

1-1 By: Madla S.B. No. 1085  
1-2 (In the Senate - Filed March 10, 2003; March 17, 2003, read  
1-3 first time and referred to Committee on Intergovernmental  
1-4 Relations; May 7, 2003, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 3, Nays 0;  
1-6 May 7, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1085 By: Gallegos

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the regulation of outdoor advertising.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 391.033, Transportation Code, is amended  
1-13 by amending Subsection (a) and adding Subsections (c) and (d) to  
1-14 read as follows:

1-15 (a) The commission may ~~[purchase or]~~ acquire by gift,  
1-16 purchase, agreement, exchange, or eminent domain outdoor  
1-17 advertising that is lawfully in existence on a highway in the  
1-18 interstate or primary system.

1-19 (c) For purposes of this chapter, just compensation  
1-20 includes damages to remaining property, contiguous and  
1-21 noncontiguous, included in the interest of the owner of the outdoor  
1-22 advertising, that together with the property actually acquired by  
1-23 eminent domain constituted an economic unit.

1-24 (d) Except as provided by this chapter, the commission may  
1-25 not require the removal or the relocation of outdoor advertising or  
1-26 that maintenance of outdoor advertising be discontinued unless at  
1-27 the time of removal, relocation, or discontinuance:

1-28 (1) there is sufficient money, from any source,  
1-29 appropriated and immediately available to pay the just compensation  
1-30 required under this section; and

1-31 (2) any federal money contribution under 23 U.S.C.  
1-32 Section 131, as amended, has been appropriated and made available  
1-33 to the state.

1-34 SECTION 2. Section 391.034, Transportation Code, is amended  
1-35 by adding Subsection (d) to read as follows:

1-36 (d) The department may remove outdoor advertising that is  
1-37 erected or maintained in violation of this chapter without payment  
1-38 of compensation to the owner or lessee.

1-39 SECTION 3. Subchapter C, Chapter 391, Transportation Code,  
1-40 is amended by adding Section 391.0651 to read as follows:

1-41 Sec. 391.0651. NOTICE OF AMENDED AND PROPOSED RULES. The  
1-42 commission shall give written notice within a reasonable time to  
1-43 all outdoor advertising license and permit holders of any change or  
1-44 proposed change in rules adopted under this chapter. The notice  
1-45 must be given not later than 60 days before the effective date of  
1-46 the change.

1-47 SECTION 4. Subsection (a), Section 391.181, Transportation  
1-48 Code, is amended to read as follows:

1-49 (a) The commission may acquire by gift, purchase,  
1-50 agreement, exchange, or condemnation any right or property interest  
1-51 that it considers necessary or convenient to implement this  
1-52 chapter.

1-53 SECTION 5. Subtitle H, Title 6, Transportation Code, is  
1-54 amended by adding Chapter 398 to read as follows:

1-55 CHAPTER 398. REGULATION OF OUTDOOR ADVERTISING GENERALLY BY  
1-56 GOVERNMENTAL ENTITIES

1-57 Sec. 398.001. DEFINITION. In this chapter, "outdoor  
1-58 advertising" has the meaning assigned by Section 391.001.

1-59 Sec. 398.002. PROHIBITION OF OUTDOOR ADVERTISING. A  
1-60 governmental entity may not prohibit new outdoor advertising  
1-61 outside the jurisdiction or extraterritorial jurisdiction of a  
1-62 municipality.

1-63 Sec. 398.003. INTERFERENCE WITH MAINTENANCE OF OUTDOOR

2-1 ADVERTISING. (a) If the department, a county, municipality, or  
 2-2 other governmental entity, or a quasi-governmental entity prevents  
 2-3 the maintenance of existing outdoor advertising or requires that  
 2-4 the maintenance of existing outdoor advertising be discontinued,  
 2-5 the entity shall pay just compensation as if it had made an  
 2-6 acquisition by eminent domain.

2-7 (b) For purposes of this chapter, just compensation  
 2-8 includes damages to remaining property, contiguous and  
 2-9 noncontiguous, included in the interest of the owner of the outdoor  
 2-10 advertising, that together with the property actually acquired by  
 2-11 eminent domain constituted an economic unit.

2-12 Sec. 398.004. ACQUISITION OF PROPERTY THROUGH VOLUNTARY  
 2-13 TRANSACTION. A governmental entity that acquires property by gift,  
 2-14 purchase, agreement, or exchange may require that lawfully erected  
 2-15 outdoor advertising located on the property be altered or removed  
 2-16 from the property without the payment of just compensation.

