

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

HOUSE BILL 1495

By: Representative Hammer

For An Act To Be Entitled

AN ACT TO CREATE THE ARKANSAS PUBLIC NOTICE ACT OF 2013; TO STREAMLINE STATE GOVERNMENT EXPENDITURES; TO REQUIRE THE SECRETARY OF STATE TO CREATE AND MAINTAIN AN INTERNET PUBLIC NOTICE CALENDAR TO BE VIEWED BY ALL PERSONS FREE OF CHARGE; TO ALLOW GOVERNMENT ENTITIES TO POST NOTICE ON THE CALENDAR IN LIEU OF NEWSPAPER PUBLICATION; TO AMEND PORTIONS OF ARKANSAS LAW RELEVANT TO CERTAIN CONSTITUTIONAL PROVISIONS; AND FOR OTHER PURPOSES.

Subtitle

TO SAVE GOVERNMENT MONEY; AND TO CREATE AN INTERNET PUBLIC NOTICE CALENDAR TO BE VIEWED BY ALL PERSONS FREE OF CHARGE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 7-9-113(b)(1), concerning publications of notice of amendments, is amended to read as follows:

(b)(1) Before the election at which ~~any~~ a proposed or referred measure is to be voted upon by the people, notice shall be published ~~in two (2) weekly issues of some newspaper in each county as is provided by law~~ under the Arkansas Public Notice Act of 2013 § 25-1-501 et seq.

SECTION 2. Arkansas Code § 7-9-113(d), concerning notice of amendments, is amended to read as follows:

(d) It shall be the duty of the Secretary of State, in connection with



a copy of the proposed amendment, to give notice ~~in the same newspapers~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq., that each elector on depositing his or her ballot at the election shall vote for or against the amendment.

SECTION 3. Arkansas Code § 14-57-605(b)(4)(A), concerning notice of election for issuance of revenue bonds, is amended to read as follows:

(4)(A) The result of the election, after the vote has been canvassed by the county board of election commissioners, shall be proclaimed by the presiding officer of the legislative body. His or her proclamation shall be published ~~one (1) time in some newspaper published in the municipality or, if none is published therein, in a newspaper having a bona fide circulation therein~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq.

SECTION 4. Arkansas Code § 14-57-606(c), concerning notice of form and sale of bonds, is amended to read as follows:

(c)~~(1)~~ The bonds shall be sold at a public sale after advertisement ~~once a week~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq., for three (3) weeks ~~in some newspaper published in the county in which the municipality lies.~~

~~(2) The first publication shall be not less than twenty (20) days before the date fixed for the sale.~~

SECTION 5. Arkansas Code § 14-72-302(c), concerning notice of bonds sold at public auction, is amended to read as follows:

(c) The bonds may be sold at public auction or upon sealed bids after notice by publication ~~once a week~~ not less than seven (7) days before the date of sale and for at least three (3) ~~insertions in some newspaper published and having a bona fide circulation in the county. The last insertion is to be not less than seven (7) days before the date of sale, or they may be exchanged at par for warrants maturing on their date~~ weeks under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq.

SECTION 6. Arkansas Code § 14-72-304(b), concerning the form of ballot, returns, and appeals for county bonds issued for courthouses and

jails, is amended to read as follows:

(b) The election officers shall make their returns of the result of the election to the county court which shall then enter of record an order showing the number of votes cast in favor of the bond issue and the number cast against it, and the clerk of the court shall publish the order ~~for one (1) insertion in some newspaper having a general circulation in the county~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq.

SECTION 7. Arkansas Code § 14-72-306(a), concerning publication of sale of bonds for county courthouses and jails, is amended to read as follows:

(a) Bonds that may be issued to pay for courthouses or jails, or both, which may be built or extended, shall be sold only at public auction or on sealed bids after notice given by order of the county court and published ~~once a week~~ not less than seven (7) days before the date of sale and for at least three (3) ~~insertions in some newspaper published and having a bona fide circulation in the county, the last insertion to be not less than seven (7) days before the date of sale~~ weeks under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq.

SECTION 8. Arkansas Code § 14-72-503(b)(2), concerning methods of issuance of refunding bonds issued under Arkansas Constitution, Amendment 13, is amended to read as follows:

(2) No refunding bonds shall be sold except at public sale after twenty (20) days' ~~advertisement in some newspaper of bona fide circulation in the city issuing them~~ publication under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq.

