

CHAPTER VI

THE OFFICIAL JOURNAL

The governing bodies of both state and local governmental units in Louisiana are required by law to select a newspaper as the official journal in which the respective units shall publish certain proceedings and other notices required by law.

The legislature has enacted specific laws governing the selection and qualifications of the official journal of the state. Parish governments, municipal governments and school boards are grouped together in the law relative to the selections and qualifications of the official journals for these respective units. In addition, certain qualifications for the official journal of other political subdivisions appear elsewhere.

Although the qualifications for official journals are similar in many respects to those provided for the legal newspaper, there are some significant differences which must be noted carefully by newspaper publishers and executives. One of the chief uses of an official journal is to publish certain proceedings and various official acts of the governing body, the intent of which is to safeguard the public against misfeasance and malfeasance by public officials. The legislature, therefore, has provided for penalties against public officials who fail to make the required publication within certain time limits. Further, the law prescribes maximum rates which newspapers selected as official journals may charge the governmental units.

The applicable laws defining “newspaper” and relating to qualifications for newspapers selected as official journals are set forth below for reference purposes.

R.S. 43:81. Official journal of state

- A. The printing of advertisements, public notices, proclamations, and all public notices and advertising to be done by the legislature, or the executive or other departments and institutions of the state government, shall be published in a daily newspaper to be known and designated as the “Official Journal of the State”, which newspaper shall have and possess the following qualifications:*
- (1) It shall possess the periodicals class mailing privilege.*
 - (2) It shall be published in the city of Baton Rouge, Louisiana.*
 - (3) It shall have been so published for at least six days per week for a period of not less than two years prior to the time that it is awarded the contract as the Official Journal of the State, as provided herein.*
 - (4) It shall have an audited paid daily circulation of not less than ten thousand for at least one year prior to the time it is awarded the contract.*
- B. (1) For the purposes of Article III, Section 19 of the Constitution of Louisiana, the Official Journal of State shall be the Internet website or portal of the Official Journal of the State.*
- (2) All laws and joint resolutions shall be accessible through the Official Journal of the State as defined in this Subsection prior to the sixtieth*

day after final adjournment of the session in which they are enacted and shall remain accessible for at least one year. Any act that contains an effective date prior to the sixtieth day after final adjournment shall be accessible prior to the effective date contained therein, if possible, or if not possible, as soon as possible after such effective date.

R.S. 43:82. Contract to be let by bids; duration of contract

The contract for printing by the “State Printer of the Official Journal of the State” shall be let to the lowest bidder possessing the qualifications enumerated in R.S. 43:81(A), and shall run for a period of two years beginning July first and ending June thirtieth.

R.S. 43:83. Invitation for bids

The Division of Administration, Office of the Governor, shall give notice of the letting of the contract by having an invitation for bids inserted in three or more of the leading newspapers published in the state, for three weeks prior thereto, and all printing as provided for in this Chapter shall be let in one contract.

R.S. 43:85. Information in bids; price

All bids for printing as provided for under the provisions of this Chapter shall contain the price per agate line, and shall name a daily newspaper possessing the qualifications enumerated in R.S. 43:81, as the medium of publication, but no bid shall be accepted and no contract shall be let which allows a price per agate line in excess of the maximum price per agate line permitted to be paid for advertisements in judicial proceedings or any other legal proceedings in the Parish of East Baton Rouge.

ACCESS VIA THE INTERNET

In 2004, the Legislature enacted R.S. 43:19.1, which allows documents of the state, which have previously been published in the official journal of the state, to be made accessible on the website of the Legislature. R.S. 43:19.1 provides:

§19.1. Legislative web site

Any legislative or governmental instrument, journal, index, order, report, or other official document of the state which has previously been published in the official journal of the state as provided for in this Title may be made accessible on the official Internet web site or portal of the Louisiana State Legislature.

