

Statement by

Alan Kemp

Executive Director of the Iowa League of Cities

November 7, 2014

Chairwoman Wilhelm, Chairman Kaufmann and Members of the Committee, my name is Alan Kemp, and I am the Executive Director of the Iowa League of Cities. I truly appreciate the opportunity to present to this committee today on behalf of cities across the state of Iowa. The League is always looking for ways to assist members of this committee and the legislature in better understanding city operations to create a partnership with cities to foster efficiency and taxpayer savings at a local level.

Our time today is limited, and I'm sure there may be issues raised that will lead to further questions. As always, the League and its staff would be happy to follow up with you on any of the topics discussed today and to provide any additional information.

Today we were asked to speak about unfunded mandates, and, more specifically publication and notification requirements. It is no secret that the State legislature's decisions can have a significant impact on the efficiency and tools available for local governments. Publication and notification requirements is one area that has a cost impact on cities of all sizes.

UNFUNDED MANDATES

An unfunded mandate is a requirement set forth by a state or federal government that does not provide any type of funding to execute the requirement. Therefore, in order to comply with unfunded state or federal mandates, city governments must incur the expense of the requirement on their own.

City budgets are put under pressure to maintain or increase services and comply with increasing regulations and mandates with fewer resources. These pressures placed on city budgets can create difficult decisions that result in lessening the amount of services provided or increasing costs to residents. Cities cannot have an impact on those cost-drivers outside of their control and need additional resources and the ability to make decisions at the local level. Each year, one of the league's priorities is infrastructure funding because of mandates that impact the funding and the regulation of maintaining and upgrading infrastructure. Iowa DNR reports roughly \$10 billion in needed upgrades for water and waste water systems to meet demands for compliance with environmental regulations.

Today we are happy to focus on publication and notification – an unfunded mandate that is increasingly putting stress on city budgets of all sizes, but more so on smaller cities.

PUBLIC NOTICE PROCESS

Our members support openness and understand the importance of notification. Public notices are used to inform the public of city government matters and when certain actions will occur. Cities are required to publish or post public notices for a variety of items and must follow the provisions of the Code of Iowa that detail how such notices should be given.

When Notices Are Required

These notices are required on a large number of matters. One basic rule that city officials can use is that any public hearing must be preceded by a public notice announcing the date, time and place of the hearing. On the League website we have a Public Hearings page that has a list of when public hearings are required by state law. If you or local officials within your district have questions I would encourage the usage of that resource.

Some of the more common actions that necessitate a public notice include adopting a city budget or budget amendment (Sections 384.16 and 384.18 of the *Code of Iowa*), approving plans for public improvement projects (Section 26.12) and approving zoning ordinances (Section 414.4). Cities are also free to publish “any matter of public importance” as described in Section 618.14. Some additional examples include public meeting minutes, monthly bills, water quality reports, Board of adjustment actions, and financial reports, among others.

Publishing Timeframes

The majority of public notices must follow the requirements set in Section 362.3 of the Code, which states that notices must be published not less than four days and not more than 20 days before a public hearing or other action is taken. Some public notices are subject to different timeframes, including those used for adopting a budget or budget amendment as they must be published not less than 10 days and not more than 20 days before the public hearing. Zoning ordinances also have a different schedule as related notices must be published not less than seven days and not more than 20 days.

When counting days on the calendar to determine when a notice must be published, Code Section 4.1(34) provides guidance. The first day of the timeframe is excluded and the last day is included, unless the last day falls on Sunday, in which case the timeframe is extended to the following Monday. If the last day falls on a legal holiday, the timeframe is extended to the next day.

Where Notices Must be Published or Posted

Code Section 362.3 states public notices must be published in a “newspaper published once weekly and having general circulation in the city.” However, cities that are 200 or fewer in population are not required to publish notices, and notice shall be made by posting in three public places which have been permanently designated by ordinance.

