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BILL ANALYSIS



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Senate Bills 163 and 164 (as introduced 2-17-11)
Sponsor: Senator Tory Rocca
Committee: Judiciary

Date Completed: 3-1-11

CONTENT

Senate Bill 163 would amend Public Act 247 of 1963, which defines "newspaper" as used in State statutes for the publication of a notice, to do the following:

- **Revise the definition and apply it to print publications.**
- **Define "newspaper" as an internet website if no print publication met the Act's criteria.**
- **Require an internet website to be an online version of a previous newspaper, and meet other standards.**
- **Allow a notice to be published in a publication or website in an adjoining area, if no newspaper met the criteria for a print publication or internet website.**

The bill also would repeal sections of the Revised Judicature Act (RJA) that define "newspaper".

Senate Bill 164 would amend the Natural Resources and Environmental Protection Act to refer to a newspaper as defined in Public Act 247 of 1963, rather than in the RJA, in requirements for publication of a notice of the sale of surplus land.

The bills are tie-barred.

Senate Bill 163

Print Publication

Under Public Act 247 of 1963, the term "newspaper", as used in any statute of the State except the RJA, in relation to the publication of a notice, refers to a newspaper published in the English language for the dissemination of local news of a general character or the dissemination of legal news, that meets all of the following criteria:

- The newspaper has a bona fide list of paying subscribers or it has been published at least weekly in the same community without interruption for at least two years.
- It has been published and of general circulation at least weekly without interruption for at least one year in the county, township, city, village, or district where the notice is required to be published.
- It annually averages at least 25% news and editorial content per issue.

Under the bill, as used in any State statute in relation to the publication of a notice, unless the statute expressly provided otherwise, "newspaper" would mean a print publication that meets the criteria described above.

Currently, a newspaper does not lose eligibility for interruption of continuous publication because of acts of God; labor disputes; or the publisher's military service for up to two years, as long as publication is resumed within six months after the military service ends. The bill would delete this provision.

The bill would define "notice" as an order, ordinance, advertisement, report, and any other statement or information required by statute to be published.

Internet Website

Under the bill, if no publication that met the definition of "newspaper" described above were published and of general circulation in the required area, "newspaper" would mean a website on the internet that meets all of the following requirements:

- The website is identified as a continuing online version of a publication that previously met the definition of "newspaper" and was published and of general circulation in the required area.
- The website is published in the English language for the dissemination of local news of a general character or for the dissemination of legal news for the required area.
- The website has been established and operating without interruption for at least two years.
- The website contains substantial news and editorial content.
- News content on the website is published and posted regularly and was updated at least every seven days for the preceding two years.
- The website includes a clearly designated area for public notices that is accessible via a conspicuously displayed and clearly labeled link from its homepage and the posted notices are maintained permanently in a searchable database accessible on the website.
- A substantial number of visitors to the website are residents of the required area.

In addition, the website would have to list all of the following:

- Contact information, including a list of staff located in the required area.
- An address and telephone number in the required area.
- An address in the required area where complaints can be made.
- An address in the required area where the public may view printed copies of notices.

The bill would define "required area" as the county, township, city, village, district, or other geographic territory where the statute requires the notice to be published or the newspaper to be published, circulated, or printed.

Publication in Adjoining Area

Currently, if there is no qualifying newspaper in the county where a court is situated, the term "newspaper" includes any newspaper in an adjoining county that is qualified under the Act to publish notices of actions commenced in that county. The bill would delete that provision.

Under the bill, if there were no publication or website that met either of the definitions described above in the required area, "newspaper" would mean a publication or website in an adjoining county, township, city, village, district, or other geographic territory, as applicable, that met either definition.

A publication or website that met either definition could not serve as a newspaper for publication of a notice, however, if it were controlled by the person on whose behalf the notice was published or by an officer, employee, agent, or affiliate of that person. "Controlled" would mean that the person has one or more of the following:

- Ownership of or the power to vote more than 50% of a class of voting securities or voting interests of the entity that operates the publication or website.
- Power to elect or appoint a majority of executive officers, managers, directors, trustees, or others exercising managerial authority of the entity that operates the publication or website.
- The legal right to direct, restrict, regulate, govern, or administer the management or policies of the entity that operates the publication or website.

Revised Judicature Act Definitions

Chapter 14 (General Provisions) and Chapter 19 (Commencement of Action and Service of Process) of the RJA include definitions of "newspaper", which are similar to the definition in Public Act 247 of 1963.

The definitions are found in Sections 1461 and 1950 of the RJA. The bill would repeal those sections.

Senate Bill 164

Part 21 (General Real Estate Powers) of the Natural Resources and Environmental Protection Act allows the Department of Natural Resources to sell surplus State land that is under the Department's control, if various conditions are met. At least 10 days before surplus land is sold at a public auction, or before the Department authorizes the negotiated sale of surplus land, a notice of the sale must be published at least once in a newspaper as defined in Section 1461 of the RJA.

The bill would refer, instead, to a newspaper as defined in Public Act 247 of 1963.

MCL 691.1051 (S.B. 163)
324.2133 (S.B. 164)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 163

The bill would have no effect on State or local revenue and an indeterminate impact on State and local expenses. The impact on expenses would depend how the cost of alternative publication options allowed under the bill would compare with the cost of the options available under current law. Because the additional options under the bill essentially would be available only when the options under current law were not available, the bill would likely have a negligible impact on expenses.

Senate Bill 164

The bill would have no fiscal impact on State or local government.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.