

LEGISLATIVE FINANCE - HOUSE / SENATE FINANCE COMM. FILES 8879

SB 238 cont.; SB 240 640 231

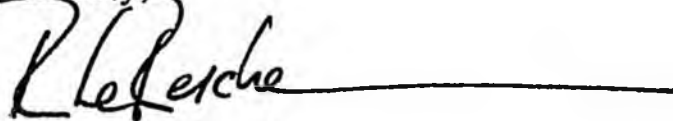
"Small scale power production facility" is specifically and narrowly defined at existing statute AS 44.83.990(9) as "a facility, which by design, is to produce less than 25 megawatts of power." This is a threshold level that is common in the industry and is used at other places in the AEA statutes. The statutes apply special additional procedures to the review and analysis of projects greater than 25MW and these procedures remain in place in the statutes at AS 44.83.187.

There was no intent to expand the size of a project that might be financed from this loan fund, but there was a desire to expand purposes to include thermal energy and energy conservation measures. During drafting discussions it seemed the best way to accomplish this would be to use an existing statutory definition that encompassed those purposes instead of one that focused solely on power generation.

Given the desire to raise capital for these purposes through issuance of revenue bonds and the scrutiny that such issues receive by the legal and financial communities, We believe the proposed new language would be more accurate for the purposes intended.

I hope this helps clarify the issue and is responsive to your question.

Sincerely,



Robert E. LeResche  
Executive Director

REL:yw

cc: Honorable Rick Uehling  
Co-Chairman, Senate Finance Committee

Honorable Johne Binkley  
Co-Chairman, Senate Finance Committee

Members, Senate Finance Committee  
Carolyn Jones, Assistant Attorney General

WASTE HEAT PROJECTS AND PROGRAM

In the early 1980's the Alaska Power Authority entered into construction agreements to build thirteen waste heat systems in rural Alaska. Through the agreements, electric utilities serving these rural communities were responsible for the operation and maintenance of the systems and the sale of waste heat to schools, city halls and other public facilities.

The systems were constructed and put into operation, although nine (9) of the systems were not maintained as planned and required under the agreements. Because of the inoperable condition of the systems, the customers of the local utilities were not receiving the benefits of waste heat. Local utilities cited a number of reasons as to why they were not providing for waste heat sales to the intended customers. Among these were that the utility operators did not have the adequate skills or interest in maintaining the systems and a number of utilities decided they did not want to accept the responsibility for heat and preferred to remain entirely in the business of electricity sales.

As the systems were still viable, the Alaska Power Authority took back the systems, refurbished them and established a preventative maintenance and inspection program which currently is in place. The cost of refurbishing and the necessary O & M was addressed and is financed through a shared savings contract. Presently, under the agreements in place, this provides consumers of waste heat with a 20 -50% savings in heating fuel costs.

As a result of the APA's expertise and experience in the area of waste heat recovery system design and construction, the systems are now standardized and are proving to be relatively easy to operate and maintain after installation. Customers are generally schools and public facilities or large buildings, usually 2 to 3 buildings in each community. Utilization of waste heat clearly saves heating fuel costs which in turn provides a long-term savings to the State and local governments.

The waste heat provisions proposed in SB 238 are a result of the APA's efforts in looking into ways to assist cities and schools with reducing their expenses for heating fuel, and as an avenue to finance these systems without the reliance on general fund monies. Financing of waste heat systems as proposed in SB 238 will save general fund dollars. The retail sales language as proposed in the bill was included on the recommendation of bond counsel. This language clarifies the APA's ability to sell heat for other than resale and the provisions apply only to heat.

# Alaska Energy Authority

## WASTE HEAT RECOVERY SYSTEMS

In cooperation with the Alaska Village Electric Cooperative, the Power Authority has repaired and recommissioned seven waste heat recovery systems in Grayling, Elim, Savoonga, Kaltag, Kiana, Ambler and Shungnak. These communities and/or their associated school districts have signed 15-year operation, maintenance and heat sales agreements for those systems. Under the agreements, the city or school district pays the Power Authority 50% of the cost it would otherwise incur if it used fuel oil to heat schools or other public buildings now heated by waste heat. The Power Authority uses these revenues to pay for operation costs of the waste heat systems.

Ten separate agreements are currently in place:

Bering Straits School District:	Elim Savoonga
City of:	Kiana Grayling Ambler Shungnak
Iditarod School District:	Grayling Kiana
Northwest School District:	Shungnak Ambler
Total FY89 billings to date: -	\$27,087.00*

\* This represents one half of the fuel savings accruing from these waste heat sales agreements.

5397/0050/1

# Alaska Energy Authority

## WASTE HEAT FORMULA

$$\begin{aligned} \text{COST OF WASTE HEAT (\$)} = & \text{BASE FUEL SAVINGS (gal)} \\ & \times \text{ACTUAL GENERATION (kwh)} \\ & + \text{BASE GENERATION (kwh)} \\ & \times \text{FUEL PRICE (\$/gal)} \\ & \times .50 \end{aligned}$$

This gives one half of the cost savings, or the amount due to the Power Authority on a monthly basis for the nine winter months the agreements are in effect.

STEVE COWPER  
GOVERNOR



238

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

March 23, 1989

The Honorable Tim Kelly  
President of the Senate  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the powers of the Alaska Power Authority. This bill has two main components:

1. the conversion of the power project fund from a fund supported by the general fund to a revolving loan fund financed primarily by the sale of bonds, and
2. the authorization permitting the agency to sell waste heat directly to retail customers.

With regard to the first of these components, the authority would sell bonds to finance loans from the power project revolving loan fund. The fund would consist of appropriations, repayments of principal to the fund, interest on loans made from the fund, income from investment of money in the fund, and the proceeds of bond sales. The authority would pledge the money repaid to the fund as security for bond debt service, but the balance from appropriated money would be returned to the general fund at the end of each fiscal year.

Although temporary retention of interest and income in the fund raises an issue under the dedicated-fund prohibition of art. IX, sec. 7, of the Alaska Constitution, the Department of Law believes that the constitutionality of that "dedication" of interest and income would be defensible. 1982 Op. Att'y Gen. No. 13 (Nov. 30).

The bill provides a mechanism for the authority to recover money to which the borrower is entitled under the power cost equalization program, or from another state agency, when the borrower is in default on its loan payments to the fund.

The list of eligible borrowers would be expanded from those utilities eligible under AS 44.83.170 to include school districts, regional educational attendance areas, regional housing authorities, and certain business enterprises (defined in sec. 14 of the bill). The list of activities eligible for loans would be expanded to include the acquisition of an existing power project, the acquisition of bulk fuel reserves, or other energy resources, and consumer end-use improvements to reduce the demand for energy.

In addition, the loan fund would no longer be limited to costs associated with a "small-scale power production facility." Instead, AS 44.83.170(b)(1)(B) would refer to "power projects," as including those activities described in the bill. The definition of "small-scale power production facility" would be repealed. Sections 5 and 15 of the bill.

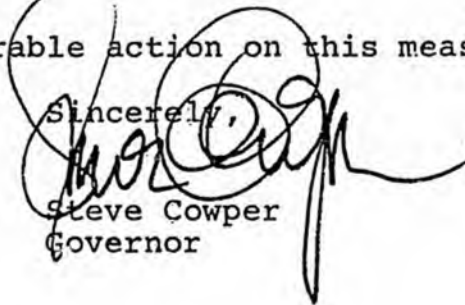
Under existing law, the authority sells energy to utilities, who then pass the energy on to their retail customers. This bill would permit the authority to bypass the utilities and to sell waste heat directly to retail consumers. The waste heat sold by the APA would displace other heat sources, such as diesel fuel and oil, currently being used to heat the retail customers' facilities.

The proposed amendments described above necessitate the following additional changes in existing statutes. In order to enhance marketability of bonds, AS 44.83.187(a) is amended in sec. 12 of the bill so that projects financed by the power project revolving loan fund would not be subject to OMB review, and approval by the legislature, under AS 44.83.177 -- 44.83.185. The statement of the enumerated powers of the authority would be amended by sec. 2 of the bill, to reflect the authority's power to sell waste heat to retail consumers. The requirement that loan repayments be deposited in the general fund would be repealed (in sec. 15) since those payments would be paid into the power project revolving loan fund and used as security for the bond financing.

Additionally, the bill would make several technical corrections. One is that the reference in AS 44.83.187(a)(1) (sec. 12 of the bill) to the renewable resources fund would be eliminated since that fund was repealed in 1984. Section 16, ch. 161, SLA 1984. Another is that the terms "cities" and "boroughs" would be deleted from two lists in AS 44.83.170(b) which also include "municipalities." As defined in AS 29.71.800, the term "municipality" includes cities and boroughs, making the separate references unnecessary. Section 5 of the bill.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the typed name and title.

Steve Cowper  
Governor

S

B

L

H

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# SENATE FINANCE COMMITTEE REPORT

DATE: 4/28/90

DATE TURNED INTO OFFICE: 4/30/90

The Finance Committee considered

SB 240

"An Act relating to the notice requirements for the adoption, amendment, or repeal of regulations."

and recommended:

replace with \_\_\_\_\_ CS  
 or adopt \_\_\_\_\_ CS

SB 240 (SA)

same title  
 new title  
 technical title change (HB only)

attached amendment(s)

\_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

ATTACHES NEW FISCAL NOTE(S):

Dept/Date:

fiscal note(s) \_\_\_\_\_

\_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

\_\_\_\_\_

APPROVES PREVIOUS:

Dept/Date:

fiscal note(s) \_\_\_\_\_

\_\_\_\_\_

12- zero fiscal note(s) All Depts

\_\_\_\_\_

appropriation-no fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

James Durkin  
Daniel Frank  
Paul V. Hoff  
Frank

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Paul Kelly

1.

2.

Co-Chairs: Signatures and Recommendations

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Relating to notice requirements for regulations  
Sponsor: Sen. Adams  
Requestor: Sen. Adams

Agency Affected: Administration  
BRU: All  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

Providing notice on TV or radio would be optional. Department of Administration would switch from newspaper notice to radio and TV only in some cases. Costs would offset, resulting in no fiscal change.

Prepared by: Mike Maher, Director *M. Maher* Phone: 465-2277  
Division: Administrative Services Date: 4/23/90  
Approved by Commissioner: Frank S. Baxter *Frank S. Baxter* Date: 4/23/90  
Agency: Administration

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

Changes in CS SB 240 (SA) have no fiscal impact. This fiscal note is appropriate. Projections of no fiscal impact would continue through 1996.

*Same fiscal note - orig. bill*

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: Regarding notice requirements  
for . . . regulations  
Sponsor: Senator Adams  
Requestor: Senate State Affairs

Agency Affected: Commerce & Economic Dev.  
BRU: All  
Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

**ANALYSIS : (Attach a separate page if necessary)**

No fiscal impact for FY 90.

Changes in CS SB 240 (SA) have no fiscal impact. This fiscal note is appropriate. Projections of no fiscal impact would continue through 1996.

Prepared by: Guy Bell, Director  
Division: Administrative Services

Phone: 465-2505  
Date: 4/23/90

Approved by Commissioner: Larry Merculieff  
Agency: Department of Commerce & Economic Development

Date: 4/23/90

**Distribution (by preparer):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

LW/dg167690/042390a

*Same fiscal note orig. bill*

740 JFC 4-30-90

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION: CS SB 240 (SA) (C)  
PUBLISH DATE: 4-28-90

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: "Notice requirements for...  
regulations."  
Sponsor: Senator Adams  
Requestor: \_\_\_\_\_

Agency Affected: Department of Corrections  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Because broadcast notice is optional, the Department of Corrections foresees minimal fiscal impact from this legislation.

*Susan E. Knighton*

Prepared by: Susan E. Knighton, Director

Division: Administrative Services

Phone: 465-3376

Date: 04-24-90

Approved by Commissioner:

Agency: Department of Corrections

*Dorothy Humphrey-Barnett*  
Date: 04-24-90

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Changes in CS SB 240 (SA) have no fiscal impact. This fiscal note is appropriate. Projections of no fiscal impact would continue through 1996.

*Same fiscal note orig. bill*

740 JFC 4-30-90

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION CSB 240 (SA) (d)  
PUBLISH DATE: 4-28-90

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Community & Regional Affairs  
Title: "An Act relating..notice requirements  
for adoption, amend or repeal.." BRU: \_\_\_\_\_  
Sponsor: Senate State Affairs Components: \_\_\_\_\_  
Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

There is no fiscal effect for FY 90.

Prepared by: Jain Plaman Phone: 465-4750  
Division: Municipal & Regional Assistance Date: 4/20/90  
Approved by Commissioner: Charles E. Hoffner Date: 4-20-90  
Agency: Community & Regional Affairs

Distribution (by preparer):

Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

Changes in CS SB 240 (SA)  
have no fiscal impact. This  
fiscal note is appropriate.  
Projections of no fiscal impact  
would continue through 1996.

*Same fiscal note - orig. bill*

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

240 SFC 4-30-90

BILL VERSION CSB 240 (SA) (e)  
PUBLISH DATE: 4-23-90

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: An Act relating to notice requirements for regulations  
Sponsor: Senator Adams  
Requestor: State Affairs Committee

Agency Affected: Environ. Conservation  
BRU: Environmental Quality/ Environmental Health  
Components: Environmental Quality/ Environmental Projects

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

Television and radio announcements would be done when available as a public service announcement to avoid prohibitively expensive advertising costs.

Prepared by: Gail Gatton  
Division: Administrative Services

Phone: 465-2600  
Date: 4/24/90

Approved by Commissioner: *A. D. Hylleberg*  
Agency: Environmental Conservation

Date: 4/24/90

Distribution (by preparer) :  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

Changes in CS SB 240 (SA) have no fiscal impact. This fiscal note is appropriate. Projections of no fiscal impact would continue through 1996.

