

Regular Session, 2009

SENATE BILL NO. 312

BY SENATOR MORRELL

LOCAL AGENCIES. Permits local government and the judiciary to advertise in auxiliary journals in Orleans Parish. (8/15/09)

1 AN ACT

2 To amend and reenact R.S. 43:181(A), (B) and (C), 200(5), 202(B), 203, 205(E), and 209
3 and to enact R.S. 43:140(6), 181(5), and 200(6), relative to Orleans Parish; to permit
4 local government and the judiciary to advertise in auxiliary journals; to provide for
5 the selection of auxiliary journals; and to provide for related matters.

6 Notice of intention to introduce this Act has been published.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 43:181(A), (B) and (C), 200(5), 202(B), 203, 205(E), and 209 are
9 hereby amended and reenacted and R.S. 43:140(6), 181(5), and 200(6) are hereby enacted
10 to read as follows:

11 §140. Definitions

12 As used in this Chapter, the following terms shall have the meanings ascribed
13 to them in this Section:

14 * * *

15 **(6) "News publication," as used in this Chapter, shall mean any printed**
16 **periodical that:**

17 **(a) Has been published at regular intervals of not less than weekly and**

1 has printed at least twenty-five thousand copies of each edition for the
2 preceding five consecutive years.

3 (b) Contains reports of a varied character, such as political, social,
4 cultural, sports, moral, religious, or other subjects of general public interest.

5 (c) Has not been published primarily for advertising purposes and has
6 not contained more than seventy-five percent advertising in more than one half
7 of its issues, excluding separate advertising supplements inserted into but
8 separately identifiable from any regular issue or issues.

9 (d) Provisions of this Paragraph shall only apply in the parish of
10 Orleans.

11 §181. Auxiliary official journals of political subdivisions

12 A.(1)(a) The governing authority of political subdivisions or the official
13 charged with the selection may annually select an auxiliary official journals for a
14 term not exceeding one year. An auxiliary official journal shall be a newspaper
15 which has been published in an office physically located in the parish in which the
16 body is located for a period of five years preceding the selection.

17 (b) Notwithstanding any other provision of law to the contrary, in the
18 parish of Orleans, the governing authority of political subdivisions or the
19 official charged with the selection may annually select one or more auxiliary
20 official journals for a term not exceeding one year. An auxiliary official journal
21 shall be a newspaper or news publication which has been published in an office
22 physically located in the parish in which the body is located for a period of five
23 years preceding the selection.

24 * * *

25 (3) The news publication shall not have missed during that period as
26 many as three consecutive issues unless caused by fire, flood, strike, or natural
27 disaster.

28 ~~(3)~~ (4) Selection of an auxiliary official journal shall be confined to those
29 cities in excess of one hundred thousand population.

1 ~~(4)~~**(5)** The provisions of this Section relating to the five year requirement
 2 shall not contravene any contract existing between any governing body and a
 3 newspaper on and prior to May 11, 1970; nor shall the five year requirement herein
 4 be applied in assessing the qualifications of a newspaper which was in existence on
 5 May 11, 1970; nor shall the five year requirement herein be applied in assessing the
 6 qualifications of a news publication which was in existence on ~~May 11, 1970~~
 7 **January 1, 1982.**

8 B. In each instance where the governing authority of a political subdivision
 9 is required by law to publish more than one notice, advertisement, legal notice,
 10 judicial advertisement, or other publication in an official journal or otherwise, the
 11 governing authority of the political subdivision or the official charged with the
 12 selection may elect to publish one of the required publications in an auxiliary official
 13 journal **or journals** at a rate not exceeding the rate to publish the same in the official
 14 journal; and, the said publication shall constitute publication in an official journal for
 15 the purposes of any law.

16 C. In addition to publishing the publications required by law, the governing
 17 authority of a political subdivision or the official charged with the selection may
 18 elect to publish the required publication for any public purpose in an auxiliary
 19 official journal **or journals** not in excess of the number of times required for the
 20 official publication and at a rate not exceeding the rate for publication of the same
 21 in the official journal, and said additional publications made pursuant to this
 22 Subsection shall not constitute official publications.