Chapter 618 of the Code provides more specifics on the newspaper used to publish notices. In particular, Section 618.3 requires the newspaper to be generally circulated in the city, published at least once a week for at least 50 weeks of the year and regularly mailed through the post office of entry for at least two years. The newspaper must also devote at least 25 percent of its total column space in more than half of its issues to public information. Finally, the newspaper must have a list of subscribers who have paid or promised to pay more than a nominal rate for copies and is paid by at least 50 percent of the persons it is distributed to.

Newspaper Rates

Code Section 618.11 calls for the Iowa Department of Administrative Services to set the publication rate each fiscal year. This rate is calculated by applying the consumer price index for all urban consumers as determined by the Department of Labor to the previous rate. The prescribed rate is for each line of eight point type two inches in length, or its equivalent, for the publication in a newspaper of any notice, order

or other required publication. The Fiscal Year 2015 rate is 46.9 cents per line for the first insertion and 31.76 cents for each subsequent insertion. Rates are typically announced in June of each year.

While the standard rate is provided for eight point type, Section 618.17 allows the minimum type to be six point. Cities are encouraged to work with their newspaper to determine what type of print should be used for public notices and to ensure all charges are accurate.

Errors

If an error is made on the public notice, such as listing an incorrect public hearing date or including incorrect budget data, the city must republish the notice with corrected information. Even minor errors in a notice can result in the invalidation of the matter for which publication was required, so in almost all instances the notice should be corrected and republished. This will likely force the city to delay a required public hearing until the next regular city council meeting. If so, the public notice must reflect the new time and date of the hearing.

Unfortunately, there is not much a city can do if a newspaper makes an error in publishing a notice, whether it was not published in time or a mistake was made in adequately printing the submitted text. To ensure citizens are properly informed, a corrected public notice must be published before a public hearing or other action can be taken, which often will delay proceedings. When such errors are made and an additional public notice must be published, the city should not be required to pay for the second publication. Also, Section 618.18 of the Code states when a public notice is not published within one month of submission to a newspaper, the maximum rate allowed by law shall be reduced by 25 percent.

IMPACT TO CITIES

The League and its member cities believe in notice. We believe in open government. We believe that constituents and citizens are a part of their government and that keeping them informed is very important. However, when we talk with cities we hear that they would like more flexibility in how notice is given because they want to ensure that the required medium is reaching the public as intended and that the financial burden on the taxpayer is as low as possible. The most frequently raised issues we will address today are the means by which notice is required to be given and the higher cost placed on smaller cities by percentage of their budgets.

The current publication and notification process requires that publication be given in a newspaper, but newspapers no longer have the widest distribution of media and are experiencing declining readership as the general public moves to internet media sources for information. In 2013 the Pew Research Center in their *State of the News Media* poll showed that over the past ten years over 20% growth in news received via online publications and a decline in print readership by 10%. This trend is expected to continue as costs force more print towards a digital outlets and has led to consolidation of newspapers with some papers moving toward weekly or monthly printings. Cities, at times, run into publication timing issues due to monthly council meetings and fewer publication deadlines. This can be exacerbated when a weekly newspaper requires materials a week in advance to publication.

Instability within the industry is not the only concern raised by cities. Large cities raise the question of the effectiveness of the required medium for publication and notice. Some of the largest cities have sophisticated websites and other means to disseminate information that can be accessed by cities and citizens across the state and country without being paying subscribers of the local newspaper. Many of the larger cities have dynamic websites that are updated often and already employ the staff necessary to post notifications to those websites.

It is not just the public sector that sees higher costs under the current notification and publication structure. Businesses that operate across multiple cities and counties are also impacted. These businesses are required to subscribe to various local papers to monitor notifications in all of the cities where they do business. This adds to the cost and time that it takes for them to monitor notifications in addition to the risk that they will inadvertently miss important information.

Another issue is the cost of notification and publication that can weigh more heavily on small city budgets than it does on large city budgets. Although the amount spent by large cities is often larger than that spent by small cities, smaller cities spend a larger percentage of their budget which means a higher cost per citizen and therefore the burden placed on each individual taxpayer is higher.

