

House Bill 633

Statement of Councilman Jack Williams, City of Johnstown

May 19 2011 - Pennsylvania House of Representative's Local Government Committee

Good Morning Chairman Creighton, Representative Freeman and all distinguished members of the Commonwealth of Pennsylvania House of Representatives Committee on Local Government.

I would like express my appreciation at being given the opportunity to speak in opposition to the proposed changes contained in Bill633. If passed, as I understand, would all but eliminate the long standing requirements of giving public notices thru and "in print" in our local newspapers, and relies on "electronic publishing" on a municipality's web site.

I am currently serving in my 3rd non-consecutive term as a member of Johnstown City Council, with the first term beginning in 1986, and my current to expire at the end of this year.

I also had the opportunity and pleasure to serve as Johnstown City Clerk from 1990 thru 1996, and as an Assistant to Johnstown's first City Manager in 1994. Additionally I served as a member of the Greater Johnstown School Board.

In these years of elected and appointed Public Service, the one consistent of such service was, demanding and expecting full and complete disclosure to the residents, businesses, in the City and the Greater Johnstown Area, and all others desiring to work with or for the City.

I believe that based on these experiences, I can without reservation speak to and express my concern over how, I believe, Bill 633 compromises the public's ability to follow and monitor the actions of a municipality's governing body, or agencies acting as an arm of.

Such a change would only further hinder the general public of opening their local newspaper on any given day, and have the ability to see "in print" what is being proposed, scheduled, and in most instances advising of newly enacted rules,

regulations, and municipal fees and taxes being imposed by their local government.

To suggest or permit that this same information and Public Notices can be given simply by postings on a municipality's web site, and no longer as a publication in a daily or weekly print publication, would be a disservice to the same electorate we seek their support and vote, and while doing so, make promises to open and inclusive government.

As I understand it, the most reliable active voters throughout the Commonwealth as well as the United States, are older voters, many who have no interest in using computers or other electronic means in their everyday life.

Many if not most of these older persons, including myself, do make a point of waking up, pouring a cup of coffee, and picking up their local newspaper.

It is my strong belief, and hearing from friends, neighbors, and some constituents, it has become somewhat of a general joke that we as the older generation, when opening our newspaper first turn to the obituaries, followed by the editorial page, and then public notices. Such Public Notices, in print not only include the Public Notices regarding local governments, but a range of notifications in such matters as estate notices, and many other personal and business related legal notifications.

Despite what some may believe, many of the general public do visit and read the pages of their newspaper's Public Notices.

It also should be noted that while "in print" Public Notices published in our Tribune-Democrat, they also are made available on the internet site MY PUBLIC NOTICES, with my last count including approximately 107 participating PA Newspapers.

The elimination of requirements for "print notices" would be in effect closing or shutting out those who do not utilize the internet, and allow more opportunities for local governments to enter into "a hide and seek" mentality in matters affecting the lives and financial well being of the very persons paying for municipal government operations.

Even with the current Public Notice requirements, there is and have been times, which I personally felt that attempts have been made at that “hide and seek” mentality and approach, and I have not hesitated to raise such objections to such conduct.

As I stated earlier as to my serving as Johnstown City Clerk, I had the responsibility of generating and placing the required public notices for City Council.

Never has the cost of print ads been considered an expenditure that created budget issues and as being too costly.

In Johnstown’s 2011 Operating Budget, which totals \$10, 700,000 in General Fund Revenues and expenditures, the total advertising appropriation is \$6,850 or .000639 of the total \$10.7 M annual budget. A small cost for keeping the public informed as to their local governments actions.

Bill 633 includes language as to requirements as posting on a municipal “Official Internet Website”

The point I wish to make, is that while Bill 633 talks of “a responsible officials being designated and responsible for electronic publications,” but stops there

No penalty provisions for non-compliance with the requirements of Bill 633.

Far too many times enacted Commonwealth and local statutes, contain the word shall, which when ignored, as many times occurs, by the local administrators, it then falls on the public desiring compliance to enter into costly court fillings and legal proceedings seeking statutory compliance.

Prime examples of such are:

RIGHT TO KNOW

1. The Commonwealth’s Right To Know Act contains specific language which states in: Section 504. Regulations and policies.

(b) Posting. — The following information shall be posted at each agency and, if the agency maintains an Internet website, on the agency’s Internet website:

(1) Contact information for the open-records officer.

(2) Contact information for the Office of Open Records or other applicable appeals officer.

(3) A form which may be used to file a request.

(4) Regulations, policies and procedures of the agency relating to this act.

Unfortunately it does however, provide:

Section 1306. Immunity.

(a) General rule. Except as provided in sections 1304 and 1305 and other statutes governing the release of records, no agency, public official or public employee shall be liable for civil penalties resulting from compliance or failure to comply with this act.

Would an adopted Bill 633, also be toothless and hold harmless the “responsible officials designated and responsible for electronic publications” when such electronic publications are not published in accordance with provisions of Bill 633?

To date after repeated request and pointing out these requirements, the City of Johnstown still fails to provide this important information regarding the Public’s Right To Know.

2. This same City “Official Internet Website” contains the link to the City’s Codified Ordinances, which by Home Rule Charter Law requires the annual updating.

As of this date the most recent update is May 2009

To now believe that the passage of Bill 633 and allowing electronic posting’s of gives me little comfort and many concerns as to public’s inability to be fully made aware of and informed of the operations and actions of their local government.

While I do not attempt to imply that all local governments do not maintain such web sites, I would with all due respect, believe that there are more municipal web sites absent current information and pending actions in their municipality.

This may be as a result of limited staffing or other circumstances, but such instances could result in errors and omissions under Bill 633, and vital public notices not being properly given.

Current statutes include provisions for actions taken by a governing body without public notice given prior to a final adoption, to have been determined by the Courts as improper and such actions negated by the Courts.

The general public is most likely to become aware of such omissions in reading and looking for such in their daily and/or weekly local newspapers.

For the same general public to be required to visit and search any municipal web site on a daily or even weekly basis is not open and informative government.

This I believe in Bill 633 will only result in many decisions being made absent public notice and awareness of what and how their municipal affairs are being conducted, and more importantly how their tax dollars are being managed.

At the current time many if not all municipalities are faced with and undergoing certain DEP mandates and/or consent orders relating to upgrades and improvements to sewage treatment infrastructure, and with cost projected to be in excess of \$20. M and more in Johnstown. To date our residents and business have seen (3) separate rate increases, and can be imagined are outraged, and have demanded answers and accountability from their elected officials.

This single issue alone is a prime example the need for the bidding, awarding and all actions being taken to be made available to the public, in their daily newspapers "in print", and not by again visiting a municipal web site.

Bill 633 as I understand it, if enacted would include most if not all Public Notices, but yet municipalities will still have certain mandates and regulations of the United States Department of Housing and Urban Development (HUD)

These require "print publications" of Community Development Block Grant Funding proposed projects and activities.

The 2010 CDBG City Budget appropriated \$10,000 for advertising, and as I just stated, Federal Public Notice requirements will not change by Bill 633, and the cost most certainly will remain constant.

Resulting in further confusion to the public on some notices published a municipal "Official Internet Website", while others being available in the daily publications "in print" by their local newspaper.

I once again thank Chairman Creighton and this Committee for this time and opportunity.