

MNA 2022 CONVENTION -- PUBLIC NOTICE SESSION
January 27, 2022

Part 1: Major Current Public Notice Statutes

A. COUNTIES

1. County Board Proceedings (Minutes) (Minn. Stat. §375.12, subd. 1)

Where: In a qualified newspaper of general circulation in the county.

When: Within 30 days of the meeting to which the proceedings relate.

How Many Times: Once.

NOTE: The publication shall be let annually by contract to the lowest bidder, at the first regular session of the board in January each year (which in effect is the official newspaper). If the county board determines that publication of a summary of the proceedings would adequately inform the public of the substance of the proceedings, the county board may direct that only a summary be published, conforming to the requirements of section 331A.01, subd. 10. In each county whose population exceeds 600,000, the proceedings shall be published in a daily newspaper. The board may reject any offer if, in its judgment, the public interests require, and may then designate a newspaper without regard to any rejected offer. In any county whose population exceeds 50,000, and is less than 250,000, the proceedings may be published in one daily and one weekly newspaper at the county seat. Individualized itemized accounts, claims, or demands allowed by the county board pursuant to section 471.38, subd. 1, need not be published in the minutes, if the amount allowed from each claim is \$2,000 or less. The official proceedings following the itemization of accounts required shall contain a statement showing the total number of claims that did not exceed \$2,000 and their total dollar amount.

2. County Ordinances Enacted (Minn. Stat. §375.51)

Where: In county's official newspaper.

When: At time proceedings must be published.

How many times: "[A]t least once as part of the proceedings of the meeting at which the ordinance was enacted."

NOTE: "[A]dditional publications, either in the official newspaper or other newspaper, may be ordered." "[A] county may incorporate in an ordinance by reference any statute of Minnesota, any administrative rule of any department of the state of Minnesota affecting the county, or any code." "A lengthy ordinance or an ordinance which includes charts or

maps need not be published in its entirety if the title and a summary of the ordinance conforming to section 331A.01, subd. 10, are included in the publication of the proceedings of the meeting at which it is enacted, with notice that a printed copy of the ordinance is available for inspection by any person during regular office hours at the office of the county auditor. In that case and if a statute, administrative rule or a code is adopted by reference, all requirements of statute for the publication of ordinances shall be satisfied if the summary of the ordinance or the ordinance incorporating the statute, rule or code is published in the required manner and if, prior to publication, at least one copy of the entire ordinance or of the statute, rule, or code is marked as the official copy and filed for use and examination by the public in the office of the county auditor.”

3. County Financial Statement (Minn. Stat. §375.17)

Where: “[I]n a duly qualified legal newspaper in the county,” and “in one other newspaper, if one of general circulation is located in a different municipality in the county than the official newspaper.”

When: Annually, after preparation of the county financial statement (which must be completed “not later than the first Tuesday after the first Monday in March.”

How many times: Once (in each newspaper described above).

NOTE: The board shall publish the full statement, or a summary of the statement, in a form as prescribed by the state auditor. If the board elects to publish the full statement, it may refrain from publishing: (1) an itemized account of amounts paid out, to whom and for what purpose to the extent that the published proceedings of the county board contain the information, if all disbursements aggregating \$5,000 or more to any person are set forth in a schedule of major disbursements showing amounts paid out, to whom and for what purpose and are made a part of, and published with, the financial statement; (2) the names and amounts of salaries and expenses paid to employees but shall publish the totals of disbursements for salaries and expenses; and (3) the names of persons receiving human services aid and the amounts paid to each, but the totals of the disbursements for those purposes must be published.

The county board shall call for separate bids for each publication. If a provision of this section is inconsistent with section 393.07, the provisions of that section shall prevail.

4. County Summary Budget Statement (Minn. Stat. §375.169)

Where: In county’s official newspaper.

When: “Annually, upon adoption of the county budget.”

How many times: Once.

NOTE: The statement shall contain information relating to anticipated revenues and expenditures in a form prescribed by the state auditor. The form prescribed shall be designed so that comparisons can be made between the current year and the budget year. A note shall be included that the complete budget is available for public inspection at a designated location within the county.

5. County Delinquent Tax List (Minn. Stat. §279.07, 08, .09, .092)

Where: In a newspaper separately designated by the county board (not necessarily the official newspaper).

When: First publication on or before March 20 each year, and second publication “not less than two weeks later.”

How many times: Twice.

