

By: Geren

H.B. No. 997

A BILL TO BE ENTITLED

AN ACT

1
2 relating to procedures for compensating owners of outdoor
3 advertising that is subject to condemnation or obstruction by
4 certain governmental entities or public utilities.

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

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

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

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

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

17 (c) If the department, a county, municipality, or other
18 governmental entity, a public utility, or a quasi-governmental
19 entity prevents the maintenance of existing outdoor advertising or
20 requires that the maintenance of existing outdoor advertising be
21 discontinued, the entity shall pay just compensation as if it had
22 made an acquisition by eminent domain.

23 (d) For purposes of this chapter, just compensation
24 includes damages to remaining property, contiguous and

1 noncontiguous, included in the interest of the owner of the outdoor
2 advertising, that together with the property actually acquired by
3 eminent domain constituted an economic unit.

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

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

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

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

16 Sec. 391.0331. RELOCATION BECAUSE OF HIGHWAY CONSTRUCTION.

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

21 (1) on the same property;

22 (2) on adjacent property;

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

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

1 jurisdiction.

2 (b) Relocation under this section shall be to a location
3 where outdoor advertising is permitted under Section 391.031 and in
4 accordance with applicable administrative rules and policies of the
5 department.

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

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

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

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

16 (3) relocated to a location with a comparable
17 vehicular traffic count.

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

23 (f) If a governmental entity prohibits the relocation of
24 outdoor advertising as provided under this section, the
25 governmental entity shall pay just compensation as provided in
26 Section 391.033.

27 SECTION 4. Section 391.034, Transportation Code, is amended

1 by adding Subsection (d) to read as follows:

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

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

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

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

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

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

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

27 SECTION 6. Subchapter C, Chapter 391, Transportation Code,

1 is amended by adding Section 391.0651 to read as follows:

2 Sec. 391.0651. NOTICE OF AMENDED AND PROPOSED RULES. (a)
3 The commission shall give written notice within a reasonable time
4 to all outdoor advertising license and permit holders of any change
5 or proposed change in rules adopted under this chapter.

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

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

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

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

18 (a) The commission may acquire by gift, purchase,
19 agreement, exchange, or condemnation any right or property interest
20 that it considers necessary or convenient to implement this
21 chapter.

22 SECTION 9. This Act takes effect September 1, 2005.