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OMB/RECORDS MANAGEMENT DIVISION

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2001 SENATE POLITICAL SUBDIVISIONS

SB 2435

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2435

Senate Political Subdivisions Committee

Conference Committee

Hearing Date February 9, 2001

Tape Number	Side A	Side B	Meter #
1		x	16.-53.9
2	x		0.8-14.6
2/15/01 2	x		17.6-20.3
Committee Clerk Signature <i>Mary Jo Wocken</i>			

Minutes:

The hearing was opened on SB2435.

SENATOR CAROLYN NELSON: Introduced SB2435 relating to qualifications required of newspaper to publish legal notices. The gentleman has a concern about the definition that is currently in the Century Code that defines the newspaper that is eligible for, to become the official newspaper of the county. Every year we get the choice of do we want a vote for the Casselton Recorder or the Fargo Forum. Every time we vote, every time the Forum wins. So, I filled out this little book the other day, just to see where we were classifying. Now this is put out by the North Dakota Newspapers Association and it does list, because I understand some of you have gotten some e-mail's on this particular issue. At the beginning we had daily newspapers, most of those are also the official newspapers of the county. Second ones you get are the weekly newspaper and I believe that where a lot of the concern was coming from. There's another section in here called shoppers' and you'll notice that sectioned out as shoppers, and theirs

another section that's called "other newspapers". Now its not called other publications, other anything else, its called newspapers. So I thought that John had a point when we asked me if I would submit this piece of legislation and I said yes I would. I said I will if you'll come and explain to the committee why you want this bill. He is here, and one of the cosponsors is here and just wants to put in a couple of words before Mr. Strand explains the bill. SENATOR TOMAC: You know there is an old adage that says you don't want to pick a fight with someone who buys their ink by the barrel. But I do think, its, I want to say that maybe it takes a certain amount of courage just to step forth and discuss a matter such like this. I hope you will bear that in mind. I also want to reassure the members of the committee, and those present, that in no way, is my sponsorship, co-sponsorship of this bill, aimed at putting or designed at putting anyone out of business especially small town weekly's who seem to take offense to this bill. The bill raises several important questions and one of which Mr. Strand will address. But the question as I read this and really considered why were doing what were doing, is, it seems to be based on the assumption that you should have to have a subscription to a paper to be provided legal notice of official notice of information that is generally public. I mean your school board minutes, your county notices, those legal notices. It seems to me to be contrary to have to pay to be provided notice of something that should be automatic. Why should you buy a subscription to the Bismarck Tribune and pay the \$300+ dollars. Why are you being forced to pay that to receive official notification of those notices, and of those minutes. I'm not sure that is right. I, in no way, oppose the nominal fee of the \$20 or \$ 30 that most of the weekly do charge. But to pay that fee and as editor of the paper in Linton e-mailed me, we discussed that, it seems to me that he did have a good counterpoint that one can go to the library if your close to one. Or you can go to the Political Subdivision that's printing the notice and actually get that directly from them. But in

concept at least, I think, that it is an exhorbant fee to have to pay, to be provided the legal notice that you should be entitled to. That's one of the arguments that I bring forth, the other one, is really based on the service that actually provided. What this bill actually does in my mind is it takes out, the requirement that you have a subscription, a paid subscription that the U.S. Postal Service requires, to be designated the official newspaper. The official newspaper of Morton County is the Mandan News. Frankly, other than the legal notices, I'm not sure that the Mandan News provides any information about the St. Anthony area. And either does any other newspaper. I can tell you this, the weekly shopper that is provided by the Finder, is fairly well read by all of the rural residents in the St. Anthony area. They are excluded from publishing, or from being the official publication. Its' classified as the shopper, they are not a paid subscription, and so therefore the people in St. Anthony who, well are not served by the official county newspaper, if they want to notified have to pay the nominal fee of \$25 or \$35, that's not the issue, but, you know it seems to me that there is no other service there other than that. So, I think it does pose the question, and there are pockets in the state, and there issues there that says, why are we doing what were doing. I think the third issue that the committee may want at least consider, and I challenge the opponents to address is what affect and what impact is the Internet going to have on the whole issue of official publications. I mean is it something that in ten years that is not going to be publicized cause you can log on to the web site. It is a question at least in theory, that I think that we need to consider as we consider the bill before you. Again, I want to reassure those that are here that I have not designed or not cosponsored this bill because I think that any of the small town weeklies are, I don't believe that it puts them in jeopardy because I don't think that the local school board or the county commission is going to change in that case. I do think this bill does give the opportunity to Mr. Strand, who is in a much larger community, the ability

