

Sign Control News

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

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FHWA SAYS BILLBOARDS ON FEDERAL HIGHWAYS MAY BE DOWNSIZED

The Federal Highway Administration (FHWA) has ruled that local governments may downsize billboards on federal aid highways without implicating the "cash payment" provision of the federal Highway Beautification Act.

A memorandum signed by Federal Highway Administration Associate Administrator Joseph O'Connor also says that if a billboard operator refuses after a reasonable period of time to reduce the size of a billboard, it can be removed without a cash payment to the operator.

The memorandum was issued after Regional Federal Highway Administrator in Colorado, Louis N. MacDonald, asked whether Denver's sign ordinance regarding regulation of non-conforming signs violated the Highway Beautification Act. O'Connor, relying on a memo by FHWA Assistant Chief Counsel Edward V. A. Kussy, replied on July 6 that if

The FHWA memorandum is important because it gives communities the option of downsizing existing non-conforming billboards without fear of having to unjustly enrich the billboard industry.

the height and size of a non-conforming sign along a federal-aid highway can be reduced without removal under Denver's ordinance, then if a company decides to take its sign down rather than comply with the order of reduction it is not required to receive cash compensation.

In a May 12 memo, Kussy wrote that the cash compensation requirement in the Highway Beautification Act "is not violated if the sign's owner can do something which is not unreasonably burdensome to avoid removal of the sign."

"For example, we have found sign permit requirements, coupled with a reasonable permit fee, to be consistent with [the cash compensation section of the Highway Beautification Act], even if the penalty for failure to obtain a permit is the uncompensated removal of a sign."

The FHWA memo also says that the Denver "reductions in height and size are reasonable in that they allow the continued operation of the billboards in a manner which retains

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PHOTO BY THE ROCK HILL HERALD



York County, South Carolina billboards tower over the treetops, forcing county to pass restrictions. See story, page 5.

INDUSTRY BILL KILLED IN NORTH CAROLINA

North Carolina scenic beauty advocates won a victory on July 23 when the State Senate Judiciary I Committee indefinitely postponed a bill that would have forced cities and counties to pay cash to the billboard industry before removing non-conforming signs. The move derailed a bill authored by State Representative George Miller (D-Durham) and intensely lobbied by the billboard industry.

Currently, North Carolina communities can use amortization to remove non-conforming billboards along non-federal aid highways.

Miller's bill was spirited through the North Carolina House in a week's time, passing May 13, on a 57-49 vote. The vote produced editorials in most North Carolina news-

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FHWA Ruling

(Continued from front page)

a substantial portion of their value." Rather than a taking of property, these size and height restrictions "appear to be a reasonable regulation of an ongoing business," according to Kussy.

The FHWA memorandum is important because it gives communities the option of downsizing existing non-conforming billboards without fear of having to unjustly enrich the billboard industry. If the industry does not cooperate, then communities can remove the offensive billboards without running afoul of federal law.

The key is to make sure that the size and height regulations are not so restrictive that an ordinance would constitute a removal of property which triggers the cash payment provision of the Highway Beautification Act. □

Photo Contest Extended

The deadline for the Coalition for Scenic Beauty's 1987 "Lens on Billboards" Photo Contest has been extended to December 1, 1987. CSB has also amended the contest rules to allow submission of slides as well as prints.

The Coalition is seeking photographs that show how billboards negatively impact on public health and safety; scenic beauty; the urban environment; the rural environment; residential neighborhoods, parks, schools or historic districts; and efforts to curb smoking, drunk driving and alcohol abuse.

First prize is \$250, second prize is \$100, and there are three third prizes of \$50 each.

Photographs will be judged for public health message, anti-visual pollution message, originality, and photographic and quality technique.

For more information, contact the Coalition at 218 D Street, S.E., Washington, DC 20003. All entries submitted become the property of CSB and may be used in its ongoing billboard clean-up campaign. □

SIGN CONTROL NEWS is a publication of the Coalition for Scenic Beauty. It is available free to Coalition members. If you want to help save our scenery and work for meaningful controls on visual blight, you can join the Coalition. Membership fees are \$20 a year; for local clubs, associations, organizations, private businesses, or government agencies, annual dues are \$50; for state or regional organizations, \$100; for national organizations, \$150. To join, send check payable to the "Coalition for Scenic Beauty" to: Coalition for Scenic Beauty, 44 East Front Street, Media, PA 19063.