*Same fiscal note - orig. bill*

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Fish and Game  
 Title: "An act relating to the notice requirements for the adoption..." BRU: Boards of Fisheries and Game  
 Sponsor: Senator Adams Components: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL						
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REVENUE						
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**FUNDING:** (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

The division would prefer the written media since a notarized affidavit of 30-day notice is provided for the legal record.

Prepared by: Laird A. Jones *Laird A. Jones* Phone: 465-4110  
 Division: Boards of Fisheries and Game Date: 04/23/90

Approved by Commissioner: Don H. Wiley *Don H. Wiley* Date: 4/24/90  
 Agency: Fish and Game

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)

Changes in \_\_\_\_\_ ( )  
 have no fiscal impact. This fiscal note is appropriate. Projections of no fiscal impact would continue through 1996.

*Same fiscal note - orig. bill*

*740 JFC 4-30-90*

# FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Health & Social Services  
 Title: An Act Relating to Notice BRU: \_\_\_\_\_  
 Requirements for the adoption... \_\_\_\_\_  
 Sponsor: Adams Components: \_\_\_\_\_  
 Requestor: Adams \_\_\_\_\_

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 91	FY92	FY93	FY94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

**FUNDING:** (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

**POSITIONS:**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

**ANALYSIS:** (Attach a separate page if necessary)  
FY 90 fiscal impact is "0".

Changes in CS SR 240 (SA) have no fiscal impact. This fiscal note is appropriate. Projections of no fiscal impact would continue through 1996.

Prepared by: Jay Livey  
 Division: Special Assistant  
 Approved by Commissioner: Myra M. Munson  
 Agency: Department of Health and Social Services

Phone: 465-3030  
 Date: 4/23/90  
 Date: 4/23/90

**Distribution (by preparer):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

*Same fiscal note - orig. bill*

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

R/O SFC 4-30-90

BILL VERSION: CS SB 240 (SA) (b)

PUBLISH DATE: 4-28-90

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Labor  
 Title: "An Act relating to the notice requirements for the adoption, ... regulations." BRU: All  
 Sponsor: Adams Components: All  
 Requestor: Senate State Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Note: There is no fiscal impact in FY90.

) Changes in CS SB 240 (SA) have no fiscal impact. This fiscal note is appropriate.

Prepared by: Jim Sampson *[Signature]* Phone: 465-2700  
 Division: \_\_\_\_\_ Date: 4/23/90

Approved by Commissioner: Jim Sampson *[Signature]* Date: 4/23/90  
 Agency: Department of Labor

Distribution (by preparer) :  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

*Same fiscal note orig bill*

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

R/ SFC 4-30-90

BILL VERSION: CSB 240 (SA) (1)

PUBLISH DATE: 4-28-90

FISCAL NOTE

REQUEST:

Revision Date: 23-Apr-90 Agency Affected: Natural Resources  
 Title: Notice requirements for the adoption, amendment, or repeal of regulations. BRU: Management & Administration  
 Sponsor: Senator Adams Components: Commissioner's Office  
 Requestor: Senate State Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if ne...

Changes in CSB 240 (SA) have no fiscal impact. This fiscal note is appropriate.

Prepared by: Larry Ostrovsky Phone: 465-2400  
 Division: Commissioner's Office Date: 23-Apr-90

Approved by Commissioner: [Signature] Lennie Gorsuch Date: 23-Apr-90  
 Agency: Department of Natural Resources

Distribution (by preparer) :  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

Same fiscal note - orig. bill

*R/O 4-30-90*  
*SFC*

**FISCAL NOTE**

**REQUEST:**

Revision Date: April 24, 1990  
Title: An Act relating to notice requirements for adoption of regulations.  
Sponsor: Sen. Adams  
Requestor: Sen. State Affairs

Agency Affected: DMVA  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

This bill will have no fiscal impact on DMVA

Changes in CSB 240 (SA) :  
have no fiscal impact.  
This fiscal note is appropriate.

Prepared by: Jeff Morrison, Director Phone: 465-4600  
Division: Administrative & Support Services, DMVA Date: 4/24/90

Approved by Commissioner: for MG John Schaeffer Date: 4/24/90  
Agency: Department of Military & Veterans Affairs

**Distribution (by preparer):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

*Same fiscal note - orig. bill*

72/0 3FC 4-30-90

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION: CS SB 240 (SA) (K)  
PUBLISH DATE: 4-28-90

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Public Safety  
Title: Radio/TV Notice of Regulation  
Proposals BRU: All  
Sponsor: Senator Adams Component: \_\_\_\_\_  
Requestor: Senate State Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PRGG RCPT						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Because radio or TV broadcasting of notices of regulatory changes is more expensive than the use of newspaper notices, it is doubtful DPS would use the broadcast media method if this bill passes. Therefore, additional fiscal impact is expected.

Changes in CS SB 240 (SA) have no fiscal impact. This fiscal note is appropriate.

Prepared by: Gayle A. Horetski, Deputy Commissioner  
Division: \_\_\_\_\_

Approved by Commissioner: Arthur English  
Agency: Department of Public Safety

Date: 4-28-90

Page 1 of 1

Same fiscal Note - orig. bill

Original sponsor(s): SEN. ADAMS

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 240 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the notice requirements for the  
7 adoption, amendment, or repeal of regulations and for  
8 the meetings of public agencies."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 44.62.190(a) is amended to read:

11 (a) At least 30 days before the adoption, amendment, or repeal  
12 of a regulation, notice of the proposed action shall be

13 (1) published in the newspaper of general circulation, or  
14 trade or industry publication, that the state agency prescribes and in  
15 the Alaska Administrative Journal; publication in a newspaper or trade  
16 or industry publication may be satisfied by broadcasting the notice or  
17 an abbreviated form of the notice by television or radio;

18 (2) mailed to every person who has filed a request for  
19 notice of proposed action with the state agency;

20 (3) if the agency is within a department, mailed or deliv-  
21 ered to the commissioner of the department;

22 (4) when appropriate in the judgment of the agency,

23 (A) mailed to a person or group of persons whom the  
24 agency believes is interested in the proposed action, and

25 (B) published in the additional form and manner the  
26 state agency prescribes;

27 (5) furnished the Department of Law together with a copy of  
28 the proposed regulation, amendment, or order of repeal for the depart-  
29 ment's use in preparing the opinion required after adoption and before

58240

# Alaska State Legislature

Al Adams  
District L



Official Business

WHILE IN SESSION  
P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3707

OUT OF SESSION  
P.O. Box 333  
Kotzebue, Alaska 99752  
(907) 442-3245

3111 C Street  
Anchorage, Alaska 99503  
(907) 561-7622

APR 27 1990

TO: Senators Rick Uehling  
Senator John Binkley  
Co-Chairs Senate Finance

FROM: Senator Al Adams **APA**

RE: Senate Bill 240

DATE: April 27, 1990

This is to request scheduling Senate Bill 240 for a committee hearing. This bill would allow options in publication requirements for proposed regulation changes and meeting notices so that radio or television media could be used as an alternative to newspaper publication.

Several potential benefits exist with this bill. In areas lacking a newspaper of general publication, radio notice could appropriately be used to notify regional residents of proposed regulation changes and meeting notices. This would present a reasonable alternative to the existing statute that stipulates newspaper publication regardless of whether an area has a newspaper being used by local residents.

It is unknown at this point the magnitude of general fund dollars currently spent on newspaper publication of these notices but this bill carries a potential for cost savings if there are lesser costs associated with alternative publication modes.

Given that radio and television are at least equal if not at times a better means of transmitting information, it seems both fair and appropriate to include them in methods authorized in statute to inform the public.

Most probably notices of statewide impact would continue to be published in newspapers of "general circulation" or those with the broadest readership. Accordingly no acute policy changes accompany this

Senate Bill 240  
April 27, 1990

legislation. Rather it will allow departments to exercise judgement and augment and/or newspaper notices when appropriate.

The Senate State Affairs Committee amended the bill in several ways. First it deleted language on page 1, line 17 that stipulated broadcast "throughout the state". In the same portion of the bill, it was clarified that an abbreviated form of regulation notices could be used. Section 2 was also added to the bill to accommodate the inclusion of public meeting notices and this necessitated a change in the title.

Background information is attached. Fiscal notes have been requested from all departments.

I thank you for your consideration.



# Alaska Broadcasters Association

AN ALASKAN CORPORATION

P.O. Box 102424  
ANCHORAGE, AK 99510  
(907) 258-2424 Voice  
(907) 258-2414 Fax

## FAH MEMO

DATE: February 9, 1990

PLEASE DELIVER THIS MEMO, PLUS THE FOLLOWING 8 PAGE(S), TO:

NAME: Dennis Egan FAH # 586-3266

STATION/COMPANY: KINY/KSUP-FM Radio, Juneau

FROM: Theda Comstock, ABA, Anchorage

If transmission is incomplete, please telephone (907) 258-2424 weekdays from 9am-5pm AST

## COMMENTS

### Re Legal Notice bills and information:

• Kentucky—They have no real office I guess. A radio station's phone number/address is listed for the part-time Executive Director (who is also the Board Treasurer). They must be having an all-day telephone contest — or they're out smelling the blue grass. Phone has been busy for the last two hours.

• Oregon—Talked to Ron Hughes, the incoming Executive Director, who will get the info from Vern Mueller, the outgoing Executive Director. Gave them your fax # to send a copy of their bill. Also, they have your address for mailing you background info.

• Mississippi—Talked to Jackie Lett, my favorite of all the Executive Directors. They have a bill fashioned after the Kansas legislation. It failed in '89 and again this year. Seems their legislature is afraid the bill would give their governor too much power. (Can you imagine politicians acting that way?). Anyway, they are going to change — or add to — the wording of one paragraph (to specify acceptable notice language) and try again next year. I already have a copy of their bill (3 pages) — which I'm forwarding as part of this fax. Meanwhile, Jackie will mail you copies of background materials — as well as information she has gathered from other state associations.

• Washington—Jim Murphy sent us information (5 pages) about the Washington State law on Legal Notice Advertising. As mentioned, their law includes mandatory use of radio and/or TV — which I don't believe was ever part of our game plan. But, some of the language may be useful so I shall forward that as well. My copy of the thing is far from good — I can only hope you'll be able to read it.

Hope this helps!

T

LEGAL NOTICE ADVERTISING  
IN WASHINGTON STATE

A. General Description

Washington State was the first state, and still one of the few, that provides for state or other public officers advertising by radio and/or television for legal public notices. In general the public officer may advertise on radio and/or television if he is first required by law to publish a legal notice in a newspaper. He may then supplement such published newspaper notice by having the information broadcast. The public official may do so if in his judgment the public interest will be served by such broadcast. The frequency of broadcast is left to the discretion of the public official.

Often times public officials are disappointed by public apathy primarily because the public has not been made aware of a public hearing in which a vital matter is to be discussed. Public awareness and participation can be stimulated by the use of radio and/or television announcements.

B. Background

The enabling legislation originated in the year 1951. At that time the law provided for only radio advertising and it was discretionary with the public official as to whether any such legal notice advertising would be used.

In 1961 the state law was amended to include television advertising. In the same year it was made mandatory for the Secretary of State to use radio and television to supplement legal notice publication of proposed constitutional amendments that were to be placed on the ballot before the general election in the state. Other than constitutional amendments legal notice advertising by other state officials continued to be discretionary with the public official.

In 1967 the legislature expanded the mandatory use to include laws authorizing state debts in addition to constitutional amendments. The purpose of that amendment was to include state wide bond issues that are approved by the voters. The amount of money allocated for the mandatory advertising by the Secretary of State

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Discretionary and is negotiated by WSAB with the Secretary of State's office.

C. Who Can Use Public Notice Advertising and With What Frequency

As stated above the Secretary of State must broadcast on radio and television notice of the proposed constitutional amendments and laws authorizing state debts that are to be submitted to the people by state wide ballot. Any other state or local official who is required by law to publish any official notice in a newspaper has the discretion to supplement the notice by radio and/or television if in his judgment the public interest would thereby be served.

Examples of such public officers would be city officials, school district officials, county officials, irrigation district officials, sewer district officials, and any other officials of political subdivisions of the state.

The number of announcements that the official may advertise on broadcasting facilities is discretionary with the official.

D. Which Stations May be Used

The public official may select any radio and/or television station he finds in his judgment will best serve the public interest. There is a requirement that the stations utilized be situated within the county of origin of the broadcast notice.

E. What Kind of Materials Are Best Suited

Notices of elections, meetings, hearings and other functions of state and local government can be effectively served by the use of radio and/or television. It would appear that long legal descriptions of property might use more than help and that general descriptions are better. Notices or a concise summary or description may be broadcast at such times and with such frequency as is determined suitable when the public interest is served thereby.

Approaches that have been used in the past by the Secretary of State in the case of constitutional amendments for state wide ballot have included such films as

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one opening with a picture of the state capitol, then the state legislature in process, a depiction of the State Voters' Pamphlet, a picture of the proposed constitutional amendment itself, and closing with a picture of the great seal of the State of Washington. The audio portion announced that on the ballot there would be a constitutional amendment to the state constitution, setting forth that it took a two-thirds vote of the legislature to place the matter on the ballot, then stating a brief description of the proposed constitutional amendment itself and closed with urging the voters to vote on election day.

#### F. Applicable Rates

Rates charged for public notice advertising will be the same as if the order was from any commercial advertiser whose advertising is directed to promoting its business within the same area as that which the notice is placed. Earned frequency discounts would be entirely proper.

