

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 307*
PROPOSED COMMITTEE SUBSTITUTE H307-CSST-41 [v.2]

5/31/2011 9:41:53 PM

Short Title: Local Electronic Notice.

(Local)

Sponsors:

Referred to:

March 10, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW GOVERNING BOARDS OF CERTAIN COUNTIES, AND ALL
3 MUNICIPALITIES LOCATED WITHIN THOSE COUNTIES, TO GIVE ELECTRONIC
4 NOTICE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1.(a) Chapter 153A of the General Statutes is amended by adding a new
7 section to read:

8 "§ 153A-52.2. Electronic notice.

9 (a) Except as provided in this section, the governing board may adopt an ordinance
10 providing that any notice it is required by law to publish or advertise, whether under
11 G.S. 1-597, under Article 8 of Chapter 143 of the General Statutes, under any other general
12 law, or under any local act, may be published as provided by this section, in lieu of or in
13 addition to the required publication or advertisement. The ordinance may cover all notices
14 required to be published or advertised, or a selected class or classes of notice.

15 (b) Upon adoption of an ordinance under subsection (a) of this section, the governing
16 board shall publish specific instructions as to how to access all notices published under an
17 ordinance adopted pursuant to this section at least once a month for twelve months in a
18 newspaper having a general circulation for that jurisdiction as provided in G.S. 1-597.

19 (c) Any notice published under an ordinance adopted pursuant to subsection (a) of this
20 section shall comply with all of the following:

- 21 (1) The notice is published on the Web site of the governing board no later than
22 the time that publication is required under the applicable statute or local act.
23 (2) The Web site contains, on its main or index page, links to all notices, or a
24 link to another page with links to all notices.
25 (3) Notices and links to all notices on the Web site must be maintained on that
26 Web site for at least one year after publication.
27 (4) A copy of the notice must be filed in a notice book maintained separate and
28 apart from the ordinance book or minutes of the governing board. The notice
29 book shall be appropriately indexed and maintained for public inspection in
30 the office of the clerk or with some other person designated by the governing
31 board.



1 (5) A copy of the notice must be provided to each public library and clerk of
 2 superior court located within the jurisdiction of the governing board. The
 3 notice shall be available for inspection or copying for at least one year.

4 (6) A copy of the notice must be mailed or e-mailed to a person that has filed a
 5 request for notice with the clerk or secretary of the governing board or with
 6 some other person designated by the governing board. The governing board
 7 may require each person submitting a request for notice to renew the request
 8 annually.

9 (d) Ordinances adopted pursuant to this section may not supersede any general law or
 10 local act that requires notice by mail to certain persons or classes of persons or the posting of
 11 signs on certain property.

12 (e) The ordinance adopted by the county may control notice given by any board
 13 appointed by the governing board of the county, including the board of social services and
 14 board of health.

15 (f) For purposes of this section, "governing body" means the body elected or appointed
 16 as the board of county commissioners, city council, or county board of elections."

17 **SECTION 1.(b)** G.S. 160A-1(7) reads as rewritten:

18 "(7) "Publish," "publication," and other forms of the verb "to publish" mean
 19 insertion in a newspaper qualified under G.S. 1-597 to publish legal
 20 advertisements in the county or counties in which the city is ~~located~~, located
 21 or electronic notice as provided in G.S. 153A-52.2 if an ordinance has been
 22 adopted by the governing board."

23 **SECTION 1.(c)** G.S. 153A-1(6) reads as rewritten:

24 "(6) "Publish," "publication," and other forms of the verb "to publish" mean
 25 insertion in a newspaper qualified under G.S. 1-597 to publish legal
 26 advertisements in the ~~county~~ county or electronic notice as provided in
 27 G.S. 153A-52.2 if an ordinance has been adopted by the governing board."

