

Hall of the House of Representatives

94th General Assembly - Regular Session, 2023

Amendment Form

Subtitle of House Bill No. 1399

TO AMEND THE LAW REGARDING PUBLICATION REQUIREMENTS FOR COUNTIES AND MUNICIPALITIES; TO AMEND THE LAW CONCERNING ELECTIONS; AND TO AMEND THE LAW CONCERNING TAX DELINQUENCY LISTS.

Amendment No. 2 to House Bill 1399

Amend House Bill No. 1399 as engrossed H2/14/23 (version: 2/14/2023 10:27:14 AM):

Delete Representative Warren as a cosponsor of the bill

AND

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Effective January 1, 2028, Arkansas Code § 7-5-101(e)(2)(C), concerning the establishment and alteration of precinct boundaries, polling sites, and vote centers, is amended to read as follows:

(C) Notice of a change made to a vote center location shall be posted at the vote center location used in the last election, and except for school elections and special elections, the notice shall be published ~~in a newspaper of general circulation in the county~~ on a website as defined in § 14-14-117 at least fifteen (15) days before the election.

SECTION 2. Effective January 1, 2028, Arkansas Code § 7-5-202(a)(1), concerning public notice of elections, is amended to read as follows:

(a)(1) It shall be the duty of the county board of election commissioners at least eight (8) days before the beginning of early voting for a preferential primary, general primary, general election, general runoff, school, or special election to give public notice ~~in a newspaper of general circulation in the county~~ by publication on a website as defined in § 14-14-117 of:

- (A) The date of the election;
- (B) The hours of voting on election day;
- (C) The places and times for early voting;
- (D) Polling sites for holding the elections in the county;
- (E) The candidates and offices to be elected at that time;
- (F) The time and location of the opening, processing, canvassing, and counting of ballots;



(G) The location where lists of appointed election officials, deputy county clerks, or additional deputies hired to conduct early voting can be found and the dates the lists are available; and

(H) Directions for filing a written objection to the service of an election official, deputy county clerk, or additional deputy.

SECTION 3. Effective January 1, 2028, Arkansas Code § 7-5-202(b)(1), concerning public notice of elections, is amended to read as follows:

(b)(1) At least five (5) days before a preferential primary, general primary, general election, general runoff, school election, or special election, a copy of the public notice may be posted at each polling site fixed for holding the election and shall be published ~~in a newspaper of general circulation in the county~~ on a website as defined in § 14-14-117.

SECTION 4. Effective January 1, 2028, Arkansas Code § 7-5-207(c)(2), concerning ballots, names included on ballots, and the draw for ballot position, is amended to read as follows:

(2) Notice of the public meeting shall be ~~given by publication in a newspaper of general circulation in the county~~ published on a website as defined in § 14-14-117 at least three (3) days before the drawing.

SECTION 5. Effective January 1, 2028, Arkansas Code § 7-5-509(a)(2), concerning voting machines used for demonstration, is amended to read as follows:

(2) Public notice of the times and places where voting machines will be exhibited shall be given at least forty-eight (48) hours before the first date of demonstration by publication ~~one (1) time in one (1) or more daily or weekly newspapers published in the town, city, or county using the machines if a newspaper is published in the town, city, or county~~ on a website as defined in § 14-14-117.

SECTION 6. Effective January 1, 2028, Arkansas Code § 7-5-515(c)(2)(A), concerning the preparation of voting machines for an election, including logic and accuracy testing and public testing, is amended to read as follows:

(A) The county board of election commissioners shall give public notice of the time and place of the test at least forty-eight (48) hours prior to the public test by publication ~~one (1) time in one (1) or more daily or weekly newspapers published in the town, city, or county using the machines if a newspaper is published in the town, city, or county~~ on a website as defined in § 14-14-117;

SECTION 7. Effective January 1, 2028, Arkansas Code § 7-5-516 is amended to read as follows:

7-5-516. Notice to candidates of preparation – Rules and statutes unaffected.

Before the county board of election commissioners begins the preparation of the machines for any election, it shall publish a notice ~~in a newspaper of general circulation in the county~~ on a website as defined in § 14-14-117 stating:

(1) The time and place the machines will be prepared for the

election; and

(2) A time at which one (1) representative of each candidate may inspect to see that the machines are in proper condition for use in the election.

