

ASSEMBLY, No. 4429

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED DECEMBER 12, 2016

Sponsored by:

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Assemblyman JON M. BRAMNICK

District 21 (Morris, Somerset and Union)

SYNOPSIS

“Electronic Publication of Legal Notices Act”; permits publication of legal notices by government agencies and persons on official government notice websites instead of newspapers.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning electronic publication of legal notices,
2 supplementing Title 35 of the Revised Statutes, and amending
3 various parts of the statutory law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) Sections 1 through 13 of P.L. , c. (C.)
9 (pending before the Legislature as this bill) shall be known and may
10 be cited as the “Electronic Publication of Legal Notices Act.”

11
12 2. (New section) The Legislature finds and declares:

13 a. The State of New Jersey, its 21 counties, and most of its
14 municipalities maintain official government websites that are
15 available to the public 24 hours a day.

16 b. By a combination of law, rule, regulation, and court rule,
17 government agencies and persons are currently required to publicly
18 advertise legal notices in newspapers.

19 c. These legal notices are intended to ensure the general public
20 is aware of various actions being proposed or taken by government
21 agencies and persons; providing transparency and an opportunity
22 for the public to comment on these actions.

23 d. Permitting the publication of legal notices on official
24 government websites will make those notices more easily accessible
25 to a greater number of people, thereby promoting transparency and
26 increased public participation in government. At the same time,
27 costs for government agencies and persons would be reduced, in
28 part providing property tax relief to taxpayers in our State’s local
29 jurisdictions.

30 e. Although the general provisions of P.L. , c. (C.)
31 (pending before the Legislature as this bill) allow for the electronic
32 publication of legal notices in all instances where there are legal
33 notice requirements, the change also is specifically, redundantly
34 being made to a number of statutes. The specific statutes amended
35 account for the vast majority of legal notices published in
36 newspapers and therefore warrant further clarity on the availability
37 of the electronic option.

38
39 3. (New section) As used in P.L. , c. (C.) (pending
40 before the Legislature as this bill):

41 “Electronic publication” or “electronically publish” means the
42 public advertisement of a legal notice in hypertext markup language
43 format (html), portable document format (PDF), or an equivalent or
44 successor language format or image format, on an official Internet
45 website in accordance with P.L. , c. (C.) (pending before

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 the Legislature as this bill).

2 “Government agency” or “agency” means any department,
3 division, office, bureau, board, commission, authority, or any other
4 agency or instrumentality of the State, any political subdivision of
5 the State or combination of political subdivisions, and any division,
6 office, bureau, board, commission, authority, or any other agency or
7 instrumentality within or created by a political subdivision of the
8 State or combination of political subdivisions.

9 “Legal notice” or “notice” means any matter of a government
10 agency or a person that, pursuant to law, rule, regulation, or court
11 rule is required to be officially advertised in a newspaper in
12 accordance with R.S.35:1-1 et seq.

13 “Notice website” means an Internet website that is maintained by
14 a government agency, or by a third party under contract with the
15 agency, that is contained within an official Internet website, and
16 that contains links to the legal notices electronically published by
17 the agency.

18 “Official Internet website” means the Internet location
19 designated by a government agency as its primary source of
20 information about the agency on the Internet.

21 “Person” means the same as that term is defined in R.S.1:1-2 and
22 also includes any entity required to publish legal notices.

23

24 4. (New section) a. Notwithstanding the provisions of any
25 other law to the contrary, whenever a government agency or a
26 person is required by law to publish a legal notice in one or more
27 newspapers, the government agency or person may satisfy that
28 requirement by causing the required legal notice to be electronically
29 published on a notice website created pursuant to section 5 of P.L. ,
30 c. (C.) (pending before the Legislature as this bill) instead of
31 in a newspaper, provided that the prerequisites of subsection b. of
32 this section have been satisfied.

33 b. A government agency may only publish legal notices solely
34 and exclusively by electronic publication, in lieu of newspaper
35 publication, pursuant to subsection a. of this section if, for a period
36 of at least three calendar months beginning on or after the effective
37 date of P.L. , c. (C.), the applicable government agency:

38 (1) publishes all legal notices both in newspapers, as required by
39 law, and on its official Internet website by electronic publication;

40 (2) publishes, twice in each calendar month of this time period in
41 the official newspaper or newspapers of the government agency or,
42 if none, in at least two newspapers designated by the government
43 agency to receive such notices because they have the greatest
44 likelihood of informing the public within the area of jurisdiction of
45 the government agency, a notice that all legal notices relating to the
46 government agency may be solely and exclusively published by
47 electronic publication beginning at the end of this time period and
48 containing the Internet website address for the notice website; and

1 (3) prominently displays, for this entire time period on its official
2 Internet website, a notice that all legal notices relating to the
3 government agency may be solely and exclusively published by
4 electronic publication beginning at the end of this time period.

5
6 5. (New section) A government agency may create a notice
7 website and electronically publish its legal notices and the legal
8 notices of persons thereon, provided that all of the following
9 requirements are met:

10 a. The government agency's official Internet website, the
11 notice website containing links to the legal notices, and the
12 webpages containing the actual legal notices, shall comply with the
13 accessibility standards of section 508 of the "Rehabilitation Act of
14 1973" (29 U.S.C. s.794d);

15 b. The government agency's official Internet website
16 containing the notice website shall be registered with the Office of
17 Information Technology, in but not of the Department of the
18 Treasury, for posting on the State Internet website that lists Internet
19 websites of government agencies;

20 c. The government agency's official Internet website shall
21 prominently display a link to the notice website, which shall be an
22 index webpage containing a list of all current legal notices of the
23 agency, with links to the full text of those notices in lieu of
24 summaries of the notices. The index webpage shall also contain a
25 search function and other features that improve public accessibility
26 to legal notices;

27 d. (1) The official Internet website with a link to the notice
28 website, as well as the notice website itself, shall contain an e-mail
29 link or address to submit a complaint to the government agency if
30 any legal notice is inaccessible or the legal notice is deficient;

31 (2) The government agency shall review all complaints reported
32 pursuant to paragraph (1) of this subsection to determine the cause
33 of any access problem and shall document the findings and any
34 action taken to resolve it; and

35 (3) The government agency shall keep and make available for
36 public inspection all records of complaints and service accessibility
37 failures reported pursuant to paragraph (1) of this subsection;

38 e. Whenever a person is unable to access an electronic
39 publication of a government notice, the government agency shall
40 provide a copy of the notice to the person free of charge;

41 f. Whenever an electronically published legal notice is
42 inaccessible for 25 percent or more of the publication timeframe
43 provided by law, the legal notice shall be electronically published
44 for the entirety of that timeframe beginning anew from the day on
45 which access to the notice is restored, and the action for which the
46 legal notice is required shall be delayed accordingly;

47 g. Notices shall remain available on the notice website at least
48 until the last posting date required by law has expired or until the

1 event described in a notice has taken place, whichever occurs later;

2 h. The government agency shall create, or have provided by the
3 notice website contractor, and keep on file an electronic or paper-
4 based certification or affidavit of posting required for each legal
5 notice in the same manner as is done for printed notices. The
6 affidavit or certification shall state that the notice was posted from
7 the initial date through either the last posting date required by law
8 or the date when the event described in a notice takes place,
9 whichever occurs later. A certification need not be notarized. The
10 government agency shall provide a copy of the certification or
11 affidavit free of charge upon request;

12 i. The government agency shall designate one or more officials
13 to serve as contact persons who handle the intake and processing of
14 legal notices requested to be electronically published by a person,
15 and shall comply with the additional requirements of section 6 of
16 P.L. , c. (C.) (pending before the Legislature as this bill),
17 concerning the Internet publication of legal notices required to be
18 published by a person; and

19 j. The government agency shall designate an official to be
20 responsible for electronic publications and shall post that official's
21 name and contact information on the notice website.

22

23 6. (New section) a. A person required by law to publish an
24 official notice in one or more newspapers may cause the notice to
25 be electronically published on an appropriate State or local
26 government agency notice website, provided that:

27 (1) the appropriate State or local government agency maintains
28 an official notice website in accordance with section 5 of P.L. , c.
29 (C.) (pending before the Legislature as this bill);

30 (2) the person contacts the appropriate State or local government
31 agency and completes a written request for the publication of the
32 legal notice; and

33 (3) the notice meets all of the necessary content and time frame
34 requirements provided by law.

35 b. Upon satisfaction of the conditions in subsection a. of this
36 section, the appropriate State or local government agency shall
37 cause the notice to be electronically published on its official notice
38 website at no cost to the person.

39 c. The appropriate State or local government agency shall
40 provide the person a copy of the electronically published notice,
41 and a copy of the certification or affidavit of publishing required
42 under subsection g. of section 5 of P.L. , c. (C.) (pending
43 before the Legislature as this bill).

44

45 7. (New section) a. On or before the first day of the third
46 month next following the effective date of P.L. , c. (C.)
47 (pending before the Legislature as this bill), the Office of
48 Information Technology, in but not of the Department of the

1 Treasury, shall establish on the State Internet website a webpage
2 that contains a directory of all government agency notice websites
3 created pursuant to section 5 of P.L. , c. (C.) (pending
4 before the Legislature as this bill), and shall establish a link to the
5 directory webpage that is prominently displayed on the home
6 webpage of the State Internet website.

