

**ASSEMBLY, No. 4141**

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**STATE OF NEW JERSEY**

**216th LEGISLATURE**

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INTRODUCED FEBRUARY 5, 2015

**Sponsored by:**

**Assemblyman MICHAEL PATRICK CARROLL**  
**District 25 (Morris and Somerset)**

**Co-Sponsored by:**

**Assemblyman O'Scanlon, Assemblywoman Schepisi and Assemblyman**  
**Auth**

**SYNOPSIS**

Permits publication of legal notices by governments and individuals on official government website instead of newspaper.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning electronic publication of certain legal notices,  
2 supplementing Title 35 of the Revised Statutes and amending  
3 P.L.1975, c.231 and P.L.2002, c.91.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. (New section) This act shall be known and may be cited as  
9 the "Electronic Publication of Legal Notices Act."

10  
11 2. (New section) The Legislature finds and declares:

12 a. There has been a steady decline in newspaper readership in  
13 the past several decades, while, at the same time there has been an  
14 increase in the number of households with access to the Internet.

15 b. The State of New Jersey, its 21 counties, and many of its  
16 565 municipalities maintain official government websites that are  
17 available to the public 24 hours per day.

18 c. Many legal notices published solely in newspapers go  
19 unread and unnoticed by the public because casual newspaper  
20 readers generally do not read the legal notice section.

21 d. Permitting the publication of legal notices on official  
22 government websites will make those notices more easily accessible  
23 to a greater number of people, thereby promoting increased public  
24 participation in government.

25  
26 3. (New section) For the purposes of this act:

27 "Electronic publication" or "electronically publish" means the  
28 public advertisement of a legal notice in hypertext markup language  
29 format (html), portable document format (PDF) or an equivalent  
30 language format or image format, on an official government  
31 Internet website in accordance with P.L. , c. (C. ) (pending  
32 before the Legislature as this bill).

33 "Government agency" or "agency" means any public entity  
34 under the laws of New Jersey required to publish legal notices.

35 "Legal notice" or "notice" means any matter of a government  
36 agency or an individual that, pursuant to law, rule or regulation is  
37 required to be officially advertised in a newspaper in accordance  
38 with R.S.35:1-1 et seq.

39 "Notice website" means an Internet website that is maintained by  
40 a government agency, or by a third party under contract with the  
41 agency, that contains links to the legal notices electronically  
42 published by the agency.

43 "Official Internet website" or "official website" means the  
44 Internet location designated by a government agency as its primary  
45 source of information about the agency on the Internet.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1       4. (New section) Whenever a government agency or an  
2 individual is required by law to publish a legal notice in one or  
3 more newspapers, the government agency or individual may cause  
4 the required notice to be published on an official government notice  
5 website instead of a newspaper, provided all of the following  
6 requirements are met:

7       a. The government agency, or the host of the notice website,  
8 shall enter into a service level agreement with an Internet service  
9 provider that guarantees the site is accessible to the public over the  
10 Internet at least 98 percent of the time, 24 hours a day, 365 days a  
11 year; and

12       b. The government agency's official Internet website, the notice  
13 webpage containing links to the legal notices, and the webpages  
14 containing the actual legal notices, shall be designed to comply with  
15 the accessibility standards of section 508 of the "Rehabilitation Act  
16 of 1973," as amended (29 U.S.C. s.794d); and

17       c. The government agency's official Internet website  
18 containing the notice website shall be registered with the State  
19 Office of Information Technology, in but not of the Department of  
20 the Treasury, for posting on the State Internet website that lists  
21 Internet sites of agencies; and

22       d. The government agency's official Internet website shall  
23 prominently display a link to the notice website, which shall be an  
24 index webpage containing a list of all current legal notices of the  
25 agency, with links to the full text of those notices, not just to  
26 summaries of those notices. The index webpage shall also contain a  
27 search function and other features that improve public accessibility  
28 to legal notices; and

