

1 **COUNTY AND MUNICIPAL ZONING**

2 **REGARDING BILLBOARDS**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Michael G. Waddoups**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions relating to billboards and outdoor advertising structures.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ eliminates one of the grounds upon which a county or municipality may remove a
13 billboard without providing compensation;

14 ▶ modifies the right of an outdoor advertising structure's owner to relocate the
15 structure;

16 ▶ modifies requirements that counties and municipalities must meet in order to be
17 able to remove a billboard without providing compensation;

18 ▶ requires counties and municipalities to allow a nonconforming billboard to be
19 relocated if the billboard is allowed to be rebuilt;

20 ▶ extends the effective period of a building permit for construction of a billboard
21 pending approval of a state permit and for a period thereafter; and

22 ▶ makes technical changes.

23 **Monies Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **10-9-408**, as last amended by Chapter 286, Laws of Utah 1993

30 **17-27-407**, as last amended by Chapter 12, Laws of Utah 1994

31 ENACTS:

32 **10-9-109**, Utah Code Annotated 1953

33 **17-27-109**, Utah Code Annotated 1953



35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **10-9-109** is enacted to read:

37 **10-9-109. Building permit for billboard construction.**

38 If a municipality issues a building permit for the construction of a billboard that also
39 requires a state billboard permit, the municipal building permit shall remain valid until at least:

- 40 (1) the time the state billboard permit is denied, if it is denied; or
- 41 (2) 180 days after approval of the state billboard permit, if it is approved.

42 Section 2. Section **10-9-408** is amended to read:

43 **10-9-408. Nonconforming uses and structures.**

44 (1) (a) Except as provided in this section, a nonconforming use or structure may be
45 continued.

46 (b) A nonconforming use may be extended through the same building, provided no
47 structural alteration of the building is proposed or made for the purpose of the extension.

48 (c) For purposes of this Subsection (1), the addition of a solar energy device to a
49 building is not a structural alteration.

50 (2) The legislative body may provide in any zoning ordinance or amendment for:

51 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or
52 substitution of nonconforming uses upon the terms and conditions set forth in the zoning
53 ordinance;

54 (b) the termination of all nonconforming uses, except billboards, by providing a
55 formula establishing a reasonable time period during which the owner can recover or amortize
56 the amount of his investment in the nonconforming use, if any; and

57 (c) the termination of a billboard that is a nonconforming use by acquiring the billboard
58 and associated property rights through:

- 59 (i) gift;
60 (ii) purchase;
61 (iii) agreement;
62 (iv) exchange; or
63 (v) eminent domain.

64 (3) If a municipality prevents a billboard company from rebuilding, maintaining,
65 repairing, or restoring a billboard structure damaged by casualty, act of God, or vandalism, or
66 prevents a billboard company from relocating or taking other measures to correct a mistake in
67 the placement or erection of a billboard, the municipality's actions constitute initiation of
68 acquisition by eminent domain under Subsection (2)(c)(v).

69 (4) Notwithstanding Subsections (2) and (3), a legislative body may remove a billboard
70 without providing compensation if[-];

71 (a) the legislative body notifies the owner that the owner's billboard meets one or more
72 of the conditions listed under Subsection (4)(c):

73 (b) after 180 days following the notice under Subsection (4)(a), the owner has failed to
74 remedy the condition or conditions; and

75 (c) following the expiration of the 180-day period under Subsection (4)(b) and after
76 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
77 the legislative body finds, by clear and convincing evidence, that the billboard:

78 [~~(a) the applicant for a permit intentionally made a false or misleading statement in his~~
79 ~~application;~~]

80 [~~(b) the billboard~~] (i) is structurally unsafe;

81 [~~(c) the billboard~~] (ii) is in an unreasonable state of repair; or

82 [~~(d) the billboard~~] (iii) has been abandoned for at least 12 months.

