

BILLBOARD AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig A. Frank

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to billboards.

Highlighted Provisions:

This bill:

▶ modifies the criteria under which a county or municipality is considered to have initiated the acquisition of a billboard structure by eminent domain when the county or municipality prevents the billboard owner from relocating the billboard;

▶ modifies the height limitation applicable to a billboard erected by an owner who modifies, upgrades, or relocates a billboard; and

▶ modifies the allowable height of an outdoor advertising sign whose height is adjusted by the owner because of an obstruction due to state agency action.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-513, as last amended by Laws of Utah 2007, Chapter 171

17-27a-512, as last amended by Laws of Utah 2007, Chapter 171

72-7-510.5, as last amended by Laws of Utah 2006, Chapter 68



28

29 *Be it enacted by the Legislature of the state of Utah:*30 Section 1. Section **10-9a-513** is amended to read:

31 **10-9a-513. Municipality's acquisition of billboard by eminent domain -- Removal**
 32 **without providing compensation -- Limit on allowing nonconforming billboards to be**
 33 **rebuilt.**

33a **H→ (1) As used in this section, "clearly visible" has the same meaning as defined in**
 33b **Subsection 72-7-510.5(4).**

34 **[(+) (2) ←H** (a) A municipality is considered to have initiated the acquisition of a billboard
 35 structure by eminent domain if the municipality prevents a billboard owner from:

36 (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged
 37 by casualty, an act of God, or vandalism;

38 (ii) except as provided in Subsection **H→ [(+) (2) ←H** (c), relocating or rebuilding a
 38a billboard

39 structure, or taking other measures, to correct a mistake in the placement or erection of a
 40 billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding,
 41 or other measure is consistent with the intent of that permit;

42 (iii) structurally modifying or upgrading a billboard; or

43 (iv) relocating a billboard into any commercial, industrial, or manufacturing zone
 44 within the municipality's boundaries, if the relocated billboard is:

45 (A) within ~~[2,640]~~ 5,280 feet of its previous location;

46 (B) no closer than ~~[500]~~;

47 (I) 300 feet from an off-premise sign existing on the same side of the street or highway;

48 or

49 (II) if the street or highway is an interstate or limited access highway that is subject to
 50 Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act
 51 between the relocated billboard and an off-premise sign existing on the same side of the
 52 interstate or limited access highway; and

53 (C) (I) the billboard owner has submitted a written request under Subsection
 54 10-9a-511(3)(c); and

55 (II) the municipality and billboard owner are unable to agree, within the time provided
 56 in Subsection 10-9a-511(3)(c), to a mutually acceptable location.

57 (b) A billboard owner structurally modifying or upgrading a billboard under Subsection
 58 **H→ [(+) (2) ←H** (a)(iii) or relocating the billboard under Subsection **H→ [(+) (2) ←H** (a)(iv):

59 (i) may, as the owner determines:

60 (A) erect the billboard:

61 (I) ~~H→ (Aa) ←H~~ to a height [that is at least the same as, but no higher than,] of up to

61a ~~H→[65] 45 ←H~~

61a feet or the

62 height of the previous use or structure, whichever is higher, unless the municipality's

63 ordinances allow or the municipality consents to a higher structure; ~~H→ [and] or~~

63a **(Bb) if the street or highway for which the sign is intended is an interstate, to a height of**

63b **up to 65 feet or the height of the previous use or structure, whichever is higher, unless the**

63c **municipality's ordinances allow or the municipality consents to a higher structure; or ←H**

64 (II) to a height and angle to make it clearly visible ~~H→ [to traffic on the main traveled way~~

65 ~~of the street or highway on which the billboard is located] ←H~~ ; and

66 (B) install a sign face on the billboard that is at least the same size as, but no larger

67 than, the sign face on the billboard before its relocation; and

68 (ii) shall comply with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, to the

69 extent applicable.