7 b. The Office of Information Technology shall continuously
8 maintain the directory webpage, and shall update the directory
9 webpage to include the notice website of a government agency
10 within 10 days after receiving notice from the government agency
11 that it has created a notice website.

12
13 8. (New section) a. Proof of publication of an electronically
14 published legal notice for the purpose of complying with public
15 notice requirements shall be satisfied and deemed conclusive upon
16 the provision of the certification or affidavit pursuant to subsection
17 g. of section 5 of P.L. , c. (C.) (pending before the
18 Legislature as this bill) by the official responsible for the electronic
19 publication, stating that the notice was posted from the initial date
20 until the last posting date required by law or until the event
21 described in a notice has taken place, whichever occurs later.

22 b. Any action for which a legal notice has been published solely
23 by electronic publication without meeting the requirements of P.L. ,
24 c. (C.) (pending before the Legislature as this bill), shall be
25 voidable in a proceeding before the Superior Court brought by any
26 person within 45 days after the action sought to be voided has been
27 made public; provided, however, that a government agency or
28 person may take corrective or remedial action by acting de novo
29 following the electronic publication of notice in accordance with
30 P.L. , c. (C.) (pending before the Legislature as this bill)
31 and other applicable law regarding the action.

32
33 9. (New section) Any local government agency which elects to
34 electronically publish legal notices on a notice website must
35 electronically publish, in addition to legal notices as defined by
36 section 3 of P.L. , c. (C.) (pending before the Legislature
37 as this bill), notice of any public meeting, the minutes of any
38 meeting of the governing body, the full text of any proposed
39 ordinance or resolution to be considered by the governing body, all
40 public contracts for goods or services, and, if the agency is a
41 municipality or county, the municipal or county code.

42
43 10. (New section) Any notice related to real property required
44 by law to be published in a newspaper, including but not limited to
45 a notice of foreclosure or sheriff's sale, may be electronically
46 published on the notice website of the sheriff of the county in which
47 the lands affected are located instead of in a newspaper, in
48 accordance with the provisions of P.L. , c. (C.) (pending

1 before the Legislature as this bill).

2

3 11. (New section) Savings that a local government agency
4 realizes from publishing legal notices by electronic publication in
5 lieu of newspaper publication pursuant to P.L. , c. (C.)
6 (pending before the Legislature as this bill) shall be used solely and
7 exclusively to reduce the amount required to be raised by the local
8 property tax levy.

9

10 12. (New section) On or before the first day of the third month
11 next following the effective date of P.L. , c. (C.) (pending
12 before the Legislature as this bill), the Chief Technology Officer of
13 the Office of Information Technology, in but not of the Department
14 of the Treasury, shall, in consultation with the Director of the
15 Division of Local Government Services in the Department of
16 Community Affairs, promulgate rules and regulations, pursuant to
17 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
18 seq.), in order to effectuate the provisions of P.L. , c. (C.)
19 (pending before the Legislature as this bill).

20

21 13. Section 3 of P.L.1975, c.231 (C.10:4-8) is amended to read
22 as follows:

23 3. As used in **[this act]** P.L.1975, c.231 (C.10:4-6 et seq.):

24 a. "Public body" means a commission, authority, board, council,
25 committee or any other group of two or more persons organized
26 under the laws of this State, and collectively empowered as a
27 voting body to perform a public governmental function affecting the
28 rights, duties, obligations, privileges, benefits, or other legal
29 relations of any person, or collectively authorized to spend public
30 funds including the Legislature, but does not mean or include the
31 judicial branch of the government, any grand or petit jury, any
32 parole board or any agency or body acting in a parole capacity, the
33 State Commission of Investigation, the Apportionment Commission
34 established under Article IV, Section III, of the Constitution, or any
35 political party committee organized under Title 19 of the Revised
36 Statutes.

37 b. "Meeting" means and includes any gathering whether
38 corporeal or by means of communication equipment, which is
39 attended by, or open to, all of the members of a public body, held
40 with the intent, on the part of the members of the body present, to
41 discuss or act as a unit upon the specific public business of that
42 body. Meeting does not mean or include any such gathering (1)
43 attended by less than an effective majority of the members of a
44 public body, or (2) attended by or open to all the members of three
45 or more similar public bodies at a convention or similar gathering.

46 c. "Public business" means and includes all matters which relate
47 in any way, directly or indirectly, to the performance of the public
48 body's functions or the conduct of its business.

1 d. "Adequate notice" means written advance notice of at least 48
2 hours, giving the time, date, location and, to the extent known, the
3 agenda of any regular, special or rescheduled meeting, which notice
4 shall accurately state whether formal action may or may not be
5 taken and which shall be (1) prominently posted in at least one
6 public place reserved for such or similar announcements, (2) either
7 (a) electronically published on the notice website of the public body
8 pursuant to the "Electronic Publication of Legal Notices Act," P.L. ,
9 c. (C.) (pending before the Legislature as this bill), or (b)
10 mailed, telephoned, telegrammed, or hand delivered to at least two
11 newspapers which newspapers shall be designated by the public
12 body to receive such notices because they have the greatest
13 likelihood of informing the public within the area of jurisdiction of
14 the public body of such meetings, one of which shall be the official
15 newspaper, where any such has been designated by the public body
16 or if the public body has failed to so designate, where any has been
17 designated by the governing body of the political subdivision whose
18 geographic boundaries are coextensive with that of the public body,
19 and (3) filed with the clerk of the municipality when the public
20 body's geographic boundaries are coextensive with that of a single
21 municipality, with the clerk of the county when the public body's
22 geographic boundaries are coextensive with that of a single county,
23 and with the Secretary of State if the public body has Statewide
24 jurisdiction. For any other public body the filing shall be with the
25 clerk or chief administrative officer of such other public body and
26 each municipal or county clerk of each municipality or county
27 encompassed within the jurisdiction of such public body. Where
28 annual notice or revisions thereof in compliance with section 13 of
29 **【this act】** P.L.1975, c.231 (C.10:4-18) set forth the location of any
30 meeting, no further notice shall be required for such meeting.
31 (cf: P.L.1981, c.176, s.2)
32

33 14. Section 4 of P.L.1975, c.231 (C.10:4-9) is amended to read
34 as follows:

35 4. a. Except as provided by subsection b. of this section, or for
36 any meeting limited only to consideration of items listed in **【section**
37 **7. b.】** subsection b. of section 7 of P.L.1975, c.231 (C.10:4-12), no
38 public body shall hold a meeting unless adequate notice thereof has
39 been provided to the public.

40 b. Upon the affirmative vote of three quarters of the members
41 present a public body may hold a meeting notwithstanding the
42 failure to provide adequate notice if:

43 (1) such meeting is required in order to deal with matters of such
44 urgency and importance that a delay for the purpose of providing
45 adequate notice would be likely to result in substantial harm to the
46 public interest; and

47 (2) the meeting is limited to discussion of and acting with respect
48 to such matters of urgency and importance; and

1 (3) notice of such meeting is provided as soon as possible
2 following the calling of such meeting by posting written notice of
3 the same in the public place described in **[section 3. d. above]**
4 subsection d. of section 3 of P.L.1975, c.231 (C.10:4-8), and also by
5 either (a) electronically publishing the notice on the notice website
6 of the public body pursuant to the “Electronic Publication of Legal
7 Notices Act,” P.L. , c. (C.) (pending before the Legislature
8 as this bill), or (b) notifying the two newspapers described in
9 **[section 3. d.] subsection d. of section 3 of P.L.1975, c.231**
10 (C.10:4-8) by telephone, telegram, or by delivering a written notice
11 of same to such newspapers; and

12 (4) either (a) the public body could not reasonably have foreseen
13 the need for such meeting at a time when adequate notice could
14 have been provided; or (b) although the public body could
15 reasonably have foreseen the need for such meeting at a time when
16 adequate notice could have been provided, it nevertheless failed to
17 do so.

18 (cf: P.L.1975, c.231, s.4)

19

20 15. N.J.S.2A:61-1 is amended to read as follows:

21 2A:61-1. When any sheriff, coroner, master, executor,
22 administrator, guardian, commissioner, auditor or other officer or
23 person is authorized or required by any public statute or the
24 direction of any court of competent jurisdiction in this State to
25 make sales of real estate, he shall, unless otherwise specially
26 directed or authorized by law, before making the sale, give notice of
27 the time and place of the sale by public advertisement, signed by
28 himself, and set up in the office of the sheriff of the county or
29 counties where the real estate is located and at the premises to be
30 sold, at least **[3] three** weeks before the time appointed for the sale.
31 The notice need not be set up at any other place. The notice of sale
32 shall include either a diagram of the premises or a concise statement
33 indicating the municipality, the tax lot and block and where
34 appropriate, the street and street number, and the dimensions of the
35 premises, as well as the number of feet to the nearest cross street.
36 The notice of sale shall state that the diagram or concise description
37 does not constitute a full legal description of the premises, and shall
38 state where the full legal description can be found.

