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SFA**BILL ANALYSIS**

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Senate Bill 445 (Substitute S-1)
Senate Bills 446 through 455 (as introduced 4-24-97)
Sponsor: Senator Leon Stille
Committee: Local, Urban and State Affairs

Date Completed: 10-28-97

CONTENT

Senate Bill 445 (S-1) would amend the Highway Advertising Act to rename it the "Scenic Michigan Act" and to do the following:

- Permit a county to enact an ordinance regulating the size, lighting, and spacing of signs and sign structures for cities, villages, and townships in the county that had not enacted an ordinance, and permit a local government with a sign ordinance to adopt the county ordinance.
- Delete the current \$5 annual permit fee and require, instead, that the fee be \$100 for a sign that was 250 square feet in size or greater, \$50 for a sign under 250 square feet but more than 100 square feet; and \$25 for a sign that was not more than 100 square feet in size.
- Create the Scenic Michigan Fund to be used to implement the Act and to pay for the removal of signs.
- Prohibit a sign or sign structure from being erected on a Michigan Heritage Route.
- Prohibit signs from exceeding 1,200 square feet in area.
- Prohibit signs erected after the bill's effective date from being placed closer than 1,500 feet to another sign.
- Increase fines for violations of the Act.
- Prohibit the destruction of a tree or shrub located on a highway right-of-way to improve the visibility of a sign.

Senate Bill 446 would amend the Charter Township Act to make the power of a township board to license, regulate or prohibit the placing of signs subject to the Scenic Michigan Act, if applicable.

Senate Bill 447 would amend Public Act 246 of 1945, which authorizes township boards to adopt ordinances and regulations to secure the public health, safety, and welfare, to permit a

township board to adopt ordinances concerning the regulation of outdoor advertising, subject to the Scenic Michigan Act.

Senate Bill 448 would amend the General Law Village Act to make a village council's regulation or prohibition of the display, use, or placement of signs, advertisements, banners, awning, posts, poles, or lamps in or over a street, subject to the Scenic Michigan Act, if applicable.

Senate Bill 449 would amend the Home Rule Village Act to make a village's charter regulation of the use and enjoyment of the surface of a village street and of the space above and beneath the street, subject to the Scenic Michigan Act, if applicable.

Senate Bill 450 would amend the Fourth Class City Act, which permits a city council to regulate the use of a city's public highways, streets, avenues, and alleys, to make the regulation or prohibition of the display, use, or placement of signs, advertisements, banners, awning posts, as well telegraph, telephone, or light poles and wires in or over the streets, subject to the Scenic Michigan Act, if applicable.

Senate Bill 451 would amend the Home Rule City Act, which permits a city in its charter to provide for the use, regulation, improvement, and control of the surface of its streets, alleys, and public ways, and of the space above and beneath them, to include the regulation of outdoor advertising, subject to the Scenic Michigan Act, if applicable.

Senate Bill 452 would amend Public Act 156 of 1851, which defines the powers and duties of county boards of commissioners, to permit a county board to regulate by ordinance outdoor advertising, subject to the Scenic Michigan Act.

Senate Bill 453 would amend the County Zoning Act to make an ordinance adopted under the Act subject to the Scenic Michigan Act.

Senate Bill 454 would amend the Township Zoning Act to make an ordinance adopted under the Act subject to the Scenic Michigan Act.

Senate Bill 455 would amend the City and Village Zoning Act to make an ordinance of a city or village adopted under the Act subject to the proposed Scenic Michigan Act

Senate Bills 446 to 455 are tie-barred to Senate Bill 445.

A more detailed description of Senate Bill 445 (S-1) follows.

Legislative Findings

The bill would delete the current legislative findings, and reinstate certain provisions in the following declaration. The bill specifies that, "The legislature finds and declares that in order to promote maximum safety, comfort, and well-being of the highway user, to protect the public investment in highways, to preserve and enhance the natural scenic beauty of aesthetic features of highways, and to prevent unreasonable distraction, it is declared to be the policy of the state that:

- (A) Outdoor advertising adjacent to the interstate highway, freeway, and primary highway systems within the state is a legitimate commercial use of private property, is an integral part of the marketing function, and is an established segment of the economy of this state.
- (B) The erection and maintenance of outdoor advertising in areas adjacent to the public highways within this state shall be regulated as provided in this act and as otherwise provided by law."

