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Bill Analysis
Legislative Service Commission

H.B. 749

123rd General Assembly
(As Introduced)

**Reps. Damschroder, Jolivette, Taylor, Sullivan, Barrett, Britton, Trakas,
D. Miller, Flannery, Widener**

BILL SUMMARY

- Requires state agencies to post on the Internet any public notice that they are required to publish in a newspaper of general circulation, within the same time period required for the newspaper publication.
- Provides that that Internet publication is in addition to, and not in lieu of, existing requirements that govern public notices that must be published in newspapers of general circulation or that govern personal notices that must be given in certain manners.
- Requires state agencies that make grants of money or offers of other forms of financial assistance to provide notice of the existence of those grants or offers, and information regarding associated applications, qualifications, and other matters via the Internet.
- Permits state agencies to provide informational publications via the Internet, in addition to providing those publications to the public by other means.

CONTENT AND OPERATION

Mandatory Internet publication by state agencies

Public notice requirements

Numerous provisions of continuing law require state agencies and other public bodies to publish public notices in newspapers of general circulation. The area of general circulation varies depending on the public body providing the notice, the type of notice being provided, and/or the persons that the publication is intended to notify.

The bill requires all public notices (see below) that a *state agency* is required to publish on "any matter" in a newspaper of general circulation under any Revised Code section or Ohio Constitution provision to *also* be posted electronically on the state's World Wide Web site on the Internet (see **COMMENT 1**). The electronic version of the public notice must be so posted within the same time period required for the newspaper publication. These Internet notice provisions are *supplemental* to existing law requirements (1) that govern specific types of public notices that must be published in a newspaper of general circulation or (2) that govern personal notices that must be given in specified manners. Thus, a state agency required by any Revised Code section or any Ohio Constitution provision to publish notice in a newspaper of general circulation must, under the bill, publish that notice *both* in a newspaper of general circulation and on the state's web site within the same time period. (Sec. 7.16(B).) (See **COMMENT 2**.)

"Public notice" is defined for this purpose to include notices; proclamations; advertisements; proposed amendments to the Ohio Constitution; ballot language; explanations and arguments both for and against those proposed amendments, referenda, or laws proposed by initiative petitions; and any other matter required to be published in a newspaper of general circulation (sec. 7.101--not in, but referred to in, the bill, and sec. 7.16(A)(2)). "State agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government (sec. 1.60--not in, but referred to in, the bill, and sec. 7.16(A)(1)).

Financial assistance programs

The bill also *requires* state agencies that make grants of money or offers of other forms of financial assistance to provide notice of the *existence* of those grants or that assistance by means accessible via the Internet. In addition to that notice, those state agencies must provide, by means accessible via the Internet, information regarding *application procedures, recipient qualifications*, and other matters relating to those grants or that assistance. (Sec. 7.16(A)(3) and (C).)

Permissive Internet publication by state agencies

The bill permits a state agency to provide to the public by means accessible via the Internet *any informational publications* that the agency issues to the public *by other means*. Internet publication of those informational publications thus is permitted in addition to, and not in lieu of, providing those publications to the public by other means. (Sec. 7.16(A)(3) and (D).)

COMMENT

1. *Webopedia*, <http://www.pcwebopedia.com>, defines a "**web site**" as "[a] site (location) on the World Wide Web. Each web site contains a home page, which is the first document users see when they enter the site. The site might also contain additional documents and files. Each site is owned and managed by an individual, company or organization." A "**web page**" is defined as "[a] document on the World Wide Web. Every web page is identified by a unique URL (Uniform Resource Locator)." Thus, a single web site may contain multiple web pages, each with its own unique URL.

The State of Ohio's web site is located online at <http://www.state.oh.us>. In addition to the state home page, which is the document accessed at the primary address, the site contains individual web pages for various state agencies. For example, the State Medical Board is located online at <http://www.state.oh.us/med/>. This and other state agency web pages are accessible through the general state web site.

2. A recent act, Sub. H.B. 488 of the 123rd General Assembly, permits state agencies, consistent with rules to be adopted by the Department of Administrative Services, to waive existing law requirements regarding the posting or displaying of records, if those agencies choose to utilize electronic records and signatures. Since state agencies acting in accordance with H.B. 749 would be required to publish specified public notices and financial assistance information electronically, thus ensuring their use of electronic records, those agencies arguably could waive under Sub. H.B. 488's provisions existing law newspaper publication requirements that H.B. 749 clearly contemplates to be in addition to its electronic publication requirements. Through the interaction of the two bills, then, the state agencies arguably could choose to publish covered public notices only electronically on the World Wide Web. The decision whether to waive existing law newspaper publication requirements under Sub. H.B. 488's provisions would be made on an agency-by-agency basis, making it possible that at any given time some state agencies would opt only to publish public notices on the World Wide Web, while other agencies would opt to continue the dual newspaper and electronic publication envisioned by H.B. 749.

In order to ensure that public notices would be published in both traditional media as well as electronically on the World Wide Web, H.B. 749 needs to be amended to create an exception to the general waiver provisions of Sub. H.B. 488. Otherwise, it appears that state agencies could opt to publish public notices either in both traditional media and on the World Wide Web or, by waiving existing law publication requirements, solely on the World Wide Web.

HISTORY



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