



LEGISLATIVE REFERENCE BUREAU

M E M O

To: Ald. Michael J. Murphy
From: Leslie Silletti- Legislative Fiscal Analyst
Date: January 30, 2008
Re: Digital Billboards

This memo responds to your request for information relating to state and local jurisdiction and legislative history for changes in law relating to electronic changeable message signs (digital billboards).

Federal Regulations: The Highway Beautification Act of 1965 and individual federal/state agreements, most passed in the late 1960's and early 1970's, provide the framework for outdoor advertising legislation. The US Department of Transportation has opined that digital billboards are allowed anywhere there are traditional billboards, unless otherwise disallowed by state or local regulations. Currently 20 states prohibit them.

State DOTs are required to obtain US DOT approval of any changes to its laws, regulations and procedures relating to outdoor advertising. It is the US DOT's policy that in review of state policy changes, the US DOT should at least consider: duration of message, transition time, brightness, spacing and location. It stated that most state regulations for message duration are between 4 and 10 seconds, and it recommends 8 seconds.

State Regulations: State regulation of outdoor advertising must be consistent with federal regulations and respective federal/state agreements, and states are permitted to adopt more restrictive regulations. Municipalities may adopt more restrictive standards than those of respective states.

From a review of state statutes and administrative codes, it appears that many state legislatures amended their regulations between 2006 and 2007, which coincides with the general timeframe billboard companies began transitioning static billboards to digital. Changes in state law generally provide enabling language for digital billboards and very limited regulations, usually including only duration of message and transition time requirements. Further regulation has become a municipal matter.

Wisconsin amended its statutes in 2006 to create provisions relating to electronic changeable signs (Attachment 1), with restrictions relating to transition time (one second or less) and

duration of message (at least 6 seconds). The Wisconsin Administrative Code does not provide further rules relating to brightness of digital billboards, but the statute permits WI DOT to do so. Many states include general brightness provisions which state that light cannot impair the vision of a driver.

Municipal Regulations: For most jurisdictions surveyed, local governments amended municipal codes subsequent to changes in state law, and after billboard companies began transitioning static billboards to digital billboards in their communities. In most cases, municipalities did not preemptively amend code before digital billboards were in their communities. However, in the case of Chicago, code may be interpreted to effectively prohibit digital billboards.

As digital boards are often in place before municipal codes have been adopted, many communities have enacted moratoriums to *buy time* in drafting regulations. The moratorium appears to be a fairly common strategy among municipalities who are faced with a potentially burgeoning industry in the light of little to no municipal regulation.

To gather information relating to municipal regulations of digital billboards, a survey was done of other large cities in the Midwest. As stated above, municipalities are permitted to adopt standards that are more restrictive than state regulations. Note all municipal codes, statutes and administrative rules are available upon request. Below are summaries of laws in each location.

Chicago, IL

- The State of Illinois amended its administrative code in October, 2006, to include a provision that permits multiple message signs to change as frequently as once every 10 seconds. Signs located within 1,000 feet of traffic devices or which interfere with a driver's view of devices are prohibited.
- The City of Chicago municipal code defines *electrical signs*, but has not been amended to create related provisions.
- It is yet unclear if digital billboards are permitted in Chicago. City staff provided conflicting information, with one stating there were digital billboards which were permitted to change every 4 seconds (which would be in violation of state regulation), and another stating there were no digital billboards. One billboard industry representative suggested there may be a prohibitive clause in the Chicago code, as it appears that neither Clear Channel nor Lamar have signs within the City limits. A review of the code suggests whichever the case, enforcement is based on administrative discretion. There are digital billboards in the outlying suburbs.

Cleveland, OH

- The Ohio administrative code was amended in 2003 to permit multiple message signs to change as frequently as once every 8 seconds. Signs must be located at least 1,000 feet apart, and not on the same side of the highway visible from the same direction.
- In 1999, Clear Channel took the City of Cleveland to court for unfairly targeting its (static) billboards in a city inspection that cited hundreds of boards for code violations. The case was settled and as one of the settlement agreements, the city was to create code that permitted digital billboards.
- Cleveland amended its sign code to create a section for *changeable copy signs*, which included the following provisions:
 - Signs are prohibited in all residential districts, and are permitted only according to “schedules,” which provide guidelines according to land use. They are restricted to entertainment districts.
 - May not be used for “adult entertainment uses.”
 - May only be transitioned to digital or erected as digital if at least two billboards per new board are taken down.
 - Messages may change as often as once every 8 seconds, the same as the state requirement.
 - General brightness is provided.
- A Clear Channel representative stated to a local Cleveland newspaper that the city was once one of the most anti-billboard communities in the country, but that the community grew to accept the digital boards more as Clear Channel traded out static boards for digital and Clear Channel donated time for PSAs. The first digital billboard was erected in 2005, and in trade 5 static boards were removed. There are approximately 7 Clear Channel signs and no Lamar signs in Cleveland.
- In December, 2006, Clear Channel launched a new program that allows city officials to take control of the board to put up Amber Alerts.
- Clear Channel currently has 3 digital billboards in Cleveland, and Lamar has none.