SECTION 9. Arkansas Code § 14-72-606(c)(1), concerning election procedures and election contests related to local government revenue bond elections, is amended to read as follows:

(c)(1) The county judge or mayor of the county or municipality shall proclaim the results of the election by issuing a proclamation and publishing the proclamation ~~one (1) time in a newspaper having general circulation within the county or municipality~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq.

SECTION 10. Arkansas Code § 14-120-241(a)(2), concerning notice of penalties for prohibited sale of bonds, is amended to read as follows:

(2) The bonds shall be sold at public auction to the highest bidder at the office of the levee district, drainage district, or levee and drainage district after notice of the sale has been published ~~for three (3) consecutive insertions in two (2) or more newspapers having general circulation in the area affected~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq.

SECTION 11. Arkansas Code § 14-122-206(b), concerning notice of sale of bonds for improvements of improvement districts, is amended to read as follows:

(b) Notice of the sale shall be published once a week for at least two ~~(2) consecutive weeks in a newspaper having a general circulation throughout the State of Arkansas~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq., with the first publication to be at least twenty (20) days prior to the date of sale, and may be published in such other publications as the district may determine.

SECTION 12. Arkansas Code § 14-163-212 is amended to read as follows:
14-163-212. Bonds – Sale.

Bonds issued under this subchapter shall be sold at public sale after ~~twenty days' advertisement in a newspaper having a bona fide circulation in the city~~ publication under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq. They may be sold for such price, including, without limitation, sale at a discount, as the governing body of the city shall determine.

SECTION 13. Arkansas Code § 14-218-131(b), concerning the issuance of bonds in a consolidated water and light improvement district, is amended to read as follows:

(b) In order to carry out any of the above purposes, the board may sell bonds which may be secured by a mortgage of uncollected assessments or a part of same and by a mortgage on the consolidated plant and system. The sale of all bonds shall be at public auction after notice of such sale has been published ~~one (1) time a week for two (2) weeks in some newspaper published~~

~~and having a bona fide circulation in the county in which the district is located~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq.

SECTION 14. Arkansas Code § 14-283-112(d)(1), concerning notice of sale of bonds in mosquito abatement districts, is amended to read as follows:

(1) Notice of the sale shall be published ~~one (1) time a week~~ for at least two (2) consecutive weeks ~~in a newspaper having a general circulation throughout the State of Arkansas,~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq., with the first publication to be at least twenty (20) days prior to the date of sale and may be published in such other publications as the district may determine.

SECTION 15. Arkansas Code § 14-284-218(d)(1), concerning notice of sale of bonds at public sales for fire protection districts outside of cities and towns, is amended to read as follows:

(1) If the bonds are sold at public sale on sealed bids, notice of the sale shall be published ~~one (1) time a week~~ for at least two (2) consecutive weeks ~~in a newspaper having a general circulation throughout the State of Arkansas, with the first publication to be at least twenty (20) days prior to~~ before the date of sale under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq., and may be published in such other publications as the director may determine.

SECTION 16. Arkansas Code § 14-286-112(d)(1), concerning notice that the sale of bonds for a fire ant abatement district, is amended to read as follows:

(1) Notice of the sale shall be published ~~one (1) time a week~~ ~~for at least two (2) consecutive weeks in a newspaper having a general circulation throughout the State of Arkansas~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq., with the first publication to be at least twenty (20) days prior to the date of sale and may be published in such other publications as the district may determine.

SECTION 17. Arkansas Code § 14-334-109(d)(1)(B), concerning notice of sale of public transit revenue bonds, is amended to read as follows:

(B) If sold at public sale, the bonds shall be sold on

sealed bids, and notice of the sale shall be published ~~once in a newspaper having a general circulation throughout the State of Arkansas at least ten (10) days prior to the date of sale~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq.

SECTION 18. Arkansas Code § 15-22-613(a), concerning notice of sale of water resource development bonds, is amended to read as follows:

(a) Bonds at any time sold under the provisions of this subchapter shall be on the basis of public sale on sealed bids, after notice published by the Chair of the Arkansas Natural Resources Commission for at least ~~one (1) insertion not less than~~ twenty (20) days before the date of sale ~~in a newspaper published in the City of Little Rock and in a financial newspaper or journal published in the Borough of Manhattan, City and State of New York~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq.

