

Representative Craig A. Frank proposes the following substitute bill:

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;

▶ 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; and

▶ adds a definition of "clearly visible" to county and municipal land use provisions and to the Utah Outdoor Advertising Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 AMENDS:

27 **10-9a-513**, as last amended by Laws of Utah 2007, Chapter 171

28 **17-27a-512**, as last amended by Laws of Utah 2007, Chapter 171

29 **72-7-502**, as last amended by Laws of Utah 2005, Chapter 254

30 **72-7-510.5**, as last amended by Laws of Utah 2006, Chapter 68

31

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

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

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

37 (1) As used in this section, "clearly visible" means capable of being read without
38 obstruction from a distance of 500 feet from the base of the sign by an occupant of a vehicle
39 traveling on a street or highway until the point at which the vehicle and the sign are on a plane
40 that is perpendicular to the street or highway.

41 ~~(1)~~ (2) (a) A municipality is considered to have initiated the acquisition of a billboard
42 structure by eminent domain if the municipality prevents a billboard owner from:

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

45 (ii) except as provided in Subsection ~~(1)~~ (2)(c), relocating or rebuilding a billboard
46 structure, or taking other measures, to correct a mistake in the placement or erection of a
47 billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding,
48 or other measure is consistent with the intent of that permit;

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

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

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

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

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

55 or

56 (II) if the street or highway is an interstate or limited access highway that is subject to

57 Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act
58 between the relocated billboard and an off-premise sign existing on the same side of the
59 interstate or limited access highway; and

60 (C) (I) the billboard owner has submitted a written request under Subsection
61 10-9a-511(3)(c); and

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

64 (b) A billboard owner structurally modifying or upgrading a billboard under Subsection
65 ~~[(+)]~~ (2)(a)(iii) or relocating the billboard under Subsection ~~[(+)]~~ (2)(a)(iv):

66 (i) may, as the owner determines:

67 (A) erect the billboard:

68 (I) ~~(Aa)~~ (Ii) to a height that is at least the same as ~~[-, but no higher than,]~~ the height of
69 the previous use or structure[-, unless] or to a height and angle to make the sign clearly visible,
70 whichever is higher; or

71 (Iiii) if the street or highway for which the sign is intended is not an interstate, to a
72 height not exceeding 45 feet, unless the height of the previous use or structure was higher or
73 the municipality's ordinances allow or the municipality consents to a higher structure; ~~[and] or~~

74 (Bb) if the street or highway for which the sign is intended is an interstate, to the height
75 of the previous use or structure; or

76 (II) to a height and angle to make it clearly visible ~~[to traffic on the main traveled way~~
77 ~~of the street or highway on which the billboard is located]; and~~

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

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

82 (c) A municipality's denial of a billboard owner's request to relocate or rebuild a
83 billboard structure, or to take other measures, in order to correct a mistake in the placement or
84 erection of a billboard does not constitute the initiation of acquisition by eminent domain under
85 Subsection ~~[(+)]~~ (2)(a) if the mistake in placement or erection of the billboard is determined by
86 clear and convincing evidence to have resulted from an intentionally false or misleading
87 statement:

88 (i) by the billboard applicant in the application; and
89 (ii) regarding the placement or erection of the billboard.
90 ~~[(2)]~~ (3) Notwithstanding Subsection ~~[(1)]~~ (2) and Section 10-9a-512, a municipality
91 may remove a billboard without providing compensation if:
92 (a) the municipality determines:
93 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
94 false or misleading statement in the applicant's application regarding the placement or erection
95 of the billboard; or
96 (ii) by substantial evidence that the billboard:
97 (A) is structurally unsafe;
98 (B) is in an unreasonable state of repair; or
99 (C) has been abandoned for at least 12 months;
100 (b) the municipality notifies the owner in writing that the owner's billboard meets one
101 or more of the conditions listed in Subsections ~~[(2)]~~ (3)(a)(i) and (ii);
102 (c) the owner fails to remedy the condition or conditions within:
103 (i) except as provided in Subsection ~~[(2)]~~ (3)(c)(ii), 90 days following the billboard
104 owner's receipt of written notice under Subsection ~~[(2)]~~ (3)(b); or
105 (ii) if the condition forming the basis of the municipality's intention to remove the
106 billboard is that it is structurally unsafe, ten business days, or a longer period if necessary
107 because of a natural disaster, following the billboard owner's receipt of written notice under
108 Subsection ~~[(2)]~~ (3)(b); and
109 (d) following the expiration of the applicable period under Subsection ~~[(2)]~~ (3)(c) and
110 after providing the owner with reasonable notice of proceedings and an opportunity for a
111 hearing, the municipality finds:
112 (i) by clear and convincing evidence, that the applicant for a permit intentionally made
113 a false or misleading statement in the application regarding the placement or erection of the
114 billboard; or
115 (ii) by substantial evidence that the billboard is structurally unsafe, is in an
116 unreasonable state of repair, or has been abandoned for at least 12 months.
117 ~~[(3)]~~ (4) A municipality may not allow a nonconforming billboard to be rebuilt or
118 replaced by anyone other than its owner or the owner acting through its contractors.

119 ~~[(4)]~~ (5) A permit issued, extended, or renewed by a municipality for a billboard
 120 remains valid from the time the municipality issues, extends, or renews the permit until 180
 121 days after a required state permit is issued for the billboard if:

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

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

126 **17-27a-512. County's acquisition of billboard by eminent domain -- Removal**
 127 **without providing compensation -- Limit on allowing nonconforming billboard to be**
 128 **rebuilt.**

129 (1) As used in this section, "clearly visible" means capable of being read without
 130 obstruction from a distance of 500 feet from the base of the sign by an occupant of a vehicle
 131 traveling on a street or highway until the point at which the vehicle and the sign are on a plane
 132 that is perpendicular to the street or highway.

133 ~~[(1)]~~ (2) (a) A county is considered to have initiated the acquisition of a billboard
 134 structure by eminent domain if the county prevents a billboard owner from:

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

137 (ii) except as provided in Subsection ~~[(1)]~~ (2)(c), relocating or rebuilding a billboard
 138 structure, or taking other measures, to correct a mistake in the placement or erection of a
 139 billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or
 140 other measure is consistent with the intent of that permit;

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

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

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

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

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

147 or

148 (II) if the street or highway is an interstate or limited access highway that is subject to
 149 Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act

150 between the relocated billboard and an off-premise sign existing on the same side of the
151 interstate or limited access highway; and

152 (C) (I) the billboard owner has submitted a written request under Subsection
153 17-27a-510(3)(c); and

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

156 (b) A billboard owner structurally modifying or upgrading a billboard under Subsection
157 ~~[(+)]~~ (2)(a)(iii) or relocating the billboard under Subsection ~~[(+)]~~ (2)(a)(iv):

158 (i) may, as the owner determines:

159 (A) erect the billboard:

160 (I) ~~(Aa)~~ (Ii) to a height that is at least the same as ~~[-, but no higher than,]~~ the height of
161 the previous use or structure[-, unless] or to a height and angle to make the sign clearly visible,
162 whichever is higher; or

163 (Iii) if the street or highway for which the sign is intended is not an interstate, to a
164 height not exceeding 45 feet, unless the height of the previous use or structure was higher or
165 the county's ordinances allow or the county consents to a higher structure; ~~[and]~~ or

166 (Bb) if the street or highway for which the sign is intended is an interstate, to the height
167 of the previous use or structure; or

168 (II) to a height and angle to make it clearly visible ~~[to traffic on the main traveled way~~
169 ~~of the street or highway on which the billboard is located]; and~~