83 (5) If a municipality allows a nonconforming billboard to be rebuilt for a reason other
84 than those specified in Subsections (3) and (4) or for a reason other than those provided in Title
85 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the municipality shall allow billboards to
86 be relocated within the municipality to an area where outdoor advertising is otherwise allowed
87 under Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.

88 [~~(5)~~] (6) A municipality may terminate the nonconforming status of school district
89 property when the property ceases to be used for school district purposes.

90 Section 3. Section **17-27-109** is enacted to read:

91 **17-27-109. Building permit for billboard construction.**

92 If a county issues a building permit for the construction of a billboard that also requires
93 a state billboard permit, the county building permit shall remain valid until at least:

- 94 (1) the time the state billboard permit is denied, if it is denied; or
- 95 (2) 180 days after approval of the state billboard permit, if it is approved.

96 Section 4. Section **17-27-407** is amended to read:

97 **17-27-407. Nonconforming uses and structures.**

98 (1) (a) Except as provided in this section, a nonconforming use or structure may be
99 continued.

100 (b) A nonconforming use may be extended through the same building, provided no
101 structural alteration of the building is proposed or made for the purpose of the extension.

102 (c) For purposes of this Subsection (1), the addition of a solar energy device to a
103 building is not a structural alteration.

104 (d) If any county acquires title to any property because of tax delinquency and the
105 property is not redeemed as provided by law, the future use of the property shall conform with
106 the existing provisions of the county ordinances equally applicable to other like properties
107 within the district in which the property acquired by the county is located.

108 (2) The legislative body may provide in any zoning ordinance or amendment for:

109 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or
110 substitution of nonconforming uses upon the terms and conditions set forth in the zoning
111 ordinance;

112 (b) the termination of all nonconforming uses, except billboards by providing a
113 formula establishing a reasonable time period during which the owner can recover or amortize
114 the amount of his investment in the nonconforming use, if any; and

115 (c) the termination of a billboard that is a nonconforming use by acquiring the billboard
116 and associated property rights through:

- 117 (i) gift;
- 118 (ii) purchase;
- 119 (iii) agreement;
- 120 (iv) exchange; or

121 (v) eminent domain.

122 (3) If a county prevents a billboard company from rebuilding, maintaining, repairing, or
123 restoring a billboard structure damaged by casualty, act of God, or vandalism, or prevents a
124 billboard company from relocating or taking other measures to correct a mistake in the
125 placement or erection of a billboard, the county's actions constitute initiation of acquisition by
126 eminent domain under Subsection (2)(c)(v).

127 (4) Notwithstanding Subsections (2) and (3), a legislative body may remove a billboard
128 without providing compensation if[;]:

129 (a) the legislative body notifies the owner that the owner's billboard meets one or more
130 of the conditions listed under Subsection (4)(c);

131 (b) after 180 days following the notice under Subsection (4)(a), the owner has failed to
132 remedy the condition or conditions; and

133 (c) following the expiration of the 180-day period under Subsection (4)(b) and after
134 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
135 the legislative body finds, by clear and convincing evidence, that the billboard:

136 [~~(a) the applicant for a permit made a false or misleading statement in his application;~~]

137 [~~(b) the billboard~~] (i) is unsafe;

138 [~~(c) the billboard~~] (ii) is in an unreasonable state of repair; or

139 [~~(d) the billboard~~] (iii) has been abandoned for at least 12 months.

140 (5) If a county allows a nonconforming billboard to be rebuilt for a reason other than
141 those specified in Subsections (3) and (4) or for a reason other than those provided in Title 72,
142 Chapter 7, Part 5, Utah Outdoor Advertising Act, the county shall allow billboards to be
143 relocated within the municipality to an area where outdoor advertising is otherwise allowed
144 under Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.

145 [~~(5)~~] (6) A county may terminate the nonconforming status of school district property
146 when the property ceases to be used for school district purposes.

Legislative Review Note

as of 2-3-04 6:57 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0053

County and Municipal Zoning Regarding Billboards

11-Feb-04

4:17 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst