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Public notice bills OK'd

by By RICK NORTON Associate Editor

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Bills 4-1



State Reps. Eric Watson and Kevin Brooks, both Republicans from Cleveland, served as two of 23 bipartisan co-sponsors of legislation passed last week by the Tennessee House of Representatives requiring newspapers that publish public notices to post them on their local website, as well as on the Tennessee Press Association's aggregate website.

The TPA site can be accessed at www.tnpublicnotice.com.

The pair of Cleveland legislators joined state Sen. Todd Gardenhire, R-Chattanooga, who served as one of five co-sponsors of a companion bill that passed the Senate 11 days earlier.

State Sen. Mike Bell, R-Riceville representing the 9th Senatorial District, also voted in support of the legislation, but did not serve as a co-sponsor. During Senate

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Image 1 / 4
 Watson

deliberation, Bell — although favoring the bill — said he sees the legislation as a means to save taxpayer dollars in the long term.

TPA, representing a conglomerate of newspapers of general circulation across the state — including the Cleveland Daily Banner — supported the bill also, but advocates say it was because the legislation promotes transparency in government operations and enforces the Fourth Estate's role as government watchdog.

House Bill 1001 was approved on a 94-1 vote. It has been forwarded to Gov. Bill Haslam for his signature.

Scheduled to take effect April 1, 2014, the bill also specifies the website postings will be provided at no extra charge.

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By an overwhelming margin, the House sent the proposed legislation to the governor's desk after the governing body's State and Local Government Committee Chairman Ryan Haynes, a Knoxville Republican and prime House sponsor, explained the open government aspect of the legislation.

Haynes stressed the bill was supported by TPA-member newspapers because, "... they are committed to open government, and this is one more service they can provide to make government more open and more transparent."

In a brief exchange prior to the vote, state Rep. G.A. Hardaway, D-Memphis, told Haynes he felt it didn't seem appropriate for the Legislature to "... be telling the newspapers what they can and can't charge for." Hardaway was the lone "no" vote in the House.

Haynes explained TPA-member newspapers' rationale.

"Because it gives more people the opportunity to see public notices, [TPA members] are willing to take that cost on," Haynes offered in response to Hardaway.

The Senate version of the legislation, SB461, passed the Senate on March 14 after Sen. Ken Yager, R-Harriman, cited the value of independently published public notices as a key component of "openness in government." The vote there was 31-1, with state Sen. Stacey Campfield, R-Knoxville, casting the lone "no" vote.

Campfield had previously sponsored legislation to take all public notices out of Knox County newspapers and put them on the county government's website for 18 months. He called it a "pilot" project.

The list of bipartisan co-sponsors in the House of Representatives for HB1001 included: State Government Committee Chairman (Ryan) Haynes; Speaker Pro Tem Curtis Johnson, R-Clarksville; Rep. William Lamberth, R-Portland; Rep. Art Swann, R-Maryville; Rep. Bob Ramsey, R-Maryville; Rep. (Eric) Watson, R-Cleveland; Rep. Jimmy Matlock, R-Lenoir City; Rep. Vince Dean, R-East Ridge; Rep. Mike Harrison, R-Rogersville; Rep. Ron Travis, R-Dayton; Rep. Jimmy Eldridge, R-Jackson; Rep. Joe Pitts, D-Clarksville; Rep. Susan Lynn, R-Mount Juliet; Rep. Cameron Sexton, R-Crossville; Rep. Bill Sanderson, R-Kenton; Rep. Mike Carter, R-Ooltewah; Rep. Mike Sparks, R-Smyrna; Rep. Kent Calfee, R-Kingston; Rep. Mary Littleton, R-Dickson; Rep. Tilman Goins, R-Morristown; Rep. Bill Dunn, R-Knoxville; Rep. Harry Brooks, R-Knoxville; Rep. Joe Armstrong, D-Knoxville; and Rep. (Kevin) Brooks, R-Cleveland.

Watson represents the 22nd Legislative District which includes Meigs and Polk counties, and part of Bradley County. Brooks represents the 24th Legislative District which covers the city of Cleveland.

State Senate co-sponsors of SB461 included Sen. Becky Duncan Massey, R-Knoxville; Sen. Janice Bowling, R-Tulahoma; Sen. John Stevens, R-Huntingdon; Sen. (Todd) Gardenhire, R-Chattanooga; and Sen. Doug Overbey, R-Maryville.

Gardenhire represents the 10th Senatorial District which includes parts of Bradley and Hamilton counties.

According to a column written by Frank Gibson, TPA public policy director, which will be published in the April edition of The Tennessee Press trade journal, the legislative votes have been heralded by state Sen. Ken Yager, R-Harriman, chairman of the Senate's State and Local Government Committee.

Yager has sponsored past legislation, which has been championed by TPA, against moving public notices from print to government websites. During the Senate's debate, Yager made special note of the fact that his Tennessee lawmaking colleagues were debating the public notices bill during National Sunshine Week.

