

SENATE AMENDMENTS

2nd Printing

By: Eissler, Harless, Van Arsdale

H.B. No. 413

A BILL TO BE ENTITLED

AN ACT

relating to erecting certain signs on certain rights-of-way;
providing penalties.

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

SECTION 1. Section 392.0325, Transportation Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) This subchapter does not apply to a temporary directional sign or kiosk erected by a political subdivision as part of a program approved by the department and administered by the political subdivision on a highway within the boundaries of the political subdivision.

(d) This subchapter does not apply to a sign placed in the right-of-way by a public utility or its contractor for purposes of the utility.

SECTION 2. Subchapter B, Chapter 392, Transportation Code, is amended by adding Section 392.0355 to read as follows:

Sec. 392.0355. CIVIL PENALTY. (a) A person who places, allows the placement of, or commissions the placement of a sign on a state highway right-of-way that is not otherwise authorized by law may be liable for a civil penalty. The attorney general or a district or county attorney of the county in which the placement of a sign on a state highway right-of-way is alleged to have occurred may sue to collect the penalty.

(b) The amount of the civil penalty is not less than \$500 or

1 more than \$1,000 for each violation, depending on the seriousness
2 of the violation and whether the person has previously violated
3 this chapter. A separate penalty may be collected for each day a
4 continuing violation occurs.

5 (c) A penalty collected under this section shall be
6 deposited to the credit of the state highway fund if collected by
7 the attorney general and to the credit of the county road and bridge
8 fund of the county in which the violation occurred if collected by a
9 district or county attorney.

10 SECTION 3. Section 392.036, Transportation Code, is amended
11 to read as follows:

12 Sec. 392.036. DEFENSE. It is a defense to prosecution or
13 suit for a violation under this chapter if [~~Section 392.032 that~~] at
14 the time of the alleged violation[+]

15 [~~(1)~~] the defendant is a candidate for elective public
16 office[+] and

17 [~~(2)~~] the sign is placed:

18 (1) [~~(A)~~] by a person other than the defendant;

19 (2) [~~(B)~~] without the knowledge of the defendant; and

20 (3) [~~(C)~~] in connection with a campaign for an
21 elective public office by the defendant.

22 SECTION 4. Section 393.002, Transportation Code, is amended
23 to read as follows:

24 Sec. 393.002. SIGN PLACEMENT PROHIBITED. Except as
25 provided by Sections [~~Section~~] 393.0025 and 393.0026, a person may
26 not place a sign on the right-of-way of a public road unless the
27 placement of the sign is authorized by state law.

1 SECTION 5. Chapter 393, Transportation Code, is amended by
2 adding Section 393.0026 to read as follows:

3 Sec. 393.0026. EXCEPTION. (a) This chapter does not apply
4 to a temporary directional sign or kiosk erected by a political
5 subdivision as part of a program approved by the department and
6 administered by the political subdivision on a highway within the
7 boundaries of the political subdivision.

8 (b) This chapter does not apply to a sign placed in the
9 right-of-way by a public utility or its contractor for purposes of
10 the utility.

11 SECTION 6. Section 393.003(a), Transportation Code, is
12 amended to read as follows:

13 (a) A sheriff, ~~or~~ constable, or other trained volunteer
14 authorized by the commissioners court of a county may confiscate a
15 sign placed in violation of Section 393.002.

16 SECTION 7. Section 393.004, Transportation Code, is amended
17 by adding Subsection (d) to read as follows:

18 (d) The sheriff, constable, or other trained volunteer
19 authorized by the commissioners court may discard a sign of less
20 than \$25 in value without giving the notice required by Section
21 393.003.

22 SECTION 8. Section 393.005(a), Transportation Code, is
23 amended to read as follows:

24 (a) A person commits an offense if the person places a sign
25 in violation of this chapter [~~Section 393.002~~].

26 SECTION 9. Section 393.006, Transportation Code, is amended
27 to read as follows:

1 Sec. 393.006. DEFENSE. It is a defense to prosecution or
2 suit under this chapter [~~Section 393.005~~] that[+]

3 [~~(1)~~] the defendant was a candidate for an elective
4 public office[+] and

5 [~~(2)~~] the sign is placed:

6 (1) [~~(A)~~] by a person other than the defendant;

7 (2) [~~(B)~~] without the knowledge of the defendant; and

8 (3) [~~(C)~~] in connection with a campaign for an
9 elective public office by the defendant.

