

SPECIAL BULLETIN ON STATE BUDGET BILL

Important changes have been made in Ohio's Statutes dealing with the publication of ordinances, resolutions, and other documents in statutory plan cities and villages, and any charter cities and villages that adopt the statutes by reference under their charter.

This is a brief explanation of changes made in Am.Sub. H.B. 153 (the "Budget Bill"), with respect to the publication of ordinances, resolutions and all statements, orders, proclamations, notices, and reports required by law to be published in a newspaper of general circulation in the municipality. Remember, these changes may or may not affect a charter municipality, depending on whether the charter adopts the statutory provisions by incorporation, by reference, or by putting the statutory words in the charter. Your city or village legal advisor should be consulted as to whether the changes discussed in this article affect or apply to a charter city or village.

R.C. 731.21 (as amended by the "Budget Bill") requires the following:

A succinct summary of each ordinance or resolution and all statements, orders, proclamations, notices, and reports required by law or ordinance to be published in a newspaper of general circulation in the municipal corporation. The newspaper must provide proof of publication as set forth in the statute, and that proof shall be filed with the clerk of the legislative authority.

Division (B) of Section 731.211, Revised Code, is also revised to allow the full text of a proposed charter amendment to be published in a newspaper of general circulation in the municipality, or as provided in R.C. 7.16 (a newly adopted provision).

R.C. 731.22 provides that "The publication required by R.C. 731.21 shall be for the following times:

- (A) Summaries of ordinances or resolutions, and proclamations of elections, once a week for two consecutive weeks, or as provided in R.C. 7.16;
- (B) Notices must be published not less than two nor more than four consecutive weeks or as provided in R.C. 7.16.
- (C) All other matters shall be published once."

R.C. 731.23 and R.C. 731.24 make minor changes.

R.C. 731.25 provides "in municipal corporations in which no newspaper is generally circulated, publication shall be accomplished by posting copies in not less than five of the most public places in the municipal corporation, as determined by the legislative authority, for a period of not less than fifteen days prior to the effective date thereof.

Notice to bidders for construction of public improvements and notices of the sale of bonds shall be published in a newspaper of general circulation in the municipal corporation for the time prescribed in R.C. 731.22. Where publication is by posting, the clerk shall make a certificate as to such posting, and as to the times when and the places where the posting is done, in the manner provided in Section 731.24 R.C. and such certificate shall be prima-facie evidence that the copies were posted as required.” But understand there are only a few municipalities that will be able to post. Review the statute carefully.

Court decisions may determine those non-related provisions set forth in the Budget Bill to be in violation of Article II, Section 15 (D), Ohio Constitution.

In addition to the matters already discussed in this Bulletin the Budget Bill includes R.C. 7.16 which provides additional and/or alternative provisions that may be utilized rather than those discussed in the first part of this letter. A copy of R.C. 7.16, which is a part of the Budget Bill, is attached as “Attachment 2.”

Prior to these amendments it was necessary to publish in two newspapers of different politics, if two exist. So the amendments are more workable than the prior law.

The Budget Bill contains 3,262 pages, not all of which pages pertain to the state of Ohio’s Budget. Article II, Section 15 (D) provides:

“(H), no bill shall contain more than one subject which shall be clearly expressed in its title...”

It is obvious that many extraneous matters have been added to the so-called “Budget Bill” that have no relationship to the content of the Budget. This means that future courts may determine that such extraneous provisions are invalid because they violate the “one subject rule” set forth in Article II Section 15 (D) of the Ohio Constitution.

For those of you who wish to further understand the Budget Bill, and how it may affect your municipal operations, we have provided Attachment 1 that lists revised code section numbers of most, but not all, of other statutes enacted by the Budget Bill.

If you have questions please talk to the municipal lawyer for your city or village. The OML’s lawyers are available to your lawyers.

PREPARED BY: OML Staff

ATTACHMENT 1

BUDGET BILL: A LISTING OF THE SECTIONS OF THE REVISED CODE THAT AFFECT MUNICIPALITIES

AMENDED SECTIONS:

709.43, 709.44, 711.35, 715.011, 715.47, 718.01, 718.09, 718.10, 719.012, 709.05, 721.03, 721.15, 721.20, 723.07, 727.011, 727.012, 727.08, 727.14, 727.40, 729.08, 729.11, 731.14, 731.141, 731.20, 731.21, 731.211, 731.22, 731.23, 731.24, 731.25, 735.05, 735.20, 737.022, 737.04, 737.041, 737.32, 737.40, 742.41, 745.07, 747.05, 747.11, 747.12, 755.16, 755.29, 755.41, 755.42, 755.43, 759.47.

NEW SECTIONS: 709.451, 709.452 TO REPEAL SECTIONS 701.04

ENACTED SECTIONS:

705.16, 709.43, 709.44, 711.35, 715.011, 715.47, 718.01, 718.09, 718.10, 709.012, 719.05, 721.03, 721.15, 721.20, 723.07, 727.011, 727.012, 727.08, 727.14, 727.46, 729.08, 729.11, 731.14, 731.141, 731.20, 737.21, 737.211, 731.22, 731.23, 742.41, 745.07, 747.05, 747.11, 747.12, 755.16, 755.29, 755.41, 755.42, 755.43, 759.47

AMENDED TO ADOPT NEW SECTION NUMBERS:

118.025, 118.31, 709.451, 709.452

** For changes made in Revised Code 7.16 see Attachment 2.*

ATTACHMENT 2

Sec. 7.16. (A) If a section of the Revised Code or an administrative rule requires a state agency or a political subdivision of the state to publish a notice or advertisement two or more times in a newspaper of general circulation and the section or administrative rule refers to this section, the first publication of the notice or advertisement shall be made in its entirety in a newspaper of general circulation and may be made in a preprinted insert in the newspaper, but the second publication otherwise required by that section or administrative rule may be made in abbreviated form in a newspaper of general circulation in the state or in the political subdivision, as designated in that section or administrative rule, and on the newspaper's internet web site, if the newspaper has one. The state agency or political subdivision may eliminate any further newspaper publications required by that section or administrative rule, provided that the second, abbreviated notice or advertisement meets all of the following requirements:

(1) It is published in the newspaper of general circulation in which the first publication of the notice or advertisement was made and is published on that newspaper's internet web site, if the newspaper has one.

(2) It includes a title, followed by a summary paragraph or statement that clearly describes the specific purpose of the notice or advertisement, and includes a statement that the notice or advertisement is posted in its entirety on the state public notice web site established under Section 125.182 of the Revised Code. The notice or advertisement also may be posted on the state agency's or political subdivision's internet web site.

(3) It includes the internet addresses of the state public notice web site, and of the newspaper's and state agency's or political subdivision's internet web site if the notice or advertisement is posted on those web sites, and the name, address, telephone number, and electronic mail address of the state agency, political subdivision, or other party responsible for publication of the notice or advertisement.

(B) A notice or advertisement published under this section on an internet web site shall be published in its entirety in accordance with the section of the Revised Code or the administrative rule that requires the publication.

(C) If a state agency or political subdivision does not operate and maintain, or ceases to operate and maintain, an internet web site, and if the state public notice web site established under Section 125.182 of the Revised Code is not operational, the state agency or political subdivision shall not publish a notice or advertisement under this section, but instead shall comply with the publication requirements of the section of the Revised Code or the administrative rule that refers to this section.