

## BILL ANALYSIS

Senate Research Center

S.B. 1249  
By: Armbrister  
Intergovernmental Relations  
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As Filed

### DIGEST AND PURPOSE

Governmental entities and owners of outdoor advertising currently do not possess procedures for compensating owners of outdoor advertising signs that are subject to condemnation. As proposed, S.B. 1249 establishes a more efficient process for resolving disputes between governmental entities and owners of outdoor advertising signs by creating the opportunity for voluntary agreements and nonbinding arbitration.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 4, Property Code, by adding Chapter 30, as follows:

#### CHAPTER 30. CONDEMNATION OF OUTDOOR ACTIVITIES

Sec. 30.001. POLICY; PURPOSE. (a) Provides that it is the policy of this state to encourage governmental entities to enter into relocation and reconstruction agreements with owners of outdoor advertising to allow the governmental entities to undertake public projects and accomplish public goals and to allow the continued maintenance of private investment in outdoor advertising as a medium of commercial and noncommercial communication.

(b) Provides that the purpose of this chapter is to establish an efficient, economical, and fair system of resolving disputes between governmental entities and owners of outdoor advertising as an alternative to eminent domain court proceedings.

Sec. 30.002. DEFINITIONS. Defines “governmental entity,” “sign,” and “relocation and reconstruction agreement.”

Sec. 30.003. RELOCATION AND RECONSTRUCTION AGREEMENT. Authorizes a governmental entity and a sign owner to enter into a relocation and reconstruction agreement on whatever terms are agreeable to the parties and to provide for the relocation and reconstruction of a sign by agreement, ordinance, or resolution.

Sec. 30.004. PAYMENT OF JUST COMPENSATION FOR REMOVAL OR ALTERATION. Prohibits a governmental entity from removing or causing to be removed, or causing in any way the alteration of, a lawfully erected sign located along any portion of an interstate highway, state highway, farm-to-market road, federal-aid primary highway, or other highway system, or along any road or street, without first paying just compensation to the owner of the sign for the removal or alteration according to an agreement between the parties or through eminent domain proceedings under Chapter 21.

Sec. 30.005. NOTIFICATION TO OWNER OF SIGN. (a) Requires a governmental

entity, if a governmental entity undertakes a public project or public goal requiring the removal or alteration of a lawfully erected sign, to notify the owner of the affected sign in writing of the public project or goal and of the intention of the governmental entity to seek the removal or alteration of the sign.

(b) Requires the parties, not later than 30 days after the owner of the sign receives notice under Subsection (a), to attempt to meet for the purposes of negotiating and executing a relocation and reconstruction agreement as provided under Section 30.003.

**Sec. 30.006. NONBINDING ARBITRATION.** (a) Authorizes either party, if the sign owner and the governmental entity fail to enter into a relocation and reconstruction agreement within 120 days after the initial notification by the governmental entity under Section 30.005, to request mandatory nonbinding arbitration to resolve the disagreements between the parties.

(b) Requires each party, if a request for arbitration is made under Subsection (a), to select an arbitrator, and requires the individuals selected to choose a third arbitrator. Requires the three arbitrators to constitute the panel that will arbitrate the dispute between the parties. Requires the arbitration panel, at the conclusion of the proceedings, to present to the parties a proposed relocation and reconstruction agreement that the panel believes equitably balances the rights, interests, obligations, and reasonable expectations of the parties.

(c) Requires each party, if the governmental entity and the sign owner accept the proposed relocation and reconstruction agreement, to pay its respective costs of the arbitration and each shall pay one-half of the costs of the arbitration panel unless the parties agree to some other fractional sharing of the costs.

**Sec. 30.007. RIGHT TO PROCEED AFTER PAYMENT OF COMPENSATION.** Authorizes the governmental entity, if the parties do not enter into a relocation and reconstruction agreement, to proceed with the public project or purpose and the removal or alteration of the sign, but only after the governmental entity pays just compensation to the sign owner, as determined by agreement between the parties or through eminent domain proceedings under Chapter 21.

**Sec. 30.008. NO EFFECT ON POWER OF EMINENT DOMAIN OR AUTHORITY TO REGULATE SIGNS.** (a) Provides that this chapter does not limit the authority of a governmental entity to acquire a lawfully erected sign through eminent domain or to regulate the placement, size, height, or other aspects of a new sign within the governmental entity's jurisdiction, including the prohibition of new signs, unless otherwise provided by this chapter.

(b) Provides that this chapter does not impair any ordinance, or a provision of any ordinance, that is not inconsistent with this chapter, including a provision that creates a ban or partial ban on new signs.

**Sec. 30.009. ACQUISITION OF PROPERTY THROUGH VOLUNTARY TRANSACTION.** Prohibits a governmental entity that acquires property in a voluntary transaction from requiring that a lawfully erected sign be altered or removed from the premises on which it is located without the payment of just compensation.

**Sec. 30.010. APPLICATION OF CHAPTER.** (a) Provides that this chapter applies only to a lawfully erected sign the subject matter of which relates to certain conditions.

(b) Provides that this chapter does not apply to an action to require the relocation, reconstruction, or removal of a sign under Chapter 216A, Local Government Code, or to the acquisition of a sign under Section 391.033, Transportation Code, if the owner of the sign agrees in writing to use the provisions of either of those

laws.

(c) Provides that this chapter does not apply to an ordinance the validity, constitutionality, or enforceability of which the owner has, by written agreement, waived all right to challenge.

SECTION 2. Amends Section 216.001, Local Government Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Makes a nonsubstantive change.

(d) Provides that this subchapter is intended as an alternative to Chapter 30, Property Code, and authorizes it to be used only if the owner of a sign agrees in writing to waive the owner's right to use the procedures provided under that chapter. Makes a nonsubstantive change.

SECTION 3. Amends Section 216.003(a), Local Government Code, to make a conforming change.

SECTION 4. Amends Section 216.004(a), Local Government Code, to make a conforming change.

SECTION 5. Amends Section 216.005(a), Local Government Code, to make a conforming change.

SECTION 6. Amends Section 216.006, Local Government Code, to make a conforming change.

SECTION 7. Amends Section 391.033, Transportation Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Makes a conforming change.

(c) Provides that the compensation provided under Subsection (b) is intended as an alternative to Chapter 30, Property Code, and authorizes it to be used only if the owner of an outdoor advertising sign agrees in writing to waive the owner's right to use the procedures provided under that chapter.

SECTION 8. Effective date: September 1, 2003.  
Makes application of this Act prospective.