

Date of Hearing: June 22, 2016

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

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

**SENATE VOTE:** 27-7

**SUBJECT:** Advertising displays: City of Inglewood

**SUMMARY:** This bill 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.
  - 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 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) Makes findings and declarations to the need for the special statute for the City of Inglewood.

**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 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 Redevelopment Agency (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:** Unknown

**COMMENTS:**

Purpose of the bill: 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.”

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. That bill permitted existing advertising displays that advertised businesses and activities within the boundary limits of a 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%.

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.

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. The 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 administrative law judge 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.

Support: The City of Inglewood writes in support: “The City of Inglewood, like many if the other 400-plus cities in the State of California, had been a major beneficiary of local redevelopment efforts by its redevelopment agency...However, in 2011, when Governor Brown signed and AB 26X1 was enacted, and redevelopment agencies were eliminated, the revenues generated by redevelopment efforts were greatly reduced and eliminated in certain areas. This 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 (Hill, 2004), the City of Inglewood urges you to vote “AYE” on SB 1199.”

Opposition: The California State Outdoor Advertising Association (CSOAA) writes in opposition: “The regulatory structure that governs our member businesses is complex, and must consider federal, state and local considerations. We are concerned that this proposal creates an unlevel playing field for those outdoor companies that maintained lawfully permitted displays. SB 1199 would benefit those that have not complied with existing law, while punishing other businesses that have abided by the statute. Passing this bill is putting \$350 million of federal

funds at risk in order to facilitate two wallsapes. This is certainly not wise public policy. At very least, there is no reason to take the risk while legal proceedings have not been finalized. For these reasons, we must oppose SB 1199.”

Double referral: Should SB 1199 pass the Assembly Committee on Governmental Organization on Wednesday, June 22, 2016, this bill will be referred to the Assembly Committee on Local Government for further consideration.

Prior/Related Legislation: SB 684 (Hill, Chapter 544, Statutes of 2013) — 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” until January 1, 2023. The city or county could then apply to Caltrans for an extension, showing “good cause” beginning on January 1, 2022.

SB 31 (Padilla), 2013-2014 Legislative Session. Recasts the arena advertising exception to exempt from the OAA specified advertising displays authorized before January 1, 2019 by local ordinance, at a venue with a capacity of 15,000 seats or more that is capable of providing a permanent venue for professional sports. (Pending on the Assembly Floor)

SB 694 (Correa), 2013-2014 Legislative Session. Exempts from the Outdoor Advertising Act (OAA) advertising displays at current or future high-speed rail stations. (Pending in Assembly Appropriations Committee)

AB 26X (Blumenfield), Chapter 5, Statutes of 2011-12 First Extraordinary Session. Among other provisions, this bill eliminated redevelopment agencies.

AB 2339 (Solorio), Chapter 493, Statutes of 2008. This bill expanded the definition of an "on premise" display to include those displays advertising products, goods, or services sold on the premises of an arena of at least 5,000 seats and is located on public land, provided certain conditions were met.

AB 1499 (Benoit) of 2005-2006 Legislative Session. Creates an exemption to the Act, to permit the City of Riverside to erect an outdoor advertising display along Highway 91 to promote economic activity for the Riverside Plaza. (Vetoed by Governor)

AB 801 (Jones) of 2005-2006 Legislative Session. Creates an exemption from the Outdoor Advertising Act for one sign in the County of Sacramento. (Vetoed by Governor)

AB 2441 (Klehs) of 2005-2006 Legislative Session. Authorizes an advertising display in the redevelopment zone of the City of San Leandro subject to specified conditions. (Vetoed by Governor)

AB 1518 (J. Horton) of 2005-2006 Legislative Session. Exempts, from the prohibition against placing advertising displays adjacent to landscaped freeways, any billboard located on property owned by the Lennox School District, subject to certain conditions. (Died pending Concurrence in Assembly)

AB 762 (Nunez), Chapter 725, Statutes of 2003, creates an exemption to the Act by allowing the National Latino Arts Council to place an advertisement on the roof of a not-for-profit educational academy.

SB 1480 (Speier), Chapter 972, Statutes of 2002, requires the applicant for a state billboard permit to have the written consent of the city or county with land use jurisdiction as well as the owner of the property site for the billboard

SB 190 (Perata) Chapter 54, Statutes of 2001. Exempted a certain development of highway advertising in Oakland from existing laws protecting landscaped highways permitted the City of Artesia to erect an advertising display alongside a landscaped highway. Permitted the City of Artesia to lease one billboard space adjacent to the 91 Freeway on city property.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

City of Azusa  
City of Inglewood

**Opposition**

California State Outdoor Advertising Association

**Analysis Prepared by:** Kenton Stanhope / G.O. / (916) 319-2531