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Legal notice publication law changes struck down by lawmakers, but could still be on the block

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Posted: Friday, March 15, 2013 7:12 am

By Howard Fischer, Capitol Media Services | 0 comments

The laws requiring cities and counties to pay to publish their legal notices in newspapers are safe, at least for the time being.

Legislation to partially scrap that mandate failed Wednesday on a 26-31 vote as most Democrats united with about a third of House Republicans. Foes on both sides of the political aisle questioned whether government can be trusted to police itself.

Wednesday's action, however, is not the last word. On a voice vote, lawmakers agreed to revisit HB 2533 on Monday.

That gives Rep. Warren Petersen, R-Gilbert, less than a week to round up the necessary 31 votes for final approval.

The perennial fight pits local elected officials who complain about the expense against newspaper publishers and owners who say that someone outside government needs to monitor compliance with requirements to provide notice to the public of various items. These range from proposed rezoning requests and upcoming elections to requests for bids.

But several publishers admitted during hearings there's also a financial component: Without the legal ads, they would have to lay off workers.

Petersen's original legislation would have allowed all cities and counties to meet their legal publication requirements by putting public notices on a web site.

In a bid to secure support, at least from rural lawmakers, Petersen agreed to scale it back so that the mandate would remain for cities and towns of fewer than 100,000 residents.

But even that failed to pick up the necessary support.

A key theme of opponents is who should monitor compliance with legal publication requirements.

"Putting the fox in charge of the henhouse is not a good idea," said Rep. Lisa Otondo, D-Yuma.

"I came down here in part because I don't have a huge trust in government," said Rep. Jeff Dial, R-Chandler. And Dial said he fears it would be easy for a municipal employee to retroactively change a public notice within a computer file, something that can't be done if it was printed in a privately run newspaper.

"It's in print," he said.

But Rep. David Stevens, R-Sierra Vista, said that ignores the fact that newspapers may reach only 20 percent of all homes. By contrast, he said, more than 90 percent of the state has the ability to access the World Wide Web.

And Stevens pointed out that the publication requirements are so loose that these notices designed to inform voters do not even have to be put into a newspaper circulating in the same community. For example, he said, Chandler city notices are published in Glendale.

But Rep. Karen Fann, R-Prescott, said it does not follow that cities should be exempt from having to buy legal

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"If we have a problem where things are being published right now, that's what we should be changing," she said.

Rep. Bruce Wheeler, D-Tucson, conceded that the legal notices, generally published in a smaller typeface than normal news stories, are probably not read by most subscribers. But he said that's irrelevant.

"It's not about whether you and I and a majority of people read them," he said. "The purpose is there for a record ... a permanent archive in which we can refer to."

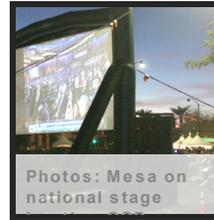
But Rep. Steve Montenegro, R-Litchfield Park, said the legislation will end what amounts to a public subsidy of the newspaper industry.

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