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BILLBOARD RESTRICTIONS AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David P. Hinkins

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to governmental entities' regulation of billboards.

Highlighted Provisions:

This bill:

▶ prohibits a municipality or county from taking certain actions to prevent a person from building or maintaining a billboard;

▶ provides that a municipality's or county's improper action preventing a billboard owner from building or maintaining a billboard is void;

▶ prevents a governmental entity from prohibiting the remodeling of an outdoor advertising structure;

▶ requires a governmental entity to provide notice of a proposed change in the regulation of billboards;

▶ addresses the information a municipality or county may require of an applicant for a billboard permit;

▶ extends the expiration of certain municipal and county billboard building permits and billboard bank credits;

▶ establishes a cause of action against a governmental entity that violates certain provisions of this bill; and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **10-9a-213**, as enacted by Laws of Utah 2019, Chapter 235

34 **10-9a-512**, as last amended by Laws of Utah 2018, Chapter 239

35 **10-9a-513**, as last amended by Laws of Utah 2018, Chapter 239

36 **17-27a-213**, as enacted by Laws of Utah 2019, Chapter 235

37 **17-27a-511**, as last amended by Laws of Utah 2018, Chapter 239

38 **17-27a-512**, as last amended by Laws of Utah 2018, Chapter 239

39 **63G-7-301**, as last amended by Laws of Utah 2020, Chapters 288, 338, and 365

40 **72-7-506**, as last amended by Laws of Utah 2008, Chapter 382

41 **72-7-510**, as last amended by Laws of Utah 2008, Chapter 3

42 **72-7-510.5**, as last amended by Laws of Utah 2009, Chapter 170

43 **72-7-513**, as last amended by Laws of Utah 1999, Chapter 72



44
45 *Be it enacted by the Legislature of the state of Utah:*

46 Section 1. Section **10-9a-213** is amended to read:

47 **10-9a-213. Hearing and notice procedures for modifying sign regulations.**

48 (1) (a) Prior to any hearing or public meeting to consider a proposed land use
49 regulation or land use application modifying sign regulations for an illuminated sign within any
50 unified commercial development, as defined in Section **72-7-504.6**, or within any planned unit
51 development, a municipality shall give written notice of the proposed illuminated sign to:

- 52 (i) each property owner within a 500 foot radius of the sign site;
- 53 (ii) a municipality or county within a 500 foot radius of the sign site; and
- 54 (iii) any outdoor advertising permit holder described in Subsection **72-7-506(2)(~~b~~)(a)**.

55 (b) The notice described in Subsection (1)(a) shall include the schedule of public
56 meetings at which the proposed changes to land use regulations or land use application will be
57 discussed.

58 (2) A municipality shall require the property owner or applicant to commence in good

59 faith the construction of the commercial or industrial development within one year after the
60 installation of the illuminated sign.

61 Section 2. Section **10-9a-512** is amended to read:

62 **10-9a-512. Termination of a billboard and associated rights -- Limitation on**
63 **municipal power to prevent billboards.**

64 (1) A municipality may only require termination of a billboard and associated rights
65 through:

- 66 (a) gift;
- 67 (b) purchase;
- 68 (c) agreement;
- 69 (d) exchange; or
- 70 (e) eminent domain.

71 (2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent
72 of the billboard owner.

73 (3) A termination under Subsection (1)(e) requires the municipality to:

- 74 (a) acquire the billboard and associated rights through eminent domain, in accordance
75 with Title 78B, Chapter 6, Part 5, Eminent Domain, except as provided in Subsections
76 **10-9a-513**(2)(f) and (h); and

77 (b) after acquiring the rights under Subsection (3)(a), terminate the billboard and
78 associated rights.

79 (4) (a) Except as provided in Subsections (1) through (3), a municipality may not,
80 directly or indirectly, prevent a person from building or maintaining a billboard by:

81 (i) incentivizing, rewarding, compensating, encouraging, or requiring a landowner or
82 developer of land to:

83 (A) discontinue, terminate, limit, or not renew a billboard owner's right to erect or
84 maintain a billboard on the property; or

85 (B) refuse to enter into a future relationship with a billboard owner; or

86 (ii) as a condition of obtaining a permit necessary to build or maintain a billboard,
87 requiring the landowner or developer of land to take an action unrelated to the billboard.

88 (b) A municipality's action in violation of Subsection (4)(a) is void.

89 (5) (a) In a conveyance of real property from a municipality to another person, the

90 municipality may not restrict the purchaser's ability to place a billboard on the real property.

91 (b) A restriction described in Subsection (5)(a) is void.

92 (6) A municipality that violates Subsection (4) or (5) on or after May 5, 2021, is liable
93 to an injured person for:

94 (a) actual damages, or \$350,000, whichever is greater; and

95 (b) attorney fees and costs that result from the violation.

