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Senate Bill 149 (as enrolled)
Sponsor: Senator Roger Kahn, M.D.
Senate Committee: Transportation
House Committee: Transportation

Date Completed: 3-24-11

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 permits for new highway signs, 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 was a dispute over a digital sign structure in Saginaw County that was not in compliance with the permitting requirements of the Act. In response, Public Act 350 of 2010 was enacted to allow MDOT to grant the sign owner an interim permit to bring the sign under State regulation. The legislation also requires a sign constructed under an interim permit not to be closer than 900 feet from a sign on the same side of the highway, and requires the owner of any digital billboard to apply for a digital billboard permit in addition to the annual permit required under the Act. In response to the legislation, some people have expressed concern that its language regarding the distance between sign structures may have a statewide impact, allowing an increase in the number of billboards. In addition, some people believe that the provisions regarding digital billboards are overly broad. In light of these concerns, it has been suggested that the requirements pertaining to the spacing of signs be revised and that the provisions

pertaining to digital billboards, including the permit requirement, be eliminated.

CONTENT

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

- **Delete a requirement that a sign constructed under an interim permit be not closer than 900 feet to another sign structure on the same side of the highway along interstate highways, freeways, and primary highways.**
- **Delete provisions requiring the Michigan Department of Transportation to grant an interim permit for an existing digital billboard located in Saginaw County.**
- **Allow MDOT to grant an annual permit for an existing sign structure on an interstate highway in Saginaw County if it is at least 900 feet from another sign on the same side of the highway.**
- **Delete provisions requiring the owner of a sign structure that displays changing messages or images to apply for a digital billboard permit, in addition to an annual permit, and meet other requirements.**

Interim Permit

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

The Department must issue an interim permit to a holder of a valid permit if the holder is otherwise in compliance with the Act and surrenders the permit to MDOT upon the removal of the permitted sign structure. Except as otherwise provided, an interim permit may be used only for the construction of a new sign structure and must remain in effect without expiration if the fees are renewed annually.

A sign constructed under an interim permit may not be closer than 900 feet to another sign structure on the same side of the highway along interstate highways, freeways, and primary highways. The bill would delete this provision.

Saginaw County Sign

The Act requires MDOT to grant an application for an interim permit for an existing sign structure if all of the following conditions are met:

- The application is submitted between December 1, 2010, and March 1, 2011.
- The existing structure is not closer than 900 feet to another sign structure along the same side of the highway.
- The application is submitted for a digital billboard.
- The county in which the existing sign structure is located has a population of less than 211,000 and not more than 175,000 as determined by the most recent Federal decennial census.

(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.)

The bill would delete these provisions.

Under the bill, if the owner of a sign meeting the requirements of Section 17(9) (described below) applied for a permit before July 1, 2011, MDOT could issue a valid renewable annual permit without complying with a provision that permits issued by MDOT before January 1, 2007, remain in force and valid, even if the permit holder would have more than two valid permits as a result.

Under Section 17 of the Act, along interstate highways and freeways, a sign structure

located in a business area or unzoned commercial or industrial area may not be erected closer than 1,000 feet to another sign structure on the same side of the highway. The bill would add Subsection (9) to create an exception to this provision. Along an interstate highway in Saginaw County designated by one letter and three numbers (i.e., I-675), an existing sign structure erected before the bill's effective date could not be closer than 900 feet to another sign structure on the same side of the highway.

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) permits a sign or sign structure with static messages or images that change if the rate of change and the maximum luminance meet certain criteria.

A sign owner must 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 application for a digital billboard permit must be on a form prescribed by MDOT, and the form must require information specified in the Act. The Department may require documentation to verify the zoning, the consent of the land owner, and any other matter considered essential to evaluate compliance with the Act.

The applicant must surrender an interim permit or an annual permit for a digital billboard permit, unless the application is for a digital billboard permit in Saginaw County (as described above). For signs stacked one on top of another, the applicant must remove and surrender all permits for sign faces greater than the maximum size limits under the Act.

In addition, the Act requires the applicant 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 was erected before December 22, 2010, and displays changing images or messages as allowed under the Act, then by March 22, 2011, the owner of the sign must apply for, and MDOT must issue, a digital billboard permit.

The bill would delete all of the provisions pertaining to the digital billboard permit.

MCL 252.307a & 252.317

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

Public Act 350 potentially could have an impact beyond the specific situation it aimed to rectify. There has been some confusion surrounding the scope of the Act's applicability, and some of its provisions apparently conflict with one another or are unenforceable. Some people are concerned that the definition of "digital billboard" is too broad, and could apply to every sign with electronic components. In light of these unanticipated consequences, it would be prudent to revise the language pertaining to the sign in Saginaw County and eliminate all of the newly enacted provisions that do not relate to that particular sign.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco

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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.