* * *

§200. Definitions

As used in this Chapter, the following terms shall have the meanings ascribed to them in this Section:

* * *

(5) "Office" means the newspaper's **or news publication's** principal public business office and need not be the place at which the newspaper's printing presses

1 are physically located. A newspaper shall have only one principal public business
2 office; however, any newspaper which, within one year prior to June 1, 1986, has
3 actually published official proceedings of any municipal corporation, police jury, or
4 school board of a parish having a population of not less than four hundred thousand
5 and adjoining the parish where the newspaper maintains its principal public business
6 office, shall be deemed to be published in an office physically located in both the
7 parish where the newspaper maintains its principal business office and the adjoining
8 parish.

9 **(6) "News publication," as used in this Chapter, shall mean any printed**
10 **periodical that:**

11 **(a) Has been published at regular intervals of not less than weekly and**
12 **has printed at least twenty-five thousand copies of each edition for the**
13 **preceding five consecutive years.**

14 **(b) Contains reports of a varied character, such as political, social,**
15 **cultural, sports, moral, religious, or other subjects of general public interest.**

16 **(c) Has not been published primarily for advertising purposes and has**
17 **not contained more than seventy-five percent advertising in more than one half**
18 **of its issues, excluding separate advertising supplements inserted into but**
19 **separately identifiable from any regular issue or issues.**

20 **(d) Provisions of this Paragraph shall only apply in the parish of**
21 **Orleans.**

22 * * *

23 §202. Judicial advertisements in parish of Orleans

24 * * *

25 B. In the parish of Orleans, when advertisements are required to be made in
26 relation to judicial proceedings, or in the sale of immovable property under judicial
27 process, or in any other legal proceedings of whatever kind, additional judicial
28 advertisements shall also be inserted in an auxiliary journal **or journals** which
29 ~~satisfies~~ **satisfy** the requirements of law pertaining to official journals of political

1 subdivisions. The requirements of this Section shall not apply to the advertisement
2 of movable property in any proceeding.

3 * * *

4 §203. Judicial advertisements, publication, exceptions

5 A. When publication is required by law of any notice of a judicial sale, or of
6 the filing of a tableau of distribution, account, application for appointment or for
7 authority, or of any other notice in a judicial proceeding:

8 (1) When only one publication is required by the applicable code or statutory
9 provision, the newspaper advertisement of such notice shall be published at least ten
10 days before the date of the judicial sale, or the expiration of the delay allowed in the
11 notice for the filing of an opposition or answer, or for any other appearance or act;

12 (2) When two publications are required of notice of a judicial sale by public
13 auction, the first newspaper **or news publication** advertisement of such notice shall
14 be published at least thirty days before the date of the judicial sale, and the second
15 advertisement shall be published not earlier than seven days before, and not later
16 than the day before, the judicial sale;

17 (3) The first newspaper **or news publication** advertisement of the notice
18 required by Article 3282 of the Louisiana Code of Civil Procedure, to authorize the
19 private sale of immovable property of a succession, shall be published at least twenty
20 days before, and the second newspaper **or news publication** advertisement shall be
21 published the day before, the commencement of the delay allowed for the filing of
22 an opposition to the proposed sale.

23 (4) When the court orders additional advertisements of notice of a judicial
24 sale, Paragraphs (1), (2), or (3) of this ~~Section~~, **Subsection**, whichever is applicable,
25 must be complied with. The additional advertisements shall be published prior to the
26 judicial sale, or prior to the commencement of the delay allowed for the filing of an
27 opposition or answer, as the case may be, on the dates designated in the court order;
28 or, if not so designated, on the dates designated by the party requesting the
29 publication.

1 **B.** In computing the required interval of time after the advertisement
 2 provided in Paragraph (1) of **Subsection A of** this Section, or after the first
 3 advertisement provided in Paragraph (2) of **Subsection A of** this Section, neither the
 4 date of such advertisement nor the date of the expiration of the delay, or the date of
 5 the judicial sale, as the case may be, is included. In computing the required interval
 6 of time after the first advertisement provided in Paragraph (3) of **Subsection A of**
 7 this Section, neither the date of such advertisement nor the date of the
 8 commencement of the delay for the filing of an opposition thereto is included.