96 Section 3. Section **10-9a-513** is amended to read:

97 **10-9a-513. Municipality's acquisition of billboard by eminent domain -- Removal**
98 **without providing compensation -- Limit on allowing nonconforming billboards to be**
99 **rebuilt or replaced -- Validity of municipal permit after issuance of state permit --**
100 **Billboard permit application requirements.**

101 (1) As used in this section:

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

104 (b) "Highest allowable height" means:

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

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

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

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

113 (B) for an interstate billboard:

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

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

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

- 121 (d) "Interstate height" means a height that is the higher of:
- 122 (i) 65 feet above the ground; and
- 123 (ii) 25 feet above the grade of the interstate.
- 124 (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a
- 125 street or highway that is not an interstate.
- 126 (f) "Visibility area" means the area on a street or highway that is:
- 127 (i) defined at one end by a line extending from the base of the billboard across all lanes
- 128 of traffic of the street or highway in a plane that is perpendicular to the street or highway; and
- 129 (ii) defined on the other end by a line extending across all lanes of traffic of the street
- 130 or highway in a plane that is:
- 131 (A) perpendicular to the street or highway; and
- 132 (B) (I) for an interstate billboard, 500 feet from the base of the billboard; or
- 133 (II) for a noninterstate billboard, 300 feet from the base of the billboard.
- 134 (2) (a) If a billboard owner makes a written request to the municipality with
- 135 jurisdiction over the billboard to take an action described in Subsection (2)(b), the billboard
- 136 owner may take the requested action, without further municipal land use approval, 180 days
- 137 after the day on which the billboard owner makes the written request, unless within the 180-day
- 138 period the municipality:
- 139 (i) in an attempt to acquire the billboard and associated rights through eminent domain
- 140 under Section 10-9a-512 for the purpose of terminating the billboard and associated rights:
- 141 (A) completes the procedural steps required under Title 78B, Chapter 6, Part 5,
- 142 Eminent Domain, before the filing of an eminent domain action; and
- 143 (B) files an eminent domain action in accordance with Title 78B, Chapter 6, Part 5,
- 144 Eminent Domain;
- 145 (ii) denies the request in accordance with Subsection (2)(d); or
- 146 (iii) requires the billboard owner to remove the billboard in accordance with
- 147 Subsection (3).
- 148 (b) Subject to Subsection (2)(a), a billboard owner may:
- 149 ~~[(i) rebuild, maintain, repair, or restore a billboard structure that is damaged by~~
- 150 ~~casualty, an act of God, or vandalism;]~~
- 151 ~~[(ii)]~~ (i) relocate or rebuild a billboard structure, or take another measure, to correct a

152 mistake in the placement or erection of a billboard for which the municipality issued a permit,
153 if the proposed relocation, rebuilding, or other measure is consistent with the intent of that
154 permit;

155 ~~[(iii)]~~ (ii) structurally modify or upgrade a billboard;

156 ~~[(iv)]~~ (iii) relocate a billboard into any commercial, industrial, or manufacturing zone
157 within the municipality's boundaries, if the relocated billboard is:

158 (A) within 5,280 feet of the billboard's previous location; and

159 (B) no closer than 300 feet from an off-premise sign existing on the same side of the
160 street or highway, or if the street or highway is an interstate or limited access highway that is
161 subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed
162 under that act between the relocated billboard and an off-premise sign existing on the same side
163 of the interstate or limited access highway; or

164 ~~[(v)]~~ (iv) make one or more of the following modifications, as the billboard owner
165 determines, to a billboard that is structurally altered by modification or upgrade under
166 Subsection (2)(b)~~[(iii)]~~(ii), by relocation under Subsection (2)(b)~~[(iv)]~~(iii), or by any
167 combination of these alterations:

168 (A) erect the billboard:

169 (I) to the highest allowable height; and

170 (II) as the owner determines, to an angle that makes the entire advertising content of
171 the billboard clearly visible; or

172 (B) install a sign face on the billboard that is at least the same size as, but no larger
173 than, the sign face on the billboard before the billboard's relocation.

174 (c) A modification under Subsection (2)(b)~~[(v)]~~(iv) shall comply with Title 72, Chapter
175 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

176 (d) A municipality may deny a billboard owner's request to relocate or rebuild a
177 billboard structure, or to take other measures, in order to correct a mistake in the placement or
178 erection of a billboard without acquiring the billboard and associated rights through eminent
179 domain under Section [10-9a-512](#), if the mistake in placement or erection of the billboard is
180 determined by clear and convincing evidence, in a proceeding that protects the billboard
181 owner's due process rights, to have resulted from an intentionally false or misleading statement:

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

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

184 (e) A municipality that acquires a billboard and associated rights through eminent
185 domain under Section 10-9a-512 shall pay just compensation to the billboard owner in an
186 amount that is:

187 (i) the value of the existing billboard at a fair market capitalization rate, based on
188 actual annual revenue, less any annual rent expense;

189 (ii) the value of any other right associated with the billboard;

190 (iii) the cost of the sign structure; and

191 (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the
192 billboard owner's interest is a part.

193 (f) If a municipality commences an eminent domain action under Subsection (2)(a)(i):

194 (i) the provisions of Section 78B-6-510 do not apply; and

195 (ii) the municipality may not take possession of the billboard or the billboard's
196 associated rights until:

197 (A) completion of all appeals of a judgment allowing the municipality to acquire the
198 billboard and associated rights; and

199 (B) the billboard owner receives payment of just compensation, described in
200 Subsection (2)(e).