29       e. (1) Each webpage on the official website with a link to the  
30 notice website or index webpage, as well as the notice website  
31 itself, shall contain an e-mail link to submit a complaint to the  
32 government agency if access to any legal notice fails;

33       (2) The government agency shall review all complaints reported  
34 pursuant to paragraph (1) of this subsection to determine the cause  
35 of any access problem and shall document the findings and any  
36 action taken to resolve it;

37       (3) The government agency shall keep and make available for  
38 public inspection all records of complaints and service accessibility  
39 failures reported pursuant to paragraph (1) of this subsection; and

40       f. Whenever an individual is unable to access an electronic  
41 publication of a government notice, the government agency shall  
42 provide a copy of the notice to the individual free of charge; and

43       g. Notices shall remain available on the notice website at least  
44 until the last posting date required by law has expired or until the  
45 event described in a notice has taken place, whichever is later; and

46       h. The government agency shall create, or have provided by the  
47 notice website contractor, and keep on file an electronic or paper  
48 based certification or affidavit of posting required for each legal

1 notice in the same manner as is done for printed notices. The  
2 affidavit or certification shall state that the notice was posted from  
3 the initial date through either the last posting date required by law  
4 or the date when the event described in a notice takes place,  
5 whichever occurs later, except that a certification shall not be  
6 required to be notarized. The government agency shall provide a  
7 copy of the certification or affidavit free of charge upon request;  
8 and

9 i. The government agency shall designate one or more contact  
10 persons to handle the intake and processing of legal notices  
11 requested to be published by an individual, and shall comply with  
12 the additional requirements of section 7 of P.L. , c. (C. )  
13 (pending before the Legislature as this bill), concerning the Internet  
14 publication of legal notices required to be published by an  
15 individual.

16 j. The government agency shall designate an official to be  
17 responsible for electronic publications and shall post that official's  
18 name and contact information on the notice website.

19  
20 5. (New section) Proof of publication of an electronically  
21 published legal notice for the purpose of complying with public  
22 notice requirements shall be satisfied and deemed conclusive upon  
23 the provision of the certification or affidavit described in subsection  
24 h. of section 4 of P.L. , c. (C. ) (pending before the  
25 Legislature as this bill) by the official responsible for the electronic  
26 publication, stating that the notice was posted from the initial date  
27 until the last posting date required by law.

28  
29 6. (New section) A local government agency, including any  
30 entity defined as a contracting unit pursuant to section 2 of  
31 P.L.1971, c.189 (C.40A:11-2) or a district pursuant to  
32 N.J.S:18A:18A-2, may elect to electronically publish legal notices  
33 on a notice website in accordance with section 4 of  
34 P.L. , c. (C. ) (pending before the Legislature as this bill)  
35 provided:

36 a. (1) The local government agency annually adopts a  
37 resolution or an ordinance, as appropriate, authorizing publication  
38 of legal notices via the Internet and publishes a legal advertisement  
39 following the adoption of the resolution or ordinance, which  
40 includes the full text of the resolution or ordinance authorizing  
41 Internet publication, in one or more official newspaper having the  
42 highest circulation within the jurisdiction of the local government  
43 agency, announcing that legal notices are posted on the agency's  
44 notice website, in the following form:  
45 "Internet Posting of Public Notices: (name of local government  
46 agency)  
47 The (name of agency) announces that public notices on the  
48 following matters are posted on the (name of agency) public notice

