

CHAPTER 27

(HB 534)

AN ACT relating to required publications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 424.145 is amended to read as follows:

- (1) As used in this section:
- (a) "Local government" means:
1. Any urban-county government;
 2. Any consolidated local government;
 3. Any charter county;
 4. Any unified local government; and
 5. In any county containing a population of eighty thousand (80,000) or more based upon the most recent federal decennial census, the county itself or any:
 - a. City within the county;
 - b. Special district within the county;
 - c. School district within the county; or
 - d. Special purpose governmental entity within the county; and
- (b) "Notice ~~website~~~~[Web site]~~" means *a website*~~[an Internet Web site]~~ that is maintained by a local government or a third party under contract with the local government, which contains links to the legal advertisements or notices electronically published by the local government.
- (2) Local governments may satisfy the requirements of this chapter or any other provision of law requiring the publication of an advertisement in a newspaper by following the alternative procedures established in this section.
- (3) In lieu of newspaper publication, a local government may post the required advertisement online on a notice ~~website~~~~[Web site]~~ operated by the local government that is accessible to the public at all times in accordance with subsections (4) to (9) of this section. Publication of an advertisement shall be deemed to have occurred on the date the advertisement is posted on the local government's notice ~~website~~~~[Web site]~~.
- (4) (a) In conjunction with an alternative Internet posting, the local government shall publish a newspaper advertisement one (1) time providing notice that the public may view the full advertisement on the notice ~~website~~~~[Web site]~~. The newspaper advertisement shall:
- 1.~~[(a)]~~ Be not more than six (6) column inches and meet the technical requirements of KRS 424.160(1);
 - 2.~~[(b)]~~ Be published within ten (10) days of the alternative posting on the notice ~~website~~~~[Web site]~~ when the purpose of the posting is to inform the public of a completed act, including those acts specified in KRS 424.130(1)(a), or within three (3) days of the posting when the purpose of the posting is to inform the public of the right to take a certain action, including the events specified in KRS 424.130(1)(b) and (d);
 - 3.~~[(c)]~~ Inform the public of the subject matter of the alternative posting, inform the public of its right to inspect any documents associated with the Internet posting by contacting the local government, and provide a mailing and a physical address where a copy of the document may be obtained and the Web address if the document is available online; and
 - 4.~~[(d)]~~ Provide the full Uniform Resource Locator (URL) of the notice ~~website~~~~[Web site]~~ address and the full Uniform Resource Locator (URL) of the address where the full advertisement may be directly viewed along with a telephone number for the local government.

- (b) *A local government may, alternatively, publish an advertisement one (1) time providing notice that the public may view the full advertisement on the notice website in a digital newspaper that meets the qualifications discussed in Section 2 of this Act, so long as the advertisement complies with subparagraphs 2., 3., and 4. of paragraph (a) of this subsection.*
- (5) In addition to specific legal requirements applicable to a particular type of advertisement:
- (a) The contents of each alternative Internet posting shall meet the minimum requirements of KRS 424.140; and
 - (b) The local government shall make the alternative Internet posting in accordance with the times and periods established by KRS 424.130, and shall actively maintain the alternative Internet posting on its public ~~website~~~~[Web site]~~:
 1. Until the deadline passes or the event occurs if the substance of the advertisement is intended to advise the public of a time to take action or the occurrence of a future event;
 2. For at least ninety (90) days if the substance of the advertisement is to inform the public of an action taken by the local government, such as the enactment of an ordinance; or
 3. For one (1) year or until updated or replaced with a more recent version if the substance of the advertisement is intended to inform the public about the financial status of the local government, such as annual audits or the budget.
- (6) The local government shall display access to any and all alternative Internet postings made pursuant to this section prominently on the homepage or first page of the notice ~~website~~~~[Web site]~~. The section of the notice ~~website~~~~[Web site]~~ containing any postings and the actual advertisement shall be made in a manner where the public can readily and with minimal effort identify the location of and easily retrieve the advertisements.
- (7) The local government shall provide a conspicuous statement on its notice ~~website~~~~[Web site]~~ that individuals who have difficulty in accessing the contents of posted advertisements may contact the local government for information regarding alternative methods of accessing advertisements, which shall include the telephone number of the local government.
- (8) As proof of an alternative Internet posting to satisfy any newspaper publication requirement, the local government shall memorialize the posting by capturing the posting in electronic or paper format and shall complete an affidavit signed by the person responsible for causing publications under KRS 424.150, stating that the local government satisfied the publication requirement by alternative Internet posting. The affidavit shall specify the active dates of the notice ~~website~~~~[Web site]~~ posting, the specific statutory requirements being satisfied by the alternative Internet posting, and the notice ~~website~~~~[Web site]~~ address where the alternative posting was located, including the full Uniform Resource Locator (URL) used for the posting. The local government shall retain the captured posting and the affidavit by the person responsible for publication for a period of three (3) years. Together, the captured posting and the affidavit shall constitute prima facie evidence that the posting was made and occurred as stated within the affidavit.
- (9) The failure to cause the newspaper advertisement required in subsection (4) of this section shall not void the action of the local government or negate the enforceability of the matter advertised by alternative Internet posting. Any person who violates the requirements of subsection (4) of this section shall be subject to the penalties provided in KRS 424.990.

