

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4260

BY DELEGATES STEELE AND FOSTER

[Introduced January 19, 2022; Referred to the
Committee on Government Organization then the
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §6-15-1, §6-15-2, and §6-15-3; and to amend and reenact §59-3-2 of said
 3 code, all relating to legal advertisements; creating the State Central Legal Advertising
 4 website; establishing the State Auditor as the administrator and creator of the website;
 5 permitting alternate publication timelines if also publishing on the State Central Legal
 6 Advertisement website; providing for rulemaking authority; and setting an effective date.

Be it enacted by the Legislature of West Virginia:

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 15. STATE CENTRAL LEGAL ADVERTISING WEBSITE.

§6-15-1. The State Auditor shall create and maintain a State Central Legal Advertising Website.

1 (a) No later than January 1, 2023, the State Auditor shall establish and shall thereafter
 2 maintain a State Central Legal Advertising website which may be accessed freely by the public.
 3 All persons or entities required by the state law or court to post legal advertisements may use the
 4 website free of charge.

5 (b) The State Auditor may report annually on the use of the website to the Joint Committee
 6 on Government and Finance and, in the event a report is made, to the Legislative Librarian in
 7 accordance with §4-1-23 of this code. The report may include information similar to the
 8 information included in §59-3-2 of this code on the extent of the use of the website, financial
 9 impact resulting from the website's use, and any recommendations suggested for additional
 10 enabling legislation.

§6-15-2. Use of State Central Legal Advertising Website amends length of publication requirements.

1 (a) If a Class II or a Class III legal advertisement is published on the State Central Legal
 2 Advertising Website, then such Class II or Class III legal advertisement will have amended

3 publication requirements as follows:

4 (1) Class II legal advertising shall be published once for one week, and

5 (2) Class III legal advertising shall be published once for one week.

6 (b) If the Class II or Class III legal advertisement is not published on the State Central
7 Legal Advertising Website then the advertising requirements in §59-3-2 of this code will control.

§6-15-3. Service by publication to be certified by electronic affidavit.

1 (a) The State Auditor shall create a form electronic affidavit to provide to legal advertisers
2 certifying that specific advertisements were placed on the State Central Legal Advertising Website
3 for the applicable time period and shall provide the electronic affidavit to the legal advertiser. The
4 electronic affidavit shall be accepted by the courts of this state as evidence of service by
5 publication.

6 (b) The State Auditor shall propose rules for legislative approval in accordance with the
7 provisions of §29A-3-1 et seq. of this code to implement the provisions of this section.

**CHAPTER 59. FEES, ALLOWANCES AND COSTS; NEWSPAPERS;
LEGAL ADVERTISEMENTS.**

ARTICLE 3. NEWSPAPERS AND LEGAL ADVERTISEMENTS.

**§59-3-2. Classification of legal advertisements; designation of newspapers; frequency of
publication; posting; manner of publishing; publication of notices for the state and
its agencies.**

1 (a) A Class I legal advertisement shall be published one time, a Class II legal
2 advertisement shall be published once a week for two successive weeks, unless the Class II legal
3 advertisement is published on the State Central Legal Advertisement Website then publication
4 will be in accordance with §6-15-2 of this code, and a Class III legal advertisement shall be
5 published once a week for three successive weeks, unless the Class III legal advertisement is
6 published on the State Central Legal Advertisement Website then publication will be in

7 accordance with §6-15-2 of this code in a qualified newspaper published in the publication area;
8 or if there is no qualified newspaper published in the publication area or if no qualified newspaper
9 published in the publication area will publish the legal advertisement at the rates specified in §59-
10 3-3 of this code, the legal advertisement shall be published in a qualified newspaper published
11 outside the publication area; or if no qualified newspaper is published outside the publication area
12 or if no qualified newspaper published outside the publication area will publish the legal
13 advertisement at the rates specified in §59-3-3 of this code, the legal advertisement shall be
14 posted in at least three public places in the publication area, one of which postings shall be in the
15 county courthouse, at or near the front door of the county courthouse, if a county courthouse is
16 located in the publication area and one of which postings shall be in the municipal office building
17 or municipal office or offices, at or near the front door thereof, if the publication area is a
18 municipality.

19 (b) A Class I-0 legal advertisement shall be published one time, a Class II-0 legal
20 advertisement shall be published once a week for two successive weeks, and a Class III-0 legal
21 advertisement shall be published once a week for three successive weeks, in two qualified
22 newspapers of opposite politics published in the publication area; or if two qualified newspapers
23 of opposite politics are not published in the publication area or if two qualified newspapers of
24 opposite politics published in the publication area will not publish the legal advertisement at the
25 rates specified in §59-3-3 of this code, the legal advertisement shall be published in one qualified
26 newspaper published in the publication area; or if there is no qualified newspaper published in
27 the publication area or if no qualified newspaper published in the publication area will publish the
28 legal advertisement at the rates specified in §59-3-3 of this code, the legal advertisement shall be
29 published in one qualified newspaper published outside the publication area; or if no qualified
30 newspaper is published outside the publication area or if no qualified newspaper published
31 outside the publication area will publish the legal advertisement at the rates specified in §59-3-3
32 of this code, the legal advertisement shall be posted in at least three public places in the

33 publication area, one of which postings shall be in the county courthouse, at or near the front door
34 thereof, if a county courthouse is located in the publication area and one of which postings shall
35 be in the municipal office building or municipal office or offices, at or near the front door thereof,
36 if the publication area is a municipality.

37 (c) A legal advertisement may be published in a qualified newspaper published on any
38 day of the week except Sunday.

39 (d) All legal advertisements shall be published together in continuous columns on one
40 page of the newspaper publishing them under a general heading styled "Legal Advertisements",
41 unless the number or size of the legal advertisements requires the use of more than one page, in
42 which event the legal advertisements shall be published as near as practicable in continuous
43 columns on as many pages as necessary under the same heading as above required.

44 (e) Beginning July 1, 2022, any and all legal notices, advertisements, publications,
45 statements, or whatever kind or character required to be published by the State of West Virginia,
46 or its agencies, shall be made at the frequency and in the manner prescribed by subsection (a)
47 or (b) of this section, and shall also be published on a public notice database to be created and
48 maintained by the State Auditor.

49 (f) Pursuant to subsection (e) of this section, the State Auditor shall propose rules and
50 emergency rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of
51 this code relating to the creation and maintenance of a public notice database available on the
52 State Auditor's website, the establishment of forms and procedures for submission of information
53 to the State Auditor by the State of West Virginia and its agencies, providing a method of verifying
54 publication of the notice, and for other procedures and policies consistent with this section.

55 (g) The State Auditor shall report annually to the Joint Committee on Government and
56 Finance regarding the public notice database established by this section, which report shall
57 include information on the extent of the use of the public notice database on the State Auditor's
58 website, the financial impact resulting from the use of the public notice database, and any

59 recommendations for additional enabling legislation relating to the public notice database.

NOTE: The purpose of this bill is to create a state central legal advertising website.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.