

Representative Craig A. Frank proposes the following substitute bill:

BILLBOARD AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig A. Frank

Senate Sponsor: Wayne L. Niederhauser

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;
- ▶ increases from 60 to 90 days the period during which a county or municipality and billboard owner have to agree to a mutually acceptable location before the county or municipality is considered to have initiated the acquisition of a billboard by eminent domain;
- ▶ 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 definitions to county and municipal land use provisions and to the Utah Outdoor Advertising Act.

Monies Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **10-9a-511**, as last amended by Laws of Utah 2007, Chapter 171

32 **10-9a-513**, as last amended by Laws of Utah 2007, Chapter 171

33 **17-27a-510**, as last amended by Laws of Utah 2007, Chapter 171

34 **17-27a-512**, as last amended by Laws of Utah 2007, Chapter 171

35 **72-7-502**, as last amended by Laws of Utah 2005, Chapter 254

36 **72-7-510.5**, as last amended by Laws of Utah 2006, Chapter 68

37

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

39 Section 1. Section **10-9a-511** is amended to read:

40 **10-9a-511. Nonconforming uses and noncomplying structures.**

41 (1) (a) Except as provided in this section, a nonconforming use or noncomplying
42 structure may be continued by the present or a future property owner.

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

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

47 (2) The legislative body may provide for:

48 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or
49 substitution of nonconforming uses upon the terms and conditions set forth in the land use
50 ordinance;

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

54 (c) the termination of a nonconforming use due to its abandonment.

55 (3) (a) A municipality may not prohibit the reconstruction or restoration of a
56 noncomplying structure or terminate the nonconforming use of a structure that is involuntarily

57 destroyed in whole or in part due to fire or other calamity unless the structure or use has been
58 abandoned.

59 (b) A municipality may prohibit the reconstruction or restoration of a noncomplying
60 structure or terminate the nonconforming use of a structure if:

61 (i) the structure is allowed to deteriorate to a condition that the structure is rendered
62 uninhabitable and is not repaired or restored within six months after written notice to the
63 property owner that the structure is uninhabitable and that the noncomplying structure or
64 nonconforming use will be lost if the structure is not repaired or restored within six months; or

65 (ii) the property owner has voluntarily demolished a majority of the noncomplying
66 structure or the building that houses the nonconforming use.

67 (c) (i) Notwithstanding a prohibition in its zoning ordinance, a municipality may
68 permit a billboard owner to relocate the billboard within the municipality's boundaries to a
69 location that is mutually acceptable to the municipality and the billboard owner.

70 (ii) If the municipality and billboard owner cannot agree to a mutually acceptable
71 location within ~~[60]~~ 90 days after the owner submits a written request to relocate the billboard,
72 the provisions of Subsection 10-9a-513~~[(1)]~~(2)(a)(iv) apply.

73 (4) (a) Unless the municipality establishes, by ordinance, a uniform presumption of
74 legal existence for nonconforming uses, the property owner shall have the burden of
75 establishing the legal existence of a noncomplying structure or nonconforming use.

76 (b) Any party claiming that a nonconforming use has been abandoned shall have the
77 burden of establishing the abandonment.

78 (c) Abandonment may be presumed to have occurred if:

79 (i) a majority of the primary structure associated with the nonconforming use has been
80 voluntarily demolished without prior written agreement with the municipality regarding an
81 extension of the nonconforming use;

82 (ii) the use has been discontinued for a minimum of one year; or

83 (iii) the primary structure associated with the nonconforming use remains vacant for a
84 period of one year.

85 (d) The property owner may rebut the presumption of abandonment under Subsection
86 (4)(c), and shall have the burden of establishing that any claimed abandonment under
87 Subsection (4)(c) has not in fact occurred.

88 (5) A municipality may terminate the nonconforming status of a school district or
89 charter school use or structure when the property associated with the school district or charter
90 school use or structure ceases to be used for school district or charter school purposes for a
91 period established by ordinance.