As budgets have become more constrained, cities have looked for ways to reduce costs and increase efficiencies. One such way would be to allow online publication of notices and ordinances that are mandated by state code to publish in newspapers. Allowing online publication helps cities because it is often within costs that cities are already undertaking and the internet is free for the public to access. According to Connect Iowa's 2013 Residential Technology Assessment, 76% of households within Iowa already subscribe to home broadband service, 6% higher than the national average. The members of the public that do not currently subscribe to home internet have free access to internet at every public library in the state. Cities understand the importance of their local papers and a new system could include both online and print so long as the goals of better efficiency and effectiveness are reached.

Conclusion

Our duty at the League is to advocate for cities in ensuring that notice is given in the most effective manner, both in terms of reaching citizens and in cost efficiency. From this perspective, there are two primary questions raised by the current structure:

Is the current publication and notification requirement reaching as many people as possible?

Is there a more cost effective and efficient alternative that can reach more people?

Chairwoman Wilhelm, Chairman Kaufmann and Members of the Committee, thank you again for the opportunity to speak with you today about how mandates can impact city budgets. The League is excited about the opportunity to partner with the Legislature to increase government efficiency and therefore lower the taxes for citizens while maintaining openness.

Iowa League of Cities Research Note

For additional information on this research, please contact:

Dustin Miller

Director of Government Affairs
dustinmiller@iowaleague.org

Robert Palmer

Government Affairs Manager
robertpalmer@iowaleague.org

Erin Mullenix

Research & Fiscal Analyst
erinmullenix@iowaleague.org

City Mandates and Cost Drivers

The Iowa League of Cities advocates for local governments in their challenge and expectation to provide safe communities and quality infrastructure. City budgets are put under pressure to maintain services and reduce costs, while complying with increasing regulatory requirements and mandates. Cities need additional resources to address these cost drivers that are often outside of their control. Although not an exhaustive list, specific categories and issues that can be addressed by the Legislature are:

1. Infrastructure Costs

- a. Shortfalls in transportation funding (RUTF and TIME-21) combined with cost increases for construction and materials.
- b. High costs (in the billions) for water infrastructure upgrades across the state.

2. EPA/DNR

- a. Continually changing EPA and DNR requirements, for drinking water, wastewater, stormwater, and air quality forces many cities into costly infrastructure upgrades, or administrative burdens.
- b. Some federal or state positions or rules, have overstepped federal statutes and existing EPA rules, forcing or threatening to force cities to spend a disproportionate amount of money for little to no environmental gain.

3. Pensions

- a. Municipal Fire and Police Retirement System of Iowa (MFPRSI)- commonly known as the “411 System”
 - i. Cities in the system have no maximum contribution rate, and contribute the rate that is actuarially necessary (over the 9.4% fixed employee contribution rate). They also have a minimum contribution rate of 17%.
 - ii. The state has phased out its prior contribution to the system, yet it retains control as the system administrator to adjust benefit levels.
 - iii. During the 2009 session, the legislature passed a benefits increase in the form of a cancer and infectious disease presumption, which automatically assumes when an active employee gets cancer or certain types of infectious diseases, this is due to conditions of the job. This requires cities to cover all medical costs for the employee associated with the cancer or infectious disease. Other non-rebuttable presumptions also exist within this chapter.
- b. IPERS
 - i. Cities have employees in both the protected and regular classes. Total contribution rates for regular members have increased from 10.95% in 2010 to 14.88% in 2015.
 - ii. A cancer and infectious disease presumption was added in 2010 for protection occupation classes.

