

**LOCAL GOVERNMENT REGULATION OF
BILLBOARDS**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melvin R. Brown

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies county and municipal land use development and management provisions relating to billboards.

Highlighted Provisions:

This bill:

- ▶ provides that a county or municipality is considered to have initiated the acquisition of a billboard structure by eminent domain if the county or municipality prevents a billboard owner from structurally modifying or upgrading a billboard or relocating a billboard to another specified location;
- ▶ provides that a relocated billboard may be erected to a certain height and angle; and
- ▶ clarifies a provision allowing for a county or municipal issued billboard permit to remain valid until a period after a required state permit is issued.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:

10-9a-513, as enacted by Chapter 254, Laws of Utah 2005



28 17-27a-512, as enacted by Chapter 254, Laws of Utah 2005



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

31 Section 1. Section 10-9a-513 is amended to read:

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

35 (1) (a) A municipality is considered to have initiated the acquisition of a billboard
36 structure by eminent domain if the municipality prevents a billboard owner from:

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

39 (ii) except as provided in Subsection (1)(b), relocating or rebuilding a billboard
40 structure, or taking other measures, to correct a mistake in the placement or erection of a
41 billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding,
42 or other measure is consistent with the intent of that permit[-];

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

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

46 (A) on the same property;

47 (B) on adjacent property; or

48 (C) within 5,240 feet of the previous location.

49 (b) A relocated billboard under Subsection (1)(a)(iv):

50 (i) may be erected to a height and angle to make it clearly visible to traffic on the main
51 traveled way of the street or highway on which the billboard is located; and

52 (ii) notwithstanding Subsection (1)(b)(i), may not exceed the height permitted under
53 Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.

54 ~~(b)~~ (c) A municipality's denial of a billboard owner's request to relocate or rebuild a
55 billboard structure, or to take other measures, in order to correct a mistake in the placement or
56 erection of a billboard does not constitute the initiation of acquisition by eminent domain under
57 Subsection (1)(a) if the mistake in placement or erection of the billboard is determined by clear
58 and convincing evidence to have resulted from an intentionally false or misleading statement:

- 59 (i) by the billboard applicant in the application; and
- 60 (ii) regarding the placement or erection of the billboard.
- 61 (2) Notwithstanding Subsection (1) and Section 10-9a-512, a municipality may remove
- 62 a billboard without providing compensation if:
- 63 (a) the municipality determines:
- 64 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
- 65 false or misleading statement in the applicant's application regarding the placement or erection
- 66 of the billboard; or
- 67 (ii) by substantial evidence that the billboard:
- 68 (A) is structurally unsafe;
- 69 (B) is in an unreasonable state of repair; or
- 70 (C) has been abandoned for at least 12 months;
- 71 (b) the municipality notifies the owner in writing that the owner's billboard meets one
- 72 or more of the conditions listed in Subsections (2)(a)(i) and (ii);
- 73 (c) the owner fails to remedy the condition or conditions within:
- 74 (i) except as provided in Subsection (2)(c)(ii), 90 days following the billboard owner's
- 75 receipt of written notice under Subsection (2)(b); or
- 76 (ii) if the condition forming the basis of the municipality's intention to remove the
- 77 billboard is that it is structurally unsafe, ten business days, or a longer period if necessary
- 78 because of a natural disaster, following the billboard owner's receipt of written notice under
- 79 Subsection (2)(b); and
- 80 (d) following the expiration of the applicable period under Subsection (2)(c) and after
- 81 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
- 82 the municipality finds:
- 83 (i) by clear and convincing evidence, that the applicant for a permit intentionally made
- 84 a false or misleading statement in the application regarding the placement or erection of the
- 85 billboard; or
- 86 (ii) by substantial evidence that the billboard is structurally unsafe, is in an
- 87 unreasonable state of repair, or has been abandoned for at least 12 months.
- 88 (3) A municipality may not allow a nonconforming billboard to be rebuilt or replaced
- 89 by anyone other than its owner or the owner acting through its contractors.

