

# Sign Control News

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

May-June 1985, Vol. 2, No. 2

## IN THIS ISSUE

Texas Adopts Compromise Billboard Law .....	1
Knoxville Embarks on Sign Control Effort .....	3
Miami Billboard Ban Overturned .....	3
California Considers Mandatory Tree-Cutting Law .....	4
Industry Sues, Town Relents on Portable Signs .....	5
Tucson Goes Slow on Billboard Control .....	6
New Jersey Puts the Brakes on Tree-Cutting .....	7
Maine's Billboard Ban Challenged .....	7
Virginia Halts Tree-Cutting .....	8
News Around the Country .....	9
Book Review: <u>Land Use Law</u> .....	9

## **TEXAS ENACTS**

### **COMPROMISE BILLBOARD LAW**

Texas Governor Mark White has signed into law a compromise billboard bill that will reduce the ability of Texas cities to remove billboards and restrict sign size but will substantially improve billboard control in unincorporated areas in the state. Although the Houston-based anti-billboard group Billboards Limited said it was disappointed with provisions in the bill that will restrict local control efforts, it said the bill is not as bad as legislation vetoed by Governor White in 1983. This was due in large part to successful coalition-building by Billboards Limited in Houston, which caused the Harris County delegation (where Houston is located) to switch from a 16 to 8 vote in favor of the billboard lobby in 1983 to a 5 to 20 vote against the lobby this year. In fact, Houston held out against the compromise even after other municipalities gave in, winning some additional concessions for the city. The compromise bill is testimony to the success of citizen organizing in Houston, but the lack of such organization across the state.

The complex law contains the following major provisions:

Billboard Removal in Cities with Amortization Laws. The major issue at debate in the law was whether cities would be required to pay cash compensation for the removal of billboards that were legal at the time an ordinance was passed but that do not conform with ordinance requirements. The new law strikes a compromise on this issue. Cities that had adopted a law as of June 1, 1985, requiring the removal of such nonconforming signs through amortization may still remove such signs without cash compensation, but the amount of time a sign can stand before

removal is to be determined by a municipal board in accordance with standards set out in the law. The board must be composed of two real estate appraisers, an architect, an employee of the state highway department, and a local sign business person. Some signs that could be brought into conformance with the ordinance at a very low cost would be allowed to remain if the necessary reconstruction is completed at the sign owner's expense. Other signs may be kept in place for a period of time to be calculated according to a formula outlined in the law that is based on the "useful" life of the sign as determined by the municipal board.

Some 14 to 18 cities in Texas, including Houston, had adopted amortization laws prior to June 1 and thus fall under this new provision. Although these cities can still remove nonconforming signs without cash payments, the signs are expected to remain longer under the new requirements than they would have prior to the adoption of the new law.

Future Sign Removal Methods. Texas cities that did not have an amortization requirement in place as of June 1 must pay compensation for the removal, relocation, or reconstruction of nonconforming signs. The amount of compensation is to be determined by the municipal board in accordance with criteria outlined in the law. Recognizing, however, that most cities do not have ready cash to allocate to billboard removal, the law authorizes several mechanisms for making these payments. For example, cities can compensate sign owners by reducing their municipal property taxes or can set up special funds to be used to pay cash compensation by issuing revenue bonds for this purpose or by allocating taxes paid on signs to a special compensation fund.

Extraterritorial Jurisdictions. In a significant victory for the city of Houston, the new law allows any municipality to extend the provisions of its sign ordinance within its "extraterritorial jurisdiction" (ETJ). Houston has been fighting for two years for such control in its 2,000-square-mile ETJ, an area four times as large as the city itself. Houston extended its ordinance under the new law on May 29, meaning that by and large there will be no billboards on the thousands of miles of new roadways that will be built in the Houston area over the coming decades.

Other Provisions. The bill contains several other provisions including allowing Harris County to regulate portable signs and setting some height, size, and spacing limitations for signs in unincorporated areas. In addition, Houston negotiated a side agreement (not embodied in the new law) with two sign companies for the immediate removal of some 35 billboards in three scenic districts.

In sum, the new law presents new obstacles to Texas cities that want to require removal or reconstruction of existing signs. As a result, Billboards Limited is encouraging all Texas cities to immediately ban new billboard construction so as to limit the need to compensate for removal of such signs in the future. On the other hand, the law presents new opportunities for sign control in extraterritorial jurisdictions, and Billboards Limited and the Texas Municipal League will be working to encourage cities throughout Texas to extend their ordinances into these areas.

