

1 *Wayne Rear* SENATE BILL NO. 182
2 INTRODUCED BY *Jaweldon* *Water Moll*
3 *Henry T. Ream* *Elmer B. Holden* *Grinnell*
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING COUNTIES AND INCORPORATED CITIES AND
5 TOWNS TO ADOPT ORDINANCES AND ZONING REGULATIONS GOVERNING OUTDOOR ADVERTISING."
6 *See* *182*
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8
9 **NEW SECTION. Section 1. Local sign regulation.** (1) A county or incorporated city or town may
10 adopt an ordinance or zoning regulation, or both, governing the erection and maintenance of signs and
11 outdoor advertising adjacent to the right-of-way of public highways, roads, and streets in its jurisdiction.

12 (2) A local ordinance or zoning regulation adopted pursuant to this section may not be less
13 restrictive than the regulations, administrative rules, or standards established pursuant to Title 75, chapter
14 15, part 1.

15 (3) The department of transportation shall retain control over all signs located within the
16 right-of-way of state highways in counties or incorporated cities or towns that have adopted ordinances
17 or zoning regulations pursuant to this section.

18 (4) The department of transportation may enter into an agreement with a county or incorporated
19 city or town that has adopted an ordinance or zoning regulation pursuant to this section delegating some
20 or all of the state's authority under Title 75, chapter 15, part 1.

21
22 **NEW SECTION. Section 2. Removal of highway advertising.** A county or incorporated city or town
23 may not remove, without payment of just compensation, any outdoor advertising adjacent to a highway,
24 which advertising is subject to the provisions of Title 75, chapter 15, part 1, and for which there is in effect
25 a valid permit issued by the department of transportation, unless the outdoor advertising, when erected,
26 violated the provisions of an ordinance adopted by the county or incorporated city or town.

27
28 **NEW SECTION. Section 3. Removal of existing nonconforming advertising by local government**
29 **acquisition.** (1) If authorized by an ordinance or zoning regulation, a county or incorporated city or town
30 may acquire by purchase, gift, exchange, or condemnation any outdoor advertising and all property rights

1 pertaining to the outdoor advertising within areas subject to the provisions of Title 75, chapter 15, part 1,
2 and remove or cause to be removed the outdoor advertising from the site if the following conditions are
3 met:

4 (a) There is in effect on the date of acquisition a valid permit for the outdoor advertising issued by
5 the department of transportation.

6 (b) The outdoor advertising was lawfully established on the effective date of the ordinance, or
7 amendments to the ordinance, but fails to meet the requirements of the ordinance on the date of
8 acquisition.

9 (2) In any acquisition by purchase or condemnation, a county or incorporated city or town shall
10 pay just compensation and is subject to the eminent domain provisions of Title 70, chapter 30.

11

12 **NEW SECTION. Section 4. Codification instruction.** [Sections 1 through 3] are intended to be
13 codified as an integral part of Title 7, chapter 14, part 1, and the provisions of Title 7, chapter 14, part 1,
14 apply to [sections 1 through 3].

15

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0182, third reading

DESCRIPTION OF PROPOSED LEGISLATION:

An act authorizing counties and incorporated cities and towns to adopt ordinances and zoning regulations governing outdoor advertising; and providing an immediate effective date.

ASSUMPTIONS:

1. The Department of Transportation's legal interpretation is that the signage valuation method established for local governments would become applicable to the Department of Transportation.
2. The cost of acquiring billboards and signs would double using standards and methods for valuation advocated by the outdoor advertising industry (income approach).
3. The use of industry valuation standards will increase litigation costs. The department will incur costs for independent appraisers, consultants, hearing examiners, etc.
4. The 1994 actual expenditures for signs was \$32,450.
5. Federal funding is unavailable for litigation costs which must be borne at 100% state cost. Federal funding will not be available for the costs of sign acquisitions in excess of the FHWA endorsed cost approach.

FISCAL IMPACT:

<u>Expenditures:</u>	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Operating Expenses	\$82,450	\$82,450
<u>Funding:</u>		
Highway Special Revenues (02)	\$82,450	\$82,450

EFFECT ON COUNTY OR OTHER REVENUES OR EXPENDITURES:

It is expected that costs for local governments would increase. There is insufficient information available to estimate the extent of cost increases.