#### G. Mandatory Contents and Sponsor Identification

The state law requires that the time, place and nature of such notice only be read or shown with no reference to any person by name than a candidate for political office and that such broadcast shall be made only by duly employed personnel of the station from which said broadcast emanates.

Of course FCC regulations require that the sponsor be identified in the announcement. The announcement need not say "paid for" as part of the identification. The following identification was approved by the FCC in the case of advertising by the Secretary of State of the State of Washington: "This has been an official announcement as provided by law by the Secretary of State, John Doe." Note, that in an election year for a political candidate, the title of his office should be used in the sponsor identification, but his name may be used.

#### H. Illustration of Typical Legal Notice Address

##### NOTICE OF REZONE HEARING

This notice is to advise you of a public hearing to be held in Edmonds, Washington, before the Edmonds Planning Commission. The meeting will be held on Tuesday, April 13, 1968, at 8 o'clock P.M. in the Civic Center at a public hearing. It will afford persons interested in a proposed re-zoning and the general public an

Volume Three

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opportunity to be heard for or against a proposal to re-zone property located in the "Five Corners" area on the northeast intersection of Main Street and Fifth Street S.E. The property is legally referred to as the Plat of Morning Side Addition. The proposed re-zoning is from single family residential zoning to commercial zoning. This notice of this public hearing reminds you that such hearing will be held on Tuesday, April 13, 1968, at 8 o'clock P.M. in the Edmonds Civic Center. This notice is an official announcement as provided by law by the City of Edmonds, Irene Jones, City Clerk.

I. Record Retention and Affidavits of Performance

The state law requires that the broadcaster retain an exact copy or transcription of the text of the announcement for a period of six months after the last announcement.

Proof of publication must be supplied by affidavit of performance, signed by the (1) manager, (2) assistant manager or (3) program director.

J. Applicable State Statutes

The applicable state statutes are set forth as follows. They are relatively simple in form and you should be able to find the answers to most of your questions, if not previously supplied, by reviewing those statutes:

RCW 65.16.130 Publication of official notices by radio or television - Restrictions. Any official of the state or any of its political subdivisions who is required by law to publish any notice required by law may supplement publication thereof by radio or television broadcast or both when, in his judgment, the public interest will be served thereby: Provided, That the time, place and nature of such notice only be read or shown with no reference to any person by name then a candidate for political office, and that such broadcasts shall be made only by duly employed personnel of the station from which such broadcasts emanate, and that notices by political subdivisions may be made only by stations situated within the county of origin of the legal notice.

RCW 65.16.140 Broadcaster to retain copy of transcription. Each radio or television station broadcasting any legal notice or notice of event shall for a period of six months subsequent to such broadcast retain at its office a copy or transcription of the text of the notice

as actually broadcast which shall be available for public inspection.

RCW 65.16.150 Proof of publication by radio or television. Proof of publication of legal notice or notice of event by radio or television broadcast shall be by affidavit of the manager, an assistant manager or a program director of the station broadcasting the same.

RCW 29.27.072 Notice of constitutional amendments and laws authorizing state debts - Publication in newspapers and on radio and television. The secretary of state shall cause notice of the proposed constitutional amendments and laws authorizing state debts that are to be submitted to the people to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state and shall supplement publication thereof by radio and television broadcast as provided in RCW 65.16.130, 65.16.140, and 65.16.150.

RCW 29.27.074 Contents. The notice provided for in RCW 29.27.072 shall set forth the following information:

- (1) A legal identification of the state measure to be voted upon.
- (2) The official ballot title of such state measure.
- (3) A brief statement explaining the constitutional provision or state law as it presently exists.
- (4) A brief statement explaining the effect of the state measure should it be approved.
- (5) The total number of votes cast for or against the measure in both the state senate and house of representatives.



## Kansas Association Of Broadcasters

818 Merchants National Bank, Topeka, Kansas 66612 (913) 235-1307

TO: KAB MEMBERS FROM: Harriet J. Lange Executive Director *HJL* April 28, 1989

RE: Public Notice Advertising on Broadcast / HB 2418

Enclosed is a copy of HB 2418 in the form in which Governor Hayden signed it on April 18. The law became effective yesterday - April 27 - its publication date in the Kansas Register.

You also will find some sample scripts to give you an idea of the law's application. These were used in the production of radio and television announcements that were played at the hearings before the House and Senate Elections Committees.

The bill provides that:

- 1). Any official of the state or any of its political subdivisions, who is required by law to publish public notices, may supplement their newspaper notices with radio and/or television broadcast.
- 2). The secretary of state may supplement newspaper notice of constitutional amendment elections with broadcast, during the week immediately preceding the election.
- 3). On question submitted elections, only the time, place and an unbiased summary (provided by the public official or body placing the advertisement) of the resolution or question may be included in the ad. And no reference can be made (by name) to the public official placing the ad. Nor can the official be seen or heard in the ad.
- 4). Stations must for a period of six months following the broadcast of legal notices, retain a copy or transcription of the text of the notice in their public file.
- 5). Proof of broadcast must be by affidavit of the station manager, assistant manager or program director.
- 6). Charges for legal ads on broadcast cannot exceed the comparable rate charged by the station to commercial customers. Contract rates or volume discounts given to commercial customers must be available to persons or political subdivisions placing legal ads, under the same terms and conditions as for commercial advertisements.

THANKS to all of you who contacted your House and Senate members about HB 2418, urging their support. Your involvement made the difference.

THANKS also to KAB Legislative Chairman George Logan who did an excellent job of representing you in testifying before the House and Senate Elections Committees.

HJL/  
Enclosures

*X*

## KANSAS ASSOCIATION OF BROADCASTERS

Sample Scripts  
Constitutional Amendment Elections / Secretary of State

:30

This notice is to advise you that Kansas voters will have the opportunity to vote for or against four proposed constitutional amendments appearing on the November fourth ballot, concerning liquor by the drink in public places, pari-mutuel wagering on horse and dog racing, a state-operated lottery, and classification of property. Refer to your official county newspaper of October 30th for complete details. This notice is an official announcement by the Secretary of State. . . vote, Kansas, feel the power. . . on Tuesday, November 4!

\*\*

:60

This notice is to advise you that Kansas voters will have the opportunity to vote for or against four proposed constitutional amendments appearing on the November fourth ballot. It took a two-thirds vote in the Kansas Senate and House of Representatives to place these questions on the ballot. Question number one on liquor would permit the sale of liquor by the drink in public places in those counties where the voters have approved such sale. Question number two on pari-mutuel wagering would permit horse and dog racing with pari-mutuel wagering in any county where a majority of the voters approved the proposition. Question number three on lottery would authorize the legislature to provide for a state-owned and operated lottery. And question number four on classification of property would provide that real and personal property will be divided into classes and sub-classes and assessed at different percentages of value. Refer to your official county newspaper of October 30th for complete details. This notice is an official announcement by the Secretary of State. . . vote, Kansas, feel the power. . . on Tuesday, November 4!

\*\*

:60

Kansas voters will have the opportunity to vote for or against a proposed constitutional amendment appearing on the November eighth ballot, concerning legislative reapportionment. A vote for the proposition would authorize the legislature to reapportion legislative districts in 1989 on the basis of the state census, would require the reapportionment of legislative districts in 1992 and in each tenth year thereafter on the basis of population figures from the United States Bureau of the Census, and would effectively eliminate the State Census. A vote against the proposition would continue the present requirements for reapportionment of legislative districts of both houses in 1989, and in each tenth year thereafter without any requirement regarding the source of population figures to be used. For complete details call toll-free 1-800-262-8683. This notice is an official announcement by the Kansas Secretary of State. . . vote, Kansas. . . on November eighth!

--

## KANSAS ASSOCIATION OF BROADCASTERS

Sample Scripts  
Local Subdivision Matters

:30

Patrons of Unified School District 501 are reminded that your ballot on Election Day, Tuesday, April 12, will provide you the opportunity to vote for or against the issuance of school district bonds for the renovation of Belvoir Elementary School at 2401 southeast eleventh street. Details of the general obligation bond issue can be found in the March 29th Topeka Capital-Journal. This notice is an official announcement as provided by law and is brought to you by Unified School District 501. . . vote, Topeka, feel the power. . . on Tuesday, April 12!

\*\*

:30

The Topeka City Council has scheduled a public hearing to afford interested persons the opportunity to be heard for or against a proposal to annex the Lake Sherwood area at the southwest corner of the city. The hearing will be held on Tuesday, March 29, at 7:00 pm, in the hearing room at City Hall. This notice is an official announcement as provided by law and is brought to you by the city of Topeka. That public hearing date again. . . Tuesday, March 29, 7:00 pm, at City Hall.

\*\*

HOUSE BILL No. 2418

AN ACT concerning supplemental notice of state and subdivision matters by radio and television broadcast.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. Any official of the state or any of its political subdivisions who is required by law to publish any notice required by law may supplement publication thereof by radio or television broadcast, or both, when such official determines the public interest will be served thereby, except that the broadcast of legal advertisements concerning question submitted elections, only the time, place and an unbiased summary of the resolution or question of such notice only shall be read or shown, and no reference shall be made to such official by name, and no such person shall be seen or heard in the broadcast.

Sec. 2. (a) Each radio or television station broadcasting any legal notice or notice of event shall for a period of six months subsequent to such broadcast retain at its office a copy or transcription of the text of the notice as actually broadcast which shall be available for public inspection.

(b) Proof of broadcast of legal notice or notice of event by radio or television shall be by affidavit of the manager, an assistant manager or a program director of the station broadcasting the same.

Sec. 3. (a) The secretary of state may supplement publication of legal notice of proposed constitutional amendments by radio and television broadcast as provided under section 1, at such times and with such frequency as determined suitable by the secretary of state during the week immediately preceding the election at which the proposition is to be submitted.

(b) Failure to broadcast notices provided for in subsection (a) at any station or in a particular geographic location of the state, shall in no way affect the validity of such notice or legal advertisement and shall not subject any such notice or advertisement to legal attack upon such grounds.

Sec. 4. (a) The charges made for legal advertisements on broadcast shall not exceed the comparable rate charged by the station to commercial customers.

(b) Any contract rates or volume discounts given to commercial customers by the station shall be available to persons or political subdivisions causing broadcast of legal advertisements, under the same terms and conditions as for commercial advertisements.

(c) As used in this section, "legal advertisement" and "political subdivision" have the meanings provided in K.S.A. 28-137b and amendments thereto.

---

**28-137b.** Legal notices and advertisements; definitions. As used in K.S.A. 28-137b and 28-137c:

(a) "Legal advertisement" means any matter required by law to be published by a political subdivision or as part of a court proceeding in this state.

(b) "Political subdivision" means any county, city, township, school district, drainage district, library district, cemetery district, hospital district, community college district or municipal utility.

History: L. 1981, ch. 173, § 1; July 1.

Jan., 1988

LEGAL NOTICE ADVERTISING  
SB 280

Status Report

1987 Session:

Introduced by Senate Federal and State Affairs Committee at the request of Senator Ben Vidricksen.

Referred to Senate Governmental Organization Committee (chaired by Vidricksen), for hearing. Passed out of committee with amendments. Supported by Secretary of State's Office and limited support by the Kansas Press Association.

Passed the full Senate by a vote of 36 to 3, one passing.

Referred to House Economic Development Committee; hearing held.

Held over to 1988 Session in House committee.

HEARINGS IN HOUSE COMMITTEE:

Kansas Press Association supported the bill but questioned the rate structure; suggested an amendment which would allow papers to use their lowest classified ad rate for legal notices.

Secretary of State's Office supported the bill.

House Committee members raised the following questions:

1. Who would determine how much advertising is enough in regard to Constitutional amendments.
2. Does Secretary of State have wide discretion and no guidelines.
3. Should there be language to limit the advertising so there is no duplication.
4. Is there a problem with legality if required ads on constitutional amendments are not aired in certain cities.
5. Who decides which stations in a city would carry the ads, and what if the station broadcasts to a very specific audience.
6. Is there going to be statewide dissemination so that every citizen is notified.
7. Committee wants an estimate of cost.
8. Committee would like comparison with Washington State:
  - a. amount budgeted for broadcast
  - b. population

X

- c. number of radio and tv stations
- d. number of newspapers

- 9. Committee would like other states' laws on legal notice advertising.

#### KAB RECOMMENDATIONS

Patterned after Washington State:

- 1. Same amount budgeted for broadcast as newspaper (in Washington state, all newspapers receive legal notice advertising and run each ad four times before each constitutional amendment election)
- 2. Not a 'lowest unit rate' charge, but rate no higher than rates charged any other advertiser for a similar service.

WSAB places the buy with all commercial stations - amount allocated is made pro rata to dues (based on income-same as KAB). Estimates are calculated for non-member stations. Stations are asked to make a contribution of 15 to 30 percent of their allocation, to the WSAB. If they do not choose to make a contribution, they let the WSAB know in writing.

- 4. Stations are requested to run 1/3 of the spots (not 1/3 of the dollars), as follows: RADIO - 1/3 drive; 1/3 daytime; 1/3 PM and weekends. TV - 1/3 prime; 1/3 evening and late fringe; 1/3 daytime.

*2 stations - KCTV  
in class captioned*

#### STRATEGY

- 1. Meet with reps from Secretary of State's office and Kansas Press Association to determine extent of their support for KAB's recommendations; and try to develop amended language which all of us can support.
- 2. Determine extent we will be willing to compromise our recommendations.
- 3. Assign LLC's to House Committee members; acquaint them with bill and strategy.
- 4. Assign LLC's to full House (and Senate) to extent possible.
- 5. Meet with House Committee chairman to discuss our amended language and establish a time table for committee consideration.
- 6. Meet with Governor's legislative liaison to assure governor's support.
- 7. Assuming bill gets out of committee, discuss time table for House action with Majority leader.
- 8. Activate House LLC's.

