

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1955

ENROLLED

SENATE BILL NO. 175

(By Mr. Benn - Martin)

PASSED Mar 12 1955

In Effect 90 days ~~Passage~~



Filed in the Office of the Secretary of State
of West Virginia

MAR 17 1955
D. PITT O'BRIEN
SECRETARY OF STATE

ENROLLED

Senate Bill No. 175

(By MR. BEAN, MR. PRESIDENT, and MR. MARTIN)

[Passed March 12, 1955; in effect ninety days from passage.]

AN ACT to amend and reenact section thirty-four, article one, chapter fifty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to charges for publications.

Be it enacted by the Legislature of West Virginia:

That section thirty-four, article one, chapter fifty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended, and reenacted to read as follows:

Section 34. *Charges for Publication; General Provisions*

2 *Relating to Publication.*—The price for publishing all ad-
3 vertisements and publications required to be made by
4 law, or by the order of a court in any cause or proceeding

5 therein, or by any provision of a deed of trust, or where
6 any publication is made pursuant to law, shall not exceed
7 two and three-fourths cents for each word for the first
8 insertion, and one and one-half cents a word for each
9 subsequent insertion required to be made: *Provided,*
10 That for a notice to take depositions, notice to creditors,
11 notice of receiving bids on public contracts, notice of the
12 dissolution of a corporation, and an order of publication,
13 published less than four insertions, the rate shall be not
14 more than seven and one-half cents for each word for
15 whatever number of insertions, less than four, that may
16 be required to be made.

17 Notwithstanding the above paragraph, however, in those
18 cases where a statute specifically provides for a different
19 charge for publication (as in section two, article three,
20 chapter eleven-a of this code as amended), the price for
21 publishing such advertisements or other publications shall
22 be forty cents per item for each insertion in each news-
23 paper.

24 In computing the number of words in a legal adver-
25 tisement, not set solid, the basis shall be upon the size of

26 type in which legal advertising is usually set by the news-
27 paper making the publication, and shall be computed at
28 the legal rate as though the matter was solid type, that
29 is to say, on the basis of eighty-four words to the column
30 inch in six point type, and fifty-four words to the column
31 inch in eight point type, and any other size type in
32 proportion.

33 If no newspaper in the county in which such publica-
34 tion should be made will insert the same for the times
35 required, or for the price aforesaid, then the notice or
36 advertisement may be published in a newspaper of gen-
37 eral circulation in such county published in another
38 county. If the publication is to be made in any case or
39 proceeding in court, the court shall designate the news-
40 paper in such other county and if the publication is not
41 to be made in a case or proceeding in court, the news-
42 paper shall be selected by the person at whose instance
43 it is to be made, or his agent; and when the notice pub-
44 lished in an advertisement of a sale of property, the
45 notice shall be posted, by the person or persons whose
46 duty it is to place the advertisement for publication, at

47 the front door of the courthouse of the county in which
48 the sale is to be made at least three weeks prior to the
49 time fixed for making the sale, and copies of such notice
50 shall be posted in at least four other public places in such
51 county at the same time.

52 In case of any publication made by the order of a court,
53 in any case or proceeding therein, or by any provision of
54 a deed of trust, the price paid shall be taxed in the bill of
55 costs, and the newspaper making any such publications
56 herein last mentioned, and in all other cases wherein legal
57 publications are made as herein provided if required by
58 the party or parties placing such advertisement, shall
59 make and furnish, under oath, a certificate of publication
60 of each advertisement so published, showing the number
61 of times it was inserted in such newspaper, the dates of
62 the first and last insertions thereof, and the amount of
63 costs for such publication, as required by this section.
64 Any posting of any such advertisement at the front door
65 of the court house, when so required, shall be done by
66 the publisher of the newspaper in which the publication
67 was published, and in such cases the certificate of publi-

68 cation herein provided for shall state that the advertise-
69 ment was posted at the front door of the court house. In
70 cases where any such notices are not published by a
71 newspaper, the certificates and affidavits herein provided
72 for shall be made by the party who would place the ad-
73 vertising with the newspaper had it been published by
74 such newspaper.

75 All advertisements required to be made by the state
76 of West Virginia, or any county, district, school district,
77 city, town or village, or any political subdivision thereof
78 or levying body, shall be published in a daily, tri-weekly,
79 semi-weekly, or weekly newspaper or newspapers, as the
80 case may be, of general circulation in the county wherein
81 the publication is to be made, and representing one or
82 both of the two major political parties in such county,
83 and which shall have been published continuously at
84 least once a week for a period of one year at the time of
85 placing such legal advertising, and at a plant located in
86 this state and capable of printing and publishing a weekly
87 newspaper of general circulation and owned by the owner
88 of such newspaper, except and unless there be no news-

89 paper in that county affiliated with one of the two politi-
90 cal parties: *Provided*, That where any such newspaper
91 succeeds to the field of a former established newspaper, it
92 shall be eligible to publish such legal advertising from its
93 inception.

94 Any citizen, taxpayer, or the owner or publisher of any
95 newspaper entitled by law to have any publication made
96 in his newspaper, which any county court or tribunal
97 created in lieu thereof, board of education, council of a
98 municipal corporation, or public officer, shall fail or re-
99 fuse to make, may have a writ of mandamus to compel
100 the making of such publication: *Provided*, That the news-
101 paper is willing to accept the price prescribed therefor by
102 law.

103 In no case involving the publication of paid advertise-
104 ments for candidates for political office shall the rate
105 charged by any publisher be more than the average rate
106 received by him from private patrons for similar adver-
107 tising composed of reading matter or photographs and re-
108 quiring the same amount of space.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Alvin C. ...
Chairman Senate Committee

W T Brackett Jr
Chairman House Committee

Originated in the Senate.

Takes effect 90 days from passage.

Harman ...
Clerk of the Senate

W B ...
Clerk of the House of Delegates

Joseph ...
President of the Senate

W. E. Flannery
Speaker House of Delegates

The within approved this the 16 day of March, 1955.

William C. Marland
Governor.



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D. PITT O'BRIEN
SECRETARY OF STATE