28 **SECTION 1.(d)** G.S. 159-1(b)(5) reads as rewritten:

29 "(5) "Publish," "publication," and other forms of the word "publish" mean
 30 insertion in a newspaper qualified under G.S. 1-597 to publish legal
 31 advertisements ~~advertisements~~ or electronic notice as provided in
 32 G.S. 153A-52.2, if an ordinance has been adopted by that governing board."

33 **SECTION 1.(e)** G.S.163-33(8) reads as rewritten:

34 **"§ 163-33. Powers and duties of county boards of elections.**

35 The county boards of elections within their respective jurisdictions shall exercise all powers
 36 granted to such boards in this Chapter, and they shall perform all the duties imposed upon them
 37 by law, which shall include the following:

38 ...
 39 (8) To provide for the issuance of all notices, advertisements, and publications
 40 concerning elections required by law. If the election is on a State bond issue,
 41 an amendment to the Constitution, or approval of an act submitted to the
 42 voters of the State, the State Board of Elections shall reimburse the county
 43 boards of elections for their reasonable additional costs in placing such
 44 notices, advertisements, and publications. In addition, the county board of
 45 elections shall give notice at least 20 days prior to the date on which the
 46 registration books or records are closed that there will be a primary, general
 47 or special election, the date on which it will be held, and the hours the voting
 48 places will be open for voting in that election. The notice also shall describe
 49 the nature and type of election, and the issues, if any, to be submitted to the
 50 voters at that election. Notice shall be given by advertisement at least once

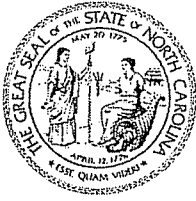
1 weekly during the 20-day period in a newspaper having general circulation
2 in the county and by posting a copy of the notice at the courthouse door.
3 Notice may additionally be made on a radio or television station or both, but
4 such notice shall be in addition to the newspaper and other required notice.
5 This subdivision shall not apply in the case of bond elections called under
6 the provisions of Chapter 159. The county board may adopt a policy under
7 G.S. 160A-52.2 to provide for notices, advertisements, and publications to
8 be given electronically.

9 ..."

10 **SECTION 2.** This act applies only to the counties of Bladen, Cabarrus, Currituck,
11 Davidson, Henderson, Mecklenburg, Montgomery, Robeson, Rockingham, Scotland, Stanly,
12 Union, and Wake, and any municipality located wholly or partly within those counties.

13 **SECTION 3.** S.L. 2003-81, S.L. 2003-161, S.L. 2007-86, and S.L. 2008-5 are
14 repealed, but any ordinance adopted under any of those acts shall remain valid until amended or
15 repealed under G.S. 153A-52.2. This act prevails over any local act relating to publication of
16 notice by a city or county.

17 **SECTION.** This act becomes effective October 1, 2011, and applies to notice given
18 on or after that date by a county or city.



HOUSE BILL 307: Local Electronic Notice

2011-2012 General Assembly

Committee:	House Commerce and Job Development Subcommittee on Science and Technology	Date:	May 31, 2011
Introduced by:	Reps. Dollar, Jackson, Murry	Prepared by:	R. Erika Churchill Staff Attorney
Analysis of:	PCS to First Edition H307-CSST-41		

SUMMARY: *The proposed committee substitute for House Bill 307 would allow the following counties, all cities located wholly or partly within those counties and the county board of elections of those counties, to give electronic notice for any matter in which that city or county is required to publish notice in a newspaper: Bladen, Cabarrus, Currituck, Davidson, Henderson, Mecklenburg, Montgomery, Robeson, Rockingham, Scotland, Stanly, Union, and Wake.*

CURRENT LAW: Governing boards of counties and cities are required by statute, and sometimes local act, to publish notice or advertise prior to taking certain actions. Local boards of elections are statutorily required to publish certain notices prior to elections in newspapers of general circulation of the county.