201 (g) Unless the eminent domain action is dismissed under Subsection (2)(h)(ii), a
202 billboard owner may proceed, without further municipal land use approval, to take an action
203 requested under Subsection (2)(a), if the municipality's eminent domain action commenced
204 under Subsection (2)(a)(i) is dismissed without an order allowing the municipality to acquire
205 the billboard and associated rights.

206 (h) (i) A billboard owner may withdraw a request made under Subsection (2)(a) at any
207 time before the municipality takes possession of the billboard or the billboard's associated
208 rights in accordance with Subsection (2)(f)(ii).

209 (ii) If a billboard owner withdraws a request in accordance with Subsection (2)(h)(i),
210 the court shall dismiss the municipality's eminent domain action to acquire the billboard or
211 associated rights.

212 (3) Notwithstanding Section 10-9a-512, a municipality may require the owner of a
213 billboard to remove the billboard without acquiring the billboard and associated rights through

214 eminent domain if:

215 (a) the municipality determines:

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

217 false or misleading statement in the applicant's application regarding the placement or erection

218 of the billboard; or

219 (ii) by substantial evidence that the billboard:

220 (A) is structurally unsafe;

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

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

223 (b) the municipality notifies the billboard owner in writing that the billboard owner's

224 billboard meets one or more of the conditions listed in Subsections (3)(a)(i) and (ii);

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

226 (i) 180 days after the day on which the billboard owner receives written notice under

227 Subsection (3)(b); or

228 (ii) if the condition forming the basis of the municipality's intention to remove the

229 billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary

230 because of a natural disaster, after the day on which the billboard owner receives written notice

231 under Subsection (3)(b); and

232 (d) following the expiration of the applicable period under Subsection (3)(c) and after

233 providing the billboard owner with reasonable notice of proceedings and an opportunity for a

234 hearing, the municipality finds:

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

236 a false or misleading statement in the application regarding the placement or erection of the

237 billboard; or

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

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

240 (4) A municipality may not allow a nonconforming billboard to be rebuilt or replaced

241 by anyone other than the billboard's owner, or the billboard's owner acting through a contractor,

242 within 500 feet of the nonconforming location.

243 (5) A permit that a municipality issues, extends, or renews for a billboard remains valid

244 beginning on the day on which the municipality issues, extends, or renews the permit and

245 ending 180 days after the day on which a required state permit is issued for the billboard if:

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

247 (b) an application for the state permit is filed within 30 days after the day on which the
248 municipality issues, extends, or renews a permit for the billboard.

249 (6) A municipality may not require a billboard owner to obtain a permit to:

250 (a) perform any type of maintenance on an existing billboard unless the maintenance
251 requires structural engineering; or

252 (b) replace a digital or static face on an existing billboard after the billboard owner
253 demonstrates that the billboard structure has been engineered to accommodate the digital or
254 static billboard face.

255 (7) A municipality may not prevent a billboard owner from rebuilding, maintaining,
256 repairing, or restoring a billboard structure that is damaged by casualty, an act of God, or
257 vandalism.

258 (8) (a) A municipality may not require an applicant for a billboard permit to provide a
259 copy of any agreement between the applicant and the owner of the property where the applicant
260 proposes to place the billboard.

261 (b) A municipality may require an applicant for a billboard permit to attest to the
262 applicant's right to place and maintain a billboard on the property where the applicant proposes
263 to place the billboard.

264 (9) A municipal billboard building permit or billboard bank credit that expires during
265 the time period beginning March 15, 2020, and ending June 30, 2021, is extended to December
266 31, 2022.

267 Section 4. Section **17-27a-213** is amended to read:

268 **17-27a-213. Hearing and notice procedures for modifying sign regulations.**

269 (1) (a) Prior to any hearing or public meeting to consider a proposed land use
270 regulation or land use application modifying sign regulations for an illuminated sign within any
271 unified commercial development, as defined in Section [72-7-504.6](#), or within any planned unit
272 development, a county shall give written notice of the proposed illuminated sign to:

273 (i) each property owner within a 500 foot radius of the sign site;

274 (ii) a municipality or county within a 500 foot radius of the sign site; and

275 (iii) any outdoor advertising permit holder described in Subsection [72-7-506\(2\)\(b\)](#)(a).

276 (b) The notice described in Subsection (1)(a) shall include the schedule of public
277 meetings at which the proposed changes to land use regulations or land use application will be
278 discussed.

279 (2) A county shall require the property owner or applicant to commence in good faith
280 the construction of the commercial or industrial development within one year after the
281 installation of the illuminated sign.

282 Section 5. Section 17-27a-511 is amended to read:

283 **17-27a-511. Termination of a billboard and associated rights -- Limitation on**
284 **county power to prevent billboards.**

285 (1) A county may only require termination of a billboard and associated rights through:

- 286 (a) gift;
- 287 (b) purchase;
- 288 (c) agreement;
- 289 (d) exchange; or
- 290 (e) eminent domain.

291 (2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent
292 of the billboard owner.

293 (3) A termination under Subsection (1)(e) requires the county to:

- 294 (a) acquire the billboard and associated rights through eminent domain, in accordance
295 with Title 78B, Chapter 6, Part 5, Eminent Domain, except as provided in Subsections
296 17-27a-512(2)(f) and (h); and

297 (b) after acquiring the rights under Subsection (3)(a), terminate the billboard and
298 associated rights.