10 SECTION 10. Chapter 393, Transportation Code, is amended by
11 adding Section 393.007 to read as follows:

12 Sec. 393.007. CIVIL PENALTY. (a) A person who places,
13 allows the placement of, or commissions the placement of a sign on
14 the right-of-way of a public road that is not otherwise authorized
15 by law may be liable to the municipality for a civil penalty. A
16 district or county attorney or a municipal attorney in the
17 jurisdiction in which the placement of a sign on the right-of-way of
18 a public road is alleged to have occurred may sue to collect the
19 penalty.

20 (b) The amount of the civil penalty is not less than \$500 or
21 more than \$1,000 for each violation, depending on the seriousness
22 of the violation and whether the person has previously violated
23 this chapter. A separate penalty may be collected for each day a
24 continuing violation occurs.

25 (c) A penalty collected under this section shall be
26 deposited to the credit of the general fund of the municipality in
27 which the violation occurred if collected by a municipal attorney,

1 or to the credit of the county road and bridge fund of the county in
2 which the violation occurred if collected by a district or county
3 attorney.

4 SECTION 11. Section 26.045, Government Code, is amended by
5 amending Subsection (c) and adding Subsection (f) to read as
6 follows:

7 (c) Except as provided by Subsections [~~Subsection~~] (d) and
8 (f), a county court that is in a county with a criminal district
9 court does not have any criminal jurisdiction.

10 (f) A county court has concurrent jurisdiction with a
11 municipal court in cases that arise in the municipality's
12 extraterritorial jurisdiction and that arise under an ordinance of
13 the municipality applicable to the extraterritorial jurisdiction
14 under Section 216.902, Local Government Code.

15 SECTION 12. Section 27.031, Government Code, is amended by
16 adding Subsection (c) to read as follows:

17 (c) A justice court has concurrent jurisdiction with a
18 municipal court in cases that arise in the municipality's
19 extraterritorial jurisdiction and that arise under an ordinance of
20 the municipality applicable to the extraterritorial jurisdiction
21 under Section 216.902, Local Government Code.

22 SECTION 13. Article 4.11, Code of Criminal Procedure, is
23 amended by adding Subsection (c) to read as follows:

24 (c) A justice court has concurrent jurisdiction with a
25 municipal court in criminal cases that arise in the municipality's
26 extraterritorial jurisdiction and that arise under an ordinance of
27 the municipality applicable to the extraterritorial jurisdiction

1 under Section 216.902, Local Government Code.

2 SECTION 14. (a) The changes in law made by this Act to
3 Chapters 392 and 393, Transportation Code, apply only to an offense
4 committed on or after the effective date of this Act. For purposes
5 of this section, an offense is committed before the effective date
6 of this Act if any element of the offense occurs before that date.

7 (b) An offense committed before the effective date of this
8 Act is covered by the law in effect when the offense was committed,
9 and the former law is continued in effect for that purpose.

10 SECTION 15. This Act takes effect September 1, 2007.

ADOPTED

MAY 17 2007

Lotay Shaw
Secretary of the Senate

By: Eissler/Carona

H.B. No. 413

Substitute the following for H.B. No. 413:

By: Carona

C.S.H.B. No. 413

A BILL TO BE ENTITLED

1

AN ACT

2 relating to erecting certain signs on certain rights-of-way;
3 providing penalties.

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

5 SECTION 1. Section 392.0325, Transportation Code, is
6 amended by adding Subsections (c) and (d) to read as follows:

7 (c) This subchapter does not apply to a temporary
8 directional sign or kiosk erected by a political subdivision as
9 part of a program approved by the department and administered by the
10 political subdivision on a highway within the boundaries of the
11 political subdivision.

12 (d) This subchapter does not apply to a sign placed in the
13 right-of-way by a public utility or its contractor for purposes of
14 the utility.

