

AN ACT

3-166

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To authorize the Mayor of the District of Columbia to enter into a franchise agreement for the installation and maintenance of bus shelters, and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the "District of Columbia Bus Shelter Act of 1979".

Sec. 2. Findings and Purpose.

(a) The Council of the District of Columbia finds that: sec. 1-231,

(1) there is a shortage of bus shelters in the District of Columbia;

(2) there are over three thousand five hundred (3,500) bus stops in the District of Columbia;

(3) the District of Columbia Department of Transportation estimates that it would be appropriate to place bus shelters at at least one thousand five hundred (1,500) of the three thousand five hundred (3,500) bus stops with advertisements on seven hundred fifty (750) of the bus shelters;

CODIFICATION

D.C.M.R.

Note,

D.C. Code,

(4) the Washington Metropolitan Area Transit Authority currently proposes to install only three hundred sixty six (366) bus shelters in the District of Columbia;

(5) additional bus shelters will enhance the safety and convenience of bus transportation throughout the District of Columbia;

(6) it currently costs approximately two thousand eight hundred dollars (\$2,800) to purchase and install a bus shelter in the District of Columbia. The United States Department of Transportation has been paying eighty per cent (80%) of this amount, while the Washington Metropolitan Area Transit Authority is responsible for twenty per cent (20%);

(7) the District of Columbia government does not have the funds to purchase and install the number of bus shelters which are necessary to meet the needs of the bus-riding public in the District of Columbia; and

(8) the awarding of a franchise agreement, granting the right to erect and maintain bus shelters containing advertisement display panels along public streets, can provide the needed bus shelters at no cost to the District of Columbia and will further afford the District of Columbia additional revenues.

(b) The purposes of this act are to:

(1) provide the District of Columbia with bus shelters along its bus transportation routes;

(2) install and maintain bus shelters in the District of Columbia through the awarding of a franchise agreement;

(3) permit advertisement to be displayed on some of the bus shelters; and

(4) generate revenues for the District of Columbia.

(c) Nothing in this act shall be construed as comprising the franchise agreement.

Sec. 3. The Franchise Agreement.

(a) The Mayor is directed, within one (1) year of the effective date of this act and based upon an evaluation of the proposals received following an open request for proposals, to enter into a franchise agreement for the installation and maintenance of bus shelters on public space of the District of Columbia.

(b) The Mayor shall permit the franchisee to place advertisements on no more than ninety per cent (90%) of the bus shelters installed pursuant to the franchise agreement.

(c) The franchise agreement shall, for its term, be the exclusive agreement in the District of Columbia for private

installation and maintenance of bus shelters in public spaces which display commercial advertisements.

(d) The franchise agreement shall be for a period of ten (10) years. One (1) year prior to the termination of the franchise agreement each party shall notify the other, in writing, as to whether or not he wants to renegotiate the franchise agreement for an additional period of time. Absent satisfactory renegotiation for a renewal period, the Mayor is directed, based upon an evaluation of the proposals received following an open request for proposals, to enter into a new franchise agreement for the installation and maintenance of bus shelters on public space of the District of Columbia. The terms of the new franchise agreement shall not be inconsistent with the provisions of this act.

(e) Under the terms of the franchise agreement the franchisee shall be responsible for:

- (1) all of the costs and expenses for the bus shelter design approved by the Mayor;
- (2) the construction, maintenance, and lighting of the bus shelters and repair of all structures including sidewalks, curbs, streets or utilities which shall in any way be disturbed by the installation of the bus shelters;
- (3) the costs associated with moving bus shelters maintained by the Washington Metropolitan Area Transit

Authority, which are located on sites which have been approved for bus shelters with advertisement displayed on them; and

(4) the costs associated with changing, within three (3) months, the location of any bus shelters which are no longer needed where originally placed due to changes in bus routes or other factors.

(f) The franchise agreement shall establish:

(1) the minimum number of bus shelters, both with and without advertisement, which are to be installed in the District of Columbia pursuant to the franchise agreement;

(2) the specific location of the first one hundred (100) of the bus shelters referred to in paragraph (1) and approximate locations for the second one hundred (100) bus shelters;

(3) the order for installing the first two hundred (200) bus shelters;

(4) that subsequent to signing the franchise agreement the Mayor and the franchisee shall enter into an agreement specifying the locations and the order for installing the remaining bus shelters to be installed or moved pursuant to the franchise agreement. This agreement may be amended as necessary to include additional bus shelter locations;

(5) the design of the bus shelters; and

(6) standards which the franchisee is to follow for the minimum maintenance and replacement of the bus shelters installed pursuant to the franchise agreement.

(q) The Mayor shall include in the franchise agreement those provisions which are so specified in this act and any other provisions which the Mayor deems appropriate to carry out the purposes of this act.

(h) Upon the expiration of the franchise agreement, or upon the expiration of the renewal term provided for herein, or if the franchise is terminated according to the provisions of section 8 whichever shall occur first, the bus shelters installed pursuant to the franchise agreement shall become the property of the District of Columbia without cost to the District of Columbia.

