

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

HOUSE BILL 1495

5 By: Representative Hammer
6

For An Act To Be Entitled

8 AN ACT TO CREATE THE ARKANSAS PUBLIC NOTICE ACT OF
9 2013; TO STREAMLINE STATE GOVERNMENT EXPENDITURES; TO
10 REQUIRE THE SECRETARY OF STATE TO CREATE AND MAINTAIN
11 AN INTERNET PUBLIC NOTICE CALENDAR TO BE VIEWED BY
12 ALL PERSONS FREE OF CHARGE; TO ALLOW GOVERNMENT
13 ENTITIES TO POST NOTICE ON THE CALENDAR IN LIEU OF
14 NEWSPAPER PUBLICATION; TO AMEND PORTIONS OF ARKANSAS
15 LAW RELEVANT TO CERTAIN CONSTITUTIONAL PROVISIONS;
16 AND FOR OTHER PURPOSES.

Subtitle

17
18
19 TO SAVE GOVERNMENT MONEY; AND TO CREATE
20 AN INTERNET PUBLIC NOTICE CALENDAR TO BE
21 VIEWED BY ALL PERSONS FREE OF CHARGE.
22
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

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

29 (b)(1) Before the election at which ~~any~~ a proposed or referred measure
30 is to be voted upon by the people, notice shall be published ~~in two (2)~~
31 ~~weekly issues of some newspaper in each county as is provided by law~~ under
32 the Arkansas Public Notice Act of 2013 § 25-1-501 et seq.
33

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

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



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

5
 6 SECTION 3. Arkansas Code § 14-57-605(b)(4)(A), concerning notice of
 7 election for issuance of revenue bonds, is amended to read as follows:

8 (4)(A) The result of the election, after the vote has been
 9 canvassed by the county board of election commissioners, shall be proclaimed
 10 by the presiding officer of the legislative body. His or her proclamation
 11 shall be published ~~one (1) time in some newspaper published in the~~
 12 ~~municipality or, if none is published therein, in a newspaper having a bona~~
 13 ~~fide circulation therein~~ under the Arkansas Public Notice Act of 2013, § 25-
 14 1-501 et seq.

15
 16 SECTION 4. Arkansas Code § 14-57-606(c), concerning notice of form and
 17 sale of bonds, is amended to read as follows:

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

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

24
 25 SECTION 5. Arkansas Code § 14-72-302(c), concerning notice of bonds
 26 sold at public auction, is amended to read as follows:

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

34
 35 SECTION 6. Arkansas Code § 14-72-304(b), concerning the form of
 36 ballot, returns, and appeals for county bonds issued for courthouses and

1 jails, is amended to read as follows:

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

8
9 SECTION 7. Arkansas Code § 14-72-306(a), concerning publication of
10 sale of bonds for county courthouses and jails, is amended to read as
11 follows:

12 (a) Bonds that may be issued to pay for courthouses or jails, or both,
13 which may be built or extended, shall be sold only at public auction or on
14 sealed bids after notice given by order of the county court and published
15 ~~once a week~~ not less than seven (7) days before the date of sale and for at
16 least three (3) ~~insertions in some newspaper published and having a bona fide~~
17 ~~circulation in the county, the last insertion to be not less than seven (7)~~
18 ~~days before the date of sale~~ weeks under the Arkansas Public Notice Act of
19 2013, § 25-1-501 et seq.

20
21 SECTION 8. Arkansas Code § 14-72-503(b)(2), concerning methods of
22 issuance of refunding bonds issued under Arkansas Constitution, Amendment 13,
23 is amended to read as follows:

24 (2) No refunding bonds shall be sold except at public sale after
25 twenty (20) days' ~~advertisement in some newspaper of bona fide circulation in~~
26 ~~the city issuing them~~ publication under the Arkansas Public Notice Act of
27 2013, § 25-1-501 et seq.

28
29 SECTION 9. Arkansas Code § 14-72-606(c)(1), concerning election
30 procedures and election contests related to local government revenue bond
31 elections, is amended to read as follows:

32 (c)(1) The county judge or mayor of the county or municipality shall
33 proclaim the results of the election by issuing a proclamation and publishing
34 the proclamation ~~one (1) time in a newspaper having general circulation~~
35 ~~within the county or municipality~~ under the Arkansas Public Notice Act of
36 2013, § 25-1-501 et seq.

1
2 SECTION 10. Arkansas Code § 14-120-241(a)(2), concerning notice of
3 penalties for prohibited sale of bonds, is amended to read as follows:

4 (2) The bonds shall be sold at public auction to the highest
5 bidder at the office of the levee district, drainage district, or levee and
6 drainage district after notice of the sale has been published ~~for three (3)~~
7 ~~consecutive insertions in two (2) or more newspapers having general~~
8 ~~circulation in the area affected~~ under the Arkansas Public Notice Act of
9 2013, § 25-1-501 et seq.

10
11 SECTION 11. Arkansas Code § 14-122-206(b), concerning notice of sale
12 of bonds for improvements of improvement districts, is amended to read as
13 follows:

14 (b) Notice of the sale shall be published once a week for at least two
15 ~~(2) consecutive weeks in a newspaper having a general circulation throughout~~
16 ~~the State of Arkansas~~ under the Arkansas Public Notice Act of 2013, § 25-1-
17 501 et seq., with the first publication to be at least twenty (20) days prior
18 to the date of sale, and may be published in such other publications as the
19 district may determine.

20
21 SECTION 12. Arkansas Code § 14-163-212 is amended to read as follows:
22 14-163-212. Bonds – Sale.

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

28
29 SECTION 13. Arkansas Code § 14-218-131(b), concerning the issuance of
30 bonds in a consolidated water and light improvement district, is amended to
31 read as follows:

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

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

3
 4 SECTION 14. Arkansas Code § 14-283-112(d)(1), concerning notice of
 5 sale of bonds in mosquito abatement districts, is amended to read as follows:

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

12
 13 SECTION 15. Arkansas Code § 14-284-218(d)(1), concerning notice of
 14 sale of bonds at public sales for fire protection districts outside of cities
 15 and towns, is amended to read as follows:

16 (1) If the bonds are sold at public sale on sealed bids, notice
 17 of the sale shall be published ~~one (1) time a week~~ for at least two (2)
 18 consecutive weeks ~~in a newspaper having a general circulation throughout the~~
 19 ~~State of Arkansas, with the first publication to be at least twenty (20) days~~
 20 ~~prior to~~ before the date of sale under the Arkansas Public Notice Act of
 21 2013, § 25-1-501 et seq., and may be published in such other publications as
 22 the director may determine.

23
 24 SECTION 16. Arkansas Code § 14-286-112(d)(1), concerning notice that
 25 the sale of bonds for a fire ant abatement district, is amended to read as
 26 follows:

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

33
 34 SECTION 17. Arkansas Code § 14-334-109(d)(1)(B), concerning notice of
 35 sale of public transit revenue bonds, is amended to read as follows:

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

1 sealed bids, and notice of the sale shall be published ~~once in a newspaper~~
 2 ~~having a general circulation throughout the State of Arkansas at least ten~~
 3 ~~(10) days prior to the date of sale~~ under the Arkansas Public Notice Act of
 4 2013, § 25-1-501 et seq.

5
 6 SECTION 18. Arkansas Code § 15-22-613(a), concerning notice of sale of
 7 water resource development bonds, is amended to read as follows:

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

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

19 (a) Bonds shall be sold at public sale on sealed bids, after notice
 20 published by publication under the Arkansas Public Notice Act of 2013, § 25-
 21 1-501 et seq. ~~by~~ the Chair of the Arkansas Natural Resources Commission ~~by at~~
 22 ~~least one (1) insertion not less than twenty (20) days before the date of~~
 23 ~~sale in a newspaper published in the City of Little Rock and in a financial~~
 24 ~~newspaper or journal published in the Borough of Manhattan, City and State of~~
 25 ~~New York.~~

26
 27 SECTION 20. Arkansas Code Title 25, Chapter 1, is amended to add
 28 an additional subchapter to read as follows:

29 Subchapter 5 – Arkansas Public Notice Act of 2013

30
 31 25-1-501. Title

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

34
 35 25-1-502. Legislative intent.