Some of the items that require notice or advertisement are:

- Notice of public meetings. Article 33B of Chapter 143
- Various public hearings are commonly statutorily required prior to take action or the adoption of certain ordinances, such as zoning ordinances. Often, the statute requiring the public hearing will specify how notice of the public hearing is to be given, usually publication in a newspaper of general circulation within a specified timeframe of the public hearing.
- Budget ordinance. Chapter 159.
- Sale and disposition of property. Article 12 of Chapter 160A.
- Purchase and contract bids. Article 8 of Chapter 143.
- Changes in form of government. Article 4 of Chapter 153A and Article 5 of Chapter 160A.
- Assessments. Article 9 of Chapter 153A and Article 10 of Chapter 160A.
- Boundary disputes. Article 1 of Chapter 153A.
- Development agreements. Article 18 of Chapter 153A and Article 19 of Chapter 160A.
- Referendums and special elections, such as fire tax districts, property tax levies, sales tax levies, etc.
- Dates of primary, general and special elections, and hours the polling places that will be open.

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BILL ANALYSIS: Applicable only within the listed counties, the proposed committee substitute does all of the following:

- Provides that the listed counties, and the cities located wholly or partly within those counties, may adopt an ordinance providing that any notice that the city or county must publish or advertise may be published by electronic means, in lieu of or in addition to the newspaper or other statutorily required publication. "Electronic means" is posted on the city or county website, for at least one year.
- Provides that local boards of election may adopt a policy providing that any notice that the local board is required to provide may be done by electronic means, in lieu of or in addition to the other required publication, under the same parameters as a city or county.
- Requires the city, county, or local board of elections to print any notice published by electronic means and file it in a notice book.
 - The notice book must be separate and apart from ordinance book or minute book of the city or county.
 - The notice book must be indexed maintained for public inspection in the office of the clerk.
- Requires that cities, counties or local boards of election publishing notice electronically provide a copy of those notices to the public library and clerk of superior court, who must make those copies available for inspection and copying for at least one year.
- Requires that cities, counties or local boards of election to mail or e-mail to those persons so requesting, a copy of the notice given. The city, county or local board of election may require that the request be renewed annually.
- Specifies that ordinances adopted under these sections will not supersede any State law that or local act that requires notice by mail to certain persons or posting signs on property.
- Makes conforming changes to the definition of "publish" Chapter 153A, Counties; Chapter 160A, Cities; and Chapter 159, Local Government Finance Act.
- Repeals a number of local acts that allow for electronic notice, but provides that any ordinance adopted under those acts will remain valid until amended or repealed.
- Provides that this act prevails over a local act relating to publication of notice by a city or county.

The listed counties are: Bladen, Cabarrus, Currituck, Davidson, Henderson, Mecklenburg, Montgomery, Robeson, Rockingham, Scotland, Stanly, Union, and Wake.

EFFECTIVE DATE: The act becomes effective October 1, 2011.

BACKGROUND: The following local governments, referenced in Section 3 of the bill, are permitted to use electronic notice: Cabarrus County (S.L. 2003-81), City of Raleigh and Town of Lake Waccamaw (S.L. 2003-161), Towns of Apex, Garner, and Knightdale (S.L. 2007-86), and Town of Cary (S.L. 2008-5).

H307-SMST-43(CSST-41) v2

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 307

DATE _____

S. B. No. _____

Amendment No. _____

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE

(Rep.) Horn
 (Sen.)

1 moves to amend the bill on page 1, line 17

2 () WHICH CHANGES THE TITLE

3 by _____

4 deleting "for twelve months";

5 _____

6 and on page 1, lines 18-19 by inserting the
7 following:

8 _____

9 "(b1) Upon adoption of an ordinance under
10 subsection (a) of this section that ~~provides for~~ provides for
11 electronic notice in lieu of the required publication
12 or advertisement, the governing board shall continue to
13 publish the required publication or advertisement in a
14 newspaper having a general circulation for that
15 jurisdiction as provided in G.S. 1-597."

16 _____

17 _____

18 _____

19 _____

SIGNED Wayne Horn