

New revenue threat looms as newspapers' legal notice franchise comes under fresh pressure from cash-strapped states

by Rick Edmonds

Published Feb. 9, 2012 7:59 am

Updated Feb. 9, 2012 8:02 am

State and local governments are almost as pressed as newspapers these days to shave expenses in the face of falling revenues.

That has given fresh impetus to efforts that would allow municipalities to post all or some of their legal notices electronically rather than as print advertising.

Proposals to loosen legal notice requirements pop up every year in various states. Always, until now, state press associations and individual newspapers have mobilized successful lobbying campaigns that have gotten the bills withdrawn or killed in committee.

Though that scenario has happened twice already in January in New Jersey and Florida, the legislative season is young. 2012 just might be the year some state takes the plunge, bucks the wishes of constituents who buy ink by the barrel, and allows a form of online posting to satisfy legal notice requirements.

Virginia is emerging as the hot spot for the issue. "We have eight bills in seven committees," Ginger Stanley, executive director of the Virginia Press Association, said in a phone interview last week. A lot of these ideas have been considered and rejected in recent years, she added, "but we have never seen this volume before."

"No one wants to be the first state" where legal notices requirements come down, Stanley said; she spends all day most days at the State House working the issue.

## The argument for electronic legal notices

Advocates of electronic legals have three main arguments. Top of the list is savings; a mid-sized municipality typically can spend around \$20,000 on the newspaper ads. A city (Syracuse, for instance), might spend 10 times that, while the typical state (Maine, for instance) can spend about \$500,000.

Second, they argue that with falling circulation, print newspapers no longer provide reach into most of the households in a community as they did several decades ago.

Finally, they contend that, freed from per word pricing, an online notice can be more expansive and informative at no extra cost, showing, for instance, a map of a proposed zoning change.

Stanley and others told me that papers receive up to 5 percent of their advertising income from notices, small town weeklies at the high end. As I reported two years ago, “other” classifieds, including legals and paid obituaries, remain the one strong print classified category as real estate, recruitment and real estate ads have all migrated to freestanding websites.

As you might expect, newspaper interests working the issue for years now have put together more sophisticated arguments than pure economic self-interest.

## The argument for print requirement

Dean Ridings, who directs the Florida Press Association, told me that “when you look more deeply, the governments would not save the dollars they think.” Building a secure website for notices could be a considerable expense, he said; a site that could be hacked would not suffice.

Publishing to their own sites also would not meet the traditional definitions of a legal notice that it appear in an independent third-party publication, Ridings continued. Nor do government websites get seen by as large an audience.

Newspapers typically post the notices electronically as well as in print, thus matching the traditional reach of total audience. Also, in Florida and most states, the press association maintains a site where all the notices published by member newspapers are collected and indexed.

Existing rules provide varying requirements for what needs to be published in a daily and what can appear in a weekly. There are many publications — like the Daily Review in Miami — that provide some coverage of the legal community and thrive on page after page of the lower priority notices.

One popular target in the current wave of deregulation is foreclosure notices, especially voluminous and costly in the current economic climate. A Florida House committee, however, last week killed a bill that would have allowed those notices to go online on the grounds that the move would be a hardship for the elderly and the poor.

On the other hand, Ohio passed a budget provision last year requiring that while first government notices must be in print, follow up re-postings can appear in a condensed print ad with a reference to a statewide website. The provision takes effect this month.

The nationwide movement

Mark Moscow edits a pro-deregulation site, [legal-notice.org](http://legal-notice.org), chronicling state-by-state action on the issue. Within the last year, changes have been proposed but ultimately defeated in a number of states including New York, Minnesota, North Carolina, Washington and Pennsylvania.

Moscow, who has a commercial interest in electronic classifieds he declined to discuss in detail, adds two arguments to the standards. “The production costs for posting electronically are

minuscule,” he said, “and many of the people (municipalities) being charged by newspapers are broke.”

He is also irked, Moscow said, by newspaper editorials on the topic. “Newspapers are using their editorial space to plead for their business interests. To me, they are losing credibility doing that.” Sample headlines include: “Keep public notices in newspapers, not buried online,” The News Tribune of Tacoma; “Legal notice bill a sneak attack on N.J. newspapers,” The Star Ledger of Newark.

The Virginia Press Association’s Stanley counters that editorials in her state have consistently disclosed the economic benefit to newspapers. And, she said, there absolutely is a legitimate issue about how best to inform the public.

Political scientists who’ve taken a look at the issue see a straightforward reason newspapers have consistently won. For municipalities and others placing ads, deregulation would offer savings, but modest savings. For newspapers the stakes are higher, so they put more time and money into preserving the print requirement.

What’s next

But the tide could be shifting. In Virginia, the bills have been introduced by Republicans. The governor is Republican and both houses of the legislature have Republican majorities. Having a cordial relationship with print media may be a low priority for that state’s political establishment or in Arizona, where a deregulation bill was introduced last Friday.

Also this is the third or fourth consecutive year state and local government budgets are being slashed because of declining revenues. Year-by-year, digital formats gain on print in share of audience and ad spend and may seem more up-to-date to constituents.

For newspapers, though, losing a few more percentage points of traditional revenues is exactly what they don’t need as they try to keep print healthy enough to cover a few more years of transition to a more digital revenue mix.