39 Such officer or person shall also cause the notice to be published
40 **[4] either electronically on the notice website of the municipality**
41 where the lands affected are located or the applicable county
42 pursuant to the “Electronic Publication of Legal Notices Act,” P.L. ,
43 c. (C.) (pending before the Legislature as this bill), or four
44 times, at least once a week, during **[4] four** consecutive weeks, in
45 two newspapers, to be by him designated,

46 (a) both printed and published in the county where the real estate
47 to be sold is located, one of which shall be either a newspaper

1 published at the county seat of the county or a newspaper published
2 in the municipality in the county having the largest population
3 according to the latest census, or

4 (b) one printed and published in the county and one circulating in
5 the county, if only one daily newspaper is printed and published in
6 the county, or

7 (c) one published at the county seat and one circulating in the
8 county, if no daily newspaper is published in the county, or

9 (d) both circulating in the county, if no newspapers are printed
10 and published in the county.

11 The first publication shall be at least 21 days prior and the last
12 publication not more than **[8]** eight days prior to the time appointed
13 for the sale of the real estate.

14 Whenever, in the opinion of any such officer or person, the ends
15 of justice shall require it, or the sale being conducted by him will be
16 benefited thereby, and the notice of sale is not electronically
17 published, the notice of sale may be published in three newspapers
18 instead of two as required by the second paragraph of this section, if
19 there be that number printed and published in the county where the
20 real estate to be sold is located.

21 The officer or person so advertising in the newspapers shall be
22 entitled therefor, in addition to his other fees, to the sum of \$1.50,
23 except where it is otherwise specifically provided.

24 (cf: P.L.1979, c.364, s.1)

25

26 16. Section 49 of P.L.1999, c.440 (C.18A:18A-4.5) is amended
27 to read as follows:

28 49. Competitive contracting proposals shall be solicited in the
29 following manner:

30 a. A notice of the availability of request for proposal
31 documentation shall be published either (1) electronically on the
32 notice website of the school district or applicable municipality or
33 county pursuant to the "Electronic Publication of Legal Notices
34 Act," P.L. , c. (C.) (pending before the Legislature as this
35 bill), or (2) in an official newspaper of the board of education at
36 least 20 days prior to the date established for the submission of
37 proposals. The board of education shall promptly reply to any
38 request by an interested vendor by providing a copy of the request
39 for proposals. The board of education may charge a fee for the
40 proposal documentation that shall not exceed **[\$50.00]** \$50 or the
41 cost of reproducing the documentation, whichever is greater.

42 b. Each interested vendor shall submit a proposal which shall
43 include all the information required by the request for proposals.
44 Failure to meet the requirements of the request for proposals may
45 result in the board of education disqualifying the vendor from
46 further consideration. Under no circumstances shall the provisions
47 of a proposal be subject to negotiation by the board of education.

1 c. If the board of education, at the time of solicitation, utilizes
2 its own employees to provide the goods or perform the services, or
3 both considered for competitive contracting, the board of education
4 shall, at any time prior to, but no later than the time of solicitation
5 for competitive contracting proposals, notify affected employees of
6 the board of education's intention to solicit competitive contracting
7 proposals. Employees or their representatives shall be permitted to
8 submit recommendations and proposals affecting wages, hours, and
9 terms and conditions of employment in such a manner as to meet
10 the goals of the competitive contract. If employees are represented
11 by an organization that has negotiated a contract with the board of
12 education, only the bargaining unit shall be authorized to submit
13 such recommendations or proposals. When requested by such
14 employees, the board of education shall provide such information
15 regarding budgets and the costs of performing the services by such
16 employees as may be available. Nothing shall prevent such
17 employees from making recommendations that may include
18 modifications to existing labor agreements in order to reduce such
19 costs in lieu of award of a competitive contract, and agreements
20 implementing such recommendations may be considered as cause
21 for rejecting all other proposals.

22 d. The purchasing agent or counsel or school business
23 administrator shall evaluate all proposals only in accordance with
24 the methodology described in the request for proposals. After
25 proposals have been evaluated, the purchasing agent or counsel or
26 school business administrator shall prepare a report evaluating and
27 recommending the award of a contract or contracts. The report
28 shall list the names of all potential vendors who submitted a
29 proposal and shall summarize the proposals of each vendor. The
30 report shall rank vendors in order of evaluation, shall recommend
31 the selection of a vendor or vendors, as appropriate, for a contract,
32 shall be clear in the reasons why the vendor or vendors have been
33 selected among others considered, and shall detail the terms,
34 conditions, scope of services, fees, and other matters to be
35 incorporated into a contract. The report shall be made available to
36 the public at least 48 hours prior to the awarding of the contract, or
37 when made available to the board of education, whichever is
38 sooner. The board of education shall have the right to reject all
39 proposals for any of the reasons set forth in N.J.S.18A:18A-22.

40 e. Award of a contract shall be made by resolution of the board
41 of education within 60 days of the receipt of the proposals, except
42 that the proposals of any vendors who consent thereto, may, at the
43 request of the board of education, be held for consideration for such
44 longer period as may be agreed.

45 f. The report prepared pursuant to subsection d. of this section
46 shall become part of the public record and shall reflect the final
47 action of the board of education. Contracts shall be executed
48 pursuant to N.J.S.18A:18A-40.

1 g. The secretary of the board of education shall publish a notice
2 either (1) electronically on the notice website of the school district
3 or applicable municipality or county pursuant to the “Electronic
4 Publication of Legal Notices Act,” P.L. , c. (C.) (pending
5 before the Legislature as this bill), or (2) in the official newspaper
6 of the board of education summarizing the award of a contract,
7 which shall include but not be limited to, the nature, duration, and
8 amount of the contract, the name of the vendor and a statement that
9 the resolution and contract are on file and available for public
10 inspection in the office of the secretary of the board of education.

11 h. The Director of the Division of Local Government Services
12 in the Department of Community Affairs, after consultation with the
13 Commissioner of Education, may adopt additional rules and
14 regulations, in accordance with the "Administrative Procedure Act,"
15 P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to
16 effectuate the provisions of sections 45 through 49 of P.L.1999,
17 c.440 (C.18A:18A-4.1 through C.18A:18A-4.5).
18 (cf: P.L.1999, c.440, s.49)

19

20 17. N.J.S.18A:22-11 is amended to read as follows:

21 18A:22-11. The board of education shall cause notice of such
22 public hearing and the statement annexed to the budget to be
23 published either electronically on the notice website of the school
24 district or applicable municipality or county pursuant to the
25 “Electronic Publication of Legal Notices Act,” P.L. , c. (C.)
26 (pending before the Legislature as this bill), or at least once in at
27 least one newspaper published in the district and if no newspaper be
28 published therein, then in at least one newspaper circulating in said
29 district not less than four days prior to the date fixed for such public
30 hearing.

31 (cf: P.L.1995, c.278, s.41)

32

33 18. Section 3 of P.L.1960, c.183 (C.40:37A-46) is amended to
34 read as follows:

35 3. The governing body of a county may by ordinance or
36 resolution, as appropriate, create a public body corporate and politic
37 under and pursuant to **【this act】** P.L.1960, c.183 (C.40:37A-44 et
38 seq.), under the name and style of "the county improvement
39 authority," with all or any significant part of the name of said
40 county inserted. Said body shall consist of the 5 members thereof,
41 who shall be residents of the county and be appointed by ordinance
42 or resolution of said governing body as hereinafter provided, and it
43 shall constitute the authority contemplated and provided for in **【this**
44 **act】** P.L.1960, c.183 (C.40:37A-44 et seq.) and an agency or
45 instrumentality of said county. Copies of said ordinance or
46 resolution for the creation of the authority, certified by the clerk of
47 said governing body, shall be filed in the office of the Secretary of
48 State and in the office of the Division of Local Government

1 Services in the Department of Community Affairs. A copy of any
2 such certified ordinance or resolution, duly certified by or on behalf
3 of the Secretary of State, shall be admissible in evidence in any
4 action or proceeding and shall be conclusive evidence of due and
5 proper adoption and filing thereof as aforesaid. After such filing in
6 the office of the Secretary of State, a copy of said ordinance or
7 resolution shall be published either electronically on the notice
8 website of the county pursuant to the “Electronic Publication of
9 Legal Notices Act,” P.L. _____, c. _____ (C. _____) (pending before the
10 Legislature as this bill), or at least once in a newspaper published or
11 circulating in the county, together with a notice stating the fact and
12 date of its adoption and the date of the first publication of such
13 notice. If no action questioning the validity of the creation or
14 establishment of the authority shall be commenced within 45 days
15 after the first publication of such notice, then said authority shall be
16 conclusively deemed to have been validly created and established
17 and authorized to transact business and exercise powers as a public
18 body created pursuant to [this act] P.L.1960, c.183 (C.40:37A-44
19 et seq.).

