

Proposed public notice changes take narrow view

Notice how narrow-minded political discourse has become? Political strategists call it staying "on message." The goal is to drown out the message from the other side.

That's how the debate in the legislature over changing the system of providing public notice to citizens and consumers for various purposes has played so far.

A barrage of bills, three in 2009 and eight more this year, was filed in the last session. One passed the House. One passed the Senate. None passed in both houses.

All would move such things as public meeting notices from newspapers, where they've been for decades, and put them on city, county and state government websites.

The central argument on all the proposals, more like a mantra, was that more Americans get their information from the Internet, that newspaper circulation is on the decline and that it would be cheaper in tight budget times to trust the government to post those notices somewhere on a government website.

Whether true or not, the arguments are compelling enough to some lawmakers that they are likely to prevail if open government advocates and folks in the press do not join the discussion and present the other side.

At its July meeting, TPA's Government Affairs Committee stressed the importance and need for TPA members to present the other point of view at the local level to all incumbent state lawmakers and candidates, including candidates for governor. **Local government officials and others no doubt are already doing that.**

Many of the claims by proponents are exaggerated. Some are misinformed and misleading. One Knoxville lawmaker claimed that it would cost a county commissioner \$800 to publish a notice that he was giving \$200 in taxpayer money to a local non-profit. It passed the full House without any documentation.

Those claims will be heard again when the General Assembly returns to Nashville in January.

The narrowest view says the issue is about business—newspaper revenue versus tight government budgets. That was the innuendo the Knoxville lawmaker used. One member in the Republican majority in the Senate has made it a political issue by attacking the press as a "special interest" on his website.

Arguments for change ignore the historical reasons for publishing public notices. They are about open government. They are about transparency. They are about accountability to citizens, taxpayers, voters, consumers, homeowners, vendors wanting to provide goods and services to the government and others. They are a hedge against government secrecy.

Diagram the issue

I confess to enjoying in high school English class the grammatical exercise of diagramming sentences. It was an effective way to learn sentence structure. A similar exercise might be a good way to understand and explain the public purpose and value of public notices.

It starts with elections. Nothing is more sacred in our form of government than the integrity of elections. Completed disclosure through public notice is the way founders chose to instill confidence in the electoral process. No one has proposed changing that specific statute—yet—but why should public meeting notices be changed? Why are they any less important?

The Election Code contains the most definitive criteria for public notice.

"Newspaper of general circulation," according to TCA 2-1-104, means a "publication" (1) with a title or name, (2) regularly issued at least once

a week, (3) being not less than 4 pages, (4) published continuously for one year preceding, (5) published to disseminate news of general interest, and (6) circulated generally in the political subdivision.

Finding all that in one sentence reminded me of that diagramming exercise.

Now, to be clear, the state attorney general has opined repeatedly that "newspaper" and "newspaper of general circulation" are not included and are not as well defined in every context where public notice is required. The principle reasons the concept appears in other places, though, are self-evident.

Now, how many of the criteria in TCA 2-1-104 does a government website meet?

"Newspaper of general circulation" means independent of government.

"Regularly issued at least once a week" and "published continuously for one year" mean it has to be in a medium that is accountable and reliable. Newspapers are both of those or they wouldn't still be in business. Notice is accessible there because it is known to the public.

"Being not less than four pages," "published to disseminate news of general interest," and "circulated generally in the political subdivision" all mean it is a place where the public already expects to see information of general interest. That ensures a higher certainty it will be seen because there's an audience already in place.

Two of the bills this year would have changed the rules for purposes of "sunshine" meeting notices.

The courts have employed a similar standard to determine what constitutes "adequate public notice" for open meetings. It refers to the "totality of the circumstances" of how and when notice is to be given.

It is hard to see that many government websites could satisfy either criterion. Obviously, none meet the "independent" criterion.

Local, local, local

Proponents of change talk in broad generalities, ignoring the fact that those vague, global assumptions don't apply in most local communities. More people getting information from the Internet doesn't mean fewer people in Murfreesboro are getting information from newspapers, especially when you add the newspapers' websites.

So, if you take a local newspaper's audited and verified circulation, multiply it by the number of adults who read one copy of a newspaper (3.3) and then add the number of "unique visits" to the newspaper's website, how would that number compare to the number of visits to the local government website? Apply the same consideration to the secretary of state's website compared to circulation and web totals of a few newspapers.

The latest industry numbers show 100 million American adults continue to read a daily newspaper, 168 million read a paper in print or online in the past week. Newspaper websites attracted a record 74.4 million "unique visits" per month on average in the first three months of 2010. That 74.4 million was 2 million more than the year before.