➔Section 2. KRS 424.120 is amended to read as follows:

- (1) Except as provided in ~~subsections~~~~[subsection]~~ (2) and (4) of this section, if an advertisement for a publication area is required by law to be published in a newspaper, the publication shall be made in a newspaper that meets the following requirements:
- (a) It shall be published in the publication area. A newspaper shall be deemed to be published in the area if it maintains its principal office in the area for the purpose of gathering news and soliciting advertisements and other general business of newspaper publications, and has a periodicals class mailing permit issued for that office. A newspaper published outside of Kentucky shall not be eligible to carry advertisements for any county or publication area within the county, other than for the city in which its main office is located, if there is a newspaper published in the county that has a substantial general circulation throughout the county and that otherwise meets the requirements of this section; and
 - (b) It shall be of regular issue and have a bona fide circulation in the publication area. A newspaper shall be deemed to be of regular issue if it is published at least once a week, for at least fifty (50) weeks during

the calendar year as prescribed by its mailing permit, and has been so published in the area for the immediately preceding two (2) year period. A newspaper meeting all the criteria to be of regular issue, except publication in the area for the immediately preceding two (2) year period, shall be deemed to be of regular issue if it is the only *qualified* paper in the *county* ~~publication area and has a paid circulation equal to at least ten percent (10%) of the population of the publication area~~. A newspaper shall be deemed to be of bona fide circulation in the publication area if it is circulated generally in the area, and maintains a definite price or consideration not less than fifty percent (50%) of its published price, and is paid for by not less than fifty percent (50%) of those to whom distribution is made; and

- (c) It shall bear a title or name, consist of not less than four (4) pages without a cover, and be of a type to which the general public resorts for passing events of a political, religious, commercial, and social nature, and for current happenings, announcements, miscellaneous reading matter, advertisements, and other notices. The news content shall be at least twenty-five percent (25%) of the total column space in more than one-half (1/2) of its issues during any twelve (12) month period.
 - (d) If, in a publication area there is more than one (1) newspaper which meets the above requirements, the newspaper having the largest bona fide paid circulation as shown by the average number of paid copies of each issue as shown in its published statement of ownership as filed on October 1 for the publication area shall be the newspaper where advertisements required by law to be published shall be carried.
 - (e) For the purposes of KRS Chapter 424, publishing shall be considered as the total recurring processes of producing the newspaper, embracing all of the included contents of reading matter, illustrations, and advertising enumerated in paragraphs (a) through (d) of this subsection. A newspaper shall not be excluded from qualifying for the purposes of legal publications as provided in this chapter if its printing or reproduction processes take place outside the publication area.
- (2) (a) If, in the case of a publication area smaller than the county in which it is located, there is no newspaper published in the area, the publication shall be made in a newspaper published in the county that is qualified under this section to publish advertisements for the county. If the qualified newspaper publishes a zoned edition which is distributed to regular subscribers within the publication area, any advertisement required by law to be published in the publication area may be published in the zoned edition distributed in that area.
- (b) If, in any county there is no newspaper meeting the requirements of this section for publishing advertisements for that county, any advertisements required to be published for the county or for any publication area within the county shall be published in a newspaper of the largest bona fide circulation in that county published in and qualified to publish advertisements for an adjoining county in Kentucky. This subsection is intended to supersede any statute that provides or contemplates that newspaper publication may be dispensed with if there is no newspaper printed or published or of general circulation in the particular publication area.
- (3) If a publication area consists of a district, other than a city, which extends into more than one (1) county, the part of the district in each county shall be considered to be a separate publication area for the purposes of this section, and an advertisement for each separate publication area shall be published in a newspaper qualified under this section to publish advertisements for the area.
- (4) ***If an advertisement for a publication area is required by law to be published in a newspaper, the publication may, alternatively, be made in a digital newspaper that:***
- (a) ***Maintains an active news gathering office in the publication area;***
 - (b) ***Has been actively publishing for at least one (1) year, and is updated on at least a weekly basis;***
 - (c) ***Has as its primary purpose reporting on matters of import to the public, and contains regular reporting regarding local and community issues in the publication area;***
 - (d) ***Is easily accessible to the public through common Internet search engines or other Internet search means;***
 - (e) ***Contains conspicuous links or headings on its landing page that direct members of the public to public notices; and***
 - (f) ***Distributes, or has ownership interest in another entity that distributes, newspapers printed in Kentucky, and is capable of circulating printed newspapers throughout the publication area.***

For purposes of satisfying publication requirements of this chapter, an advertisement is deemed to be published on the date that it is posted on the website of the digital newspaper. Any other statute requiring newspaper publication that contains requirements related to the physical dimensions, typesetting, font, or other aspects particular to a printed newspaper are not applicable where the advertisement is made in a digital newspaper that qualifies under this subsection.

Signed by Governor March 20, 2023.