

## Legal Publications On The Internet?

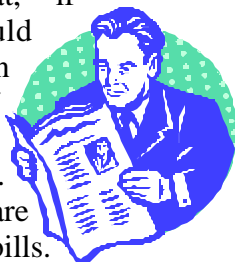
### Perhaps A Compromise Would Bridge This Digital Divide

Every week hundreds of cities and counties are publishing legal notices in their local newspaper. Whether it is a “barking dog” ordinance or a resolution of advisability relating to a special assessment district,

Under the proposed legislation, an Internet web site could be used... instead of newspaper publication

these legal publications can fill up most of a page (or more) in a newspaper and cost the local government a small fortune at the same time. The cost of publishing Bond documents can be particularly alarming if you engage bond counsel that still uses phrases like *“Now, Therefore this Indenture Further Witnesseth...”* instead of the word “and.”

Recently, however, a bill has been introduced in the Kansas Legislature that, if enacted, would provide an alternate way of providing public notice. Actually, there are two identical bills.



Introduced in the House and Senate local government committees, respectively, House Bill 2085 and Senate Bill 77 would both allow cities and counties to use an Internet web site as their “official publication source” for legal publications. For the moment, however, these bills are stuck in committee.

Currently, city ordinances, county resolutions and certain other notices must be published in the local government’s official newspaper. In order to qualify as an “official newspaper”, it must be published at least weekly 50 times each year and have been so published at least one year prior to the publication of any official legal notices. There are other requirements for official newspapers depending on whether the entity is a county or a city of the first, second or third class.

Under the proposed legislation, an Internet web site could be used (at the option of the local government) instead of newspaper publication, if the web site meets certain requirements. The web site must not be password protected and must be accessible to members of the general public. In addition, no fee can be charged to access the

web site. If a city or county provides a web site meeting these criteria, it could be used as the entity’s “official publication source” – which means whenever state law requires a legal notice, advertisement, ordinance or resolution to be published as required by law,

the city or county could use the web site instead of a printed newspaper.



Just as publishing in a newspaper may not always completely satisfy legal requirements, publishing on the Internet, likewise, may not always satisfy the law even if the new legislation was enacted. For example zoning laws and special assessment laws, to name a few, often require that those citizens most affected by local legislation be given personal notice via the U.S. mail. These requirements would still be in effect under the proposed legislation.

The League of Kansas Municipalities has estimated that approximately \$3,000,000 of public funds was spent in 2002 for publishing legal notices in an official printed newspaper. The

proposed legislation could result in significant savings to local

**Citizens could save money because they currently pay twice for legal notices...**

governments at a time when budgets are hurting and demand transfers are being eliminated.

Cities argue that, in addition to saving local government money, citizens will be able to access the legal notices at any time of the day from anywhere in the world. Citizens could save money because they currently pay twice for legal notices – once, in taxes, to pay the bill to publish in the newspaper, and a second time when they buy the newspaper to read the legal notice. Sadly, “reading a legal notice” ranks high among bond lawyers as a reason to subscribe to a newspaper.

Arguments against the proposed legislation have been put forth by the Kansas Press Association which represents newspapers across the state. They argue that there are still great costs to the citizen – even when publishing on the Internet. First, citizens’ tax money must be used to provide and maintain the Internet servers and software used to publish a web site, and secondly, citizens must pay over

\$1,000 just to purchase a home computer and pay the monthly internet access fees. This could leave citizens - who are either unable to afford a computer or not interested in making the leap to cyberspace - without access to local government information. Some call this chasm between those who have internet access and those who do not the “digital divide.”

While both sides have credible arguments, perhaps a compromise can provide the best of both worlds. Decades ago, governments posted important notices in the “town square” as a way of officially providing information to the public. An amendment to HB 2085 or SB 77 could allow Internet publication only if a city or county also provides a “town square”-style

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notice. For example, a copy of a legal publication could be posted on the Internet *and* in the window at city hall. This would allow free and easy access to those with the Internet already in their home *and* still allow the technologically challenged to stay informed.

One more safeguard might be

to require local governments to broadcast an email – to all who request it – whenever the “legal notices” web site has been updated.

Earlier this month, the respective local government committees of the House and Senate conducted hearings on these proposed laws. No action has been taken yet, but perhaps a compromise can still be reached that provides online access to citizens on the World Wide Web, as well as a cheaper printed version for those who cannot afford costly internet or newspaper subscriptions. ■



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#### **Bond Counsel Corner:**

*Salesman: This computer will cut your workload by 50%.  
Customer: That's great. I'll take two of them!*

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