70 (c) A municipality's denial of a billboard owner's request to relocate or rebuild a

71 billboard structure, or to take other measures, in order to correct a mistake in the placement or

72 erection of a billboard does not constitute the initiation of acquisition by eminent domain under

73 Subsection ~~H→ [(†)] (2) ←H~~ (a) if the mistake in placement or erection of the billboard is

73a determined by clear

74 and convincing evidence to have resulted from an intentionally false or misleading statement:

75 (i) by the billboard applicant in the application; and

76 (ii) regarding the placement or erection of the billboard.

77 ~~H→ [(‡)] (3) ←H~~ Notwithstanding Subsection ~~H→ [(†)] (2) ←H~~ and Section 10-9a-512, a

77a municipality may remove

78 a billboard without providing compensation if:

79 (a) the municipality determines:

80 (i) by clear and convincing evidence that the applicant for a permit intentionally made a

81 false or misleading statement in the applicant's application regarding the placement or erection

82 of the billboard; or

83 (ii) by substantial evidence that the billboard:

84 (A) is structurally unsafe;

85 (B) is in an unreasonable state of repair; or

86 (C) has been abandoned for at least 12 months;

87 (b) the municipality notifies the owner in writing that the owner's billboard meets one

88 or more of the conditions listed in Subsections ~~H→ [(‡)] (3) ←H~~ (a)(i) and (ii);

89 (c) the owner fails to remedy the condition or conditions within:

90 (i) except as provided in Subsection ~~H→ [(2)] (3) ←H~~ (c)(ii), 90 days following the
90a billboard owner's

91 receipt of written notice under Subsection ~~H→ [(2)] (3) ←H~~ (b); or

92 (ii) if the condition forming the basis of the municipality's intention to remove the
93 billboard is that it is structurally unsafe, ten business days, or a longer period if necessary
94 because of a natural disaster, following the billboard owner's receipt of written notice under
95 Subsection ~~H→ [(2)] (3) ←H~~ (b); and

96 (d) following the expiration of the applicable period under Subsection ~~H→ [(2)] (3) ←H~~ (c)
96a and after

97 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
98 the municipality finds:

99 (i) by clear and convincing evidence, that the applicant for a permit intentionally made
100 a false or misleading statement in the application regarding the placement or erection of the
101 billboard; or

102 (ii) by substantial evidence that the billboard is structurally unsafe, is in an
103 unreasonable state of repair, or has been abandoned for at least 12 months.

104 ~~H→ [(3)] (4) ←H~~ A municipality may not allow a nonconforming billboard to be rebuilt or
104a replaced

105 by anyone other than its owner or the owner acting through its contractors.

106 ~~H→ [(4)] (5) ←H~~ A permit issued, extended, or renewed by a municipality for a billboard
106a remains

107 valid from the time the municipality issues, extends, or renews the permit until 180 days after a
108 required state permit is issued for the billboard if:

109 (a) the billboard requires a state permit; and

110 (b) an application for the state permit is filed within 30 days after the municipality
111 issues, extends, or renews a permit for the billboard.

112 Section 2. Section **17-27a-512** is amended to read:

113 **17-27a-512. County's acquisition of billboard by eminent domain -- Removal**
114 **without providing compensation -- Limit on allowing nonconforming billboard to be**
115 **rebuilt.**

115a ~~H→~~ **(1) As used in this section, "clearly visible" has the same meaning as defined in**
115b **Subsection 72-7-510.5(4).**

116 ~~[(4)] (2) ←H~~ (a) A county is considered to have initiated the acquisition of a billboard
116a structure

117 by eminent domain if the county prevents a billboard owner from:

118 (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged
119 by casualty, an act of God, or vandalism;

120 (ii) except as provided in Subsection ~~H→ [(4)] (2) ←H~~ (c), relocating or rebuilding a
120a billboard