NOTE: The county board shall consider all bids for publication of list at meeting in January, but the “board may reject any offer, if in its judgment the public interest so requires, and thereupon designate a newspaper without regard to any rejected offer.” In counties having a population of 450,000 or more, the board shall designate a daily newspaper of general circulation throughout such county, but if no such daily newspaper submits a bid, the board may designate a weekly newspaper of general circulation throughout the county. In any county in which there is no legal newspaper, the board shall designate any such newspaper printed in the judicial district in which the county is situated, and circulating in the county. Not less than 5 days before the second publication, county must provide a revised list to the newspaper, in which any taxpayer who has paid delinquent taxes since the first publication has been removed. The county “shall assess a service fee” of the amount determined by the county board as reasonably necessary to recover all costs incurred, against each parcel included in the delinquent tax list.

B. CITIES

1. City Council Minutes (Minn. Stat. §412.191, subd. 3)

Where: In city’s official newspaper.

When: Within 30 days of any regular or special meeting to which the proceedings relate.

How many times: Once.

NOTE: The default rule is that cities must publish the full minutes. However, the statute gives cities certain alternatives to full publication:

(1) They may instead publish a “summary” conforming to section 331A.01, subd. 10 (which defines “summary” as “an accurate and intelligible abstract or synopsis of the essential elements of proceedings, ordinances, resolutions, financial statements, and other official

actions,” that “shall be written in a clear and coherent manner, and shall, to the extent possible, avoid the use of technical or legal terms not generally familiar to the public,” and that “shall clearly indicate that the published material is only a summary and that the full text is available for public inspection at a designated location or by standard or electronic mail.”).

(2) In lieu of publication, they may also mail, at city expense, a copy of the proceedings to any resident upon request.

(3) In addition, cities with a population of less than 1,000 according to the latest federal census are not required to publish or otherwise disseminate their minutes, “but may do so at their discretion.”

2. City Ordinances (Minn. Stat. §412.191, subd. 4)

Where: In city’s official newspaper.

When: Upon enactment.

How many times: Once.

NOTE: The statute prescribes an alternative to full publication “[i]n the case of lengthy ordinances, or ordinances which include charts or maps.” The statute states that “if the city council determines that publication of the title and a summary of an ordinance would clearly inform the public of the intent and effect of the ordinance, the council may by a four-fifths vote of its members direct that only the title of the ordinance and a summary be published, conforming to section 331A.01, subdivision 10, with notice that a printed copy of the ordinance is available for inspection by any person during regular office hours at the office of the city clerk and any other location which the council designates. A copy of the entire text of the ordinance shall be posted in the community library, if there is one, or if not, in any other public location which the council designates. Prior to the publication of the title and summary the council shall approve the text of the summary and determine that it clearly informs the public of the intent and effect of the ordinance. The publishing of the title and summary shall be deemed to fulfill all legal publication requirements as completely as if the entire ordinance had been published. The text of the summary shall be published in a body type no smaller than brevier or eight-point type. Proof of the publication shall be attached to and filed with the ordinance.”

3. City Financial Report (2500 population or larger) (Minn. Stat. §471.697)

Where: In a qualified newspaper of general circulation in the city.

When: No later than 30 days after the report is due in the office of the state auditor; however, the statute isn’t clear as to when that due date is.

How many times: Once.

NOTE: Cities may either publish the full financial statements, or in the alternative they may publish a summary of the statement in a form as prescribed by the state auditor.

4. City Financial Report (Under 2500 population) (Minn. Stat. §471.698)

Where: In a qualified newspaper of general circulation in the city.

When: Within 90 days after the close of the fiscal year.

How many times: Once.

NOTE: The financial statement does not need to include individual disbursements of less than \$300, if disbursements aggregating \$1,000 or more to any person, firm, or other entity are set forth in a schedule of major disbursements showing amounts paid out, to whom, and for what purpose, and are made a part of and published with the financial statement. As an alternative to publication of the full statement, the city may publish a summary of the statement in a form as prescribed by the state auditor. In addition, cities covered by this statute may instead choose to comply with the provisions of section 471.697 (described at No. 3 above), in which case the provisions of that section would apply.

5. Designation of City's Official Newspaper (Minn. Stat. §412.831)

The statute states as follows: "The council shall, annually at its first meeting of the year, designate a qualified newspaper of general circulation in the city as its official newspaper, in which shall be published such ordinances and other matters as are required by law to be so published and such other matters as the council may deem it advisable and in the public interest to have published in this manner."