15 SECTION 2. Subchapter B, Chapter 392, Transportation Code,
16 is amended by adding Section 392.0355 to read as follows:

17 Sec. 392.0355. CIVIL PENALTY. (a) A person who places or
18 commissions the placement of a sign on a state highway right-of-way
19 that is not otherwise authorized by law may be liable for a civil
20 penalty. The attorney general or a district or county attorney of
21 the county in which the placement of a sign on a state highway
22 right-of-way is alleged to have occurred may sue to collect the
23 penalty.

24 (b) The amount of the civil penalty is not less than \$500 or

1 more than \$1,000 for each violation, depending on the seriousness
2 of the violation and whether the person has previously violated
3 this chapter. A separate penalty may be collected for each day a
4 continuing violation occurs.

5 (c) A penalty collected under this section shall be
6 deposited to the credit of the state highway fund if collected by
7 the attorney general and to the credit of the county road and bridge
8 fund of the county in which the violation occurred if collected by a
9 district or county attorney.

10 SECTION 3. Section 392.036, Transportation Code, is amended
11 to read as follows:

12 Sec. 392.036. DEFENSE. It is a defense to prosecution or
13 suit for a violation under this chapter if [~~Section 392.032 that~~] at
14 the time of the alleged violation[+]

15 [~~(1)~~] the defendant is a candidate for elective public
16 office[+] and

17 [~~(2)~~] the sign is placed:

18 (1) [~~(A)~~] by a person other than the defendant;

19 [~~(B) without the knowledge of the defendant,~~] and

20 (2) [~~(C)~~] in connection with a campaign for an
21 elective public office by the defendant.

22 SECTION 4. Section 393.002, Transportation Code, is amended
23 to read as follows:

24 Sec. 393.002. SIGN PLACEMENT PROHIBITED. Except as
25 provided by Sections [~~Section~~] 393.0025 and 393.0026, a person may
26 not place a sign on the right-of-way of a public road unless the
27 placement of the sign is authorized by state law.

1 SECTION 5. Chapter 393, Transportation Code, is amended by
2 adding Section 393.0026 to read as follows:

3 Sec. 393.0026. EXCEPTION. (a) This chapter does not apply
4 to a temporary directional sign or kiosk erected by a political
5 subdivision as part of a program approved by the department and
6 administered by the political subdivision on a highway within the
7 boundaries of the political subdivision.

8 (b) This chapter does not apply to a sign placed in the
9 right-of-way by a public utility or its contractor for purposes of
10 the utility.

11 SECTION 6. Section 393.003(a), Transportation Code, is
12 amended to read as follows:

13 (a) A sheriff, ~~or~~ constable, or other trained volunteer
14 authorized by the commissioners court of a county may confiscate a
15 sign placed in violation of Section 393.002.

16 SECTION 7. Section 393.004, Transportation Code, is amended
17 by adding Subsection (d) to read as follows:

18 (d) The sheriff, constable, or other trained volunteer
19 authorized by the commissioners court may discard a sign of less
20 than \$25 in value without giving the notice required by Section
21 393.003.

22 SECTION 8. Section 393.005(a), Transportation Code, is
23 amended to read as follows:

24 (a) A person commits an offense if the person places a sign
25 in violation of this chapter [~~Section 393.002~~].

26 SECTION 9. Section 393.006, Transportation Code, is amended
27 to read as follows:

1 Sec. 393.006. DEFENSE. It is a defense to prosecution or
2 suit under this chapter [~~Section 393.005~~] that[+]

3 [~~(1)~~] the defendant was a candidate for an elective
4 public office[+] and

5 [~~(2)~~] the sign is placed:

6 (1) [~~(A)~~] by a person other than the defendant;

7 [~~(B) without the knowledge of the defendant,~~] and

8 (2) [~~(C)~~] in connection with a campaign for an
9 elective public office by the defendant.

10 SECTION 10. Chapter 393, Transportation Code, is amended by
11 adding Section 393.007 to read as follows:

12 Sec. 393.007. CIVIL PENALTY. (a) A person who places or
13 commissions the placement of a sign on the right-of-way of a public
14 road that is not otherwise authorized by law may be liable to the
15 municipality for a civil penalty. A district or county attorney or
16 a municipal attorney in the jurisdiction in which the placement of a
17 sign on the right-of-way of a public road is alleged to have
18 occurred may sue to collect the penalty.

