

1 SB417  
2 129686-2  
3 By Senator Bedford  
4 RFD: Judiciary  
5 First Read: 19-APR-11

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8 SYNOPSIS: Under existing law, legal notices that are  
9 required by any law, mortgage, or other contract  
10 are generally required to be published in a  
11 newspaper.

12 This bill would require the State of Alabama  
13 to publish legal notices on a state-sanctioned  
14 website.

15 This bill would permit a county or  
16 municipality with a population of 50,000 or more to  
17 publish legal notices through a state-sanctioned  
18 public notice website. This bill would require the  
19 public notice website provider submit status  
20 reports to the director of the Administrative  
21 Office of Courts.

22 This bill would permit a reasonable fee, not  
23 to exceed \$10, for the service and provide that an  
24 increase can be obtained after two years of  
25 operation.

1                   This bill would permit the website provider  
2                   to charge a fee to provide certified proof that the  
3                   notice was advertised via the Internet.

4                   This bill would provide that the public  
5                   notice website be publicly accessible at all times  
6                   at no cost to the state. This bill would also  
7                   provide that both current and archived legal  
8                   notices be searchable by keyword, file number, or  
9                   area and no fee be charged for searching.

10  
11   A BILL  
12   TO BE ENTITLED  
13   AN ACT

14  
15                   Relating to the publication of legal notices, to  
16                   require the State of Alabama to publish legal notices on a  
17                   state-sanctioned website; to provide for fees for website  
18                   advertising; to permit certain counties or municipalities to  
19                   publish legal notices through a state-sanctioned website; and  
20                   to provide an exception for smaller counties or  
21                   municipalities.

22                   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23   Section 1. The Legislature finds and declares all of  
24                   the following:

25   (1) Public notice websites would serve the public  
26                   interest consistent with the goals of providing greater public

1 access to public information and to public or legal notice  
2 items in particular.

3 (2) Public notice websites would allow ready access  
4 from all counties to an Internet-based forum and eliminate the  
5 need for those members of the public who are unable to  
6 physically access the courthouses of the state to ascertain  
7 publicly posted notices.

8 (3) Public notice websites would operate consistent  
9 with furthering the ease with which public or legal notices  
10 may be posted and read by an interested party as well as the  
11 public and provide an archive to store all posted public and  
12 legal notices.

13 (4) Public notice websites would make public and  
14 legal notices accessible indefinitely during all hours of the  
15 day and every day of the week.

16 Section 2. As used in this act, the following terms  
17 shall have the following meanings:

18 (1) LEGAL NOTICE or NOTICE. Any matter that,  
19 pursuant to law or rule, is required to be officially  
20 advertised.

21 (2) PUBLIC NOTICE WEBSITE. An Internet website that  
22 is maintained by a third party under contract with the state  
23 which electronically publishes legal notices.

24 Section 3. (a) The state shall enter into an  
25 agreement with a website service provider to maintain a public  
26 notice website.

1 (b) Any legal notice that is required to be  
2 published by the State of Alabama shall be published on the  
3 public notice website.

4 Section 4. (a) Notwithstanding any other provision  
5 of law and in addition to other public or legal notice  
6 requirements, when a county or municipality within a county  
7 with a population of 50,000 or more is required by law to post  
8 public or legal notices in a newspaper publication or at a  
9 courthouse, notice may be made instead in the same form on the  
10 Internet through a public notice website meeting the  
11 requirements of this act.

12 (b) This act shall not apply to a county or  
13 municipality with a population of less than 50,000 people.

14 (c) The submission of the public or legal notice  
15 must be made through the website provider by the person or  
16 entity purporting to provide the notice. A reasonable fee, not  
17 to exceed ten dollars (\$10), may be collected by the public  
18 notice website provider for the provision of this service and  
19 the maintenance of the public notice website to compensate the  
20 provider of the public notice website. Neither the state nor a  
21 state officer or employee is responsible for funding or  
22 providing personnel for the operation or maintenance of a  
23 public notice website.

24 (d) The public notice website provider may charge an  
25 additional fee to provide certified proof as to the  
26 advertisement of the notice and the dates the notice was  
27 advertised via the Internet.