NOTE: Minn. Stat. §331A.04 also applies to the designation of the official newspaper; it establishes a priority for designation to newspapers having a primary or secondary office in the city.

C. PUBLIC SCHOOL DISTRICTS

1. School Board Proceedings (Minutes) (Minn. Stat. §123B.09, Subd. 10, 11)

Where: In the official newspaper of the district.

When: The publication shall occur within 30 days of the meeting to which the proceedings relate.

How many times: Once.

NOTE: If the board determines that publication of a summary of the proceedings would adequately inform the public of the substance of the proceedings, the board may direct

that only a summary be published, conforming to the requirements of section 331A.01, subd. 10.

In addition, if a board of a district that has no newspaper with its known office of issue or a secondary office located within the boundaries of the district and no newspaper that is distributed to more than one-third of the residences in the district determines that mailing a summary of its proceedings would be more economical than publication of the proceedings and that it would adequately inform the public, it may mail a summary of its proceedings to each residence in the district that can be identified as a homestead from the property tax records and to each other residence in the district that the board can identify. The county must make the property tax records available to the board for this purpose.

2. Budgets and Other Financial Information (Minn. Stat. §123B.10)

Where: In school district's official newspaper.

When: "[W]ithin one week of the acceptance of the final audit by the board, or November 30, whichever is earlier."

How many times: Once.

NOTE: The statute states that "Every board must publish revenue and expenditure budgets for the current year and the actual revenues, expenditures, fund balances for the prior year and projected fund balances for the current year in a form prescribed by the commissioner." The forms prescribed must be designed so that year to year comparisons of revenue, expenditures and fund balances can be made. The statute also specifies that the district must publish "the address of the district's official Web site" where "revenue, expenditures, fund balances, and other relevant budget information" can be found "in a qualified newspaper of general circulation in the district," and a statement "that the complete budget in detail may be inspected by any resident of the district upon request to the chief school administrator." In addition, the publication must include "a summary of bonds outstanding, paid, and sold; a summary of orders not paid for want of funds; certificates of indebtedness for the year ending June 30; the statutory operating debt of the district as defined and certified pursuant to section 123B.81; and the balance amount of the reserved fund balance reserve account for purposes of statutory operating debt reduction established pursuant to sections 126C.40 to 126C.45, 126C.48, and 124D.22; and "the average cost per pupil in average daily membership educated in that district in the preceding year."

D. TOWNSHIPS (aka Towns)

1. Notice of Major Purchases (Minn. Stat. §365.025, Subd. 4)

Where: Official newspaper.

When: Before purchase.

How many times: Once.

NOTE: The statute specifies that “[b]efore buying personal or real property on a long term sales contract that costs more than 0.24177 percent of the estimated market value of the town, the town must publish in its official newspaper the town board's resolution to pay for the property over time.”

2. Ordinances Enacted (Minn. Stat. §365.125)

Where: In a qualified newspaper having general circulation in the town.

When: Not specified; sometime soon after enactment.

How many times: Once.

NOTE: The entire ordinance must be published unless the town board decides that publishing its title and a summary clearly informs the public of its intent and effect. The text of the ordinance, if published, must be in body type no smaller than brevier or 8-point type. The town board must approve the summary. The decision to publish only the title and a summary must be made by a two-thirds vote of a three-member board and a four-fifths vote of a five-member board. A notice must be published with the summary, stating that a printed copy of the entire ordinance is available for inspection by any person during the clerk's regular office hours and at another named place.

E. ELECTIONS

1. Sample Primary Election Ballots (Minn. Stat. §204D.09, Subd. 2)

Where: In a qualified newspaper of general circulation in the county.

When: At least one week before the state primary election.

How many times: Once.

NOTE: At least 46 days before the state primary the county auditor shall prepare a sample ballot for each precinct for public inspection and transmit an electronic copy of these sample ballots to the secretary of state. The names of the candidates to be voted for in the county shall be placed on the sample ballots, with the names of the candidates for each office arranged in the base rotation as determined by section 206.61, subdivision 5. The county auditor shall post the sample ballots in a conspicuous place in the auditor's office and shall cause them to be published at least one week before the state primary in at least one newspaper of general circulation in the county.

2. Sample General Election Ballots (Minn. Stat. §204D.16)

Where: In a qualified newspaper of general circulation in the county.

When: No earlier than 15 days and no later than two days before the state general election.

How many times: Once.