- 1 website: http://www.\_\_\_\_\_ (substitute
- 2 Internet address protocol in common usage if different)”;
- 3 (2) The legal advertisement required under paragraph (1) of this
- 4 subsection shall close with the following:
- 5 “Free public access to the Internet is available within the (insert
- 6 name of county, municipality or service or jurisdictional area of the
- 7 local government agency) at (list all known locations). If someone
- 8 is unable to access the Internet, individual copies of notices can be
- 9 obtained by calling (insert appropriate agency phone number)”; and
- 10 b. Dial up access to the Internet is available without telephone
- 11 toll charges generally throughout the jurisdiction of the local
- 12 government agency; and
- 13 c. Regular public Internet access is available without charge
- 14 within the jurisdiction of the local government agency through the
- 15 public library or at some other location; and
- 16 d. All local government notices electronically published are
- 17 available in printed form in the office of the clerk of the county
- 18 board of chosen freeholders, the municipal clerk, the secretary of
- 19 the local government agency, or other appropriate office, as the case
- 20 may be; and
- 21 e. When a municipality does not have an official website, the
- 22 municipal legal notices shall be published on the existing official
- 23 website of the county in which the municipality is located, in
- 24 accordance with the provisions of P.L. , c. (C. ) (pending
- 25 before the Legislature as this bill).
- 26 f. Any local government agency which elects to electronically
- 27 publish legal notices on a notice website must publish, in addition
- 28 to legal notices as defined by section 3 of P.L. , c. (C. )
- 29 (pending before the Legislature as this bill), notice of any public
- 30 meeting, the minutes of any meeting of the governing body, the full
- 31 text of any proposed ordinance or resolution to be considered by the
- 32 governing body, the municipal code, all public contracts for goods
- 33 or services, and a summary of the results of any litigation involving
- 34 the local government agency, provided that the posting of the
- 35 litigation information does not violate any agreed to or court
- 36 ordered confidentiality provisions.
- 37
- 38 7. (New section) An individual required by law to publish an
- 39 official notice in one or more newspapers may cause the notice to
- 40 be published on an appropriate State or local government notice
- 41 website instead of a newspaper, provided:
- 42 a. The appropriate State or local government agency maintains
- 43 an official notice website in accordance with P.L. , c. (pending
- 44 before the Legislature as this bill); and
- 45 b. The individual shall contact the appropriate State or local
- 46 government agency and complete a written request for the
- 47 publication of the legal notice; and
- 48 c. The appropriate State or local government agency shall

1 cause the notice to be published on its official notice website at no  
2 cost to the individual, and the notice shall meet all of the necessary  
3 content and time frame requirements stipulated by law; and

4 d. The appropriate State or local government agency shall  
5 provide the individual a copy of the electronically published notice,  
6 and a copy of the certification or affidavit of publishing required  
7 under subsection h. of section 4 of P.L. , c. (C. ) (pending  
8 before the Legislature as this bill).

9  
10 8. Section 3 of P.L.1975, c.231 (C.10:4-8) is amended to read  
11 as follows:

12 As used in this act:

13 a. “Public body” means a commission, authority, board,  
14 council, committee or any other group of two or more persons  
15 organized under the laws of this State, and collectively empowered  
16 as a voting body to perform a public governmental function  
17 affecting the rights, duties, obligations, privileges, benefits, or  
18 other legal relations of any person, or collectively authorized to  
19 spend public funds including the Legislature, but does not mean or  
20 include the judicial branch of the government, any grand or petit  
21 jury, any parole board or any agency or body acting in a parole  
22 capacity, the State Commission of Investigation, the Apportionment  
23 Commission established under Article IV, Section III, of the  
24 Constitution, or any political party committee organized under  
25 Title 19 of the Revised Statutes.

26 b. “Meeting” means and includes any gathering whether  
27 corporeal or by means of communication equipment, which is  
28 attended by, or open to, all of the members of a public body, held  
29 with the intent, on the part of the members of the body present, to  
30 discuss or act as a unit upon the specific public business of that  
31 body. Meeting does not mean or include any such gathering (1)  
32 attended by less than an effective majority of the members of a  
33 public body, or (2) attended by or open to all the members of three  
34 or more similar public bodies at a convention or similar gathering.

35 c. “Public business” means and includes all matters which  
36 relate in any way, directly or indirectly, to the performance of the  
37 public body's functions or the conduct of its business.

