

House Bill 3184

Sponsored by Representatives GARRARD, HUFFMAN (at the request of Oregon Association of Broadcasters)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that public notices required by law to be published by public body may be published in newspaper, broadcast by radio or television station or posted on website maintained by statewide association of stations or broadcasters. Specifies requirements for notices that are broadcast or posted on website.

A BILL FOR AN ACT

1
2 Relating to public notices; creating new provisions; amending ORS 35.395, 193.010, 193.020, 193.040,
3 193.060, 193.070, 193.080, 193.090, 193.100, 193.330, 198.540, 251.295, 341.357, 548.920 and 548.925;
4 and repealing ORS 193.030, 193.050, 193.310, 193.320, 193.340, 193.350 and 193.360.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 193.010 is amended to read:

7 193.010. As used in [*this section and in ORS 193.020*] **ORS 193.010 to 193.100:**

8 (1) "Bona fide subscriber" means a person who has been a paid subscriber for an uninterrupted
9 period of 12 months, such subscription in no case to be over six months in arrears.

10 (2) "**Broadcast**" means the transmission of information by means of radio or television
11 facilities.

12 [(2)] (3) "Newspaper" means a newspaper of general circulation[,];

13 (a) Published in the English language for the dissemination of local or transmitted news or for
14 the dissemination of legal news[,];

15 (b) Made up of at least four pages of at least five columns each, with type matter of a depth
16 of at least 14 inches, or, if smaller pages, then comprising an equivalent amount of type matter[,];

17 (c) [*which*] **That** has bona fide subscribers representing more than half of the total distribution
18 of copies circulated, or distribution verified by an independent circulation auditing firm[,]; and

19 (d) [*which*] **That** has been established and regularly and uninterruptedly published at least once
20 a week during a period of at least 12 consecutive months immediately preceding the first publication
21 of the public notice. Interrupted publication because of labor-management disputes, fire, flood or the
22 elements for a period not to exceed 120 days, either before or after a newspaper is qualified for
23 publication of public notices, [*shall not affect such qualification*] **does not affect qualification as a**
24 **newspaper under this subsection.**

25 (4) "**Public body**" has the meaning given that term in ORS 174.109.

26 (5) "**Public notice**" has the meaning given that term in ORS 174.104.

27 (6) "**Publication**" means published in a newspaper, broadcast by a station or posted on a
28 website described in section 6 of this 2011 Act.

29 (7) "**Station**" means any radio or television station licensed for commercial operation by
30 the Federal Communications Commission.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

SECTION 2. ORS 193.020 is amended to read:

193.020. (1) Any public notice of any description[*the publication of which is now or hereafter required by law,*] **required by law to be published by a person that is not a public body** shall be published in any newspaper[*as defined in ORS 193.010, which*] **that** is published within the county, city of which any part lies within that county, city, district or other jurisdiction where the action, suit or other proceeding is pending, or is to be commenced or had, or in which the legal publication is required to be given.

(2) Any public notice of any description required by law or other legal authority to be published by a public body shall be:

(a) Published in a newspaper as described in ORS 193.010 to 193.100;

(b) Broadcast by a station; or

(c) Posted on a website described in section 6 of this 2011 Act.

[(2) If publication in only one newspaper is required by law, and if more than one newspaper fulfills the requirements of subsection (1) of this section, the public notice shall be published in that newspaper which the moving party considers best suited to give actual notice. However, nothing in this subsection prohibits the publication in more than one newspaper if desired by the moving party.]

[(3) If no newspaper is published within the county, city, district or jurisdiction where the action, suit or other proceeding is pending, or is to be commenced or had, or in which the legal publication is required to be given, public notice shall be published in:]

[(a) The newspaper published nearest to such county, city, district or jurisdiction; or]

[(b) Any publication that is published in such county, city, district or jurisdiction and that satisfies all the requirements for being a newspaper except that it is published less than once a week but not less than once a month.]

[(4) If more than one newspaper or publication fulfills the requirements of subsection (3) of this section, the public notice shall be published in that newspaper or publication which the moving party considers most effective for providing actual notice.]

SECTION 3. Sections 4 to 6 of this 2011 Act are added to and made a part of ORS 193.010 to 193.100.