9. Assuming bill passes house, work with Conference Committee to work out compromise.
10. Activate LLC's before floor action in each house.

KAB  
Jan, 1988

PROPOSAL  
1987 KAB LEGISLATIVE PLAN

LEGAL NOTICE ADVERTISING

ACTION	RESPONSIBILITY	DEADLINE
✓ Research affected statutes, history, committees (Legislative Research Div.)	HJL	12/19/86
Determine amount that state spends in print for legal notices (i.e. constitutional amendments, public hearings, etc.) from Budget-Div. or Sec. of State	HJL	12/19/86
Determine who possible proponents and opponents might be (Kansas Press Assn., KASB, Kansas League of Municipalities, Kansas Counties Assn., etc.)	HJL	12/31/86
Visit with chairman of appropriate Senate committee (Fed & State Affairs?) to determine possible interest in a committee bill - if interested, request instruction to Revisor's office to assist in drafting a bill	HJL	1/9/87
Visit with members of Senate Committee re proposal - prior to committee hearing; activate broadcasters with members on committee	HJL & Broadcasters	<u>By 1/31/87</u>
Visit with chairman of appropriate House committee to determine position	HJL	2/20/87
Visit with House committee members to acquaint them with proposal	HJL	Feb.
Consider a social just for members of Senate (and House) Committee that will be considering proposal		Feb.
Determine feeling of Governor if a bill is presented for his signature (Gov. legislative liaison)	HJL	
Deadline for introduction of a committee bill (except Fed & State Affairs and Ways and Means)		Feb. 25
Visit with Senate leadership re floor consideration	HJL	After passage from committ.
Activate all broadcasters prior to floor consideration in the Senate		

Deadline for consideration by first house (senate)

March 11

Work with House committee to expedite getting it out of committee

Visit with House leadership re floor consideration

HJL

After passage from committ.

Activate all broadcasters to contact House members prior to floor consideration

Deadline for House consideration

April 5

Reconfirm Governor's support for measure

\*\*\*\*\*

LOTTERY (ADVERTISING)

ACTIONS	RESPONSIBILITY	DEADLINE
Monitor draft legislation as it moves through the process	HJL	On-going
Activate broadcasters as needed		
Monitor drafting of rules and regulations by the Kansas Lottery	HJL	On-going

\*\*\*\*\*

KDOC BUDGET (AH, KANSAS)

Acquaint Secretary of Commerce with program	HJL/Hank	Upon appointment
Visit with Ways & Means Subcommittee & Comm. Chairmen in House of Origin	HJL	
Appear at hearing if necessary	Hank	
Visit with W & M Subcommittee chairman in second house	HJL	
Appear at hearing if necessary	Hank	

\*\*\*\*\*

LIQUOR-BY-THE-DRINK

Monitor liquor-by-the-drink enabling legislation and regulations	HJL	On-going
Contact ABC re change in rules and regs concerning advertising by retail liquor	HJL	May, 1987

:60

State  
Const. Amendments (3)

THIS NOTICE IS TO ADVISE YOU THAT KANSAS VOTERS WILL HAVE THE OPPORTUNITY TO VOTE FOR OR AGAINST FOUR PROPOSED CONSTITUTIONAL AMENDMENTS APPEARING ON THE NOVEMBER FOURTH BALLOT. IT TOOK A TWO-THIRDS VOTE IN THE KANSAS SENATE AND HOUSE OF REPRESENTATIVES TO PLACE THESE QUESTIONS ON THE BALLOT. QUESTION NUMBER ONE ON LIQUOR WOULD PERMIT THE SALE OF LIQUOR BY THE DRINK IN PUBLIC PLACES IN THOSE COUNTIES WHERE THE VOTERS HAVE APPROVED SUCH SALE. QUESTION NUMBER TWO ON PARI-MUTUEL WAGERING WOULD PERMIT HORSE AND DOG RACING WITH PARI-MUTUEL WAGERING IN ANY COUNTY WHERE A MAJORITY OF THE VOTERS APPROVED THE PROPOSITION. QUESTION NUMBER THREE ON LOTTERY WOULD AUTHORIZE THE LEGISLATURE TO PROVIDE FOR A STATE-OWNED AND OPERATED LOTTERY. AND QUESTION NUMBER FOUR ON CLASSIFICATION OF PROPERTY WOULD PROVIDE THAT REAL AND PERSONAL PROPERTY WILL BE DIVIDED INTO CLASSES AND SUB-CLASSES AND ASSESSED AT DIFFERENT PERCENTAGES OF VALUE. REFER TO YOUR OFFICIAL COUNTY NEWSPAPER OF OCTOBER 30TH FOR COMPLETE DETAILS. THIS NOTICE IS AN OFFICIAL ANNOUNCEMENT BY THE SECRETARY OF STATE AS REQUIRED BY LAW...VOTE, KANSAS, FEEL THE POWER...ON TUESDAY, NOVEMBER 4!

: 30

Const. Amend. (4)

THIS NOTICE IS TO ADVISE YOU THAT KANSAS VOTERS WILL HAVE THE OPPORTUNITY TO VOTE FOR OR AGAINST FOUR PROPOSED CONSTITUTIONAL AMENDMENTS APPEARING ON THE NOVEMBER FOURTH BALLOT, CONCERNING LIQUOR BY THE DRINK IN PUBLIC PLACES, PARI-MUTUEL WAGERING ON HORSE AND DOG RACING, A STATE-OPERATED LOTTERY, AND CLASSIFICATION OF PROPERTY. REFER TO YOUR OFFICIAL COUNTY NEWSPAPER OF OCTOBER 30TH FOR COMPLETE DETAILS. THIS NOTICE IS AN OFFICIAL ANNOUNCEMENT BY THE SECRETARY OF STATE AS REQUIRED BY LAW...VOTE, KANSAS, FEEL THE POWER...ON TUESDAY, NOVEMBER 4!



## Kansas Association Of Broadcasters

818 Merchants National Bank, Topeka, Kansas 66612 (913) 235-1307

February 1, 1988

TO: State Broadcast Association Executives

FROM: Harriet Lange *HL*

RE: Provisions for 'Legal Notice Advertising on Broadcast'  
in your state

We are attempting to amend our state statutes on legal notices. Currently, only designated newspapers receive public notice ads placed by local units of government and the state.

We are pushing for a bill that would allow local units to use radio and television for public notice; and would require the Secretary of State to supplement newspaper notice of constitutional amendments with broadcast...similar to the State of Washington's set-up.

Our bill passed the Senate last year without any opposition; and was held over to the 1988 session in a House Committee. We are preparing for a hearing before the House Committee and if the question arises about other states use of the broadcast media for legal notices, I want to be sure we give accurate information.

Jim Murphy has provided me with a lot of good information from Washington State - their law and how it works. Does your state have a provision for legal notices on broadcast? If yes, could you send me a copy of the applicable state statute(s) and a little background on how it works? I'd sure appreciate hearing from you by February 10.

Thanks!

HJL/

Kentucky

Harriet:

Attached, as per request, the statute that permits use of "Electronic" Public Notices. It may be used as a Supplement or in some cases (Waiver Print Notice only) as the Primary Notice.

It is hard money in Ky. For Dates of Tax Assessments, Poll Info and things of this type. We of course would not want to see a complete Treasurers Annual Report but it would be nice to do so.

J-F



818 Merchants National Bank Bldg., Topeka, Kansas 66612

913/235-1307

February 20, 1987

Senator Ben Vidricksen  
143-N, Statehouse  
Topeka, KS 66612

Dear Ben:

Many thanks for taking the lead in getting our legal notice bill introduced. We'll look forward to the hearing before your committee sometime the week of March 2. This timing works best for us since both Hank Booth and I will be in Washington, D.C. next week (week of February 23).

I don't know of any opposition to the bill from local units since it's permissive and not mandatory for them. The newspaper people may feel threatened, although they shouldn't, since the REQUIREMENT that constitutional amendment notices be aired on radio and television is IN ADDITION TO the newspaper notices already required.

Thanks again.

Sincerely,

Harriet J. Lange  
Executive Director

HJL/mr

**PRESIDENT**  
Hank Booth  
KLWN/KLZR, Lawrence

**SECRETARY/TREASURER**  
Don Heer  
KTOP/KDVV, Topeka

**EXECUTIVE DIRECTOR**  
Harriet Lange, CAE  
KAB, Topeka

Marty Mella  
KLOE AM, Goodland

Stu Malcher  
KSCB AM/FM, Liberal

Dennis Czachanski  
KTKA TV, Topeka

**PRESIDENT-ELECT**  
John Maham  
KWCH TV, Wichita

**PAST PRESIDENT**  
Sam Elliot  
KULY/KHUO  
Ulysses/Hugoton  
KU, Lawrence

**DIRECTORS**  
Jan Elliot  
KLOE TV, Goodland

Chf Shank  
KSKU FM, Hutchinson

Wayne Grabbe  
KRSL/KCAY, Russell

Dick Painter  
WIBW AM/FM, Topeka

Harlan Raame  
KSAS TV, Wichita

See later  
amendments!

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Session of 1967

## SENATE BILL No. 280

By Committee on Federal and State Affairs

2-18

---

0017 AN ACT authorizing publication of official notices by radio or  
0018 television broadcast.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. Any official of the state or any of its political  
0021 subdivisions who is required by law to publish any notice  
0022 required by law may supplement publication thereof by radio or  
0023 television broadcast, or both, when such official determines the  
0024 public interest will be served thereby, except that the time, place  
0025 and nature of such notice only shall be read or shown and no  
0026 reference shall be made to any person by name who is at the time  
0027 of notice a candidate for political office. Such broadcasts shall be  
0028 made only by duly employed personnel of the station from which  
0029 such broadcasts emanate, and notices by political subdivisions  
0030 may be made only by stations situated within the county of origin  
0031 of the legal notice.

0032 Sec. 2. (a) Each radio or television station broadcasting any  
0033 legal notice or notice of event shall for a period of six months  
0034 subsequent to such broadcast retain at its office a copy or tran-  
0035 scription of the text of the notice as actually broadcast which  
0036 shall be available for public inspection.

0037 (b) Proof of publication of legal notice or notice of event by  
0038 radio or television broadcast shall be by affidavit of the manager,  
0039 an assistant manager or a program director of the station broad-  
0040 casting the same.

0041 Sec. 3. (a) The secretary of state shall supplement publica-  
0042 tion of legal notice of proposed constitutional amendments by  
0043 radio and television broadcast as provided under section 1.

0044 (b) The notice provided for in subsection (a) shall set forth  
0045 the following information:

0046 (1) A legal identification of the constitutional amendment to  
0047 be voted upon;

0048 (2) the official ballot title of such constitutional amendment;

0049 (3) a brief statement explaining the constitutional provision  
0050 as it presently exists;

0051 (4) a brief statement explaining the effect of the constitu-  
0052 tional amendment should it be approved; and

0053 (5) the total number of votes cast for and against the consti-  
0054 tutional amendment in both the state senate and house of repre-  
0055 sentatives.

0056 Sec. 4. This act shall take effect and be in force from and  
0057 after its publication in the statute book.

SESSION OF 1987

SUPPLEMENTAL NOTE ON SENATE BILL NO. 280

As Amended by Senate Committee on  
Governmental Organization

Brief of Bill\*

S.B. 280, as amended by the Senate Committee, would authorize official notices by radio and television broadcasts to supplement those in newspapers. Currently, newspaper notices are the only type authorized.

The bill would direct the Secretary of State to use radio and television to supplement publication of legal notices of proposed constitutional amendments. A schedule for computing charges of broadcasts is included in the bill.

The bill also would permit any state or local official who is required to publish legal notices to supplement publication by using radio or television broadcasts.

Background

The bill was requested by the Kansas Association of Broadcasters. The Association's representative indicated that six or seven states currently broadcast legal notices by radio and television.

The Kansas Press Association offered limited support for the bill. The Secretary of State's Office suggested two amendments which the Senate Committee incorporated into the bill. First, the person making the

\* Bill briefs are prepared by the Legislative Research Department and do not express legislative intent.

broadcast shall not be a candidate for public office and any person who is a candidate shall not be seen or heard in any broadcast of a legal notice. Second, language specifying information to be provided about constitutional amendments was deleted.

Another amendment adding a schedule for computing charges for making radio and television broadcasts of legal notices was adopted by the Senate Committee.

Bill Graves  
Secretary of State



2nd Floor, State Capitol  
Topeka, KS 66612-1594  
(913) 296-2236

## STATE OF KANSAS

TESTIMONY OF JOHN REINHART,  
OFFICE OF THE SECRETARY OF STATE,  
TO THE GOVERNMENTAL ORGANIZATION COMMITTEE  
ON SENATE BILL 280  
; MARCH 3, 1987

Secretary of State Bill Graves supports the goal that Senate Bill 280 is attempting to accomplish.

By permitting legal advertisements on radio and television, the legislature is recognizing the influence of these media on our society as well as allowing state and local government officials to make the fullest use of available communications technology. We believe Senate Bill 280 is a step toward a better informed, better educated electorate.

Attached to my written remarks are some amendments we would like the committee to consider. The amendment to section one is technical in nature. It clarifies the prohibition against public officials appearing or speaking in such legal notices if they are a candidate for office.

Most of section three has been deleted because section one already limits the content of the notices to "the time, place and nature of such notice."

We have reviewed these amendments with representatives of the Kansas Broadcasting Association, and they find the amendments satisfactory.

With the adoption of appropriate amendments, we would urge the committee to recommend favorable passage of Senate Bill 280.