36 The General Assembly having determined that government entities spend a

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

7
8 25-1-503. Definitions.

9 As used in this subchapter:

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

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

14 (A) Identifiable by a specific uniform resource locator;

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

16 (C) Requiring no information of the user.

17
18 25-1-504. Creation of a public notice calendar website.

19 (a) The Secretary of State shall:

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

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

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

29 (A) Contain a section in calendar format;

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

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

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

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

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

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

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

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

11 (B) Consider the:

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

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

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

18
19 25-1-505. Sufficient public notice for government entities.

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

22 (1) A legal newspaper or newspaper of general circulation under
23 § 16-3-101 et seq.; or

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

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

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

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

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

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

3
4 SECTION 21. Arkansas Code § 26-74-204(g), concerning notice of
5 issuance of bonds, is amended to read as follows:

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

13
14 SECTION 22. Arkansas Code § 26-74-304(g), concerning notice of
15 issuance of bonds, is amended to read as follows:

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

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

26 (b) When the election results have been certified, the county court
27 shall immediately issue a proclamation declaring the results of the election
28 and cause the proclamation to be published ~~one (1) time in a newspaper having~~
29 ~~general circulation within the county~~ under the Arkansas Public Notice Act of
30 2013, § 25-1-501 et seq.

31
32 SECTION 24. Arkansas Code § 26-74-404(b), concerning notice of results
33 of an election for county sales and use taxes, is amended to read as follows:

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

1 ~~general circulation within the county~~ under the Arkansas Public Notice Act of
2 2013, § 25-1-501 et seq.

3
4 SECTION 25. Arkansas Code § 26-74-605(b)(1), concerning notice of
5 results of an election for county sales and use taxes, is amended to read as
6 follows:

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

11
12 SECTION 26. Arkansas Code § 26-75-204(g), concerning notice of
13 issuance of bonds, is amended to read as follows:

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

21
22 SECTION 27. Arkansas Code § 26-75-209(1)(B), concerning notice of
23 effective date of ordinance, is amended to read as follows:

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

29
30 SECTION 28. Arkansas Code § 26-75-304(g), concerning notice of
31 issuance of bonds, is amended to read as follows:

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

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

3
4 SECTION 29. Arkansas Code § 26-75-309(1)(B), concerning notice of
5 effective date of ordinance, is amended to read as follows:

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

11
12 SECTION 30. Arkansas Code § 26-75-404(d)(1), concerning notice of
13 election requirements and procedures, is amended to read as follows:

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

19
20 SECTION 31. Arkansas Code § 26-81-106(a)(1), concerning notice of
21 election results for local taxes, is amended to read as follows:

22 (a)(1) Upon certification of the election results, the county judge
23 shall issue a proclamation declaring the results of the election and cause
24 the proclamation to be published ~~one (1) time in a newspaper having general~~
25 ~~circulation within the county~~ under the Arkansas Public Notice Act of 2013, §
26 25-1-501 et seq.

27
28 SECTION 32. Arkansas Code § 26-82-105(1)(B)(ii), concerning notice of
29 requirements and effective dates for local taxes, is amended to read as
30 follows:

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

35
36 SECTION 33. Arkansas Code § 27-64-206(e)(1), concerning notice of

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

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

7
8 SECTION 34. DO NOT CODIFY. This act shall become effective if House
9 Joint Resolution 1007 of the Regular Session of the Eighty-Ninth General
10 Assembly, which concerns allowing the General Assembly to determine the
11 manner of publishing notices, is approved by the vote of the people at the
12 next general election and on and after the date that House Joint Resolution
13 1007 of the Regular Session of the Eighty-Ninth General Assembly becomes
14 effective.