The National Newspaper Association, which represents community newspapers, reported that in the fourth quarter of 2009 that 94 percent of newspaper readers read classifieds. That's where most public notices appear.



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Perhaps the standard should be to put the notice where more citizens are most likely to see it or look for it. No one audits government websites. No one regulates and polices them.

Proponents never mention how many people in a community don't have access to the Internet. Many don't have a computer or don't know how to use one. The House sponsor of one web notice bill dropped his legislation this year because he feared older constituents in his district would be poorly served by the change. He did that after hearing and considering the other side.

Omitted from the discussion so far is the fact that many government entities don't have websites. In

arguing that it would be cheaper to put notices on a government website, proponents never factor in how much it costs to start, build and maintain a site. There's no mention of standards of operation or regulation. Equally troubling is the fact that proponents for using government websites for notice aren't using them now to provide public information they already have available, things such as health and safety.

A recent survey found 36 Tennessee counties didn't have sites, and many others were poorly maintained because there are no operating standards. A newspaper maintains its site to stay in business.

No notice

One East Tennessee police department lost its domain name because no one at city hall or the P.D. noticed or acted on three months of e-mail warnings that its right to use it was about to expire. A local activist took it over and used it to criticize the agency.

The Knoxville News Sentinel went in search of local restaurant inspection scores on a state website over the July 4 holiday weekend. It found a message that said the scores were no longer available. Editors panicked, thinking the legislature might have closed the records.

After the holiday the paper learned that a contract the state health department had with a private company to compile, aggregate and post the health scores on the state's website had expired. In response to the query, the posted notice was changed to explain the scores were "not available" there. It redirected the public to local health departments. No warning was given until after a reporter noticed and inquired.

The message from those situations is simple. The government is not in the information business. Some in government have stronger motives not to communicate than to provide timely, complete information.

Paradoxes

There are certain paradoxes in the debate.

Everyone is familiar with the trend to privatize government services. One gubernatorial candidate advocates turning the state human resources department over to a private company as a way to reduce the size of government.

The theory is that some services are better handled by people already in the business of providing that type of service. One would assume that's what happened to restaurant inspection scores. That's where Corrections Corp. of America came from.

So what makes the government better suited to be in the mass communication business? Except vague claims that it would save money, nothing. That argument puts a low price on the value of transparency, accountability and consumer protection.

The final straw can be found in the body of one piece of legislation this year. It would have given local government authority to adopt an electronic notice policy "provided that the local legislative body shall adopt a resolution or ordinance setting out the procedures...for providing the electronic public notice."

It provided no guidelines for acceptable procedures, no standards to protect the public interest, no enforcement or regulation. Remember, the election code standard has seven, when you add postal regulations and distribution auditing. The bill just contained carte blanche authority to take control of public notices.

Here's the kicker. The bill said: "At least thirty (30) days prior to implementing such procedures, the local government shall publish the procedures at least once in a newspaper of general circulation in the county or municipality."

What is the message in that?

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editor. She has a journalism degree from the University of Missouri, Columbia.

Willie joins associate editors Gwen Swiger and Rick Norton on the newsroom management team.

Scott Williamson has joined the Banner as retail advertising manager. He is a native of Sevierville. He attended the University of Central Florida and worked as an ad sales executive in that area starting in 1994. He worked at newspapers in North and South Carolina as an interactive media/special projects manager and as a publisher.

New team leading DeKalb Co. Times

Heartland Media LLC on June 8 announced a new management team at the DeKalb County Times, Smithville (formerly The Middle Tennessee Times), bringing together two veteran media managers. Longtime newspaper editor and radio broadcaster Tom Duggin is the newspaper's editor. And Valerie Laprad (House), businesswoman, was promoted to general manager.

Duggin previously was general manager and editor of the Smithville Review. He had joined the paper in 2005 as the sports editor. Prior to the Review, he was sports director for WJLE radio for 16 years. He has been involved in many local organizations.

Laprad has been with the paper for nearly nine years and has been active with numerous community organizations. She serves on the executive board of the DeKalb County Chamber of Commerce. She served as president of Leadership DeKalb Alumni Association, on the board of directors of Habitat for Humanity of DeKalb County and on the Private Industry Council. In addition, Laprad will contribute to the Times' editorial content.

Heartland also promoted Mary Maranta to director of advertising and added Emma Adkins, another former Review employee, as the paper's graphic design artist. Casey Midgett remains employed as the Times' sports editor, while Faye Weichman remains on staff as copy editor.

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