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News Clerks Should Know:

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AB 715 (Caballero) to Eliminate the Requirement to Publish Ordinances

AB 715 which would have allowed the option of posting ordinances on the internet instead of publishing in the newspaper was considered by the Senate Local Government Committee on June 17. Following testimony and comment, the committee directed that the bill be held in committee. During the hearing, committee members expressed concern that the bill may reduce public access for communities with limited internet availability.

CCAC continues to believe that this bill meets the expectations of today's citizenry who are looking for free, broad, and immediate access to information. It also meets the needs of residents who cannot afford paid newspaper subscriptions and relieves the financial burden on cities of paying costly legal advertising rates. The CCAC Legislative Committee will continue to work the bill's author, Assemblywoman Caballero, on possible amendments to alleviate concerns of the committee members; however, it is unlikely that deadlines will be met for the 2009 legislative session.

The attached article published by [Lake County News](#) gives details on the committee hearing.

<http://lakeconews.com/content/view/9149/764/>

Senate committee holds back legal publishing bill
Written by Elizabeth Larson
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SACRAMENTO – Saying they weren't prepared to abandon print publishing, members of a state Senate committee on Wednesday said they wouldn't support a bill allowing city and county governments to post final ordinances on their Web sites instead of taking out legal publishing in newspapers.

AB 715, authored by Assemblymember Anna Caballero (D-Salinas), addresses legal advertising for final versions of ordinances passed by local governments.

Caballero's bill would change the law to allow cities and counties to publish versions of final ordinances either in a newspaper of general circulations – as is currently required – or give them the option to publish on their government Web site, with copies of the ordinances' adoption provided to those who request written copies.

Currently, after an ordinance passes local government has 15 days to publish it – along with the names of those council members or supervisors voting for it – in a newspaper of general circulation.

California Government Code Section 6000 states that a newspaper of general circulation “is a newspaper published for the dissemination of local or telegraphic news and intelligence of a general character, which has a bona fide subscription list of paying subscribers, and has been established, printed and published at regular intervals in the State, county, or city where publication, notice by publication, or official advertising is to be given or made for at least one year preceding the date of the publication, notice or advertisement.”

The bill passed the Assembly on its third reading with a 75-0 vote on May 14, according to Assembly records.

Close to 70 California cities and counties have sent letters to the legislature supporting the bill, including the cities of Lakeport and Clearlake.

On Wednesday morning, Caballero took her bill to the Senate Committee on Local Government, chaired by North Coast Sen. Patricia Wiggins and co-chaired by Sen. Dave Cox (R-Fair Oaks).

During the 40-minute discussion, Caballero called the bill “an attempt to be practical,” offering cities and counties a chance to save money. It wouldn't take away public access to government information; supporters argued that it would make such notices more accessible to a larger group of people.

Caballero said the Assembly held a February hearing in which lawmakers asked local government officials from around the state to testify about budget constraints. She said local governments were asked what the state government could help them get things done, save money and reach the public.

“That's really the genesis of AB 715,” Caballero said.

AB 715 offers local governments choices, she explained. They can either continue to pay for legal ads in their general circulation newspapers or post the notices on their Web sites, which more local governments are using to communicate with citizens.

Current rules for legal adjudication are more than a century old, a point repeated during the hearing by supporters of the bill.

“Existing law really hasn't caught up with the times,” said Caballero, who noted she was happy to take amendments to the bill.

Caballero said she recognized the concerns put forward by the California Newspaper Publishers Association about potential revenue losses for newspapers.

In recent weeks CNPA-member newspapers had written editorials which stated that bill would only save California cities an average of about \$5,700 annually. They also claimed AB 715 was an attack on public information.

Caballero said if newspapers are truly interested in informing the public, they can continue to publish the notices, although they wouldn't be paid.

Arguments presented for, against the bill

Among those speaking in support of the bill were Shalice Reynoso, legislative director for the City Clerks Association of California – the bill's sponsor – and city clerk for the city of Buena Park; Randi Johl, city clerk for the city of Lodi and second vice president of the clerks association; John McKibben, clerk for the Los Angeles County Board of Supervisors and a member of the California Association of Clerks and Election Officials; and the California State Association of Counties.

