

Enrolled House Bill 2822

Sponsored by Representative GREENLICK; Representatives BAILEY, CANNON, DEMBROW,
GARRARD, GARRETT, GILMAN, KOTEK, READ, SHIELDS, TOMEI, Senators ATKINSON,
BONAMICI, BURDICK, ROSENBAUM

CHAPTER

AN ACT

Relating to ways of necessity for private sewer lines; creating new provisions; and amending ORS
376.150 and 376.155.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 376.150 is amended to read:

376.150. As used in ORS 376.150 to 376.200:

(1) "Public road" means the entire right of way of any road over which the public has the right of use or any right of way held by the state or a political subdivision of the state for road purposes that is not open for public use.

(2) "Way of necessity" means:

(a) A road established under ORS 376.150 to 376.200 to provide motor vehicle access from a public road to land that would otherwise have no motor vehicle access; [or]

(b) A route established under ORS 376.150 to 376.200 to provide utility service access from an existing service location to a service point that would otherwise have no utility service access[.];
or

(c) A route established under ORS 376.150 to 376.200 to provide a continuation of preexisting sewer service to land that has access to a public road.

SECTION 2. ORS 376.155 is amended to read:

376.155. (1) To establish a way of necessity under ORS 376.150 to 376.200, a landowner shall file a petition with the governing body of the county in which the land is located.

(2) A petition filed under this section shall contain a drawing and a narrative statement that contain all of the following information:

(a) The location and legal description of the property to be served by the proposed way of necessity.

(b) The location of all public roads located in the vicinity of the property to be served by the proposed way of necessity that are capable of being used to provide access to the property. The petition shall include the location of public roads that are not open for public use.

(c) A specific proposed location for the proposed way of necessity.

(d) Evidence showing the necessity for the establishment of a way of necessity.

(e) Evidence that either:

(A) The proposed way of necessity does not connect to a public road that has access rights acquired and limited by the state or county; or

(B) If the public road proposed for access by way of necessity has the limited access rights, the state or county is willing to grant permission to connect the proposed way of necessity to the public road.

(f) Evidence that the proposed way of necessity may be connected to the public road safely.

(g) Evidence that the specific location proposed for the way of necessity is the nearest practicable point for connection to a way of necessity to a public road.

(h) The names and addresses of the persons owning the land across which the way of necessity could be located.

(i) The petitioner's proposal for the amount of compensation to persons owning land across which the way of necessity is proposed to be located.

(j) Evidence that the petitioner does not have an existing easement or right to an easement to provide access to a public road.

(k) Evidence that the petitioner does not have any enforceable access to a public road.

(L) If the petition is to establish a way of necessity described in ORS 376.150 (2)(c), evidence that:

(A) A publicly owned sewer line does not exist in the portion of any public road adjacent to the land; and

(B) The land is located in a jurisdiction that has adopted and implemented a public sewer extension program designed to make public sewers available to land lacking access to a public sewer line in the portion of a public road adjacent to the land.

SECTION 3. Section 4 of this 2009 Act is added to and made a part of ORS 376.150 to 376.200.

SECTION 4. (1) A way of necessity that provides a continuation of preexisting sewer service to land that has access to a public road:

(a) Terminates six months after a local government, as defined in ORS 174.116, having jurisdiction over the affected land issues a notice to affected property owners declaring the completion of a public sewer line that provides direct access to the land.

(b) May not be approved in circumstances where the abandonment of an existing private sewer line connection is necessitated by permitted development or redevelopment.

(2) Compensation paid by the owner of the benefited land to the owner of the land burdened by the way of necessity must reflect the temporary duration of ways of necessity approved under ORS 376.175.

Passed by House March 20, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate May 28, 2009

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President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State