38 d. “Adequate notice” means written advance notice of at least  
39 48 hours, giving the time, date, location and, to the extent known,  
40 the agenda of any regular, special or rescheduled meeting, which  
41 notice shall accurately state whether formal action may or may not  
42 be taken and which shall be (1) prominently posted in at least one  
43 public place reserved for such or similar announcements, (2)  
44 mailed, telephoned, telegraphed, or hand delivered to at least two  
45 newspapers which newspapers shall be designated by the public  
46 body to receive such notices because they have the greatest  
47 likelihood of informing the public within the area of jurisdiction of  
48 the public body of such meetings, one of which shall be the official

1 newspaper, where any such has been designated by the public body  
2 or if the public body has failed to so designate, where any has been  
3 designated by the governing body of the political subdivision whose  
4 geographic boundaries are coextensive with that of the public body,  
5 however, a public body may satisfy this requirement by posting the  
6 required information on the Internet pursuant to the provisions of  
7 sections 4 and 6 of P.L. , c. (C. ) and (C. ) (pending before  
8 the Legislature as this bill), and (3) filed with the clerk of the  
9 municipality when the public body's geographic boundaries are  
10 coextensive with that of a single municipality, with the clerk of the  
11 county when the public body's geographic boundaries are  
12 coextensive with that of a single county, and with the Secretary of  
13 State if the public body has Statewide jurisdiction. For any other  
14 public body the filing shall be with the clerk or chief administrative  
15 officer of such other public body and each municipal or county  
16 clerk of each municipality or county encompassed within the  
17 jurisdiction of such public body. Where annual notice or revisions  
18 thereof in compliance with section 13 of **【this act】** P.L.1975, c.231  
19 (C.10:4-18) set forth the location of any meeting, no further notice  
20 shall be required for such meeting.  
21 (cf: P.L.1981, c.176, s.2)

22  
23 9. Section 4 of P.L.1975, c.231 (C.10:4-9) is amended to read  
24 as follows:

25 4. a. Except as provided by subsection b. of this section, or for  
26 any meeting limited only to consideration of items listed in **【section**  
27 **7. b.】** subsection b. of section 7 of P.L.1975, c.231 (C.10:4-12) no  
28 public body shall hold a meeting unless adequate notice thereof has  
29 been provided to the public.

30 b. Upon the affirmative vote of three quarters of the members  
31 present a public body may hold a meeting notwithstanding the  
32 failure to provide adequate notice if:

33 (1) such meeting is required in order to deal with matters of  
34 such urgency and importance that a delay for the purpose of  
35 providing adequate notice would be likely to result in substantial  
36 harm to the public interest; and

37 (2) the meeting is limited to discussion of and acting with  
38 respect to such matters of urgency and importance; and

39 (3) notice of such meeting is provided as soon as possible  
40 following the calling of such meeting by posting written notice of  
41 the same in the public place described in **【section 3. d. above】**  
42 subsection d. of section 3 of P.L.1975, c. 231 (C.10:4-8), and also  
43 by notifying the two newspapers described in **【section 3. d.】**  
44 subsection d. of section 3 of P.L.1975, c.231 (C.10:4-8) by  
45 telephone, telegram, or by delivering a written notice of same to  
46 such newspapers, or by posting the notice on the notice website  
47 maintained by the public body; and (4) either (a) the public body  
48 could not reasonably have foreseen the need for such meeting at a

time when adequate notice could have been provided; or (b) although the public body could reasonably have foreseen the need for such meeting at a time when adequate notice could have been provided, it nevertheless failed to do so.

(cf: P.L.1975, c.231, s.4)

10. Section 1 of P.L.2002, c.91 (C.10:4-9.1) is amended to read as follows:

1. In addition to the notice requirements of the “Open Public Meetings Act,” P.L.1975, c.231 (C.10:4-6 et seq.), a public body may provide electronic notice of any meeting of the public body through the Internet, provided the public body has complied with the provisions of P.L. , c. (C. et al.) (pending before the Legislature as this bill).