299 (4) (a) Except as provided in Subsections (1) through (3), a county may not, directly or
300 indirectly, prevent a person from building or maintaining a billboard by:

301 (i) incentivizing, rewarding, compensating, encouraging, or requiring a landowner or
302 developer of land to:

303 (A) discontinue, terminate, limit, or not renew a billboard owner's right to erect or
304 maintain a billboard on the property; or

305 (B) refuse to enter into a future relationship with a billboard owner; or

306 (ii) as a condition of obtaining a permit necessary to build or maintain a billboard,

307 requiring the landowner or developer of land to take an action unrelated to the billboard.

308 (b) A county's action in violation of Subsection (4)(a) is void.

309 (5) (a) In a conveyance of real property from a county to another person, the county
310 may not restrict the purchaser's ability to place a billboard on the real property.

311 (b) A restriction described in Subsection (5)(a) is void.

312 (6) A county that violates Subsection (4) or (5) on or after May 5, 2021, is liable to an
313 injured person for:

314 (a) actual damages, or \$350,000, whichever is greater; and

315 (b) attorney fees and costs that result from the violation.

316 Section 6. Section **17-27a-512** is amended to read:

317 **17-27a-512. County's acquisition of billboard by eminent domain -- Removal**
318 **without providing compensation -- Limit on allowing nonconforming billboard to be**
319 **rebuilt or replaced -- Validity of county permit after issuance of state permit -- Billboard**
320 **permit application requirements.**

321 (1) As used in this section:

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

324 (b) "Highest allowable height" means:

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

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

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

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

333 (B) for an interstate billboard:

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

336 (II) if the height of the previous use or structure is less than the interstate height, the
337 height of the previous use or structure or the height to make the entire advertising content of

338 the billboard clearly visible, whichever is higher, but no higher than the interstate height.

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

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

342 (i) 65 feet above the ground; and

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

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

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

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

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

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

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

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

354 (2) (a) If a billboard owner makes a written request to the county with jurisdiction over
355 the billboard to take an action described in Subsection (2)(b), the billboard owner may take the
356 requested action, without further county land use approval, 180 days after the day on which the
357 billboard owner makes the written request, unless within the 180-day period the county:

358 (i) in an attempt to acquire the billboard and associated rights through eminent domain
359 under Section [17-27a-511](#) for the purpose of terminating the billboard and associated rights:

360 (A) completes the procedural steps required under Title 78B, Chapter 6, Part 5,
361 Eminent Domain, before the filing of an eminent domain action; and

362 (B) files an eminent domain action in accordance with Title 78B, Chapter 6, Part 5,
363 Eminent Domain;

364 (ii) denies the request in accordance with Subsection (2)(d); or

365 (iii) requires the billboard owner to remove the billboard in accordance with
366 Subsection (3).

367 (b) Subject to Subsection (2)(a), a billboard owner may:

368 [~~(i) rebuild, maintain, repair, or restore a billboard structure that is damaged by~~

369 casualty, an act of God, or vandalism;]

370 ~~[(ii)]~~ (i) relocate or rebuild a billboard structure, or take another measure, to correct a
371 mistake in the placement or erection of a billboard for which the county issued a permit, if the
372 proposed relocation, rebuilding, or other measure is consistent with the intent of that permit;

373 ~~[(iii)]~~ (ii) structurally modify or upgrade a billboard;

374 ~~[(iv)]~~ (iii) relocate a billboard into any commercial, industrial, or manufacturing zone
375 within the unincorporated area of the county, if the relocated billboard is:

376 (A) within 5,280 feet of the billboard's previous location; and

377 (B) no closer than 300 feet from an off-premise sign existing on the same side of the
378 street or highway, or if the street or highway is an interstate or limited access highway that is
379 subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed
380 under that act between the relocated billboard and an off-premise sign existing on the same side
381 of the interstate or limited access highway; or

382 ~~[(v)]~~ (iv) make one or more of the following modifications, as the billboard owner
383 determines, to a billboard that is structurally altered by modification or upgrade under
384 Subsection (2)(b)~~[(iii)]~~(ii), by relocation under Subsection (2)(b)~~[(iv)]~~(iii), or by any
385 combination of these alterations:

386 (A) erect the billboard:

387 (I) to the highest allowable height; and

388 (II) as the owner determines, to an angle that makes the entire advertising content of
389 the billboard clearly visible; or

390 (B) install a sign face on the billboard that is at least the same size as, but no larger
391 than, the sign face on the billboard before the billboard's relocation.

