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Bill Analysis
Legislative Service Commission

H.B. 443

127th General Assembly
(As Introduced)

Reps. Peterson, Raussen, Evans, Brown, Fende

BILL SUMMARY

- Requires the Office of Information Technology (OIT) to select a web site service provider to establish, operate, and maintain, and to fund the operation, establishment, and maintenance of, the State-Sanctioned Public Notice (SSPN) web site, prescribes the qualifications for the service provider, and provides that the state does not have and may not assume liability for the costs of establishing, operating, and maintaining the web site.
- Lists the duties of the service provider in establishing, maintaining, and operating the SSPN web site, requires the service provider to bear the expense of maintaining the web site domain name, and requires the service provider to provide the OIT Director, in the course of a quality review, access to the service provider's hardware and software and technical and informational operations relating to the web site operation and maintenance.
- Permits a notice required to be published by statute or rule to be published in the SSPN web site and requires the service provider to publish on the web site such a notice submitted to the provider and to collect from the responsible party submitting the notice a fee for posting the notice to be set by the provider and not to exceed \$10.
- Modifies the requirements that a newspaper or newspaper of general circulation must comply with for purposes of any legal publication required by law to be made in such a newspaper published in a political subdivision and for purposes of the publication in such a newspaper of tax lists and duplicates of delinquent personal and classified property taxes, delinquent tax lists, and delinquent vacant land tax lists and

advertising the sale of tax certificates, and permits any notice required to be so published to appear on an insert placed in the newspaper.

CONTENT AND OPERATION

State-Sanctioned Public Notice web site

Selection and qualifications of web site service provider

The bill requires the Office of Information Technology (OIT) to select a web site service provider to establish, operate, and maintain, and to fund the operation, establishment, and maintenance of, the State-Sanctioned Public Notice web site (hereafter SSPN web site). The provider must have all the following qualifications:

(1) Possess appropriate hardware infrastructure and intellectual property for feasible processes deploying a state-sanctioned and national web site with appropriate methods for communicating with the courts of Ohio;

(2) Possess sufficient minimal capital resources to establish and ensure smooth and uninterrupted ongoing operation of the SSPN web site;

(3) Provide a reasonable plan for implementing the SSPN web site so that notices required to be published by a statute or rule may be posted and published on the web site with reasonable ease;

(4) Demonstrate, and be capable of implementing, the technology necessary for the SSPN web site at no cost to the state;

(5) Employ personnel, in number and by qualification, who are necessary to ensure smooth transmission of data to and the posting and publication of notices on the SSPN web site;

(6) Post a bond in an amount to be determined by the OIT that is sufficient to guarantee operation of the SSPN web site as the public interest requires.

The bill requires the service provider to bear the costs of establishing, operating, and maintaining the SSPN web site. It provides that the state neither has nor may assume liability for those costs. (R.C. 125.182.)

Duties of SSPN web site service provider

In establishing, maintaining, and operating the SSPN web site, the web site service provider must do all of the following:

(1) Use a domain name for the web site that will be easily recognizable and remembered by and understandable to users of the web site;

(2) Maintain the web site so that it is fully accessible to and searchable by members of the public at all times;

(3) Not charge a fee to a person who accesses, searches, or otherwise uses the web site;

(4) Ensure that notices displayed on the web site conform to the requirements that would apply to the notices as if they were being published in a newspaper or other publication, as directed in the relevant provision of the statute or rule;

(5) Ensure that notices continue to be displayed on the web site for not less than the length of time required by the relevant provision of the statute or rule;

(6) Devise and display on the web site a form that may be downloaded and used to request publication of a notice on the web site;

(7) Charge responsible parties submitting notices for publication on the web site only the fee fixed by the service provider;

(8) Enable responsible parties to submit notices and requests for their publication and to pay the fee charged therefor on-line;

(9) Maintain an archive of notices that no longer are displayed on the web site;

(10) Enable notices, both those currently displayed and those archived, to be accessed by key word, by party name, by case number, by county, and by other useful identifiers;

(11) Maintain adequate systemic security and backup features, and develop and maintain a contingency plan for coping with and recovering from power outages, systemic failures, and other unforeseeable difficulties;

(12) Maintain the web site in such a manner that it will not infringe legally protected interests, so that vulnerability of the web site to interruption because of litigation or the threat of litigation is reduced;

(13) Submit a status report to the Secretary of State twice annually that demonstrates compliance with the statutory requirements governing publication of notices;

(14) Submit to a quality review, if the OIT Director requests.