19 (b) The amount of the civil penalty is not less than \$500 or
20 more than \$1,000 for each violation, depending on the seriousness
21 of the violation and whether the person has previously violated
22 this chapter. A separate penalty may be collected for each day a
23 continuing violation occurs.

24 (c) A penalty collected under this section shall be
25 deposited to the credit of the general fund of the municipality in
26 which the violation occurred if collected by a municipal attorney,
27 or to the credit of the county road and bridge fund of the county in

1 which the violation occurred if collected by a district or county
2 attorney.

3 SECTION 11. Section 26.045, Government Code, is amended by
4 amending Subsection (c) and adding Subsection (f) to read as
5 follows:

6 (c) Except as provided by Subsections [~~Subsection~~] (d) and
7 (f), a county court that is in a county with a criminal district
8 court does not have any criminal jurisdiction.

9 (f) A county court has concurrent jurisdiction with a
10 municipal court in cases that arise in the municipality's
11 extraterritorial jurisdiction and that arise under an ordinance of
12 the municipality applicable to the extraterritorial jurisdiction
13 under Section 216.902, Local Government Code.

14 SECTION 12. Section 27.031, Government Code, is amended by
15 adding Subsection (c) to read as follows:

16 (c) A justice court has concurrent jurisdiction with a
17 municipal court in cases that arise in the municipality's
18 extraterritorial jurisdiction and that arise under an ordinance of
19 the municipality applicable to the extraterritorial jurisdiction
20 under Section 216.902, Local Government Code.

21 SECTION 13. Article 4.11, Code of Criminal Procedure, is
22 amended by adding Subsection (c) to read as follows:

23 (c) A justice court has concurrent jurisdiction with a
24 municipal court in criminal cases that arise in the municipality's
25 extraterritorial jurisdiction and that arise under an ordinance of
26 the municipality applicable to the extraterritorial jurisdiction
27 under Section 216.902, Local Government Code.

1 SECTION 14. (a) The changes in law made by this Act to
2 Chapters 392 and 393, Transportation Code, apply only to an offense
3 committed on or after the effective date of this Act. For purposes
4 of this section, an offense is committed before the effective date
5 of this Act if any element of the offense occurs before that date.

6 (b) An offense committed before the effective date of this
7 Act is covered by the law in effect when the offense was committed,
8 and the former law is continued in effect for that purpose.

9 SECTION 15. This Act takes effect September 1, 2007.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 9, 2007

TO: Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB413 by Eissler (Relating to erecting certain signs on certain rights-of-way; providing penalties.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Transportation Code, creating a civil penalty of not less than \$500 or more than \$1,000 for each violation of Subchapter B, Chapter 392, Signs on State Highway Right-of-Way. The attorney general or a district or county attorney would be authorized to sue to collect the penalty. Amounts collected by the attorney general would be deposited to the state highway fund and amounts collected by the district or county attorney would be deposited to the county road and bridge fund.

Chapter 393, Transportation Code, would be amended, authorizing a sheriff, constable, or other trained volunteer to discard a sign of less than \$25 in value that is posted in violation of the code without having to give notice to the owner of the sign. In addition, Chapter 393 would be amended by creating a civil penalty of not less than \$500 or more than \$1,000 for each violation of the chapter (Outdoor Signs on Public Rights-of-Way). A district attorney, county attorney, or municipal attorney would be authorized to sue to collect the penalty. Penalties collected by a municipality would be deposited to the municipality's general fund; those collected by a district or county attorney would be deposited to the county road and bridge fund.

The bill would amend the Government Code and the Code of Criminal Procedure to authorize concurrent jurisdiction for a justice court and a municipal court in cases that arise under an ordinance of the municipality's extraterritorial jurisdiction.

It is anticipated that any costs incurred in implementing provisions of the bill would be absorbed using existing resources. It is anticipated that revenue generated through civil suits would not be significant in proportion to the funds' totals.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JOB, KJG, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 20, 2007

TO: Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB413 by Eissler (Relating to erecting certain signs on certain rights-of-way; providing penalties.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Transportation Code, creating a civil penalty of not less than \$500 or more than \$1,000 for each violation of Subchapter B, Chapter 392, Signs on State Highway Right-of-Way. The attorney general or a district or county attorney would be authorized to sue to collect the penalty. Amounts collected by the attorney general would be deposited to the state highway fund and amounts collected by the district or county attorney would be deposited to the county road and bridge fund.