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

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

174 (c) A county's denial of a billboard owner's request to relocate or rebuild a billboard
175 structure, or to take other measures, in order to correct a mistake in the placement or erection of
176 a billboard does not constitute the initiation of acquisition by eminent domain under Subsection
177 ~~[(+)]~~ (2)(a) if the mistake in placement or erection of the billboard is determined by clear and
178 convincing evidence to have resulted from an intentionally false or misleading statement:

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

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

181 ~~[(2)]~~ (3) Notwithstanding Subsection ~~[(1)]~~ (2) and Section 17-27a-511, a county may
182 remove a billboard without providing compensation if:

183 (a) the county determines:

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

187 (ii) by substantial evidence that the billboard:

188 (A) is structurally unsafe;

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

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

191 (b) the county notifies the owner in writing that the owner's billboard meets one or
192 more of the conditions listed in Subsections ~~[(2)]~~ (3)(a)(i) and (ii);

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

194 (i) except as provided in Subsection ~~[(2)]~~ (3)(c)(ii), 90 days following the billboard
195 owner's receipt of written notice under Subsection ~~[(2)]~~ (3)(b); or

196 (ii) if the condition forming the basis of the county's intention to remove the billboard
197 is that it is structurally unsafe, ten business days, or a longer period if necessary because of a
198 natural disaster, following the billboard owner's receipt of written notice under Subsection ~~[(2)]~~
199 (3)(b); and

200 (d) following the expiration of the applicable period under Subsection ~~[(2)]~~ (3)(c) and
201 after providing the owner with reasonable notice of proceedings and an opportunity for a
202 hearing, the county finds:

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

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

208 ~~[(3)]~~ (4) A county may not allow a nonconforming billboard to be rebuilt or replaced
209 by anyone other than its owner or the owner acting through its contractors.

210 ~~[(4)]~~ (5) A permit issued, extended, or renewed by a county for a billboard remains
211 valid from the time the county issues, extends, or renews the permit until 180 days after a

212 required state permit is issued for the billboard if:

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

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

216 Section 3. Section **72-7-502** is amended to read:

217 **72-7-502. Definitions.**

218 As used in this part:

219 (1) "Clearly visible" means capable of being read without obstruction from a distance
220 of 500 feet from the base of a sign by an occupant of a vehicle traveling on the main traveled
221 way of a street or highway until the point at which the vehicle and the sign are on a plane that is
222 perpendicular to the street or highway.

223 [~~(1)~~] (2) "Commercial or industrial activities" means those activities generally
224 recognized as commercial or industrial by zoning authorities in this state, except that none of
225 the following are commercial or industrial activities:

226 (a) agricultural, forestry, grazing, farming, and related activities, including wayside
227 fresh produce stands;

228 (b) transient or temporary activities;

229 (c) activities not visible from the main-traveled way;

230 (d) activities conducted in a building principally used as a residence; and

231 (e) railroad tracks and minor sidings.

232 [~~(2)~~] (3) "Commercial or industrial zone" means only:

233 (a) those areas within the boundaries of cities or towns that are used or reserved for
234 business, commerce, or trade, or zoned as a highway service zone, under enabling state
235 legislation or comprehensive local zoning ordinances or regulations;

236 (b) those areas within the boundaries of urbanized counties that are used or reserved for
237 business, commerce, or trade, or zoned as a highway service zone, under enabling state
238 legislation or comprehensive local zoning ordinances or regulations;

239 (c) those areas outside the boundaries of urbanized counties and outside the boundaries
240 of cities and towns that:

241 (i) are used or reserved for business, commerce, or trade, or zoned as a highway service
242 zone, under comprehensive local zoning ordinances or regulations or enabling state legislation;

243 and

244 (ii) are within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured
245 from the nearest point of the beginning or ending of the pavement widening at the exit from or
246 entrance to the main-traveled way; or

247 (d) those areas outside the boundaries of urbanized counties and outside the boundaries
248 of cities and towns and not within 8420 feet of an interstate highway exit, off-ramp, or turnoff
249 as measured from the nearest point of the beginning or ending of the pavement widening at the
250 exit from or entrance to the main-traveled way that are reserved for business, commerce, or
251 trade under enabling state legislation or comprehensive local zoning ordinances or regulations,
252 and are actually used for commercial or industrial purposes.

253 [~~(3)~~] (4) "Commercial or industrial zone" does not mean areas zoned for the sole
254 purpose of allowing outdoor advertising.

255 [~~(4)~~] (5) "Comprehensive local zoning ordinances or regulations" means a
256 municipality's comprehensive plan required by Section 10-9a-401, the municipal zoning plan
257 authorized by Section 10-9a-501, and the county master plan authorized by Sections
258 17-27a-401 and 17-27a-501. Property that is rezoned by comprehensive local zoning
259 ordinances or regulations is rebuttably presumed to have not been zoned for the sole purpose of
260 allowing outdoor advertising.

261 [~~(5)~~] (6) "Directional signs" means signs containing information about public places
262 owned or operated by federal, state, or local governments or their agencies, publicly or
263 privately owned natural phenomena, historic, cultural, scientific, educational, or religious sites,
264 and areas of natural scenic beauty or naturally suited for outdoor recreation, that the department
265 considers to be in the interest of the traveling public.

266 [~~(6)~~] (7) (a) "Erect" means to construct, build, raise, assemble, place, affix, attach,
267 create, paint, draw, or in any other way bring into being.

268 (b) "Erect" does not include any activities defined in Subsection [~~(6)~~] (7)(a) if they are
269 performed incident to the change of an advertising message or customary maintenance of a
270 sign.

271 [~~(7)~~] (8) "Highway service zone" means a highway service area where the primary use
272 of the land is used or reserved for commercial and roadside services other than outdoor
273 advertising to serve the traveling public.

274 [~~(8)~~] (9) "Information center" means an area or site established and maintained at rest
275 areas for the purpose of informing the public of:

276 (a) places of interest within the state; or

277 (b) any other information that the department considers desirable.

278 [~~(9)~~] (10) "Interchange or intersection" means those areas and their approaches where
279 traffic is channeled off or onto an interstate route, excluding the deceleration lanes, acceleration
280 lanes, or feeder systems, from or to another federal, state, county, city, or other route.

281 [~~(10)~~] (11) "Maintain" means to allow to exist, subject to the provisions of this chapter.

282 [~~(11)~~] (12) "Maintenance" means to repair, refurbish, repaint, or otherwise keep an
283 existing sign structure safe and in a state suitable for use, including signs destroyed by
284 vandalism or an act of God.

285 [~~(12)~~] (13) "Main-traveled way" means the through traffic lanes, including auxiliary
286 lanes, acceleration lanes, deceleration lanes, and feeder systems, exclusive of frontage roads
287 and ramps. For a divided highway, there is a separate main-traveled way for the traffic in each
288 direction.

289 [~~(13)~~] (14) "Official signs and notices" means signs and notices erected and maintained
290 by public agencies within their territorial or zoning jurisdictions for the purpose of carrying out
291 official duties or responsibilities in accordance with direction or authorization contained in
292 federal, state, or local law.

293 [~~(14)~~] (15) "Off-premise signs" means signs located in areas zoned industrial,
294 commercial, or H-1 and in areas determined by the department to be unzoned industrial or
295 commercial.

296 [~~(15)~~] (16) "On-premise signs" means signs used to advertise the major activities
297 conducted on the property where the sign is located.

298 [~~(16)~~] (17) "Outdoor advertising" means any outdoor advertising structure or outdoor
299 structure used in combination with an outdoor advertising sign or outdoor sign.

300 [~~(17)~~] (18) "Outdoor advertising corridor" means a strip of land 350 feet wide,
301 measured perpendicular from the edge of a controlled highway right-of-way.