The service provider must bear the expense of maintaining the SSPN web site domain name. In the course of a quality review, the OIT Director is entitled to, and the service provider must provide, full access to the hardware and software used by, and the technical and informational operations of, the service provider that relate to operation and maintenance of the SSPN web site. (R.C. 125.183.)

Publication of legal notices on the SSPN web site

The bill provides that a notice required to be published by a provision of a statute or rule may be published on the SSPN web site. A responsible party who is required to publish such a notice may submit a copy of the notice and a request for publication to the SSPN web site service provider, together with the fee charged. The responsible party must identify in the notice or request the provision of the statute or rule that requires the notice to be published. The responsible party may, but is not required to, prepare the request on the form that can be downloaded from the web site. The notice permitted under this provision is cumulative with other notice provisions under statute or rule. (R.C. 7.16.)

The bill requires the SSPN web site service provider to publish on that web site a notice that is submitted to the service provider and that is required to be published by a provision of a statute or rule. The service provider must collect from the responsible party submitting the notice a fee for posting the notice on the web site. The service provider must set the fee, not to exceed \$10. The fee initially set may not thereafter be increased until two years have elapsed. The service provider must publish the amount of the fee on the web site. (R.C. 125.181.)

Newspapers qualified for publication of legal notices and publications pertaining to tax collections--requirements

Existing law

Current law prescribes the requirements for a newspaper or newspaper of general circulation in a political subdivision to qualify for publication of legal notices required by law. In addition to all other requirements, a newspaper or newspaper of general circulation, except those publications performing the functions described in R.C. 2701.09 (publication of court calendar) for a period of one year immediately preceding any such publication required to be made, must be a publication bearing a title or name, regularly issued as frequently as once a week *for a definite price or consideration paid for by not less than 50% of those to whom distribution is made, having a second class mailing privilege*, being not less than four pages, published continuously during the immediately preceding one-

year period, and circulated generally in the political subdivision in which it is published. Such publication must be of a type to which the general public resorts for passing events of a political, religious, commercial, and social nature, current happenings, announcements, miscellaneous reading matter, advertisements, and other notices. (R.C. 7.12.)

With respect to publications pertaining to tax collections, as used in R.C. 5719.04 (publication of tax list and duplicate of delinquent personal and classified property taxes), 5721.03 (delinquent tax list and delinquent vacant land tax list; publication of lists), and 5721.31 (tax certificate sales; advertising of sale) and in any other Revised Code sections to which those sections are applicable, current law requires a newspaper or newspaper of general circulation to be a publication that meets the requirements identical to those described in the preceding paragraph (R.C. 5721.01(B)).

Operation of the bill

The bill removes the requirements in both statutes described above that a newspaper or newspaper of general circulation be a publication that is regularly issued *for a definite price or consideration paid for by not less than 50% of those to whom distribution is made and have a second class mailing privilege*. It adds the requirements that the publication have at least 25% editorial, nonadvertising content, exclusive of inserts, measured relative to total publication space, and an audited circulation to at least 50% of the households in the newspaper's retail trade zone as defined by the audit. (R.C. 7.12 and 5721.01(B).) The bill further provides that any notice required to be published in a newspaper of general circulation (see 1st paragraph under "Existing law," above) or any notice required to be published in a newspaper or newspaper of general circulation as defined in R.C. 5721.01 (see 2nd paragraph under "Existing law," above) may appear on an insert placed in such a newspaper. A responsible party who is required to publish such a notice must consider various advertising media to determine which media might reach the intended public most broadly. The responsible party need publish the notice in only one qualified medium to meet the requirements of law. (R.C. 7.12 and 5721.012.)

HISTORY

ACTION	DATE
Introduced	01-22-08

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