392 (c) A modification under Subsection (2)(b)~~[(v)]~~(iv) shall comply with Title 72, Chapter
393 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

394 (d) A county may deny a billboard owner's request to relocate or rebuild a billboard
395 structure, or to take other measures, in order to correct a mistake in the placement or erection of
396 a billboard without acquiring the billboard and associated rights through eminent domain under
397 Section 17-27a-511, if the mistake in placement or erection of the billboard is determined by
398 clear and convincing evidence, in a proceeding that protects the billboard owner's due process
399 rights, to have resulted from an intentionally false or misleading statement:

- 400 (i) by the billboard applicant in the application; and
- 401 (ii) regarding the placement or erection of the billboard.
- 402 (e) A county that acquires a billboard and associated rights through eminent domain
- 403 under Section 17-27a-511 shall pay just compensation to the billboard owner in an amount that
- 404 is:
 - 405 (i) the value of the existing billboard at a fair market capitalization rate, based on
 - 406 actual annual revenue, less any annual rent expense;
 - 407 (ii) the value of any other right associated with the billboard;
 - 408 (iii) the cost of the sign structure; and
 - 409 (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the
 - 410 billboard owner's interest is a part.
- 411 (f) If a county commences an eminent domain action under Subsection (2)(a)(i):
 - 412 (i) the provisions of Section 78B-6-510 do not apply; and
 - 413 (ii) the county may not take possession of the billboard or the billboard's associated
 - 414 rights until:
 - 415 (A) completion of all appeals of a judgment allowing the county to acquire the
 - 416 billboard and associated rights; and
 - 417 (B) the billboard owner receives payment of just compensation, described in
 - 418 Subsection (2)(e).
 - 419 (g) Unless the eminent domain action is dismissed under Subsection (2)(h)(ii), a
 - 420 billboard owner may proceed, without further county land use approval, to take an action
 - 421 requested under Subsection (2)(a), if the county's eminent domain action commenced under
 - 422 Subsection (2)(a)(i) is dismissed without an order allowing the county to acquire the billboard
 - 423 and associated rights.
- 424 (h) (i) A billboard owner may withdraw a request made under Subsection (2)(a) at any
- 425 time before the county takes possession of the billboard or the billboard's associated rights in
- 426 accordance with Subsection (2)(f)(ii).
 - 427 (ii) If a billboard owner withdraws a request in accordance with Subsection (2)(h)(i),
 - 428 the court shall dismiss the county's eminent domain action to acquire the billboard or
 - 429 associated rights.
- 430 (3) Notwithstanding Section 17-27a-511, a county may require an owner of a billboard

431 to remove the billboard without acquiring a billboard and associated rights through eminent
432 domain if:

433 (a) the county determines:

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

437 (ii) by substantial evidence that the billboard:

438 (A) is structurally unsafe;

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

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

441 (b) the county notifies the billboard owner in writing that the billboard owner's
442 billboard meets one or more of the conditions listed in Subsections (3)(a)(i) and (ii);

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

444 (i) 180 days after the day on which the billboard owner receives written notice under
445 Subsection (3)(b); or

446 (ii) if the condition forming the basis of the county's intention to remove the billboard
447 is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a
448 natural disaster, after the day on which the billboard owner receives written notice under
449 Subsection (3)(b); and

450 (d) following the expiration of the applicable period under Subsection (3)(c) and after
451 providing the billboard owner with reasonable notice of proceedings and an opportunity for a
452 hearing, the county finds:

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

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

458 (4) A county may not allow a nonconforming billboard to be rebuilt or replaced by
459 anyone other than the billboard's owner, or the billboard's owner acting through a contractor,
460 within 500 feet of the nonconforming location.

461 (5) A permit that a county issues, extends, or renews for a billboard remains valid

462 beginning on the day on which the county issues, extends, or renews the permit and ending 180
463 days after the day on which a required state permit is issued for the billboard if:

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

465 (b) an application for the state permit is filed within 30 days after the day on which the
466 county issues, extends, or renews a permit for the billboard.

467 (6) A county may not require a billboard owner to obtain a permit to:

468 (a) perform any type of maintenance on an existing billboard unless the maintenance
469 requires structural engineering; or

470 (b) replace a digital or static face on an existing billboard after the billboard owner
471 demonstrates that the billboard structure has been engineered to accommodate the digital or
472 static billboard face.

473 (7) A county may not prevent a billboard owner from rebuilding, maintaining,
474 repairing, or restoring a billboard structure that is damaged by casualty, an act of God, or
475 vandalism.

476 (8) (a) A county may not require an applicant for a billboard permit to provide a copy
477 of any agreement between the applicant and the owner of the property where the applicant
478 proposes to place the billboard.

479 (b) A county may require an applicant for a billboard permit to attest to the applicant's
480 right to place and maintain a billboard on the property where the applicant proposes to place
481 the billboard.

482 (9) A county billboard building permit or billboard bank credit that expires during the
483 time period beginning March 15, 2020, and ending June 30, 2021, is extended to December 31,
484 2022.

485 Section 7. Section **63G-7-301** is amended to read:

486 **63G-7-301. Waivers of immunity.**

487 (1) (a) Immunity from suit of each governmental entity is waived as to any contractual
488 obligation.

489 (b) Actions arising out of contractual rights or obligations are not subject to the
490 requirements of Section [63G-7-401](#), [63G-7-402](#), [63G-7-403](#), or [63G-7-601](#).

491 (c) The Division of Water Resources is not liable for failure to deliver water from a
492 reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development

493 Act, if the failure to deliver the contractual amount of water is due to drought, other natural
494 condition, or safety condition that causes a deficiency in the amount of available water.

