

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 781 Legal Notices  
**SPONSOR(S):** Civil Justice Subcommittee; Powell and others  
**TIED BILLS:** None **IDEN./SIM. BILLS:** CS/SB 834

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	12 Y, 0 N, As CS	Ward	Bond
2) Judiciary Committee	14 Y, 0 N	Ward	Havlicak

### SUMMARY ANALYSIS

The publication of legal notices in newspapers is a long established practice for giving notice to the general public of matters such as public sales, pending estates, or businesses' fictitious names, and for service of process upon absent, unknown, or unreachable parties to an action. In most civil cases, when it is required, notice must be published in a newspaper in the county where the lawsuit is filed once a week for four consecutive weeks. Current law provides that a newspaper's website must include the same legal notices that appear in print. A newspaper's legal notice webpage must be clearly titled and free of charge. The Florida Press Association maintains a statewide website for legal notices as a repository for all published notices. The bill:

- Adds that legal notices must be posted on the date that the printed newspaper notice appears in a separate web page entitled, "Legal Notices," "Legal Advertisements," or comparable language;
- Provides that no fee may be charged nor may registration be required for viewing or searching legal notices on the statewide site;
- Requires that a legal notice placed on the statewide website must be searchable by party or case number, be posted for 90 consecutive days, and retained for 18 months; and
- Provides that the newspaper's web pages that contain legal notices must present the legal notices as the dominant and leading subject matter of those pages.

The bill does not appear to have a fiscal impact on the state or local governments.

The bill is effective October 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

The publication of legal notices in newspapers is a long established practice. Legal notices and publication in newspapers occur for a variety of cases, such as including notice of a proposed government action,<sup>1</sup> or when a plaintiff has not been able to serve a defendant.<sup>2</sup> Other examples of legal notices include registration of a fictitious name,<sup>3</sup> notice to creditors<sup>4</sup> or notice of unclaimed property<sup>5</sup> in a probate estate. In general, laws addressing constructive service of process by publication are located in ch. 49, F.S., while the laws governing how publication is effected are in ch. 50, F.S.

In civil cases requiring it, publication of a legal notice must be made in a newspaper in the county where the action is filed. All legal notices, unless otherwise specified, are published once a week for four consecutive weeks.<sup>6</sup> Foreclosure proceedings are published once a week for two weeks.<sup>7</sup> Publication must be in a newspaper that is printed and published at least once a week and that contains at least 25 percent of its words in the English language.<sup>8</sup> The newspaper must be entered, or qualified to be admitted and entered, as a periodical matter at a post office in the county where it is published, and be generally available to the public for the publication of notices.<sup>9</sup>

Legal notices must be placed on a newspaper's website on the same day the notice appears in print and the front page of a newspaper's website must have a link to the legal notices webpage.<sup>10</sup> The legal notices webpage must be searchable and free to the public.<sup>11</sup> Fees for placement of official notice and legal advertisement are set forth in statute.<sup>12</sup>

A newspaper is also required to place a legal notice on a statewide website maintained by the Florida Press Association.<sup>13</sup> Any error in the legal notice published on a newspaper's webpage or the statewide website is considered harmless if the printed legal notice was correct.<sup>14</sup>

The bill:

- Adds that legal notices must be posted on the date that the printed newspaper notice appears in a separate web page title "Legal Notices," "Legal Advertisements," or comparable language;
- Provides that no fee may be charged nor may registration be required for viewing or searching legal notices on the statewide site;
- Requires the legal notice placed on the statewide website to:
  - Be accessible and searchable by party name(s) and case number;
  - Be posted for a period of at least 90 consecutive days following the first day of posting publication, and
  - Be maintained in a searchable archive on the website for 18 months; and
- Provides that the newspaper's web pages that contain legal notices shall present the legal notices as the dominant and leading subject matter of those pages.

The proposed changes to s. 50.061, F.S., clarify payment language without a change in substance.

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<sup>1</sup> See, eg., s. 45.031(2), F.S.

<sup>2</sup> Section 49.021, F.S.

<sup>3</sup> Section 865.09 (3), F.S.

<sup>4</sup> Section 733.702(1), F.S.

<sup>5</sup> Section 733.816(1)(b), F.S.

<sup>6</sup> Section 49.10(1)(a), F.S.

<sup>7</sup> Section 49.10(1)(c), F.S.

<sup>8</sup> Section 50.011, F.S.

<sup>9</sup> *Id.*

<sup>10</sup> Section 50.0211(2) and (3), F.S.

<sup>11</sup> Section 50.0211(2), F.S.

<sup>12</sup> Section 50.061, F.S.

<sup>13</sup> Section 50.0211(3), F.S.

<sup>14</sup> Section 50.0211(5), F.S.

The bill provides an effective date of October 1, 2014.

**B. SECTION DIRECTORY:**

Section 1 amends s. 50.0211, F.S., relating to internet website publication.

Section 2 amends s. 50.061, F.S., relating to amounts chargeable.

Section 3 provides an effective date of October 1, 2014.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill does not appear to have any impact on state expenditures.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The proposed changes to ss. 50.0211 and 50.061, F.S., may have a minimal fiscal impact upon the newspaper industry. The industry will be required to provide a searchable database of legal notices at no cost to the public and at no additional cost to those parties who seek the legal publications. The Florida Press Association estimates that the cost associated with making changes to their website to conform to this bill is \$3,600, but may increase. The Florida Press Association did not have an estimate for the financial impact this bill will have on newspapers, but did state that only a few newspapers would be affected.<sup>15</sup>

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<sup>15</sup> Personal conversation with Sam Morley, General Counsel for the Florida Press Association on March 11, 2014. See also, Florida Senate Analysis for CS/SB 834 at <http://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=2014s0834.go.DOCX&DocumentType=Analysis&BillNumber=0834&Session=2014> (last reviewed March 19, 2014).

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 25, 2014, the Civil Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment removed:

- A provision allowing Clerks of Court to link legal advertising to their websites;
- A provision that the printed version of a legal advertisement would prevail in the event of a conflict with the website version; and
- A provision that substantive rights of a party entitled to notice would not be affected by errors in website publication.

This analysis is drafted to the committee substitute as passed by the Civil Justice Subcommittee.