PARISHES, MUNICIPALITIES AND SCHOOL BOARDS

R.S. 43:140. Definitions

As used in this Chapter, the following terms shall have the meanings ascribed to them in this Section:

- (1) *“Bona fide paying subscribers” shall mean persons who have subscribed at a subscription rate which is not nominal, whether by mail subscriptions, purchases through dealers and carriers, street vendors and counter sellers, or any combination thereof, but shall not include free circulation, sales at token or nominal subscription price, and sales in bulk for purposes other than for resale for individual subscribers.*
- (2) *“General paid circulation” shall not include publications when one-half or more of all copies circulated are provided free of charge to the ultimate recipients, or are paid for at nominal rates by the ultimate recipients.*
- (3) *“Newspaper” shall mean a publication that during each year of the five year period prior to the first publication of any legal or official notice therein:*
 - (a) *Has been published at regular intervals of not less than weekly.*
 - (b) *Has been originated and published for the dissemination of current news and intelligence of varied, broad, and general public interest, including regular news coverage of local public meetings and events, and is not devoted to the interests of, or published for the entertainment or instruction of, or has a circulation restricted to, any particular sect, denomination, labor, or fraternal organization, or other special group or class of citizens.*
 - (c) *Has not been published primarily for advertising purposes and has not contained more than seventy-five percent advertising in more than one-half of its issues, excluding separate advertising supplements inserted into but separately identifiable from any regular issue or issues.*
 - (d) *Has maintained a general paid circulation to bona fide paying subscribers within the area the publication is required.*
- (4) *Nominal rate(s)” shall mean a price which is so small or slight that it is not considered real or substantial in comparison with what might reasonably be expected.*
- (5) *“Office” shall mean the newspaper’s principal public business office and need not be the place at which the newspaper’s printing presses are physically located. A newspaper shall have only one principal public business office; however, any newspaper with a principal place of business office in a parish adjoining Jefferson Parish which within one year prior to June 1, 1986, has actually published official proceedings of any municipal corporation, parish council, police jury, or school board in Jefferson Parish shall be deemed to be published in an office physically located in both the parish where the newspaper maintains its principal business office and Jefferson Parish.*

R.S. 43:141. Official journal to be selected by police juries, city and parish councils, municipal corporations, and school boards

- A. *The police juries, city and parish councils, municipal corporations, and school boards in all the parishes, the parish of Orleans excepted, at their first meeting in June of each year, shall select a newspaper as official journal for their respective parishes, towns, or cities for a term of one year.*
- B. *In any parish which is divided by the Mississippi River and has a population of not less than one hundred thousand the governing body shall have the authority to select two official journals for their respective parishes, one of which shall be located on one bank of the river and the other which shall be located on the opposite bank thereof and no act heretofore performed shall be considered invalid because of any such parish having heretofore designated two such official journals.*

R.S. 43:142. Qualifications of newspaper

- A. *The newspaper:*
 - (1) *Shall have been published in an office physically located in the parish in which the body is located for a period of five years preceding the selection.*
 - (2) *Shall not have missed during that period as many as three consecutive issues unless caused by fire, flood, strike, or natural disaster.*
 - (3) *Shall have maintained a general paid circulation in the parish in which the body is located for five consecutive years prior to the selection.*
 - (4) *Shall have been entered in a U.S. post office in that parish under a periodical permit in that parish for a period of five consecutive years prior to the selection.*
- B. *The provisions of this Section relating to the five-year requirement shall not contravene any contract existing between any governing body and a newspaper on and prior to May 11, 1970; nor shall the five-year requirement herein be applied in assessing the qualifications of a newspaper which was in existence on May 11, 1970; nor shall any provision of this Chapter prohibit a publication from becoming an official journal in Jefferson Parish if the publication is qualified to publish judicial advertisements and legal notices in Jefferson or Orleans Parish or has actually published official proceedings within one year prior to June 1, 1986, of any municipal corporation, parish council, police jury, or school board within Jefferson Parish.*

A municipality may not limit newspapers considered for selection as the "official journal" to daily, rather than weekly newspapers; any newspaper must simply meet the necessary qualifications. Op. Atty. Gen., No. 89-347, June 13, 1989.

Official journal must have publication office within parish but need not have printing facilities within the parish. Op. Atty. Gen., No. 89-347A, May 18, 1990.

R.S. 43:143. Newspaper selected to be known as official journal; duties

The newspaper selected shall be known as the official journal of the parish, town, city or school board, and it shall publish all minutes, ordinances, resolutions, budgets and other official proceedings of the policy jury, town or city councils, or the school board.

A charter school is an independent public school that is operated pursuant to a charter between a non-profit corporation and the Board of Elementary and Secondary Education. A charter school is not a school board or a political subdivision of the state, and therefore, not subject to the mandates set forth in R.S. 43:143. In addition, *La. R.S. 17:3996(B)* provides that:

[N]otwithstanding any state law, rule, or regulation to the contrary and except as may be otherwise specifically provided for in an approved charter, a charter school established and operated in accordance with the provisions of this Chapter and its approved charter and the school's officers and employees shall be exempt from all statutory mandates or other statutory requirements that are applicable to public schools and to public school officers and employees except for the following laws otherwise applicable to public schools with the same grades....