"This bill recognizes the public's right to know what is going on in their government," Yager said. "I don't think there is a better time to affirm that than now."

In his TPA column, Gibson quotes Yager as saying, "I appreciate the leadership of Tennessee newspapers in trying to get ahead of this issue." Yager noted that the pros and cons of putting notices exclusively on government websites had

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been debated time and again since his election into the Tennessee Legislature.

Acknowledging that communication technology continues to evolve, Yager reminded his colleagues to keep in mind that public notices are a key component of "openness in government."

Gibson's column goes on to quote Yager, "Using an independent agency, the local newspaper, builds integrity in the process. To give even the appearance of manipulating mandatory public notices tarnishes the reputation of government because it undermines the concept of independence and transparency."

Acknowledging the growth of Internet readership, Yager is quoted as pointing out, "This bill combines the best of both worlds. It keeps notices in places where more people can find them by ensuring the widest distribution. It comes at no extra cost to taxpayers and promotes government transparency, efficiency and public trust."

Gibson's column, which addresses the Legislature's recent and ongoing debates over public notices, also makes mention of state Sen. (Mike) Bell who in the past has opposed publishing public notices in the printed editions of newspapers of general circulation. Bell's argument is the advertising costs associated with the use of printed public notices, as opposed to a broader use of electronic notifications through websites.

An excerpt from Gibson's column reads, "Sen. Mike Bell, a freshman from Riceville, asked Yager how many newspapers do not have websites. Actually, there are two, and Yager pointed out that they have until April 1, 2014, to comply. Bell sponsored legislation last year to stop advertising public hearings to review the performance of state agencies. He praised Yager's bill as the 'first step toward' moving notices out of newspapers '... and saving our constituents back home hundreds of thousands of dollars.'"

Contacted Friday by the Cleveland Daily Banner to give him a chance to elaborate on his reasoning, Bell pointed to the emergence of the Internet and his desire to save taxpayers money as his primary justifications.

"I was not a sponsor, but I did support and vote for SB461," Bell told the Banner. "As hard-copy newspapers continue to lose circulation nationwide and Internet usage continues to grow, governments need to look to online publication of public notices to not only reach a wider population, but to save the taxpayers money as well."

Bell added, "I applaud the Tennessee Press Association for taking this first step in what I hope will ultimately lead to saving the state's taxpayers hundreds of thousands of dollars in the cost of placing public notices in newspapers."

In spite of the Legislature's passage of the TPA-supported bills, Gibson's column points out the debate has not ended.

"... The debate will continue because there are various political agendas still at play," Gibson writes. "One prominent Senate leader still maintains that public notices are a government subsidy for newspapers. That sentiment is expressed publicly in many other states where public notice has been under attack."

Gibson adds, "Passage of SB461/HB1001 gives newspapers the opportunity to demonstrate they remain the best avenue for informing the public on the actions of government, but they still need to make public notices as visible as possible and continue to remind the public those notices are an essential part of being a government watchdog."

Bill summary

is published

A verbatim summary of the companion bills, which have been signed by the House and Senate speakers, and which await the governor's signature, is published below:

"Under this bill, beginning April 1, 2014, in all cases where a public notice or legal notice is required to be published in a newspaper of general circulation, the complete notice must be posted:

"1) On the newspaper's website, where it must be published contemporaneously

with the notice's first print publication and will remain on the website for at least as long as the notice appears in the newspaper; and

“2) On a statewide website established and maintained as an initiative and service of the Tennessee Press Association as a repository for such notices and will remain on the repository website for at least as long as it appears in the newspaper. Any newspaper of general circulation that meets the criteria of this provision must have access to the statewide website.

“Any such notice must be published online in its entirety, including maps and other exhibits, and must include the date on which it was first printed in the newspaper. An error in a notice placed on the newspaper website or statewide website, or temporary website outages or service interruptions prohibiting the posting or display of such notice, will be considered harmless error and proper legal notice requirements will be considered met if the notice published in the newspaper is correct.

“Each newspaper of general circulation publishing public notices must include on its website home page a link to its public notice section and include on its public notice home page a link to the statewide public notice website.”

On March 14, 2013, the Senate adopted Amendment #1 and passed Senate Bill 461 as amended:

“AMENDMENT #1 requires that publication on the website and in the newspaper be accomplished for the same price as newspaper publication alone. This amendment specifies that the repository website that will be created pursuant to this bill will be a joint venture of the majority of Tennessee newspapers rather than an initiative of the Tennessee Press Association. This amendment requires that any notice published on a newspaper's website or on the statewide website be available to the public at no charge.”

(Editor's Note: Information from a TPA news release, Frank Gibson's TPA column, The Associated Press and the Knoxville News Sentinel was used to develop this news story. Gibson's column will be published in its entirety on the Editorial Page of Wednesday's edition of the Cleveland Daily Banner).

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