121 structure, or taking other measures, to correct a mistake in the placement or erection of a
 122 billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or
 123 other measure is consistent with the intent of that permit;

124 (iii) structurally modifying or upgrading a billboard; or

125 (iv) relocating a billboard into any commercial, industrial, or manufacturing zone
 126 within the unincorporated area of the county, if the relocated billboard is:

127 (A) within ~~[2,640]~~ 5,280 feet of its previous location;

128 (B) no closer than ~~[500]~~:

129 (I) 300 feet from an off-premise sign existing on the same side of the street or highway;

130 or

131 (II) if the street or highway is an interstate or limited access highway that is subject to
 132 Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act
 133 between the relocated billboard and an off-premise sign existing on the same side of the
 134 interstate or limited access highway; and

135 (C) (I) the billboard owner has submitted a written request under Subsection
 136 17-27a-510(3)(c); and

137 (II) the county and billboard owner are unable to agree, within the time provided in
 138 Subsection 17-27a-510(3)(c), to a mutually acceptable location.

139 (b) A billboard owner structurally modifying or upgrading a billboard under Subsection

140 ~~H→ [(†)] (2) ←H~~ (a)(iii) or relocating the billboard under Subsection ~~H→ [(†)] (2) ←H~~ (a)(iv):

141 (i) may, as the owner determines:

142 (A) erect the billboard:

143 (I) ~~H→ (Aa) ←H~~ to a height ~~[that is at least the same as, but no higher than,]~~ of up to

143a ~~H→ [-65] 45 ←H~~ feet or the

144 height of the previous use or structure, whichever is higher, unless the county's ordinances

145 allow or the county consents to a higher structure; ~~H→ [and] or~~

145a (Bb) if the street or highway for which the sign is intended is an interstate, to a height of

145b up to 65 feet or the height of the previous use or structure, whichever is higher, unless the

145c county's ordinances allow or the county consents to a higher structure; or ←H

146 (II) to a height and angle to make it clearly visible ~~H→ [to traffic on the main traveled way~~

147 ~~of the street or highway on which the billboard is located] ←H~~ ; and

148 (B) install a sign face on the billboard that is at least the same size as, but no larger

149 than, the sign face on the billboard before its relocation; and

150 (ii) shall comply with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, to the
 151 extent applicable.

152 (c) A county's denial of a billboard owner's request to relocate or rebuild a billboard
 153 structure, or to take other measures, in order to correct a mistake in the placement or erection of
 154 a billboard does not constitute the initiation of acquisition by eminent domain under Subsection
 155 ~~H→ [(1)] (2) ←H~~ (a) if the mistake in placement or erection of the billboard is determined by clear
 155a and
 156 convincing evidence to have resulted from an intentionally false or misleading statement:
 157 (i) by the billboard applicant in the application; and
 158 (ii) regarding the placement or erection of the billboard.
 159 ~~H→ [(2)] (3) ←H~~ Notwithstanding Subsection ~~H→ [(1)] (2) ←H~~ and Section 17-27a-511, a
 159a county may remove a
 160 billboard without providing compensation if:
 161 (a) the county determines:
 162 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
 163 false or misleading statement in the applicant's application regarding the placement or erection
 164 of the billboard; or
 165 (ii) by substantial evidence that the billboard:
 166 (A) is structurally unsafe;
 167 (B) is in an unreasonable state of repair; or
 168 (C) has been abandoned for at least 12 months;
 169 (b) the county notifies the owner in writing that the owner's billboard meets one or
 170 more of the conditions listed in Subsections ~~H→ [(2)] (3) ←H~~ (a)(i) and (ii);
 171 (c) the owner fails to remedy the condition or conditions within:
 172 (i) except as provided in Subsection ~~H→ [(2)] (3) ←H~~ (c)(ii), 90 days following the
 172a billboard owner's
 173 receipt of written notice under Subsection ~~H→ [(2)] (3) ←H~~ (b); or
 174 (ii) if the condition forming the basis of the county's intention to remove the billboard
 175 is that it is structurally unsafe, ten business days, or a longer period if necessary because of a
 176 natural disaster, following the billboard owner's receipt of written notice under Subsection
 177 ~~H→ [(2)] (3) ←H~~ (b); and
 178 (d) following the expiration of the applicable period under Subsection ~~H→ [(2)] (3) ←H~~ (c)
 178a and after
 179 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
 180 the county finds:
 181 (i) by clear and convincing evidence, that the applicant for a permit intentionally made
 182 a false or misleading statement in the application regarding the placement or erection of the