2-17 Sec. 398.005. RELOCATION BECAUSE OF HIGHWAY CONSTRUCTION.  
 2-18 (a) If any outdoor advertising use, structure, or permit may not  
 2-19 be continued because of widening, construction, or reconstruction  
 2-20 of a highway, the owner of the outdoor advertising is entitled to  
 2-21 relocate the use, structure, or permit to another location:

2-22 (1) on the same property;  
 2-23 (2) on adjacent property;  
 2-24 (3) on the same highway not more than 50 miles from the  
 2-25 previous location; or

2-26 (4) if the outdoor advertising is within a  
 2-27 municipality or the extraterritorial jurisdiction of a  
 2-28 municipality, within that municipality or its extraterritorial  
 2-29 jurisdiction.

2-30 (b) Relocation under this section shall be in accordance  
 2-31 with applicable spacing requirements under this subtitle and shall  
 2-32 be to a location where outdoor advertising is permitted under  
 2-33 Section 391.031.

2-34 (c) The county or municipality in which the use or structure  
 2-35 is located shall, if necessary, provide for the relocation by a  
 2-36 special exception to any applicable zoning ordinance.

2-37 (d) The relocated use or structure may be:  
 2-38 (1) erected to a height and angle to make it clearly  
 2-39 visible to traffic on the main-traveled way of the highway to which  
 2-40 it is relocated;

2-41 (2) the same size and at least the same height as the  
 2-42 previous use or structure, but not in violation of any size or  
 2-43 height requirement established under this subtitle; and

2-44 (3) relocated to a location with a comparable  
 2-45 vehicular traffic count.

2-46 (e) Any governmental entity or quasi-governmental entity  
 2-47 that acquires outdoor advertising by eminent domain or causes the  
 2-48 need for the outdoor advertising to be relocated under this section  
 2-49 shall pay the costs related to the acquisition or relocation.

2-50 (f) If a governmental entity by regulation prohibits the  
 2-51 relocation of outdoor advertising as provided under this section,  
 2-52 the governmental entity shall pay just compensation as provided in  
 2-53 Section 398.003.

2-54 Sec. 398.006. OBSTRUCTION OF VIEW AND READABILITY. (a) If  
 2-55 the view and readability of outdoor advertising are obstructed due  
 2-56 to a noise abatement or safety measure, a grade change,  
 2-57 construction, vegetation, an aesthetic improvement made by an  
 2-58 agency of this state, a directional sign, or widening along a  
 2-59 highway, the owner of the sign may:

2-60 (1) adjust the height of the sign; or  
 2-61 (2) relocate the sign to a location within 500 feet of  
 2-62 its previous location if the sign complies with the spacing  
 2-63 requirements under this chapter and is in a location in which  
 2-64 outdoor advertising is permitted under Section 391.031.

2-65 (b) A county or municipality in which the outdoor  
 2-66 advertising is located shall, if necessary, provide for the height  
 2-67 adjustment or relocation by a special exception to any applicable  
 2-68 zoning ordinance.

2-69 (c) Notwithstanding any height requirements established

3-1 under this subtitle, the adjusted or relocated outdoor advertising  
3-2 may be erected to a height and angle to make it clearly visible to  
3-3 traffic on the main-traveled way of the highway and must be the same  
3-4 size as the previous sign.

3-5 Sec. 398.007. NOTICE OF AMENDED AND PROPOSED RULES. (a) A  
3-6 governmental entity shall give written notice to all outdoor  
3-7 advertising license and permit holders within its jurisdiction of  
3-8 any change or proposed change to the outdoor or off-premise  
3-9 advertising provisions of its zoning provisions, codes, or  
3-10 ordinances. The notice must be given not later than 60 days before  
3-11 the effective date of the change.

3-12 (b) A governmental entity must give written notice to all  
3-13 property owners along any highway or portion of a highway before  
3-14 adopting a prohibition of new outdoor advertising affecting that  
3-15 highway or portion of highway. The notice must be given not later  
3-16 than 60 days before the effective date of the change.

3-17 Sec. 398.008. EFFECT ON CERTAIN PLANS FOR COMPENSATION.  
3-18 This chapter does not affect a municipal amortization plan to  
3-19 compensate a sign owner authorized by Section 6, Article 1, Chapter  
3-20 221, Acts of the 69th Legislature, Regular Session, 1985.

3-21 SECTION 6. This Act takes effect September 1, 2003.

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