92 Section 2. Section **10-9a-513** is amended to read:

93 **10-9a-513. Municipality's acquisition of billboard by eminent domain -- Removal**
94 **without providing compensation -- Limit on allowing nonconforming billboards to be**
95 **rebuilt.**

96 (1) As used in this section:

97 (a) "Clearly visible" means capable of being read without obstruction by an occupant of
98 a vehicle traveling on a street or highway within the visibility area.

99 (b) "Highest allowable height" means:

100 (i) if the height allowed by the municipality, by ordinance or consent, is higher than the
101 height under Subsection (1)(b)(ii), the height allowed by the municipality; or

102 (ii) (A) for a noninterstate billboard:

103 (I) if the height of the previous use or structure is 45 feet or higher, the height of the
104 previous use or structure; or

105 (II) if the height of the previous use or structure is less than 45 feet, the height of the
106 previous use or structure or the height to make the entire advertising content of the billboard
107 clearly visible, whichever is higher, but no higher than 45 feet; and

108 (B) for an interstate billboard:

109 (I) if the height of the previous use or structure is at or above the interstate height, the
110 height of the previous use or structure; or

111 (II) if the height of the previous use or structure is less than the interstate height, the
112 height of the previous use or structure or the height to make the entire advertising content of
113 the billboard clearly visible, whichever is higher, but no higher than the interstate height.

114 (c) "Interstate billboard" means a billboard that is intended to be viewed from a
115 highway that is an interstate.

116 (d) "Interstate height" means a height that is the higher of:

117 (i) 65 feet above the ground; and

118 (ii) 25 feet above the grade of the interstate.

119 (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a
120 street or highway that is not an interstate.

121 (f) "Visibility area" means the area on a street or highway that is:

122 (i) defined at one end by a line extending from the base of the billboard across all lanes
123 of traffic of the street or highway in a plane that is perpendicular to the street or highway; and

124 (ii) defined on the other end by a line extending across all lanes of traffic of the street
125 or highway in a plane that is:

126 (A) perpendicular to the street or highway; and

127 (B) (I) for an interstate billboard, 500 feet from the base of the billboard; or

128 (II) for a noninterstate billboard, 300 feet from the base of the billboard.

129 [(+)] (2) (a) A municipality is considered to have initiated the acquisition of a billboard
130 structure by eminent domain if the municipality prevents a billboard owner from:

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

133 (ii) except as provided in Subsection [(+)] (2)(c), relocating or rebuilding a billboard
134 structure, or taking other measures, to correct a mistake in the placement or erection of a
135 billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding,
136 or other measure is consistent with the intent of that permit;

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

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

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

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

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

143 or

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

148 (C) (I) the billboard owner has submitted a written request under Subsection
149 10-9a-511(3)(c); and

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

152 (b) A billboard owner structurally modifying or upgrading a billboard under Subsection
153 ~~[(1)]~~ (2)(a)(iii) or relocating the billboard under Subsection ~~[(1)]~~ (2)(a)(iv):

154 (i) may~~[, as the owner determines]~~:

155 (A) erect the billboard:

156 (I) to the highest allowable height; and

157 (II) as the owner determines, to an angle that makes the entire advertising content of
158 the billboard clearly visible; and

159 ~~[(F) to a height that is at least the same as, but no higher than, the previous use or~~
160 ~~structure, unless the municipality's ordinances allow or the municipality consents to a higher~~
161 ~~structure; and]~~

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

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

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

168 (c) A municipality's denial of a billboard owner's request to relocate or rebuild a
169 billboard structure, or to take other measures, in order to correct a mistake in the placement or
170 erection of a billboard does not constitute the initiation of acquisition by eminent domain under
171 Subsection ~~[(1)]~~ (2)(a) if the mistake in placement or erection of the billboard is determined by
172 clear and convincing evidence to have resulted from an intentionally false or misleading
173 statement:

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

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

176 ~~[(2)]~~ (3) Notwithstanding Subsection ~~[(1)]~~ (2) and Section 10-9a-512, a municipality
177 may remove a billboard without providing compensation if:

178 (a) the municipality determines:

179 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
180 false or misleading statement in the applicant's application regarding the placement or erection

181 of the billboard; or

182 (ii) by substantial evidence that the billboard:

183 (A) is structurally unsafe;

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

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

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

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

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

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

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

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

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

203 [~~3~~] 4 A municipality may not allow a nonconforming billboard to be rebuilt or
204 replaced by anyone other than its owner or the owner acting through its contractors.

205 [~~4~~] 5 A permit issued, extended, or renewed by a municipality for a billboard
206 remains valid from the time the municipality issues, extends, or renews the permit until 180
207 days after a required state permit is issued for the billboard if:

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

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

211 Section 3. Section **17-27a-510** is amended to read:

212 **17-27a-510. Nonconforming uses and noncomplying structures.**

213 (1) (a) Except as provided in this section, a nonconforming use or a noncomplying
214 structure may be continued by the present or a future property owner.

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

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

219 (2) The legislative body may provide for:

220 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or
221 substitution of nonconforming uses upon the terms and conditions set forth in the land use
222 ordinance;

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

226 (c) the termination of a nonconforming use due to its abandonment.

227 (3) (a) A county may not prohibit the reconstruction or restoration of a noncomplying
228 structure or terminate the nonconforming use of a structure that is involuntarily destroyed in
229 whole or in part due to fire or other calamity unless the structure or use has been abandoned.

230 (b) A county may prohibit the reconstruction or restoration of a noncomplying structure
231 or terminate the nonconforming use of a structure if:

232 (i) the structure is allowed to deteriorate to a condition that the structure is rendered
233 uninhabitable and is not repaired or restored within six months after written notice to the
234 property owner that the structure is uninhabitable and that the noncomplying structure or
235 nonconforming use will be lost if the structure is not repaired or restored within six months; or

236 (ii) the property owner has voluntarily demolished a majority of the noncomplying
237 structure or the building that houses the nonconforming use.

238 (c) (i) Notwithstanding a prohibition in its zoning ordinance, a county may permit a
239 billboard owner to relocate the billboard within the county's unincorporated area to a location
240 that is mutually acceptable to the county and the billboard owner.

241 (ii) If the county and billboard owner cannot agree to a mutually acceptable location
242 within ~~[60]~~ 90 days after the owner submits a written request to relocate the billboard, the

243 provisions of Subsection 17-27a-512~~[(1)]~~(2)(a)(iv) apply.

244 (4) (a) Unless the county establishes, by ordinance, a uniform presumption of legal
245 existence for nonconforming uses, the property owner shall have the burden of establishing the
246 legal existence of a noncomplying structure or nonconforming use.

247 (b) Any party claiming that a nonconforming use has been abandoned shall have the
248 burden of establishing the abandonment.

249 (c) Abandonment may be presumed to have occurred if:

250 (i) a majority of the primary structure associated with the nonconforming use has been
251 voluntarily demolished without prior written agreement with the county regarding an extension
252 of the nonconforming use;

253 (ii) the use has been discontinued for a minimum of one year; or

254 (iii) the primary structure associated with the nonconforming use remains vacant for a
255 period of one year.

256 (d) The property owner may rebut the presumption of abandonment under Subsection
257 (4)(c), and shall have the burden of establishing that any claimed abandonment under
258 Subsection (4)(c) has not in fact occurred.

259 (5) A county may terminate the nonconforming status of a school district or charter
260 school use or structure when the property associated with the school district or charter school
261 use or structure ceases to be used for school district or charter school purposes for a period
262 established by ordinance.

