



Oregon

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Department of Transportation

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DATE: February 26, 2013

TO: Senate Committee on Business and Transportation

FROM: Matthew L. Garrett
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SUBJECT: Senate Bill 408

INTRODUCTION

Senate Bill 408 makes changes to Oregon's access management laws, further clarifying how existing unpermitted approaches are addressed as well as how decisions affecting private access will be made as part of state highway projects.

BACKGROUND

Senate Bill 1024 (2010) directed the Oregon Department of Transportation (ODOT), in cooperation with stakeholders, to develop proposed legislation to codify, clarify and bring consistency to issuance of access permits (permits for driveways onto state highways) based on objective standards and to establish less stringent access management rules, mitigation measures and spacing and mobility standards for highway segments on which the annual average amount of daily traffic is 5,000 vehicles or fewer.

ODOT has worked with stakeholders to make significant changes to the rules that the Department uses to permit approaches to the state highway. These changes culminated into Senate Bill (SB) 264, passed by the 2011 Legislative Assembly. The Oregon Transportation Commission adopted permanent administrative rules to implement SB 264 in June 2012. The changes reflected a major paradigm shift in how the Department balances traffic safety & operations with the importance of facilitating opportunities for economic development and job creation in our communities.

SB 264 also established an Access Management Oversight Task Force to oversee and monitor the department's implementation of SB 264, to propose additional legislation as necessary, and to report annually to the interim legislative committees on transportation with its findings and recommendations.

The report identified three priority areas for access management legislation in 2013: existing unpermitted accesses (accesses without written permission), access management in interchange area management plans, and access management within the context of project delivery.

WHAT THE BILL DOES

SB 408 was drafted initially to deal with unpermitted approaches, but will be amended to address two remaining priority areas:

- Highway planning projects
- Highway construction projects

In addition, SB 408 includes provisions to address opportunities for the applicant to resolve disputes as part of planning or construction projects that identify the need to modify, relocate, or close existing private connections to the state highway.

Existing unpermitted accesses

The task force's discussion related to existing unpermitted accesses focused on how to create a "presumptive" legal status that would be equivalent to written permission. SB 408 clarifies how to manage the potentially large number of existing unpermitted private accesses to state highways that exist today by presuming they have written permission from the department as required by ORS 374. This enables the department and the landowner to treat existing connections as if they are virtually permitted, and the burden would be on ODOT to show where available documentation does not support this presumption.

Examples include accesses that:

- Existed prior to 1949 when the state began to manage accesses.
- Were built before the department established statewide standards for issuing permits.
- Were built by the department as part of highway improvement projects.

Access management as part of planning projects

An amendment to Senate Bill 408 is being developed to clarify the process by which ODOT will engage local governments and abutting property owners to address how decisions affecting access to state highways would occur as part of facility plans. For facility plans that identify the need to modify, relocate, or close existing private connections, the amendment will require the plan to include the strategy and methodology for how access will be managed in a level of detail necessary to achieve the scope of the facility plan.

Access management within the context of project delivery

An amendment being developed will also clarify the process for ODOT to engage local governments and abutting property owners when the Access Management Strategy describes how each existing connection to the highway will be treated as part of specific highway improvement projects.

ODOT will adopt Oregon Administrative Rules as needed to implement SB 408.

SUMMARY

The department continues to work with stakeholders and the Access Management Oversight Task Force on changes to SB 408 that will address the remaining priority areas of concern.

