

Date of Hearing: June 29, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

SB 1199 (Hall) – As Amended April 26, 2016

SENATE VOTE: 27-7

SUBJECT: Advertising displays: City of Inglewood.

SUMMARY: Authorizes two existing advertising displays in the City of Inglewood to be considered “on-premise” displays until January 1, 2023. Specifically, **this bill:**

- 1) Requires the signs in question to meet the following conditions to be considered an on-premise display:
 - a) The advertising display is located within the boundary limits of the City of Inglewood;
 - b) The advertising display was constructed on or before January 1, 2012;
 - c) The advertising display is adjacent to Interstate 405 and located at either post mile 22.36L or 22.38L north of Century Boulevard; and,
 - d) The advertising display does not cause the reduction of federal aid highway funds provided, pursuant to Section 131 of Title 23 of the United States Code.
- 2) Expands existing exemptions for billboards contained within former redevelopment agencies (RDAs) to include advertising displays located within the boundary limits of the City of Inglewood at two locations on Interstate 405 that were constructed on or before January 1, 2012, so long as the advertising displays do not cause the reduction of federal aid highway funds.
- 3) Finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution due to the unique circumstances concerning the location of the advertising displays, or proposed advertising displays, set forth in this act and the need for advertising in that location, it is necessary that an exemption from some of the provisions of the Outdoor Advertising Act be provided for those displays.

EXISTING LAW:

- 1) Establishes the Outdoor Advertising Act (OAA), which regulates the placement of advertising displays adjacent to and within specified distances of highways that are part of the national system of interstate and defense highways and federal-aid highways.
- 2) Prohibits any advertising display from being placed or maintained on property adjacent to a section of a freeway that has been landscaped if the advertising display is designed to be viewed primarily by persons traveling on the main-traveled way of the landscaped freeway. The OAA, however, only applies to signs that are located within 660 feet of the right-of-way of federal-aid interstate and primary highways.

- 3) Provides for limited exemptions and specified exceptions to the prohibition on advertising along system and landscaped freeways, including exemptions for signs advertising the property's sale or lease, signs designating the premises or its owner, and signs advertising goods or services manufactured or produced on the property itself.
- 4) Provides that the OAA generally does not apply to "on-premise" advertising displays, which include those advertising the sale of the property upon which it is placed or that advertise the business conducted, services rendered, or goods produced or sold on the property. Local government regulates on-premise displays, except for certain safety requirements.
- 5) Allows an existing advertising display to be considered on-premise if the display:
 - a) Advertises those businesses and activities developed within the former RDA project area boundaries, as those boundaries existed on December 29, 2011;
 - b) Is located within the boundary limits of the project;
 - c) Was constructed before January 1, 2012; and,
 - d) Does not cause the reduction in federal aid highway funds.
- 6) Authorizes, on and after January 1, 2022, the applicable city, county, or city and county to request, for good cause, from the Department of Transportation (Caltrans) an extension beyond January 1, 2023, not to exceed the expiration of the redevelopment project area.

FISCAL EFFECT:**COMMENTS:**

- 1) **Background.** In 2013, the Legislature passed and the Governor signed SB 684 (Hill), Chapter 544, Statutes of 2013, which sought to address the question about billboards that advertise businesses in RDA project areas in the era of successor agencies. SB 684 permitted existing advertising displays that advertised businesses and activities within the boundary limits of an RDA project to remain and be considered "on-premise displays" (e.g., not subject to the OAA) until January 1, 2023. The city or county could then apply to Caltrans for an extension, showing "good cause" beginning on January 1, 2022.

Generally speaking, local governments established RDA project areas in blighted areas that require additional investment to address the blight. Until RDAs were dissolved, existing law allowed RDAs to permit advertising signs for 10 years, after which they were regulated by Caltrans and the OAA, unless the RDA and Caltrans agreed to an extension for good cause. Legislation created the RDA exemption to the OAA to allow businesses in these less-desirable places to advertise for two reasons. First, travelers, who may have been reluctant to frequent businesses in the area because of the perceived blight, would consider doing so as redevelopment investment helped address the blight issues. Second, the new advertising opportunity could be an additional tool to help struggling businesses in the project area become more successful.

The dissolution of RDAs raised questions about how existing signs would be treated by Caltrans because there is no longer an RDA to negotiate the extension with Caltrans. SB 684 permitted these existing displays to remain in place for a designated period of time and modeled the OAA exception for RDA signs. The thought was that at some point, either the blighted area has improved to the point that the businesses no longer need the unique competitive advantage provided by the sign, or the problems are too large for the signs to resolve. Additionally, in the interim, these signs provided needed funding to cities that were losing large amounts of money from RDAs. At the time, Caltrans estimated that 95 advertising signs were constructed through this authority.