263 Section 4. Section **17-27a-512** is amended to read:

264 **17-27a-512. County's acquisition of billboard by eminent domain -- Removal**
265 **without providing compensation -- Limit on allowing nonconforming billboard to be**
266 **rebuilt.**

267 (1) As used in this section:

268 (a) "Clearly visible" means capable of being read without obstruction by an occupant of
269 a vehicle traveling on a street or highway within the visibility area.

270 (b) "Highest allowable height" means:

271 (i) if the height allowed by the county, by ordinance or consent, is higher than the
272 height under Subsection (1)(b)(ii), the height allowed by the county; or

273 (ii) (A) for a noninterstate billboard:

274 (I) if the height of the previous use or structure is 45 feet or higher, the height of the
275 previous use or structure; or

276 (II) if the height of the previous use or structure is less than 45 feet, the height of the
277 previous use or structure or the height to make the entire advertising content of the billboard
278 clearly visible, whichever is higher, but no higher than 45 feet; and

279 (B) for an interstate billboard:

280 (I) if the height of the previous use or structure is at or above the interstate height, the
281 height of the previous use or structure; or

282 (II) if the height of the previous use or structure is less than the interstate height, the
283 height of the previous use or structure or the height to make the entire advertising content of
284 the billboard clearly visible, whichever is higher, but no higher than the interstate height.

285 (c) "Interstate billboard" means a billboard that is intended to be viewed from a
286 highway that is an interstate.

287 (d) "Interstate height" means a height that is the higher of:

288 (i) 65 feet above the ground; and

289 (ii) 25 feet above the grade of the interstate.

290 (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a
291 street or highway that is not an interstate.

292 (f) "Visibility area" means the area on a street or highway that is:

293 (i) defined at one end by a line extending from the base of the billboard across all lanes
294 of traffic of the street or highway in a plane that is perpendicular to the street or highway; and

295 (ii) defined on the other end by a line extending across all lanes of traffic of the street
296 or highway in a plane that is:

297 (A) perpendicular to the street or highway; and

298 (B) (I) for an interstate billboard, 500 feet from the base of the billboard; or

299 (II) for a noninterstate billboard, 300 feet from the base of the billboard.

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

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

304 (ii) except as provided in Subsection ~~[(+)]~~ (2)(c), relocating or rebuilding a billboard

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

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

309 (iv) relocating a billboard into any commercial, industrial, or manufacturing zone

310 within the unincorporated area of the county, if the relocated billboard is:

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

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

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

314 or

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

319 (C) (I) the billboard owner has submitted a written request under Subsection
320 17-27a-510(3)(c); and

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

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

325 (i) ~~may[, as the owner determines]:~~

326 (A) erect the billboard:

327 (I) to the highest allowable height; and

328 (II) as the owner determines, to an angle that makes the entire advertising content of
329 the billboard clearly visible; and

330 ~~[(f) to a height that is at least the same as, but no higher than, the previous use or~~
331 ~~structure, unless the county's ordinances allow or the county consents to a higher structure;~~
332 ~~and]~~

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

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

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

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

339 (c) A county's denial of a billboard owner's request to relocate or rebuild a billboard
340 structure, or to take other measures, in order to correct a mistake in the placement or erection of
341 a billboard does not constitute the initiation of acquisition by eminent domain under Subsection
342 [~~(1)~~] (2)(a) if the mistake in placement or erection of the billboard is determined by clear and
343 convincing evidence to have resulted from an intentionally false or misleading statement:

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

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

346 [~~(2)~~] (3) Notwithstanding Subsection [~~(1)~~] (2) and Section 17-27a-511, a county may
347 remove a billboard without providing compensation if:

348 (a) the county determines:

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

352 (ii) by substantial evidence that the billboard:

353 (A) is structurally unsafe;

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

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

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

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

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

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

365 (d) following the expiration of the applicable period under Subsection [~~(2)~~] (3)(c) and
366 after providing the owner with reasonable notice of proceedings and an opportunity for a

367 hearing, the county finds:

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

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

373 [~~(3)~~] (4) A county may not allow a nonconforming billboard to be rebuilt or replaced
374 by anyone other than its owner or the owner acting through its contractors.

