



*Testimony, Mr. Harold Miller  
House Commerce Committee  
House Bill 795, Printer's No. 911  
June 9, 2009*

Good morning Rep. Daley, Rep. Hess, Rep. McIlvaine Smith, and members of the Commerce Committee. Thank you for the opportunity to appear before you today to present our significant concerns about on House Bill 795.

I am Harold Miller, President and Chief Executive Officer of Lancaster Newspapers, Inc., Lancaster Farming, Inc. and Lancaster County Weeklies, Inc. Together, these three companies publish six daily and weekly newspapers that range from a 100,000 circulation Sunday newspaper serving the Lancaster metropolitan area to community newspapers serving towns with populations of fewer than 40,000.

Lancaster Newspapers, Inc. publishes the Intelligencer Journal/Lancaster New Era, with a daily circulation of 88,200. The Sunday News has a circulation of 101,000. Our 53,000 circulation Lancaster Farming newspaper reports weekly agriculture, livestock and dairy news to farmers in Lancaster County and throughout the state. Lancaster County Weeklies publishes the Ephrata Review and Lititz Record serving small communities in Northeastern and North Central Lancaster County. Each has a circulation of about 7,600.

### **WHY WE OPPOSE HB 795**

HB 795 (and SB419) would authorize government agencies to post public notices on government-run or contracted websites instead of in newspapers.

Of course it is appropriate for Internet notice to supplement public notices published in newspapers. In fact, it's already happening on [www.mypublicnotices.com](http://www.mypublicnotices.com), a Web site founded by newspaper representatives. Internet notice alone, however, cannot supplant newspaper notices in today's society. There are still too many without Internet access, and there are still too many issues regarding accuracy, archiving, and permanency of Internet "records."

Although government performs many functions, from a checks and balances perspective, it makes no sense for government to control the when, where and how a particular public notice will be presented to the public.

### **Public notices must remain in newspapers of general circulation**

Under current law, public notices are required for many projects undertaken by both private

and public entities. Among other things, public notices:

- Let citizens know when public meetings will be held;
- Let businesses know about requests for proposals and the opportunity to bid on business;
- Let citizens know that local government ordinances that might affect them are under consideration; and
- Let people know that property is for sale as sheriffs' sales.

**House Bill 795, unfortunately, would allow government agencies to control all aspects of how all this and other information is presented to the public, and removes the independent verification essential to our system.**

**In order to be effective, public notices must have four elements:**

- **They must be disseminated to a broad range of people**
  - **They must be verifiable, so that citizens can make sure that notice was properly given; and**
  - **They must be archived, so that they can be retrieved and verified in the future.**
  - **They must be published in a medium independent of the government**
- **Newspaper publication is the best way to satisfy all of these elements.**
  - **Newspapers provide the broadest, most consistent and documentable dissemination.**
    - Newspapers are widely available to both individuals and businesses. They are delivered to homes and businesses, mailed, available in newsracks and retail outlets, schools, libraries, and other public forums, and in 2009, read online in the tens and hundreds of thousands daily.
    - In fact, despite the near constant “bad news” about newspapers, newspaper readership is strong. More Americans read printed newspapers than watch the Super Bowl. A 2008 National Newspaper Association survey showed that 86% of adults read a newspaper every week, 99% of readers read local news, and that 59% of readers never read local news online. Newspapers and their Web sites reach a larger audience than ever before (and much larger than government-run Web sites)
    - On the issue of moving all public notices to the Internet, there are real access problems. U.S. Census Bureau studies showed that in 2007, 30% of Pennsylvania residents lacked internet access. That figure was even higher for the elderly, for low-income residents, and for those with less education. Similarly, the Census Bureau indicated that 40% of the residents in Pennsylvania’s major urban centers lack internet access.
  - **Newspapers notices are verifiable and archived**

- When a notice runs, a newspaper provides an affidavit. If someone has to prove in court that the proper due process was afforded, that affidavit and the witness behind it help the courts review the record. Tampering with this is risking due process. Even if a website could print a form, is the webmaster going to come to court and testify about it?
- Libraries and newspapers maintain bound volumes or microfilmed copies of editions for historical reference and verification.
- Internet websites are vulnerable to manipulation, loss of content and technological change. As a result, they cannot easily provide a reliable, enduring record.
- **Newspaper notices are independent of government**
- Allowing government agencies to control and post Internet notices would eliminate any independent verification and would expand government in a costly and inefficient manner.

Government-controlled notice is fundamentally flawed because it is not independent of the political forces that operate the websites. Given the low numbers visiting the many government websites operated across the state, posting on them is tantamount to shielding information from public view:

- The traffic visiting local government websites is very low [HANDOUT] as assessed by independent web traffic calculators: visits to newspaper websites dwarf the number of visits to municipal websites at least tenfold.
- Internet notice would favor individuals or businesses that are “in the know” and would open government bidding and other actions to abuse and charges of cronyism.
- Posting of controversial government actions could easily be manipulated to appear to have been posted timely or for other purposes.

## Conclusion

Public notices in newspapers are part of the three-legged stool of government accountability.

- Open records laws guarantee the public’s right to review past and present government actions.
- Open meetings laws guarantee the public’s right to witness and participate in current government discussions and decisions.
- And public notices guarantee the public’s right to be notified before government takes action that will affect their property, taxes, or other parts of their lives.

Last year, Pennsylvania legislators took a significant step forward and confirmed its commitment to open government with the passage of Act 3, which overhauled the state’s open records law. The new law put the burden of proving that a record is not public on the agency. HB 795 and its companion bill, SB 419, put the burden of searching for information about what the government is up to on the citizen. This is a 180-degree shift. It is counter to the democratic process and is a significant step away from open government.

Are newspapers a business? Yes. Do they receive money for publishing public notices? Of course.

- They provide a needed service to the government like so many others, road and building contractors, office supply businesses, public employees, etc.
- Newspapers provide an independent, verifiable, archived, community-based repository of meeting notices, zoning proposals, etc.
- Newspapers, more than perhaps any other business, serve the public interest by informing the public about government activities and spending.
- They accomplish this by pushing for greater access to government, fighting for public records, covering local meetings and court proceedings, and by publishing public notices in their pages.

Public notices belong in newspapers.

Thank you for your attention; I would be pleased to answer any questions you may have.