SECTION 8. Effective January 1, 2028, Arkansas Code § 7-5-611(b)(1), concerning preparation of electronic vote tabulating devices, tests, and disposition of voting materials, is amended to read as follows:

(1) The county board of election commissioners shall provide public notice of the time and place of the public test at least forty-eight (48) hours prior thereto by publication ~~one (1) time in one (1) or more daily or weekly newspapers published in the town, city, or county using the devices, if a newspaper is published therein~~ on a website as defined in § 14-14-117;

SECTION 9. Effective January 1, 2028, Arkansas Code § 7-7-305(b)(2), concerning printing of ballots, their form, and the draw for ballot position, is amended to read as follows:

(2) The county board of election commissioners shall give at least ten (10) days' written notice of the time and place of the meeting to the chairs of the county committees if the chairs are not members of the county board of election commissioners, and at least three (3) days before the meeting, shall publish notice of the time and place of holding the meeting ~~in some newspaper of general circulation in the county~~ on a website as defined in § 14-14-117.

SECTION 10. Effective January 1, 2028, Arkansas Code § 7-11-103(b), concerning filling vacancies in state, federal, or district offices, is amended to read as follows:

(b) The county board of election commissioners shall cause the proclamation, ordinance, resolution, order, or other authorized document to be published as soon as practicable ~~in a newspaper of general circulation in the county in which the special election is held~~ on a website as defined in § 14-14-117.

SECTION 11. Effective January 1, 2028, Arkansas Code § 7-11-104(b), concerning filling vacancies in local offices, is amended to read as follows:

(b) The county board of election commissioners shall cause the proclamation, ordinance, resolution, order, or other authorized document to be published as soon as practicable ~~in a newspaper of general circulation in the county in which the special election is held~~ on a website as defined in § 14-14-117.

SECTION 12. Effective January 1, 2028, Arkansas Code § 7-11-202(b), concerning calling special elections on state measures or questions, is amended to read as follows:

(b) The county board of election commissioners shall publish the document as soon as practicable ~~in a newspaper of general circulation in the county in which the special election is held~~ on a website as defined in § 14-14-117.

SECTION 13. Effective January 1, 2028, Arkansas Code § 7-11-203(b), concerning calling special elections on local measures or questions, is amended to read as follows:

(b) The county board of election commissioners shall publish the document as soon as practicable ~~in a newspaper of general circulation in the county in which the special election is held~~ on a website as defined in § 14-14-117.

SECTION 14. Arkansas Code Title 14, Chapter 14, Subchapter 1, is amended to add an additional section to read as follows:

14-14-117. Publication on website.

(a)(1) When authorized by law, a quorum court may designate by ordinance that the county's publications be posted on a website described under §25-1-126.

(2) When a county official submits a publication to a website for posting under subdivision (a)(1) of this section, a website shall generate a proof of publication that shall be delivered to the county official.

(b)(1) A county publication shall remain on a website described under § 25-1-126 for at least three (3) years from the date on which it is posted.

(2) However, a county ordinance or notice is not invalid for failure to remain continuously posted on the website as required under subdivision (b)(1) of this section.

SECTION 15. Effective January 1, 2025, Arkansas Code § 14-14-905(b)(2), concerning adoption and amendment of ordinances generally, is amended to read as follows:

(2) Amendment to Existing Ordinances. No county ordinance shall be revised or amended, or the provisions thereof extended or conferred, by reference to its title only, but ~~so much thereof as is~~ the portion of the ordinance that is being revised, amended, extended, or conferred shall be reenacted and published at length on a website as defined in § 14-14-117.

SECTION 16. Effective January 1, 2025, Arkansas Code § 14-14-905(d)(1)(B), concerning adoption and amendment of ordinances generally, is amended to read as follows:

(B) The ordinances or amendments shall then be published by the county clerk ~~as prescribed by law~~ on a website as defined in § 14-14-117.

SECTION 17. Effective January 1, 2028, Arkansas Code § 14-14-917(c), concerning initiative and referendum elections, is amended to read as follows:

(c) Notice of Election.

