

By: Staples

S.B. No. 1375

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), (e), and (f) 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 a county, municipality, or other governmental entity other than the department, 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) If a governmental entity or another entity with eminent domain authority requires the alteration or removal of a lawfully erected sign that is located on property acquired by the entity through a voluntary transaction, the entity shall pay just

1 compensation as if it had made an acquisition by eminent domain.

2 (e) For purposes of this chapter, just compensation
3 includes damages to remaining property, contiguous and
4 noncontiguous, included in the interest of the owner of the outdoor
5 advertising, that together with the property actually acquired by
6 eminent domain constituted an economic unit.

7 (f) Except as provided by this chapter, the commission may
8 not require the removal of outdoor advertising or that maintenance
9 of outdoor advertising be discontinued unless at the time of
10 removal or discontinuance:

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

14 (2) any federal money contribution under 23 U.S.C.
15 Section 131 has been appropriated and made available to the state.

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

18 Sec. 391.0331. RELOCATION BECAUSE OF HIGHWAY CONSTRUCTION.

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

22 (1) relocate the use, structure, or permit to another
23 location:

24 (A) on the same property;

25 (B) on adjacent property;

26 (C) on the same highway not more than one mile
27 from the previous location; or

1 (D) if the outdoor advertising is within a
2 municipality or the extraterritorial jurisdiction of a
3 municipality, within that municipality or its extraterritorial
4 jurisdiction; and

5 (2) maintain the existing outdoor advertising until
6 the 60th day before the date the widening, construction, or
7 reconstruction of the highway is set to begin.

8 (b) Relocation under this section shall be to a location
9 where outdoor advertising is permitted under Section 391.031 or
10 department rules.

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

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

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

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

21 (3) relocated to a location with a comparable
22 vehicular traffic count.

23 (e) Any governmental entity, quasi-governmental entity, or
24 public utility that acquires outdoor advertising by eminent domain
25 or causes the need for the outdoor advertising to be relocated under
26 this section shall pay the costs related to the acquisition or
27 relocation.

1 (f) If a governmental entity prohibits the relocation of
2 outdoor advertising as provided under this section, the
3 governmental entity shall pay just compensation as provided in
4 Section 391.033.

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

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

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

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

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

19 (2) relocate the sign to a location within 500 feet of
20 its previous location, if the sign complies with the spacing
21 requirements under this chapter and is in a location in which
22 outdoor advertising is permitted under Section 391.031 or
23 department rules.

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

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

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

8 Sec. 391.0651. NOTICE OF AMENDED AND PROPOSED RULES BY
9 LOCAL GOVERNMENTS. A county or municipality shall give written
10 notice to all outdoor advertising license and permit holders within
11 its jurisdiction of any change or proposed change to the outdoor or
12 off-premise advertising provisions of its zoning provisions,
13 codes, or ordinances. The notice must be given not later than 60
14 days before the effective date of the change.

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

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

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

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

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