Sec. 4. Location of Bus Shelters.

(a) Prior to the issuance of a Request for Proposals for the franchise agreement, and based on consultation with the Council of the District of Columbia, the Mayor shall establish:

(1) locations for the installation of ninety (90) bus shelters with advertisements, ten (10) bus shelters without advertisements, and for the bus shelters owned by the Washington Metropolitan Area Transit Authority which

must be moved to permit the franchisee to install the ninety (90) new bus shelters with advertisements; and

(2) the sequence in which the bus shelters are to be installed.

The selection of locations and the sequence for installation of bus shelters shall take into account, first, the various needs of the different areas of the District of Columbia for bus shelters, and second, the advertising market potential in these areas.

(b) In establishing the locations for the bus shelters the Mayor shall consult with the District of Columbia Department of Transportation, the Public Space Committee, the Commission of Fine Arts, the Pennsylvania Avenue Development Corporation, and the affected Advisory Neighborhood Commissions, and any other groups which the Mayor believes appropriate.

(c) The Mayor shall consult with the Commission of Fine Arts on the design and location of all bus shelters located within the monuments area as defined in section 1 of An Act To regulate, the height, exterior design, and construction of private and semi-public buildings in certain areas of the National Capital, approved May 16, 1930 (46 Stat. 366; D.C. Code, sec. 5-410).

Sec. 5. Advertising.

(a) The franchisee is authorized to sell commercial advertisement space on no more than two (2) sides of a single end of the bus shelters which have been designated by the Mayor to contain advertisement. The end of the bus shelter with advertisement shall be opposite the end nearest the approaching buses. Ten per cent (10%) of the total available advertisement space shall be made available for public service announcements and advertisements regarding community, art, cultural, educational and similar events. This shall include public service notices which the District of Columbia government may want to post. The amount of such public service announcements and advertisements shall be determined by the total number of hours the advertisement is displayed in a calendar year.

(b) The Mayor shall establish procedures for the review of proposed advertisements.

(c) The Mayor shall approve or disapprove any proposed advertisement submitted within ten (10) working days of its receipt, setting forth in writing the reason or reasons for any disapproval. Any proposed advertisement not disapproved by the Mayor within ten (10) working days of its receipt shall be deemed to have been approved.

(d) The franchisee shall remove any advertisement which the Mayor determines to be deceptive, misleading,

untruthful, obscene or in violation of the District of Columbia Consumer Protection Procedures Act, effective July 22, 1976 (D.C. Law 1-76; D.C. Code, title 28, appendix), within fifteen (15) days from receipt of a request from the Mayor.

(e) No more than fifty per cent (50%) of the advertisements posted shall relate to tobacco or alcoholic products. This amount shall be determined by the total number of hours the advertisement is displayed in a calendar year.

(f) At least ten per cent (10%) of the bus shelters to be installed by the franchisee shall not have advertisements on them.

(g) No bus shelters with advertisements shall be permitted in public spaces which are immediately adjacent to residential districts of the City zoned R-1, R-2, R-3, or R-4 by the Zoning Commission.

Sec. 6. Compensation.

(a) The franchise agreement shall establish the compensation which the District of Columbia government shall receive under the franchise agreement. The franchisee shall pay to the District of Columbia, on a quarterly basis:

(1) a fee of ten per cent (10%) of its gross advertisement receipts for the first five (5) year period; and

(2) a fee of fifteen per cent (15%) of its gross advertisement receipts for the second five (5) year period. Gross advertisement receipts shall be defined as payments received by the franchisee, its agents or designees, less commission paid to the advertisement brokerage agencies involved, in connection with the display of advertising material on the bus shelters. The Mayor may require the franchisee to maintain specific records and accounts which the Mayor shall have the right to inspect to ascertain the correctness of amounts paid to the District of Columbia.

(b) Notwithstanding the above provisions, the franchisee will guarantee to the District of Columbia government a minimum payment of three hundred dollars (\$300) per year per bus shelter for the first five (5) years of the franchise agreement and four hundred fifty dollars (\$450) per year per bus shelter for the second five (5) years of the franchise agreement. The Mayor may establish the appropriate minimum payment levels to be included in any franchise effective after the ten (10) year period.

(c) As further security for performance by the franchisee of its obligations, the franchisee shall deposit

into an escrow account, every three (3) months, beginning six (6) months after the effective date of the franchise, a sum equal to one tenth of one per cent (.1%) of its gross revenues until said fund reaches a total of one hundred thousand dollars (\$100,000). This fund shall be maintained at such depositories designated by the Mayor pursuant to the District of Columbia Depository Act of 1977, effective October 26, 1977 (D.C. Law 2-32; D.C. Code, sec. 47-271 et seq.) and shall bear interest to the franchisee. The fund shall be used to reimburse the District of Columbia for any financial loss incurred by reason of a default by the franchisee, or for the cost of moving bus shelters if the franchisee does not move them when required to do so. Upon the expiration of the term or the renewed term, the unobligated sum on deposit shall be returned to the franchisee.