**KNOXVILLE EMBARKS  
ON SIGN CONTROL EFFORT**

Concerned citizens in Knoxville, Tennessee, are trying to put more teeth in their sign control ordinance. So far, enforcement of the law has been lax. To counter that, the city council on May 17th appointed a special committee to look into problems with the ordinance. The council failed, however, to pass a six-month moratorium on billboard construction, causing one anti-billboard group to be skeptical that the city council will take any action to curb erection of new signs in Knoxville. "I believe we're making progress," says Maria Compere of Knoxville Green, a member of the Coalition for Scenic Beauty. "But the sign people are well entrenched. If we don't get the city council to pass an acceptable ordinance fast, we'll put this issue on the November ballot as a referendum."

Compere is one of the members of the special committee created by the city council to study the billboard problem. Her opponents, local billboard company executives, also sit on the committee, as do other billboards control advocates and interested citizens.

"There have been a lot of arguments in this committee," acknowledges Bruce McCarty, the committee's chair and a Knoxville architect. "But most of the people on the committee favor stricter billboard control." The committee is looking at both enforcement and fundamental changes to the law itself. The lack of enforcement has taken up much of the committee's time, and they have formed a subcommittee to examine the issue further.

When Knoxville's sign control ordinance was first passed, no money was allocated to enforce the law, so that the responsibility fell to the overburdened Inspection Bureau. "My inspectors have to enforce building codes and zoning laws," says Chief Building Inspector Charles Cummings. "Billboard control is a low priority for us."

Committee members say they would like to assign a full-time inspector to enforce the billboard control ordinances. Chairman McCarty says \$50,000 could cover an inspector's salary and a car. The city council wants to hear recommendations from the committee by July.

McCarty sums up how many concerned residents feel about billboard blight in Knoxville: "When you drive into the city, you're just hit with billboards and clutter. You don't get a good impression of Knoxville. Something has to change."

**MIAMI ENDS 20-YEAR  
BILLBOARD BAN ON EXPRESSWAYS**

After a well-orchestrated three-year lobbying effort, the billboard industry has successfully defeated a 20-year ban against billboards along Miami's expressways. Unless other action is taken, 10 towering monopole billboards will soon go up along these long-protected roads.

According to an article in the Miami Herald (5/5/85), the battle began in 1982, when Eugene Hancock, owner of E.A. Hancock Advertising Inc., prompted an effort to get the county to exempt cities from a county ordinance banning billboards along expressways. Relying on a memo from an assistant county attorney saying that state and federal law restricted billboards along expressways, the commissioners voted to let municipalities set their own sign controls along these roads.

What many of the commissioners say they didn't know was that federal law does allow billboards along expressways in industrial and commercial areas. Nor did they know that the Florida state law banning billboards along expressways was soon scheduled to expire. When the Florida law came up for renewal in 1984, the ban was extended but with one important exception: it was amended to allow billboards along expressways in commercial and industrial areas.

With state and county restrictions out of the way, the Miami City Council voted 4 to 1 this May to allow the construction of billboards spaced at a minimum of 1,500 feet apart along Miami's expressways -- which would allow approximately 20 billboards. The council ignored opposition from such notable groups as the Greater Miami Chamber of Commerce, a public housing tenants association, and the AFL-CIO sign painters union.

In an effort to have the ordinance overturned, billboard opponents took their case to the Dade County Metro Commission. Their effort initially appeared successful when the Commission unanimously supported a resolution at its first reading banning billboards from the expressways. "We've spent millions beautifying the downtown areas only to have these places littered with billboards," said Beverly Phillips, a Metro commissioner and billboard opponent.

But when the resolution came up for its second reading, an amendment was proposed and approved to allow the construction of 10 billboards along the expressways. "The other commissioners were under a lot of heavy lobbying by the billboard industry," said Ms. Phillips, who voted against the amendment. She said that there was a groundswell of grassroots opposition opposing the billboards, but even though "they've worked real hard," the citizens groups in her judgment have been "totally ineffective" in stopping this push by the billboard industry.

However, Phillips said that some of the damage of the new ordinance could be reduced by another piece of legislation pending before the Metro Commission that would -- by restricting spacing, size and height requirements -- reduce the number of signs in the county in five years. This ordinance will be considered by the Commission on July 16th.