Phone:

Membership (215) 565-9131
Editorial (202) 546-1100

Editor, *Sign Control News* David Michaud

North Carolina

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papers denouncing the House's action. The North Carolina League of Municipalities, Carolina Coalition for Scenic Beauty, North Carolina Conservation Council, environmentalists, preservationists, planners, architects, and others concerned with cleaning up billboard pollution descended on the state capitol in Raleigh to protest the industry bill.

In February the city of Raleigh had the amortization provision in its sign ordinance upheld in federal court (see *Sign Control News*, Jan-March 1987). The Miller Bill was an effort to override this court decision, according to Raleigh City Attorney Tom McCormick.

"That bill, as it was originally introduced, would have eviscerated the section of our ordinance that was upheld in federal court," said McCormick. "It would have maintained the status quo in Raleigh."

Since the bill was just indefinitely postponed by the Senate Committee, there is a likelihood that the billboard industry will try to revive it in the 1988 session. North Carolinians should make sure that their State Representative and Senator support scenic beauty by voting against Miller's bill if it is reconsidered. □

Indiana Sues Industry For "Phony Zoning"

Indiana state officials have filed a lawsuit aimed at removing an illegal billboard along Interstate 65 in Jackson County near Seymour, Indiana. The lawsuit is also designed to demonstrate to the Federal Highway Administration that Indiana is enforcing the Highway Beautification Act.

The federal government has warned Indiana numerous times that noncompliance would mean a withholding of funds for Jackson County projects.

The lawsuit was filed after landowners and a billboard company petitioned for and received from the Jackson County Board of Commissioners a land rezoning from agricultural to commercial in order to erect a billboard in compliance with the Highway Beautification Act.

The Indiana Department of Highways sees the rezoning action and billboard erection as a violation of the federal billboard control law. The state contends that there is no road access to the billboard site; the site is obviously agricultural; and the site has no foreseeable commercial use other than the erection and maintenance of signs.

"It's phony zoning," said Richard Montgomery of Seymour, who wants the billboard down.

This is apparently the first time Indiana has used the courts to enforce the Highway Beautification Act. □

CORRECTION — In the previous issue of *Sign Control News* a court cite on page 2 regarding *City of Salinas v. Ryan Outdoor Advertising, Inc.* was incorrect. The correct cite is 189 Cal. App. 3d 416 (1987).

BILLBOARD INDUSTRY INCREASES HONORARIA TO CONGRESS

In 1986, the billboard industry paid \$137,210 in honoraria to members of Congress, according to members' 1986 Financial Disclosure Statements. This is a 10% increase over the amount given in 1985. The 1986 total includes \$62,750 paid to 28 U.S. Senators and \$74,460 paid to 42 U.S. Representatives.

Honoraria is money which goes directly to the personal benefit of members. The \$137,210 does not include sizable PAC contributions, individual contributions from billboard company executives, or free billboard space donated to candidates for Congressional office. It also does not include money spent by the industry in 1986 on airfare, food and lodging for members of Congress to attend billboard industry meetings in such places as Palm Springs, San Francisco and Hawaii.

Over the past four years the billboard industry has paid over \$455,210 in honoraria to members of Congress. This is the third highest amount paid by any industry in the U.S.

In 1985, the billboard lobby paid \$124,664 in honoraria to members of Congress. It paid \$99,629 in 1984 and \$119,600 in 1983.

Of the 28 Senators receiving honoraria in 1986, 22 voted with the billboard industry on a crucial billboard control vote in 1987. Of the 42 House Members receiving honoraria in 1986, 33 voted with the billboard industry on the key bill-



Top Senate and House billboard honoraria recipients Sen. Frank Murkowski (R-Alaska, left) and House Speaker Jim Wright (D-Tex., right).

board control vote in 1986.

Below is a breakdown of members receiving billboard honoraria in 1986. Members who received reimbursement from the industry for airfare, food, and lodging are noted by a "†". Members who voted with the billboard industry and against scenic beauty are noted by an asterisk (*). □

SENATE		Honoraria				
Baucus (D-MT)		\$ 4,000	* Specter (R-PA)	5,750	* Howard (D-NJ)	4,000††
*Breaux (D-LA)		4,500†	*Symms (R-ID)	2,000	*Lott (R-MS)	4,000†
*Bumpers (D-AR)		2,000	*Trible (R-VA)	2,000	*Lukens (R-OH)	2,000†
*Burdick (D-ND)		500††	TOTAL	\$62,750	*McEwen (R-OH)	3,000
*Cochran (R-MS)		2,000†			Mavroules (D-MA)	1,000
*Conrad (D-ND)		1,000			Michel (R-IL)	1,000†
*Cranston (D-CA)		2,000			*Moody (D-WS)	1,000
*Daschle (D-SD)		2,000†			*Morrison (D-CT)	1,000
*Dodd (D-CT)		0†			*Nielson (R-UT)	1,000
*Exon (D-NE)		2,000			*Oberstar (D-MN)	2,000
Harkin (D-IA)		1,000†			*Oxley (R-OH)	1,000†
Hollings (D-SC)		2,000			*Quillen (R-TN)	3,500†
*Kasten (R-WI)		2,000			*Rahall (D-WV)	4,000
Kerry (D-MA)		1,000†			*Richardson (D-NM)	2,000
Leahy (D-VT)		2,000†			*Roe (D-NJ)	2,000
McConnell (R-KY)		2,000			*Rose (D-NC)	2,000
*Melcher (D-MT)		2,000			*Rostenkowski (D-IL)	0†
*Murkowski (R-AK)		6,000			*Russo (D-IL)	1,000
*Nickles (R-OK)		2,000			*Shuster (R-PA)	5,960††
*Pressler (R-SD)		2,000†			*Skelton (D-MO)	1,000
*Pryor (D-AR)		2,000			*Sundquist (R-TN)	2,000
*Quayle (R-IN)		2,000†			Synar (D-OK)	2,000†
*Riegle (D-MI)		2,000			*Tauke (R-IA)	1,000
*Shelby (D-AL)		3,000†			*Wise (D-WV)	1,000
*Simon (D-IL)		2,000			*Wright (D-TX)	6,000††
					TOTAL	\$74,460

HOUSE OF REPRESENTATIVES		Honoraria
*Anthony (D-AR)	\$ 1,000†	
Atkins (D-MA)	0†	
Bilirakis (R-FL)	1,000	
Boner (D-TN)	1,500	
*Borski (D-PA)	0†	
*Bosco (D-CA)	2,000	
Boxer (D-CA)	1,000	
*Clinger (R-PA)	2,000	
Coelho (D-CA)	2,000	
*Coleman (D-TX)	1,000	
*Dowdy (D-MS)	1,000†	
*Eckart (D-OH)	2,000†	
*Florio (D-NJ)	1,000	
*Frost (D-TX)	2,000	
*Gallo (R-NJ)	1,000	
Gordon (D-TN)	1,000	
Hopkins (R-KY)	500	

WITNESS: NAEGELE PAID \$15,000 FOR COUNCILMAN'S VOTE

According to the *Jacksonville Journal* (7/1/87), a former Naegele Outdoor Advertising, Inc. executive testified on June 30 that he gave more than \$15,000 to Jacksonville, Florida City Councilman Don Gaffney to secure a favorable vote on a proposed billboard control law last year.

Robert H. McKinley, the former general manager for Naegele Outdoor's Jacksonville office, testified under a grant of immunity that he gave the former Jacksonville City Councilman \$10,400 in free billboard space and a \$5,500 payment to Gaffney's associate in conjunction with a vote against a Jacksonville billboard ordinance.

The ordinance failed to pass on August 12, 1986, resulting in voter approval of a billboard ban referendum on May 27.

Gaffney, who was elected to the Florida State Legislature last November, was convicted July 25 by a federal jury of conspiracy, extortion and attempted extortion. The jury could not decide unanimously whether Gaffney extorted free billboard space and \$5,500 from Naegele Outdoor, but they did convict his associate, Maurice Bryant, of extorting the \$5,500.

Of the free billboard space, McKinley testified at Gaffney's trial, "I wrote the debt off because I knew Don [Gaffney] was upset with the sign industry and I needed his vote," according to the *Jacksonville Journal*.