1 (e) A public notice website provider shall submit a  
2 status report twice yearly to the director of the  
3 Administrative Office of Courts indicating compliance with  
4 statutory requirements governing the posting of public or  
5 legal notices as applicable to an Internet-based website. In  
6 addition, a public notice website shall submit to a quality  
7 review by the Director of the Administrative Office of Courts  
8 if, in his or her discretion, he or she finds a quality review  
9 necessary. If a quality review is requested, full access to  
10 the technical and informational operations of the public  
11 notice website provider must be provided.

12 Section 5. In addition to other requirements  
13 contained in this act, a public notice website provider also  
14 shall do all of the following:

15 (1) Establish and operate the public notice website  
16 at no cost to the state or other governmental entity.

17 (2) Maintain the public notice website without  
18 interruption 24 hours per day, seven days a week, each day of  
19 the year; and the public notice website, including all its  
20 features, must be fully publicly accessible via the Internet  
21 at all times.

22 (3) Maintain adequate systematic protection,  
23 back-up, and contingency planning in the event of power  
24 outages, systemic failures, or other unforeseen difficulties.

25 (4) Have the right to hold and use a domain name  
26 which is easily recognizable and understandable by the  
27 citizens of the state. The domain name should indicate both

1 functionality and geography. The right to use the domain name  
2 and Internet location must be maintained at the expense of the  
3 public notice website provider.

4 (5) Not infringe on a legally protected right such  
5 as a federal provisional patent application, registered  
6 patent, or prior invention to operate a website of this  
7 nature, and its right to operate without infringement must be  
8 clear and without the possibility of causing subsequent  
9 interruption to the site by virtue of legal process.

10 (6) Possess appropriate hardware infrastructure and  
11 intellectual property for feasible processes to deploy a state  
12 and national website with proper methodology for communication  
13 with the court systems of the state.

14 (7) Have sufficient minimal capital requirements to  
15 ensure its smooth and uninterrupted ongoing operation and  
16 shall certify this to the Director of the Administrative  
17 Office of Courts upon request.

18 (8) Provide a reasonable plan for the implementation  
19 of the public notice website where public or legal notices may  
20 be posted with reasonable ease onto the public notice website  
21 directly from the courts of this state and must be ready to  
22 reasonably demonstrate and implement the technology necessary  
23 at no cost to the state. The public notice website provider  
24 shall provide the necessary personnel to ensure ongoing  
25 communication with the various courts of the state concerning  
26 the smooth flow of data transmission and posting at no cost to  
27 the state.

1 (9) Not raise the fee or cost for providing website  
2 service without prior reasonable consultation with the  
3 Director of the Administrative Office of Courts and not seek,  
4 in any event, to raise the cost of posting a notice for the  
5 first two years of operation.

6 (10) Ensure that individual notices shall include at  
7 least the same information and are displayed on the public  
8 notice website using similar display and print standards as  
9 are established for newspaper postings made pursuant to other  
10 applicable public notice statutory requirements.

11 (11) Ensure that individual notices are displayed  
12 for not less than the length of time requested by the posting  
13 entity. At the end of the posting time, the public notice  
14 website provider, with prior approval of the person or entity  
15 that arranged for the posting and for a reasonable fee, may  
16 send a reminder to the entity that the notice is due to  
17 expire.

18 (12) Include an archives feature, accessible, free  
19 of charge, as a public service at all times and also shall  
20 include a function which allows the public to determine which  
21 notices have been posted in a given county.

22 (13) Provide that legal notices, both current and  
23 archived, are publicly searchable by keyword, by either party  
24 to a law suit, by courthouse file number, and by publication  
25 area.

26 (14) Not charge a fee to a person accessing,  
27 searching, or using a public notice website function, except

1 for the posting of a notice and providing certified proof of  
2 advertising as allowed by this act.

3 (15) Post a bond of reasonable amount sufficient to  
4 insure the public interest as may be required by the Director  
5 of the Administrative Office of Courts.

6 Section 6. This act shall become effective on the  
7 first day of the sixth month following its passage and  
8 approval by the Governor, or its otherwise becoming law.