495 (2) Immunity from suit of each governmental entity is waived:

496 (a) as to any action brought to recover, obtain possession of, or quiet title to real or
497 personal property;

498 (b) as to any action brought to foreclose mortgages or other liens on real or personal
499 property, to determine any adverse claim on real or personal property, or to obtain an
500 adjudication about any mortgage or other lien that the governmental entity may have or claim
501 on real or personal property;

502 (c) as to any action based on the negligent destruction, damage, or loss of goods,
503 merchandise, or other property while it is in the possession of any governmental entity or
504 employee, if the property was seized for the purpose of forfeiture under any provision of state
505 law;

506 (d) subject to Subsection 63G-7-302(1), as to any action brought under the authority of
507 Utah Constitution, Article I, Section 22, for the recovery of compensation from the
508 governmental entity when the governmental entity has taken or damaged private property for
509 public uses without just compensation;

510 (e) subject to Subsection 63G-7-302(2), as to any action brought to recover attorney
511 fees under Sections 63G-2-405 and 63G-2-802;

512 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees
513 Act;

514 (g) as to any action brought to obtain relief from a land use regulation that imposes a
515 substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious
516 Land Use Act;

517 (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

518 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,
519 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

520 (ii) any defective or dangerous condition of a public building, structure, dam, reservoir,
521 or other public improvement;

522 (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury
523 proximately caused by a negligent act or omission of an employee committed within the scope

524 of employment; ~~and~~

525 (j) notwithstanding Subsection [63G-7-101\(4\)](#), as to a claim for an injury resulting from
526 a sexual battery, as provided in Section [76-9-702.1](#), committed:

527 (i) against a student of a public elementary or secondary school, including a charter
528 school; and

529 (ii) by an employee of a public elementary or secondary school or charter school who:

530 (A) at the time of the sexual battery, held a position of special trust, as defined in
531 Section [76-5-404.1](#), with respect to the student;

532 (B) is criminally charged in connection with the sexual battery; and

533 (C) the public elementary or secondary school or charter school knew or in the exercise
534 of reasonable care should have known, at the time of the employee's hiring, to be a sex
535 offender, as defined in Section [77-41-102](#), required to register under Title 77, Chapter 41, Sex
536 and Kidnap Offender Registry, whose status as a sex offender would have been revealed in a
537 background check under Section [53G-11-402](#)~~[-]~~; and

538 (k) as to any action brought under Subsection [10-9a-512\(4\)](#) or (5), [17-27a-511\(4\)](#) or
539 (5), or [72-7-506\(2\)](#) for monetary relief and attorney fees.

540 (3) (a) As used in this Subsection (3):

541 (i) "Code of conduct" means a code of conduct that:

542 (A) is not less stringent than a model code of conduct, created by the State Board of
543 Education, establishing a professional standard of care for preventing the conduct described in
544 Subsection (3)(a)(i)(D);

545 (B) is adopted by the applicable local education governing body;

546 (C) regulates behavior of a school employee toward a student; and

547 (D) includes a prohibition against any sexual conduct between an employee and a
548 student and against the employee and student sharing any sexually explicit or lewd
549 communication, image, or photograph.

550 (ii) "Local education agency" means:

551 (A) a school district;

552 (B) a charter school; or

553 (C) the Utah Schools for the Deaf and the Blind.

554 (iii) "Local education governing board" means:

- 555 (A) for a school district, the local school board;
- 556 (B) for a charter school, the charter school governing board; or
- 557 (C) for the Utah Schools for the Deaf and the Blind, the state board.
- 558 (iv) "Public school" means a public elementary or secondary school.
- 559 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).
- 560 (vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering
- 561 the term "child" in that section to include an individual under age 18.
- 562 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
- 563 claim against a local education agency for an injury resulting from a sexual battery or sexual
- 564 abuse committed against a student of a public school by a paid employee of the public school
- 565 who is criminally charged in connection with the sexual battery or sexual abuse, unless:
- 566 (i) at the time of the sexual battery or sexual abuse, the public school was subject to a
- 567 code of conduct; and
- 568 (ii) before the sexual battery or sexual abuse occurred, the public school had:
- 569 (A) provided training on the code of conduct to the employee; and
- 570 (B) required the employee to sign a statement acknowledging that the employee has
- 571 read and understands the code of conduct.
- 572 (4) (a) As used in this Subsection (4):
- 573 (i) "Higher education institution" means an institution included within the state system
- 574 of higher education under Section 53B-1-102.
- 575 (ii) "Policy governing behavior" means a policy adopted by a higher education
- 576 institution or the Utah Board of Higher Education that:
- 577 (A) establishes a professional standard of care for preventing the conduct described in
- 578 Subsections (4)(a)(ii)(C) and (D);
- 579 (B) regulates behavior of a special trust employee toward a subordinate student;
- 580 (C) includes a prohibition against any sexual conduct between a special trust employee
- 581 and a subordinate student; and
- 582 (D) includes a prohibition against a special trust employee and subordinate student
- 583 sharing any sexually explicit or lewd communication, image, or photograph.
- 584 (iii) "Sexual battery" means the offense described in Section 76-9-702.1.
- 585 (iv) "Special trust employee" means an employee of a higher education institution who

586 is in a position of special trust, as defined in Section 76-5-404.1, with a higher education
587 student.

588 (v) "Subordinate student" means a student:

589 (A) of a higher education institution; and

590 (B) whose educational opportunities could be adversely impacted by a special trust
591 employee.

