



CALIFORNIA NEWSPAPER PUBLISHERS ASSOCIATION  
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March 19, 2012

Honorable Brian Jones  
California State Assembly  
State Capitol Room 3149  
Sacramento, California 95814

**RE: Oppose AB 1902 (Jones)**

Dear Assemblyman Jones:

I regret to inform you the California Newspaper Publishers Association opposes your Assembly Bill 1902, which would allow an Internet-only entity to become an adjudicated newspaper of general circulation, allowing it to publish public and legal notices. CNPA opposes AB 1902 because it would harm the public's right to know about significant events happening in the community and threaten the time-honored system of the publication of public and legal notices in printed and published newspapers of general circulation.

While AB 1902 is patterned after and incorporates pieces of existing laws that allow for the adjudication of printed newspapers, the elements used are simply window dressing to provide the appearance of authenticity, when in fact, the bill omits essential criteria required for printed newspapers that, taken together, ensure the public will look to the newspaper for the important information contained in public notices.

The legislature has carefully crafted the laws for adjudicating newspapers to make certain that a newspaper that qualifies as a newspaper of general circulation has made a substantial investment in the community that indicates stability and staying power. By virtue of this required investment and other criteria, the legislature has carefully determined that qualifying newspapers have a stake in their community and will be looked to by the community as a trusted and reliable source of news and information.

AB 1902 goes the opposite direction and would weaken the community's right to know. For example, AB 1902 does not require the entity to have a principal business office in the community. Not even a P.O. Box or telephone. The business could be run on servers in India by a person in Iowa or a scofflaw in Texas.

Under the code section your bill mimics, adjudicated newspapers are required to have a "substantial list of paying subscribers." AB 1902, though, would allow Internet operations to be

adjudicated by simply proving they have a mere “bona fide list of (non-paying) subscribers.” Courts interpreting the term “bona fide list” have found it to mean very, very few subscribers. Any blogger could meet this criterion by getting a few friends to agree to receive a weekly e-blast for free. Absolutely no investment in the community is required.

The bill contains no guidance to allow a court to determine whether a site has a substantial regular readership – a term that is no substitute for substantial paid circulation of a printed newspaper. Likewise, the bill contains no requirement the web site contain significant news, just that it reserve 25 percent of its homepage for news. This could conceivably be just one story, depending upon font size and graphics.

A system allowing public notices to be solely posted on an Internet web site is a breach of the public trust and private property rights. To provide actual notice to the public about government actions like tax and fee increases, land use and environmental decisions, delinquent taxpayer notices that can lead to a government seizure and sale of someone’s home, and the expenditure of public funds, public notices must have these attributes:

- Publication is in a forum independent of the government.
- The published notice is a preserved and secure tangible record that is archived.
- The notice is conveniently accessible by all segments of society.
- Publication is verifiable (by way of an affidavit of publication).

Posting information solely on a web site on the Internet has none of these elements of permanency, reliability and accessibility.

According to the web site of the sponsor of the bill in your district, the East County Magazine, the Internet web site is a “Partner” with many governmental agencies. This advertised interdependent relationship is antithetical to California’s public notice laws. Posting on a web site like that of the sponsor deprives the notice of the independence that protects against tampering, alteration, political bias and post-deadline posting.

From common knowledge, we know the vast and dynamic Internet is all about change. On the Internet nothing appears permanent and everything is subject to move, change or cease to exist without notice or explanation. Connections fail, servers crash, links die and web sites are hacked.

When ink is pressed to paper thousands of times and physically distributed into the community, though, the notice is either right or wrong, but it will never be right one moment and wrong the next, or vice versa. The tangible, permanent proof is in the printing!

In spite of improvements in technology and the state and federal government’s best efforts, the digital divide persists. According to an August 2011 Pew Internet & American Life report, only 62 percent of adult Americans have broadband Internet connections at home. Because of age,

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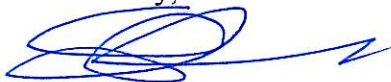
poverty or choice, a significant percentage of the population simply does not have access to the Internet. Finally, when public notices are published in a newspaper of general circulation, that newspaper provides the city or county with an affidavit of publication; an independent and permanent record that publication occurred.

California's Community newspapers offer, on a daily or weekly basis, a relatively small, well-edited package of information that is relevant and interesting to those who actually seek and want the information. Californians continue to pick up "their" printed and published newspaper from their porch, a news rack, or from a pile in the local coffee shop to read about sports, from the NFL to Little League, city council or school district meetings, national and international news, gardening, skiing, biking, fishing, weather, traffic, the police blotter, the economy, the environment, crosswords and comics, just about everything, and that includes public notices.

People continue to depend on newspapers to be informed about important community events, such as the opening of a new business, the approval of a new ordinance or an estate or property sale. People in a community have an expectation that both news and the information that is typically communicated through public notice advertisements will be published and accessible to them in their local newspaper. It is newspapers that give public notices prominence. Posting public notices amid all the clutter and chatter of the vast Internet on the kind of unproven, unknown and perhaps unreliable web sites that your bill would allow is a sure-fire way to secrete this vital and local information from the public.

AB 1902 goes exactly the wrong direction for Californians and their need for credible, reliable and trusted information about government activities and other important events. On behalf of the hundreds of CNPA member newspapers of general circulation completely invested in serving their communities, we must respectfully oppose your bill.

Sincerely,



Thomas W. Newton  
CNPA Executive Director

cc: Ralph Alldredge, CNPA President, Publisher, *Calaveras Enterprise*  
Karlene Goller, CNPA Governmental Affairs Committee Chairwoman, Vice President  
and Deputy General Counsel, *Los Angeles Times*  
James W. Ewert, CNPA Legal Counsel  
Felipe Lopez, Consultant, Assembly Governmental Organization Committee  
Kevin Baker, Counsel, Assembly Judiciary Committee  
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