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Testimony of Monica Nieporte
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House Bill 33 – State Operating Budget
Senate Finance Committee

Chairman Dolan, Vice Chair Cirino, Ranking Member Sykes, and Members of the Senate Finance Committee, thank you for the opportunity to provide testimony on House Bill 33, the State Operating Budget. My comments today are focused on a handful of provisions in the bill impacting various public notice requirements.

For as long as newspapers have existed, they have served as an official and independent record of government actions. Our members take this role very seriously and public notices are a service we have provided for more than 100 years. As new technology has evolved, we have worked to update Ohio's public notice statutes to ensure governmental advertisers receive the best value and impact. There are two reforms we have undertaken over the past decade I want to highlight.

In 2011, ONMA worked with the Kasich Administration and lawmakers to modify Ohio's public notice laws to allow notices that require more than one publication to be shortened after the initial publication. For example, a foreclosure sale could have the full parcel description in the first publication then an abbreviated post for the second and third publication that provides the property address and a website where more information can be obtained.

Further, in 2015 ONMA launched www.publicnoticesohio.com, a statewide website that aggregates every notice published in an ONMA member paper. As part of the launch of this new service, ONMA worked with lawmakers to pass legislation that requires newspapers to post a digital version of any public notice on their website. This means that governmental advertisers are currently receiving digital notices as a companion to their print notices at no additional cost.

Despite these significant changes, many state agencies and local governments do not take advantage of the ability to shorten multiple notices, nor do they recognize that public notices are already posted online. We are committed to working with our governmental partners to ensure public notices are impactful and effective, while finding ways to lower costs and increase value.

I want to now discuss some public notice provisions contained in House Bill 33 that are of concern to my members. For the sake of reference, these are organized by Comp Doc number—

TAXCD67 (Property Tax Foreclosure Notice Publication)

The House-passed version of HB 33 included a change to public notice requirements for property tax foreclosures. Specifically, this language allows the second and third publication of a property tax foreclosure notice to be moved from a newspaper of general circulation to a governmental website designated by the Clerk of Courts. We are concerned that this proposal would lead to

situations where foreclosure notices are posted on different websites in each county. For example, one county may post them on the Clerk of Courts website while another may post them to the Auditors website. Further, any notice not published in a newspaper of general circulation would also be excluded from the official state public notice website.

Given that newspapers are a neutral third-party in a foreclosure proceeding, we feel that second and third publication should remain with the newspaper of general circulation. As a compromise, we would support allowing Clerks of Courts to pursue an online-only publication of the second and third notices on a website maintained by a newspaper of general circulation. This would ensure notice is made by an impartial third party and that notices continue to be aggregated on the state public notices website.

LOCCD31 (Municipal Notices)

There are several instances in the Senate substitute bill for HB 33 that allow local government entities, namely municipalities, townships, counties, and joint economic development zones and joint economic development districts, to post notices either online or in a conspicuous public place if “no newspaper is generally circulated” in their territory. This is a significant change to local government public notice requirements and would lead to inconsistency between localities over how certain notices are made. This is even more concerning because the language is silent over who will determine the status of a newspaper of general circulation and whether or not one exists.

As a compromise, we would support allowing local government entities to pursue online-only public notices as an alternative to print notice so long as the notice remains on a news media website. As previously noted, this ensures the public receives notice from a neutral party and that notices are aggregated on the state public notices website. By allowing newspapers and government advertisers to work collaboratively, we can increase the impact of these notices while creating some cost savings for local governments.

GOVCD3 (State Agency Notices)

Governor DeWine’s budget proposal included several changes to state agency public notice laws. Most notably, this included allowing the Environmental Protection Agency to post hearing announcements and most other notices to their website, as opposed to a newspaper of general circulation in a county impacted by a variance or other decision being discussed. Given recent environmental issues in Ohio, we feel that notices for OEPA meetings should continue to be advertised in the county where a variance could be granted. This seems fair to residents who may not routinely visit the OEPA website.

Another change related to bid notices from the Ohio Department of Transportation. Under this proposal, notices would no longer be required to be published in a newspaper of general circulation in a county where a project was planned. While many larger contractors likely visit ODOT’s site regularly for bid announcements, we feel that local communities should still receive notice of any pending work or contracting opportunities. Further, any notice published only on a governmental website would not be aggregated on the state public notice website.

I am pleased that the Senate opted to remove these provisions in their substitute bill. We are happy to work with lawmakers and agencies to craft an alternative that preserves the role of the news media in public notice, but also creates more value and savings.

Lastly, there is currently language in HB 33 that would negatively impact our ability to deliver online notices and maintain the state public notice website. As previously noted, newspapers do not charge a fee for online advertisements that are published as part of a required print notice. HB 33 modifies R.C. 125.182 to expand this fee prohibition to instances when a “notice or advertisement is not otherwise published in a newspaper or journal.” In the event that the Senate either retains the public notice changes outlined above, or adopts our proposed compromises, then a news media website would receive no compensation for any digital advertising.

Digital advertising is generally cheaper than print, and our members have agreed to absorb the cost of any online publication of notices as part of a print public notice requirement. However, if we are going to offer online only advertising for governmental entities, then we must be able to charge some type of fee. Newspapers are already required under current law to offer governmental advertisers the lowest available rate, meaning public entities get the best deal we can offer. Therefore, I urge you to remove this language (currently in lines 111311 and 111312, page 365). Thank you for your time and consideration of these issues.