



**In 2013, the PNRRC identified over 150 state bills (and one federal resolution) directly impacting public notices in newspapers.**

## **Threats to Public Notices in Newspapers**

Government Websites – Threats to move notices to a government website in at least 20 states encompassed the vast majority of legislative challenges this year. Of particular note:

- A Michigan proposal (HB 4298), still active in the legislature, to remove newspaper publication of notices for delinquent taxes on property and allow notice to be posted on a website maintained by the County Treasurer.
- A particularly troublesome bill in North Carolina (S 287) would have permitted notice by cities and counties to be posted online. The bill successfully passed the Senate in late April. While in the General Assembly, an amendment was offered that effectively replaced the entire bill and put notices back in newspapers and onto newspaper websites. The language was similar to bills that recently passed in Florida and Tennessee. The amendment passed the House, however the bill was not ratified before the legislature adjourned.
- Oregon faced a bill (SB 28) that would have authorized public notice of criminal and civil forfeiture as well as intent to dispose of unclaimed property on an Internet site maintained by the Oregon Criminal Justice Commission. The bill stalled in Committee before the legislature adjourned.
- A legislative proposal in South Carolina (H 3427) to authorize a county to post certain notices required by law on a county website instead of publishing in a newspaper did not proceed past the Committee level.
- Texas left pending in Committee a broad based bill (HB 3646) that would allow any governmental entity to post their notice on a website.

Other important issues around the country affecting newspaper notices included:

Changing the definition of a newspaper. In Arizona, H 2483, which intended to allow publication of public notices on the Internet failed in Committee. While in Michigan, SB 8, which is still active, permits a newspaper to include an online version only if a print copy does not exist.

Constitutional amendments. In Arkansas, HJR 1007 would have removed the requirement to publish in newspapers proposed constitutional amendments and other elections-related notices, permitting the General Assembly to decide the best way to communicate information to voters. The resolution was recommended for study.

Patch Legislation. A bill promoted by AOL's Patch in California (AB 642) would have permitted a newspaper that is available on a web site to qualify as a newspaper of general circulation for the purpose of publishing public notices was killed and hearings on the issue were canceled by the Sponsor of the bill.

Foreclosures. Florida saw a bill (SB 1666) that would have moved notices of foreclosure sales from a newspaper to a website maintained by the clerk of the court, however the language was stricken from the final bill.

General. Broad-based bills allowing for Internet posting instead of newspaper notice in Minnesota (SF 1430) was left in Committee and in New Mexico (HB 577) was postponed indefinitely.

Broadcasters. Proposals in Nevada (AB 267) and Virginia (HB 1373) were defeated that would have allowed for online notice on a website controlled by a newspaper or a broadcaster in lieu of notice published in a newspaper.

## **Publish and Post**

Legislation in Tennessee was ratified to require all public notices to be published for free on a statewide website.

## **UELMA**

In 2013, six states adopted UELMA: Connecticut, Hawaii, Minnesota, Nevada, North Dakota and Oregon bringing the total to eight states that have enacted legislation to authenticate and preserve electronic legal materials.

## **Self-Storage legislation**

On the last day of 2012, the Governor of Ohio signed into law a bill no longer requiring self-storage facilities to place their public notices in a newspaper. The new law merely requires the facility to place a notice in a “commercially reasonable manner” which will be presumed if “at least three independent bidders attend the sale at the time and place advertised.”

With the successful passage of this legislation, the PNRC anticipated the Self-Storage Association would look to other states. There were 13 states this year that faced threats to self-storage notices being removed from newspapers. Of particular note:

- New Jersey passed a bill (AB 3035) permitting notice of lien procedures to be made via email.
- New Mexico self-storage bill (HB 390) postponed indefinitely, would have removed the requirement of newspaper notice requiring notice only via certified mail.
- Self-storage law in North Carolina (H 243) has been amended to now permit the notice of sale in a newspaper OR “in any other commercially reasonable manner. Notice is deemed satisfied if three independent bidders attend the sale.
- In South Carolina, the storage association agreed to remove language in the proposed legislation (H 3563/S 513) that would have eliminated publication in a newspaper for self-storage notices.
- Utah self-storage legislation (SB 182), a proposal that would remove newspaper notice of self-storage facilities and allow for notice to be advertised merely in a commercially reasonable manner was removed from the final bill.