375 [~~(4)~~] (5) A permit issued, extended, or renewed by a county for a billboard remains
376 valid from the time the county issues, extends, or renews the permit until 180 days after a
377 required state permit is issued for the billboard if:

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

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

381 Section 5. Section **72-7-502** is amended to read:

382 **72-7-502. Definitions.**

383 As used in this part:

384 (1) "Clearly visible" means capable of being read without obstruction by an occupant
385 of a vehicle traveling on the main traveled way of a street or highway within the visibility area.

386 [~~(1)~~] (2) "Commercial or industrial activities" means those activities generally
387 recognized as commercial or industrial by zoning authorities in this state, except that none of
388 the following are commercial or industrial activities:

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

391 (b) transient or temporary activities;

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

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

394 (e) railroad tracks and minor sidings.

395 [~~(2)~~] (3) "Commercial or industrial zone" means only:

396 (a) those areas within the boundaries of cities or towns that are used or reserved for
397 business, commerce, or trade, or zoned as a highway service zone, under enabling state

398 legislation or comprehensive local zoning ordinances or regulations;

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

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

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

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

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

416 [~~(3)~~] (4) "Commercial or industrial zone" does not mean areas zoned for the sole
417 purpose of allowing outdoor advertising.

418 [~~(4)~~] (5) "Comprehensive local zoning ordinances or regulations" means a
419 municipality's comprehensive plan required by Section 10-9a-401, the municipal zoning plan
420 authorized by Section 10-9a-501, and the county master plan authorized by Sections
421 17-27a-401 and 17-27a-501. Property that is rezoned by comprehensive local zoning
422 ordinances or regulations is rebuttably presumed to have not been zoned for the sole purpose of
423 allowing outdoor advertising.

424 [~~(5)~~] (6) "Directional signs" means signs containing information about public places
425 owned or operated by federal, state, or local governments or their agencies, publicly or
426 privately owned natural phenomena, historic, cultural, scientific, educational, or religious sites,
427 and areas of natural scenic beauty or naturally suited for outdoor recreation, that the department
428 considers to be in the interest of the traveling public.

429 ~~[(6)]~~ (7) (a) "Erect" means to construct, build, raise, assemble, place, affix, attach,
430 create, paint, draw, or in any other way bring into being.

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

434 ~~[(7)]~~ (8) "Highway service zone" means a highway service area where the primary use
435 of the land is used or reserved for commercial and roadside services other than outdoor
436 advertising to serve the traveling public.

437 ~~[(8)]~~ (9) "Information center" means an area or site established and maintained at rest
438 areas for the purpose of informing the public of:

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

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

441 ~~[(9)]~~ (10) "Interchange or intersection" means those areas and their approaches where
442 traffic is channeled off or onto an interstate route, excluding the deceleration lanes, acceleration
443 lanes, or feeder systems, from or to another federal, state, county, city, or other route.

444 ~~[(10)]~~ (11) "Maintain" means to allow to exist, subject to the provisions of this chapter.

445 ~~[(11)]~~ (12) "Maintenance" means to repair, refurbish, repaint, or otherwise keep an
446 existing sign structure safe and in a state suitable for use, including signs destroyed by
447 vandalism or an act of God.

448 ~~[(12)]~~ (13) "Main-traveled way" means the through traffic lanes, including auxiliary
449 lanes, acceleration lanes, deceleration lanes, and feeder systems, exclusive of frontage roads
450 and ramps. For a divided highway, there is a separate main-traveled way for the traffic in each
451 direction.