X

0017 AN ACT authorizing publication of official notices by radio or  
0018 television broadcast.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. Any official of the state or any of its political  
0021 subdivisions who is required by law to publish any notice  
0022 required by law may supplement publication thereof by radio or  
0023 television broadcast, or both, when such official determines the  
0024 public interest will be served thereby, except that the time, place  
0025 and nature of such notice only shall be read or shown and no  
0026 reference shall be made to any person by name who is at the time

0027 of notice a candidate for political office. Such broadcasts shall be  
0028 made only by duly employed personnel of the station from which  
0029 such broadcasts emanate, and notices by political subdivisions  
0030 may be made only by stations situated within the county of origin  
0031 of the legal notice.

0032 Sec. 2. (a) Each radio or television station broadcasting any  
0033 legal notice or notice of event shall for a period of six months  
0034 subsequent to such broadcast retain at its office a copy or tran-  
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0037 (b) Proof of publication of legal notice or notice of event by  
0038 radio or television broadcast shall be by affidavit of the manager,  
0039 an assistant manager or a program director of the station broad-  
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0051 (4) ~~a brief statement explaining the effect of the constitu-~~  
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0053 (5) ~~the total number of votes cast for and against the consti-~~  
0054 ~~tutional amendment in both the state senate and house of repre-~~  
0055 ~~sentatives.~~

0056 Sec. 4. This act shall take effect and be in force from and  
0057 after its publication in the statute book.

office, and such person shall not be seen or heard in the broadcast.



818 Merchants National Bank Bldg., Topeka, Kansas 66612

913/235-1307

March 3, 1987

TO: MEMBERS OF SENATE GOVERNMENTAL ORGANIZATION COMMITTEE

RE: SB 280

My name is Hank Booth; I am president of the Kansas Association of Broadcasters. We appreciate the opportunity to appear before you in support of SB 280.

The intent of SB 280 is twofold: 1) to allow public officials who are required to publish legal notices, to supplement such publication with radio and/or television broadcast, if in their opinion, the public interest would be served; and 2) to require the Secretary of State to supplement publication of legal notice of proposed constitutional amendments by radio and television broadcast.

The airing of legal notices on broadcast media has been practiced in the State of Washington for over 35 years and has served the state well in informing the electorate. Information on the Washington program is attached.

SB 280 is an attempt to update the current legal notice advertising requirements by recognizing the potential the broadcast media has in reaching and informing the public. Consider this - before we sleep tonight nearly every man, woman and child will watch television, listen to the radio or most likely do both.

**PRESIDENT**  
Hank Booth  
KLWN/KLZR, Lawrence

**SECRETARY/TREASURER**  
Don Neer  
KTOP/KDVV, Topeka

**EXECUTIVE DIRECTOR**  
Harriet Lange, CAE  
KAB, Topeka

Marty Mella  
KLOE AM, Goodland

Stu Melcher  
KSCB AM/FM, Liberal

Dennis Czechanski  
KTKA TV, Topeka

**PRESIDENT-ELECT**  
John Maeham  
KWCH TV, Wichita

**PAST PRESIDENT**  
Sam Elliot  
KULY/KHUO  
Ulysses/Hugoton  
KU, Lawrence

**DIRECTORS**  
Jan Elliot  
KLOE TV, Goodland

Chif Shank  
KSKU FM, Hutchinson

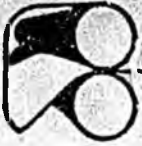
Wayne Gresham  
KRSL/KCAY, Russell

Dick Painter  
WIBW AM/FM, Topeka

Harlan Reams  
KSAS TV, Wichita

That includes the business owner, the corporate executive, the entrepreneur, the college student, the government worker, the laborer, the teacher, the elected official and his or her constituents. We are everywhere and we touch the lives of every person in this state everyday. It seems only logical that our media be used, in addition to newspapers, in informing the public and increasing voter awareness of important local and state issues.

The KAB represents over 100 radio stations and 19 television stations in Kansas. We urge your favorable consideration of SB 280, with amendments being offered by the Secretary of State.



**Kansas Press Association**  
**Kansas Press Service, Inc.**

P.O. Box 1773 • Topeka Kansas 66601 (214 W. Sixth Suite 300) • 813/233-7421

Testimony on  
Senate Bill 280  
Senate Committee on Governmental Organization  
March 3, 1987

Mr. Chairman and members of the committee, my name is David Furnas and I am the executive director of the Kansas Press Association.

The Kansas Press Association, which is very familiar with the required publication of public notice in newspapers, has not taken a formal position of Senate Bill 280, which would authorize broadcast of official notices by radio or television.

In my conversations with KPA members, however, I am finding wide support for this concept. Predicting what our membership will do on policy matters is much like predicting what the legislature will do. But, if you will allow me, I would guess that the association's legislative committee, which meets March 12, will recommend support of the concept contained in Senate Bill 280 and, in turn, the KPA Board of Directors will adopt such a policy at its Board meeting April 2.

At first, some observers might be surprised by this support. Upon reflection, the reasons are obvious. The Press Association and its members support the widest possible dissemination of information about government as possible. Supplemental dissemination of public notices by radio and television would further that goal.

Interestingly, Senate Bill 280, if adopted in its present form, would also establish policy and possible legal precedents of interest to newspapers that have been the official media of legal notices.

For example, the bill makes no provision for rate structures which have been a thorn to newspapers for years. The bill, relating to the mandatory broadcast of constitutional amendments, appears to require broadcast on every radio and television station in the state. At present, constitutional amendment legal publications are published in only one newspaper in each county. This implied change in policy is of great interest to the more than 150 newspapers that did not have the opportunity to be paid for publishing the constitutional amendment legals in 1986.

I would be remiss not to relate to the committee that some newspaper publishers scoff at this bill. The lack of a rate structure, the lack of provisions for when the legals would be broadcast, the lack of provisions on what type of audience selection for supplemental broadcasts and the method of proof of broadcast and public inspection are suspect to some publishers.

Still, underlying these reservations, most of the KPA members with whom I have discussed this bill, support the concept of greater public notice.

Bill Graves  
Secretary of State



2nd Floor, State Capitol  
Topeka, KS 66612-1594  
(913) 296-2236

## STATE OF KANSAS

March 16, 1987

Mr. George Neavoll  
Editorial Page Editor  
Wichita Eagle-Beacon  
P.O. Box 820  
Wichita, KS 67201

Dear Mr. Neavoll:

From past discussions, I know that you and I share a common belief: that public officials have a responsibility to do all they can to inform and educate the people on issues of public interest and concern.

With that in mind, I was puzzled and somewhat disappointed by your editorial Saturday, March 7, opposing Senate Bill 280, which would allow the state, cities and counties to place legal advertising on radio and television. I firmly believe that the concept of this bill is sound. I believe that placing legal ads over the electronic media will be a valuable tool for public officials who desire to make information about the government, at whatever level, as accessible to as many people as possible.

Several aspects of the bill are important for a complete understanding of it: 1). Ads on TV and radio would supplement legal advertising already published in newspapers. 2). The bill does not require legal ads to be read word for word as they appear in the newspaper. Recognizing the time-bound nature of the electronic media, the bill limits the content of the legal ad "to the time, place and nature of such notice." 3). City and county officials aren't required to place legal ads on radio and TV, the bill just gives them that option, allowing them to use the law selectively.

Legal notices listing each piece of property being sold for back taxes wouldn't be suited for TV or radio. The announcement of such a sale would be. A legal ad on

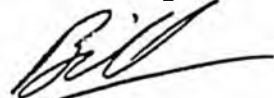
Page Two  
March 16, 1987  
Mr. George Neavoll

radio informing listeners that the city council will conduct a public hearing on a re-zoning petition at a certain time, at a certain place, would be especially beneficial.

My office can use the legislation to inform voters of constitutional amendments that will be on the ballot. Naturally, we wouldn't attempt to read the entire amendment on the air. We would let the public know the nature of the proposition - to permit a state-owned and -operated lottery, for example - and let them know where additional information can be obtained. We might refer listeners to the complete legal ad in the local newspaper or ask them to write my office.

In any event, government officials would have an additional vehicle for providing information to a large segment of the public. I hope that you will reconsider your position for I believe S.B. 280 is a positive step toward a better informed, better educated electorate.

Sincerely,



BILL GRAVES  
Secretary of State

BG/jr

Approved \_\_\_\_\_ Date \_\_\_\_\_

MINUTES OF THE House COMMITTEE ON Economic Development

The meeting was called to order by Phil Kline at  
Chairperson

3:30pm a.m./p.m. on Wednesday, March 25 1987 in room 423S of the Capitol.

All members were present except: Representatives Aylward, Chronister, Hoy, Mainey, Mead and Teagarden (All Excused)

Committee staff present:  
Jim Wilson, Revisor  
Lynn Holt, Research  
Holly Mulloy, Secretary

Conferees appearing before the committee:  
Hank Booth, president, Kansas Association of Broadcasters  
David Furnas, executive director, Kansas Press Association  
John Reinhart, press secretary, Secretary of State  
David Hopper, chairman, Douglas County Commission  
Chris McKenzie, administrator, Douglas County  
Sandra Praeger, mayor, city of Lawrence  
Gary Toebben, executive vice president, Lawrence Chamber of Commerce  
Chip Wheelen, representing Kansas Legislative Policy Group  
Bev Bradley, representing Kansas Association of Counties

Chairman Kline called the meeting to order at 3:45pm and introduced a special guest, F. Tim Witsman, president of Kansas, Inc.

The chairman opened the hearing on S.B. 280 and called on the first proponent, Hank Booth. Mr. Booth distributed copies of his testimony and a description of legal notice advertising on radio and television in the state of Washington (Attachment 1). He stated that S.B. 280 would allow public officials who are required to publish legal notices to supplement them with radio or TV broadcast and would require the Secretary of State to supplement legal notice of proposed Constitutional amendments by using radio and TV. In response to questions from committee members, Mr. Booth said that five or six states currently use radio/TV in addition to newspapers for legal notices and that the KAB had agreed to use the "lowest unit rate" cost for such notices.

David Furnas of the Kansas Press Association also spoke in favor of the bill but questioned the rate structure. He distributed an amendment which would allow newspapers to use their lowest classified ad rate for legal notice advertising so that there would be parity between newspapers, radio and TV. He pointed out that S.B. 280 is unclear as to whether broadcasts of Constitutional amendments must be on every radio and TV station in the state, or just one in each county. In answer to a committee question, Mr. Furnas said that the state of Kansas spent approximately \$120,000 last year on newspaper notices for the Constitutional amendments. (See Attachment 2 for Mr. Furnas' testimony)

The following points were brought up by committee members: (1) who would determine how much advertising is enough in regard to Constitutional amendments (2) does the Secretary of State have wide discretion and no guidelines on this (3) should there be language to limit the advertising so there is no duplication (4) is there a problem with legality if required ads on Constitutional amendments not being aired in certain cities (5) who decides which stations in a city would carry the ads, and what if that station broadcasts to a very specific clientele (6) if there is going to be statewide dissemination so that every citizen is notified, we need an estimate of the cost.

In responding to the committee's questions, Mr. Booth said that when a specific amount of money would be allocated to be spent on the public broadcasts of a Constitutional amendment, the Kansas Association of Broadcasters would determine the "best buy" of time that would cover most of the state. Several committee members

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Economic Development  
room 4235, Statehouse, at 3:30 a.m/p.m. on Wednesday, March 25 1987

said that S.B. 280 is not specific enough and does not have language such as "beat buy to be determined by the KBA."

The third conferee on S.B. 280 was John Reinhart, who spoke in favor of the bill. He said that there is a specific requirement for newspaper ads on Constitutional amendments to be county-wide saturation but that S.B. 280 does not have such specific language. He commented that as the bill now is written, there could be one ad, on one station, played one time - and that would satisfy the requirements of the bill. He said that the Secretary of State's office would welcome amendments which would add specific language to the bill (Attachment 3).

There were no opponents to S.B. 280 and the hearing was closed.

Chairman Kline opened the hearing on S.B. 138 and introduced Chris McKenzie, Douglas County administrator. Mr. McKenzie introduced the members of the Douglas County delegation who would be speaking on the bill.

David Hopper testified in support of the bill, saying that the Douglas County Commission had worked with the city in planning the East Hills Business Park by providing the financing necessary to purchase the 300 acres and by providing a number of access improvements to the site. He said that S.B. 138 is needed to insure an orderly change in the ownership of the property. (Attachment 4)

Chris McKenzie, Douglas County administrator, also testified in support of the bill. He said the development of the industrial park project has the unanimous support of the city of Lawrence, Douglas County and the Chamber of Commerce. He noted that S.B. 138 would authorize any county in the state to play a critical leverage role in the development of similar sites across the state. He commented that lines 88 through 103 in the bill were not requested by Douglas County constituents but that he is comfortable with those lines. (See Attachment 5).

Sandra Praeger, Lawrence mayor, testified that the city supports S.B. 280 because it provides jobs to the local economy and expands the tax base (Attachment 6). She further stated if they could not transfer the property from the county to a private non-profit organization, they would lose control over what kind of company could locate there.

Gary Toebben, Lawrence Chamber of Commerce, testified in support of the bill, saying it is an extension of the economic development initiatives suggested in the Redwood-Krider Report. He said that S.B. 138 allows Kansas counties to improve their economic development program by assisting in the creation of new industrial sites (Attachment 7).

Chip Wheelen, Kansas Legislative Policy Group, also testified in support of the bill. He stated that his organization represents a group of rural county commissioners and that, with the amended language in lines 86 and 87 added by the Senate Local Government Committee, they urge the passage of this bill (Attachment 8).