Of the \$5,500 bribe, McKinley said he was confronted by Maurice Bryant within hours of the crucial August 1986 vote on the sign ordinance.

"Mr. Bryant said Don Gaffney had been taken to the

hospital, that he had just been taken down with pains," McKinley said. "That was of concern to me because that day the City Council was voting on the sign ordinance. . . . I thought my business was in jeopardy."

"We need \$5,000 to pay a printing bill and we have to have it now," McKinley quoted Bryant as telling him. "He said, 'We have to have this \$5,000 for Don to make the effort to be here and get out of the hospital.'"

"This was. . . what we thought was the final vote on the sign ordinance. . . and I thought we needed his vote very badly."

McKinley promised to give Bryant the money later and then Gaffney arrived at the city council meeting within minutes and voted against the sign bill.

Within two days, McKinley said, he gave the \$5,500 check to Bryant as Gaffney waited in a reception area at the Naegele Outdoor office.

When Gaffney was indicted last December, Naegele President Richard Marlowe flew down to Jacksonville and fired McKinley. Marlowe himself pleaded guilty in 1985 to federal charges of ordering a scheme of bogus employee bonuses that were funnelled to politicians as illegal campaign contributions, according to the *Minneapolis Star and Tribune* (8/10/86). He was fined \$3,000, given a one-year suspended sentence and placed on four years probation.

After performing 120 hours of community service, Marlowe was promoted to his current position as president of Naegele's overall operations. □

SANTA ANA JOINS OTHER ORANGE COUNTY, CALIFORNIA CITIES IN RESTRICTING BILLBOARDS

Santa Ana, California became the latest community in Orange County to restrict billboards when it revised its billboard control ordinance on August 17.

The new Santa Ana ordinance restricts billboards to a maximum height of 35 feet and a maximum size of 300 square feet. The ordinance also establishes a 300-foot setback from residences and an 800-foot radius from one billboard to another.

The ordinance was adopted despite heavy lobbying by the billboard industry. According to the *Orange County Register* (8/3/87), billboard political contributions to Santa Ana city council candidates amounted to nearly \$14,000 in 1986, making the industry among the largest political donors in the city.

Twenty cities in Orange County go farther than Santa Ana by totally prohibiting new billboards. In the unincorporated areas of the county, billboards can be erected only after a hearing and are prohibited along highways and freeways south of Irvine as well as along most of the Pacific Coast Highway.

"Billboards are pretty much under control," said Robert

Dumek, executive director of the Orange County League of Cities. "Most communities have done a good job at regulating them. Regulations to control billboards in many areas have been in effect for a while."

Many areas of Orange County are billboard free and want to stay that way. The City of Orange, for example, is being sued by the billboard industry because the city will not allow it to erect eleven huge monopolies there. The city council, rather than being intimidated, has committed substantial amounts of manpower and money to fight for its right to protect its scenic heritage.

The lack of billboards does not appear to be hurting Orange County economically. "The economy is booming!" said Dumek, adding that billboards do not seem to be a factor in the county's success.

The following cities in Orange County prohibit billboards: Brea, Buena Park, Fountain Valley, Fullerton, Garden Grove, Huntington Beach, Irvine, Laguna Beach, La Habra, La Palma, Los Alamitos, Newport Beach, Orange, Placentia, San Clemente, San Juan Capistrano, Seal Beach, Tustin, Villa Park, and Yorba Linda. □

North Carolina Poll Shows Residents Want Tougher Billboard Controls

An independent opinion poll conducted in August at the request of the Wilmington, North Carolina City Council found that 66.3% of residents surveyed favored stricter regulations on size and number of billboards; only 19.5% said they were against stricter regulations.

The poll was conducted by Independent Opinion Research & Communications, Inc. of Wrightsville Beach, N.C. The question concerning billboards was answered by 518 randomly sampled registered voters in Wilmington who voted in the last election.

The number of residents favoring tougher billboard restrictions may be due in part to the perception that the appearance of Wilmington is important to the tourist trade. The survey found that 87.8% felt that Wilmington's appearance is very important while 8.9% felt that it was somewhat important. Only 2.7% felt that appearance did not affect the tourist trade in Wilmington.