SECTION 19. Arkansas Code § 15-22-713(a), concerning notice of sale of bonds for project costs for waste disposal facilities or pollution abatement facilities, is amended to read as follows:

(a) Bonds shall be sold at public sale on sealed bids, after notice published by publication under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq. by the Chair of the Arkansas Natural Resources Commission ~~by at least one (1) insertion not less than twenty (20) days before the date of sale in a newspaper published in the City of Little Rock and in a financial newspaper or journal published in the Borough of Manhattan, City and State of New York.~~

SECTION 20. Arkansas Code Title 25, Chapter 1, is amended to add an additional subchapter to read as follows:

Subchapter 5 – Arkansas Public Notice Act of 2013

25-1-501. Title

This subchapter shall be known and may be cited as the "Arkansas Public Notice Act of 2013".

25-1-502. Legislative intent.

The General Assembly having determined that government entities spend a

substantial amount of money on advertising mandated by law and that the Internet is a more accessible and affordable means of disseminating information to the public than current methods, it is the purpose of this subchapter to save public funds by allowing government entities to publish public notice in the manner that is the least expensive to that government entity and the most accessible to the public.

25-1-503. Definitions.

As used in this subchapter:

(1) "Government entity" means an agency, department, authority, board, commission, bureau, council, office, or other agency of state, county, or municipal government; and

(2) "Website" means a site on the Internet:

(A) Identifiable by a specific uniform resource locator;

(B) Accessible to the public at no cost; and

(C) Requiring no information of the user.

25-1-504. Creation of a public notice calendar website.

(a) The Secretary of State shall:

(1) Establish standards and criteria for government entities and private entities required by law to publish public notice to report dates, times, locations, descriptions, and other details of public notice required by law;

(2) Develop and maintain a database of the dates, times, locations, descriptions, and other details of public notice required by law to be published;

(3) Develop a website presenting a public notice calendar that shall:

(A) Contain a section in calendar format;

(B) Contain a section for notices that are not date specific, including without limitation notice of an order, finding, resolution, proclamation, or adoption;

(C) Report information required by law for publication as requested by government entities following the guidelines under subdivision (a)(1) of this section; and

(D) Allow searches by date, government entity, county, and

any other method that assists the public in obtaining public notice information; and

(4) Update the website on a regular basis to present current dates, locations, and information to the public.

(b)(1) The Secretary of State may set a fee for publication on the website.

(2) If setting a fee for publication on the website, the Secretary of State shall:

(A) Develop and promulgate rules setting fees for publication on the website; and

(B) Consider the:

(i) Cost to government entities for publication by newspaper; and

(ii) Savings to government entities for publication on the website.

(c) Revenue generated by collection of fees shall be deposited into a cash fund to be used by the Secretary of State as provided under § 19-6-103.

25-1-505. Sufficient public notice for government entities.

(a) A government entity required to publish public notice under law may publish public notice in:

(1) A legal newspaper or newspaper of general circulation under § 16-3-101 et seq.; or

(2) The public notice calendar website under this subchapter.

(b)(1) If notice is published for a period of time on the website, the notice shall be published for the total number of days provided under law.

(2) If notice is published for a period of time by a newspaper, the notice shall be published by one (1) insertion or advertisement for each week of the time period specified by law.

(c)(1) Unless otherwise provided by law, notice by website under this subchapter shall be published for at least two (2) weeks before the event of which the government entity is notifying the public.

(2) Unless otherwise provided by law, notice by newspaper under this subchapter shall be published by one (1) insertion or advertisement each week for two (2) weeks before the event of which the government entity is notifying the public.

(d) If notice is provided for under the Arkansas Constitution, then notice shall be published under the constitutional provision.

SECTION 21. Arkansas Code § 26-74-204(g), concerning notice of issuance of bonds, is amended to read as follows:

(g) Bonds issued under the authority of this subchapter may be sold at public or private sale. If sold at public sale, the bonds shall be sold on sealed bids, and notice of the sale shall be published ~~one (1) time in a newspaper having a general circulation throughout the State of Arkansas~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq., at least ten (10) days prior to the date of the sale. In either case, the bonds may be sold at such price as the county may accept, including sale at a discount.

SECTION 22. Arkansas Code § 26-74-304(g), concerning notice of issuance of bonds, is amended to read as follows:

(g) Bonds issued under the authority of this subchapter may be sold at public or private sale. If sold at public sale, the bonds shall be sold on sealed bids, and notice of the sale shall be published ~~one (1) time in a newspaper having a general circulation throughout the State of Arkansas~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq., at least ten (10) days prior to the date of the sale. In either case, the bonds may be sold at such price as the county may accept, including sale at a discount.