#### **PRO-BILLBOARD LEGISLATION NEARS PASSAGE IN CALIFORNIA**

Billboard control groups and sign-free communities are gearing up to stop passage of California Assembly Bill 1279, a bill that, among other things, would mandate the cutting of trees and other vegetation in front of billboard's at a

sign owner's request. Assemblyman Louis Papan introduced the bill this spring. Its intent, said Papan's legislative assistant Michael Thompson, is to help a "legitimate business" and "to codify CalTrans regulations."

Specifically, the bill would mandate that the state Department of Transportation, CalTrans, remove, or allow the company to remove, vegetation on a landscaped freeway that is obstructing the view of a billboard. Currently, CalTrans can deny such requests.

The bill also would allow billboards to be relocated to landscaped freeways, which currently are off-limits to relocated billboards. According to the bill's author, the signs could be placed only on the non-landscaped side of the freeway, but the language in the bill suggests that a billboard could be relocated to either side.

Furthermore, as SCN went to press, the bill contained a loophole that would allow those signs that do not conform to the requirements of the Highway Beautification Act to be relocated and in the process become permanent legal signs. Thus, a billboard company that did not want to take down its non-conforming signs could simply decide to relocate the signs, obtain a permit for them, and place them in a legal location, thereby exempting them from Highway Beautification Act requirements that they be removed.

"What the billboard companies will do is play a game of checkers, moving billboards from place to place," said Stan Lancaster, head of the CalTrans' Outdoor Advertising Department. "This bill will create an elite set of billboards for which there is no justification." Assemblyman Papan's staff, however, said the legislator will introduce an amendment to close this loophole. Even if the loophole is removed, CalTrans will still oppose the bill because it takes away the Department's discretionary control on regulation trimming.

Papan's bill passed the Assembly and is currently before the Transportation Committee in the Senate. How did it get so far? Part of the reason, says Jerry Meral, Executive Director of the Planning and Conservation League, is that the billboard industry is well entrenched in the California capitol. Meral pointed out that the Foster and Kleiser Company alone gave California legislators \$89,000 in the years 1983-1984. Louis Papan, the bill's author, collected \$2,500 from contributions by the industry in the years 1982-1984. "The industry wrote this bill," said Meral, "and they're prepared to fight for it."

The Senate Transportation Committee has scheduled hearings on the bill July 16th. For more information on the hearings, call the Senate Transportation Committee at (916) 445-3182.

**INDUSTRY SUES,**  
**TOWN RELENTS ON PORTABLE SIGNS**

When Stanley Reid, owner of Baytown Neon Sign Company, wanted to roll portable signs into Baytown, Texas, he was told that the town's sign ordinance did not

Two years later, the case was still before a federal court. But now Reid's attorney has motioned to drop the suit. Why the sudden change of heart? The city council voted a month before to amend its ordinance to allow one portable sign per business. The amendment was passed on condition that the suit be dropped.

"The ordinance was valid and it would have been upheld in court," said Baytown's city attorney, Kandy Strong. So the tactics of the sign company turned political, said Strong. "There was a lot of political activity by the sign company with the council members." The vote to allow portable signs was 6-1.

**TUCSON DELAYS ACTION ON**

**BILLBOARDS, INDUSTRY CONTINUES PRESSURE**

Moratoriums have been declared, committees have been formed, and tempers have risen on both sides, but Tucson has yet to act on plans to limit billboards in the city. On June 24, the Tucson City Council voted to extend its moratorium on construction of new billboards for another 90 days but failed to pass any billboard control legislation. Council members said they wanted more time to look into ways of phasing out billboards and to study a compromise proposed by local billboard companies.

Unfortunately, Tucson learned the hard way about the need to enact a moratorium while debating future controls. Initially, the council established a "voluntary" moratorium, since billboard executives had promised not to erect new billboards until new sign control laws were in place. However, the companies promptly broke their promise by requesting 15 new permits in three weeks. Right of those went to one company, Whiteco Metacom. This breach of trust caused the council to slap on a mandatory moratorium, now scheduled to extend into October.

Tougher billboard controls are needed in Tucson, according to city councilman George Miller, a longtime advocate of billboard elimination. "It's a visual blight here," he says. "When newcomers come to look at the town, the planners steer them away from areas with billboards. That's saying something." Miller says there has been a tremendous amount of pressure exerted by the billboard industry. He claims that the companies have at times even given the city misleading information.