Bev Bradley, representing the Kansas Association of Counties, said that her organization supports the bill because it encourages economic development.

The meeting adjourned at 4:45. The next meeting is scheduled for Thursday, March 26, 1987.

March 25, 1987

TO: MEMBERS OF HOUSE ECONOMIC DEVELOPMENT COMMITTEE

RE: SB 280

My name is Hank Booth; I am president of the Kansas Association of Broadcasters. We appreciate the opportunity to appear before you in support of SB 280.

The intent of SB 280 is twofold: 1) to allow public officials who are required to publish legal notices, to supplement such publication with radio and/or television broadcast, if in their opinion, the public interest would be served; and 2) to require the Secretary of State to supplement publication of legal notice of proposed constitutional amendments by radio and television broadcast.

The airing of legal notices on broadcast media has been practiced in the State of Washington for over 35 years and has served the state well in informing the electorate. Information on the Washington program is attached.

SB 280 is an attempt to update the current legal notice advertising requirements by recognizing the potential the broadcast media has in reaching and informing the public. Consider this - before we sleep tonight nearly every man, woman and child will watch television, listen to the radio or most likely do both.

That includes the business owner, the corporate executive, the entrepreneur, the college student, the government worker, the laborer, the teacher, the elected official and his or her constituents. We are everywhere and we touch the lives of every person in this state everyday. It seems only logical that our media be used, in addition to newspapers, in informing the public and increasing voter awareness of important local and state issues.

The KAB represents over 100 radio stations and 19 television stations in Kansas. We urge your favorable consideration of SB 280, as amended by the Senate.

Bill Graves  
Secretary of State



2nd Floor, State Capitol  
Topeka, KS 66612-1594  
(913) 296-2236

## STATE OF KANSAS

TESTIMONY OF JOHN REINHART,  
OFFICE OF THE SECRETARY OF STATE,  
TO THE HOUSE ECONOMIC DEVELOPMENT COMMITTEE  
ON SENATE BILL 280  
MARCH 25, 1987

Secretary of State Bill Graves supports the intent of Senate Bill 280.

Radio and television are a continuous and reliable source of news and information for today's mobile society. By permitting legal advertisements on radio and television, the legislature is recognizing the importance of the broadcasting media as a communications tool. This bill allows government officials to make the fullest use of modern communications technology.

Two amendments suggested by our office and have been incorporated into this bill:

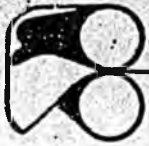
- The first amendment clarifies the prohibition against candidates for office appearing or speaking in legal advertisements.

- The second amendment removes specific language about constitutional amendments. This language has been deleted because section one sufficiently limits the content of such notices.

Because of the time-bound nature of the broadcasting media, it is important that legal ads on radio and television be used only to supplement legal advertising in newspapers. By their nature, newspapers lend themselves to a more thorough treatment of complex issues.

Finally, the success of this bill, as it relates to constitutional amendments, hinges upon the availability of funds to provide advertising statewide. As it stands, the bill does not require statewide advertising. Therefore, no funds are required.

We encourage this committee to recommend favorable passage of Senate Bill 280. We believe that it is a step toward a better informed, better educated electorate.



**Kansas Press Association**  
**Kansas Press Service, Inc.**

P.O. Box 1773 • Topeka Kansas 66601 (214 W. Sixth Suite 300) • 913/233-7421

Testimony on Senate Bill 280  
House Committee on Economic Development  
March 25, 1987

Mr. Chairman and members of the committee, my name is David Furnas and I am the executive director of the Kansas Press Association.

The Kansas Press Association, which is very familiar with the required publication of public notice in newspapers, has not taken a formal position of Senate Bill 280, which would authorize broadcast of official notices by radio or television.

However, the association's legislative committee has recommended to the KPA Board of Directors, which meets April 2, that the concept be supported.

At first, some observers might be surprised by this support. Upon reflection, the reasons are obvious. The Press Association and its members support the widest possible dissemination of information about government. Supplemental dissemination of public notices by radio and television would further that goal.

Interestingly, Senate Bill 280, if adopted in its present form, would also establish policy and possible legal precedents of interest to newspapers that have been the official media of legal notices. It is the proposed elements of Senate Bill 280, as they apply to radio and television that is of interest to the KPA legislative committee, and I believe to all Kansas newspapers.

For example, when we pointed out in our testimony before the Senate committee the original version of the bill did not have provisions relating to the rates radio and television could charge for legal notices, the bill was amended to allow radio and television stations to charge their lowest rate. Newspapers would like to have the same privilege. At present, rates allowed to be charged by newspapers are governed by statute at lower rates than would normally be charged other advertisers. Indeed, the legislature has developed a method whereby someday newspapers might be able to charge their lowest classified advertising rate. That provision is part of the law today. With the adoption of this bill, the KPA legislative committee believes, and many KPA members believe, newspapers ought to be allowed to go immediately to their lowest classified advertising rate. That would put the rate structure proposed in this bill at parity between newspapers, radio and television.

I am providing an amendment that would accomplish that equity.

The portion of Senate Bill 280 relating to the legal broadcast of the Constitutional amendments is a little unclear. If the bill would require broadcast on every radio and television, newspapers again would like to have the same privilege. At present, only one newspaper in each county publishes the public notice of Constitutional amendments. In Washington state, which has the law cited by the broadcasters allowing for radio and TV legals, every newspaper in the state must run the public notice of a Constitutional amendment.

In summary, I believe the Kansas Press Association Board of Directors will accept the recommendation of the KPA legislative committee to support the concept of Senate Bill 280. I do believe, however, some newspaper publishers might disagree. The bottom line is that the supplemental notice on radio and television will increase a wider dissemination of notice to the public. Our industry supports that philosophy.

We would hope the committee would look with favor on the suggested amendments that would provide equity in the legal notice process.

271-5201

**Proposed Amendment to S.B. 280**

**By Kansas Press Association**

Amend Senate Bill 280 by deleting Section 4 and inserting new Section 4 as follows:

Sec. 4. (a) A newspaper shall charge and receive, for publishing a legal advertisement, a rate not exceeding the lowest regular classified advertising rate charged by the newspaper to its commercial customers.

(b) On or before July 1 of each year, the publisher of each newspaper which publishes any legal advertisement in this state shall file with the Secretary of State a card showing the newspaper's rates for legal advertisements, and shall be effective for a period of one year from July 1 on or before which the filing is made.

(c) Any contract rates or volume discounts given to commercial customers by the newspaper shall be available to persons or political subdivisions causing publication of legal advertisements, under the same terms and conditions as for commercial advertisements.

The classified rate for legal advertisements shall not in any year be increased by more than 15% in excess of the rate for the next preceding year.

(d) Proof of publication of all such notices shall be made in the manner required by law or the order or citation of court or summons, and each such proof of publication shall be accompanied by a verified statement of fees and charges therefor. The fees and charges of all such publications when made in any action or proceeding in any court of this state shall be taxed as costs and collected in the same manner as other costs in the action or proceeding.

(e) As used in this section, "legal advertisement" and "political subdivision" have the meanings provided in K.S.A. 28-137b.

Sec. 5. K.S.A. 1986 Supp., 28-137 is hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas Register.

SENATE BILL No. 280

By Committee on Federal and State Affairs

2-18

0018 AN ACT authorizing publication of official notices by radio or  
0019 television broadcast.

0020 Be it enacted by the Legislature of the State of Kansas:

0021 Section 1. Any official of the state or any of its political  
0022 subdivisions who is required by law to publish any notice  
0023 required by law may supplement publication thereof by radio or  
0024 television broadcast, or both, when such official determines the  
0025 public interest will be served thereby, except that the time, place  
0026 and nature of such notice only shall be read or shown and no  
0027 reference shall be made to any person by name who is at the time  
0028 of notice a candidate for political office. Such broadcasts shall be  
0029 made only by duly employed personnel of the station from which  
0030 such broadcasts emanate, and notices by political subdivisions  
0031 may be made only by stations situated within the county of origin  
0032 of the legal notice, and such person shall not be seen nor heard  
0033 in the broadcast.

0034 Sec. 2. (a) Each radio or television station broadcasting any  
0035 legal notice or notice of event shall for a period of six months  
0036 subsequent to such broadcast retain at its office a copy or tran-  
0037 scription of the text of the notice as actually broadcast which  
0038 shall be available for public inspection.

0039 (b) Proof of publication of legal notice or notice of event by  
0040 radio or television broadcast shall be by affidavit of the manager,  
0041 an assistant manager or a program director of the station broad-  
0042 casting the same.

0043 Sec. 3. (a) The secretary of state shall supplement publica-  
0044 tion of legal notice of proposed constitutional amendments by  
0045 radio and television broadcast as provided under section 15

*These would  
have been our  
proposed amendments  
to address the  
concerns expressed  
by the House Education  
Committee in 1987.  
we didn't get a hearing  
in 1988-90 this is when  
we started in '89.*

at such times and with such frequency as determined suitable by the Secretary of State during the week immediately preceding the election at which the proposition is to be submitted.  
(b) Failure to broadcast notices provided for in subsection (a) at any one station or in a particular geographic location of the state, shall in no way affect the validity of such notice or legal advertisement and shall not subject any such notice or advertisement to legal attack upon such grounds.

0046 (b) The notice provided for in subsection (a) shall set forth  
0047 the following information:

0048 (1) A legal identification of the constitutional amendment to  
0049 be voted upon;

0050 (2) the official ballot title of such constitutional amendment;

0051 (3) a brief statement explaining the constitutional provision  
0052 as it presently exists;

0053 (4) a brief statement explaining the effect of the constitu-  
0054 tional amendment should it be approved; and

0055 (5) the total number of votes cast for and against the consti-  
0056 tutional amendment in both the state senate and house of repre-  
0057 sentatives.

0058 ~~(b) The charges made for notices provided for in subsection~~  
0059 ~~(a) shall be the lowest unit rate on the station for the same class~~  
0060 ~~and amount of time and for the same time period.~~

0061 ~~(c) The lowest unit rate provided for in subsection (b) shall~~  
0062 ~~be the rate in effect at the station 45 days prior to the primary~~  
0063 ~~election at which such proposed constitutional amendments are~~  
0064 ~~voted on, or 60 days prior to the general election at which such~~  
0065 ~~proposed constitutional amendments are voted on.~~

0066 Sec. 4. This act shall take effect and be in force from and  
0067 after its publication in the statute book.

Sec. 4. (a) The charges made for legal advertisements on broadcast, shall not exceed the comparable rate charged by the station to commercial customers.

(b) Any contract rates or volume discounts given to commercial customers by the station shall be available to persons or political subdivisions causing broadcast of legal advertisements, under the same terms and conditions as for commercial advertisements.

(c) As used in this section, "legal advertisement" and "political subdivision" have the meanings provided in K.S.A. 28-137b.

Kansas Register.

KAB - April 1, 1988

AT&T Weather Wire: Not related to the legislature, but wanted to give you an update. Our letting the KCC and AT&T know that our 'ox had been gored' and that we didn't like it, had a positive impact on AT&T requesting, and the KCC approving a special reduced rate for broadcasters. Enclosed is a letter from AT&T advising subscribers or those who have dropped the service and want to reconnect, to work directly with AT&T's marketing people. If you have questions before contacting AT&T, call Harriet. She will fill you in on what to expect. The reduced rate of \$87.45, goes into effect today, April 1.

Consumer Protection: HB 3003, requested by Attorney General Bob Stephan, would have expanded the definition of deceptive acts and practices to "representing or advertising that any item is being offered at a specific price, unless the representation or advertisement sets forth for such item the total price which must be paid in order to obtain the item." The bill was aimed primarily at airline price advertising and would have established a price advertising standard for Kansas. We appeared before the Sen. Judiciary Subcommittee considering the bill, in opposition to it. Also opposing it was the Air Transport Association. Our arguments were that federal law and regulation pre-empts state enforcement in this area; Congress is addressing the issue of airline advertising disclosures; and the bill could force off the air in Kansas, nationally and regionally marketed products and services, if their price advertising did not meet the standard the bill established. The Judiciary Committee, chaired by Sen. Bob Frey, Liberal, did not take action on the bill by the deadline, so it appears to be dead.

Elections: The Senate has amended into a House Elections bill (HB 2778). Sen. Mike Johnston's proposal calling for a presidential preference primary, beginning in 1992. The Senate was scheduled to take final action today. If the House rejects the Senate's amendments, the bill will end up in conference committee.

Employee Relations: HB 2960 has passed both Houses. It raises Kansas minimum wage from the current \$1.60 per hour to \$2.65 per hour.

Legal Notice Advertising on Broadcast: SB 280, which flew through the Senate last year, is an idea 'whose time has not come', at least as far as the House Economic Development Committee is concerned. The bill would have allowed local units of government to supplement newspaper notice with broadcast; and would have required the Secretary of State to supplement with broadcast, newspaper notice of constitutional amendment elections. We were hopeful that another hearing could be held before the House Eco Devo committee this session, to respond to some of the concerns that were expressed last year. We were not able to get the hearing re-opened; and we were not able to identify one strong supporter of the concept from among the key committee members we visited with; so rather than ask the chairman to bring it up for discussion and final action without a hearing and with the strong possibility that it would fail, it was best to let the bill die a graceful death with nothing on the legislative record that indicates that it failed. On a more positive note, there may be a possibility that the Secretary of State will work with us this election (if there are constitutional amendments on the ballot) in placing broadcast legal notices.