SECTION 4. For public notices published in a newspaper:

(1) If publication in only one newspaper is required by law, and if more than one newspaper fulfills the requirements of ORS 193.020 (1), the public notice shall be published in the newspaper that the moving party considers best suited to give actual notice. Nothing in this subsection prohibits the publication in more than one newspaper if desired by the moving party.

(2) If a newspaper is not published within the county, city, district or jurisdiction where the action, suit or other proceeding is pending, or is to be commenced or had, or in which the legal publication is required to be given, public notice shall be published in:

(a) The newspaper published nearest to the county, city, district or jurisdiction; or

(b) Any publication that is published in the county, city, district or jurisdiction and that satisfies all the requirements for being a newspaper except that it is published less than once a week but not less than once a month.

(3) If more than one newspaper or publication fulfills the requirements of subsection (2) of this section, the public notice shall be published in the newspaper or publication that the moving party considers most effective for providing actual notice.

SECTION 5. For public notices that are broadcast:

1 (1) A public official performing functions under ORS 193.010 to 193.100 shall select a sta-
2 tion or stations that the public official determines best ensures effective publicity for the
3 notice based on the nature of the notice. In making a selection under this subsection, the
4 public body may consider the scope of the broadcast coverage of the station, the audience
5 of the station and the length and text of the public notice to be broadcast.

6 (2) The public notice may not exceed 180 words in length.

7 (3) A station shall broadcast the public notice between the hours of 6 a.m. and 10 p.m.

8 **SECTION 6. For public notices posted on a website:**

9 (1) The website must be a single website available statewide and maintained by a state-
10 wide association of stations or broadcasters.

11 (2) The website shall allow public notices to be posted on the website by the association
12 of stations or broadcasters or by the public body responsible for publishing the notice.

13 (3) The association of stations or broadcasters shall maintain public notices on the
14 website to ensure that notices on the website are current.

15 **SECTION 7.** ORS 193.040 is amended to read:

16 193.040. [Where] **If** publication of any form of **public** notice for successive or consecutive days
17 [in a daily paper is provided for by statute, the publication of such notice on weekdays is a full com-
18 pliance with such statute] **is required by law, and the notice is published in a newspaper or**
19 **broadcast by a station, the publication of the notice on weekdays is considered to be in**
20 **compliance with the law.**

21 **SECTION 8.** ORS 193.060 is amended to read:

22 193.060. The time for the publication of [legal] **public** notices shall be computed so as to exclude
23 the first day of publication and to include the day on which the act or event of which notice is given
24 is to happen, or which completes the full period required for publication.

25 **SECTION 9.** ORS 193.070 is amended to read:

26 193.070. (1) Proof of publication of a [document or notice required by law, or by an order of a
27 court or judge, to be published] **public notice** in a newspaper[,] may be made by the affidavit of the
28 owner, editor, publisher, manager or advertising manager of the newspaper or the principal clerk
29 of any of them, or the printer or the foreman of the printer, showing the same. The affidavit may
30 be in substantially the form set forth in ORCP 7 F(2)(b) and shall have annexed a copy of the [doc-
31 ument or] **public** notice.

32 (2) **Proof of publication of a public notice or other material under ORS 193.010 to 193.100**
33 **and 251.295 by broadcasting shall be by affidavit of the owner, manager, assistant manager**
34 **or program director of the station, in substantially the following form:**

35 _____
36
37 **AFFIDAVIT OF BROADCAST**

38 **State of Oregon,**)
39) **ss.**
40 **County of _____**)

41 **I, _____, being first duly sworn, depose and say that I am the owner, manager, assist-**
42 **ant manager or program director of station _____, a radio (television) station broadcasting**
43 **from _____ in the aforesaid county and state, and that the notice (or other material) de-**
44 **scribed as _____ was broadcast on the following days: (here set forth dates and times when**
45 **the same was broadcast).**

Subscribed and sworn to before me _____ (Month) _____ (Day), 2____.

Notary Public for Oregon

My commission expires: _____

(3) Proof of publication of a public notice by posting on a website described in section 6 of this 2011 Act may be made by the affidavit of the association or stations or broadcasters that maintains the website. The affidavit may be in substantially the form set forth in ORCP 7 F(2)(b) and shall have annexed a copy of the public notice.

