

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Community Affairs Committee

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BILL: SB 2292

INTRODUCER: Senator Storms

SUBJECT: Advertisements & Notices by Governmental Entities

DATE: March 27, 2009

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Molloy	Yeatman	CA	<b>Pre-meeting</b>
2.			GO	
3.			JU	
4.			TA	
5.				
6.				

**I. Summary:**

This bill provides circumstances under which a governmental entity may use its official website for legally required advertisements and public notices.

This bill creates s. 530.0311, and amends the following sections of Florida Statutes: 50.011, 50.021, 50.051, 50.061, 100.342 125.012, 125.35, 125.66, 129.03, 129.06, 138.12, 153.53, 153.55, 153.79, 157.03, 157.21, 157.28, 159.32, 162.12, 163.3184, 163.3225, 163.356, 163.360, 163.361, 163.380, 163.387, 163.511, 163.514, 163.516, 163.524, 165.041, 165.051, 166.041, 166.0497, 170.05, 170.07, 171.0413, 171.051, 173.09, 177.101, 180.09, 180.24, 189.4044, 189.417, 190.006, 190.033, 191.005, 192.0105, 194.037, 197.3632, 200.065, 205.032, 205.042, 255.0525, 274.06, 298.301, 348.243, 348.83, 348.943, 348.953, 348.968, 350.81, 373.4592, 373.45924, 373.536, 376.80, 379.2425, 380.06, 403.973, 420.9075, 553.73, 633.025, 705.103, and 715.109.

**II. Present Situation:**

**Legal and Official Advertisements** – Chapter 50, F.S., contains the requirements for legal and official advertisements. Section 50.011, F.S., provides requirements governing the publication of legal advertisements and notices in a newspaper, including all legal notices and advertisements of sheriffs and tax collectors, publication must be in a newspaper that is printed and published at least once a week, and containing at least 25 percent of its words in the English language. The newspaper must qualify or be entered to qualify as periodicals matter at the post office in the county where published, and be generally available to the public for the purpose of publication of official or other notices.

When there is no weekly newspaper published in the county, s. 50.021, F.S., provides that the advertisement may be made by posting three copies in three different places in the county, one of which must be at the front door of the courthouse, and by publication in the nearest county in which a newspaper is published.

Section 50.031, F.S., provides that no notice or publication required to be published in a newspaper is deemed to have been published in accordance with the statutes providing for such publication, unless the notice or publication has been published in a newspaper in existence for at least one year and which meets the requirements for periodicals matter at the post office in the county where published. An exception is provided for counties in which no newspaper in existence has been published for a year.

With respect to proof of publication, s. 50.041, F.S., provides that all affidavits of publishers of newspapers made for the purpose of providing proof of publication must be uniform throughout the state, and provides size requirements and requirements as to the material on which the affidavit may be printed. In all counties with a population in excess of 450,000, the charge for preparation and execution of an affidavit establishing proof of publication may not exceed \$2, and is in addition to the charges established for publication. Section 50.051, F.S., provides a printed form by which all affidavits establishing proof of publication must be similarly drawn.

Section 50.061, F.S., provides that the charge for publishing each official public notice or legal advertisements shall be 70 cents per square inch for the first insertion, and 40 cents per square inch for each subsequent insertion, except that:

- Counties with a population in excess of 340,000 may charge 80 cents per square inch for the first insertion and 60 cents per square inch for each subsequent insertion.
- Counties with a population in excess of 450,000 may charge 95 cents per square inch for the first insertion and 75 cents per square inch for each subsequent insertion.

Where the regular established minimum commercial rate per square inch of the newspaper publishing the official notice or legal advertisement is greater than the per square inch rate established in statute, the minimum commercial rate may be charged for all such legal advertisements or official public notices for each insertion, except that a government agency may procure publication through bids.

All official notices and legal advertisements must be charged and paid for on the basis of 6-point type on 6-point body, unless otherwise specified in statute. Any person who violates a provision of s. 50.061, F.S., commits a second degree misdemeanor, punishable by a fine of not more than \$500, imprisonment for not more than 60 days, or both.

Section 50.0711, F.S., provides that the clerk of the court in each county may establish a court docket fund for the purpose of paying the cost of publication of the fact of the filing of any civil case in the circuit court of the county. The docket fund shall be funded by \$1 mandatory court cost for all civil actions, suits, or proceedings filed in the circuit court. Newspapers qualified under s. 50.011, F.S., shall be designated as the record newspaper for such publications by an order of a majority of the judges in the judicial circuit in which the county is located. The publishers of any designated record newspapers receiving payment from the court docket fund must publish, without additional charge, the fact of the filing of any civil case, suit, or action

filed in such county in the circuit, and legal advertisements for the purpose of service of process by publication when such publication is required of persons who are indigent.

### III. Effect of Proposed Changes:

**Section 1.** Creates s. 530.0311, F.S., to provide that for purposes of legal notices and advertisements required by statute to be published by governmental entities, the term “publicly accessible website” means a governmental entity’s official website that is accessible on the Internet.

If specifically authorized by statute, a governmental entity may use its website for legally required advertisements and public notices if:

- A public library or other governmental facility providing free access to the Internet during regular business hours exists within the jurisdiction boundary of the governmental entity;
- The governmental entity provides notice to its residents at least one per year in a newspaper of general circulation, or the governmental entity’s newsletter or periodical, or another publication mailed or delivered to all residents or property owners within the entity’s jurisdiction boundaries; that they can register with the local government entity to receive all advertisements and public notices by first-class mail or by e-mail;
- The government entity maintains a register of names, addresses, and e-mail addresses of residents who request in writing that they receive advertisements and notices by first-class mail or by e-mail; and
- At the time of initial publication, the governmental entity mails or e-mails a copy of the advertisement or notice to the registered persons.

Advertisements and notices must be conspicuously placed on the website’s homepage or accessible through a direct link from the homepage. The advertisement shall indicate the date on which it was first published on the publicly accessible website.

**Section 2.** Section 50.011, F.S., is amended to provide that publication of an advertisement or notice on a publicly accessible website in accordance with s. 50.0311, F.S., constitutes legal notice.

**Section 3.** Amends s. 50.021, F.S., to provide that when a court directs publication of an advertisement in a newspaper, the advertisement may be published on a publicly accessible website maintained by the entity responsible for publication.

**Section 4.** Amends s. 50.051, F.S., to clarify the printing form of affidavits establishing proof of publication as published in a newspaper.

**Section 5.** Amends s. 50.061, F.S., to clarify the requirements for all official public notices and legal advertisements published in a newspaper.

**Sections 6 through 75.** Amend various sections of statute to provide for publication of official public notices and legal advertisements on a publicly accessible website.

**Section 76.** Provides that the act shall take effect upon becoming a law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The impact of this legislation on the newspaper industry is indeterminate but is likely to be substantial.

C. Government Sector Impact:

The Revenue Estimating Conference has not determined the fiscal impact of this bill.

**VI. Technical Deficiencies:**

This bill creates s. 530.0311, F.S., in section 1 of the bill, when it intends to create s. 50.0311, F.S.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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