County & Local Regulations

Currently, a city, village, township, or charter township may enact ordinances to regulate and control the size, lighting, and spacing of signs and sign structures, but an ordinance may not permit a sign or sign structure that is otherwise prohibited under the Act. The bill would delete references to charter townships and include counties within the provisions on local regulations. The bill also would add that a county ordinance enacted under the Act would be in effect only in those cities, villages, and

townships within the county that had not enacted an ordinance. A city, village, or township that had enacted an ordinance under the Act, by ordinance or resolution of its governing body, could provide that the county ordinance, instead of the local ordinance, would be in effect within that city, village, or township.

A sign or sign structure could not exceed the height provided for in an ordinance enacted under the bill, or, if there were no height restriction in an ordinance, the maximum height allowed for buildings within the jurisdiction of the local unit of government in which the sign or sign structure was located.

Permits and Fees

A sign owner currently must apply annually to the Department of Transportation for each sign to be maintained and erected in an adjacent area where the facing of the sign is visible from an interstate highway, freeway, or primary highway. The bill also would require that a person proposing to erect a sign apply for an annual permit. Under the bill, an initial permit would authorize a person to erect a sign. Following the erection of a sign, a person could apply for renewal of his or her permit. ("Adjacent area" generally refers to the area within 3,000 feet of the right-of-way of an interstate highway, freeway, or primary highway.)

Currently, a \$5 permit fee must be paid annually in advance and it is credited to the State Trunk Line Fund. Under the bill, the fee would be \$100 for a sign that was 250 square feet or greater in size; \$50 for a sign that was less than 250 square feet but greater than 100 square feet in size; and, \$25 for a sign that was not more than 100 square feet in size. The bill would delete the reference to the State Trunk Line Fund and require, instead, that the fee be deposited in the Scenic Michigan Fund.

A sign that was subject to a valid permit issued under the Act on the bill's effective date would not be subject to the bill except that the sign would have to comply with an applicable local ordinance.

Scenic Michigan Fund

The Scenic Michigan Fund would be created in the State Treasury. The State Treasurer could receive money or other assets from any source for deposit into the Fund; would be required to direct the investment of the Fund; and, would be required to credit to the Fund interest and earnings from Fund investments. Money in the Fund at the close of the fiscal year would have to remain in the Fund and could not lapse to the General Fund.

The Transportation Department would be required to spend money from the Fund, upon appropriation, to implement the Act.

Sign Prohibitions

Under the Act, a sign may not be erected or maintained in an adjacent area where the sign is visible from an interstate highway, freeway, or primary highway. The Act specifies exceptions to the prohibition, including signs located in a business area or an unzoned commercial and industrial area that complies with the Act's provisions on permit numbers, sign size and placement, lighting, and distance between signs. The bill would redefine "business area" as an adjacent area that was zoned under authority of State, county, township, or municipal zoning authority for industrial or commercial purposes, customarily referred to as "B" or business, "C" or commercial, "I" or industrial, "M" or manufacturing, and "S" or service, and all other similar classifications and that was one of the following: within a city, village, or charter township; within one mile of the corporate limits of a city, village, or charter township; or, beyond one mile of the corporate limits of a city, village, or township. The bill would retain the remainder of the current definition of "business area".

In addition, the bill would prohibit a sign or sign structure from being erected or maintained in an area identified as a heritage route under Public Act 69 of 1993, which provides for the designation of certain highways as Michigan Heritage Routes. This prohibition would not apply to signs already exempted under the Highway Advertising Act.

Signs on Leased Lands

The State Transportation Commission currently may lease land it owns along an interstate highway, freeway, or primary highway in business areas or unzoned, commercial or industrial areas to the owners or operators of certain commercial enterprises or civic organizations. The bill would require that all money received by the Department through leases be forwarded to the State Treasurer for deposit into the Scenic Michigan Fund.