SECTION 23. Arkansas Code § 26-74-309(b), concerning notice of results of an election for county sales and use taxes, is amended to read as follows:

(b) When the election results have been certified, the county court shall immediately issue a proclamation declaring the results of the election and cause the proclamation to be published ~~one (1) time in a newspaper having general circulation within the county~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq.

SECTION 24. Arkansas Code § 26-74-404(b), concerning notice of results of an election for county sales and use taxes, is amended to read as follows:

(b) When the election results have been certified, the county court shall immediately issue a proclamation declaring the results of the election and cause the proclamation to be published ~~one (1) time in a newspaper having~~

~~general circulation within the county~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq.

SECTION 25. Arkansas Code § 26-74-605(b)(1), concerning notice of results of an election for county sales and use taxes, is amended to read as follows:

(b)(1) Notice of the election shall be given by the county clerk ~~by one (1) publication in a newspaper having a general circulation within the eligible county~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq., not less than ten (10) days prior to the election.

SECTION 26. Arkansas Code § 26-75-204(g), concerning notice of issuance of bonds, is amended to read as follows:

(g) Bonds issued under the authority of this subchapter may be sold at public or private sale. If sold at public sale, the bonds shall be sold on sealed bids, and notice of the sale shall be published ~~one (1) time in a newspaper having a general circulation throughout the State of Arkansas~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq., at least ten (10) days prior to the date of the sale. In either case, the bonds may be sold at such price as the county may accept, including sale at a discount.

SECTION 27. Arkansas Code § 26-75-209(1)(B), concerning notice of effective date of ordinance, is amended to read as follows:

(B) Following the election, the mayor of the city shall issue his or her proclamation of the results of the election with reference to the local sales and use tax, and the proclamation shall be published ~~one (1) time in a newspaper having general circulation in the city~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq.

SECTION 28. Arkansas Code § 26-75-304(g), concerning notice of issuance of bonds, is amended to read as follows:

(g) Bonds issued under the authority of this subchapter may be sold at public or private sale. If sold at public sale, the bonds shall be sold on sealed bids, and notice of the sale shall be published ~~one (1) time in a newspaper having a general circulation throughout the State of Arkansas~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq., at least ten (10)

days prior to the date of the sale. In either case, the bonds may be sold at such price as the county may accept, including sale at a discount.

SECTION 29. Arkansas Code § 26-75-309(1)(B), concerning notice of effective date of ordinance, is amended to read as follows:

(B) Following the election, the mayor of the city shall issue his or her proclamation of the results of the election with reference to the local sales and use tax, and the proclamation shall be published ~~one~~ ~~(1) time in a newspaper having general circulation in the city~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq.

SECTION 30. Arkansas Code § 26-75-404(d)(1), concerning notice of election requirements and procedures, is amended to read as follows:

(d)(1) Following the election, the mayor of the city or town shall issue a proclamation of the results of the election, and the proclamation shall be published ~~one~~ ~~(1) time in a newspaper having general circulation in the city or town~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq.

SECTION 31. Arkansas Code § 26-81-106(a)(1), concerning notice of election results for local taxes, is amended to read as follows:

(a)(1) Upon certification of the election results, the county judge shall issue a proclamation declaring the results of the election and cause the proclamation to be published ~~one~~ ~~(1) time in a newspaper having general circulation within the county~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq.

SECTION 32. Arkansas Code § 26-82-105(1)(B)(ii), concerning notice of requirements and effective dates for local taxes, is amended to read as follows:

(ii) The proclamation described in subdivision (1)(B)(i) of this section shall be published ~~one~~ ~~(1) time in a newspaper having general circulation within the levying entity~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq.

SECTION 33. Arkansas Code § 27-64-206(e)(1), concerning notice of

election under the Arkansas Highway Financing Act of 1999, is amended to read as follows:

(e)(1) The result of the election shall be proclaimed by the Governor by the publication of such proclamation ~~one (1) time in a newspaper of general circulation in the State of Arkansas~~ under the Arkansas Public Notice Act of 2013, § 25-1-501 et seq.

SECTION 34. DO NOT CODIFY. This act shall become effective if House Joint Resolution 1007 of the Regular Session of the Eighty-Ninth General Assembly, which concerns allowing the General Assembly to determine the manner of publishing notices, is approved by the vote of the people at the next general election and on and after the date that House Joint Resolution 1007 of the Regular Session of the Eighty-Ninth General Assembly becomes effective.