Billboard companies have argued for months that 70 percent of their customers are small businesses that will be severely damaged by controls recommended by the Citizens' Sign Code Committee, an advisory committee to the city council. But, PEGGY LOCKARD, a member of the Citizens' Sign Code Committee, said a maximum of 3 percent of Tucson businesses use billboards.

The Sign Code Committee recommended to the city council that all commercial billboards be restricted to freeway areas and that maximum size and height requirements for billboards be reduced. The industry came back with a "compromise plan,"

allowing the erection of taller billboards in most areas and the replacement of aging, oversized billboards with boards of the same size. In return, the companies would reduce the height of billboards along freeways and keep the largest billboards out of some areas.

Councilman Miller said he would like to see a vote soon on tougher billboard control. He is also examining the possibility of buying the larger billboards from the companies. But, he says, he's only assured of three council votes for the stricter controls. It's the fourth and deciding vote that will determine whether the future of Tucson will bring more visual blight or a halt to excessive billboard proliferation.

#### **NEW JERSEY PUTTING THE BRAKES ON TREE-CUTTING**

Cutting public trees to make billboards visible continues in New Jersey, but now the state Highway Administration's Outdoor Advertising Section is seeking to heavily regulate the activity. Hearings and legislative action still have to be taken before a proposed permit system goes into effect. The billboard industry may try to block any attempt to regulate tree-cutting in New Jersey, especially because of the permit stipulations and fees that would be required.

The state government agency will propose that a permit costing \$500 must be secured before any trimming for billboard visibility can occur on controlled access roads. Both state officials and landscape design experts would have to approve all applications. Billboard companies could only cut tree growth that occurred after the billboard was erected and would not be allowed to cut or trim existing mature trees or woodland.

Last year, there were six reported incidents of illegal tree-cutting in New Jersey. A state official says he hopes the proposed requirements will effectively end uncontrolled tree-cutting in New Jersey. New Jersey residents interested in curbing tree-cutting by billboard companies should contact the NJ Highway Administration's Outdoor Advertising Section in Trenton for the current status of this proposal.

#### **CHALLENGE TO MAINE'S BILLBOARD BAN**

The last billboard in Maine came down over a year ago, but challenges to the state's billboard ban continue to surface in the statehouse. This spring, a legislator proposed an amendment that would give local governments the option of permitting directional off-premise signs.

"It was just a big smokescreen," said Marion Fuller Brown, the Coalition's Eastern Vice-President and a long-time foe of billboards in Maine. "The representative just had some personal interest in amending the law." The lawmaker owns two businesses and wanted to be able to put up a billboard to direct motorists to

them. He appears to have acted on his own with no help from the outdoor advertising industry.

Ever since the Maine legislation banning billboards took effect in 1977, Brown and others have made a repeated pilgrimage to the statehouse to testify against any amendments that may weaken the law. "You have to be on your guard all the time," she says. Brown didn't think that this proposed amendment was very threatening. Thanks in part to her testimony, it never got out of committee.

**TEMPORARILY HALTED IN VIRGINIA  
TREE-CUTTING FOR BILLBOARDS**

In the last issue of SCM, we reported that trees up to 29 inches in diameter were cut in the town of Ashland, Virginia, to make billboards visible from the highway even though the Virginia tree-cutting program forbade the cutting of trees over 4 inches in diameter. Since then, citizens in Ashland and throughout the state have been protesting this practice to public officials. The chair of the State Highway Commission, Harold King, announced in late May that the pilot tree-cutting project would end so that the commission could evaluate the program. Up to 35 sites were part of this tree cutting experiment throughout the state.

The issue of tree-cutting in Virginia first received serious attention in late 1982, when the Outdoor Advertising Association of Virginia quietly approached the Highway Department, inquiring about clearing vegetation from the front of the billboards. They originally wanted every tree felled from in front of every billboard in the state, according to Jack S. Hodge, assistant chief engineer at the Highway Department.

The billboard association threatened to appeal to the Virginia General Assembly for similar provisions, says Robert Hundley, a department environmental quality engineer. The Highway Department, he says, feared wholesale tree cutting and came up with an experimental tree-cutting project as a temporary compromise.

To get the project approved, the highway department should have taken the proposal to the state highway commission. But this wasn't done. Commissioner Richard Brydges said he didn't even know the Highway Department was cutting trees for billboard companies until the protest letters arrived. "My mailbox is full every day of letters from irate people," he said. Brydges aided in pressuring State Highway Commissioner Harold King to stop the cutting, though King maintains the experimental project was finished anyway.