592 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
593 claim for an injury resulting from a sexual battery committed against a subordinate student by a
594 special trust employee, unless:

595 (i) the institution proves that the special trust employee's behavior that otherwise would
596 constitute a sexual battery was:

597 (A) with a subordinate student who was at least 18 years old at the time of the
598 behavior; and

599 (B) with the student's consent; or

600 (ii) (A) at the time of the sexual battery, the higher education institution was subject to
601 a policy governing behavior; and

602 (B) before the sexual battery occurred, the higher education institution had taken steps
603 to implement and enforce the policy governing behavior.

604 Section 8. Section 72-7-506 is amended to read:

605 **72-7-506. Advertising -- Regulatory power of department -- Notice requirements.**

606 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
607 department may make rules no more restrictive than this chapter to:

608 (a) control the erection and maintenance of outdoor advertising along the interstate and
609 primary highway systems;

610 (b) provide for enforcement of this chapter;

611 (c) establish the form, content, and submittal of applications to erect outdoor
612 advertising; and

613 (d) establish administrative procedures.

614 [~~(2) In addition to all other statutory notice requirements:~~]

615 [~~(a) the department shall give reasonably timely written notice to all outdoor
616 advertising permit holders of any changes or proposed changes in administrative rules made~~]

617 under authority of this part; and]

618 ~~[(b) any county, municipality, or governmental entity shall, upon written request, give~~
619 ~~reasonably timely written notice to all outdoor advertising permit holders within its jurisdiction~~
620 ~~of any change or proposed change to the outdoor or off-premise advertising provisions of its~~
621 ~~zoning provisions, codes, or ordinances.]~~

622 (2) (a) In addition to all other statutory notice requirements, a governmental entity that
623 intends to enact or change the governmental entity's rule, code, ordinance, statute, policy, or
624 other requirement that affects or will affect outdoor advertising or an off-premise sign shall
625 provide to each outdoor advertising permit holder within the government entity's jurisdiction:

626 (i) reasonably timely written notice of the proposal and opportunities for input;

627 (ii) an opportunity for the permit holder to provide meaningful input before each of the
628 following events:

629 (A) the governmental entity considers the proposed change at a public meeting for the
630 first time; and

631 (B) the governmental entity takes any action on the proposed change, including final
632 action, at a public meeting; and

633 (iii) notice of any public meeting at which the proposed change will be discussed.

634 (b) If a governmental entity fails to comply with Subsection (2)(a):

635 (i) the governmental entity's action adopting the change is void; and

636 (ii) the governmental entity is liable for a permit holder's damages resulting from the
637 change and reasonable attorney fees.

638 Section 9. Section **72-7-510** is amended to read:

639 **72-7-510. Existing outdoor advertising not in conformity with part -- Procedure**
640 **-- Eminent domain -- Compensation -- Relocation.**

641 (1) As used in this section, "nonconforming sign" means a sign that has been erected in
642 a zone or area other than commercial or industrial or where outdoor advertising is not
643 permitted under this part.

644 (2) (a) The department may acquire by gift, purchase, agreement, exchange, or eminent
645 domain, any existing outdoor advertising and all property rights pertaining to the outdoor
646 advertising which were lawfully in existence on May 9, 1967, and which by reason of this part
647 become nonconforming.

648 ~~[(b) If the department, or any town, city, county, governmental entity, public utility, or~~
649 ~~any agency or the United States Department of Transportation under this part, prevents the~~
650 ~~maintenance as defined in Section 72-7-502, or requires that maintenance of an existing sign be~~
651 ~~discontinued, the sign in question shall be considered acquired by the entity and just~~
652 ~~compensation will become immediately due and payable.]~~

653 (b) A governmental entity or public utility may not prevent or interfere with
654 maintenance of an existing sign unless the governmental entity or public utility acquires the
655 sign by eminent domain.

656 (c) Eminent domain shall be exercised in accordance with [the provision of] Title 78B,
657 Chapter 6, Part 5, Eminent Domain.

658 (3) (a) Just compensation shall be paid for outdoor advertising and all property rights
659 pertaining to the same, including the right of the landowner upon whose land a sign is located,
660 acquired through the processes of eminent domain.

661 (b) For the purposes of this part, just compensation shall include the consideration of
662 damages to remaining properties, contiguous and noncontiguous, of an outdoor advertising sign
663 company's interest, which remaining properties, together with the properties actually
664 condemned, constituted an economic unit.

665 (c) The department is empowered to remove signs found in violation of Section
666 72-7-508 without payment of any compensation.

667 (4) Except as specifically provided in this section or Section 72-7-513, this part may
668 not be construed to permit a person to place or maintain any outdoor advertising adjacent to
669 any interstate or primary highway system which is prohibited by law or by any town, city, or
670 county ordinance. Any town, city, county, governmental entity, or public utility which requires
671 the removal, relocation, alteration, change, or termination of outdoor advertising shall pay just
672 compensation as defined in this part and in Title 78B, Chapter 6, Part 5, Eminent Domain.

