

By: Madla

S.B. No. 1085

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of outdoor advertising.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading of Section 391.033, Transportation Code, is amended to read as follows:

Sec. 391.033. ACQUISITION OF OUTDOOR ADVERTISING [~~BY COMMISSION~~].

SECTION 2. Section 391.033, Transportation Code, is amended by amending Subsection (a) and adding Subsections (c), (d), and (e) to read as follows:

(a) The commission may [~~purchase or~~] acquire by gift, purchase, agreement, exchange, or eminent domain outdoor advertising that is lawfully in existence on a highway in the interstate or primary system.

(c) 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 just compensation as if it had made an acquisition by eminent domain.

(d) For purposes of this chapter, just compensation includes damages to remaining property, contiguous and noncontiguous, included in the interest of the owner of the outdoor advertising, that together with the property actually acquired by

1 eminent domain constituted an economic unit.

2 (e) Except as provided by this chapter, the commission may  
3 not require the removal of outdoor advertising or that maintenance  
4 of outdoor advertising be discontinued unless at the time of  
5 removal or discontinuance:

6 (1) there is sufficient money, from any source,  
7 appropriated and immediately available to pay the just compensation  
8 required under this section; and

9 (2) any federal money contribution under 23 U.S.C.  
10 Section 131, as amended, has been appropriated and made available  
11 to the state.

12 SECTION 3. Subchapter B, Chapter 391, Transportation Code,  
13 is amended by adding Section 391.0331 to read as follows:

14 Sec. 391.0331. RELOCATION BECAUSE OF HIGHWAY CONSTRUCTION.

15 (a) If any outdoor advertising use, structure, or permit may not be  
16 continued because of widening, construction, or reconstruction of a  
17 highway, the owner of the outdoor advertising is entitled to  
18 relocate the use, structure, or permit to another location:

19 (1) on the same property;

20 (2) on adjacent property;

21 (3) on the same highway not more than one mile from the  
22 previous location; or

23 (4) if the outdoor advertising is within a  
24 municipality or the extraterritorial jurisdiction of a  
25 municipality, within that municipality or its extraterritorial  
26 jurisdiction.

27 (b) Relocation under this section shall be to a location

1 where outdoor advertising is permitted under Section 391.031.

2 (c) The county or municipality in which the use or structure  
3 is located shall, if necessary, provide for the relocation by a  
4 special exception to any applicable zoning ordinance.

5 (d) The relocated use or structure may be:

6 (1) erected to a height and angle to make it clearly  
7 visible to traffic on the main-traveled way of the highway to which  
8 it is relocated;

9 (2) the same size and at least the same height as the  
10 previous use or structure, but not exceeding any size and height  
11 rule established under this subtitle; and

12 (3) relocated to a location with a comparable  
13 vehicular traffic count.

14 (e) Any governmental entity, quasi-governmental entity, or  
15 public utility that acquires outdoor advertising by eminent domain  
16 or causes the need for the outdoor advertising to be relocated under  
17 this section shall pay the costs related to the acquisition or  
18 relocation.

19 (f) If a governmental entity prohibits the relocation of  
20 outdoor advertising as provided under this section, the  
21 governmental entity shall pay just compensation as provided in  
22 Section 391.033.

23 SECTION 4. Section 391.034, Transportation Code, is amended  
24 by adding Subsection (d) to read as follows:

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

1 SECTION 5. Subchapter B, Chapter 391, Transportation Code,  
2 is amended by adding Section 391.038 to read as follows:

3 Sec. 391.038. OBSTRUCTION OF VIEW AND READABILITY. (a) If  
4 the view and readability of outdoor advertising is obstructed due  
5 to a noise abatement or safety measure, a grade change,  
6 construction, an aesthetic improvement made by an agency of this  
7 state, a directional sign, or widening along a highway, the owner of  
8 the sign may:

9 (1) adjust the height of the sign; or

10 (2) relocate the sign to a location within 500 feet of  
11 its previous location, if the sign complies with the spacing  
12 requirements under this chapter and is in a location in which  
13 outdoor advertising is permitted under Section 391.031.

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

18 (c) Notwithstanding any height requirements established  
19 under this subtitle, the adjusted or relocated outdoor advertising  
20 may be erected to a height and angle to make it clearly visible to  
21 traffic on the main-traveled way of the highway and must be the same  
22 size as the previous sign.

23 SECTION 6. Subchapter C, Chapter 391, Transportation Code,  
24 is amended by adding Section 391.0651 to read as follows:

25 Sec. 391.0651. NOTICE OF AMENDED AND PROPOSED RULES. (a)  
26 The commission shall give written notice within a reasonable time  
27 to all outdoor advertising license and permit holders of any change

1 or proposed change in rules adopted under this chapter.

2 (b) Any governmental entity shall give written notice to all  
3 outdoor advertising license and permit holders within its  
4 jurisdiction of any change or proposed change to the outdoor or  
5 off-premise advertising provisions of its zoning provisions,  
6 codes, or ordinances. The notice must be given not later than 60  
7 days before the effective date of the change.

8 SECTION 7. Section 391.066, Transportation Code, is amended  
9 by adding Subsection (d) to read as follows:

10 (d) Judicial review of an administrative proceeding under  
11 this section is by trial de novo.

12 SECTION 8. Section 391.181(a), Transportation Code, is  
13 amended to read as follows:

14 (a) The commission may acquire by gift, purchase,  
15 agreement, exchange, or condemnation any right or property interest  
16 that it considers necessary or convenient to implement this  
17 chapter.

18 SECTION 9. This Act takes effect September 1, 2003.