Chapter 393, Transportation Code, would be amended, authorizing a sheriff, constable, or other trained volunteer to discard a sign of less than \$25 in value that is posted in violation of the code without having to give notice to the owner of the sign. In addition, Chapter 393 would be amended by creating a civil penalty of not less than \$500 or more than \$1,000 for each violation of the chapter (Outdoor Signs on Public Rights-of-Way). A district attorney, county attorney, or municipal attorney would be authorized to sue to collect the penalty. Penalties collected by a municipality would be deposited to the municipality's general fund; those collected by a district or county attorney would be deposited to the county road and bridge fund.

The bill would amend the Government Code and the Code of Criminal Procedure to authorize concurrent jurisdiction for a justice court and a municipal court in cases that arise under an ordinance of the municipality's extraterritorial jurisdiction.

It is anticipated that any costs incurred in implementing provisions of the bill would be absorbed using existing resources. It is anticipated that revenue generated through civil suits would not be significant in proportion to the funds' totals.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JOB, KJG, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 20, 2007

TO: Honorable Mike Krusee, Chair, House Committee on Transportation

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB413 by Eissler (Relating to erecting certain signs on certain rights-of-way; providing penalties.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Transportation Code, creating a civil penalty of not less than \$500 or more than \$1,000 for each violation of Subchapter B, Chapter 392, Signs on State Highway Right-of-Way. The attorney general or a district or county attorney would be authorized to sue to collect the penalty. Amounts collected by the attorney general would be deposited to the state highway fund and amounts collected by the district or county attorney would be deposited to the county road and bridge fund.

Chapter 393, Transportation Code, would be amended, authorizing a sheriff, constable, or other trained volunteer to discard a sign of less than \$25 in value that is posted in violation of the code without having to give notice to the owner of the sign. In addition, Chapter 393 would be amended by creating a civil penalty of not less than \$500 or more than \$1,000 for each violation of the chapter (Outdoor Signs on Public Rights-of-Way). A district attorney, county attorney, or municipal attorney would be authorized to sue to collect the penalty. Penalties collected by a municipality would be deposited to the municipality's general fund; those collected by a district or county attorney would be deposited to the county road and bridge fund.

The bill would amend the Government Code and the Code of Criminal Procedure to authorize concurrent jurisdiction for a justice court and a municipal court in cases that arise under an ordinance of the municipality's extraterritorial jurisdiction.

It is anticipated that any costs incurred in implementing provisions of the bill would be absorbed using existing resources. It is anticipated that revenue generated through civil suits would not be significant in proportion to the funds' totals.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JOB, KJG, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

February 8, 2007

TO: Honorable Mike Krusee, Chair, House Committee on Transportation

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB413 by Eissler (Relating to erecting certain signs on certain rights-of-way; providing penalties.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Transportation Code, creating a civil penalty of not less than \$500 or more than \$1,000 for each violation of Subchapter B, Chapter 392, Signs on State Highway Right-of-Way. The attorney general or a district or county attorney would be authorized to sue to collect the penalty. Amounts collected by the attorney general would be deposited to the state highway fund and amounts collected by the district or county attorney would be deposited to the county road and bridge fund.

Chapter 393, Transportation Code, would be amended, authorizing a sheriff, constable, or other trained volunteer to discard a sign of less than \$25 in value that is posted in violation of the code without having to give notice to the owner of the sign. In addition, Chapter 393 would be amended by creating a civil penalty of not less than \$500 or more than \$1,000 for each violation of the chapter (Outdoor Signs on Public Rights-of-Way). A district attorney, county attorney, or municipal attorney would be authorized to sue to collect the penalty. Penalties collected by a municipality would be deposited to the municipality's general fund; those collected by a district or county attorney would be deposited to the county road and bridge fund.

The bill would amend the Government Code and the Code of Criminal Procedure to authorize concurrent jurisdiction for a justice court and a municipal court in cases that arise under an ordinance of the municipality's extraterritorial jurisdiction.

It is anticipated that any costs incurred in implementing provisions of the bill would be absorbed using existing resources. It is anticipated that revenue generated through civil suits would not be significant in proportion to the funds' totals.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JOB, KJG, DB

