

HIGHWAY ADVERTISING ACT OF 1972 - AMENDMENT



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FISCAL ANALYSIS

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HOUSE BILL 6380 AS INTRODUCED

Sponsor: Rep. Judson Gilbert
House Committee: Transportation

COMMITTEE ANALYSIS - 11/15/02

Analyst(s): William Hamilton

SUMMARY

The bill would amend Public Act 106 of 1972, the Highway Advertising Act of 1972 (MCL 252.301 et. seq.). PA 106 provides for "the licensing, regulation, control, and prohibition of outdoor advertising adjacent to certain roads and highways..." The Act establishes a permitting process, administered by the Michigan Department of Transportation, for outdoor advertising signs.

It is not clear to what extent the bill would affect the number of signs permitted in the state. If the bill resulted in an increase in the number of signs permitted, it would result in an increase in state revenue through additional permit fees.

ANALYSIS

The bill would amend Public Act 106 of 1972, the Highway Advertising Act of 1972 (MCL 252.301 et. seq.). PA 106 provides for "the licensing, regulation, control, and prohibition of outdoor advertising adjacent to certain roads and highways..." The Act establishes a permitting process, administered by the Michigan Department of Transportation, for outdoor advertising signs.¹

PA 106 currently allows cities, villages, and townships to enact ordinances to regulate outdoor advertising - with certain limitations. Under current law, ordinances may not permit signs or sign structures which are otherwise prohibited by the Act. In addition, ordinances may not cause the removal of lawfully erected signs and sign structures subject to the Act without just compensation. Among other things, House Bill 6380 would create two additional limitations to the scope of local sign ordinances. Ordinances would be required to permit *posters* - defined in the bill as a *billboard* with a facing of 12 feet by 25 feet visible from "*primary highways and secondary highways*". In addition, local ordinances would be required to permit *bulletins* - defined in the bill as a *billboard* with a facing of 14 feet by 48 feet visible from "*freeways and interstate highways*".

Section 18a of the Act currently defines the meanings of certain terms "*as used this section*", i.e. in Section 18a. The section defines the term *billboard* as "*a sign separate from the premises erected for the purpose of advertising a product, event, person, or subject not related to the premises on which the sign is located*" - excluding "*off-premises directional signs*."² Section 18a also defines the term "*secondary highway*" to mean "*a state secondary road or county primary road*". The bill would move these definitions to Section 2 of the Act thereby making them applicable to the entire Act, not just Section 18a.

¹ The department promulgated administrative rules (R 247.701 - 247.748, Advertising Adjacent to Highways) to implement the Act.

² The term "*off-premises directional sign*" is not defined in either current law or the bill. The term "*directional sign*" is defined in the administrative rules.

The reference in the definition of “*secondary highway*” to “*state secondary road*” appears to be an anomaly; the term “*state secondary road*” does not appear to have meaning in current state law. The definition of “*primary highway*” in Section 2 of the Act is made through a reference to 23 USC 131, which defines “*primary system*” as the “*federal primary system*”. However, the term “*federal primary system*” also appears to be an anomaly; it does not appear to have meaning in current federal law.

Because of the ambiguity in the definitions of “*primary highway*” and “*secondary highway*” it is not clear what roads are actually included in the definitions.

At the November 12, 2002 House Transportation Committee meeting, a representative of the outdoor advertising industry testified that *posters* and *bulletins* as defined in the bill represent standard sign sizes in the industry and that the bill would not result in an increase in the number of signs permitted in the state. A representative of the Michigan Townships Association testified that the bill as introduced would supercede local sign ordinances and would result in an increase in the number of signs allowed in the state.

The Michigan Department of Transportation currently regulates approximately 17,000 signs. The current permit fees are \$100 for the first year, with a \$25 annual renewal fee for signs greater than 8 square feet, up to and including 300 square feet. The annual renewal fee for signs greater than 300 square feet is currently \$40.³ The Act exempts service club and religious signs from the annual renewal fees.

The bill would not change permit fees. The bill would strike a reference to signs “*greater than 8 square feet.*” It is not clear if eliminating this reference would increase the number of signs subject to permit fees.

Permit fee revenue was \$619,600 in the 2000-01 fiscal year, and \$507,875 in the 2001-02 fiscal year. As provided by PA 106, this revenue was credited to the State Trunkline Fund – a state-restricted revenue fund used to support maintenance and construction of the state trunkline highway system, and administration of the Michigan Department of Transportation.

It is not clear to what extent bill would affect the number of signs permitted in the state. If the bill resulted in an increase in the number of signs permitted, it would result in an increase in state revenue through additional permit fees.

³ Permit fees were increased by Public Act 533 of 1998 (Senate Bill 445). Section 25 of PA 533 indicated that it was the intent of the legislature that the state fund a study to analyze the effect of PA 533 and to make recommendations to the legislature of any additional changes to the Highway Advertising Act of 1972. Section 25 required that the study consider whether the regulatory authority of the act be extended to counties; whether height restrictions of signs and sign structures should be regulated, and if so, whether distinctions should be made between areas of the state; and the effect of changes to the act on the ability of businesses to advertise goods and services in the state. It is our understanding that the study described in Section 25 has not been conducted.