(1) Initiative Petitions. Upon certification of any initiative or referendum petition measure submitted during the time limitations for a regular election, the county clerk shall ~~give notice through publication by a two time insertion, at not less than a seven day interval, in a newspaper of general circulation in the county or as provided by law. Publication notice shall state~~ publish no later than five (5) days after certification, a notice on a website as defined in § 14-14-117 stating that the measure will be

submitted to the electors for adoption or rejection at the next regular election and shall include the full text, the ballot title, and the official numeric designation of the measure.

(2) Referendum Petition. Upon certifying any referendum petition prior to the time limitations of filing measures established for a regular election, the county clerk shall ~~give notice through publication by a one-time insertion in a newspaper of general circulation in the county or as provided by law. Publication notice shall state~~ publish no later than five (5) days after certification, a notice on a website as defined in § 14-14-117 stating that the measure will be submitted to the electors for adoption or rejection at the next regular election or a special election when ordered by the county court and shall include the full text, the ballot title, and the official numeric designation of the measure.

(3) Publication of Special Referendum Election Notice. Upon filing of a special election order by the county court, the county clerk shall ~~give notice of the election through publication by a two-time insertion, at not less than a seven-day interval, in a newspaper of general circulation in the county or as provided by law. Publication shall state~~ publish no later than five (5) days after certification, a notice on a website as defined in § 14-14-117 stating that the measure will be submitted to the electors for adoption or rejection at a special election and shall include the full text, the date of the election, the ballot title, and official numeric designation of the measure.

(4) Costs. ~~The~~ Any cost of all publication to publish notices required in this section shall be paid out of the county general fund.

SECTION 18. Effective January 1, 2025, Arkansas Code § 14-55-206(a), concerning publishing or posting requirements by a municipality, is amended to read as follows:

(a)(1)(A) All bylaws or ordinances of a general or permanent nature and all those imposing any fine, penalty, or forfeiture shall be published:

(i) in some In a newspaper published in the municipality; or

(ii) On a website as defined in § 14-55-209.

(B) In municipalities in which no newspaper is published, written or printed notice posted in five (5) of the most public places designated by the governing body in an ordinance or minutes of the governing body shall also be deemed a sufficient publication of any law or ordinance.

(2) It shall be deemed a sufficient defense to any suit or prosecution of such fine, penalty, or forfeiture imposed by law or ordinance to show that no notice was given ~~as provided herein~~ under this section.

SECTION 19. Arkansas Code Title 14, Chapter 55, Subchapter 2, is amended to add an additional section to read as follows:

14-55-209. Publication on a website.

(a)(1) When authorized by law, a municipality may designate by ordinance that the municipality's publications be posted on a website described under § 25-1-126.

(2) When a municipal official submits a publication to a website for posting under subdivision (a)(1) of this section, a website shall

generate a proof of publication that shall be delivered to the municipal official.

(b)(1) A municipal publication shall remain on a website described under § 25-1-126 for at least three (3) years from the date on which it is posted.

(2) However, a municipal ordinance or notice is not invalid for failure to remain continuously posted on a website as required under subdivision (b)(1) of this section.

SECTION 20. Effective January 1, 2024, Arkansas Code § 14-59-116 is amended to read as follows:

14-59-116. Annual publication of financial statement.

(a)(1)(A) The governing body of each municipality shall publish annually a financial statement of the municipality, including receipts and expenditures for the period and a statement of the indebtedness and financial condition of the municipality.

(B) The financial statement shall be published:

(i) ~~one~~ One (1) time in a newspaper published in the municipality; or

(ii) On a website as defined in § 14-55-209.

(2) ~~This~~ The financial statement shall be at least as detailed as the minimum record of accounts as provided in this chapter.

(3) ~~This~~ The financial statement shall be published by April 1 of the following year.

(b) In municipalities in which no newspaper is published, ~~posting~~ the financial statement ~~shall be posted~~ in two (2) of the most public places in the municipality shall be considered sufficient publication.

SECTION 21. Arkansas Code Title 25, Chapter 1, Subchapter 1, is amended to add an additional section to read as follows:

25-1-126. Publication.