to provide a service to the constituents at no cost. Those are three things I think that bear some consideration as the committee considers this bill. SENATOR LEE: The part that would be struck in the bill said "bona fide subscription list", I believe its 150, but does it, does it then imply that its a paid subscription list. Wouldn't for example, with the Shopper, everybody to whom address it goes, be a part of the list of people receiving that? And it may not be.

SENATOR TOMAC: That is a good question, and I'm not sure, somebody else may, but I do know this. The Shoppers generally do not have a subscription list. They are generally a postal patron of sorts and they distribute it to everybody. SENATOR FLAKOLL: Senator Tomac, in a

similar vein, if we strike out, the 150 subscriptions, what assurances do we have of providing adequate coverage to those people out in the communities so that everyone has a fairly accessible way to get to it, or, and how do we deal with those people who are homebound in terms of making sure they know. Are they through this able to get so called subscriptions even through some kind of free publications? SENATOR TOMAC: That's a fair question. At least in the area, of rural Morton County, the Finder is distributed to every resident, whether or not they, and it is at least in Manna to. Whether or not they pick it off their lawn and throw it away or whatever they do with it, that is certainly up to them, but its at least distributed in the same, almost the same manner as the post office would deliver the mail. So, I think that answers one of your questions. I think too, where, lets not miss the point, this bill takes an election. The voters of the county are still going to vote on whether or not they want this or whether or not they want this, all this does is make a certain class of newspaper, shopper or a pre-subscription paper eligible to be on that list. And in effect it does form some competition at least in larger communities. MR.

JOHN STRAND: See written testimony. SENATOR LEE: I often read your publication, and I enjoy it very much. But I am just concerned about anything that is picked up in a stand as

opposed to being on a regular delivery list as having a real broad based coverage. There are people who might pick up the or might have a subscription to a traditional newspaper here. Or might even be reading it through the Internet, who might not get to the grocery store or might not be at an area where the stands might be, where the High Plains Reader or other requester products are distributed. How do we make sure that we have a broad base distribution if that, not that we should prevent running from being a candidate, but I think that's part of the challenge.

JOHN STRAND: Somebody had suggested you might consider a percentage of the population as a minimum press run for circulation or something of that nature so that your not going to end up with a newsletter with 50 articles going out. But again if that 50 article person or business has got elected, it would be the will of the people I guess, which would be maybe a message, that I don't like who is the incumbent. The pre distribution newspapers and electronic distribution of newspapers are available readily available and without cost. My newspaper puts out 12,000 papers every week. That's 3 or 4 times bigger than the biggest weekly paper in North Dakota. Its' the 5th largest circulated paper to my knowledge in the state, so if you looked at and you wanted to find to make sure some kind of presence in the community, you might consider that. I wouldn't say you should, or shouldn't, but it is a legitimate concern. I don't think you would want somebody out there with no subscriptions or no readership or no distribution, or no product. So you could weigh that into your discussion, usually. SENATOR WATNE: Do know of any newspapers in the state of North Dakota that are, requires here at least ¾ th in English, that are other languages? JOHN STRAND: No, I don't. I'm not sure if anybody know how old this law is. But it was probably put in the days when you had your horse and buggies that had to be hooked up on the front too with a file. Its' one of those things that just in there and I am not aware of any other product or publication at all or across the region that would be a problem in