30

*docs*

①

(SFX TOWN CRIERS BELL)

HEAR YE..HEAR YE! THE TOPEKA CITY COUNCIL HAS SCHEDULED A PUBLIC HEARING TO AFFORD INTERESTED PERSONS THE OPPORTUNITY TO BE HEARD FOR OR AGAINST A PROPOSAL TO ANNEX THE LAKE SHERWOOD AREA AT THE SOUTHWEST CORNER OF THE CITY. THE HEARING WILL BE HELD ON TUESDAY, MARCH 29, AT 7:00 PM, IN THE HEARING ROOM AT CITY HALL. THIS NOTICE IS AN OFFICIAL ANNOUNCEMENT AS PROVIDED BY LAW AND IS BROUGHT TO YOU BY THE CITY OF TOPEKA. YOUR CITY GOVERNMENT URGES YOU TO GET INVOLVED! THAT PUBLIC HEARING DATE AGAIN...TUESDAY, MARCH 29, 7:00 PM, AT CITY HALL.

*Sample  
announcement to  
Legal Notice ads  
local + stat.*

(HED..LIGHT, UPBEAT)

PATRONS OF UNIFIED SCHOOL DISTRICT 501 ARE REMINDED THAT YOUR BALLOT ON ELECTION DAY, TUESDAY, APRIL 12, WILL PROVIDE YOU THE OPPORTUNITY TO VOTE FOR OR AGAINST THE ISSUANCE OF SCHOOL DISTRICT BONDS FOR THE RENOVATION OF BELVOIR ELEMENTARY SCHOOL AT 2401 SOUTHEAST ELEVENTH STREET. DETAILS OF THE GENERAL OBLIGATION BOND ISSUE CAN BE FOUND IN THE MARCH 29TH TOPEKA CAPITAL-JOURNAL. THIS NOTICE IS AN OFFICIAL ANNOUNCEMENT AS PROVIDED BY LAW AND IS BROUGHT TO YOU BY UNIFIED SCHOOL DISTRICT 501....VOTE, TOPEKA, FEEL THE POWER...ON TUESDAY, APRIL 12!

need . . .

Chapter 63, 1967 laws permits any state or other public officer who is required by law to publish any notice to supplement publication thereof by causing such notice or a concise summary thereof to be broadcast over radio and television stations.

Broadcasts by radio and television provides an effective means to inform voters and the public generally of questions of current consideration. Today, the bulk of Oregon's population is centered in the metropolitan areas, with Portland, the largest. There, metropolitan daily papers print but few of such public notices. To a great part they appear what might be called "trade" papers with limited class circulation. These public notices are not generally available or read by the public. In other larger cities, the use of radio and television will effectively supplement other advertising.

Much of Oregon's outstate area has only weekly newspapers. Dates of publication often do not permit information to be disseminated when it is most needed. Nineteen Oregon cities have weekly newspapers, with no dailies, however in each one there is a radio station.

Well over 95 percent of the homes in Oregon have radio and television sets—almost saturation of the listening and reading public.

Senator Victor Atiyeh, in speaking before the Senate on public notice advertising said, "Anything we can do to better inform the citizens should be done." John Weldon, Multnomah County Director of Elections said, following a school election, "A great many people complained that the school district did not publicize the election enough, and they voted against it because they didn't know what the money was for."

Radio and television provides an effective means to better inform the public—and at a very low cost.

questions and answers

on public notice advertising . . .

#### WHO CAN USE PN ADVERTISING?

The Secretary of State's office may use Chapter 63 as provided in Section 2. Any state or other public officer who is required to publish any notice may use the law as provided in Section 4. County courts and county officers, city government, school districts, planning commissions, irrigation districts, rural fire districts, special districts and other public agencies may use television and radio as provided.

#### HOW CAN COPY BE BEST PREPARED AND PLACED?

Any radio or television station will be willing to assist in the preparation of appropriate copy for broadcasting or televising. Experienced personnel will work with you to make the notices most effective and advise you as to times for broadcasting or televising. Stations will provide copies of the notice as broadcast along with an affidavit of broadcast setting forth the dates and times it was used.

#### WHAT KIND OF MATERIAL IS BEST?

Notices of elections, meetings, hearings, and other functions of state and local government can be effectively served by the use of radio and television. It would appear that long legal descriptions of property might confuse and that general descriptions are better. Notices or a concise summary or description thereof may be broadcast at such times and with such frequency as is determined suitable when the public interest is served thereby.

#### HOW CAN THE CHARGE FOR PN ADVERTISING BE DETERMINED?

Rates charged for public notice advertising will be the same as if the order was from any commercial advertiser whose advertising is directed to promoting its business within the same area as that which the notice is placed. A station representative will quote the cost based on the length of copy and number of times it will be used. Normally, 30 or 60 second announcements are preferred for use on radio and 10 to 60 seconds for use on television.



LEGAL NOTICE ADVERTISING FOR BROADCAST

The intent of Legal Notice Advertising for Broadcast is two fold; 1) for public officials who are required to publish legal notices, to allow such publication with radio and/or television broadcast, if in their opinion, the public interest would be served; and 2) to allow the Secretary of State to publish legal notice of proposed constitutional amendments by radio and television broadcast.

This is an attempt to update the current legal notice advertising requirements by recognizing the potential the broadcast media has in reaching and informing the public. Consider this.... before we sleep tonight nearly every man, woman and child in Mississippi will watch television, listen to the radio or most likely do both. Broadcast is everywhere and we touch the lives of every person in this state everyday. It seems only logical that our media be used in informing the public and increasing voter awareness of important local and state issues.

Mississippi's illiteracy problem is well documented...plus, Mississippi's poor neither have the time to read the newspaper, nor can they afford the luxury cost of a newspaper.

WHAT KIND OF MATERIAL IS BEST?

Notices of elections, meetings, hearings and other functions of state and local government can be effectively served by the use of radio and television.

It would appear that long legal descriptions of property might confuse and that general descriptions are better.

Notices or a concise summary or description thereof may be broadcast at such times and with such frequency as is determined suitable when the public interest is served.

(See examples of broadcast copy attached)

BE PERMITTING LEGAL ADVERTISEMENTS ON RADIO AND TELEVISION THE LEGISLATURE IS RECOGNIZING THE INFLUENCE OF THESE MEDIA ON OUR SOCIETY AS WELL AS ALLOWING STATE AND LOCAL GOVERNMENT OFFICIALS TO MAKE THE FULLEST USE OF AVAILABLE COMMUNICATIONS TECHNOLOGY. LEGAL NOTICE ADVERTISING FOR BROADCAST IS A STEP TOWARD A BETTER INFORMED, BETTER EDUCATED ELECTORATE.

## SENATE BILL NO. 2135

1. AN ACT TO AUTHORIZE AND PROVIDE FOR RADIO OR TELEVISION  
2. BROADCAST OF LEGAL NOTICE ADVERTISEMENTS AND ELECTION NOTICES BY  
3. THE STATE AND ITS POLITICAL SUBDIVISIONS; TO PROVIDE FOR CHARGES  
4. FOR SUCH LEGAL NOTICES; AND FOR RELATED PURPOSES.

5. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6. SECTION 1. For purposes of this act, the following words and  
7. phrases shall be defined as follows:

8. (a) "Agency" shall mean and include all the various  
9. state agencies, officers, departments, boards, commissions,  
10. offices and institutions of the state.

11. (b) "Governing authority" shall mean boards of  
12. supervisors, governing boards of all school districts, all boards  
13. of directors of public water supply districts, boards of directors  
14. of master public water supply districts, municipal public utility  
15. commissions, governing authorities of all municipalities, port  
16. authorities, commissioners and boards of trustees of any public  
17. hospitals and any political subdivision of the state supported  
18. wholly or in part by public funds of the state or political  
19. subdivisions thereof.

20. SECTION 2. (1) Any official of a state agency or any  
21. governing authority who is required by law to publish any notice  
22. required by law may use publication thereof by radio or television  
23. broadcast, or both, when such official determines the public  
24. interest will be served thereby, except that the time, place and  
25. nature of such notice only shall be read or shown and no reference  
26. shall be made to any person by name who is at the time of notice a

27. candidate for political office.

28. (2) Any such broadcast of legal notice shall be in addition  
29. to, and not in lieu of, such newspaper publication as is required  
30. by law.

31. SECTION 3. (1) Each radio or television station  
32. broadcasting any legal notice or notice of event shall, for a  
33. period of six (6) months subsequent to such broadcast, retain at  
34. its office a copy or transcription of the text of the notice as  
35. actually broadcast which shall be available for public inspection.

36. (2) Proof of publication of legal notice or notice of event  
37. by radio or television broadcast shall be by affidavit of the  
38. manager, an assistant manager or a program director of the station  
39. broadcasting the same.

40. SECTION 4. (1) The Secretary of State may use publication  
41. of legal notice of proposed constitutional amendments by radio and  
42. television broadcast as provided under Section 1 of this act.  
43. These radio and television broadcasts shall be at such times and  
44. with such frequency as determined suitable by the Secretary of  
45. State during the week immediately preceding the election at which  
46. the proposition is to be submitted.

47. (2) Failure to broadcast notices provided for in subsection  
48. (1) at any one (1) station or in a particular geographic location  
49. of the state shall in no way affect the validity of such notice or  
50. legal advertisement and shall not subject any such notice or  
51. advertisement to legal attack upon such grounds.

52. (3) The notice provided for in subsection (1) shall set  
53. forth the following information:

54. (a) A legal identification of the constitutional  
55. amendment to be voted upon;

56. (b) The official ballot title of such constitutional  
57. amendment;

58. (c) A brief statement explaining the constitutional  
59. provision as it presently exists;

60. (d) A brief statement explaining the effect of the  
61. constitutional amendment should it be approved; and

62. (e) The total number of votes cast for and against the  
63. constitutional amendment in both the State Senate and House of  
64. Representatives.

65. SECTION 5. (1) The charges made for legal advertisements on  
66. broadcast shall not exceed the comparable rate charged by the  
67. station to commercial customers.

68. (2) Any contract rates or volume discounts given to  
69. commercial customers by the station shall be available to persons  
70. or political subdivisions causing broadcast of legal  
71. advertisements under the same terms and conditions as for  
72. commercial advertisements.

73. SECTION 6. This act shall take effect and be in force from  
74. and after July 1, 1990.

1990

Objections to Mississippi Legal Notice Advertising for Broadcast

Senate: Section 4 would give the Secretary of State, Governor, Attorney General to much power in determining the wording of the announcement. Could slant the wording either way they wanted the vote to go. We offered to change this section to read only the 70 words used to describe the constitutional amendment on the ballot, but it still would not fly.

House: Section 5. They wanted to change the wording on this section to one flat rate for radio and one flat rate for TV, and still be able to use all day parts. The current rate for newspaper, whether daily or weekly, is 8¢ per word.

We will go back to the drawing board for next year and work on the above.

This is the second time that this bill has failed in Mississippi.... maybe 3X is the charm.

**EVERY CITIZEN**

**HAS THE RIGHT TO KNOW!**



**THE PUBLIC'S BUSINESS**

**MUST BE PUBLIC KNOWLEDGE!**

**LEGAL ADVERTISING — Radio and Television**

Recognizing that every citizen has the right to know the public business upon which he should act, the Legislature of the Commonwealth of Kentucky has enacted an amendment to KRS 424.010 to 424.220.

This amendment authorizes any official required by law to publish legal notices to supplement publication by 12 or more broadcast announcements calling attention to the published or posted notice. The official may purchase 12 announcements at customary charges, or more than 12 if authorized by a court of competent jurisdiction.

THE NOTICE ITSELF DOES NOT HAVE TO BE BROADCAST. The announcements should call attention to the publication or posting of the notice. This is for the benefit of those citizens who do not subscribe to the newspaper used for publication and subscribers who do not read the advertisements. These announcements are to give them basic information about the notice and tell them where they may get further details.

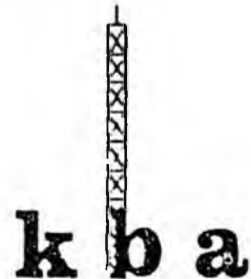
AMENDMENT TO K.R.S. 424.010 TO 424.220

"Any official of the Commonwealth or any of its political subdivisions, who is required by law to publish any legal notice or notice of event, may supplement, not to exceed twelve publications thereof, unless otherwise ordered by a court of competent jurisdiction, by use of radio or television spot announcements, or both, when, in his judgment, the public interest will be served thereby; except, that notices by political subdivisions may be only by stations having a broadcast studio within the county of origin of the legal notice, and that broadcast notices shall call attention solely to published or posted notices required by statute. Each radio or TV station broadcasting a legal notice or notice of event shall for a period of three months subsequent to such broadcast retain at its office a copy of the transcript of the text of the notices actually broadcast and such shall be available for public inspection. The radio or TV station which broadcasts the legal notice authorized by this chapter shall be entitled to receive payment of an amount equal to the customary charges of such station for such service. The publication of local notices under this act shall be restricted to legal notices relating to those official acts of public officers requiring a final determination by order of any court of competent jurisdiction in the Commonwealth."

PREPARED AS A PUBLIC SERVICE

— BY —

KENTUCKY BROADCASTERS ASSOCIATION



# MEMO

*From the desk of*  
**Norm Gallant**

February 19, '88

Dear Harriet ----

After sending out my initial note, in re. your inquiry on Legal Notice Advertising, I happened to come across a communication from our legal counsel concerning this subject, at the time when there was an interest in pushing the matter.

For your information, the 1982 research came up with the material outlined by Mr. Moreshead to our president of that year, Margo Cobb.

I believe I'm right, when I say no more was done, because we found that the copy content to such announcements would be highly loaded with the usual legalize that one finds in the printed publications. It would seem that anyone is free to follow through and sell such announcements to state or municipal entities, but the form of broadcast copy seems to be the basic objection.