(a) As used in this section:

(1) "Commercially reasonable rate" means the rate that is charged to a commercial customer for the publication of an advertisement, notice, or other publication; and

(2) "Website" means a site on the internet that:

(A) Is identifiable by a specific website address;

(B) Is accessible to the public at no cost; and

(C) Requires no information or login from the user.

(b) All advertisements, notices, and orders of publication other than those under § 16-3-101, required or authorized to be published on a website shall:

(1) Be published on a third party website not operated by a government entity;

(2) Contain all information that the advertisement, notice, or other publication would contain if published in a newspaper;

(3) Be published in a format provided by the website in a substantially similar format as other similar advertisements, notices, and publications; and

(4) Be published on a third party website approved by the Legislative Council.

(c) The independent third party website shall charge a commercially reasonable rate for the publication.

(d) The Legislative Council shall select an independent third party website under this section and notify counties and municipalities of the selection.

(e) The website operated by an independent third party shall:

(1) Agree to be subject to audit by Arkansas Legislative Audit;
and

(2)(A) Be administered and hosted by an independent third party.

(B) If the independent third party initially selected by Legislative Council determines it shall no longer offer an independent third party website for the publication of advertisements, notices, and orders, the Legislative Council, or the Joint Budget Committee if the General Assembly when in regular, fiscal, or extraordinary session, shall approve another independent third party website for the publication of advertisements, notices, or other publications required by this section.

(f) If Arkansas Legislative Audit determines the advertisements, notices, and orders are not in compliance with this section or the requirements for the publication are not met by the independent third party website or the independent third party, the Legislative Council, or the Joint Budget Committee if the General Assembly is in session, shall approve another independent third party website for the publication of advertisements, notices, or other publications required by this section.

SECTION 22. Effective January 1, 2026, Arkansas Code § 26-36-203 is amended to read as follows:

26-36-203. Publication of delinquent personal property tax list.

~~(a)(1)(A) No later than December 1 ~~in~~ of each year, the county collector shall prepare a list of delinquent personal property taxes and deliver a copy of the list to a legal newspaper of the county.~~

~~(B)(i) Within seven (7) days thereafter, the newspaper shall publish the list.~~

~~(ii) The newspaper shall publish the list in at least seven point type.~~

~~(C) If the newspaper regularly publishes a total market coverage edition or supplement publication that has wider circulation within the county or district, the newspaper may publish the list in that edition or publication.~~

~~(2) If there is no newspaper in the county or district, the publication shall be in the nearest newspaper having a general circulation in the county or district for which the list is being published. The list shall be published on a website as defined in § 14-14-117.~~

~~(b) The publication shall show, besides the name of the taxpayer, the taxpayer's school district and the total amount of taxes delinquent, including penalties. The publication shall be in substance as follows: The personal Tax Books of County reflect the following list of personal property to be delinquent for nonpayment of taxes for the year~~

..... Name School District No. Amount Due
..... (ACRON, R. J. C 11 \$21.35)

~~(B & B MFG. CO. ... S 1\$167.06)~~

STATE OF ARKANSAS

COUNTY OF

I,, Collector of Revenue within and for County in the State of Arkansas, do hereby certify that the personal tax books of County reflect the foregoing list of personal property to be delinquent for nonpayment of taxes for the year Witness my hand this day of, 20

COLLECTOR FOR County, Arkansas

.....”

~~(c)(1) The newspaper publishing this list shall receive as publication cost the sum of one dollar and twenty five cents (\$1.25) per name, per insertion, which sum, together with fifty cents (50¢) per name for the county collector preparing and furnishing the list, shall be charged to the delinquent taxpayer and shall be paid by the county collector from any moneys in the county collector’s possession derived from payment of personal property taxes.~~

~~(2) The receipt for the payment, verified by the certificate of the county clerk as to its correctness, shall entitle the county collector to a credit for the amount so paid.~~

~~(d) This section shall be cumulative to all existing laws relative to the collection of personal property taxes~~ The list shall include:

- (1) The name of the taxpayer;
- (2) The taxpayer’s school district; and
- (3) The total amount of delinquent taxes plus penalties.