* * *

(9) *Open meetings, R.S. 42:4.1 et seq,*

(10) *Public records, R.S. 44:1 et seq.*

In **La. Op. Atty Gen. No. 04-0317**, the attorney general noted that *La. R.S. 17:3996* made no reference to laws requiring the publication of minutes. Further, had the legislature intended for charter schools to be subject to the laws pertaining to the publication of minutes, it could have so provided by including such provisions in this listing. Accordingly, the attorney general opined that charter schools are not subject to the mandates set forth in Title 43, Chapter 4, of the Louisiana Revised Statutes requiring the publication of minutes, unless a school's approved charter subjects the school to such publication requirements.

R.S. 43:144. Penalty for failure to have proceedings published

The official of any municipal corporation, police jury or school board by law responsible for the preparing and recording of the official proceedings who, within twenty days from the date of any meeting at which the official proceedings were had, wilfully neglects or fails to furnish the official journal with a copy of the minutes, ordinances, resolutions, budgets, and proceedings for publication, shall be fined not less than twenty-five dollars nor more than five hundred dollars, or be imprisoned for not less than ten days nor more than six months, or both.

R.S. 43:145. Municipalities to select newspaper located within their boundaries

Municipal corporations shall select an official journal published in an office physically located within their municipal boundaries if a newspaper as defined in R.S. 43:140(3) is published therein. If no qualified newspaper is published within the municipal boundaries, a newspaper published in the parish of the municipal corporation which meets the requirements of a newspaper as defined in R.S. 43:140(3) shall be selected.

R.S. 43:146. Designation of other newspaper when no newspaper published in the parish

Where there is no newspaper published in an office physically located within the parish which meets the requirements of R.S. 43:140(3), a newspaper in an adjoining parish may be designated as the official journal.

R.S. 43:147. Compensation for printing

- A. The police juries, municipal corporations, and school boards throughout the state, may, at their option, have their official proceedings published by contract, which contract may not provide for a cost in excess of the maximum amounts hereinafter provided for. Payment may be made monthly or quarterly at the option of the police jury, municipal corporation, or school board, unless otherwise provided in any contract entered into for the publication of official proceedings.*
- B. When the publication of proceedings is not done by contract providing for a lesser amount, the cost of advertisement in all parishes which do not contain a city of over one hundred thousand population shall not exceed the rate of six dollars per square of one hundred words or a fraction thereof. When the insertion contains material to be set in tabular form, the tabulated matter shall be computed on the basis of the number of words of straight matter which would occupy identical space.*
- C. The agate line shall be the unit of basis of measurement and charges for all official proceedings published in parishes containing a city of more than one hundred thousand, but less than three hundred thousand population. When the publication of the proceedings is not done by contract providing for a lesser amount, the printing shall be let at not over thirty-three cents per agate line of space occupied by each insertion.*
- D. The agate line shall be the unit or basis of measurement and charge for all official proceedings published in parishes containing a city of more than three hundred thousand population. When the publication of the proceedings is not done by contract providing for a lesser amount, the printing shall be let at not over thirty-seven cents per agate line of space occupied by each insertion.*

R.S. 43:148. Bids may be required

In printing what is generally designated as job work, or commercial printing, bids may be required for any work exceeding twenty-five dollars, and the contract shall then be awarded to the lowest bidder.

R.S. 43:149. Vacancy; how filled

In case of vacancy the governing body shall select an official journal for the unexpired term.

R.S. 43:150. Official Journal; notification of secretary of state

Prior to January 1, 1985, and at least thirty days after effecting any change in its official journal, each parish, municipality, and school board shall file with the secretary of state the name and address of its official journal, the effective date of the selection, and the period for which the selection is effective. For purposes of meeting the requirements of Article III, Section 13 of the Constitution of Louisiana, the official journal on file with the secretary of state shall be the official journal of the parish, municipality, or school board.

