Sign Control News

Newsletter of the Center for Sign Control ▪ A project of the Coalition for Scenic Beauty

January-April 1985, Vol. 2, No. 1

IN THIS ISSUE

ONE BILLION DOLLARS REQUIRED TO REMOVE BILLBOARDS FROM FEDERAL HIGHWAYS

The General Accounting Office (GAO), an investigating arm of the U.S. Congress, says that it will take about $750 million in federal funds to remove billboards regulated by the federal Highway Beautification Act. Since the federal share of compensation covers only 75 percent of the cost of the billboard, the states would have to ante up another $250 million, bringing the total payment to the billboard industry to a staggering $1 billion.

The GAO report, released January 3, 1985, grabbed nationwide attention. Articles covering the report's findings appeared in The New York Times, The Washington Post, and the Wall Street Journal. The report was prepared at the request of Senator Robert Stafford (R-VT), chairman of the Senate Environment and Public Works Committee, which has jurisdiction over the act. Stafford is a long-time critic of the act because of its subsidy of the billboard industry.

The report made a number of other findings as well. Among them:

(1) After 20 years of implementation, only 48 percent of the nonconforming signs scheduled to be taken down under the act have in fact been removed. That leaves another 123,827 nonconforming signs remaining for compensation and removal.

(2) Another 47,752 illegal signs are still standing, according to figures the Department of Transportation supplied to GAO. However, GAO found that in

spot checks in two states (KY, SD), the number of illegal signs is greater than reported. The implication is that DOT does not have an accurate count of how many illegal signs are standing on federal roadways.

(3) Due to continued budget cuts and belt-tightening, federal expenditures for sign removal have dropped from $16.7 million in FY 1979 to $2.9 million in FY 1983. As a result, those states who were actively working to take down signs have had their removal programs stymied.

(4) In FY 1983 alone, 45 states reported that 13,522 new signs had been erected legally.

(5) The Federal Highway Administration (FHWA) has decreased its oversight of state outdoor advertising control programs, and this "may have contributed to relaxed state enforcement of federal outdoor advertising control requirements." FHWA headquarters staff coordinating the highway beauty program dropped from nine to two between 1981 and 1983; regular headquarters reviews of state programs were eliminated; and reviews by field offices discouraged.

(6) Arizona, Kentucky, and Louisiana have not removed illegal signs expeditiously, and South Dakota still has not complied with a 1979 agreement made with FHWA to remove signs erected in strip-zoned areas along SD highways.

(7) Twenty-seven states favor repeal of the 1978 amendment to the Highway Beautification Act which prevents local governments from removing signs viewed from federal highways under local laws using amortization. The 1978 amendment extended cash compensation requirements to some 38,000 signs nonconforming with local laws, at an additional federal cost of $334 million.

In future editions of SCN, we will cover these and other aspects of the GAO report in more depth. Readers who would like a copy of the report (No. RCED-85-34) may obtain it by calling GAO at (202) 275-6241 or writing GAO, Document Handling and Information Services Facility, P.O. Box 6015, Gaithersburg, MD 20760.

DOT'S OWN INSPECTOR GENERAL SLAMS FHWA IMPLEMENTATION OF HIGHWAY BEAUTY PROGRAM

In an audit made public at about the same time as the GAO study, the DOT's office of Inspector General slammed the Federal Highway Administration's lackadaisical administration and enforcement of the Highway Beautification Act in much stronger terms than did the GAO. The IG report said that FHWA's effort to remove nonconforming signs has been a $200 million failure.

The report was based on a field inspection of two states--Alabama and Florida--in FHWA Region 4. Among its findings:

(1) FHWA has not required states to remove illegal signs, nor does it require states to have a regular procedure for detecting newly erected illegal signs. Illegal signs are expected to increase due to lax federal enforcement.

(2) FHWA directs states to buy first those signs volunteered for sale by billboard companies--signs that are no longer economically beneficial to their owners.

(3) The purchase of nonconforming signs is a never ending process because the number of signs labeled "nonconforming" is continually changing due to changes in zoning and other factors.

(4) The spot purchase of nonconforming signs has made little esthetic improvement in federal highways.