673 (5) Except as provided in Section 72-7-508, no sign shall be required to be removed by
674 the department nor sign maintenance as described in this section be discontinued unless at the
675 time of removal or discontinuance there are sufficient funds, from whatever source,
676 appropriated and immediately available to pay the just compensation required under this
677 section and unless at that time the federal funds required to be contributed under 23 U.S.C.,
678 Sec. 131, if any, with respect to the outdoor advertising being removed, have been appropriated

679 and are immediately available to this state.

680 (6) (a) If any outdoor advertising use, structure, or permit may not be continued
681 because of the widening, construction, or reconstruction along an interstate, federal aid primary
682 highway existing as of June 1, 1991, or national highway systems highway, the owner shall
683 have the option to relocate and remodel the use, structure, or permit to another location:

684 (i) on the same property;

685 (ii) on adjacent property;

686 (iii) on the same highway within 5,280 feet of the previous location, which may be
687 extended 5,280 feet outside the areas described in Subsection 72-7-505(3)(c)(i)(A), on either
688 side of the same highway; or

689 (iv) mutually agreed upon by the owner and the county or municipality in which the
690 use, structure, or permit is located.

691 (b) The relocation under Subsection (6)(a) shall be in a commercial or industrial zoned
692 area or where outdoor advertising is permitted under this part.

693 (c) The county or municipality in which the use or structure is located shall, if
694 necessary, provide for the relocation and remodeling by ordinance for a special exception to its
695 zoning ordinance.

696 (d) The relocated and remodeled use or structure may be:

697 (i) erected to a height and angle to make it clearly visible to traffic on the main-traveled
698 way of the highway to which it is relocated or remodeled;

699 (ii) the same size and at least the same height as the previous use or structure, but the
700 relocated use or structure may not exceed the size and height permitted under this part; and

701 (iii) relocated to a comparable vehicular traffic count.

702 (7) (a) The governmental entity, quasi-governmental entity, or public utility that causes
703 the need for the outdoor advertising relocation or remodeling as provided in Subsection (6)(a)
704 shall pay the costs related to the relocation, remodeling, or acquisition.

705 (b) If a governmental entity prohibits the relocation and remodeling as provided in
706 Subsection (6)(a), it shall pay just compensation as provided in Subsection (3).

707 Section 10. Section 72-7-510.5 is amended to read:

708 **72-7-510.5. Height adjustments for outdoor advertising signs.**

709 (1) If the view and readability of an outdoor advertising sign, including a sign that is a

710 nonconforming sign as defined in Section 72-7-510, a noncomplying structure as defined in
711 Sections 10-9a-103 and 17-27a-103, or a nonconforming use as defined in Sections 10-9a-103
712 and 17-27a-103 is obstructed due to a noise abatement or safety measure, grade change,
713 construction, directional sign, highway widening, or aesthetic improvement made by an agency
714 of this state, along an interstate, federal aid primary highway existing as of June 1, 1991,
715 national highway systems highway, or state highway or by an improvement created on real
716 property subsequent to the department's disposal of the property under Section 72-5-111, the
717 owner of the sign may:

718 (a) adjust the height of the sign; [or]

719 (b) relocate the sign to a point within 500 feet of its prior location, if the sign complies
720 with the spacing requirements under Section 72-7-505 and is in a commercial or industrial
721 zone[-]; or

722 (c) both Subsections (1)(a) and (b).

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

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

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

729 (i) may be erected:

730 (A) to a height to make the entire advertising content of the sign clearly visible; and

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

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

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

735 Section 11. Section 72-7-513 is amended to read:

736 **72-7-513. Relocation on state highways.**

737 (1) As used in this section, "state highway" means those highways designated as state
738 highways in Title 72, Chapter 4, Designation of State Highways Act, on July 1, 1999, and any
739 subsequently designated state highway.

740 (2) If any outdoor advertising use or structure may not be continued because of the

741 widening, construction, or reconstruction along a state highway, the owner shall have the
742 option to relocate and remodel the use or structure to another location:

- 743 (a) on the same property;
- 744 (b) on adjacent property;
- 745 (c) within 2,640 feet of the previous location on either side of the same highway; or
- 746 (d) mutually agreed upon by the owner and the county or municipality in which the
747 use, structure, or permit is located.

748 (3) The relocation under Subsection (2) shall be in a commercial or industrial zoned
749 area or where outdoor advertising is permitted under this part.

750 (4) The county or municipality in which the use or structure is located shall, if
751 necessary, provide for the relocation and remodeling by ordinance for a special exception to its
752 zoning ordinance.

753 (5) The relocated and remodeled use or structure may be:

- 754 (a) erected to a height and angle to make it clearly visible to traffic on the
755 main-traveled way of the highway to which it is relocated or remodeled;
- 756 (b) the same size and at least the same height as the previous use or structure, but the
757 relocated use or structure may not exceed the size and height permitted under this part; and
- 758 (c) relocated to a comparable vehicular traffic count.

759 (6) (a) The governmental entity, quasi-governmental entity, or public utility that causes
760 the need for the outdoor advertising relocation or remodeling as provided in Subsection (2)
761 shall pay the costs related to the relocation, remodeling, or acquisition.

762 (b) If a governmental entity prohibits the relocation and remodeling as provided in
763 Subsection (2)(a), (b), or (c), it shall pay just compensation as provided in Subsection
764 [72-7-510\(3\)](#).