OTHER POLITICAL SUBDIVISIONS

R.S. 43:171. Selection of newspaper

- A. (1) *Levee, drainage, subdrainage, road, subroad, navigation, and sewerage districts, or other political subdivisions of the state and parishes, shall have the proceedings of their board and such financial statements required by and furnished to the legislative auditor published in a newspaper. The newspaper shall be selected at their first meeting in June of each year for a term of one year.*
- (2) *The newspaper:*
- (a) *Shall have been published in an office physically located in the political subdivision for at least five years prior to its selection.*
 - (b) *Shall not have missed during that period as many as three consecutive issues unless caused by fire, flood, strike, or natural disaster.*
 - (c) *Shall have maintained a general paid circulation in the district or political subdivision for five consecutive years prior to the selection.*
 - (d) *Shall have been entered in a U.S. post office in that district or political subdivision under a periodical permit in that district or political subdivision for a period of five consecutive years prior to selection.*
- (3) *If there is no newspaper published in the district or political subdivision, a newspaper published in the parish in which the board is domiciled for five consecutive years prior to selection shall be selected provided that it meets the other qualifications contained in this Section.*
- B. *The provisions of this Section relating to the five-year requirement shall not contravene any contract existing between any governing body and a newspaper on and prior to May 11, 1970; nor shall the five-year requirement herein be applied in assessing the qualifications of a newspaper which was in existence on May 11, 1970; nor shall any provision of this Chapter prohibit*

a publication from becoming an official journal in Jefferson or Orleans Parish if the publication is qualified to publish judicial advertisements and legal notices in Jefferson or Orleans Parish or has actually published official proceedings within one year prior to June 1, 1986, of any municipal corporation, parish council, police jury, or school board within Jefferson or Orleans Parish.

- C. *If no newspaper is published in an office physically located in the district, political subdivision, or the parish of the domicile of the board which meets the requirements of this Chapter, a newspaper published in an office physically located in an adjoining parish may be selected, which has a general paid circulation within the limits of the district or political subdivision and which meets the requirements of a newspaper as defined in R.S. 43:140(3).*

R.S. 43:172. Contracts

The governing authorities of the political subdivisions listed in R.S. 43:171 may make a contract with the official journal for its publishing, or if no contract is entered into, then the rate allowed by law shall govern as in the matter of all legal printing.

R.S. 43:174. Notification of secretary of state

Prior to January 1, 1985, and at least thirty days after effecting any change in the official journal, the governing authority of each political subdivision subject to the provisions of this Part shall file with the secretary of state the name and address of its official journal, the effective date of the selection, and the period for which the selection is effective. For purposes of meeting the requirements of Article III, Section 13 of the Constitution of Louisiana, the official journal on file with the secretary of state shall be the official journal of the political subdivision. If any political subdivision subject to the provisions of this Part fails to file with the secretary of state the information required by this Section, the official journal of the parish or parishes in which the political subdivision is situated shall be the official journal for purposes of meeting the requirements of Article III, Section 13 of the Constitution of Louisiana.

AUXILIARY OFFICIAL JOURNALS

R.S. 43:181. Auxiliary official journals of political subdivisions

- A. (1) *The governing authority of political subdivisions or the official charged with the selection may annually select an auxiliary official journal for a term not exceeding one year. An auxiliary official journal shall be a newspaper which has been published in an office physically located in the parish in which the body is located for a period of five years preceding the selection.*
- (2) *The newspaper:*

- (a) *Shall not have missed during that period as many as three consecutive issues unless caused by fire, flood, strike, or natural disaster;*
 - (b) *Shall have maintained a general paid circulation in the parish in which the body is located for five years prior to the selection; and*
 - (c) *Shall have been entered in a U.S. post office in that parish under a periodical permit in that parish for a period of five consecutive years prior to the selection.*
- (3) *Selection of an auxiliary official journal shall be confined to those cities in excess of one hundred thousand population.*
- (4) *The provisions of this Section relating to the five year requirement shall not contravene any contract existing between any governing body and a newspaper on and prior to May 11, 1970; nor shall the five year requirement herein be applied in assessing the qualifications of a newspaper which was in existence on May 11, 1970.*
- B. *In each instance where the governing authority of a political subdivision is required by law to publish more than one notice, advertisement, legal notice, judicial advertisement, or other publication in an official journal or otherwise, the governing authority of the political subdivision or the official charged with the selection may elect to publish one of the required publications in an auxiliary official journal at a rate not exceeding the rate to publish the same in the official journal; and, the said publication shall constitute publication in an official journal for the purposes of any law.*
- C. *In addition to publishing the publications required by law, the governing authority of a political subdivision or the official charged with the selection may elect to publish the required publication for any public purpose in an auxiliary official journal not in excess of the number of times required for the official publication and at a rate not exceeding the rate for publication of the same in the official journal, and said additional publications made pursuant to this Subsection shall not constitute official publications.*
- D. *Political subdivisions may appropriate and spend funds pursuant to the authority granted in this Section.*