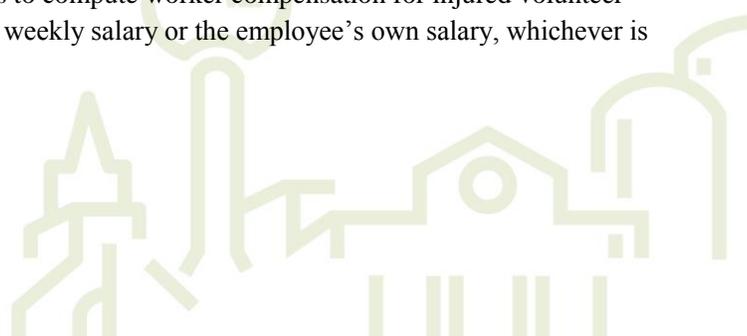
4. Public Safety

- a. Iowa Law Enforcement Academy (ILEA) Police Training is required by the state, no reimbursement money is provided, and cities must fill the empty shifts of the officer attending ILEA.
- b. Townships are limited in the amount they can levy for fire protection. Cities must make up the cost or subsidize township fire protection, resulting in a shift of higher costs to city residents.
- c. Code of Iowa Chapter 85.36 (9a) requires cities to compute worker compensation for injured volunteer firefighters at 140% of the average state-wide weekly salary or the employee’s own salary, whichever is greater.



The Iowa League of Cities serves as the unified voice of cities, providing advocacy, training and guidance to strengthen Iowa's communities. Contact us at 317 Sixth Avenue, Suite 800, Des Moines, IA 50309, (515) 244-7282 or visit us online at www.iowaleague.org.

Revision Date: 2014-10-28



5. Personnel Costs

- a. Healthcare increases
- b. Collective bargaining
- c. Continuation of Group Health Insurance (Code of Iowa Chapter 509A.13) for early retirees: Cities are required to allow employees who retire before reaching age 65, to continue in the group health insurance plan until the employee reaches 65 as a post-employment benefit cities must provide.

6. Mandatory Newspaper Publication Costs

- a. Cities are required under many sections of the Iowa Code, to publish notices, minutes, ordinances and other information in the newspaper.
- b. The per-line rate for publication in a newspaper is currently set in code and can be adjusted each June by the Department of Administrative Services. Each year it can go up by the CPI increase.
- c. Cities are currently not allowed to meet these publication requirements by online or alternative means.

7. Commissions and Boards

- a. Civil Service Commissions: Governed by Chapter 400 of the Iowa Code, cities of over 8,000 as of the 1980 census are required to follow stringent and complicated civil service hiring processes.
 - i. Iowa Code Section 400.11 states “Any person temporarily filling a vacancy in a position of higher grade for twenty days or more, shall receive the salary paid in such higher grade.”
 - ii. 400.8(3) requires civil service cities to provide up to a nine-month probationary period for law enforcement personnel.
- b. City Civil Rights Commission: Cities over 29,000 are required to fund a local civil rights commission, despite the fact that the state has a civil rights commission with overlapping jurisdiction.

8. Tax-Exempt Properties

- a. The state mandates that certain property is exempt from taxation. For some cities, such as Des Moines – this amounts to 40% of all properties in the city.
- b. Costs for services provided to exempt properties are borne by the other property owners.

9. City Audits

- a. Code of Iowa Chapter 11 details when audits or examinations are required:
 - i. Cities over 2,000 in population must have an audit every year. Beginning with FY 2014, cities under 2,000 in population are now required, at minimum, to complete either an annual examination or periodic examination. Those with \$1M or more in budgeted expenditures for two years must complete an annual examination; cities with less than \$1M in budgeted expenditures join a pool of cities and pay an annual fee to the State Auditor. This fee will pay for the periodic examination, which each city will be required to complete at least once every eight years.

10. Delinquent Utility Charge Liens

- a. In 2013, an expansion of the lien exemption under Section 384.84 was applied, exempting residential rental property from a lien for delinquent rates or charges for services of water systems, sewer systems, storm water drainage systems, sewage treatment, solid waste collection and solid waste disposal which are paid to the city utility or enterprise by the tenant, if the landlord gives written notice to the city utility or enterprise that the property is a residential rental property and that the tenant is liable for the rates or charges. (This provision formerly applied only to delinquent charges for water services). The change also extended the notification period for which the owner or landlord of such a property is required to give written notice of a change in ownership of the rental property to the city utility or enterprise.