Des Moines, IA

- Iowa law provides an 8 second message duration provision.
- The City of Des Moines enacted a moratorium on for *electronic display signs* in February, 2007, and extended it until August, 2007, after one Clear Channel billboard was erected. The Zoning Commission conducted a study and provided a number of recommendations during the moratorium.

- The moratorium was lifted when new provisions were adopted in June, 2007, and its amended code contains the following provisions:
 - A brightness requirement that signs may not exceed a maximum illumination of 5,000 candelas per square meter during daytime hours and 500 candelas between dusk and dawn.
 - Signs are not permitted within 100 feet of any residential district or districts devoted to single- or two-family use.
 - Signs must have an automatic dimmer control.
- In arriving at the 8-second provision, the City Council voted unanimously against the Zoning Commission's recommendation of 20 seconds.
- Clear Channel has 407 billboards in Des Moines, and only one is digital. Clear Channel stated to the press it plans to convert a "handful of them."

Indianapolis, IN

- The State of Indiana statutes were amended in 2007 to provide a definition for changeable message signs. It provides an 8 second message duration provision.
- Indianapolis/Marion County has comprehensive code relating to *electronic variable message signs* (EVMS). The provisions include:
 - Permitting only in certain districts.
 - Minimum distance requirements from protected districts, including the requirement that they are visually obstructed from protected districts.
 - Billboards must be 125 feet from any signalized intersection of 2 or more streets, if streets are designated as thoroughfares.
- The erection of new billboards is currently banned in Indianapolis. While the IN Supreme Court heard the case, 2 billboard companies erected 7 signs. The Supreme Court ruled in favor of the city, and the Mayor ordered the billboards to be removed.

Minneapolis, MN

- Minnesota law provides a 6 second message duration provision.
- In December, 2006, Minneapolis passed an interim ordinance which enacted a moratorium on erecting digital billboards or transitioning static billboards to digital. According to Minnesota law, the moratorium will expire in February 9, 2008. The interim ordinance was passed after billboard companies began transitioning billboards. During the moratorium, a comprehensive study was conducted and a set of recommendations was compiled.

- Minneapolis code currently limits billboards to certain districts, but does not include any provisions specifically relating to digital billboards.
- Clear Channel currently has 5 digital billboards in Minneapolis, and Lamar has none (there are others owned by both companies in surrounding communities).

St. Paul, MN

- In December, 2005, a moratorium was enacted, which was set to expire in January, 2007.
- In December, 2007, the City Council adopted comprehensive digital billboard regulations. The provisions include:
 - Messages may change only once every 12 seconds.
 - 6 square feet of lighted billboard space or 8 square feet of unlighted space be removed for every square foot of new electronic display.
 - Limited to only the interstates (I35E and I94)
 - Signs must be spaced at least one mile apart.
- During the moratorium, a comprehensive study was conducted and a set of recommendations was compiled.
- Clear Channel currently has one digital billboard in St. Paul, and Lamar has none (there are others owned by both companies in surrounding communities).

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Attachment 1

2005 Senate Bill 548

Date of enactment: May 25, 2006

Date of publication*: June 9, 2006

2005 WISCONSIN ACT 464

AN ACT to amend 84.30 (4) (b) 1.; and to create 84.30 (4) (bm) of the statutes; relating to: multiple or variable messages on off-premises outdoor advertising signs along interstate and federal-aid primary highways and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 84.30 (4) (b) 1. of the statutes is amended to read:

84.30 (4) (b) 1. Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those specified in par. (bm) and those giving public service information such as time, date, temperature, weather, or similar information.

SECTION 2. 84.30 (4) (bm) of the statutes is created to read:

84.30 (4) (bm) Signs may contain multiple or variable messages, including messages on louvers that are

rotated and messages formed solely by use of lights or other electronic or digital displays, that may be changed by any electronic process, subject to all of the following restrictions:

1. Each change of message shall be accomplished in one second or less.

2. Each message shall remain in a fixed position for at least 6 seconds.

3. The use of traveling messages or segmented messages is prohibited.

4. The department, by rule, may prohibit or establish restrictions on the illumination of messages to a degree of brightness that is greater than necessary for adequate visibility.

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

