



Oregon

Kate Brown, Governor

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DATE: March 8, 2017

TO: Senate Committee on Business and Transportation

FROM: Amy Joyce, Legislative Liaison

SUBJECT: SB 778, Outdoor Advertising Signs

INTRODUCTION

Senate Bill 778 would change the way the State of Oregon treats outdoor advertising signs when impacted by a state highway project. The bill elevates consideration of these signs over most other types of property, and has the potential to be tremendously costly to the Highway Fund. A better solution may be found in providing information to sign owners earlier in the design process and assistance identifying replacement sites during the project.

BACKGROUND

The Oregon Motorist Information Act (OMIA) is the set of statutes that regulates privately owned signs, on private property, where visible to a state highway. The state's laws are largely an adoption of the Federal Highway Beautification Act of 1965. Failure of a state to effectively control signs according to the Act can result in loss of significant highway funds.

Oregon's laws require that signs posted for compensation, including billboards, have a state permit. Among other requirements, to obtain a permit the sign must be in a commercial or industrial zone, comply with spacing minimums, and comply with local regulations. In addition, Oregon has a capped permit system. Legal signs in place on a particular date were allowed a permit. To build a sign at a new location after that, an owner must remove an existing sign and "relocate" the permit to a new (legal) site. There are additional restrictions on relocations. For example, a sign cannot be relocated on a Scenic Byway. Over time, legal signs would be removed by the owner before a new location was identified. Those permits were allowed to be banked for later use. In addition to the relocation process, conforming signs can get a permit to be reconstructed in the same location. Even non-conforming signs can be reconstructed if made to conform.

Designing and building a highway also has significant federal law and guidance that must be considered. Federal Highway Administration has issued policy and criteria for highway design. Right of Way acquisition also has significant federal law controlling, including the Uniform Act of Valuation, Acquisition and Negotiation, and Relocation Assistance.

DISCUSSION

Under Oregon law, if a billboard is impacted by a project, the landowner is compensated for the lost lease value, and the sign owner is afforded benefits similar to that given a business impacted by a project. The state pays to take down the sign, pays for the search for a new site, pays to transport the sign, pays for permits, pays to reinstall the sign, and pays to bring it up to code even if it was not so at the prior site. In approximately the last five years, we believe only three signs have been "taken."

The bill would replace the existing process, and instead have the State of Oregon give preferred treatment to billboards when planning, designing, and constructing a highway project.

The bill requires that engineering and construction plans include each billboard's location. It also requires that the design of a project protect billboards from being blocked or lost during a project. No other feature on private property adjacent to a highway is similarly required to be in highway plans, or to be protected in that way. If the goal of these provisions is for owners to learn about potential projects earlier in the process, there are other ways to achieve that end.

The bill also requires that when a billboard must be removed for a project, and it cannot be relocated *in the same section of that highway*, the state of Oregon must pay just compensation. When a highway project impacts a business, there is no limitation on the closeness of the new site. And because the entire premise of the OMIA is the relocation of existing signs, it makes little sense to restrict the relocation "in the same section" of the highway simply because there was a project.

A further issue is that one section of the bill would require the State of Oregon to pay just compensation to owners of illegal signs the state requires to be removed due to their illegality under the OMIA. The Department expects this is an unintended consequence of the drafting.

Most crucially, the bill fundamentally changes the way billboard owners have been compensated since the early 1970s. From the earliest days of the OMIA, the law of the state of Oregon has been to use a customary method, or a federal method, whichever results in the lowest valuation. The bill removes that language, and instead defines just compensation under the Oregon tax code. The department anticipates the proponents would seek the equivalent of decades of potential advertising revenue as their calculation of just compensation. Current law provides a fair and comprehensive solution by assisting the owner in finding a site, and paying the costs to get a new sign at a new location. Unfortunately, the solution proposed in this bill has the potential to be very costly to the highway fund.

Like any other property owner potentially impacted by a project, the best result for a sign owner is to ultimately not be in the footprint of the project. For a sign owner, the next best result would be a sign reconstruction in the area, or a nearby relocation. The Department can improve its communication with sign owners, and may be able to do more to provide assistance and maximum flexibility identifying reconstruction and relocation opportunities. However, the Department must work within the constraints of federal law, particularly the Highway Beautification Act, as well as the requirements of local jurisdictions.

SUMMARY

Under current law billboards are treated much like a business, with an impacted sign eligible for payment to transport and reestablish the sign in a new, legal location. A reasonable goal for the Department would be to avoid impacting signs where that is possible and equitable, considering all the other entities potentially impacted by the project. The department can do more to communicate with sign owners earlier in a project's life cycle. The department can also assist owners by exercising maximum flexibility interpreting the OMIA, and in assisting to identify new, legal sign locations.