20 (cf: P.L.1982, c.113, s.2)

21

22 19. Section 19 of P.L.1960, c.183 (C.40:37A-62) is amended to
23 read as follows:

24 19. An authority shall cause a copy of any bond resolution
25 adopted by it to be filed for public inspection in its office and in the
26 office of the clerk of the governing body of the county, and if the
27 public facility financed by such bond resolution benefits a
28 beneficiary county, in the office of the clerk of the governing body
29 of the beneficiary county, and may thereupon cause to be published
30 either electronically on the notice website of the county, and if
31 applicable, any beneficiary county, pursuant to the “Electronic
32 Publication of Legal Notices Act,” P.L. _____, c. _____ (C. _____) (pending
33 before the Legislature as this bill), or at least once in a newspaper
34 published or circulating in the county, and if applicable, any
35 beneficiary county, a notice stating the fact and date of such
36 adoption and the places where such bond resolution has been so
37 filed for public inspection and also the date of the first publication
38 of such notice and also stating that any action or proceeding of any
39 kind or nature in any court questioning the validity or proper
40 authorization of bonds provided for by the bond resolution, or the
41 validity of any covenants, agreements or contracts provided for by
42 the bond resolution shall be commenced within 20 days after the
43 first publication of such notice. If any such notice shall at any time
44 be published and if no action or proceeding questioning the validity
45 or proper authorization of bonds provided for by the bond
46 resolution referred to in said notice, or the validity of any
47 covenants, agreements or contracts provided for by said bond
48 resolution shall be commenced or instituted within 20 days after the

1 first publication of said notice, then all residents and taxpayers and
2 owners of property in the county and, if applicable, any beneficiary
3 county and all other persons shall be forever barred and foreclosed
4 from instituting or commencing any action or proceeding in any
5 court, or from pleading any defense to any action or proceeding,
6 questioning the validity or proper authorization of such bonds, or
7 the validity of such covenants, agreements or contracts, and said
8 bonds, covenants, agreements and contracts shall be conclusively
9 deemed to be valid and binding obligations in accordance with their
10 terms and tenor.

11 (cf: P.L.1994, c.76, s.6)

12

13 20. Section 30 of P.L.1960, c.183 (C.40:37A-73) is amended to
14 read as follows:

15 30. Each authority shall cause notice of the filing of a
16 declaration of taking of property as provided in **【this act】** P.L.1960,
17 c.183 (C.40:37A-44 et seq.) and of the making of the deposit
18 required by **【this act】** P.L.1960, c.183 (C.40:37A-44 et seq.) with
19 respect thereto to be served upon each party to the action to fix the
20 compensation to be paid who resides in the State, either personally
21 or by leaving a copy thereof at his residence if known, and upon
22 each such party who resides out of the State, by mailing a copy
23 thereof to him at his residence if known. In the event that the
24 residence of any such party or the name of such party is unknown,
25 such notice shall be published either electronically on the notice
26 website of the county or counties in which the property is located
27 pursuant to the “Electronic Publication of Legal Notices Act,” P.L. ,
28 c. (C.) (pending before the Legislature as this bill), or at least
29 once in a newspaper published or circulating in the county or
30 counties in which the property is located. Such service, mailing or
31 publication shall be made within 30 days after filing such
32 declaration. Upon the application of any party in interest and after
33 notice to other parties in interest, including the authority, the
34 Superior Court may direct that the money deposited with the Clerk
35 of the Superior Court or any part thereof be paid forthwith to the
36 person or persons entitled thereto for or on account of the just
37 compensation to be awarded in said action, provided that each such
38 person shall have filed with the Clerk of the Superior Court a
39 consent in writing that, in the event the award in the said action
40 shall be less than the amount deposited, the court, after such notice
41 as the court prescribes and hearing, may determine his liability, if
42 any, for the return of the difference or any part thereof and enter
43 judgment therefor. If the amount of the award as finally determined
44 shall exceed the amount so deposited, the person or persons to
45 whom the award is payable shall be entitled to recover from the
46 authority the difference between the amount of the deposit and the
47 amount of the award, with interest at the rate of 6% per annum
48 thereon from the date of making the deposit. If the amount of the

1 award as so determined shall be less than the amount so deposited,
2 the Clerk of the Superior Court shall return the difference between
3 the amount of the award and the deposit to the authority unless the
4 deposit or any part thereof shall have theretofore been distributed,
5 in which event the court, on application of the authority and notice
6 to all persons interested in the award and affording them an
7 opportunity to be heard, shall enter judgment in favor of the
8 authority for the difference against the party or parties liable for the
9 return thereof.

10 (cf: P.L.1960, c.183, s.30)

11
12 21. R.S.40:53-2 is amended to read as follows:

13 40:53-2. All ordinances or other public notices which any
14 municipality, except cities, may be required by any law to publish,
15 where the manner of publication is not otherwise specifically
16 provided for, shall be published either electronically on the notice
17 website of the municipality or applicable county pursuant to the
18 "Electronic Publication of Legal Notices Act," P.L. , c. (C.)
19 (pending before the Legislature as this bill), or in at least one
20 newspaper published and circulating in the municipality, and if
21 there be no such newspaper, then in at least one newspaper
22 published in the county in which the municipality is located and
23 circulating in the municipality.

24 (cf: R.S.40:53-2)

25
26 22. Section 6 of P.L.1975, c.291 (C.40:55D-10) is amended to
27 read as follows:

28 6. Hearings. a. The municipal agency shall hold a hearing on
29 each application for development, adoption, revision or amendment
30 of the master plan, each application for approval of an outdoor
31 advertising sign submitted to the municipal agency as required
32 pursuant to an ordinance adopted under subsection g. of section
33 29.1 of P.L.1975, c.291 (C.40:55D-39) or any review undertaken by
34 a planning board pursuant to section 22 of P.L.1975, c.291
35 (C.40:55D-31).

36 b. The municipal agency shall make the rules governing such
37 hearings. Any maps and documents for which approval is sought at
38 a hearing shall be on file and available for public inspection at least
39 10 days before the date of the hearing, during normal business
40 hours in the office of the administrative officer. The applicant may
41 produce other documents, records, or testimony at the hearing to
42 substantiate or clarify or supplement the previously filed maps and
43 documents.

44 c. The officer presiding at the hearing or such person as he may
45 designate shall have power to administer oaths and issue subpoenas
46 to compel the attendance of witnesses and the production of
47 relevant evidence, including witnesses and documents presented by
48 the parties, and the provisions of the "County and Municipal

1 Investigations Law," P.L.1953, c.38 (C.2A:67A-1 et seq.) shall
2 apply.

3 d. The testimony of all witnesses relating to an application for
4 development shall be taken under oath or affirmation by the
5 presiding officer, and the right of cross-examination shall be
6 permitted to all interested parties through their attorneys, if
7 represented, or directly, if not represented, subject to the discretion
8 of the presiding officer and to reasonable limitations as to time and
9 number of witnesses.

10 e. Technical rules of evidence shall not be applicable to the
11 hearing, but the agency may exclude irrelevant, immaterial or
12 unduly repetitious evidence.

13 f. The municipal agency shall provide for the verbatim
14 recording of the proceedings by either stenographer, mechanical or
15 electronic means. The municipal agency shall furnish a transcript,
16 or duplicate recording in lieu thereof, on request to any interested
17 party at his expense; provided that the governing body may provide
18 by ordinance for the municipality to assume the expense of any
19 transcripts necessary for appeal to the governing body, pursuant to
20 section 8 of **[this act]** P.L.1975, c.291 (C.40:55D-17), of decisions
21 by the zoning board of adjustment pursuant to subsection **[57d.] d.**
22 of **[this act]** section 57 of P.L.1975, c.291 (C.40:55D-70), up to a
23 maximum amount as specified by the ordinance.

24 The municipal agency, in furnishing a transcript or tape of the
25 proceedings to an interested party at his expense, shall not charge
26 such interested party more than the actual cost of preparing the
27 transcript or tape. Transcripts shall be certified in writing by the
28 transcriber to be accurate.

29 g. The municipal agency shall include findings of fact and
30 conclusions based thereon in each decision on any application for
31 development and shall reduce the decision to writing. The
32 municipal agency shall provide the findings and conclusions
33 through:

34 (1) A resolution adopted at a meeting held within the time
35 period provided in the act for action by the municipal agency on the
36 application for development; or

37 (2) A memorializing resolution adopted at a meeting held not
38 later than 45 days after the date of the meeting at which the
39 municipal agency voted to grant or deny approval. Only the
40 members of the municipal agency who voted for the action taken
41 may vote on the memorializing resolution, and the vote of a
42 majority of such members present at the meeting at which the
43 resolution is presented for adoption shall be sufficient to adopt the
44 resolution. If only one member who voted for the action attends the
45 meeting at which the resolution is presented for adoption, the
46 resolution may be adopted upon the vote of that member. An action
47 pursuant to section 5 of **[the act]** P.L. 1975, c.291 (C.40:55D-9)
48 (resulting from the failure of a motion to approve an application)

1 shall be memorialized by resolution as provided above, with those
2 members voting against the motion for approval being the members
3 eligible to vote on the memorializing resolution. The vote on any
4 such resolution shall be deemed to be a memorialization of the
5 action of the municipal agency and not to be an action of the
6 municipal agency; however, the date of the adoption of the
7 resolution shall constitute the date of the decision for purposes of
8 the mailings, filings and publications required by subsections h. and
9 i. of this section (C.40:55D-10). If the municipal agency fails to
10 adopt a resolution or memorializing resolution as hereinabove
11 specified, any interested party may apply to the Superior Court in a
12 summary manner for an order compelling the municipal agency to
13 reduce its findings and conclusions to writing within a stated time,
14 and the cost of the application, including attorney's fees, shall be
15 assessed against the municipality.

16 h. A copy of the decision shall be mailed by the municipal
17 agency within 10 days of the date of decision to the applicant or, if
18 represented, then to his attorney, without separate charge, and to all
19 who request a copy of the decision, for a reasonable fee. A copy of
20 the decision shall also be filed by the municipal agency in the office
21 of the administrative officer. The administrative officer shall make
22 a copy of such filed decision available to any interested party for a
23 reasonable fee and available for public inspection at his office
24 during reasonable hours.