452 ~~[(13)]~~ (14) "Official signs and notices" means signs and notices erected and maintained
453 by public agencies within their territorial or zoning jurisdictions for the purpose of carrying out
454 official duties or responsibilities in accordance with direction or authorization contained in
455 federal, state, or local law.

456 ~~[(14)]~~ (15) "Off-premise signs" means signs located in areas zoned industrial,
457 commercial, or H-1 and in areas determined by the department to be unzoned industrial or
458 commercial.

459 ~~[(15)]~~ (16) "On-premise signs" means signs used to advertise the major activities

460 conducted on the property where the sign is located.

461 ~~[(16)]~~ (17) "Outdoor advertising" means any outdoor advertising structure or outdoor
462 structure used in combination with an outdoor advertising sign or outdoor sign.

463 ~~[(17)]~~ (18) "Outdoor advertising corridor" means a strip of land 350 feet wide,
464 measured perpendicular from the edge of a controlled highway right-of-way.

465 ~~[(18)]~~ (19) "Outdoor advertising structure" or "outdoor structure" means any sign
466 structure, including any necessary devices, supports, appurtenances, and lighting that is part of
467 or supports an outdoor sign.

468 ~~[(19)]~~ (20) "Point of widening" means the point of the gore or the point where the
469 intersecting lane begins to parallel the other lanes of traffic, but the point of widening may
470 never be greater than 2,640 feet from the center line of the intersecting highway of the
471 interchange or intersection at grade.

472 ~~[(20)]~~ (21) "Public assembly facility" means a convention facility as defined under
473 Section 59-12-602 and that:

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

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

478 ~~[(21)]~~ (22) "Relocation" includes the removal of a sign from one situs together with the
479 erection of a new sign upon another situs in a commercial or industrial zoned area as a
480 substitute.

481 ~~[(22)]~~ (23) "Relocation and replacement" means allowing all outdoor advertising signs
482 or permits the right to maintain outdoor advertising along the interstate, federal aid primary
483 highway existing as of June 1, 1991, and national highway system highways to be maintained
484 in a commercial or industrial zoned area to accommodate the displacement, remodeling, or
485 widening of the highway systems.

486 ~~[(23)]~~ (24) "Remodel" means the upgrading, changing, alteration, refurbishment,
487 modification, or complete substitution of a new outdoor advertising structure for one permitted
488 pursuant to this part and that is located in a commercial or industrial area.

489 ~~[(24)]~~ (25) "Rest area" means an area or site established and maintained within or
490 adjacent to the right-of-way by or under public supervision or control for the convenience of

491 the traveling public.

492 ~~[(25)]~~ (26) "Scenic or natural area" means an area determined by the department to
493 have aesthetic value.

494 ~~[(26)]~~ (27) "Traveled way" means that portion of the roadway used for the movement
495 of vehicles, exclusive of shoulders and auxiliary lanes.

496 ~~[(27)]~~ (28) (a) "Unzoned commercial or industrial area" means:

497 (i) those areas not zoned by state law or local law, regulation, or ordinance that are
498 occupied by one or more industrial or commercial activities other than outdoor advertising
499 signs;

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

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

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

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

512 ~~[(28)]~~ (29) "Urbanized county" means a county with a population of at least 125,000
513 persons.

514 (30) "Visibility area" means the area on a street or highway that is:

515 (a) defined at one end by a line extending from the base of the billboard across all lanes
516 of traffic of the street or highway in a plane that is perpendicular to the street or highway; and

517 (b) defined on the other end by a line extending across all lanes of traffic of the street
518 or highway in a plane that is:

519 (i) perpendicular to the street or highway; and

520 (ii) 500 feet from the base of the billboard.

521 Section 6. Section **72-7-510.5** is amended to read:

522 **72-7-510.5. Height adjustments for outdoor advertising signs.**

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

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

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

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

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

541 (4) (a) The height adjusted sign:

542 (i) may be erected:

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

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

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

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

H.B. 141 2nd Sub. (Gray) - 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.
