

- SUBJECT:** Requirements for newspapers publishing notices in certain counties
- COMMITTEE:** Government Efficiency and Reform — committee substitute recommended
- VOTE:** 6 ayes — Callegari, Lucio, Frullo, Harper-Brown, Munoz, Zedler
0 nays
1 absent — Cain
- WITNESSES:** For — Ken Whalen, Texas Daily Newspaper Association, Texas Press Association; (*Registered, but did not testify*: Tom Morin, Daily Court Review; Emily Cates, Daily Commercial Record; Bill Longley, Texas Municipal League)

Against — None
- BACKGROUND:** Government Code, ch. 2051, subch. C defines the criteria that a newspaper must meet to publish government notices. Sec. 2051.044 specifies the requirements applying to all counties except Fannin County. Sec. 2051.0441 specifies less restrictive requirements for a county with a population of 30,000 to 36,000 that borders the Red River (Fannin County).

For all counties, the newspaper must be published at least weekly and have been published regularly for at least 12 months before the notice is published. In Fannin County, the newspaper must devote no less than 20 percent of its content to general interest items, whereas in other counties the requirement is no less than 25 percent. Furthermore, in Fannin County, the newspaper must either be entered as second-class mail in the county where published or have a circulation of at least 51 percent of the residences in the county where published. In all other counties, the newspaper has no alternative but to meet the second-class mail requirement. Under these provisions, any newspaper that satisfies the requirements of sec. 2051.044 also satisfies those of sec. 2051.0441.
- DIGEST:** CSHB 1812 would amend Government Code, sec. 2051.0441 to expand its application to either a county with a population of 30,000 to 36,000

bordering the Red River or a county that did not have a newspaper described by sec. 2051.044 published there.

The bill would replace the section's reference to "second-class" mail with a reference to "periodical" mail.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011.

**SUPPORTERS
SAY:**

CSHB 1812 would strengthen communication between certain local governments and their citizens by allowing a government entity to choose a more widely distributed newspaper for providing public notice than a newspaper that met the current legal requirements but was published outside the county. The bill would help local governments reach more residents while saving taxpayer money.

Rural counties especially would benefit from CSHB 1812 because they are less likely to have a large newspaper published in the county. Some rural counties once had statute-satisfying newspapers, but they have been forced out of business by the Internet and now must publish public notices in bigger newspapers printed elsewhere at greater expense. As the population continues to decline in West Texas and other rural areas, the local, alternative means of communication that CSHB 1812 would provide will become more and more necessary. Furthermore, since alternative weekly newspapers are often free publications, the bill could help improve communication with low-income areas, where paid newspaper subscriptions may be rare.

CSHB 1812 would not preclude affected local governments from choosing the traditional newspaper option if it best suited their needs. Any newspaper that met the traditional, more restrictive requirements of sec. 2051.044 also would meet the alternative, less restrictive requirements of sec. 2051.0441. The bill would provide affected local governments with the flexibility and discretion to balance the worthy priorities of effectively communicating with citizens, saving taxpayer funds, and supporting trusted news sources as they see fit. Switching to a local weekly newspaper would not necessarily reduce the timeliness of communication because the traditional requirements only call for using a weekly newspaper.

In some cases, CSHB 1812 would help bring well-intentioned but noncompliant counties back into full compliance with the statutory requirements for providing notice. The bill would expand legal cover for governmental officials making good-faith efforts to provide notice to their communities.

The bill also would make a minor update in the statutory language to replace the archaic “second-class” term with the U.S. Postal Service’s current term, “periodical.” The bill would have no fiscal implication for the state.

**OPPONENTS
SAY:**

By allowing local governments to publish notices in alternative local weeklies, CSHB 1812 would harmfully reduce revenue to the state’s major newspapers and could hasten the decline of the traditional printed newspaper industry. Major newspapers provide an invaluable, trusted source of information to society, making them more appropriate venues for official government communication than less-established local publications. CSHB 1812 also could lead to less timely communication with the public if county governments began disseminating their notices in weekly, rather than daily, newspapers.

**OTHER
OPPONENTS
SAY:**

CSHB 1812 should not only permit the affected counties to choose the most widely circulated newspaper, but also require it. Ensuring effective communication with the citizenry is the purpose of requiring public notice in newspapers, so the bill should tailor statutory requirements to best serve that purpose in such counties, rather than preserving a traditional option that would defeat the legislative intent if used.

NOTES:

The committee substitute differs from the bill as filed by changing the description of a county that would qualify under the bill from one that did not publish a newspaper that met the requirements of sec. 2051.044 to one that did not have a newspaper published in the county that met those requirements.