

Representative Melvin R. Brown proposes the following substitute bill:

**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;
- ▶ 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; and
- ▶ makes technical changes

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **10-9a-513**, as enacted by Chapter 254, Laws of Utah 2005

29 **17-27a-512**, as enacted by Chapter 254, Laws of Utah 2005

30

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

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

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

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

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

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

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

45 (iv) relocating a billboard within 2,640 feet of its previous location.

46 (b) A billboard owner relocating the billboard under Subsection (1)(a)(iv):

47 (i) may, as the owner determines:

48 (A) erect the billboard:

49 (I) to at least the same height as the previous use or structure; and

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

52 (B) install a sign face on the billboard that is at least the same size as, but no larger
53 than, the sign face on the billboard before its relocation;

54 (ii) shall comply with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, to the
55 extent applicable; and

56 (iii) may not relocate within 500 feet of a legally permitted off-premise sign existing on

57 the same side of the street or highway.

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

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

65 (2) Notwithstanding Subsection (1) and Section 10-9a-512, a municipality may remove
66 a billboard without providing compensation if:

67 (a) the municipality determines:

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

71 (ii) by substantial evidence that the billboard:

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

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

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

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

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

84 (d) following the expiration of the applicable period under Subsection (2)(c) and after
85 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
86 the municipality finds:

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

88 a false or misleading statement in the application regarding the placement or erection of the
89 billboard; or

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

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

94 (4) A permit issued, extended, or renewed by a municipality for a billboard remains
95 valid ~~[for a period of]~~ from the time the municipality issues, extends, or renews the permit until
96 180 days after a required state permit is issued for the billboard if:

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

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

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

101 **17-27a-512. County's acquisition of billboard by eminent domain -- Removal**
102 **without providing compensation -- Limit on allowing nonconforming billboard to be**
103 **rebuilt.**

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

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

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

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

113 (iv) relocating a billboard within 2,640 feet of its previous location.

114 (b) A billboard owner relocating the billboard under Subsection (1)(a)(iv):

115 (i) may, as the owner determines:

116 (A) erect the billboard;

117 (I) to at least the same height as the previous use or structure; and

118 (II) to a height and angle to make it clearly visible to traffic on the main traveled way

119 of the street or highway on which the billboard is located; and

120 (B) install a sign face on the billboard that is at least the same size as, but no larger
121 than, the sign face on the billboard before its relocation;

122 (ii) shall comply with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, to the
123 extent applicable; and

124 (iii) may not relocate within 500 feet of a legally permitted off-premise sign existing on
125 the same side of the street or highway.

126 (b) A county's denial of a billboard owner's request to relocate or rebuild a billboard
127 structure, or to take other measures, in order to correct a mistake in the placement or erection of
128 a billboard does not constitute the initiation of acquisition by eminent domain under Subsection
129 (1)(a) if the mistake in placement or erection of the billboard is determined by clear and
130 convincing evidence to have resulted from an intentionally false or misleading statement:

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

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

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

135 (a) the county determines:

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

139 (ii) by substantial evidence that the billboard:

140 (A) is structurally unsafe;

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

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

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

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

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

148 (ii) if the condition forming the basis of the county's intention to remove the billboard
149 is that it is structurally unsafe, ten business days, or a longer period if necessary because of a

150 natural disaster, following the billboard owner's receipt of written notice under Subsection
151 (2)(b); and

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

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

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

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

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

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

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

168 Section 3. **Effective date.**

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