Federal Highway Beautification Act of 1965: The Highway Beautification Act (HBA) was created to protect the public investment, promote the safety and recreational value of public travel, and to preserve the natural beauty of highways in the nation. The HBA specifies that states have the responsibility to enforce provisions regarding the placement and maintenance of outdoor advertising signs, displays and devices along the Interstate and National Highway System. The State of California enforces the provisions of federal law through a compact that was developed between the state and the federal government in 1967. Federal law also includes a penalty for states that violate the HBA by reducing all federal highway transportation funds to the state by 10%.

Outdoor Advertising Act: The state OAA regulates the placement of advertising displays (billboards) and signs along interstate or primary highways, landscaped freeways and similar specified highways. The OAA, along with related federal provisions, is intended, among other things, to promote highway beautification and provide a consistent framework for the regulation of advertising displays along freeways and highways. The OAA sets standards for the advertising structures, including their size, identification and location, and requires compliance with permit application procedures and conditions administered by Caltrans.

The OAA sets minimum spacing requirements between billboards on interstate highways or primary highways, which are freeways and minimum distances from interchanges or an intersection at grade. OAA also sets minimum distances between signs on traditional (primary) highways within and without incorporated areas.

The OAA specifies the original and renewal permit fees for billboards, as well penalties for permit violations. Other provisions provide for substantial monetary penalties for the unlawful trimming, destruction, or removal of trees or shrubs to enhance the visibility of highway-adjacent billboards.

Pending Action on Signs In Question: On November 20, 2015, an administrative law judge (ALJ) found that cause existed for Caltrans to issue Notices of Violation, requiring correction of violations and payment of statutory penalties, pursuant to the OAA and related Caltrans regulations, concerning two “large-scale super graphic wall signs” displayed by Sky Posters in Inglewood, California. One display, measuring 25,000 square feet, depicted displays for movies such as X-Men and Ant Man, while the other, measuring 30,000 square feet, displayed an image of the Nissan Rogue. Both are affixed to the side of a 12-story building adjacent to a section of Interstate 405. By comparison, the OAA restricts permitted advertising to displays of 1,200 square feet in area with a maximum height of 25 feet and a maximum length of 60 feet.

In or about August 2010, Sky Posters applied for and obtained approval from Caltrans for placing RDA displays on the building. In April 2014, however, Caltrans issued two violation notices based on the conclusion that the subject displays were not redevelopment displays advertising businesses in the City's redevelopment zone and Sky Posters had only received approval for the placement of RDA displays. Additionally, these wall signs were found along a landscaped highway.

After the Notice of Violation was issued, Sky Posters filed a Notice of Defense, which requested an administrative hearing. As noted above, the ALJ found Sky Posters to be in violation of the OAA, and, pursuant to the OAA, ordered Sky Posters to pay \$10,300 in penalties and \$1,405,641 as disgorgement of the gross revenue that resulted from the displays. The ALJ opinion states that the OAA does not provide for injunctive relief. For this reason, if Caltrans wants to require Sky Posters to remove the wall signs, Caltrans will have to seek such relief from a Superior Court of the State of California. To date, Caltrans has not filed such an injunction with the courts.

- 2) **Bill Summary.** This bill expands the RDA exemption for two advertising displays located within the boundary limits of the City of Inglewood at two locations on Interstate 405. The expansion could conflict with regulations that are adopted, pursuant to the HBA, and would place California at risk to lose up to 10% of its federal funds. Presently, California receives \$3.5 billion from the federal government, and stands to lose up to \$350 million. Current law states that if an advertising display will result in the loss of federal aid highway funds, the display owner or operator shall remove the display and be subject to a civil fine of \$10,000 per day. SB 1199 does contain a provision attempting to mitigate the risk of losing federal funds by stipulating the signs may remain in place as long as they do not result in the reduction of federal aid highway funds.

This is an author-sponsored bill.

- 3) **Author's Statement.** According to the author, "In 2011, the Governor signed AB 26X1 which eliminated redevelopment agencies and established successor agencies to take control of all assets and property. These successor agencies, typically the city or county that originally established the agency, are now responsible for administering remaining debt obligations and other assets including advertising displays located in a former redevelopment zone.

"Advertising displays located in former redevelopment agency zones provide a number of benefits to local businesses and local governments. Not only do these displays encourage economic investment in the area, they also provide general fund revenue for the local government successor agency.

"Because redevelopment agencies and their boundaries no longer exist and successor agencies are tasked with managing their assets and property, this bill ensures that the City of Inglewood is able to fully utilize their outdoor advertising displays to promote business located within the City."

- 4) **Arguments in Support.** The City of Inglewood writes that the bill will not cause any disruption or reduction of federal highway funds to California, nor expand the authority previously granted to cities by SB 684.

5) **Arguments in Opposition.** None on file.

6) **Double-Referral.** This bill was heard by the Governmental Organization Committee on June 22, 2016, where it passed with a 19-0 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

Cities of Azusa and Inglewood

Opposition

None on file.

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