SECTION 10. ORS 193.080 is amended to read:

193.080. If an affidavit of publication of a public notice is made in an action, suit or proceeding pending in a court, [it] the affidavit may be filed with the clerk [thereof; if not so made, it may be filed] of the court. If the affidavit is not filed with the clerk of the court, it may be presented for recordation with the county clerk of the county where the newspaper is printed, the station is located or the association that maintains the website is located. In either case, the original affidavit, or if the [same is filed with the clerk, a copy thereof, duly certified] original affidavit is filed with the clerk of the court or the county clerk, a certified copy of the original affidavit, is primary evidence of the facts stated therein.

SECTION 11. ORS 193.090 is amended to read:

193.090. (1)(a) Subject to paragraph (b) of this subsection, the compensation for the publication of a public notice in a newspaper [of all public notices which are now or hereafter required by law to be published] shall be at a rate not to exceed that published by a newspaper as its open display advertising rate, that is, the per column inch rate charged local advertisers not under contract to a newspaper for a fixed rate or minimum quantity of advertising.

(b) [However,] A newspaper shall grant its customary discounts or contractual rates to [the county, city, district or other jurisdiction which] a public body that fulfills the requirements necessary to qualify for the discounts or contractual rates.

(2) The published size of all public notices published in a newspaper shall be determined by the [person] public official authorizing publication of the public notice, but shall be designed to afford the public reasonable ease in reading the information contained [therein] in the public notice. Any public notice [which] that must be typeset by the newspaper shall be in a type size no smaller than that used by that newspaper in its regular classified advertising columns, with spacing between lines and copy blocks commensurate with similar type matter.

(3) The compensation for publication of a public notice by broadcasting may not exceed the fee the station charges to local advertisers for a like period and class of commercial time.

SECTION 12. ORS 193.100 is amended to read:

193.100. [When any law or notice is published in any newspaper of this state, by virtue of any law authorizing any state officer to direct such publication at the expense of the state, all charges for such publication shall be paid as provided in ORS 293.295 to 293.462. The Oregon Department of Administrative Services shall draw a warrant upon the State Treasurer therefor, specifying the account upon which the warrant is drawn. The treasurer shall pay the same in like manner as other appropriations are paid] When any public notice is published in a newspaper, broadcast by a station or posted

1 on a website described in section 6 of this 2011 Act at the expense of the state, all charges
 2 for the publication, broadcast or posting shall be paid as provided in ORS 293.295 to 293.462.
 3 The Oregon Department of Administrative Services shall draw a warrant upon the State
 4 Treasurer for the amount of the charges, specifying the account upon which the warrant is
 5 drawn. The treasurer shall pay the amount in the same manner as other amounts owed by
 6 the state are paid.

7 **SECTION 13.** ORS 193.330 is amended to read:

8 193.330. (1) *[In the broadcast of the notice or material under ORS 193.310 to 193.360]* **A broadcast**
 9 **of a public notice under ORS 193.010 and 193.100** and 251.295~~[, no]~~ **may not contain a** reference
 10 by name to any person who is a candidate for elective public office at the time of the broadcast
 11 *[shall be made]*.

12 (2) Each station that broadcasts any *[notice or material under ORS 193.310 to 193.360]* **public**
 13 **notice under ORS 193.010 to 193.100** and 251.295 shall retain at its office a copy or transcription
 14 of the text of the *[notice or material]* **public notice** as broadcast for a period of six months after the
 15 broadcast. The copy or transcript shall be available for public inspection at reasonable times.

16 **SECTION 14.** ORS 35.395 is amended to read:

17 35.395. (1) The period specified in an agreement or judgment as provided in ORS 35.385 may be
 18 changed as provided in this section, if the prior owner of the real property has not waived the right
 19 of repurchase and the condemner finds that it will be unable to use all or a portion of the real
 20 property for such purpose within the specified period and requires a reasonable extension of such
 21 period for the completion of its project on the real property.

22 (2) Upon a finding under subsection (1) of this section, a condemner shall notify the prior owner
 23 or designated beneficiary of the requested change in period. The condemner shall negotiate with the
 24 prior owner or beneficiary on the requested change.