9 **C.** When Paragraphs (1), (2), or (3) of **Subsection A of** this Section,
 10 whichever is applicable, is complied with, the publication of a larger number of
 11 newspaper **or news publication** advertisements than required by law or by court
 12 order does not affect the validity of the publication, but the expense of the
 13 unnecessary advertisements may not be taxed as costs.

14 **D.** The provisions of this Section do not apply to, or otherwise affect, the
 15 judicial advertisements required by Articles 803, 4432, and 4624 of the Louisiana
 16 Code of Civil Procedure, or by R.S. 9:1583.

17 §205. Costs of legal advertisements; penalty for accepting rebate

18 * * *

19 **E.** It is unlawful for any sheriff, tax collector, clerk of court, or any other
 20 public official, or any auctioneer, administrator, executor, tutor, trustee or other legal
 21 representative of any party in any judicial proceeding or other legal proceeding to
 22 demand or accept any part of the charge for the printing or publishing in the form of
 23 a rebate or otherwise from any newspaper, **news publication,** or publisher of a
 24 newspaper **or news publication.**

25 * * *

26 §209. Publication in supplement to newspaper **or news publication** valid

27 In all cases when it is required by law that orders, notices, or advertisements
 28 of any kind, by any public officer, shall be inserted in public newspapers **or news**
 29 **publications,** the publications and insertions shall be as valid when made in

1 supplements to newspapers as if they had been made in the newspaper sheets.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by James Benton.

DIGEST

Proposed law provides that "news publication," as used in proposed law, shall mean any printed periodical that:

- (a) Has been published at regular intervals of not less than weekly and has printed at least 25,000 copies of each edition for the preceding five consecutive years.
- (b) Contains reports of a varied character, such as political, social, cultural, sports, moral, religious, or other subjects of general public interest.
- (c) Has not been published primarily for advertising purposes and has not contained more than 75% advertising in more than half of its issues, excluding separate advertising supplements inserted into but separately identifiable from any regular issue or issues.
- (d) Provisions of proposed law shall only apply in the parish of Orleans.

Proposed law provides that notwithstanding any other provision of law to the contrary, in the parish of Orleans, the governing authority of political subdivisions or the official charged with the selection may annually select one or more auxiliary official journals for a term not exceeding one year. An auxiliary official journal shall be a newspaper or news publication which has been published in an office physically located in the parish in which the body is located for a period of five years preceding the selection.

Proposed law provides that the news publication shall not have missed during that period as many as three consecutive issues unless caused by fire, flood, strike, or natural disaster.

Present law provides that an auxiliary official journal shall be a newspaper which has been published in an office physically located in the parish in which the body is located for a period of five years preceding the selection.

Proposed law provides that the five-year requirement shall not be applied in assessing the qualifications of a news publication which was in existence on January 1, 1982.

Present law provides that when two publications are required of notice of a judicial sale by public auction, the first newspaper advertisement of such notice shall be published at least 30 days before the date of the judicial sale, and the second advertisement shall be published not earlier than 7 days before, and not later than the day before, the judicial sale.

Proposed law retains present law and adds news publication to the notice requirements.

Present law provides that the first newspaper advertisement of the notice required by Article 3282 of the Louisiana Code of Civil Procedure, to authorize the private sale of immovable property of a succession, shall be published at least 20 days before, and the second newspaper advertisement shall be published the day before, the commencement of the delay allowed for the filing of an opposition to the proposed sale.

Proposed law retains present law and adds news publications to the notice requirements.

Present law provides that it is unlawful for any sheriff, tax collector, clerk of court, or any other public official, or any auctioneer, administrator, executor, tutor, trustee or other legal

representative of any party in any judicial proceeding or other legal proceeding to demand or accept any part of the charge for the printing or publishing in the form of a rebate or otherwise from any newspaper or publisher of a newspaper.

Proposed law retains present law and adds news publication and news publication publishers to the prohibited entities that may not give rebates to public officials.

Present law provides that in all cases when it is required by law that orders, notices, or advertisements of any kind, by any public officer, shall be inserted in public newspapers, the publications and insertions shall be as valid when made in supplements to newspapers as if they had been made in the newspaper sheets.

Proposed law retains present law and adds news publications.

Effective August 15, 2009.

(Amends R.S. 43:181(A), (B) and (C), 200(5), 202(B), 203, 205(E), and 209; adds R.S. 43:140(6), 181(5), and 200(6))