Sign Size and Placement

The Act requires all signs erected or maintained in business areas or unzoned commercial and industrial areas to comply with certain size requirements and limitations. Currently, signs erected in counties with populations of less than 425,000 may not exceed 1,200 square feet in area, including border or trim but excluding ornamental

base or apron, supports, and other structural members. The bill would delete reference to county population size and to unzoned commercial and industrial areas.

In counties with a population of at least 425,000, signs greater than 1,200 square feet but less than 6,500 square feet in area, including border or trim but excluding ornamental base or apron, supports and other structural members, are permitted if the Department determines that a sign is in accord with customary usage in the area where the sign is located. Under the bill, this provision would apply to signs erected prior to the bill's effective date. The bill also would prohibit a sign larger than 1,200 square feet in area from being expanded beyond the size of the sign that existed on the bill's effective date.

In addition, beginning on the bill's effective date, a sign or sign structure could not be stacked on top of another.

Distances Between Signs

Under the Act, a sign structure located along an interstate highway or freeway in a business area or unzoned commercial or industrial area may not be erected closer than 500 feet to another sign structure on the same side of the highway. Along interstate highways and freeways located outside of incorporated municipalities, a sign structure may not be permitted adjacent to or within 500 feet of an interchange, an intersection at grade, or a safety roadside rest area. The bill would delete references to 500 feet in these provisions and to unzoned commercial or industrial areas in the first provision.

Under the bill, sign structures located along interstate highways and freeways in business areas or along interstate highways and freeways outside of incorporated municipalities could not be erected closer than, or permitted adjacent to or within the following distances:

- 500 feet, for sign structures erected prior to the bill's effective date.
- 1,500 feet, for sign structures erected on or after the bill's effective date.

Penalties

A person who erects or maintains any sign or sign structure or other object for outdoor advertising subject to the Act without complying with the Act is liable for a penalty for each violation. The bill provides, instead, that a person who violated the Act or an ordinance enacted under the Act would

be responsible for the payment of a civil fine. The bill would increase from \$100 to \$1,000 the minimum penalty for a violation and from \$1,000 to \$10,000 the maximum penalty. The bill would require that fines be paid into the Scenic Michigan Fund, instead of the State Trunk Line Fund as currently required. Under the Act, penalties must be sued for, by, and in the name of the Department. The bill would require that civil fines be sued for, by, and in the name of the Department or the county, city, village, or township in which the violation occurred. In addition, a default in the payment of a civil fine or costs ordered under the Act or an installment of the fine or costs could be remedied by any means authorized under the Revised Judicature Act.

The bill also would require a court to order a person found responsible for violating the Act to remove the billboard that was in violation, and if the person held a permit under the Act, to revoke that permit.

Tree, Shrub Destruction

Unless authorized in a permit issued under the Act, a person owning, leasing, or maintaining a sign could not directly or indirectly cause the destruction, mutilation, removal, cutting down, or trimming of a tree or shrub located on a highway right-of-way to improve the visibility of the sign.

A person who violated this provision would be responsible for paying a civil fine of at least \$1,000 and not more than \$10,000 and the costs of restoration of the disturbed vegetation. A default in the payment of a civil fine or costs ordered under this provision or an installment of the fine or costs could be remedied by any means authorized under the Revised Judicature Act. In addition, if a person found responsible under this provision held a permit under the Highway Advertising Act, that permit would have to be revoked and the court would have to order the billboard removed.

MCL 252.301 et al. (S.B. 445)
MCL 42.16 (S.B. 446)
MCL 41.181 (S.B. 447)
MCL 67.23 (S.B. 448)
MCL 78.24 (S.B. 449)
MCL 102.14 (S.B. 450)
MCL 117.4h (S.B. 451)
Proposed MCL 46.11d (S.B. 452)
MCL 125.201 (S.B. 453)
MCL 125.271 (S.B. 454)
MCL 125.581 (S.B. 455)

Legislative Analyst: L. Arasim

FISCAL IMPACT

Senate Bill 445 (S-1)

Based on FY 1995-96 data, the Department of Transportation received \$85,238 from the current \$5 permit charge. The amount of revenue generated by the new fee structure, based on the current number of permits issued, would be approximately \$1.2 million. Revenue from fines would depend on the number of violations.

Senate Bills 446-455

The bills would have no fiscal impact on State or local government.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.