(5) The number of signs on federal highways is increasing. Sign companies in Florida and Alabama, for example, have erected more new legal signs than the number of nonconforming signs removed under the Highway Beautification Act. (Florida: 8,218 new permits; 1,957 removals since 1979. Alabama: 5,515 new permits and 2,147 removals since 1965.)

(6) The failure to minimize erection of new signs is "attributable to the Act's permissiveness combined with liberal interpretation of federal and state regulations which allows (1) legal sign erection in urban and rural areas zoned for commercial and industrial land use, and [in] (2) unzoned areas immediately adjacent to an existing business (unzoned commercial area)."

(7) Sign companies have benefitted greatly from the Act's just compensation provision, using money provided for the compensation of nonconforming signs to erect new signs on the same roadway.

(8) FHWA's policy of allowing billboard companies to cut trees and vegetation on public rights-of-way to make their signs viewable has extended the economic life of nonconforming signs and added to the cost of acquiring them.

The IG made several recommendations to FHWA for correcting the abuses it documented, but FHWA is not bound to accept them. Two of the IG's principal recommendations were the development of a national set of standards for billboard control along federal highways in lieu of FHWA acceptance of state standards, and the replacement of the Act's compensation requirement with an amortization period sufficient to allow a billboard owner to recover his investment.

SIGN CONTROL IS GOOD FOR BUSINESS

Businesses are frequently leery of a community's efforts to control sign proliferation, but in fact, business has much to gain by such regulation says Coalition board member, Ed McMahon, an attorney who teaches at Georgetown University Law School. Over the years, McMahon has compiled a long list of reasons for strict sign control by local governments:

(1) To a great degree, business, industry, and new residents are attracted or repelled by a community's appearance. An attractive community generates business and attracts homeowners. An attractive community is also a a healthy community. It fosters a sense of community pride, a sense of caring, and a sense of place.

(2) Communities that have enacted sign control ordinances have benefitted economically. For example, Montgomery County, Maryland; Fairfax County, Virginia; Boulder, Colorado; Chapel Hill, North Carolina; Boca Raton, Florida; Marin County, California; and Honolulu, Hawaii all have three things in common--strict sign controls, healthy economies, and national images as good places to live, work, and do business.

(3) The Joint Economic Committee of the United States Congress reports that a city's quality of life is more important than purely business-related factors when it comes to attracting new businesses, particularly the rapidly growing high-tech and service industries.[1/]

(4) The three American cities voted most conducive to business, best to retire to, and most attractive for their size--San Diego, Seattle, and Portland--have all acted to ban billboards and enact tough on-premise sign controls.[2/]

(5) Sign control is even more important when it comes to communities that depend on tourism. As tourists, Americans collectively spend millions of dollars seeking unspoiled countryside and unobliterated architecture. Nothing destroys the unique character of a place faster than uncontrolled signs and billboards. The more a community does to enhance its unique set of natural, historic, and architectural assets, the more tourists it will attract. On the other hand, the more one place comes to look like every place else, the less reason there is to visit.

(6) Almost all of America's premier vacation resorts ban billboards. For example, Palm Springs, Lake Tahoe, and Carmel, California; Santa Fe, New Mexico; Scottsdale, Arizona; Hilton Head Island, South Carolina; Williamsburg, Virginia; Boca Raton, Florida; and Martha's Vineyard, Massachusetts have all recognized that sign control helps attract tourist dollars and aids the local economy.

(7) Chaotic overabundance of signs almost invariably accompanies an area's deterioration and lowers property values.

(8) Indeed, the copy cat competition to see who can build the biggest, tallest, and most distracting signs always backfires. Like screaming children in a crowded classroom, the more everyone shouts the less you can hear. Sign clutter works the same way. It means the viewer sees less not more.

(9) When a community passes regulations that effectively limit the size and number of signs, the viewer actually sees more. As a result, the business

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[1/] The report is by the Subcommittee on Fiscal and Intergovernmental Policy, Joint Economic Committee, U.S. Congress, "Central City Businesses--Plans and Problems," Washington, D.C., January 1979.

[2/] According to a 1980 poll by Next magazine as reported in "Golden Cities," Livability Digest, Vol. II, No. I, Spring 1982.

does a more effective selling job at lower cost. Elimination of clutter also increases motorist safety, and reduces the visual assault on our senses.