Dave Lewis 3-4-95
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Jeff Weldon 3/13/95
JEFF WELDON, PRIMARY SPONSOR DATE
Fiscal Note for SB0182, third reading

SB 182

1 SENATE BILL NO. 182

2 INTRODUCED BY WELDON, WATERMAN, MOHL, HEAVY RUNNER, HARRINGTON, TVEIT, REAM,
3 HERTEL, STANG, ELLINGSON, BECK, HOLDEN, CRISMORE, HARDING, ECK, ESTRADA4
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15 restrictive than the regulations, administrative rules, or standards established pursuant to Title 75, chapter
16 15, part 1.17 (3) The department of transportation shall retain control over all signs located within the
18 right-of-way of state highways in counties or incorporated cities or towns that have adopted ordinances
19 or zoning regulations pursuant to this section.20 (4) The department of transportation may enter into an agreement with a county or incorporated
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22 or all of the state's authority under Title 75, chapter 15, part 1.23
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27 a valid permit issued by the department of transportation, unless the outdoor advertising, when erected,
28 violated the provisions of an ordinance adopted by the county or incorporated city or town.29
30 NEW SECTION. **Section 3. Removal of existing nonconforming advertising by local government**

1. **acquisition.** (1) If authorized by an ordinance or zoning regulation, a county or incorporated city or town
2. may acquire by purchase, gift, exchange, or ~~condemnation~~ **EMINENT DOMAIN** any outdoor advertising and
3. all property rights pertaining to the outdoor advertising within areas subject to the provisions of Title 75,
4. chapter 15, part 1, and remove or cause to be removed the outdoor advertising from the site if the
5. following conditions are met:

6. (a) There is in effect on the date of acquisition a valid permit for the outdoor advertising issued by
7. the department of transportation.

8. (b) The outdoor advertising was lawfully established on the effective date of the ordinance, or
9. amendments to the ordinance, but fails to meet the requirements of the ordinance on the date of
10. acquisition.

11. (2) (A) In any acquisition by purchase or ~~condemnation~~ **EMINENT DOMAIN**, a county or
12. incorporated city or town shall pay just compensation and is subject to the eminent domain provisions of
13. Title 70, chapter 30.

14. (B) FOR THE PURPOSES OF [SECTION 2] AND THIS SECTION, JUST COMPENSATION MUST BE
15. BASED ON THE FAIR MARKET VALUE OF THE OUTDOOR ADVERTISING THAT IS TO BE ACQUIRED AND
16. MUST BE PAID TO THE OWNER OF THE OUTDOOR ADVERTISING IN CASH OR AS MUTUALLY AGREED
17. UPON BY THE OWNER AND THE COUNTY OR INCORPORATED CITY OR TOWN ACQUIRING THE
18. OUTDOOR ADVERTISING. COMPENSATION PAYABLE TO THE OWNER OF THE OUTDOOR ADVERTISING
19. MUST BE SEPARATE FROM AN AWARD PAYABLE TO THE OWNER OF THE REAL ESTATE UPON WHICH
20. THE OUTDOOR ADVERTISING TO BE ACQUIRED IS SITUATED.

21. (C) FOR PURPOSES OF [SECTION 2] AND THIS SECTION, THE FAIR MARKET VALUE OF
22. OUTDOOR ADVERTISING MUST BE BASED ON OUTDOOR ADVERTISING INDUSTRY STANDARDS AND
23. METHODS FOR VALUATION AND WITHOUT REGARD TO ANY CONDEMNATION PROCEEDINGS.

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25. **NEW SECTION. Section 4. Codification instruction.** [Sections 1 through 3] are intended to be
26. codified as an integral part of Title 7, chapter 14, part 1, and the provisions of Title 7, chapter 14, part 1,
27. apply to [sections 1 through 3].

28.
29. **NEW SECTION. SECTION 5. SEVERABILITY.** IF A PART OF [THIS ACT] IS INVALID, ALL VALID
30. PARTS THAT ARE SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT]

1 IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID
2 APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID APPLICATIONS.

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4 NEW SECTION. SECTION 6. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND
5 APPROVAL.

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