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BILL



ANALYSIS

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Senate Bill 589 (Substitute S-2 as reported by the Committee of the Whole) *(as passed by the Senate)*
Sponsor: Senator Roger Kahn, M.D.
Committee: Transportation

Date Completed: 9-2-09

RATIONALE

Public Acts 447 and 448 of 2006 amended the Highway Advertising Act to limit the construction of new billboards in the State, prohibiting the Michigan Department of Transportation (MDOT) from issuing highway sign permits, beginning January 1, 2007. While the legislation effectively capped the total number of billboards permitted, the holder of a valid permit may obtain an interim permit for a sign structure if the owner removes the structure and verifies its removal to MDOT. The interim permit may then be used to construct a sign structure in the same location or elsewhere in the State.

Apparently, there is a dispute over a sign structure in Saginaw County that is not in compliance with the permitting requirements of the Act, and it has been suggested that the sign owner should be granted an interim permit to bring the sign under State regulation. In another matter, it has been suggested that the owner of a digital billboard should be required to apply for a digital billboard permit in addition to the annual permit required under the Act.

CONTENT

The bill would amend the Highway Advertising Act to do the following:

- **Require a sign constructed under an interim permit to be no closer than 900 feet to another sign structure on the same side of the highway along interstate highways, freeways, and primary highways.**
- **Require MDOT to grant an interim permit for an existing sign structure located in Saginaw County if an**

application were submitted between October 1, 2009, and November 15, 2010, the existing structure were not closer than 900 feet to another sign structure along the same side of the highway, and the application were for a digital billboard.

- **Require the owner of a sign structure that displays changing messages or images to apply for a digital billboard permit, in addition to the annual permit required under the Act.**

Interim Permit

The Act generally prohibits MDOT from issuing annual permits for new highway signs, although permits issued before January 1, 2007, remain valid.

The Department must issue an interim permit or permits to a holder of a valid permit or permits if the holder is otherwise in compliance with the Act and surrenders the permit or permits to MDOT upon the removal of the permitted sign structure or structures. An interim permit may be used only for the construction of a new sign structure and remains in effect if the fees are renewed annually.

Under the bill, a sign constructed under an interim permit could not be closer than 900 feet to another sign structure along the same side of the highway along interstate highways, freeways, and primary highways.

The bill would require MDOT to grant an application for an interim permit for an existing sign structure if all of the following conditions were met:

- The application was submitted between October 1, 2009, and November 15, 2010.
- The existing structure was not closer than 900 feet to another sign structure along the same side of the highway.
- The county in which the existing sign structure was located has a population of less than 211,000 and not more than 175,000 as determined by the most recent Federal decennial census.
- The application was submitted for a digital billboard.

(Only Saginaw County meets those population criteria, with a population of about 210,000 in the 2000 census, according to data from the U.S. Census Bureau.)

Digital Billboard Permit

The Act generally prohibits signs or sign structures that involve motion or rotation of any part of the structure, running animation or displays, or flashing or moving lights, although Section 18(f) of the Act permits a sign or sign structure with static messages or images that change if the rate of change between static images is less than one change per six seconds, each change is complete in one second or less, and the maximum luminance does not exceed a specified level.

The bill would require a sign owner to apply for a digital billboard permit, in addition to the annual permit required under the Act, for each sign that is allowed under Section 18(f). (The Act requires a sign owner to apply to MDOT for an annual permit for each sign where the facing is visible from an interstate highway, freeway, or primary highway.) The sign owner would have to apply for a separate digital billboard permit for each sign allowed under Section 18(f) for each highway subject to the Act from which the sign facing was visible.

If a sign allowed under Section 18(f) became subject to the permit requirements of the Act because of a change in highway designation or other reason not within the owner's control, the owner would have to apply for a digital billboard permit within two months after the sign became subject to the Act's permit requirements.

The application for a digital billboard permit would have to be on a form prescribed by MDOT. The form would have to require the following information:

- The name and business address of the applicant.
- The name and address of the owner of the property on which the sign was to be located.
- The date the sign, if currently maintained, was erected.
- The zoning classification of the property.
- A precise description of where the sign was or would be situated.
- A certification that the sign was not prohibited by the Act and did not violate the Act.

The Department could require documentation to verify the zoning, the consent of the land owner, and any other matter considered essential to the evaluation of compliance with the Act.

The applicant would have to surrender an interim permit or an annual permit for a digital billboard permit, unless the application was for a digital billboard permit in a particular county, as described above. For signs stacked one on top of another, the applicant would have to remove and surrender all permits for sign faces greater than the maximum size limitations under the Act.

(In counties with a population of less than 425,000, signs may not exceed 1,200 feet in area, including border or trim. In counties with a population of 425,000 or more, a sign exceeding 1,200 feet in area but not more than 6,500 square feet is permitted if MDOT concludes that the sign is in accord with customary usage in the area where the sign is located.)

In addition, the applicant would have to agree to enroll the digital billboard face in an MDOT traffic and weather monitoring program or an MDOT emergency alert program, including the National Amber Alert Program, or both.

If a sign were erected before the bill's effective date and displayed changing images or messages as allowed under the Act, then within 90 days of that date, the owner of the sign would have to apply for,

and MDOT would have to issue, a digital billboard permit.

MCL 252.307a

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would allow the owner of an existing sign that is not in compliance with the permitting requirements of the Act to apply for an interim permit, bringing the sign under State regulation. The bill is narrowly focused to address the dispute over one particular sign in Saginaw County, and would not result in the issuance of a large number of new interim permits.

In addition, the bill would require the owner of a sign structure that displayed changing messages or images to obtain a digital billboard permit, ensuring that the signs met certain minimum standards. As sign technology has changed, a growing number of billboards now include digital displays, and the bill would provide for additional regulation of those signs.

Because digital billboards can be programmed to display a variety of messages, they are an ideal medium for quickly conveying information to the public in the event of an emergency. For that reason, the bill would require the owner of such a sign structure to enroll the billboard in an emergency alert program or weather monitoring program, so that the sign could be used to display severe weather warnings or other emergency information.

Opposing Argument

The current ban on new permits for highway signs was enacted to prevent the proliferation of billboards along Michigan highways. The bill would make an exception for one particular sign, undermining the current limit. The bill also could open a loophole that others could use to obtain an interim permit. The owner of any unpermitted sign that met the specified criteria would qualify for an interim permit, which then could be used to construct a sign structure elsewhere in the State. In addition, the bill would allow a sign constructed under an interim permit to be

placed 900 feet from another sign structure, rather than 1,000 feet as otherwise required for signs along interstate highways and freeways, making more sites legal for billboards across the State.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bill would have little to no impact on MDOT expenses or State revenue.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.