(10) You need only look about you to see that every step taken to improve a community's livability includes without question tough controls on signs. Modern shopping malls, revitalized business districts, and top grade industrial parks all have as a major feature the strict regulation of signs.

NY GOVERNOR VETOES BILLBOARD COMPENSATION MEASURE FOR THIRD TIME

Governor Mario Cuomo used his veto power last December to stop a billboard subsidy measure for the third time. The bill (S. 9935) would have required local governments to pay cash compensation to billboard owners for the removal of signs from nonfederal-aid highways, rather than use the amortization method of compensation now employed by municipal governments who exercise their police power to control blight.

But the industry is not giving up. The very same bill promoted by the industry has been reintroduced this year (Assembly 402, Senate 3131). The measure requires cash compensation for the removal by a municipality of signs on any roadway in New York except for signs in residential or agricultural areas. Signs in these areas would be amortized over a two- to seven-year period, depending upon their fair market value.

TREE-CUTTING INCIDENTS CONTINUE

Roadside trees continue to give their lives for the billboard industry. In Memphis, Tennessee, Naegele Outdoor Advertising Co. cut 19 redbuds planted 31 years ago by a Boy Scout troop to clear the view of a Merit cigarette sign. Naegele is now in trouble because state officials believe the trees were on state property and Naegele had no permit to cut them. Naegele officials have admitted to the mistake (they say they thought the trees were on private property) and have offered to replant the trees. According to the Memphis Commercial Appeal (3/15/85), however, Naegele would not negotiate on the matter with local citizen groups in the presence of their attorney, and Tennessee's tree cutting law passed in 1983 provides little penalty for such illegal cutting.

Near Ann Arbor, Michigan, local citizens discovered what appeared to be an illegal cutting of 41 pine and crabapple trees in front of a billboard owned by 3-M National Advertising Co., but have been unable to get the state to act on the matter. A state highway department official said that 3-M had a permit to trim the trees, which were on state property. But according to a story in the Ann Arbor News (4/7/85), 3-M denied cutting down the trees. 3-M was forced to pay $600 for six trees it illegally cut last year, but state officials say there is not enough evidence to pursue this new case. The news story quoted the foreman of the highway department tree crew in Jackson, Michigan, as saying illegal tree cutting incidents are common. "If there's any doubt, they cut and then ask questions later," he said. "Generally, not very much is done because it's awfully hard to prosecute."

Finally, a member of the Ashland, Virginia, town council reports that the Virginia Highway Department has cut trees in front of billboards in the local area, even in areas where the town has plans to plant trees. In addition, says the council member, the department has granted permission to billboard companies to cut down a green buffer in front of two signs that haven't been used for 10 years. The town does not allow billboards but the two signs are nonconforming signs under the federal Highway Beautification Act and cannot be removed without the payment of cash compensation, for which federal funds have been largely unavailable.

PROPOSED AD BANS COULD HURT AND HELP BILLBOARDS

Earlier this year, the National Advisory Council on Drug Abuse called for legislation to prohibit all cigarette advertising, including advertisements on billboards. The panel's recommendation, intended ultimately to reduce numerous deaths and health problems, would also have major ramifications for the billboard industry. Tobacco ads made up 37.1 percent of all outdoor advertising revenues in 1983, according to leading National Advertisers, Inc.

The council's recommendation was made to Secretary of Health and Human Services Margaret Heckler, who will have to decide how to proceed on the issue. Newspaper and magazine groups, who would also be hard hit by the ad ban, have vowed to fight the proposal. The Outdoor Advertising Association of America and the Institute for Outdoor Advertising have not commented on the proposal.

In a related development, a coalition of safety and health groups are urging a ban on beer and wine ads on radio and television, but not in the print media or on billboards. Such a partial ban could follow the pattern of cigarette advertising. The ban on broadcast advertising of cigarettes in 1970 has produced a windfall for newspapers, magazines, and billboards over the past 15 years. Hearings on the proposed ban are expected to be held in Congress this spring.