The Highway Department now must evaluate the program and offer its recommendations to a politically pressured State Highway Commission. Some of its findings will be based on before-and-after pictures taken by the Virginia Outdoor Advertising Association.

Citizen complaints have temporarily stopped the destruction of public trees in Virginia, but the issue of repairing the damage done remains to be resolved. The Highway Department has indicated that it will plant some trees where many were



cut in Ashland, but so far only the stumps of the trees remain -- along with a clear view of the billboards. Meanwhile, the commission and tree and scenic beauty advocates await the tree-cutting project's evaluation.

#### NEWS AROUND THE COUNTRY

California. The San Jose City Council has adopted an ordinance banning new billboards within the city. In moving to halt visual pollution, San Jose--California's fourth most populous city--follows the lead of other major U.S. cities such as Houston, Dallas, San Diego, Seattle, Austin, Little Rock, and the District of Columbia, all of which have barred new billboard construction. . . . It appears that enforcement of California's sign control statutes and regulations may be obstructed by cutbacks in CalTrans' Outdoor Advertising Section. Letters sent by section head Stan Lancaster to applicants for vacant jobs in his office have been told the positions will remain "permanently vacant." Lancaster also says in the letters, "I do not believe, without legislative changes, that the branch can successfully perform its mission and intend to protest the proposed staff reductions."

South Carolina. Conway City Council has placed a moratorium on new billboards until the city planning staff can write rules governing sign construction. The city's administrator, John Patterson, said the current ordinance lacks specificity and might be subject to legal challenge if the city rejected a billboard application. A draft ordinance should be ready in July. (Myrtle Beach Sun News, 5/28/85)

Tennessee. Nashville will spend this summer considering a bill that would prohibit the construction of any new billboards in the county. Although the Nashville City Council adopted a new sign ordinance last year that tightened billboard restrictions, Councilman Vic Lineweaver, sponsor of the new proposal, said it has not stopped the "overwhelming influx" of large advertising signs. The bill faces opposition from outdoor advertising companies, including Lamar Advertising and Omni Outdoor Advertising, who make the usual charge that it would violate their constitutional right to free speech. Local authorities say the real problem in Nashville is on-premise signs, "tens of thousands" of which may be in violation of city laws but go uncontrolled due to lack of enforcement staff and inadequate fines. (Tennessean, 5/9/85, 5/14/85)

Texas. The Kerrville City Council has extended a two-month moratorium on billboard construction to give the city more time to enact a new sign control law. The Planning and Zoning Commission has haggled for more than six months over restrictions on the size and height of billboards without reaching an agreement. (Kerrville Daily Times, 4/24/85)

#### BOOK REVIEW

Land Use Law: Issues for the Eighties, Part II, edited by Edith M. Netter, American Planning Association Planners Press, 1984. This 340-page volume covers a

broad array of land use topics, but Coalition members will be most interested in the 80-page section entitled, "First Amendment: Signs, Billboards, Adult Entertainment, and Video Arcades." The introductory article for this section covers some basic do's and don'ts for drafting a sign ordinance, including free speech considerations, political versus commercial signs, and what the Supreme Court's Metromedia decision means for local sign control efforts. The chapter concludes with a more scholarly, in-depth look at the Metromedia decision by Theodore Blumoff. The volume was published prior to the May 1984 Supreme Court decision in L.A. Taxpayers v. Vincent and thus does not cover the implications of this more recent ruling.

The volume does not cover non-legalistic aspects of sign control -- such as innovative municipal ordinances or political battles outside the courtroom -- but does help lead planners and other interested parties through one of the stickiest and most frequently challenged aspects of sign control: the question of freedom of speech.

Issues of the Rights, Part II also contains information on aesthetics in historic presentation, single family zoning, growth management, family zoning, and more. For ordering information, call the APA Bookstore at (312) 955-9100 or write to Planners Bookstore, 1313 East 60th Street, Chicago, IL 60637. The book costs \$23.95, slightly less for APA members.

*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. *Sign Control News* is available free to members of the Coalition for Scenic Beauty. Coalition membership fees are as follows: Individual memberships start at \$20; for clubs, associations, organizations, private businesses, or government agencies fees are \$50 for local organizations, \$100 for state or regional organizations, and \$150 for national organizations. To join, send check payable to the "Coalition for Scenic Beauty" to Coalition for Scenic Beauty, 44 East Front St., Media, PA 19063. Phone: (215) 565-9131.