

By: Duncan

S.B. No. 1812

A BILL TO BE ENTITLED

AN ACT

relating to electronic publication of legal notice.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 10, General Government Code, is amended by adding Chapter 2311 to read as follows:

CHAPTER 2311. ELECTRONIC PUBLICATION OF LEGAL NOTICE

Sec. 2311.001. DEFINITIONS. In this chapter:

(a) "Legal notice" or "notice" means any matter that, pursuant to law or rule, is required to be officially advertised.

(b) "Public notice website" means an Internet website that is maintained by a third party under contract with the state, which electronically publishes legal notices.

Sec. 2311.002. OFFICE OF COURT ADMINISTRATION AUTHORITY TO CREATE AN ELECTRONIC PUBLIC NOTICE WEBSITE. (a) The Office of Court Administration shall enter into an agreement with a website service provider to maintain a public notice website.

(b) Any legal notice that is required to be published may be published on the public notice website.

Sec. 2311.003. PERMISSIVE ELECTRONIC PUBLICATION OF LEGAL NOTICE. (a) Notwithstanding any other provision of law and in addition to other public or legal notice requirements, when public or legal notice is required by law to be posted in a newspaper publication or at a courthouse, notice also may be made in the same form on the Internet through a public notice website meeting the

1 requirements of this act.

2 (b) The submission of the public or legal notice may be made
3 at the courthouse, if possible, or may be made from a private or
4 public access computer terminal. A reasonable fee, not to exceed
5 ten dollars (\$10), may be charged for the provision of this service
6 and the maintenance of the public notice website to compensate the
7 provider of the public notice website. The state is not responsible
8 for funding the operation or maintenance of a public notice
9 website.

10 (c) A public notice website provider shall submit a status
11 report twice yearly to the director of the Administrative Office of
12 Courts indicating compliance with statutory requirements governing
13 the posting of public or legal notices as applicable to an
14 Internet-based website. In addition, a public notice website shall
15 submit to a quality review by the Director of the Administrative
16 Office of Courts if, in his or her discretion, he or she finds a
17 quality review necessary. If a quality review is requested, full
18 access to the technical and informational operations of the public
19 notice website provider must be provided.

20 Sec. 2311.004. DUTIES OF AN ELECTRONIC PUBLIC NOTICE
21 WEBSITE PROVIDER. (a) In addition to other requirements contained
22 in this act, a public notice website provider also shall do all of
23 the following:

24 (1) Establish and operate the public notice website at
25 no cost to the Office of Court Administration or other governmental
26 entity.

27 (2) Maintain the public notice website without

1 interruption 24 hours per day, seven days a week, each day of the
2 year; and the public notice website, including all its features,
3 must be fully publicly accessible at all times.

4 (3) Maintain adequate systematic protection, back-up,
5 and contingency planning in the event of power outages, systemic
6 failures, or other unforeseen difficulties.

7 (4) Have the right to hold and use a domain name which
8 is easily recognizable and understandable by the citizens of the
9 state. The domain name should indicate both functionality and
10 geography. The right to use the domain name and Internet location
11 must be maintained at the expense of the public notice website
12 provider.

13 (5) Not infringe on a legally protected right such as a
14 federal provisional patent application, registered patent, or
15 prior invention to operate a website of this nature, and its right
16 to operate without infringement must be clear and without the
17 possibility of causing subsequent interruption to the site by
18 virtue of legal process.

19 (6) Possess appropriate hardware infrastructure and
20 intellectual property for feasible processes to deploy a state and
21 national website with proper methodology for communication with the
22 court systems of the state.

23 (7) Have sufficient minimal capital requirements to
24 ensure its smooth and uninterrupted ongoing operation and shall
25 certify this to the Director of the Office of Court Administration
26 upon request.

27 (8) Provide a reasonable plan for the implementation

1 of the public notice website where public or legal notices may be
2 posted with reasonable ease onto the public notice website directly
3 from the courts of this state and must be ready to reasonably
4 demonstrate and implement the technology necessary at no cost to
5 the state. The public notice website provider shall provide the
6 necessary personnel to ensure ongoing communication with the
7 various courts of the state concerning the smooth flow of data
8 transmission and posting at no cost to the state.

9 (9) Not raise the cost for providing the website
10 without prior reasonable consultation with the Director of the
11 Office of Court Administration and not seek, in any event, to raise
12 the cost of posting a notice for the first two years of operation.

13 (10) Ensure that individual notices shall include at
14 least the same information and are displayed on the public notice
15 website using similar display and print standards as are
16 established for newspaper postings made pursuant to other
17 applicable public notice statutory requirements.

18 (11) Ensure that individual notices are displayed for
19 not less than the length of time requested by the posting entity.
20 At the end of the posting time, the public notice website provider,
21 with prior approval of the person or entity that arranged for the
22 posting and for a reasonable fee, may send a reminder to the entity
23 that the notice is due to expire.

24 (12) Include an archives feature, accessible, free of
25 charge, as a public service at all times and also shall include a
26 function which allows the public to determine which notices have
27 been posted in a given county.

1 (13) Provide that legal notices, both current and
2 archived, are publicly searchable by keyword, by either party to a
3 law suit, by courthouse file number, and by publication area.

4 (14) Not charge a fee to a person accessing,
5 searching, or using a public notice website function, except for
6 the posting of a notice as allowed by this act.

7 (15) Post a bond of reasonable amount sufficient to
8 insure the public interest as may be required by the Office of Court
9 Administration.

10 SECTION 2. This act takes effect September 1, 2007.