BEAUFORT, S.C., SUED ON BILLBOARD BAN

Beaufort, South Carolina's billboard ban, passed last year after the county's voters overwhelmingly urged the city council to abolish billboards, has been challenged in two lawsuits. Peterson Outdoor Advertising Corp., which owns 60 of the 200 billboards in the county, has sued for $150,000; Bob Gecy of Gecy Outdoor Advertising, which has permits for six signs in the county, has sued for $105,000.

The Beaufort ordinance, adopted in December 1984, bans off-premise advertising and requires the removal of existing billboards over a seven-year amortization period without cash compensation. The sign companies charge the ordinance abridges the right to freedom of speech, attempts to draw arbitrary and invalid distinctions between commercial and noncommercial speech and off-premise and on-premise advertising, is in conflict with the state's Highway Advertising Act, and removes billboards without just compensation.

The county has not moved to enforce the law pending legal review of the ordinance. On April 8, the county administrator presented a series of proposed changes to the ordinance to the city council, including a change that allows billboards only for noncommercial speech, such as for nonprofit groups. A representative for Peterson Outdoor said the changes were still grossly unfair. The council has passed the first of three readings of the proposal.

STATE USER FEES FOR ROADSIDE BILLBOARDS IN CALIFORNIA?

A governmental agency in California has issued a report suggesting "user" fees for roadside billboards as one possible way to increase funding for state and local road maintenance costs. The report, "Assessment of Resources Requirements for California City Streets, County Roads, and State Highways," was prepared by the Metropolitan Transportation Commission (MTC) in response to a directive of the state legislature. The MTC is an 18-member agency funded in part by the federal Urban Mass Transit Administration. Its purpose is to coordinate public transportation facilities in the San Francisco Bay area.

The commission's report was reviewed by the December/January issue of its monthly bulletin, Transactions. The following paragraphs are reprinted from that review:

> "At the root of the maintenance problem is a funding gap that is growing wider with each passing year. According to the report, spending for local street and road maintenance is falling short statewide at a rate of $840 million a year, while the state highway system is suffering from a maintenance shortfall of $170 to $640 million a year.
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> "In addition to documenting the maintenance problem, the report outlines a wide range of possible new revenue sources, including increases in the state per-gallon gas tax and the general statewide sales tax; hikes in the vehicle registration and driver's license fees as well as other vehicle-related sources; and 'roadway-related' sources such as tolls and roadside billboard fees" (emphasis added).

It is possible, although by no means certain, that state action to assess roadside billboard fees based on a formula involving both size and average daily traffic passing by particular billboards will be considered by the state legislature during 1985. If such a system were to be put into place, the billboard industry would, for the first time, be forced to pay a share of what the courts have repeatedly held to be a "use" of publicly supported roadways for private gain.

COMING SOON TO A BILLBOARD NEAR YOU

Beginning in 1985, you can start going to the movies at your local billboard. According to an article in Forbes (12/31/84), a Kansas City branch of Gannett Outdoor showed a 20-second video spot on a local billboard in the summer of 1984, and it attracted so much attention that Gannett expects to expand the use of video billboards this year. The spot, produced for a local jeweler, was projected on an 8-foot-square screen on a 672-square-foot billboard and showed a woman wearing jewelry drinking champagne. Gannett plans to purchase more of the Sony TV projectors used to project the video and make them available to Gannett Outdoor branch managers wherever local zoning rules allow their use.

EDITOR'S NOTE

Normally Sign Control News is published every two months, but this issue covers a four-month period. Please accept our apology for the unavoidable delay of this issue. You will still receive six issues in 1985, with five issues coming to you during the period May-December.

Sign Control News is published by the Center for Sign Control, a project of the Coalition for Scenic Beauty. The center provides research, information, and counsel to associate members interested in improving the quality of America's urban and rural environments through the control of signs and billboards. For membership information, write the Center for Sign Control, 1511 K St., N.W., Suite 1100, Washington, DC 20005 or call (202) 783-8335.

