

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 1056

Short Title: Monetary Compensation – Outdoor Advertising. (Public)

Sponsors: Senators Dalton, Kerr, Hartsell, Hoyle, Webster; Foxx, and Thomas.

Referred to: Commerce.

May 12, 2004

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE LOCAL GOVERNMENTS TO PAY MONETARY
3 COMPENSATION FOR REMOVAL OF LAWFULLY ERECTED
4 OFF-PREMISES OUTDOOR ADVERTISING SIGNS AND TO AUTHORIZE
5 LOCAL GOVERNMENTS TO ENTER INTO RELOCATION AND
6 RECONSTRUCTION AGREEMENTS WITH OWNERS OF NONCONFORMING
7 OFF-PREMISES OUTDOOR ADVERTISING SIGNS.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. Article 11 of Chapter 136 of the General Statutes is amended
10 by adding the following section to read:

11 "§ 136-131.2 Acquisition by local governments of nonconforming off-premises
12 outdoor advertising.

13 (a) As used in this section, the term 'outdoor advertising' has the same meaning
14 as in G.S. 136-128(3), except that it includes outdoor advertising visible from the
15 main-traveled way of any road.

16 (b) A local governmental entity may require the removal of an off-premises
17 outdoor advertising sign that is nonconforming under a local ordinance; and may
18 regulate the use of off-premises outdoor advertising within the jurisdiction of the local
19 governmental entity in accordance with the applicable provisions of Chapter 153A and
20 Chapter 160A of the General Statutes.

21 (c) No local governmental entity may enact or amend an ordinance to require the
22 removal of any nonconforming, lawfully erected off-premises outdoor advertising sign
23 without the payment of monetary compensation to the owners of the off-premises
24 outdoor advertising. The payment of monetary compensation is not required in the
25 following cases:

26 (1) The advertising is determined to be a public nuisance or detrimental to
27 the health or safety of the populace.

1 (2) The local governmental entity allows the removal and relocation of the
2 advertising to an equally visible and comparable location for purposes
3 of road widening or other governmental development projects.

4 (d) Monetary compensation is the fair market value of the off-premises outdoor
5 advertising in place immediately prior to its removal and without consideration of the
6 effect of the ordinance or any diminution in value caused by the ordinance requiring its
7 removal, less the fair market value of the off-premises outdoor advertising immediately
8 after its removal. Monetary compensation may be determined based on the factors listed
9 in this subsection. Unless agreed to by the local governmental entity, the amount of
10 monetary compensation required to be paid under this section shall not exceed five
11 times the average amount of the annual gross revenue associated with the advertising,
12 less any placement or agency fees, over the preceding five years.

13 (1) The factors listed in G.S. 105-317.1(a).

14 (2) The cost of materials and labor used in constructing the advertising.

15 (3) The purchase price of the rights to erect and maintain the advertising.

16 (4) The income derived from the advertising.

17 (5) The sales price of similar property.

18 (6) The listed property tax value of the property and any documents
19 regarding value submitted to the taxing authority.

20 (e) In lieu of monetary compensation, a local governmental entity may enter into
21 relocation, reconstruction, or removal agreements with owners of nonconforming
22 off-premises outdoor advertising signs, provided that the terms of the agreement are
23 agreeable to the owners of the off-premises outdoor advertising to be removed. An
24 agreement under this subsection may allow for the removal of the advertising after a set
25 period of time in lieu of monetary compensation. A local governmental entity may
26 adopt an ordinance or resolution providing for a relocation or reconstruction agreement.

27 (f) A local governmental entity shall give written notice of its intent to require
28 removal of outdoor advertising by sending a letter by certified mail to the last known
29 address of the owners of the outdoor advertising and the owners of the property on
30 which the outdoor advertising is located.

31 (g) If the parties fail to enter into an agreement under subsection (e) of this
32 section within 120 days after the initial notification by the local governmental entity,
33 either party may request mandatory nonbinding arbitration under American Arbitration
34 Association rules to resolve the disagreements between the parties. If no agreement to
35 arbitrate is reached, jurisdiction under this section shall be in the Superior Court. The
36 Superior Court shall determine the amount of monetary compensation to be paid to the
37 owner of the outdoor advertising in accordance with the provisions of subsection (d) of
38 this section.

39 (h) A local governmental entity may take up to three years from the effective
40 date of an ordinance requiring payment of monetary compensation under this section to
41 make the compensation, if the ordinance allows the affected property to remain until the
42 compensation is paid.

43 (i) This section does not apply to any ordinance in effect on the effective date of
44 this section. Nothing in this section prohibits a local governmental entity from

1 amending an ordinance in effect on the effective date of this section, so long as the
2 amendment to the existing ordinance does not reduce the period of amortization in
3 effect on the effective date of this section. No provision of this section applies to
4 outdoor advertising located in the extraterritorial jurisdiction, or the territory acquired
5 by annexation within three years of the effective date of this section, of a local
6 governmental entity with an ordinance in effect on the effective date of this section."

7 **SECTION 2.** This act is effective when it becomes law.