

BILL ANALYSIS

Senate Research Center
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S.B. 853
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DIGEST AND PURPOSE

Currently, legal notices are required to be placed in newspapers. Texas is continuing to implement the use of the Internet in the everyday workings of state and local governments. As proposed, S.B. 853 sets forth provisions that would allow a person to post legal notice on the Internet instead of in a newspaper.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the secretary of state in SECTION 1 (Section 405.020, Government Code) and to the supreme court in SECTION 2 (Section 17.028, Civil Practices and Remedies Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 405B, Government Code, by adding Section 405.020, as follows:

- Sec. 405.020. INTERNET PUBLICATION OF CERTAIN LEGALLY REQUIRED NOTICES. (a) Requires the secretary of state to establish an Internet site on which a person may publish a notice or serve a citation that a state statute or rule requires the person to publish or serve in a newspaper. Requires the Internet site established under this section to have a separate section for each county of the state where notices or citations involving the county are published or served and a section where notices involving the state as a whole are published.
- (b) Provides that a person who is required by statute or rule to publish a notice in a newspaper satisfies the requirement if the person publishes the notice on the Internet site established by this section and the notice complies with all other requirements of the statute or rule.
- (c) Requires the notice, if a notice is required to be published in a newspaper circulated in a particular county, to be published on the section of the Internet site where notices involving that county are published. Requires the notice, if a notice is required to be published in a newspaper circulated in an area other than a county, to be published on each section of the site where notices involving a county in which all or part of that area is located are published.
- (d) Authorizes a person required to provide proof of publication of a notice to provide a copy of the notice printed directly from the Internet site established under this section.
- (e) Requires the secretary of state to adopt rules governing the method by which a person may submit a notice or citation to be published on the Internet site established under this section and any other rules necessary to implement this section.

SECTION 2. Amends Chapter 17B, Civil Practices and Remedies Code, by adding Section 17.028, as follows:

Sec. 17.028. SERVICE BY PUBLICATION. Requires the supreme court by rule to allow a person who would otherwise be required to serve a citation by publication in a newspaper to instead serve the citation by publication on the Internet site established by the secretary of state under Section 405.020, Government Code.

SECTION 3. Amends Section 4.003(a), Election Code, to require that except as provided by Subsection (c), notice of an election must be given by one or more of certain methods, including on each section of the Internet site established by the secretary of state under Section 405.020, Government Code, where notices involving a county all or part of which is located in the territory that is covered by the election are published.

SECTION 4. Amends Section 4.005(a), Election Code, to require the authority responsible for giving the notice, if notice of an election is given by publication, to retain, as applicable, certain items, including a copy of the notice printed directly from the Internet site established by the secretary of state under Section 405.020, Government Code.

SECTION 5. Amends Sections 42.035(a) and (c), Election Code, to require the commissioners court, beginning with the first week following the week in which an order changing a county election precinct boundary is adopted, to publish notice of the change once a week for three consecutive weeks in a newspaper in the county or on the section of the Internet site established by the secretary of state under Section 405.020, Government Code, where notices involving that county are published. Requires the commissioners court, if no newspaper is published in the county and the commissioners court does not publish the notice on the Internet site established by the secretary of state under Section 405.020, Government Code, to post the notice at the county courthouse on the bulletin board used for posting notice of meetings of the commissioners court.

SECTION 6. Amends Section 127.096(a), Election Code, to make a conforming change.

SECTION 7. Amends Section 172.055(c), Election Code, to require the authority, not later than 24 hours after the candidate withdraws or is declared ineligible or after the authority preparing the notice learns of the candidate's death, as applicable, to deliver a copy of the notice to certain daily newspapers under certain conditions or to the secretary of state for publication on the section of the Internet site established by the secretary under Section 405.020, Government Code, where notices involving the county, the state, or a county all or part of which is located in the district are published.

SECTION 8. Amends Chapter 274B, Election Code, by adding Section 274.029, as follows:

Sec. 274.029. INTERNET NOTICE. Requires the secretary of state, in addition to other notice required by this subchapter, to publish notice of each proposed constitutional amendment of a section of the Internet site established by the secretary under Section 405.020, Government Code, where notices involving the state are published.

SECTION 9. Amends Sections 313.002(a), (d), and (e), Government Code, to require the person, if a newspaper is not published in the county and the person applying for passage of the law does not publish notice on the Internet site established by the secretary of state under Section 405.020, to post the notice at the courthouse door and at five other public places in the immediate locality in the county the law will affect. Makes conforming changes.

SECTION 10. Amends Section 313.003(a), Government Code, to make a conforming change.

SECTION 11. Amends Section 313.004, Government Code, by adding Subsection (c), to authorize proof of posting on the Internet site established by the secretary of state under Section 405.020 to be made by the affidavit of the secretary of state accompanied by a copy of the notice printed directly from the site.

SECTION 12. Amends Section 2051.043, Government Code, as follows:

Sec. 2051.043. New heading: PUBLICATION REQUIRED. Requires that a notice, except as provided by Section 2051.46(b) or 2051.048(d), be published in at least one issue of a newspaper or for at least one day on the Internet site established by the secretary of state under Section 405.020.

SECTION 13. Amends Section 2051.046, Government Code, to make conforming and nonsubstantive changes.

SECTION 14. Amends Section 2051.047, Government Code, to make conforming and nonsubstantive changes.

SECTION 15. Amends Section 2051.048, Government Code, to make conforming and nonsubstantive changes.

SECTION 16. Amends Section 2051.049, Government Code, to authorize, rather than require, the governmental entity or representative required to publish a notice under this subchapter, rather than publish a notice in a newspaper, to select, in accordance with this subchapter, one or more newspapers to publish notice.

SECTION 17. Amends Section 2051.050, Government Code, to require that a notice published on the Internet site established by the secretary of state under Section 405.020 must appear on the Internet site at least one day before the occurrence of the event to which the notice refers.

SECTION 18. (a) Effective date: September 1, 2001.

(b) Requires the secretary of state to establish the Internet site not later than January 1, 2002.

(c) Requires the Supreme Court to adopt the rules required under Section 17.028, Civil Practices and Remedies Code, not later than January 1, 2002.