Sec. 7. Insurance and Bonds.

(a) Within thirty (30) days of the effective date of the franchise agreement, the franchisee shall file with the District of Columbia and shall maintain throughout the life of the franchise agreement, liability insurance policies and performance bonds acceptable to the Mayor in the minimum amounts as follows:

(1) for bodily injury, including death (A) two hundred fifty thousand dollars (\$250,000) for any one person and (B) one million dollars (\$1,000,000) for any one accident;

(2) for property damage, one hundred thousand dollars (\$100,000) per accident; and

(3) for performance of maintenance and repairs, and other provisions of the franchise agreement, two hundred fifty dollars (\$250) per bus shelter, up to a maximum of one hundred thousand dollars (\$100,000) for all bus shelters.

(b) The franchisee shall assume any legal responsibility for and shall hold the District of Columbia and/or the Washington Metropolitan Area Transit Authority harmless from any liability that arises because of injury to persons or property, including sidewalks, curbs, streets and structures by reason of the construction, operation, or maintenance of the bus shelters installed or moved pursuant to the franchise agreement.

Sec. 8. Termination of Franchise Agreement.

(a) The Mayor shall notify the franchisee in writing of any violations of the franchise agreement and establish a compliance schedule for correcting the violations. In the event that the compliance schedule is not met, the Mayor may terminate the franchise agreement after sixty (60) days

written notice to the franchisee of his intent to terminate the franchise agreement, setting forth the reasons for the termination.

(b) In the event of bankruptcy of the franchisee the Mayor shall terminate the franchise agreement, providing the franchisee with written notice of his action.

(c) In addition to default on the franchise agreement or bankruptcy by the franchisee, the Mayor may include in the franchise agreement, for the best interest of the District of Columbia, any other conditions and terms which shall constitute the basis for cancellation.

Sec. 9. Selection of the Franchisee.

(a) In awarding the franchise agreement, the Mayor shall give priority to proposals submitted by entities which provide written evidence that they meet the following criteria:

(1) that no less than fifty per cent (50%) of the equity interest holders of the entity have resided in the District of Columbia for at least three (3) years;

(2) that at least fifty per cent (50%) of the voting shares or equity interest of the entity is held by individuals who are members of a minority group or organization operated for the purpose of aiding such persons as defined in the Minority Contracting Act of 1976.

effective March 29, 1977 (D.C. Law 1-95; D.C. Code, sec. 1-852 et seq.); and

(3) that the entity is capable of satisfying the general standards for responsible prospective contractors as set forth in the Federal Procurement Regulations (41 C.F.R. 1-1.1203-1).

(b) The proposals submitted pursuant to an open request for proposals shall be evaluated by the Mayor on a scale of one hundred (100) points. An additional ten (10) points shall be given proposals which meet the criteria in paragraph (1) above and an additional ten (10) points shall be given proposals which meet the criteria in paragraph (2) above.

Sec. 10. Relation to Other Provisions of Law.

The provisions of section 2 of An Act To regulate the erection, hanging, placing, painting, display, and maintenance of outdoor signs and other forms of exterior advertising within the District of Columbia, approved March 3, 1931 (46 Stat. 1486; D.C. Code, sec. 1-232) and Title 5A-1, Article 14 of the Building Code of the District of Columbia, pertaining to outdoor signs in the District of Columbia, shall not pertain to the advertisement resulting from the franchise agreement.

Sec. 11. Regulations.

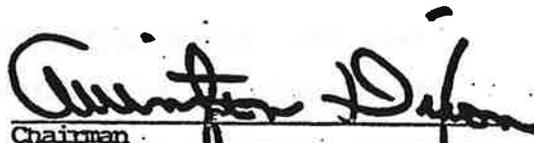
The Mayor is authorized to promulgate regulations to carry out the purposes of this act.

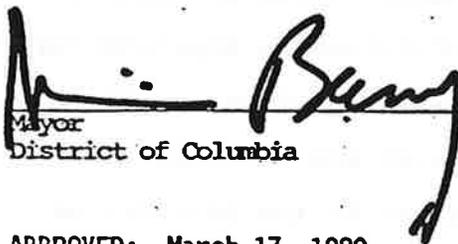
Sec. 12. Severability.

If a provision of this act or its application to a particular person or circumstance is held invalid, such invalidity does not affect other provisions or applications.

Sec. 13. Effective Date.

This act shall become effective pursuant to the provisions of Section 602 (c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act.


Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED: March 17, 1980

Intro. as Bill 3-145 on April 23, 1979
by Councilmember Moore

FIRST READING: 1-22-80; Adopted by majority voice vote; Ray, Spaulding, and Wilson absent.

AMENDED
FIRST READING: 2-5-80; Adopted by unanimous voice vote; all present.

FINAL READING: 2-19-80; Adopted by unanimous voice vote; Moore absent.

Transmitted to the Mayor: March 3, 1980