25 i. A brief notice of the decision shall be published either (1)
26 electronically on the notice website of the municipality or
27 applicable county pursuant to the "Electronic Publication of Legal
28 Notices Act," P.L. , c. (C.) (pending before the Legislature
29 as this bill), or (2) in the official newspaper of the municipality, if
30 there be one, or in a newspaper of general circulation in the
31 municipality. Such publication shall be arranged by the applicant
32 unless a particular municipal officer is so designated by ordinance;
33 provided that nothing contained in [this act] P.L.1975, c.291
34 (C.40:55D-1 et seq.) shall be construed as preventing the applicant
35 from arranging such publication if he so desires. The municipality
36 may make a reasonable charge for its publication. The period of
37 time in which an appeal of the decision may be made shall run from
38 the first publication of the decision, whether arranged by the
39 municipality or the applicant.

40 (cf: P.L.2004, c.42, s.5)

41

42 23. Section 5 of P.L.1985, c.516 (C.40:55D-10.4) is amended to
43 read as follows:

44 5. An applicant shall comply with the provisions of this section
45 whenever the applicant wishes to claim approval of his application
46 for development by reason of the failure of the municipal agency to
47 grant or deny approval within the time period provided in the

1 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.)
2 or any supplement thereto.

3 a. The applicant shall provide notice of the default approval to
4 the municipal agency and to all those entitled to notice by personal
5 service or certified mail of the hearing on the application for
6 development; but for purposes of determining who is entitled to
7 notice, the hearing on the application for development shall be
8 deemed to have required public notice pursuant to subsection a. of
9 section 7.1 of P.L.1975, c.291 (C.40:55D-12).

10 b. The applicant shall arrange publication of a notice of the
11 default approval either (1) electronically on the notice website of
12 the municipality or applicable county pursuant to the "Electronic
13 Publication of Legal Notices Act," P.L. , c. (C.) (pending
14 before the Legislature as this bill), or (2) in the official newspaper
15 of the municipality, if there be one, or in a newspaper of general
16 circulation in the municipality.

17 c. The applicant shall file an affidavit of proof of service and
18 publication with the administrative officer, who in the case of a
19 minor subdivision or final approval of a major subdivision, shall be
20 the officer who issues certificates pursuant to section 35, subsection
21 b. of section 38 or subsection c. of section 63 of P.L.1975, c.291
22 (C.40:55D-47; C.40:55D-50; C.40:55D-76), as the case may be.
23 (cf: P.L.1985, c.516, s.5)

24
25 24. Section 7.1 of P.L.1975, c.291 (C.40:55D-12) is amended to
26 read as follows:

27 7.1. Notice pursuant to subsections a., b., d., e., f., g. and h. of
28 this section shall be given by the applicant unless a particular
29 municipal officer is so designated by ordinance; provided that
30 nothing contained herein shall prevent the applicant from giving
31 such notice if he so desires. Notice pursuant to subsections a., b.,
32 d., e., f., g. and h. of this section shall be given at least 10 days prior
33 to the date of the hearing.

34 a. Public notice of a hearing shall be given for an extension of
35 approvals for five or more years under subsection d. of section 37
36 of P.L.1975, c.291 (C.40:55D-49) and subsection b. of section 40 of
37 P.L.1975, c.291 (C.40:55D-52); for modification or elimination of a
38 significant condition or conditions in a memorializing resolution in
39 any situation wherein the application for development for which the
40 memorializing resolution is proposed for adoption required public
41 notice, and for any other applications for development, with the
42 following exceptions: (1) conventional site plan review pursuant to
43 section 34 of P.L.1975, c.291 (C.40:55D-46), (2) minor
44 subdivisions pursuant to section 35 of P.L.1975, c.291 (C.40:55D-
45 47) or (3) final approval pursuant to section 38 of P.L.1975, c.291
46 (C.40:55D-50); notwithstanding the foregoing, the governing body
47 may by ordinance require public notice for such categories of site
48 plan review as may be specified by ordinance, for appeals of

1 determinations of administrative officers pursuant to subsection a.
2 of section 57 of P.L.1975, c.291 (C.40:55D-70), and for requests for
3 interpretation pursuant to subsection b. of section 57 of P.L.1975,
4 c.291 (C.40:55D-70). Public notice shall also be given in the event
5 that relief is requested pursuant to section 47 or 63 of P.L.1975,
6 c.291 (C.40:55D-60 or C.40:55D-76) as part of an application for
7 development otherwise excepted herein from public notice.

8 In addition, public notice shall be given by a public entity
9 seeking to erect an outdoor advertising sign on land owned or
10 controlled by a public entity as required pursuant to section 22 of
11 P.L.1975, c.291 (C.40:55D-31) or, if so provided by ordinance
12 adopted pursuant to subsection g. of section 29.1 of P.L.1975, c.291
13 (C.40:55D-39), by a private entity seeking to erect an outdoor
14 advertising sign on public land or on land owned by a private entity.

15 Public notice shall be given by publication either electronically
16 on the notice website of the municipality or applicable county
17 pursuant to the "Electronic Publication of Legal Notices Act," P.L. ,
18 c. (C.) (pending before the Legislature as this bill), or in the
19 official newspaper of the municipality, if there be one, or in a
20 newspaper of general circulation in the municipality.

21 b. Except as provided in paragraph (2) of subsection h. of this
22 section, notice of a hearing requiring public notice pursuant to
23 subsection a. of this section shall be given to the owners of all real
24 property as shown on the current tax duplicates, located in the State
25 and within 200 feet in all directions of the property which is the
26 subject of such hearing; provided that this requirement shall be
27 deemed satisfied by notice to the (1) condominium association, in
28 the case of any unit owner whose unit has a unit above or below it,
29 or (2) horizontal property regime, in the case of any co-owner
30 whose apartment has an apartment above or below it. Notice shall
31 be given by: (1) serving a copy thereof on the property owner as
32 shown on the said current tax duplicate, or his agent in charge of the
33 property, or (2) mailing a copy thereof by certified mail to the
34 property owner at his address as shown on the said current tax
35 duplicate.

36 Notice to a partnership owner may be made by service upon any
37 partner. Notice to a corporate owner may be made by service upon
38 its president, a vice president, secretary or other person authorized
39 by appointment or by law to accept service on behalf of the
40 corporation. Notice to a condominium association, horizontal
41 property regime, community trust or homeowners' association,
42 because of its ownership of common elements or areas located
43 within 200 feet of the property which is the subject of the hearing,
44 may be made in the same manner as to a corporation without further
45 notice to unit owners, co-owners, or homeowners on account of
46 such common elements or areas.

47 c. Upon the written request of an applicant, the administrative
48 officer of a municipality shall, within seven days, make and certify

1 a list from said current tax duplicates of names and addresses of
2 owners to whom the applicant is required to give notice pursuant to
3 subsection b. of this section. In addition, the administrative officer
4 shall include on the list the names, addresses and positions of those
5 persons who, not less than seven days prior to the date on which the
6 applicant requested the list, have registered to receive notice
7 pursuant to subsection h. of this section. The applicant shall be
8 entitled to rely upon the information contained in such list, and
9 failure to give notice to any owner, to any public utility, cable
10 television company, or local utility or to any military facility
11 commander not on the list shall not invalidate any hearing or
12 proceeding. A sum not to exceed \$0.25 per name, or \$10.00,
13 whichever is greater, may be charged for such list.

14 d. Notice of hearings on applications for development
15 involving property located within 200 feet of an adjoining
16 municipality shall be given by personal service or certified mail to
17 the clerk of such municipality.

18 e. Notice shall be given by personal service or certified mail to
19 the county planning board of a hearing on an application for
20 development of property adjacent to an existing county road or
21 proposed road shown on the official county map or on the county
22 master plan, adjoining other county land or situated within 200 feet
23 of a municipal boundary.

24 f. Notice shall be given by personal service or certified mail to
25 the Commissioner of Transportation of a hearing on an application
26 for development of property adjacent to a State highway.

27 g. Notice shall be given by personal service or certified mail to
28 the State Planning Commission of a hearing on an application for
29 development of property which exceeds 150 acres or 500 dwelling
30 units. The notice shall include a copy of any maps or documents
31 required to be on file with the municipal clerk pursuant to
32 subsection b. of section 6 of P.L.1975, c.291 (C.40:55D-10).

33 h. Notice of hearings on applications for approval of a major
34 subdivision or a site plan not defined as a minor site plan under
35 **[this act]** P.L.1975, c.291 (C.40:55D-1 et seq.) requiring public
36 notice pursuant to subsection a. of this section shall be given: (1) in
37 the case of a public utility, cable television company or local utility
38 which possesses a right-of-way or easement within the municipality
39 and which has registered with the municipality in accordance with
40 section 5 of P.L.1991, c.412 (C.40:55D-12.1), by (I) serving a copy
41 of the notice on the person whose name appears on the registration
42 form on behalf of the public utility, cable television company or
43 local utility or (ii) mailing a copy thereof by certified mail to the
44 person whose name appears on the registration form at the address
45 shown on that form; (2) in the case of a military facility which has
46 registered with the municipality and which is situated within 3,000
47 feet in all directions of the property which is the subject of the
48 hearing, by (I) serving a copy of the notice on the military facility

1 commander whose name appears on the registration form or (ii)
2 mailing a copy thereof by certified mail to the military facility
3 commander at the address shown on that form.