As used in this section, “electronic notice” means advance notice available to the public via [electronic transmission of at least 48 hours, giving the time, date, location and, to the extent known, the agenda of any regular, special or rescheduled meeting] an electronic publication as defined by section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill), which notice shall accurately state whether formal action may or may not be taken at such meeting.

As used in this section, “Internet” means the international computer network of both federal and non-federal interoperable packet switched data networks.

(cf: P.L.2002, c.91, s.1)

11. (New section) Within 6 months of the enactment of P.L. , c. (C. ) (pending before the Legislature as this bill), the Chief Technology Officer of the Office of Information Technology, in consultation with the Director of the Division of Local Government Services in the Department of Community Affairs shall promulgate rules and regulations, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), in order to effectuate the provisions of this act.

12. This act shall take effect on the first day of the seventh month next following enactment, however, section 11 of this act shall take effect immediately.

## STATEMENT

This bill authorizes individuals, as well as local, county, and State government units, including school districts, to meet publication requirements for legal notices by posting such notices on officially designated searchable government websites, so long as Internet accessibility and reliability requirements are met. Nothing

1 in this bill alters existing notice content and publication time frame  
2 requirements, nor does this bill eliminate an individual or  
3 government entity's ability to meet publication requirements  
4 through newspaper publication as set forth under current law.

5 The bill expands the geographic availability of legal notices,  
6 many of which need only appear in one local or regional newspaper  
7 under current law. Under the provisions of the bill, Internet  
8 publication is only available to local governments following the  
9 adoption of a resolution or ordinance authorizing the publication of  
10 notices on the internet and when the local government can establish  
11 that free public Internet access is available in the jurisdiction. The  
12 bill further requires that a link to the notice webpage be  
13 prominently displayed on the homepage of the publishing  
14 government entity and that the notice webpage address be  
15 advertised, along with a listing of free public Internet access  
16 locations, in one or more newspapers within the jurisdiction.  
17 Additionally, publication websites must be accessible online at least  
18 98 percent of the time on a continuous basis and the government  
19 entity must provide free copies of such notices when an interested  
20 person is unable to access the official website. The bill requires  
21 that any local government agency which elects to publish notices on  
22 the internet also post other information such as notices of any  
23 public meeting, the minutes of a meeting of the governing body, the  
24 full text of any resolution or ordinance considered by the governing  
25 body, the municipal code, contracts for goods and services, and the  
26 results of any legal action in which the local government agency  
27 was a party, provided the disclosure does not violate any  
28 confidentiality agreement or court order. A local government  
29 agency is defined as any public entity governed by the "Local  
30 Public Contracts Law" or the "Public School Contracts Law."

31 The bill also requires an individual wishing to publish a legal  
32 notice on an official website to contact the appropriate local, county  
33 or State government entity to formally request that the legal notice  
34 be published. Such publication is only available when the  
35 applicable government entity maintains a notice website or  
36 otherwise publishes legal notices pursuant to the provisions of this  
37 bill. Furthermore, when a municipality does not have an official  
38 website, this bill allows for municipal legal notices to be published  
39 on the website of the county in which the property is located.

40 Proof of publication of all Internet published legal notices shall  
41 be ascertained in the same manner as if the notices had been  
42 published in a print newspaper. The Chief Technology Officer of  
43 the Office of Information technology, in consultation with the  
44 Director of the Division of Local Government Services in the  
45 Department of Community Affairs, is required to promulgate any  
46 rules and regulations in order to effectuate the provisions of this  
47 bill.

**A4141 CARROLL**

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1       Finally, the bill amends three sections of the “Senator Byron M.  
2   Baer Open Public Meetings Act” to reflect the new internet  
3   publication and notice requirements imposed by the bill.