

Testimony of Martin Till, Pennsylvania Newspaper Association
HB633, House Local Government Committee
May 19, 2011

Good morning, Chairman Creighton, Chairman Freeman, and members of the Local Government Committee. My name is Martin Till, and I am President and Publisher of the Lehigh Valley Media Group and President of PennJersey Advance, which publishes 4 daily newspapers, including The Express-Times in Easton, 14 weekly newspapers and a number of specialty products. The company also owns Internet sites, including pennlive.com and lehighvalleylive.com. I am a current member and former Chairman of the Pennsylvania Newspaper Association's Government Affairs Committee and a member of the Association's Board of Directors.

The Express-Times is a 40,000 circulation daily newspaper. It publishes three zoned editions (Bethlehem, Easton and New Jersey) and delivers to Lehigh and Northampton counties in Pennsylvania, Warren and Hunterdon counties in New Jersey. Our company also publishes free publications/shoppers, including The Us, 20,000 circulation (mailed and store-stacked), Mainstreet Marketplace, 45,000 circulation (carrier delivered), Exposed, and Homesource.

ACCESS ISSUES

Under current law, public notices are required for many projects undertaken by both private and public entities. It is critical that they reach as wide an audience as possible in order for interested citizens to be able to find them. It is also critical that they are accessible later, to prove that they were actually published on the day they were required to be published. Among other things, public notices:

- Alert citizens as to when public meetings will be held;
- Notify businesses about requests for proposals and bid opportunities;
- Notify a community about proposed zoning or tax changes in their neighborhoods;
- Let people know that property is for sale as sheriffs' sales.

House Bill 633 and Senate Bills 803, 804, and 805 would authorize government agencies to post public notices on government-run or contracted websites instead of in newspapers. While Internet notice can and should supplement public notices published in newspapers, it cannot supplant it in today's society. Too many people lack Internet access, and there are too many issues regarding accuracy, archiving, and permanency of Internet "records." No other state in the country has done what this bill proposes to do; and no court has ruled on the legal sufficiency of the "notice" proposed by this bill.

There are similar problems with putting public notices in advertising products referred to in Senate Bill 803 and House Bill 203 as “community papers of mass dissemination.” Shoppers may claim high distribution numbers, but they are, for the most part, unsolicited products, regarded by many as junk mail. They are primarily advertising and are mailed, left unsolicited in driveways, or drop-stacked in businesses to be picked up, or ignored, by customers. Shoppers are not audited; they are not archived; and they do not contain sufficient editorial content to put public notices in context. They also are not generally delivered to businesses, making them wholly inappropriate for bidding or related notices. Our company owns free publications – and they are not right for public notices.

Moving public notices to government websites or shoppers would create real access problems.

- A significant percentage of the population, including more than half of our seniors, is not on the Internet.
- Even among those who use the Internet, very few go to government websites. Compare your local newspaper’s website traffic to your local government website on www.compete.com, and you’ll see how infrequently government websites are used by members of the public. Many site traffic numbers are so low they cannot even be measured.
- Placement of notices in shoppers or on government websites could easily be manipulated to favor a group of individuals or businesses, opening government bidding and other actions charges of cronyism and abuse. Notices could be spread among more than 4,000 different websites.
- Controversial actions could easily be hidden in the pages of a pennysaver or a newly created government website.

Allowing municipalities the choice between a shopper for some notices, a website for others, and a newspaper for some, would create confusion, uncertainty, and the appearance of government hiding information from the public. It would spread public notices across thousands of different media and formats and would create an unnecessary expansion of government, at great cost to taxpayers – both monetarily and in terms of open government.

FISCAL IMPACT – STATE AND LOCAL COSTS

A number of untrue claims have been made about money spent by local governments on public notice advertising and about the costs associated with online-only public notices. These are the facts.

- Local government will not save money by taking over public notices and moving them to their websites. In fact, many will spend significantly more money – with a tremendous loss to transparency and open government.

- Public notice costs:
 - Public notice costs are less than ½ of 1% - and often much less- of a municipality's total operating expenditures.
 - Some municipalities – and particularly the counties – artificially inflate their “public notice” number, including millions in sheriff sale advertising, which comes back to the county and is not borne by taxpayers.
 - In Northampton County, for example, 95% of the “public notice advertising costs” relates to sheriff sales. Taking out those costs, the county spent about \$44,600 on public notices, on a total budget of \$298 million.
 - Allentown City spent 3,090 on public notice advertising, on a budget of about \$90 million in general fund expenditures.
 - Easton Schools spent \$4,000 on public notice advertising, on a total budget of about \$141 million.
 - True public notice advertising is a very small expense to local government. Taking public notices out of newspapers and onto government websites would far exceed the amounts currently spent to keep the public informed.

- The Internet is not free. Every newspaper – and any other company doing business on the Internet – can attest to that.
 - Because current municipal websites are not adequate to reliably handle legal notices, municipal entities would need to contract with a web hosting services provider to secure appropriate hardware and network infrastructure services. These relationships would necessarily have to provide for technical support for system maintenance, system enhancements, and day-to-day operational support, such as help-desk technicians to provide end-user assistance to public and governmental users.
 - Posting public notices on a website as the only “proof of publication” is not the same as posting a trash and recycling schedule. Counties, cities

and other municipalities would have to become real web content managers, if legal notices were moved online, requiring a substantial financial investment and commitment far in excess of the current systems.

- A recent study done in New Jersey by Newspaper Support Services found that the cost of such systems, including IT staffing, is estimated at about \$1,000 per month per municipality, or \$30,000 per month per county-level website host format. These costs were determined by soliciting bids for the web site work. In Pennsylvania, this could equate to \$2-4 million in expenditures per month (\$24-48 million each year).
- Higher costs at the county level reflect the fact that a higher volume workload and additional complexity in security would lead to increased web hosting costs.
- These costs are necessary to provide a service and capacity level which is adequate to ensure the required level of data security, integrity and business continuity to responsibly handle legal notice posting online, with a searchable, aggregated database.

In our written materials, we have provided you with a more detailed description of the technical capability needed to produce a reliable, aggregated, searchable database. Please remember that newspaper companies have worked hard to produce and maintain robust websites for almost twenty years.

If their website plan is “free,” it cannot be adequate- and if those plans are robust and secure, they are anything but free. The bill before you will cost government tens of millions of dollars each year and set up a new bureaucracy across the state.

Statewide implementation would also cost the newspaper industry 750-1,000 jobs, creating an additional burden of approximately \$1.0 million per month to the Pennsylvania Unemployment Compensation Fund.

CONCLUSIONS

Newspapers are already publishing Internet notices. Pennsylvania newspapers have been uploading public notices – at no cost to government agencies or taxpayers - onto the Internet, at www.MyPublicNotices.com, since 1999. More than 100 Pennsylvania newspapers participate in My Public Notices.

Looking at all the factors involved in this issue we are compelled to ask - why reinvent the wheel? Why set up multiple new government programs – which will cost millions of

dollars - to do something that newspapers have been doing for more than one hundred years in print and more than ten years online?

The Pennsylvania General Assembly has worked in recent years to improve the level of accountability and transparency in government, by enacting such legislation as Act 3-2008, the Right to Know Law, and by passing legislation to post expenditures online and establish an independent fiscal office.

The legislation before you today would move our state in the wrong direction, away from government openness and accountability – at great expense to both government and taxpayers.

Thank you for your time and interest this morning, and I am happy to take any questions you may have.