4 i. The applicant shall file an affidavit of proof of service with
5 the municipal agency holding the hearing on the application for
6 development in the event that the applicant is required to give
7 notice pursuant to this section.

8 j. Notice pursuant to subsections d., e., f., g. and h. of this
9 section shall not be deemed to be required, unless public notice
10 pursuant to subsection a. and notice pursuant to subsection b. of this
11 section are required.

12 (cf: P.L.2005, c.41, s.3)

13

14 25. Section 7.2 of P.L.1975, c.291 (C.40:55D-13) is amended to
15 read as follows:

16 7.2. Notice concerning master plan. The planning board shall
17 give:

18 (1) Public notice of a hearing on adoption, revision or
19 amendment of the master plan; such notice shall be given by
20 publication (a) either electronically on the notice website of the
21 municipality or applicable county pursuant to the “Electronic
22 Publication of Legal Notices Act,” P.L. , c. (C.) (pending
23 before the Legislature as this bill), or (b) in the official newspaper
24 of the municipality, if there be one, or in a newspaper of general
25 circulation in the municipality at least 10 days prior to the date of
26 the hearing;

27 (2) Notice by personal service or certified mail to the clerk of an
28 adjoining municipality of all hearings on adoption, revision or
29 amendment of a master plan involving property situated within 200
30 feet of such adjoining municipality at least 10 days prior to the date
31 of any such hearing;

32 (3) Notice by personal service or certified mail to the Office of
33 Planning Advocacy and to the county planning board in which the
34 municipality is situated, of (a) all hearings on the adoption, revision
35 or amendment of the municipal master plan at least 10 days prior to
36 the date of the hearing; such notice shall include a copy of any such
37 proposed master plan, or any revision or amendment thereto; and
38 (b) the adoption, revision or amendment of the master plan not more
39 than 30 days after the date of such adoption, revision or
40 amendment; such notice shall include a copy of the master plan or
41 revision or amendment thereto;

42 (4) Notice by personal service or certified mail to the military
43 facility commander of a military facility which has registered with
44 the municipality pursuant to section 1 of P.L.2005, c.41 (C.40:55D-
45 12.4) of (a) all hearings on the adoption, revision, or amendment of
46 the municipal master plan at least 10 days prior to the date of the
47 hearing; such notice shall include a copy of any such proposed
48 master plan, or any revision or amendment thereto; and (b) the

1 adoption, revision, or amendment of the master plan not more than
2 30 days after the date of such adoption, revision, or amendment;
3 such notice shall include a copy of the master plan or revision or
4 amendment thereto.

5 (cf: P.L.2016, c.21, s.3)

6

7 26. Section 8 of P.L.1975, c.291 (C.40:55D-17) is amended to
8 read as follows:

9 8. Appeal to the governing body; time; notice; modification;
10 stay of proceedings. a. Any interested party may appeal to the
11 governing body any final decision of a board of adjustment
12 approving an application for development pursuant to subsection d.
13 of section 57 of P.L.1975, c.291 (C.40:55D-70), if so permitted by
14 ordinance. Such appeal shall be made within 10 days of the date of
15 publication of such final decision pursuant to subsection i. of
16 section 6 of P.L.1975, c.291 (C.40:55D-10). In the case of any
17 board established pursuant to article 10 of P.L.1975, c.291, the
18 governing body of the municipality in which the land is situated
19 shall be the "governing body" for purposes of this section. The
20 appeal to the governing body shall be made by serving the
21 municipal clerk in person or by certified mail with a notice of
22 appeal, specifying the grounds thereof and the name and address of
23 the appellant and name and address of his attorney, if represented.
24 Such appeal shall be decided by the governing body only upon the
25 record established before the board of adjustment.

26 b. Notice of the meeting to review the record below shall be
27 given by the governing body by personal service or certified mail to
28 the appellant, to those entitled to notice of a decision pursuant to
29 subsection h. of section 6 of P.L.1975, c.291 (C.40:55D-10) and to
30 the board from which the appeal is taken, at least 10 days prior to
31 the date of the meeting. The parties may submit oral and written
32 argument on the record at such meeting, and the governing body
33 shall provide for verbatim recording and transcripts of such meeting
34 pursuant to subsection f. of section 6 of P.L.1975, c.291 (C.40:55D-
35 10).

36 c. The appellant shall, (1) within five days of service of the
37 notice of the appeal pursuant to subsection a. hereof, arrange for a
38 transcript pursuant to subsection f. of section 6 of P.L.1975, c.291
39 (C.40:55D-10) for use by the governing body and pay a deposit of
40 \$50.00 or the estimated cost of such transcript, whichever is less, or
41 (2) within 35 days of service of the notice of appeal, submit a
42 transcript as otherwise arranged to the municipal clerk; otherwise,
43 the appeal may be dismissed for failure to prosecute.

44 The governing body shall conclude a review of the record below
45 not later than 95 days from the date of publication of notice of the
46 decision below pursuant to subsection i. of section 6 of P.L.1975,
47 c.291 (C.40:55D-10), unless the applicant consents in writing to an
48 extension of such period. Failure of the governing body to hold a

1 hearing and conclude a review of the record below and to render a
2 decision within such specified period shall constitute a decision
3 affirming the action of the board.

4 d. The governing body may reverse, remand, or affirm with or
5 without the imposition of conditions the final decision of the board
6 of adjustment approving a variance pursuant to subsection d. of
7 section 57 of P.L.1975, c.291 (C.40:55D-70). The review shall be
8 made on the record made before the board of adjustment.

9 e. The affirmative vote of a majority of the full authorized
10 membership of the governing body shall be necessary to reverse or
11 remand to the board of adjustment or to impose conditions on or
12 alter conditions to any final action of the board of adjustment.
13 Otherwise the final action of the board of adjustment shall be
14 deemed to be affirmed; a tie vote of the governing body shall
15 constitute affirmance of the decision of the board of adjustment.

16 f. An appeal to the governing body shall stay all proceedings in
17 furtherance of the action in respect to which the decision appealed
18 from was made, unless the board from whose action the appeal is
19 taken certifies to the governing body, after the notice of appeal shall
20 have been filed with such board, that by reason of facts stated in the
21 certificate, a stay would, in its opinion, cause imminent peril to life
22 or property. In such case, proceedings shall not be stayed other
23 than by an order of the Superior Court on application upon notice to
24 the board from whom the appeal is taken and on good cause shown.

25 g. The governing body shall mail a copy of the decision to the
26 appellant or, if represented, then to his attorney, without separate
27 charge, and for a reasonable charge to any interested party who has
28 requested it, not later than 10 days after the date of the decision. A
29 brief notice of the decision shall be published either (1)
30 electronically on the notice website of the municipality or
31 applicable county pursuant to the "Electronic Publication of Legal
32 Notices Act," P.L. , c. (C.) (pending before the Legislature
33 as this bill), or (2) in the official newspaper of the municipality, if
34 there be one, or in a newspaper of general circulation in the
35 municipality. Such publication shall be arranged by the applicant
36 unless a particular municipal officer is so designated by ordinance;
37 provided that nothing contained herein shall be construed as
38 preventing the applicant from arranging such publication if he so
39 desires. The governing body may make a reasonable charge for its
40 publication. The period of time in which an appeal to a court of
41 competent jurisdiction may be made shall run from the first
42 publication, whether arranged by the municipality or the applicant.

43 h. Nothing in **[this act]** P.L.1975, c.291 (C.40:55D-1 et seq.)
44 shall be construed to restrict the right of any party to obtain a
45 review by any court of competent jurisdiction, according to law.
46 (cf: P.L.1991, c.256, s.3)

47

48 27. Section 17 of P.L.1985, c.516 (C.40:55D-85.1) is amended

1 to read as follows:

2 17. a. In the case of any final decision of a regional planning
3 board or regional zoning board of adjustment approving an
4 application for development, the governing body of the
5 municipality in which the land is situated which is the subject of the
6 application for development may hear and decide an appeal by any
7 interested party of this approval if the application for development
8 is of a class of applications for development specified by ordinance
9 as so subject to appeal. The appeal shall be made within 10 days of
10 the date of publication of the final decision pursuant to subsection i.
11 of section 6 of P.L.1975, c.291 (C.40:55D-10). The appeal to the
12 governing body shall be made by serving the municipal clerk in
13 person or by certified mail with a notice of appeal specifying the
14 grounds thereof and the name and address of the appellant and
15 name and address of his attorney, if represented. The appeal shall
16 be decided by the governing body only upon the record established
17 before the regional board.

18 b. Notice of the meeting to review the record below shall be
19 given by the governing body by personal service or certified mail to
20 the appellant, to those entitled to notice of a decision pursuant to
21 subsection h. of section 6 of P.L.1975, c.291 (C.40:55D-10) and to
22 the board from which the appeal is taken, at least 10 days prior to
23 the date of the meeting. The parties may submit oral and written
24 argument on the record at the meeting, and the governing body shall
25 provide for verbatim recording and transcripts of the meeting
26 pursuant to subsection f. of section 6 of P.L.1975, c.291
27 **[(C.40:55D-10.)]** (C.40:55D-10).