SECTION 23. Effective January 1, 2027, Arkansas Code § 26-37-102(a), concerning the publication of notice by a county collector, is amended to read as follows:

(a) The county collector in each county shall, not less than thirty (30) days nor more than forty (40) days prior to the certification of the land, publish in a newspaper of general circulation in the county on a website as defined in § 14-14-117:

- (1) A list of real property not previously redeemed;
- (2) The names of the owners of record;
- (3) The amount of the taxes, penalties, interest, and costs necessary to be paid to redeem the property;
- (4) The date upon which such period of redemption expires; and
- (5) Notice that unless the property is redeemed prior to the expiration of the period of redemption, the lands will be forfeited to the state.

SECTION 24. Effective January 1, 2027, Arkansas Code § 26-37-107 is amended to read as follows:

26-37-107. Publication of delinquent list.

(a)(1)~~(A)~~ The county collectors of this state shall ~~cause the list of~~ publish the list of delinquent lands in their respective counties to be prepared and a copy of the list to be delivered to a legal newspaper of the county by no later than December 1 of each year on a website as defined in § 14-14-117.

~~(B)(i) Within seven (7) days thereafter, the newspaper~~

~~shall publish the list.~~

~~(ii) The newspaper shall publish the list in at least seven point type.~~

~~(C) If the newspaper regularly publishes a total market coverage edition or supplement publication that has wider circulation within the county or district, the newspaper may publish the list in that edition or publication.~~

~~(2) If there is no newspaper in the county or district, the publication shall be in the nearest newspaper having a general circulation in the county or district for which the list is being published.~~

~~(3) The list of delinquent lands shall contain at least the name of the owner and the legal description of the property as was recorded on the tax book.~~

~~(b) The publication shall be in substance as follows: The Real Estate Tax Books of County reflect the following list of real property to be delinquent for nonpayment of taxes for the year (The amount included in the "Tax, Penalty and Cost" column may not include all penalties and costs and will not include interest and special improvement assessments that may be due at the time of payment.)~~

~~NAME OF LEGAL _____ BASE OWNER DESCRIPTION _____ DELINQUENCY~~

~~NOTICE IS HEREBY GIVEN THAT said several tracts, lots or parts of lots will be held as delinquent for a one year period from this date and then certified to the State of Arkansas, Commissioner of State Lands, for collection or to be sold, unless the delinquent taxes, penalties, and costs are paid before the end of the one year period.~~

~~(Date of Notice) Collector County."~~

~~(e)(1) The legal fee for each required publication of delinquent real property tax lists shall be one dollar and fifty cents (\$1.50) per tract per insertion.~~

~~(2) The (b)(1) A fee incurred for publication of the list shall be added as costs of forfeiture and shall be paid by the county collector from any moneys in the county collector's possession derived from the payment of real property taxes.~~

~~(3)(2) The receipts for the payment, verified by the certificate of the county clerk as to its correctness, shall entitle the county collector to a credit for the amount so paid.~~

~~(d)(c) The requirements of this section do not apply to delinquent taxes on mineral interests, which shall comply with the requirements stated in § 26-36-213.~~

SECTION 25. Effective January 1, 2025, Arkansas Code § 26-77-104 is amended to read as follows:

26-77-104. Publication of licensing ordinance.

Any ordinance passed under the provisions of this chapter, before becoming effective, shall be published one (1) time in a newspaper of bona fide circulation in the city or town using the process described under § 14-55-206. The publication shall not be later than one (1) week after the passage of the ordinance.

SECTION 26. DO NOT CODIFY. Temporary language.

(a) A county or municipality that publishes notices under the sections

amended by this act in a newspaper and passes an ordinance to publish notices on a website, shall publish a notice in its current newspaper monthly for a period of one year.

(b) A notice required under subsection (a) of this section shall:

(1) Be no larger than two (2) columns wide by two (2) inches long;

(2) Not exceed thirty dollars (\$30) per monthly notice;

(3) Contain the website address where the county or municipality's public notice may be found;

(4) Contain the address of the county or municipal office where notice may be requested; and

(5) State where the statement of payment required under § 14-14-116 or § 14-55-208 may be found."

The Amendment was read _____

By: Representative Cavanaugh
MLD/MLD - 02-22-2023 08:11:16
MLD234

Chief Clerk