183 billboard; or

184 (ii) by substantial evidence that the billboard is structurally unsafe, is in an
185 unreasonable state of repair, or has been abandoned for at least 12 months.

186 ~~H~~→ [(3)] (4) ←~~H~~ A county may not allow a nonconforming billboard to be rebuilt or
186a replaced by

187 anyone other than its owner or the owner acting through its contractors.

188 ~~H~~→ [(4)] (5) ←~~H~~ A permit issued, extended, or renewed by a county for a billboard remains
188a valid

189 from the time the county issues, extends, or renews the permit until 180 days after a required
190 state permit is issued for the billboard if:

191 (a) the billboard requires a state permit; and

192 (b) an application for the state permit is filed within 30 days after the county issues,
193 extends, or renews a permit for the billboard.

194 Section 3. Section **72-7-510.5** is amended to read:

195 **72-7-510.5. Height adjustments for outdoor advertising signs.**

196 (1) If the view and readability of an outdoor advertising sign, including a sign that is a
197 nonconforming sign as defined in Section 72-7-510, a noncomplying structure as defined in
198 Sections 10-9a-103 and 17-27a-103, or a nonconforming use as defined in Sections 10-9a-103
199 and 17-27a-103 is obstructed due to a noise abatement or safety measure, grade change,
200 construction, directional sign, highway widening, or aesthetic improvement made by an agency
201 of this state, along an interstate, federal aid primary highway existing as of June 1, 1991,
202 national highway systems highway, or state highway or by an improvement created on real
203 property subsequent to the department's disposal of the property under Section 72-5-111, the
204 owner of the sign may:

205 (a) adjust the height of the sign; or

206 (b) relocate the sign to a point within 500 feet of its prior location, if the sign complies
207 with the spacing requirements under Section 72-7-505 and is in a commercial or industrial
208 zone.

209 (2) A height adjusted sign under this section does not constitute a substantial change to
210 the sign.

211 (3) The county or municipality in which the outdoor advertising sign is located shall, if
212 necessary, provide for the height adjustment or relocation by ordinance for a special exception
213 to its zoning ordinance.

214 (4) (a) As used in this Subsection (4), "clearly visible" means capable of being read
 215 without obstruction from a distance of 500 feet ~~H→~~ [on the main-traveled way of the highway by the
 216 traffic for which intended] from the base of the sign by an occupant of a vehicle traveling on a
 216a street or highway until the point where the vehicle and the sign are on a plane that is
 216b perpendicular to the street or highway ←H .

217 [(a)] (b) The height adjusted sign:
 218 (i) may be erected:
 219 (A) to a height [~~and angle~~] of 65 feet or to a height to make [it] the entire advertising
 220 content of the sign clearly visible [~~to traffic on the main-traveled way of the highway and~~],
 221 whichever is higher; and
 222 (B) to an angle to make the entire advertising content of the sign clearly visible; and
 223 (ii) shall be the same size as the previous sign.

224 [(b)] (c) The provisions of Subsection (4)[(a)] (b) are an exception to the height
 225 requirements under Section 72-7-505.

Legislative Review Note
 as of 1-13-09 8:08 AM

Office of Legislative Research and General Counsel

H.B. 141 - Billboard Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or local governments. Businesses may be incur costs and reap benefits associated with placement of billboard structures.