At least 46 days before the state general election, the county auditor shall post sample ballots for each precinct in the auditor's office for public inspection and transmit an electronic copy of these sample ballots to the secretary of state. No earlier than 15 days and no later than two days before the state general election the county auditor shall cause a sample state general election ballot to be published in at least one newspaper of general circulation in the county.

F. MISCELLANEOUS

1. Notice of Mortgage Foreclosure Sale (Minn. Stat. §580.03; 580.033)

Where: (1) in a qualified newspaper having its known office of issue located in the county where the mortgaged premises, or some part of the mortgaged premises are located; or (2) in a qualified newspaper having its known office of issue located in an adjoining county, if the publisher of the newspaper states, in the sworn affidavit of publication required by section 331A.07, that a substantial portion of the newspaper's circulation is in the county where the mortgaged premises, or some part of the mortgaged premises are located.

When: As specified by the advertiser.

How many times: Once per week for six weeks.

NOTE: The statute states that “six weeks' published notice shall be given that such mortgage will be foreclosed by sale of the mortgaged premises or some part thereof” The statute is silent as to the location and character of the newspaper in which the mortgage foreclosure sale notice should be published. However, district court decisions have held that the newspaper must be qualified under Chapter 331A of the statutes, and must have general circulation in the area where the real estate is located.

2. Publication of Summons in Civil Court Action (Minn. Rule Civ. Pro. 4.04)

Where: In a qualified newspaper, presumably of general circulation in the area where the defendant was last known to live.

When: As designated by the person requesting the publication.

How many times: Once per week for three weeks.

NOTE: In the cases specified in the Rule (mainly situations where the defendant cannot be located and served personally) “service by publication shall be sufficient to confer jurisdiction.” In those cases, “the summons may be served by three weeks' published notice.” The Rule does not designate where the publication should occur, but a newspaper circulated in the area where the defendant was last known to live would be best. “The service of the summons shall be deemed complete 21 days after the first publication.” Service by publication is typically ordered by the Court, but the newspaper is not required to publish the Summons without charge; the plaintiff is responsible for the publication cost.

--Court case where Summons was published, defendant demanded that it be removed from newspaper's website, a demand the newspaper rejected, and was then sued.

Part 2: Proposed 2022 Public Notice Legislation

A. New Statutory Definitions

Sec. 2. Minnesota Statutes 2020, section 331A.01, is amended by adding a subdivision to read:

Subd. 12. **Publish.** "Publish" means dissemination in the print edition of a qualified newspaper, and in the e-edition of the qualified newspaper if it has one.

Sec. 3. Minnesota Statutes 2020, section 331A.01, is amended by adding a subdivision to read:

Subd. 13. **General circulation.** "General circulation" means that newspaper distributes more than a nominal percentage of its total print circulation in a particular geographic area.

Sec. 4. Minnesota Statutes 2020, section 331A.01, is amended by adding a subdivision to read:

Subd. 14. **E-edition.** "E-edition" means a digital facsimile of a newspaper's print edition that is substantially the same in both format and content as the print edition.

B. Changes in Qualified Newspaper Criteria

Sec. 5. Minnesota Statutes 2020, section 331A.02, subdivision 1, is amended to read:

Subdivision 1. **Qualification.** No newspaper in this state shall be entitled to any compensation or fee for publishing any public notice unless it is a qualified newspaper. A newspaper that is not qualified must inform a public body that presents a public notice for publication that it is not qualified. To be qualified, a newspaper shall:

(a) be printed in the English language in newspaper format and in column and sheet form equivalent in printed space to at least ~~1,000 square inches, or~~ 800 square inches ~~if the~~

~~political subdivision the newspaper purports to serve has a population of under 1,300 and the newspaper does not receive a public subsidy;~~

(c) in at least half of its issues each year, have no more than 75 percent of its printed space comprised of advertising material and paid public notices. In all of its issues each year, have 25 percent, if published more often than weekly, or 50 percent, if weekly, of its news columns devoted to news of local interest ~~to the community which it purports to serve.~~ Not more than 25 percent of its total nonadvertising column inches in any issue may wholly duplicate any other publication unless the duplicated material is from recognized general news services;

~~(d) be circulated in the political subdivision which it purports to serve, and either have at least 400 copies regularly delivered to paying subscribers, or 250 copies delivered to paying subscribers if the political subdivision it purports to serve has a population of under 1,300, or have at least 400 copies regularly distributed without charge to local residents, or 250 copies distributed without charge to local residents if the political subdivision it purports to serve has a population of under 1,300~~ of general circulation in the area to which a public notice is directed, or where there is a reasonable likelihood that the person to whom it is directed will become aware of the notice;

