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AB-3168 Outdoor advertising displays: publicly owned property. (2017-2018)

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Assembly Bill No. 3168

CHAPTER 926

An act to amend Sections 5216, 5440, and 5443 of the Business and Professions Code, relating to outdoor advertising.

[Approved by Governor September 29, 2018. Filed with Secretary of State September 29, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3168, Rubio. Outdoor advertising displays: publicly owned property.

(1) The Outdoor Advertising Act regulates the placement of advertising signs adjacent to and within specified distances of certain highways. The act prohibits advertising displays from being placed or maintained on property adjacent to a section of a freeway that has been landscaped, with certain exceptions, and defines "landscaped freeway" for these purposes to mean a section or sections of a freeway that is now, or later may be, improved by the planting at least on one side or on the median of the freeway right-of-way of lawns, trees, shrubs, flowers, or other ornamental vegetation requiring reasonable maintenance.

This bill would narrow the prohibition of the act to instead prohibit, except as specified, placing or maintaining advertising displays on property adjacent to a 1,000-foot or greater section of a freeway that has been landscaped with at least an average width of 20 feet, as defined, of landscaping or that includes trees on Department of Transportation-owned property at the same or elevated grade of the main-traveled way if the advertising display is designed to be viewed primarily by persons traveling on the main-traveled way of the landscaped freeway. The bill would require the department to determine the average width using a specified formula, would provide that all existing classifications are to remain in effect until the department receives a request for a new classification review in accordance with its regulations, and would authorize the department to charge a fee not to exceed \$500, as specified, to conduct a classification review.

(2) The Outdoor Advertising Act provides that planting for the purpose of soil erosion control; traffic safety requirements, including light screening; reduction of fire hazards; or traffic noise abatement does not change the character of a freeway to a landscaped freeway.

This bill would expand that exemption by including planting for the purposes of covering soundwalls or fences.

(3) The Outdoor Advertising Act does not prohibit a governmental entity from entering into a relocation agreement or the Department of Transportation from allowing any legally permitted advertising display to be increased in height at its permitted location or relocated if a noise attenuation barrier has been erected in front of the display or if a building, construction, or structure, as specified, has been or is then being erected by any government entity that obstructs the display's visibility within 500 feet of the display and the relocation of the display or increase in the height of the display would not cause a reduction in federal aid highway funds or an increase in the number of displays within the jurisdiction of a governmental entity that does not conform to the act.

This bill would expand that exception by instead providing that the act does not prohibit any governmental entity from entering into a relocation agreement or the department from allowing any lawfully erected display to be increased in height at its permitted location or to be relocated provided the height increase or relocation would not cause a reduction in federal aid highway funds or an increase in the number of displays within the state that does not conform to the act. The bill would authorize a relocated advertising display to be converted to a message center pursuant to a relocation agreement. The bill would require the department to issue a permit, without any additional consideration, for any display that is being placed pursuant to a relocation agreement with another governmental entity if the relocated display conforms with specified provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 5216 of the Business and Professions Code is amended to read:

5216. (a) "Landscaped freeway" means a section or sections of a freeway that is now, or hereafter may be, improved by the planting at least on one side or on the median of the freeway right-of-way of lawns, trees, shrubs, flowers, or other ornamental vegetation requiring reasonable maintenance.

(b) Planting for the purpose of soil erosion control; traffic safety requirements, including light screening; reduction of fire hazards; covering soundwalls or fences; or traffic noise abatement shall not change the character of a freeway to a landscaped freeway.

(c) Notwithstanding subdivision (a), if an agreement to relocate advertising displays from within one area of a city or county to an area adjacent to a freeway right-of-way has been entered into between a city or county and the owner of an advertising display, then a "landscaped freeway" shall not include the median of a freeway right-of-way.

SEC. 2. Section 5440 of the Business and Professions Code is amended to read:

5440. (a) Except as otherwise provided in this article, no advertising display may be placed or maintained on property adjacent to a 1,000-foot or greater section of a freeway that has been landscaped with at least an average width of 20 feet of landscaping or that includes trees, on department-owned property at the same or elevated grade of the main-traveled way if the advertising display is designed to be viewed primarily by persons traveling on the main-traveled way of the landscaped freeway.

(b) The department shall determine the average width by dividing the square footage of a landscaped area by its length.

(c) (1) All existing classifications shall remain in effect until the department receives a request for a new classification review in accordance with applicable regulations.

(2) The department may charge a fee in an amount not to exceed the reasonable costs incurred by the department in conducting a classification review and not to exceed five hundred dollars (\$500).

(d) For purposes of this section, "average width of 20 feet" means that over any 1,000-foot section freeway there averages at least 20 feet of total property contiguous to all sides of the main traveled way between the outer edge of the shoulders and the freeway right-of-way boundaries, including median plantings, that otherwise meets the definition of a landscaped freeway in Section 5216.

SEC. 3. Section 5443 of the Business and Professions Code is amended to read:

5443. Nothing in this article prohibits either of the following:

(a) Any county from designating the districts or zones in which advertising displays may be placed or prohibited as part of a county land use or zoning ordinance.

(b) (1) Any governmental entity from entering into a relocation agreement pursuant to Section 5412 or the department from allowing any lawfully erected display to be increased in height at its permitted location or to be relocated provided the height increase or relocation would not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code or an increase in the number of displays within the state that does not conform to this article. Any increase in height permitted under this subdivision shall not be more than that necessary to restore the visibility of the display to the main-traveled way. An advertising display relocated pursuant to this subdivision shall comply with all of the provisions of Article 6 (commencing with Section 5350).

(2) A relocated advertising display may be converted to a message center pursuant to a relocation agreement. The department shall issue a permit, without any additional consideration, for any display that is being placed pursuant to a relocation agreement with another governmental entity if the relocated display conforms with the provisions of this section.

