may be accessed online (the online version must also alert readers that a print version exists)

ALABAMA [HOUSE BILL 128](#) – **FAILED IN 2020** (SIMILAR BILL – HB576 FAILED IN 2019)

Requires the Secretary of State to post public notices, accessed free of charge by the public, on a state maintained "public notice website".

Website requirements:

- Notices must be searchable by keyword, file number, area, and county;
- Counties and municipalities may opt out of using the website; and
- SOS may charge a nominal fee to the entity requesting to post a notice.

IDAHO [HOUSE BILL 439](#) – **FAILED IN 2020**

Allows state agencies to publish notice on their own websites

MISSISSIPPI [SENATE BILL 2606](#) – **FAILED IN 2020**

Allows most notices to be published "either on a free, publicly accessible, official government website, or in a newspaper".

"Free, publicly accessible, official government website" is defined as either the official website of the government entity required to make publication or a state-level government website specifically designed for such publication notices.

No further information is given for whether the "state-level government website" currently exists or who is responsible for its creation and maintenance.

WYOMING [HOUSE BILL 242](#) – FAILED IN 2019

Creates a "statewide official notices website" maintained by the Secretary of State.

Website must:

- be accessible to the public at no cost;
- use a standard form to submit notices;
- include categories (state, county, municipality, political subdivisions) and allow sorting by category and date;
- allow for reposting of notice as required in statute;
- be searchable by keyword, party name, case number, county or other useful identifiers;
- have a unique and simple website address; and
- link from the main page of the official state website.