(e) have its known office of issue ~~established~~ located in either the county in which lies, in whole or in part, the political subdivision which ~~the newspaper purports to serve~~ is publishing the public notice, or in an adjoining county;

(f) file a copy of each issue ~~immediately~~ promptly with the State Historical Society;

(i) between September 1 and December 31 of each year publish a sworn United States Post Office periodicals-class statement of ownership and circulation or a statement of ownership and circulation verified by a recognized independent circulation auditing agency covering a period of at least one year ending no earlier than the June 30 preceding the publication deadline. When publication occurs after December 31 and before July 1, qualification shall be effective from ~~the date of the filing described in paragraph (j)~~ January 1 through December 31 of that year; and

(j) after publication of the statement described in paragraph (i), submit to the secretary of state by December 31 a filing containing the newspaper's name, address of its known office of issue, telephone number, and a statement that it has complied with all of the requirements of this section. The filing must be accompanied by a fee of \$25. The secretary of state shall make available for public inspection a list of newspapers that have filed. Acceptance of a filing does not constitute a guarantee by the state that any other qualification has been met.

C. Miscellaneous Changes

Sec. 6. Minnesota Statutes 2020, section 331A.02, subdivision 3, is amended to read:

Subd. 3. **Publication; suspension; changes.** The following circumstances shall not affect the qualification of a newspaper, invalidate an otherwise valid publication, or invalidate a designation as official newspaper.

(b) The consolidation of one newspaper with another published in the same county or in an adjoining county, or a change in its name or ownership, or a temporary change in its known office of issue.

(c) Change of the day of publication, the frequency of publication, or the change of the known office of issue from one place to another within the same county or in an adjoining county. Except as provided in this subdivision, suspension of publication, or a change of known office of issue ~~from one county to another~~, or failure to maintain its known office of issue in the county or in an adjoining county, shall deprive a newspaper of its standing as a qualified newspaper until it again becomes qualified pursuant to subdivision 1.

Sec. 7. Minnesota Statutes 2020, section 331A.02, subdivision 5, is amended to read:

Subd. 5. **Posting notices on website.** If, in the normal course of its business, a qualified newspaper maintains a website, then as a condition of accepting and publishing public notices, the newspaper must agree to post all the notices on its website and on the Minnesota Newspaper Association's statewide public notice website, at no additional cost to the advertiser. The newspaper's website must include a link to its online public notices section, the contents of which must be accessible at no cost to the public. Each notice must remain on the website during the notice's full publication period. Failure to post or maintain a public notice on the newspaper's website or to post a public notice on the statewide public notice website does not affect the validity of the public notice.

Sec. 8. Minnesota Statutes 2020, section 331A.04, subdivision 7, is amended to read:

Subd. 7. **Joint bidding.** A bid submitted jointly by two or more newspapers for the 4.19 publication of public notices must not be considered anticompetitive or otherwise unlawful if the following conditions are met:

(1) all of the qualified newspapers ~~in the political subdivision~~ eligible for designation participate in the joint bid;

(2) the existence of the joint bid arrangement is disclosed to the governing body of the political subdivision before or at the time of submission of the joint bid; and

(3) the ~~board~~ governing body is free to reject the joint bid and, if it does, individual qualified newspapers do not refuse to submit separate bids owing to the rejection of the joint bid.

Sec. 9. Minnesota Statutes 2020, section 331A.05, subdivision 7, is amended to read:

Subd. 7. **Errors in publication.** If through no fault of the political subdivision, an error occurs in the publication of a public notice, the error shall have no effect on the validity of the event, action, or proceeding to which the public notice relates. In cases where the error is the fault of the newspaper, the political subdivision shall not be charged for the publication.

Sec. 10. Minnesota Statutes 2020, section 471.698, subdivision 1, is amended to read:

Subdivision 1. **All [city] operations except some hospitals, nursing homes.** In any city with a population of less than 2,500 according to the latest federal census, the city clerk or chief financial officer shall:

(c)(1) publish the [financial] statement, or a summary of the statement in a form as prescribed by the state auditor, within 90 days after the close of the fiscal year in a qualified newspaper of general circulation in the city.

It is not necessary to publish individual disbursements of less than ~~\$300~~ \$500, if disbursements aggregating \$1,000 or more to any person, firm, or other entity are set forth in a schedule of major disbursements showing amounts paid out, to whom, and for what purpose, and are made a part of and published with the financial statement.