302 [~~(18)~~] (19) "Outdoor advertising structure" or "outdoor structure" means any sign
303 structure, including any necessary devices, supports, appurtenances, and lighting that is part of
304 or supports an outdoor sign.

305 [~~(19)~~] (20) "Point of widening" means the point of the gore or the point where the
306 intersecting lane begins to parallel the other lanes of traffic, but the point of widening may
307 never be greater than 2,640 feet from the center line of the intersecting highway of the
308 interchange or intersection at grade.

309 [~~(20)~~] (21) "Public assembly facility" means a convention facility as defined under
310 Section 59-12-602 and that:

311 (a) is wholly or partially funded by public moneys; and

312 (b) requires a person attending an event at the public assembly facility to purchase a
313 ticket or that otherwise charges for the use of the public assembly facility as part of its regular
314 operation.

315 [~~(21)~~] (22) "Relocation" includes the removal of a sign from one situs together with the
316 erection of a new sign upon another situs in a commercial or industrial zoned area as a
317 substitute.

318 [~~(22)~~] (23) "Relocation and replacement" means allowing all outdoor advertising signs
319 or permits the right to maintain outdoor advertising along the interstate, federal aid primary
320 highway existing as of June 1, 1991, and national highway system highways to be maintained
321 in a commercial or industrial zoned area to accommodate the displacement, remodeling, or
322 widening of the highway systems.

323 [~~(23)~~] (24) "Remodel" means the upgrading, changing, alteration, refurbishment,
324 modification, or complete substitution of a new outdoor advertising structure for one permitted
325 pursuant to this part and that is located in a commercial or industrial area.

326 [~~(24)~~] (25) "Rest area" means an area or site established and maintained within or
327 adjacent to the right-of-way by or under public supervision or control for the convenience of
328 the traveling public.

329 [~~(25)~~] (26) "Scenic or natural area" means an area determined by the department to
330 have aesthetic value.

331 [~~(26)~~] (27) "Traveled way" means that portion of the roadway used for the movement
332 of vehicles, exclusive of shoulders and auxiliary lanes.

333 [~~(27)~~] (28) (a) "Unzoned commercial or industrial area" means:

334 (i) those areas not zoned by state law or local law, regulation, or ordinance that are
335 occupied by one or more industrial or commercial activities other than outdoor advertising

336 signs;

337 (ii) the lands along the highway for a distance of 600 feet immediately adjacent to
338 those activities; and

339 (iii) lands covering the same dimensions that are directly opposite those activities on
340 the other side of the highway, if the department determines that those lands on the opposite side
341 of the highway do not have scenic or aesthetic value.

342 (b) In measuring the scope of the unzoned commercial or industrial area, all
343 measurements shall be made from the outer edge of the regularly used buildings, parking lots,
344 storage, or processing areas of the activities and shall be along or parallel to the edge of
345 pavement of the highway.

346 (c) All signs located within an unzoned commercial or industrial area become
347 nonconforming if the commercial or industrial activity used in defining the area ceases for a
348 continuous period of 12 months.

349 [~~28~~] (29) "Urbanized county" means a county with a population of at least 125,000
350 persons.

351 Section 4. Section **72-7-510.5** is amended to read:

352 **72-7-510.5. Height adjustments for outdoor advertising signs.**

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

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

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

366 (2) A height adjusted sign under this section does not constitute a substantial change to

367 the sign.

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

371 (4) (a) The height adjusted sign;

372 (i) may be erected;

373 (A) to a height [~~and angle~~] to make [it] the entire advertising content of the sign clearly
374 visible [~~to traffic on the main-traveled way of the highway and~~]; and

375 (B) to an angle to make the entire advertising content of the sign clearly visible; and

376 (ii) shall be the same size as the previous sign.

377 (b) The provisions of Subsection (4)(a) are an exception to the height requirements
378 under Section 72-7-505.

H.B. 141 1st Sub. (Buff) - 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.