28 c. The appellant shall, (1) within five days of service of the
29 notice of the appeal pursuant to subsection a. hereof, arrange for a
30 transcript pursuant to subsection f. of section 6 of P.L.1975, c.291
31 (C.40:55D-10) for use by the governing body and pay a deposit of
32 \$50.00 or the estimated cost of such transcription, whichever is less,
33 or (2) within 35 days of service of the notice of appeal, submit a
34 transcript as otherwise arranged to the municipal clerk; otherwise,
35 the appeal may be dismissed for failure to prosecute.

36 The governing body shall conclude a review of the record not
37 later than 95 days from the date of publication of notice of the
38 decision below pursuant to subsection i. of section 6 of P.L.1975,
39 c.291 (C.40:55D-10) unless the applicant consents in writing to an
40 extension of the period. Failure of the governing body to hold a
41 hearing and conclude a review of the record below and to render a
42 decision within the specified period shall constitute a decision
43 affirming the action of the board.

44 d. The governing body may reverse, remand, or affirm with or
45 without the imposition of conditions the final decision of the
46 regional board.

47 e. The affirmative vote of a majority of the full authorized
48 membership of the governing body shall be necessary to reverse,

1 remand, or affirm with or without conditions any final action of the
2 regional board.

3 f. An appeal to the governing body shall stay all proceedings in
4 furtherance of the action in respect to which the decision appealed
5 from was made unless the board from whose action the appeal is
6 taken certifies to the governing body, after the notice of appeal shall
7 have been filed with the board, that by reason of acts stated in the
8 certificate a stay would, in its opinion, cause imminent peril to life
9 or property. In such case, proceedings shall not be stayed other
10 than by an order of the Superior Court on application upon notice to
11 the board from whom the appeal is taken and on good cause shown.

12 g. The governing body shall mail a copy of the decision to the
13 appellant or if represented then to his attorney, without separate
14 charge, and for a reasonable charge to any interested party who has
15 requested it, not later than 10 days after the date of the decision. A
16 brief notice of the decision shall be published either (1)
17 electronically on the notice website of the municipality or
18 applicable county pursuant to the “Electronic Publication of Legal
19 Notices Act,” P.L. , c. (C.) (pending before the Legislature
20 as this bill), or (2) in the official newspaper of the municipality, if
21 there is one, or in a newspaper of general circulation in the
22 municipality. The publication shall be arranged by the applicant
23 unless a particular municipal officer is so designated by ordinance;
24 but nothing contained herein shall be construed as preventing the
25 applicant from arranging the publication if he so desires. The
26 governing body may make a reasonable charge for its publication.
27 The period of time in which an appeal to a court of competent
28 jurisdiction may be made shall run from the first publication,
29 whether arranged by the municipality or the applicant.

30 h. Nothing in this act shall be construed to restrict the right of
31 any party to obtain a review by any court of competent jurisdiction
32 according to law.

33 (cf: P.L.1985, c.516, s.17)

34

35 28. N.J.S.40A:2-30 is amended to read as follows:

36 40A:2-30. a. A notice of public sale of bonds containing the
37 provisions described in subsection a. of N.J.S.40A:2-31 shall be
38 advertised at least once at least seven days prior thereto either (1)
39 by electronic publication on the notice website of the applicable
40 government agency pursuant to the “Electronic Publication of Legal
41 Notices Act,” P.L. , c. (C.) (pending before the Legislature
42 as this bill), or (2) by publication in a newspaper qualified for
43 publication of a bond ordinance of the local unit. A summary of the
44 notice of public sale of bonds as provided for in subsection b. of
45 N.J.S.40A:2-31 shall be advertised at least once at least seven days
46 prior thereto in a nationally recognized local government bond
47 marketing publication or electronic information service carrying

1 municipal bond notices and devoted primarily to financial news or
2 the subject of state and municipal bonds.

3 b. The governing body, may, by resolution, allow or otherwise
4 delegate to a finance officer the authority to postpone a public sale
5 without readvertisement provided that the notice pursuant to
6 subsection a. of this section contained precise information
7 concerning the postponement and rescheduling procedure. The
8 postponement and rescheduling procedure shall provide that a
9 public sale may be postponed upon not less than 24 hours' notice,
10 and that if the public sale is postponed, it may be recommenced
11 upon not less than 48 hours' notice without further notice of sale. A
12 public sale may not be postponed for more than 60 days without
13 readvertisement.

14 (cf: P.L.2003, c.15, s.6)

15

16 29. Section 5 of P.L.1999, c.440 (C.40A:11-4.5) is amended to
17 read as follows:

18 5. Competitive contracting proposals shall be solicited in the
19 following manner:

20 a. A notice of the availability of request for proposal
21 documentation shall be published either (1) electronically on the
22 notice website of the contracting unit or applicable municipality or
23 county pursuant to the "Electronic Publication of Legal Notices
24 Act," P.L. , c. (C.) (pending before the Legislature as this
25 bill), or (2) in an official newspaper of the contracting unit at least
26 20 days prior to the date established for the submission of
27 proposals. The contracting unit shall promptly reply to any request
28 by an interested vendor by providing a copy of the request for
29 proposals. The contracting unit may charge a fee for the proposal
30 documentation that shall not exceed \$50.00 or the cost of
31 reproducing the documentation, whichever is greater.

32 b. Each interested vendor shall submit a proposal which shall
33 include all the information required by the request for proposals.
34 Failure to meet the requirements of the request for proposals may
35 result in the contracting unit disqualifying the vendor from further
36 consideration. Under no circumstances shall the provisions of a
37 proposal be subject to negotiation by the contracting unit.

38 c. If the contracting unit, at the time of solicitation, utilizes its
39 own employees to provide the goods or perform the services, or
40 both, considered for competitive contracting, the governing body
41 shall, at any time prior to, but no later than the time of solicitation
42 for competitive contracting proposals, notify affected employees of
43 the governing body's intention to solicit competitive contracting
44 proposals. Employees or their representatives shall be permitted to
45 submit recommendations and proposals affecting wages, hours, and
46 terms and conditions of employment in such a manner as to meet
47 the goals of the competitive contract. If employees are represented
48 by an organization that has negotiated a contract with the

1 contracting unit, only the bargaining unit shall be authorized to
2 submit such recommendations or proposals. When requested by
3 such employees, the governing body shall provide such information
4 regarding budgets and the costs of performing the services by such
5 employees as may be available. Nothing shall prevent such
6 employees from making recommendations that may include
7 modifications to existing labor agreements in order to reduce such
8 costs in lieu of award of a competitive contract, and agreements
9 implementing such recommendations may be considered as cause
10 for rejecting all other proposals.

11 d. The purchasing agent or counsel or administrator shall
12 evaluate all proposals only in accordance with the methodology
13 described in the request for proposals. After proposals have been
14 evaluated, the purchasing agent or counsel or administrator shall
15 prepare a report evaluating and recommending the award of a
16 contract or contracts. The report shall list the names of all potential
17 vendors who submitted a proposal and shall summarize the
18 proposals of each vendor. The report shall rank vendors in order of
19 evaluation, shall recommend the selection of a vendor or vendors,
20 as appropriate, for a contract, shall be clear in the reasons why the
21 vendor or vendors have been selected among others considered, and
22 shall detail the terms, conditions, scope of services, fees, and other
23 matters to be incorporated into a contract. The report shall be made
24 available to the public at least 48 hours prior to the awarding of the
25 contract, or when made available to the governing body, whichever
26 is sooner. The governing body shall have the right to reject all
27 proposals for any of the reasons set forth in section 21 of P.L.1999,
28 c.440 (C.40A:11-13.2).

29 e. Award of a contract shall be made by resolution of the
30 governing body of the contracting unit within 60 days of the receipt
31 of the proposals, except that the proposals of any vendors who
32 consent thereto, may, at the request of the contracting unit, be held
33 for consideration for such longer period as may be agreed.

34 f. The report prepared pursuant to subsection d. of this section
35 shall become part of the public record and shall reflect the final
36 action of the governing body. Contracts shall be executed pursuant
37 to section 14 of P.L.1971, c.198 (C.40A:11-14).

38 g. The clerk or secretary of the contracting unit shall publish a
39 notice either (1) electronically on the notice website of the
40 contracting unit or applicable municipality or county pursuant to the
41 “Electronic Publication of Legal Notices Act,” P.L. , c. (C.)
42 (pending before the Legislature as this bill), or (2) in the official
43 newspaper of the contracting unit summarizing the award of a
44 contract, which shall include but not be limited to, the nature,
45 duration, and amount of the contract, the name of the vendor and a
46 statement that the resolution and contract are on file and available
47 for public inspection in the office of the clerk or secretary of the

1 municipality, county, local public authority or special district of the
2 governing body.

3 h. All contract awards shall be subject to rules concerning
4 certification of availability of funds adopted pursuant to section 3 of
5 P.L.1971, c.198 (C.40A:11-3) and section 15 of P.L.1971, c.198
6 (C.40A:11-15).

