

BILL ANALYSIS

C.S.H.B. 2207
By: Hilderbran
State Cultural and Recreational Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently Texas Department of Transportation (TXDOT) is responsible to owners of outdoor advertisements for compensation in the cases of condemnation or relocation by TXDOT. C.S.H.B. 2207 provides that counties, municipalities, and other entities must also provide fair compensation to owners or lessees of outdoor advertisements, in the cases of condemnation or relocation required by the county, municipality, or other entity.

C.S.H.B. 2207 addresses the rights of property owners and lessees of outdoor advertising in situations of condemnation or relocation by a county, municipality, other governmental entity, a public utility, or a quasi-governmental entity.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the Transportation Code, by striking "BY COMMISSION" from heading.

SECTION 2. Amends Section 391.033, Transportation Code, by amending Subsection (a) to strike "purchase or" and adding "gift, purchase, agreement, exchange" in addition to eminent domain, as ways commission may acquire outdoor advertising. Section 391.033 is also amended to add:

Subsection (c) Subject to federal and state regulations regarding access from the state highway system, if the department, a county, municipality, or other governmental entity, a public utility, or a quasi-governmental entity prevents the maintenance of existing outdoor advertising or requires that the maintenance of existing outdoor advertising be discontinued, the entity shall pay fair compensation as if it had made an acquisition by eminent domain.

SECTION 3. Amends Subchapter B, Chapter 391, Transportation Code, by adding Section 391.0331 RELOCATION BECAUSE OF HIGHWAY CONSTRUCTION.

Subsection (a) If any outdoor advertising use, structure, or permit may not be continued because of widening, construction, or reconstruction of a highway, the owner of the outdoor advertising is entitled to relocate the use, structure, or permit to another location in accordance with applicable administrative rules and policies of the department.

Subsection (b) Subject to federal and state regulations, any governmental entity, quasi-governmental entity, or public utility that acquires outdoor advertising by eminent domain or causes the need for the outdoor advertising to be relocated under this section shall pay the costs related to the acquisition or relocation.

Subsection (c) If a governmental entity prohibits the relocation of outdoor advertising as

provided under this section, the governmental entity shall pay fair compensation.

SECTION 4. Amends Section 391.034, Transportation Code by adding Subsection (d) as follows:

Subsection (d) The department may remove outdoor advertising that is erected in violation of this chapter without payment of compensation to the owner or lessee.

SECTION 5. Amends Subchapter B, Chapter 391, Transportation Code, by adding Section 391.038
OBSTRUCTION OF VIEW AND READABILITY

Subsection (a) If the view and readability of outdoor advertising is obstructed due to a noise abatement or safety measure, a grade change, construction, an aesthetic improvement made by an agency of this state, a directional sign, or widening along a highway, the owner of the sign may, subject to department rule:

- (1) adjust the height of the sign; or
- (2) relocate the sign to a location within 500 feet of its previous location.

Subsection (b) A county or municipality in which the outdoor advertising is located shall, if necessary, provide for the height adjustment or relocation by a special exception to any applicable zoning ordinance.

Subsection (c) Subject to department rule, the adjusted or relocated outdoor advertising may be erected to a height and angle to make it clearly visible to traffic on the main-traveled way of the highway and must be the same size as the previous sign.

SECTION 6. Amends Sec. 391.181 (a), Transportation Code, by including the word “agreement” in addition to gift, purchase, exchange, or condemnation as method of implementing chapter.

SECTION 7. This Act takes effect September 1, 2003.

EFFECTIVE DATE

This Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 2. Added the following, not included in the original, to Subsection (c): “Subject to federal and state regulations regarding access from the state highway system.” The term “just” compensation in the original bill was changed to “fair” compensation in the substitute. The substitute removed subsections (d) and (e) from the original bill.

SECTION 3. The substitute removes subsections (1), (2), and (3) of Subsection (a) of the original bill. The substitute adds “in accordance with applicable administrative rules and policies of the department” to Subsection (a) of the bill. Subsections (b), (c), and (d) of the original bill were removed in the substitute and Subsections (e) and (f) of the original were reassigned (b) and (c), respectively. The substitute adds “Subject to federal and state regulations” to Subsection (b). The term “just” compensation in Subsection (e) the original bill was changed to “fair” compensation in Subsection (c) of the substitute.

SECTION 4. The substitute removed “or maintained” from Subsection (d) of the original bill.

SECTION 5. The substitute adds “subject to department rule” to Subsection (a) of the original.

SECTION 6. of the original bill was removed in the substitute.

SECTION 7. of the original bill was removed in the substitute.

SECTION 8 and SECTION 9 of the original bill are SECTION 6 and SECTION 7, respectively, in the substitute.