Regards,



ATTORNEYS AT LAW  
341 WATER STREET  
P. O. BOX 2305  
AUGUSTA, MAINE 04330

TELEPHONE  
207-622-3878  
207-622-7508

WALTER M. SANBORN  
(1882-1958)

RICHARD B. SANBORN (RETIRED)  
CHARLES E. MORESHEAD  
RICHARD M. SCHADE  
PETER T. DAWSON  
LEE K. BRAGG

LINDA B. GIFFORD  
CHARLES S. BELSKY  
LESTER F. WILKINSON, JR.

*Norm  
FYI  
Margo*

June 22, 1982

Ms. Margo Cobb  
WLBZ TV  
Box 934  
Bangor, Maine 04401

Re: Requirements of Publication of Notice

Dear Margo:

Pursuant to your request, I have investigated various aspects of the Maine statutes in an effort to determine when notice by publication is required and when notice may be accomplished by use of television and/or radio broadcasts.

The most obvious example of when public notice may be given by any means, including television or radio broadcasts, is found in the "Freedom of Access" or "Right to Know" laws. Title 1 of Maine Revised Statutes Annotated, Sections 401 et seq. These laws declare that it is legislative policy that public proceedings exist to aid the citizens of the State in the conduct of their business, and to that end, that public proceedings shall be held openly and that no meetings are to be held without "proper notice and ample opportunity for attendance by the public." Section 401.

Section 406 entitled "Public Notice" states that:

"[p]ublic notice shall be given for all public proceedings .... This notice shall be given in ample time to allow public attendance. In the event of an emergency meeting, local representatives of the media shall be notified of the meeting ...."

The term "public notice" is not defined anywhere in the statute as requiring that any particular type of notice be given or that any particular type of media be used. Thus, it would appear that the broadcasting media could be used to effectuate the public notice aspect of all public proceedings as easily as the newspapers. To that end it may be advisable for various broadcasters around the State to contact their local governing bodies which hold public proceedings, such as school boards, municipal boards, etc., and suggest more use of the broadcasting media for public notice purposes.

June 22, 1982

The Maine School Management Association has received a memorandum from its legal counsel regarding the Freedom of Access Law and it includes the following information with regard to the giving of public notice:

"Public notice must be given for all public proceedings .... In our opinion this section requires public notice of all school board meetings .... Notice may be given by posting it in a conspicuous place ... and by furnishing copies to the local newspaper and media. Notice may be given by placing a legal advertisement in a newspaper in the area. The notice procedure will undoubtedly vary in different areas of the State."

Although this memorandum does mention newspaper advertising, media broadcasts are certainly not precluded and may even be advisable in certain area of the state not adequately covered by newspaper circulation.

Certain other statutes require notice to be specifically published in a newspaper of general circulation within the area where the event is to occur. The following are examples:

1. The Administrative Procedures Act requires that prior to adoption of any state agency rules or prior to an agency adjudication, notice be published in a newspaper of general circulation in the area of the State affected. 5 M.R.S.A., §§8053, 9052.
2. The Probate Code requires notice to creditors to be given when a personal representative of an estate is appointed in a newspaper of general circulation in the county where the estate is being probated. 18-A M.R.S.A., §3-801.
3. Notice of delinquent real estate taxes assessed against real estate owned by persons unknown is required to be placed in the state paper or in some newspaper, if any, published in the county where the real estate lies. 36 M.R.S.A., §1281.
4. The Treasurer of State is required to publish notice of intent to dispose of abandoned property in two newspapers of general circulation. 33 M.R.S.A., §1352.

Title 1 designates the Daily Kennebec Journal of Augusta as the State paper of the State of Maine. Section 601 of Title 1 sets forth the requirements for the publishing of newspapers in order for them to qualify as a "medium for the publication of legal notices, legal advertising and other matter required by law to be published in a newspaper ...." No such provisions exist with regard to the broadcasting media.

If I may be of further assistance, please do not hesitate to call me.

Sincerely yours,

Charles E. Moreshead

CEM/cds

Officers and board of directors

# Washington State Association of Broadcasters

2300 Westin Building, 2001 Sixth Avenue, Seattle, Washington 98121



Phone: (206) 448-4100

Chairman of the Board  
James Corcoran

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KHQ-TV, Spokane

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Sturges Dorrance  
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KVEW-TV, Tri-Cities

MEMO TO: Jackie McGinnis-Lett, Mississippi  
: Harriet J. Lange, Kansas  
: Thomas Cleary, Michigan

RE: Legal Notice Advertising

FROM: James A. Murphy

DATE: November 11, 1985

Each of the three of you asked me to forward a copy of this state's legal notice advertising law. Enclosed you will please find a background explanation (page nos. 400 - 404) from one of WSAB's regular reference manuals we produce for our members. The laws themselves appear on pages 403 and 404.

The last referenced law, RCW 29.27.074 Contents, is often not followed by the Secretary of State in all of the particularized information because it would be too cumbersome on radio and TV. The radio/TV provisions were added to the preceding section (RCW 29.27.072) by amendment to the then existing law without changing the required "Contents" section. Recognizing the legislative history, the Secretary of State has simply interpreted the law in a mode of substantial compliance.

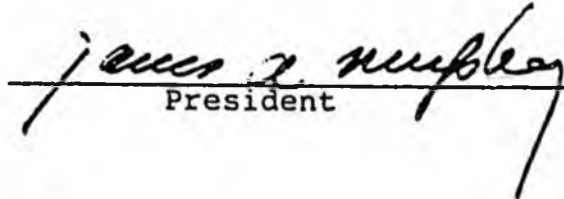
Also enclosed is a copy of this year's order form as mailed to each station. Of course, in the mailed forms the call letters and monetary amounts were filled in for each station.

Dues to WSAB are based on gross income as annually reported to WSAB (and kept confidential). The allocation to each station is then

MEMORANDUM  
November 11, 1985  
Page 2

made pro rata to its dues. A copy of our annual Dues Report Form is also enclosed. The dues are paid monthly.

As you may imagine, the foregoing constitutes most of written materials, but does not go into implementation, securing the budgeted amount, newspapers, political reaction to such a law, etc. Some of this we discussed in Washington, D. C. at the BEDA meeting. Should you wish further information please do not hesitate to inquire.

  
President

**WSAB DUES REPORT FORM**

Membership dues of radio and television stations in the Washington State Association of Broadcasters are determined by gross revenue. (Until the FCC abolished stations' Annual Financial Report, FCC Form 324, gross income was determined from the figure on Line 17 of each station's annual Form 324). Please determine your station's gross income, including trades and nonbroadcast revenue, including agency and other sales commissions, and then check the appropriate revenue bracket in the listing below.

A separate Dues Report Form should be filled out for each station, provided, however, in the case of AM and FM stations (only) under common ownership in the same market, gross income for both stations may be combined.

(Check One)	Under \$100,000	_____	\$15 per month
	\$100,000 - \$150,000	_____	30 per month
	150,000 - 200,000	_____	40 per month
	200,000 - 250,000	_____	50 per month
	250,000 - 300,000	_____	60 per month
	300,000 - 350,000	_____	70 per month
	350,000 - 400,000	_____	80 per month
	400,000 - 450,000	_____	90 per month
	450,000 - 500,000	_____	100 per month
	500,000 - \$1 Million	_____	110 per month
	\$1 Million - 5 Million	_____	130 per month
	5 Million - 9 Million	_____	170 per month
	9 Million - 13 Million	_____	210 per month
	13 Million - 17 Million	_____	250 per month
	17 Million - 21 Million	_____	290 per month
	21 Million - 25 Million	_____	330 per month

CALL LETTERS: \_\_\_\_\_ TV ( ); AM ( ); FM ( ); AM/FM ( )

Signed: \_\_\_\_\_ Title: \_\_\_\_\_

Address \_\_\_\_\_  
 (Street or P.O. Box) (City) (Zip)

If monthly dues statements are to be sent to other than the individual signing the form, please indicate to whom statements should be sent:

Name: \_\_\_\_\_ For Station: \_\_\_\_\_

Title: \_\_\_\_\_ Address: \_\_\_\_\_

RETURN TO: Washington State Association of Broadcasters  
 2300 Westin Building  
 2001 Sixth Avenue  
 Seattle, Washington 98121  
 Phone: (206) 448-4100



Officers and board of directors

# Washington State Association of Broadcasters

2300 Westin Building, 2001 Sixth Avenue, Seattle, Washington 98121



Phone: (206) 448-4100

October 21, 1985

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## IMPORTANT NOTICE ORDER FOR LEGAL NOTICE ADVERTISING

CALL LETTERS: \_\_\_\_\_

RADIO ALLOCATION: \$ \_\_\_\_\_

TV ALLOCATION: \$ \_\_\_\_\_

SCHEDULE: October 29th  
through  
November 4th

**BACKGROUND:** The Secretary of State of the State of Washington, Ralph Munro, has allocated \$128,000 (including costs of production, distribution, etc.) to broadcasters for the legal publication of state measures that are on the ballot in the general election on November 5, 1985.

The allocation was made pursuant to state law by coordination with the Washington State Association of Broadcasters. Since 1959 the broadcast allocation has varied in amount depending on available state budget, the number of issues on the ballot, etc. The allocation is made from legislative appropriation. The state law regarding legal notice advertising is more fully explained in the Washington State Association of Broadcasters reference manual Sales Codes, Regulations and Practices, Volume Three, Part I, p. 400 (now out of print).

**SCHEDULE AND RATES:** Stations who accept the order are required to run the announcements as many times as is justified for the amount of the order set forth above. The amount set forth for each station will not perfectly match the station's rate card, but each station is to be sure to use the full monetary allocation, even if it means the last spot is partly unpaid.

The rate per announcement should not be higher than the rate charged any other advertiser for a similar service. If a station desires to run extra spots as a public service, this is the station's individual decision. The "lowest unit charge" is not applicable, unless by individual station choice. See WSAB reference manual, Political Broadcasts, Volume Two, 2nd Edition, p. 95.

Each station is requested to run the announcements throughout the day, starting as above indicated on October 29th, through November 4th. Each station should run 1/3 of the announcements (not 1/3 of the dollars) as follows (inventory permitting):

<u>Radio</u>	<u>Television</u>
1/3 drive	1/3 prime
1/3 daytime	1/3 evening and late fringe
1/3 PM and weekends	1/3 daytime

The schedules may be spot-checked by a sampling of the announcements' scheduling from random stations.

**RADIO TAPES:** Radio tapes containing 30-second spot announcements will be sent to you (same addressee) under separate cover. The tapes were prepared by the Secretary of State's Office.

**TV VIDEO TAPES:** The Secretary of State's Office is also making the TV tapes being one (possibly two) 30-second spot announcement. They also will be sent under separate cover (to the same addressee).

**AFFIDAVIT OF PERFORMANCE AND RECORDS:** Each station must, by state law, supply proof of performance. On completion of the stations' advertising, an affidavit of performance signed by the manager, an assistant manager or a program director, should be mailed to the Seattle office of the Association. Payment will be made after proof of performance is received for all stations in the state. Shortly before the conclusion of the advertising completion we will send the proper affidavits of performance for the stations' signature. Please do not use your standard forms as they will not be legally acceptable.

State law requires the retention by the station of a copy or transcription of the text of the notice as actually broadcast which shall be available for public inspection for a period of six months. It need not be placed in your FCC Public File.

DONATION TO WSAB: Since 1959, WSAB has asked for a Voluntary donation from 15% to 50% of the allocated amount to each station. In addition, in some years there has been an agency commission to an outside agency. This year there is no agency commission, the Secretary of State's office having produced its own spots; etc. For the last few years WSAB's expenses have been greater than its revenue, eroding needed cash reserves. For example, we have deferred producing some new reference manuals by reason of budget constraints, and this year we reduced our scholarships to broadcast-sequence students from three to two (both at WSU).

The WSAB Board of Directors would like to do some "catch-up" on the eroding general fund reserves, and fund a scholarship fund independent of general operating funds (from where scholarships are currently paid). A long step toward those goals ("catch-up" and a scholarship fund) would be attainable by a voluntary contribution of 30% of the above allocated amount (similar to the cost of an agency fee and sales commission of 15% each). Unless we are immediately informed otherwise, we will assume you intend to make the donation. If you do NOT accept the advertising order, or do not intend to make the donation, please advise WSAB (confirmed in writing) prior to October 25th.

LEGAL NOTICE ADVERTISING  
IN WASHINGTON STATE

A. General Description

Washington State was the first state, and still one of the few, that provides for state or other public officers advertising by radio and/or television for legal public notices. In general the public officer may advertise on radio and/or television if he is first required by law to publish a legal notice in a newspaper. He may then supplement such published newspaper notice by having the information broadcast. The public official may do so if in his judgment the public interest will be served by such broadcast. The frequency of broadcast is left to the discretion of the public official.

Often times public officials are disappointed by public apathy primarily because the public has not been made aware of a public hearing in which a vital matter is to be discussed. Public awareness and participation can be stimulated by the use of radio and/or television announcements.

B. Background

The enabling legislation originated in the year 1951. At that time the law provided for only radio advertising and it was discretionary with the public official as to whether any such legal notice advertising would be used.

In 1961 the state law was amended to include television advertising. In the same year it was made mandatory for the Secretary of State to use radio and television to supplement legal notice publication of proposed constitutional amendments that were to be placed on the ballot before the general election in this state. Other than constitutional amendments legal notice advertising by other state officials continued to be discretionary with the public official.

In 1967 the legislature expanded the mandatory use to include laws authorizing state debts in addition to constitutional amendments. The purpose of that amendment was to include state wide bond issues that are approved by the voters. The amount of money allocated for the mandatory advertising by the Secretary of State