

- SUBJECT:** Restricting billboards along segments of three rural state highways
- COMMITTEE:** Transportation — committee substitute recommended
- VOTE:** 6 ayes — Krusee, Phillips, Garza, Harper-Brown, Hill, Mercer
1 nay — Laney
2 absent — Edwards, Hamric
- WITNESSES:** For — Mark Broadrick; Margaret Lloyd, Scenic Texas Inc., The Scenic Coalition; Stan St. Pierre
Against — Curtis Ford, National Media Corp.; Mike Poole, Benchmark, Poole, P&E, Media Outdoor Displays; Nevin St. Romain
On — John Campbell, Texas Department of Transportation; Lee Vela, Outdoor Advertising Association of Texas, Clear Channel Outdoor
- BACKGROUND:** The Texas Department of Transportation (TxDOT) issues permits for billboards and other off-premise signs located along the state highway system. Municipalities cannot regulate billboards outside their city limits or extraterritorial jurisdictions. In 2001, the 77th Legislature enacted SB 1128 by Bernsen, prohibiting the erection of new billboards adjacent to and visible from mostly rural sections of 12 state and federal highways and in three national forests. These provisions are contained in Transportation Code, sec. 391.252.
- DIGEST:** CSHB 678 would amend Transportation Code, sec. 391.252, to prohibit new billboards and other off-premise signs along three additional sections of state highway in Southeast Texas, mostly in Montgomery County north of Houston. New billboards and signs would be prohibited on S.H. 105 between the eastern city limits of Navasota and the western city limits of Conroe (approximately 42 miles); on S.H. 1488 between the eastern city limits of Hempstead and I.H. 45 (approximately 46 miles); and on S.H. 149 between the eastern city limits of Anderson and the northern city limits of Pinehurst (approximately 32 miles).

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

Texas is blessed with some of the nation's most beautiful scenery, especially along its rural roadways. This is a great tourist attraction and a growing source of economic benefit for many parts of the state. Billboards and other forms of outdoor advertising diminish the intrinsic value of our natural landscape and discourage tourism, especially in rural areas with limited economic resources.

The 77th Legislature recognized these facts when it enacted SB 1128 in 2001. CSHB 678 extends TxDOT's regulatory jurisdiction into three more scenic rural areas beyond the control of municipalities but where local residents strongly support banning new billboards. The bill would not change the law's "grandfathering" feature, thereby allowing existing signs and billboards to remain in place.

Billboards derive their commercial value directly from their proximity to public roads paid for by taxpayers and built for their use and benefit. This indirect government subsidization makes it appropriate for the state to regulate these types of advertising where municipalities cannot.

An overabundance of outdoor advertising can discourage business location and devalue adjacent property, but increased regulation does not necessarily mean economic hardship for advertisers. Houston recognized its billboard proliferation problem 20 years ago when some 10,000 billboards cluttered its roadways. Since then, Houston has reduced this number almost by half, yet the city continues to thrive.

Business has not been penalized in other states that successfully have restricted billboards along roadways while promoting tourism and preserving nature. Technological progress is making other forms of advertising more readily available, affordable, and effective, further reducing any adverse economic impact of stricter billboard regulation.

TxDOT's 2002 study of the feasibility of joining the National Scenic Byways Program (NSBP) found several potential problems, including the lack of a

legal mechanism to facilitate corridor management and adverse impacts and limited benefits for landowners. Given the contentiousness of land use regulation in Texas, legislative designation of roadways for billboard restriction is the best alternative until these and other concerns can be addressed.

OPPONENTS
SAY:

In 2001, scenic byway advocates agreed to a limited number of rural highways where new billboards would be banned in lieu of creating a state scenic byways program. Now they want to restrict advertising along more roadways in a high-growth area during an economic downturn without any compensation, diminishing the rights of business and landowners one law at a time.

Current law already is creating problems for advertising companies in the restricted areas. Many of their grandfathered billboards are non-conforming, but companies cannot negotiate new terms with property owners when leases expire because they cannot replace the billboards with new ones.

Outdoor advertising is relatively inexpensive and cost-effective compared to other methods, especially for small businesses and start-up firms. This particularly is true in small towns and rural areas, where most advertisers are locally owned, not regional or national. If billboards did not work, businesses would not rent them. Restricting their use hurts local economies, especially in small towns and regional shopping hubs serving rural areas.

The state acquires private property for highways through its power of eminent domain. Landowners have little if any say in where those roads are built. But once they are built, landowners should be allowed to derive additional benefits from leasing billboards on their own land if they so choose. They should not be penalized for a decision they did not make based on the aesthetic values of a few environmental activists.

OTHER
OPPONENTS
SAY:

A better resolution of this ongoing issue would be to create a state scenic byways program allowing Texas communities to participate in the NSBP on a local-option basis. The NSBP seeks to conserve natural landscapes and stimulate tourism through corridor management. It provides matching grants for overlooks, hike-and-bike trails, and other enhancements to communities

whose states designate roads as scenic byways and ban new outdoor advertising along them.

The bill also should define “scenic” more precisely and provide flexibility for some types of outdoor advertising in rural areas.

NOTES:

The original bill also would have prohibited billboards along U.S. Highway 190 between the eastern city limits of Huntsville and the western city limits of Jasper.

CShB 678 is one of several billboard regulation bills filed this session. HB 2207 by Hilderbran and its companion, SB 1085 by Madla, would require compensation for billboard relocation. HB 2207 is pending before the House State Cultural and Recreational Resources Committee. The Senate Intergovernmental Relations Committee is scheduled to hear SB 1085 on Wednesday.

HB 994 by Nixon and its companion, SB 512 by Nelson, would restrict billboard construction and relocation. The State Cultural and Recreational Resources Committee is scheduled to hear HB 994 on Tuesday. The Senate Intergovernmental Relations Committee is scheduled to hear SB 512 on Wednesday.

HB 1039 by Krusee and its companion, SB 511 by Nelson, would create a state scenic byways program administered by TxDOT. HB 1039 is pending in the House Transportation Committee. The Senate Intergovernmental Relations Committee is scheduled to hear SB 511 on Wednesday.