

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1953



ENROLLED

Committee Substitute for

HOUSE BILL No. 43

(By Mr. _____)



PASSED March 14 1953

In Effect ninety days from Passage



43

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COMMITTEE SUBSTITUTE FOR
House Bill No. 43

[Passed March 14, 1953; 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 Publications; General Provisions Relating to Publication.*—The price for publishing
2 all advertisements and publications required to be made
3 by law, or by the order of a court in any cause or proceeding therein, or by any provision of a deed of trust,
4
5 or where any publication is made pursuant to law, shall
6
7 not exceed three cents for each word for the first inser-

8 tion, and two cents a word for each subsequent insertion
9 required to be made: *Provided*, That for a notice to take
10 depositions, notice to creditors, notice of receiving bids
11 on public contracts, notice of the dissolution of a corpora-
12 tion, and an order of publication, published less than
13 four insertions, the rate shall be not more than nine cents
14 for each word for whatever number of insertions, less
15 than four, that may be required to be made.

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

23 In computing the number of words in a legal adver-
24 tisement, not set solid, the basis shall be upon the size
25 of type in which legal advertising is usually set by the
26 newspaper making the publication, and shall be com-
27 puted at the legal rate as though the matter was solid
28 type, that is to say, on the basis of eighty-four words to

29 the column inch in six point type and fifty-four words to
30 the column inch in eight point type, and any other size
31 type in proportion.

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

49 least four other public places in such county at the same
50 time.

51 In case of any publication made by the order of a court,
52 in any case or proceeding therein, or by any provision of
53 a deed of trust, the price paid shall be taxed in the bill of
54 costs, and the newspaper making any such publications
55 herein last mentioned, and in all other cases wherein
56 legal publications are made as herein provided if re-
57 quired by the party or parties placing any such adver-
58 tisement, shall make and furnish, under oath, a certificate
59 of publication of each advertisement so published, show-
60 ing the number of times it was inserted in such news-
61 paper, the dates of the first and last insertions thereof,
62 and the amount of costs for such publication, as required
63 by this section. Any posting of any such advertisement
64 at the front door of the court house, when so required,
65 shall be done by the publisher of the newspaper in which
66 the publication was published, and in such cases the
67 certificate of publication herein provided for shall state
68 that the advertisement was posted at the front door of
69 the court house. In cases where any such notices are not

70 published by a newspaper, the certificates and affidavits
 71 herein provided for shall be made by the party who would
 72 place the advertising with the newspaper had it been
 73 published by such newspaper.

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

91 a former established newspaper, it shall be eligible to
92 publish such legal advertising from its inception.

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

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

H. M. Kinley
Chairman Senate Committee

C. H. Quabler
Chairman House Committee

Originated in the House of Delegates

Takes effect *ninety days from* passage.

Thomas M. Meyer
Clerk of the Senate

J. S. Clipp
Clerk of the House of Delegates

Ralph K. Ruan
President of the Senate

W. E. Hannery
Speaker House of Delegates

The within *Act* this the *20th*
day of *March*, 1953.

William C. Marland
Governor



Filed in the Office of the Secretary of State
of West Virginia **MAR 20 1953**

D. PITT O'BRIEN,
SECRETARY OF STATE