All of them explained that the bill gives them options not just for achieving savings but for reaching members of the public. Johl and McKibben both noted that the adjudicated papers used in their areas for legal notices by no means represent the largest readership.

McKibben pointed to an increased trend in citizens requesting copies of notices via e-mail rather than regular mail. In rural Lassen County, seven times as many people want the notices coming to their computer rather than their mailbox, he said.

He also referred to high legal fees in areas where there are limited publishing options, such as Tuolumne County.

Natasha Karl, a legislative representative for the League of California Cities, another bill supporter, pointed out that the legal adjudication laws currently in place were established in 1883. That year, the state Legislature passed an act requiring every ordinance be signed and published at least once in a newspaper or printed and posted in at least three places.

Also offering support for the bill through letters and testimony were William Macfadyen, founder and publisher of www.noozhawk.com, and Lake County News.

Macfadyen urged the senators to pass the bill because it legitimizes online publishing and would be an important first step in transforming and modernizing the state's legal adjudication process. It would offer the public more access to the notices, many of which only appear in print, not on newspapers' Web sites.

The only person speaking against the bill at the hearing was Thomas Newton, general counsel for CNPA, which represents 750 daily newspapers around the state. Association member papers had written numerous letters to legislators in recent weeks, opposing the bill.

Newton said the main question in considering AB 715 was whether or not the public was better served by publishing public notices in the newspapers or on the Internet.

He said newspapers exist to draw advertisers and readership, adding that people don't go to city and county Web sites for news.

Keeping legals in newspapers, rather than allowing them to be published solely on government Web sites, will eliminate the "fox in the hen house effect," Newton added.

Committee members don't want to leave print

The four committee members present were clear in their opposition to the bill. Sen. Sam Aanestad (R-Grass Valley) left the hearing room shortly before AB 715 was discussed.

Sen. Christine Kehoe (D-San Diego) said the city of San Diego already publishes all of its government actions on its Web site. She said she had a problem with the bill because community newspapers provide important services to their readers.

Kehoe said she wasn't prepared to supplant printed publications. "I cannot support the bill in its current form."

Sen. Lois Wolk (D-Davis), said the bill also made her uncomfortable.

"There's a real challenge in reaching citizens, I realize that," said Wolk, adding she would like to see more notices, not less.

Like Kehoe, she didn't want to see public notices leave the printed page.

Wolk said she does not think electronic media will replace newspapers.

Cox, noting that Alpine County doesn't have the Internet, shared the concerns of Kehoe and Wolk.

"This is about communication," he said, stating that community newspapers are important.

Cox said there is nothing in state law prohibiting clerks from posting the notices online in addition to newspapers.

He suggested a change in legal publishing rules might come about sometime in the next 10 years. Cox told Caballero he wasn't

prepared to support the bill unless she agreed to include an amendment that required the publishing requirements be reconsidered in a decade.

Wiggins also was opposed.

“Major policy changes should not occur just to save a dollar,” she said.

Wiggins said the savings to cities would be small; she said the city of Buena Park only would save about \$5,000 annually, a small amount compared to its \$90 million annual budget.

The bill would result in the less public notification, said Wiggins.

Regarding changes in publishing in light of technology, Wiggins said, “We simply are not there yet.”

Caballero asked for the bill to be held in committee to allow her to continue working on it.

Addressing statements by committee members and Newton, Caballero said people go to government sites to get information about government, not general news.

She suggested changing the bill to put new publishing rules in effect a few years down the road.

Caballero read site statistics from some cities, challenging the assertion that few people visited them, when thousands of people do, in fact, seek out those sites for information.

“It challenges some of our notions about how government may have to change,” Caballero said of her bill.

She added that it's easy to dismiss small amounts of money local governments will save, but in this time no savings should be discounted.

AB 715, she emphasized, would still allow local governments to choose to pay for legal advertising if that's what their constituents wanted.

Caballero said after the hearing that she plans to continue working on the bill and seeking amendments, and that she's not done yet.

CNPA announced on its Web site Wednesday that it is gearing up to continue the fight against the bill should Caballero attempt to move it forward once again.

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