Courts throughout the country have said that cash compensation is not necessary to take down non-conforming signs. Wilmington voters appear to agree. The survey found 73.6% to be against the use of tax dollars for reimbursement of business signs that do not conform to requirements.

Seventy-nine and a half percent of those surveyed also said they were in favor of stricter regulations for landscaping newly developed roads and highways. Only 10.3% came out against the idea.

To obtain a copy of the Wilmington, North Carolina survey, write to the Coalition for Scenic Beauty, 218 D Street, S.E., Washington, D.C. 20003. □

Billboard Moratorium Passed In Stockton, California

The Stockton, California City Council on August 10 passed an emergency ordinance that places a moratorium on billboard construction until the City Planning Commission presents a revised sign code to the City Council.

The emergency legislation was passed after Obie Outdoor Advertising erected a 672 square foot billboard over a Baskin-Robbins ice cream store along Pacific Avenue in Stockton, prompting local organizations to call for its removal.

"They're ugly," said Pacific Avenue Merchants Association President Frank Budworth. He pointed out that the business area where the offending billboard was erected is mixed commercial/residential and does not need billboards defacing the area.

"We want them stopped," said Budworth. His organization along with others in Stockton have brought their cry of "No more billboards!" to the City Planning Commission in an effort to ban new construction.

The moratorium was hastily enacted after the billboard industry began applying for large numbers of permits when the city started talking about billboard restrictions. Mayor Barbara Fass also called for passage of the moratorium. □

York County, South Carolina Restricts Billboards

York County, South Carolina tightened its billboard controls on July 7, restricting billboards to areas zoned for business, industrial, and urban areas and limiting billboards to 350 square feet and 35 feet in height.

Recently, York County which is located just south of Charlotte, North Carolina has seen a billboard building boom, with double-decker, four-sided monopoles being erected that reach high above the treetops.

The *Rock Hill Herald* (7/8/87) reports that the York County Council was forced to restrict billboards in response to the large number of billboards erected. The *Herald* said that about 150 permits had been issued for billboards during the eight months that county planners and council members had attempted to pass zoning controls for various areas of the county.

The lack of a billboard moratorium while the billboard control ordinance was being considered probably led to the rush to erect monopoles throughout the York County countryside. □

Palmdale, CA Limits Billboards

The Palmdale, California City Council adopted a billboard control ordinance on July 11 that removes billboards in residential areas and requires a conditional use permit for any building, relocation or upgrading of billboards along two major thoroughfares. The ordinance also prohibits billboards closer than 500 feet from schools, churches, historical sites, cemeteries and recreational areas and sets a minimum 650 foot spacing requirement between billboards.

The major roadways, Palmdale Boulevard and the Antelope Valley Freeway, were given protection from unwanted billboards after concerns about promoting economic development in those areas were raised.

The City Council, despite complaints from billboard owners, kept intact a \$3,000 fee for securing a sign permit. □

Chesterfield County, Va. Bans Billboards in Commercial Areas

The Chesterfield County Virginia Board of Supervisors on August 12 enacted a billboard ban as part of a zoning ordinance for five major commercial corridors in the county.

Chesterfield County borders the Virginia capital of Richmond. The neighboring county of Henrico banned new billboard construction on June 9.

Besides banning new billboards, the plan bans portable signs and restricts the size and design of business signs.

According to the *Petersburg Progress-Index* (8/12/87), the meeting room was packed with supporters of the plan who "took to hissing and booing when Bermuda District Supervisor R. Garland Dodd endorsed an amendment to allow the use of billboards" in the corridors. That amendment failed 4-to-1. □

THE COALITION FOR SCENIC BEAUTY NEEDS YOUR HELP IN OUR FIGHT TO SAVE OUR SCENERY.

We are now working with cities and towns all over America, helping them halt the spread of billboard blight. We are also preparing for a renewed federal legislative fight. Please sit down right now and write out a check for \$30 or more to help us fight the ugliness lobby.

Please join us in helping to stop the ruthless destruction of our scenic heritage.

Please send \$20, \$30, \$50, \$100 or whatever you can give today.

Send to:

COALITION FOR SCENIC BEAUTY

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YES! I want to help **Save Our Scenery.** Enclosed is my check for \$_____.

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