25 (a) Notification under this subsection shall consist of mailing a letter by certified mail to the
 26 last address of the prior owner or the designated beneficiary of the owner as shown in the agree-
 27 ment or judgment whereby the real property was acquired or the address subsequently supplied by
 28 such owner or beneficiary. If no response has been received by the condemner within 60 days after
 29 receipt of notice by the owner or designated beneficiary, all the rights of the owner or designated
 30 beneficiary under ORS 35.385 to 35.415 shall be considered waived.

31 (b) If the condemner cannot locate the prior owner or the designated beneficiary of the owner
 32 at the last-known address of the owner or the designated beneficiary, notice may be effected by
 33 publication. The publication shall be made in a newspaper published in the county where the prop-
 34 erty is located, or if no newspaper is published in the county, then in a newspaper designated as
 35 being most likely to give notice to the prior owner or the beneficiary of the prior owner. The
 36 newspaper utilized shall meet the requirements of ORS 193.020 **and section 4 of this 2011 Act**. The
 37 notice shall contain the name of the public project, a general description of the location of the
 38 property, the change in purpose or extension of time desired by the condemner and a time within
 39 which the owner or the beneficiary of the owner must respond to the notice. The notice shall be
 40 published not less than once each week for four weeks. The publication of notice may be directed
 41 to one or more owners or beneficiaries affected by the same project. If no response is received by
 42 the condemner within 10 days after the date of the last publication of notice, all rights of the prior
 43 owner or designated beneficiary shall be considered waived.

44 (3) If, after negotiation, the prior owner or beneficiary and the condemner agree on the proposed
 45 change in period, the period as changed shall, for the purposes of ORS 35.385 to 35.415, be consid-

1 ered the period as specified in the agreement or judgment under ORS 35.385. In the case of real
 2 property acquired by a condemner by judgment under ORS 35.325, the condemner shall notify the
 3 court by which the judgment was given of the agreed upon change in period and the court shall
 4 modify such judgment accordingly.

5 (4) If the prior owner or beneficiary and the condemner cannot, after negotiation, agree on the
 6 proposed change in period, the condemner may:

7 (a) In the case of real property acquired by an agreement under ORS 35.235 (1), petition the
 8 circuit court for the county within which such real property is situated for a hearing to determine
 9 whether the proposed change in period is reasonable and necessary in the public interest; or

10 (b) In the case of real property acquired by a judgment given under ORS 35.325, petition the
 11 court by which such judgment was given for a hearing to determine whether it is reasonable and
 12 necessary in the public interest to modify such judgment to permit the proposed change in period.
 13 The condemner in its petition may include as parties and serve all or any owners and designated
 14 beneficiaries whose property is affected by the same project.

15 (5) If, after a hearing under subsection (4) of this section, the court finds that the proposed
 16 change in period is reasonable and necessary in the public interest, the court shall grant such
 17 change. For the purposes of ORS 35.385 to 35.415, a period as changed by the court shall be con-
 18 sidered the period specified in the agreement or judgment described in ORS 35.385. For the purposes
 19 of this subsection, the resolution or ordinance of the condemner is presumptive evidence that the
 20 change in period proposed by the condemner is reasonable and necessary in the public interest.

21 (6) If, after a hearing under subsection (4) of this section, the court finds that the proposed
 22 change in period is unreasonable or not necessary in the public interest, the court shall deny the
 23 requested change. In such case, the terms of the original agreement or judgment shall control for
 24 the purpose of the exercise of the right of repurchase under ORS 35.385 to 35.415.

25 **SECTION 15.** ORS 198.540 is amended to read:

26 198.540. (1) Except in an emergency, an ordinance adopting, amending or repealing a regulation
 27 shall not be considered or voted upon by a district board unless the ordinance is included in the
 28 published agenda of the meeting. The agenda of a meeting shall state the time, date and place of the
 29 meeting, give a brief description of the ordinances to be considered at the meeting and state that
 30 copies of the ordinances are available at the office of the district board.