that regard. SENATOR MATHERN: More of a comment. Mr. Strand, I think your paper really appeals and attracts our young people, and I am happy to see that. I always enjoy the diversity of it, and the difference things and the different opinions. I realize you don't always pick a political stand but I've never been able to determine if your of a specific party because your quite well versed as well as a lot of other people in the paper. So I just want to say that I do appreciate the publication. JOHN STRAND: Thank you, Senator Mathern. SENATOR FLAKOLL: Do we ever have to worry that in a situation. I know how you have distribution points that different. JOHN STRAND: Ah,Ah. SENATOR FLAKOLL: that go to stores or whatever. And say what happens if you have a section of north Fargo, as an example, that something is going to affect them so that the notices are in there. Do we ever have to worry about, the full monty factor, where remember in the movie, the full monty there was something in the newspaper that they didn't want anybody else to see, and so they just grabbed the whole stack of newspapers and threw them away. JOHN STRAND: Um, SENATOR FLAKOLL: I know that quirky, but there are some people that would possibly be doing that. I hate to say that, cause everyone in North Dakota are good people. JOHN STRAND: I won't assure you, Senator Flakoll, you will like my editorials. Newspapers are driven by demand. If there is advertising and customers you have a product. I can't speak for other newspapers, I'm sure there is the definition and community standards, there is something that is always offensive or repulsive or disheartening to somebody, somewhere, out there out in the world. I can't speak for other products and I can't say my product at times doesn't upset somebody. But, I can say that any paper or any publication anywhere, sometimes I can rip it apart somehow or other. SENATOR FLAKOLL: What I'm saying is, there could be, if you were being awarded the, to have all the legales put in there, there could be something on a subdivision that's going up in a certain area that somebody might not want them to know about.

that is going to happen and they could get blind sighted because somebody did something, that's what I am referring to. I have nothing about current content, now. I have nothing to do with that, what I am saying is, your contractor or something and you want something to go through, the easiest way to have a resistance, to fight is not to have people know about the hearing. JOHN STRAND: A business would have to be elected to be the official county paper. So if you are elected, by your voters to be the official county newspaper, you get what's designated to them regardless. There is no picking and choosing what gets published or not. Now your school district, your city, your township, and other entities, get to choose who their official newspaper is. The cities you vote whether or not you want published public notices. Then if your city people do vote for public notice, then they appoint a public, a newspaper to serve that. So, you have to, those public entities have to follow what their required to do for public notice and a vehicle, the newspaper, if just the vehicle. Its where they put the information for public dissemination. We couldn't in any way influence somebody else's choices whether they follow the statute of law, or publish or not. Am I addressing this bill? SENATOR FLAKOLL: Do you have a provision with your particular publication, is someone is homebound. Can they receive a copy of that via mail, I mean do you have service for that? JOHN STRAND: Absolutely, just like the Forum or the Herald, you can subscribe. We have some subscribers, folks we put about 75 papers out every week in the mail, but out of 12,000 papers I mail 75 you can see my concern about having the post office regulate us. REPRESENTATIVE BILL DEVLIN: I am also the publisher of the official weekly newspaper, the Steele . My opposition may serve self serving for that reason, but I spend a lot of years, 15 years on county commission boards and covered school boards, covered city government, covered all types of government and I see the need for the local boards as some insurance that there notices are being published in a publication that people are asking for and

inviting into their homes. I think that gives them the base they need to insure that it is going to the population that they want to serve. I think we want to make sure we reach those people, and I have nothing against the pre circulation papers, the Shoppers". I've been in that business myself, I see them all over North Dakota, in gas stations, cafes, laying on lawns or whatever. I have no idea of the readership of it, I've seen surveys that have a very low, but I'm sure they can show surveys of readership very high. I am not going to argue that at all. I think the case here today is we work very hard in the newspaper industry in North Dakota to insure that the people of North Dakota get the legals in the papers they want but we also make an effort to get the legals to other papers. To answer Senator Tomacs' question, every legal we publish in the Steele County Press for any of our cities, counties, school boards are also published free of charge on the Internet through the North Dakota Newspaper Association. There is many different ways, to access these minutes, besides just the paper. They can go to the local board. They can go to the library. I don't know how many, even college libraries, that most of us send free subscriptions to them every year. To make our papers available to them. I think that we work hard as a newspaper industry, in this state. We're part of our community, we cover their news from births to deaths. We work in communities on economic ground issues, cover their children in sports, school, school plays, musical production and every aspect of community life. I think that's' what an official newspaper has to be. And most of the testimony from the proponents are usually from great papers that serve a very special interest. Maybe its an entertainment guide or motor vehicle guide, or whatever, but it isn't a broad base that we as a elected officials on a county level or local level want to see, to insure that we have that strong base of our people that were taxing, having the paper, inviting them into their home, every week. I think this bill would be large step backwards for the taxpayers of North Dakota. It would move to a system, where there is a no