90 (4) A permit issued, extended, or renewed by a municipality for a billboard remains
91 valid ~~[for a period of]~~ from the time the municipality issues, extends, or renews the permit until
92 180 days after a required state permit is issued for the billboard if:

- 93 (a) the billboard requires a state permit; and
- 94 (b) an application for the state permit is filed within 30 days after the municipality
95 issues, extends, or renews a permit for the billboard.

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

97 **17-27a-512. County's acquisition of billboard by eminent domain -- Removal**
98 **without providing compensation -- Limit on allowing nonconforming billboard to be**
99 **rebuilt.**

100 (1) (a) A county is considered to have initiated the acquisition of a billboard structure
101 by eminent domain if the county prevents a billboard owner from:

102 (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged
103 by casualty, an act of God, or vandalism; ~~[or]~~

104 (ii) except as provided in Subsection (1)(b), relocating or rebuilding a billboard
105 structure, or taking other measures, to correct a mistake in the placement or erection of a
106 billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or
107 other measure is consistent with the intent of that permit[-];

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

109 (iv) relocating a billboard within the county's unincorporated area into any commercial,
110 industrial, or manufacturing zone:

111 (A) on the same property;

112 (B) on adjacent property; or

113 (C) within 5,240 feet of the previous location.

114 (b) A relocated billboard under Subsection (1)(a)(iv):

115 (i) may be erected to a height and angle to make it clearly visible to traffic on the main
116 traveled way of the street or highway on which the billboard is located; and

117 (ii) notwithstanding Subsection (1)(b)(i), may not exceed the height permitted under
118 Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.

119 (b) A county's denial of a billboard owner's request to relocate or rebuild a billboard
120 structure, or to take other measures, in order to correct a mistake in the placement or erection of

121 a billboard does not constitute the initiation of acquisition by eminent domain under Subsection
122 (1)(a) if the mistake in placement or erection of the billboard is determined by clear and
123 convincing evidence to have resulted from an intentionally false or misleading statement:

- 124 (i) by the billboard applicant in the application; and
- 125 (ii) regarding the placement or erection of the billboard.

126 (2) Notwithstanding Subsection (1) and Section 17-27a-511, a county may remove a
127 billboard without providing compensation if:

128 (a) the county determines:

129 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
130 false or misleading statement in the applicant's application regarding the placement or erection
131 of the billboard; or

132 (ii) by substantial evidence that the billboard:

- 133 (A) is structurally unsafe;
- 134 (B) is in an unreasonable state of repair; or
- 135 (C) has been abandoned for at least 12 months;

136 (b) the county notifies the owner in writing that the owner's billboard meets one or
137 more of the conditions listed in Subsections (2)(a)(i) and (ii);

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

139 (i) except as provided in Subsection (2)(c)(ii), 90 days following the billboard owner's
140 receipt of written notice under Subsection (2)(b); or

141 (ii) if the condition forming the basis of the county's intention to remove the billboard
142 is that it is structurally unsafe, ten business days, or a longer period if necessary because of a
143 natural disaster, following the billboard owner's receipt of written notice under Subsection
144 (2)(b); and

145 (d) following the expiration of the applicable period under Subsection (2)(c) and after
146 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
147 the county finds:

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

151 (ii) by substantial evidence that the billboard is structurally unsafe, is in an

152 unreasonable state of repair, or has been abandoned for at least 12 months.

153 (3) A county may not allow a nonconforming billboard to be rebuilt or replaced by
154 anyone other than its owner or the owner acting through its contractors.

155 (4) A permit issued, extended, or renewed by a [municipality] county for a billboard
156 remains valid [~~for a period of~~] from the time the county issues, extends, or renews the permit
157 until 180 days after a required state permit is issued for the billboard if:

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

159 (b) an application for the state permit is filed within 30 days after the [municipality]
160 county issues, extends, or renews a permit for the billboard.

161 Section 3. **Effective date.**

162 If approved by two-thirds of all the members elected to each house, this bill takes effect
163 upon approval by the governor, or the day following the constitutional time limit of Utah
164 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
165 the date of veto override.

Legislative Review Note
as of 1-19-07 11:01 AM

Office of Legislative Research and General Counsel

H.B. 352 - Local Government Regulation of Billboards

Fiscal Note

2007 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 local governments. Involved businesses and individuals may be impacted by provisions of this bill.