31 (2) The presiding officer shall cause the agenda to be published not more than 10 days nor less
 32 than four days before the meeting, in one or more newspapers of general circulation within the
 33 district or, if there is no such newspaper, in a newspaper of general circulation in each county in
 34 which the district is located. The presiding officer may also cause the agenda:

35 (a) To be posted in three public places within the district at least 10 days before the meeting;
 36 or

37 (b) To be published by radio and television stations broadcasting in the district as provided by
 38 ORS [193.310 and 193.320] **193.010 to 193.100.**

39 **SECTION 16.** ORS 251.295 is amended to read:

40 251.295. The Secretary of State, pursuant to ORS [193.310 to 193.360] **193.010 to 193.100**, may
 41 supplement the special or general election voters' pamphlet by causing to have broadcast by radio
 42 or television, material specified in this section at times the secretary determines suitable during the
 43 four weeks immediately preceding the election at which state measures are to be submitted to the
 44 people. The material provided by broadcast shall include only the following:

45 (1) The ballot title or popular name of each state measure.

1 (2) The number and form in which the ballot title of the state measures will be printed on the
2 official ballot.

3 (3) A summary of the explanatory statements filed relating to each state measure.

4 **SECTION 17.** ORS 341.357 is amended to read:

5 341.357. (1) Except as provided by ORS chapter 255 and ORS 294.421 (Local Budget Law), notice
6 of community college district organization and merger, community college district budgets and
7 community college district purchasing shall be given only as provided in this section.

8 (2) Whenever notice is required, the board shall cause the notice to be published in one or more
9 of the newspapers published in the district and having a general circulation in the district. If no
10 newspaper is published in the district, the notice shall be published in some newspaper designated
11 by the board and having circulation throughout the district. The notice shall be published in at least
12 two issues of each designated newspaper.

13 (3) The board may also cause broadcasting of any notice required to be published in the manner
14 provided in ORS [193.310 to 193.360] **193.010 to 193.100.**

15 (4) The board shall cause the time and place of publishing each of the notices required by sub-
16 section (1) of this section and the content of such notices to be recorded in the minutes of the board.

17 **SECTION 18.** ORS 548.920 is amended to read:

18 548.920. (1) If the petition is accepted and filed by the district secretary, the secretary shall,
19 within 30 days thereafter, cause a notice of the filing to be published in one or more newspapers
20 of general circulation within the district or, if there is no such newspaper, in a newspaper of general
21 circulation in each county in which the district is located. The secretary may also cause the notice
22 to be published by radio and television stations broadcasting in the district as provided by ORS
23 [193.310 and 193.320] **193.010 to 193.100.**

24 (2) The published notice shall state:

25 (a) That a petition proposing a plan for the dissolution or reorganization of the district, as the
26 case may be, has been filed with the district secretary.

27 (b) That a copy of the petition is available at a reasonable fee for each person who desires a
28 copy.

29 (c) That unless a petition signed by not less than 10 percent of the qualified electors and land-
30 owners of the district requesting that an election be called by the district board is filed with the
31 district secretary within 30 days of the date of the publication of the notice, the district board will
32 file its petition in circuit court as provided by ORS 548.930 (2).

33 (3) A petition requesting an election must be signed in the manner provided by ORS 548.915 (1)
34 and shall be subject to the examination and requirements provided by ORS 548.915 (2) and (3).

35 **SECTION 19.** ORS 548.925 is amended to read:

36 548.925. (1) Within 10 days after the filing of a petition that meets the requirements of ORS
37 548.920 (3) and 548.920 (2)(c), the district board shall call a special election to be held not less than
38 30 or more than 60 days after date the petition is filed.

39 (2) The board shall cause notice of the election to be published once a week for three successive
40 weeks, being three publications in all, in one or more newspapers meeting the requirements of ORS
41 548.920 (3). In addition, notice may be published by radio and television stations broadcasting in the
42 district as provided by ORS [193.310 and 193.320] **193.010 to 193.100.**

43 (3) The notice shall state the date of the election, and the fact that there will be submitted to
44 the voters a proposal to dissolve or reorganize the district, as the case may be.

45 (4) The election shall be held and the results determined and declared in all respects as nearly

1 as practicable in conformity with the provisions governing the election of officers in irrigation dis-
2 tricts. At the election, the ballot shall contain the words, "dissolution (or reorganization, as the case
3 may be) of the district ____ Yes," or "Dissolution (or reorganization) of the district ____ No," or
4 words equivalent thereto.

5 **SECTION 20. ORS 193.330 is added to and made a part of ORS 193.010 to 193.100.**

6 **SECTION 21. ORS 193.030, 193.050, 193.310, 193.320, 193.340, 193.350 and 193.360 are re-**
7 **pealed.**

8