Coalition News

Newsletter of the Coalition for Scenic Beauty

April, 1985

COALITION ANNUAL MEETING ELECTS NEW BOARD, OFFICERS

At its annual meeting held March 30, the Coalition expanded its board membership from 18 to 25. Members renominated and approved for the 1985-86 fiscal year are:

Ruth H. Becker, Pennsylvania Roadside Council
Sally Lyons Brown, Kentucky
Marion F. Brown, Garden Club of America, Maine
Phyllis Dorsey, Ohio Roadside Council
Ronald Lee Fleming, Townscape Institute, Massachusetts
Charles R. Floyd, Georgia
Lloyd T. Keefe, Oregon Roadside Council
Ellen B. Kelly, Maryland
Virginia R. Kraut, Wisconsin Coalition Against Billboards
Yale Maxon, California Planning & Conservation League
Edward T. McMahon, Washington, D.C.
John C. Miller, California
Ross Netherton, Virginia
Barbara Sandford, New Jersey Roadside Council
Carroll Shaddock, Billboards Limited, Texas
F. Eugene Smith, Ohio
John D. Spaeth, Washington

New persons to serve for the 1985-86 fiscal year include:

George Georgallis, Vistas Unlimited, North Carolina
Frederick R. (Rick) Middleton, III, Washington, D.C.
George Perry, Billboards Limited, Atlanta
I.B. Sinclair, Pennsylvania
Nelly Longsworth, Preservation Action, Washington, D.C.

Officers for the current year are as follows:

President: Charles Floyd
Eastern Vice President: Marion Brown
Central Vice President: Carroll Shaddock
Western Vice President: John Miller
Vice President-at-Large: Ed McMahon
Secretary-Treasurer: Ruth Becker

NATIONAL GOALS

The Coalition reaffirmed its two principal federal legislative goals for the 99th Congress: a moratorium on the construction of new billboards on federal roads and the prohibition of the cutting of trees on public rights-of-way to make billboards on private land viewable. The Coalition also will continue its educational efforts to inform local municipalities about how to control signs through effective local ordinances.

BILLBOARDS LIMITED MOUNTS MAJOR ATTACK ON TEXAS SIGN BLIGHT

Perhaps the most notable sign control initiative currently underway at the state level is that led by Billboards Limited (BL) of Houston (phone: 713-871-1116). BL is promoting legislation in the Texas legislature that would give cities the authority to regulate signs in unincorporated areas adjacent to city boundaries. These areas currently are under county jurisdiction, but counties themselves have no authority to regulate signs. This situation leaves a window of opportunity for billboard companies. In 1980, Houston passed an ordinance banning the construction of new billboards and amortizing nonconforming signs that fail to meet size, height, and spacing requirements. But sign companies started placing new billboards on the roads in Harris County that lead into Houston, thus hampering the city's effort to improve its appearance.

A bill was introduced in the legislature this year authorizing counties to control signs; if they don't act within 90 days, Texas cities are authorized to extend their sign control ordinances to their "extra-territorial jurisdiction." But before hearings were held on the measure, the billboard industry launched a counter-offensive in the form of a bill requiring up-front, cash compensation for billboards removed by cities using the amortization method of compensation. In addition, the measure (H.B. 1330 sponsored by Rep. Messer) would authorize the state highway commission to regulate but not prohibit signs in unincorporated areas. This measure passed the Texas House April 23 by a vote of 82-61. Generally, urban legislators opposed the industry-backed measure, while rural legislators supported it. Billboards Limited is now working with the Texas Municipal League, the major cities of Texas, and the Houston Chamber of Commerce to ensure that H.B. 1330 is not brought up for debate in the Senate. If that gambit is successful, the measure will die with the adjournment of the legislature on May 27.

There is reason to be optimistic. A cash compensation measure similar to H.B. 1330 passed the House and Senate in 1982, but was vetoed by Governor White, who is still in office. In addition, Billboards Limited has elevated the visual pollution issue to statewide recognition and has done a great job of educating the public and its legislative representatives about the adverse effects of billboard blight. While the vote in the House this year was a defeat, the 82-61 margin was much narrower than in 1982, when a compensation bill was passed by a vote of 100-34. In addition, the Texas papers have been giving extensive coverage to the issue, a factor likely to do the billboard industry no good.

Coalition News is published by the Coalition for Scenic Beauty, a national, nonprofit organization dedicated to improving and preserving the scenic quality of America's urban and rural environments. To achieve this goal, the Coalition advocates the control of signs and billboards and promotes highway beautification. For membership information, write the Coalition for Scenic Beauty, 44 East Front St., Media, PA 19063 or call (215) 565-9131.