NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 429 (Third Edition)

SHORT TITLE: Just Comp./Local Gov. Taking.

SPONSOR(S): Representative Culpepper

FISCAL IMPACT

Yes () No () No Estimate Available (X)

FY 2004-05 FY 2005-06 FY 2006-07 FY 2007-08 FY 2008-09

REVENUES

General Fund * No General Fund Impact *

Local Governments *See Assumptions and Methodology *

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: North Carolina local governments.

EFFECTIVE DATE: When it becomes law and applies to ordinances in effect after that date.

BILL SUMMARY: Section 1 authorizes counties to require the removal of an off-premises outdoor advertising sign if it does not conform to local ordinances. It also allows counties to regulate the use of off-premise outdoor advertising with their jurisdiction. However, if the county amends or enacts an ordinance that requires the removal of any non-conforming, lawfully erected outdoor advertising sign the county must make monetary compensation to the owner, with two exceptions. First, if the sign is determined to be a public nuisance or detrimental to health or safety, no compensation is required. Second, if the removal is required for road widening or other governmental development, and the county allows the sign to be relocated to a comparable location, no compensation is required. Notice of a county's intent to require removal of a sign must be sent by certified mail to the owners of the sign and the property on which the sign is located.

Monetary compensation is defined as the fair market value of the advertising in place immediately before its removal and without consideration of the effect of the ordinance, less the fair market value of the advertising immediately after its removal. Monetary compensation may be determined based on the following factors 1) the factors to be considered by the county assessor when valuing personal property, 2) the cost of materials and labor used in constructing the advertising, 3) the purchase price of the rights to erect and maintain the advertising, 4) income

derived from the advertising, 5) the sales price of similar property, and 6) the listed property tax value of the property and any documents submitted to the assessing for determining value. Moreover, the legislation requires that the amount of monetary compensation required to be paid is not more than five (5) times the five year average annual gross revenue from the sign, less any placement or agency fees. Counties can voluntarily agree to pay more. In addition, the bill authorizes a county to enter into a relocation, reconstruction, or removal agreement with the owner of the non-conforming sign. If such an agreement is not reached, or monetary compensation is not paid, after 120 days the parties must enter into non-binding arbitration. If either party disagrees with the result of arbitration, that party may bring action in Superior County to determine an appropriate compensation. The bill also stipulates that a county has up to three years to pay the compensation, assuming the advertising remains in place until payment is made.

Section 2 of the bill applies the same changes noted above to cities. Section 3 repeals the current moratorium on the enactment of new or expanded ordinances amortizing off premise outdoor advertising by local governments, and the provision that Revenue Laws study the issue.

ASSUMPTIONS AND METHODOLOGY: Because the legislation affects only city and county ordinances, there is no General Fund impact.

Because the bill only addresses new ordinances requiring the removal of outdoor advertising, no local government will have to make payments unless they choose, in future years, to require such sign removal.

No data is available from the industry, the County Commissioners Association, the League of Municipalities, or county assessors concerning the number of signs likely to be removed. There is also no information available about the value on those signs and monetary compensation practices with or without the legislation. As such, no statewide fiscal estimate is possible.

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Fiscal Research Division

Publication

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