7 i. The director, after consultation with the Commissioner of
8 Education, may adopt additional rules and regulations, in
9 accordance with the "Administrative Procedure Act," P.L.1968,
10 c.410 (C.52:14B-1 et seq.), as may be necessary to effectuate the
11 provisions of sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1
12 through C.40A:11-4.5).
13 (cf: P.L.1999, c.440, s.5)

14

15 30. Section 23 of P.L.1971, c.198 (C.40A:11-23) is amended to
16 read as follows:

17 23. a. All advertisements for bids shall be published either
18 electronically on the notice website of the contracting unit or
19 applicable municipality or county pursuant to the "Electronic
20 Publication of Legal Notices Act," P.L. , c. (C.) (pending
21 before the Legislature as this bill), or in an official newspaper of the
22 contracting unit sufficiently in advance of the date fixed for
23 receiving the bids to promote competitive bidding, but in no event
24 less than 10 days prior to such date; except that all advertisements
25 for bids on contracts for the collection and disposal of municipal
26 solid waste shall be published either electronically on the notice
27 website of the contracting unit or applicable municipality or county
28 pursuant to the "Electronic Publication of Legal Notices Act," P.L. ,
29 c. (C.) (pending before the Legislature as this bill), or in an
30 official newspaper of the contracting unit circulating in the county
31 or municipality, and in at least one newspaper of general circulation
32 published in the State, sufficiently in advance of the date fixed for
33 receiving the bids to promote competitive bidding, but not less than
34 60 days prior to that date. For all contracts, the date fixed for
35 receiving the bids shall not fall on a Monday, or any day directly
36 following a State or federal holiday.

37 b. The advertisement shall designate the manner of submitting
38 and the method of receiving the bids and the time and place at
39 which the bids will be received. If the published specifications
40 provide for receipt of bids by mail, those bids which are mailed to
41 the contracting unit shall be sealed and shall only be opened for
42 examination at such time and place as all bids received are unsealed
43 and announced. At such time and place the contracting agent of the
44 contracting unit shall publicly receive the bids, and thereupon
45 immediately proceed to unseal them and publicly announce the
46 contents, which announcement shall be made in the presence of any
47 parties bidding or their agents, who are then and there present, and
48 shall also make proper record of the prices and terms, upon the

1 minutes of the governing body, if the award is to be made by the
2 governing body of the contracting unit, or in a book kept for that
3 purpose, if the award is to be made by other than the governing
4 body, and in such latter case it shall be reported to the governing
5 body of the contracting unit for its action thereon, when such action
6 thereon is required. No bids shall be received after the time
7 designated in the advertisement.

8 c. Notice of revisions or addenda to advertisements or bid
9 documents shall be provided as follows:

10 (1) For all contracts except those for construction work and
11 municipal solid waste collection and disposal service, notice shall
12 be published no later than seven days, Saturdays, Sundays, and
13 holidays excepted, prior to the date for acceptance of bids, either
14 electronically on the notice website of the contracting unit or
15 applicable municipality or county pursuant to the “Electronic
16 Publication of Legal Notices Act,” P.L. , c. (C.) (pending
17 before the Legislature as this bill), or in an official newspaper of the
18 contracting unit and be provided to any person who has submitted a
19 bid or who has received a bid package, in one of the following
20 ways: (i) in writing by certified mail or (ii) by certified facsimile
21 transmission, meaning that the sender's facsimile machine produces
22 a receipt showing date and time of transmission and that the
23 transmission was successful or (iii) by a delivery service that
24 provides certification of delivery to the sender.

25 (2) For all contracts for construction work, notice shall be
26 provided no later than seven days, Saturdays, Sundays, or holidays
27 excepted, prior to the date for acceptance of bids, to any person who
28 has submitted a bid or who has received a bid package in any of the
29 following ways: (i) in writing by certified mail or (ii) by certified
30 facsimile transmission, meaning that the sender's facsimile machine
31 produces a receipt showing date and time of transmission and that
32 the transmission was successful or (iii) by a delivery service that
33 provides certification of delivery to the sender.

34 (3) For municipal solid waste collection and disposal contracts,
35 notice shall be published either electronically on the notice website
36 of the contracting unit or applicable municipality or county
37 pursuant to the “Electronic Publication of Legal Notices Act,” P.L. ,
38 c. (C.) (pending before the Legislature as this bill), or in an
39 official newspaper of the contracting unit and in at least one
40 newspaper of general circulation published in the State no later than
41 seven days, Saturdays, Sundays, and holidays excepted, prior to the
42 date for acceptance of bids.

43 d. Failure of the contracting unit to advertise for the receipt of
44 bids or to provide proper notification of revisions or addenda to
45 advertisements or bid documents related to bids as prescribed by
46 this section shall prevent the contracting unit from accepting the
47 bids and require the readvertisement for bids pursuant to subsection
48 a. of this section. Failure to obtain a receipt when good faith notice

1 is sent or delivered to the address or telephone facsimile number on
2 file with the contracting unit shall not be considered failure by the
3 contracting unit to provide notice.

4 (cf: P.L.2007, c.4, s.1)

5

6 31. R.S.56:3-17 is amended to read as follows:

7 56:3-17. Any person or corporation seeking to register names,
8 marks or other devices under authority of this article shall first
9 cause the description mentioned in **section 56:3-16 of this title**
10 **R.S.56:3-16** to be **printed** published either electronically on the
11 notice website of the county in which such description may be filed
12 as provided by R.S.56:3-16 pursuant to the “Electronic Publication
13 of Legal Notices Act,” P.L. , c. (C.) (pending before the
14 Legislature as this bill), or once in each week, for two weeks
15 successively, in a newspaper published in the county in which such
16 description may be filed as provided by **said section 56:3-16**
17 R.S.56:3-16.

18 (cf: R.S.56:3-17)

19

20 32. Sections 1 through 3 of P.L.2002, c.91 (C.10:4-9.1 through
21 C.10:4-9.2) are repealed.

22

23 33. This act shall take effect immediately.

24

25

26

STATEMENT

27

28 This bill would allow government agencies and persons to
29 publish legal notices on official government notice websites instead
30 of in newspapers. Permitting the publication of legal notices on the
31 Internet instead of in newspapers will make these notices more
32 easily accessible to the public, thereby promoting transparency and
33 increased public participation in government, while also saving
34 government agencies and persons significant sums of money.

35 The bill permits the electronic publication of legal notices in
36 every instance in which the law requires newspaper publication.
37 This option would be available with respect to a government agency
38 if the government agency has, for a three month period beginning
39 on or after the enactment date, published all legal notices both on its
40 official website and in newspapers and provided notice both on its
41 official website and in newspapers that the government agency may
42 exclusively publish legal notices electronically going forward.

43 A government agency that meets these requirements and elects to
44 exclusively publish legal notices electronically would also have to
45 create a notice website on which the required legal notices would be
46 electronically published. A notice website created under the bill
47 would have to be an index webpage containing a list of all current

1 legal notices relating to the government agency, with links to the
2 full text of those notices, not just summaries of the notices.

3 Such government agency would further have to designate
4 officials to be responsible for these electronic publications, and to
5 serve as contact persons who handle the intake and processing of
6 electronic publication requests made by persons. The government
7 agency would also be required to receive and review any complaints
8 with respect to electronically published legal notices, which
9 complaints would have to be made available for public inspection.

10 Whenever a legal notice that has been electronically published
11 pursuant to the bill is inaccessible for 25 percent or more of the
12 publication timeframe provided by law, the legal notice would have
13 to be electronically published for the entirety of that timeframe
14 beginning anew from the day on which access to the notice is
15 restored, and the action for which the legal notice is required would
16 be delayed accordingly.

17 The Office of Information Technology would be required to, on
18 or before the first day of the third month following the effective
19 date of the bill, establish on the State Internet website a webpage
20 that would contain a directory of all government agency notice
21 websites. The office would also have to, within that same
22 timeframe, establish a link to the directory webpage that is
23 prominently displayed on the home webpage of the State Internet
24 website. The office would further be responsible for continuously
25 maintaining the directory webpage and for updating the directory
26 webpage to include the notice website of a government agency
27 within 10 days after receiving notice from the government agency
28 that it has created a notice website.

29 Savings that a local government agency realizes from publishing
30 legal notices electronically instead of in newspapers pursuant to the
31 bill would have to be used solely and exclusively to reduce the
32 amount required to be raised by the local property tax levy.

33 The bill amends several sections of current law requiring notices
34 to be published in newspapers in order to further clarify that these
35 notices may be published electronically instead of in a newspaper.
36 Although the bill does not amend every statute with a legal notice
37 newspaper publication requirement, the amended statutes account
38 for the vast majority of the legal notices published in newspapers,
39 and therefore warrant further clarity on the availability of the option
40 to publish electronically. The bill's general provisions allowing for
41 the electronic publication of legal notices would still apply to all
42 other sections of law with legal notice newspaper publication
43 requirements, but which are not amended by the bill to reflect the
44 availability of the electronic publication option.

45 This bill would not affect existing notice content and publication
46 timeframes, which would still apply to any legal notices that are
47 electronically published. The bill would also not affect the ability
48 of government agencies and persons to opt to meet legal notice

1 publication requirements through newspaper publication as set forth
2 under current law.

3 On or before the first day of the third month following the
4 effective date of the bill, the Chief Technology Officer of the Office
5 of Information Technology, in consultation with the Director of the
6 Division of Local Government Services, would have to promulgate
7 rules and regulations to effectuate the bill.