

SENATE AMENDMENTS TO SENATE BILL 408

By COMMITTEE ON BUSINESS AND TRANSPORTATION

March 6

1 On page 1 of the printed bill, line 5, delete “and 3” and insert “to 5”.

2 Delete lines 7 through 30.

3 On page 2, delete lines 1 and 2 and insert:

4 **“SECTION 2. (1)(a) An owner of real property abutting a state highway with an existing**
5 **approach road is presumed to have the Department of Transportation’s written permission**
6 **for the approach road based upon documentation for a highway project completed by the**
7 **department that shows that the approach road was built or rebuilt as part of the project or**
8 **that the department intended to issue an approach permit to the property owner for the**
9 **approach road.**

10 **“(b) The department shall have the burden to establish that the factual basis for the**
11 **presumption in paragraph (a) of this subsection does not exist.**

12 **“(2)(a) An owner of real property abutting a state highway with an approach road that**
13 **was in existence before April 1, 2000, is also presumed to have the department’s written**
14 **permission for the approach road based upon documentation in any form that shows:**

15 **“(A) That the approach road was in existence before July 16, 1949;**

16 **“(B) That the approach road was in existence before the department accepted jurisdiction**
17 **of the highway from a city or county; or**

18 **“(C) That the approach road was built or rebuilt with the department’s knowledge or**
19 **permission.**

20 **“(b) The department shall have the burden to establish that the factual basis for the**
21 **presumption in paragraph (a) of this subsection does not exist. The department may rebut**
22 **the presumption in paragraph (a) of this subsection by a showing that there is insufficient**
23 **documentation to determine whether the approach road was built or rebuilt with the**
24 **department’s knowledge or permission.**

25 **“(3) Subsections (1) and (2) of this section apply only where there is a right of access to**
26 **the state highway.**

27 **“(4) For approach roads presumed to have written permission under this section, the**
28 **determination of prior use for the purposes of ORS 374.312 (4) and (5) is the use of the**
29 **property on the effective date of this 2013 Act.**

30 **“(5) Except as provided in this section, an approach road built without the department’s**
31 **written permission is subject to removal or reconstruction as provided in ORS 374.307.**

32 **“(6) For purposes of ORS 374.302 to 374.330, 374.335 and 374.345, the presumption of writ-**
33 **ten permission of the department for an approach road is deemed to be an approach permit**
34 **issued by the department under ORS 374.310.”.**

35 After line 9, insert:

1 **“SECTION 4. (1) As used in this section, ‘facility plan’ includes, but is not limited to,**
2 **interchange area management plans, corridor plans, transportation refinement plans and**
3 **access management plans.**

4 **“(2) Every facility plan and access management strategy developed for a highway im-**
5 **provement or modernization project under this section or section 5 of this 2013 Act must**
6 **include a methodology that balances the economic development objectives of properties**
7 **abutting state highways with the transportation safety and access management objectives**
8 **of state highways, in a manner consistent with local transportation system plans and the**
9 **land uses permitted in the local comprehensive plans acknowledged under ORS chapter 197.**

10 **“(3) The following apply to all facility plans developed by the Department of Transporta-**
11 **tion:**

12 **“(a) The location of county roads and city streets within the area described in the facility**
13 **plan must be determined through collaborative discussion and agreement between the de-**
14 **partment and the affected cities and counties. Each facility plan must document the agree-**
15 **ment regarding the location of county roads and city streets that intersect a state highway**
16 **within the area described in the plan.**

17 **“(b) The department shall develop key principles for each facility plan. The department**
18 **shall use the key principles to evaluate how properties abutting a state highway may retain**
19 **or obtain access to the state highway during and after plan implementation. In developing**
20 **the key principles, the department shall also develop a methodology to weigh the benefits of**
21 **a highway improvement or modernization project to public safety and mobility against:**

22 **“(A) The local transportation system plans and the land uses permitted in the local**
23 **comprehensive plans of cities and counties; and**

24 **“(B) The economic development objectives of affected real property owners who require**
25 **access to the state highway.**

26 **“(c) If a facility plan identifies the need to modify, relocate or close existing private ap-**
27 **proaches, the plan must include key principles for managing access to the state highway.**
28 **The key principles must contain a level of detail sufficient to inform affected real property**
29 **owners of the potential for the modification, relocation or closure of existing private ap-**
30 **proaches within the area described in the facility plan.**

31 **“(d) Each facility plan affecting access to a state highway must include a timeline by**
32 **which the plan may need to be implemented in order to meet the safety and operational**
33 **needs of the state highway.**

34 **“(e) Each facility plan must include the long term safety and operational needs for the**
35 **state highway and for all intersecting highways, roads or streets based on an engineering**
36 **analysis conducted by a traffic engineer.**

37 **“(f)(A) Until a facility plan is adopted by the Oregon Transportation Commission or fi-**
38 **nalized by the department, an affected real property owner may request a review of the key**
39 **principles and related methodology developed by the department through:**

40 **“(i) A collaborative discussion as established by the department by rule; or**

41 **“(ii) The Access Management Dispute Review Board established under ORS 374.360.**

42 **“(B) The recommendation of the Access Management Dispute Review Board under sub-**
43 **paragraph (A) of this paragraph is not a land use decision, as defined in ORS 197.015, that**
44 **may be appealed to the Land Use Board of Appeals.**

45 **“(4) Prior to adopting any key principle under subsection (5) of this section, the depart-**

1 ment shall provide notice and an opportunity to be heard to the affected cities and counties
2 and to affected real property owners. The department shall provide notice by first class mail.

3 “(5) Twenty days after the date the department sends written notice under subsection (4)
4 of this section, the department, in agreement with the affected cities and counties, shall
5 adopt the key principles for a facility plan.

6 “**SECTION 5.** (1) As used in this section:

7 “(a) ‘Access management strategy’ means a project delivery strategy developed by the
8 Department of Transportation, in collaboration with cities, counties and owners of real
9 property abutting a state highway in the affected area, that identifies the location and type
10 of public and private approaches and other necessary improvements that are planned to oc-
11 cur primarily in the highway right of way and that are intended to improve current condi-
12 tions on the section of highway by moving in the direction of the objective standards
13 described in ORS 374.311, subject to safety and highway operations concerns.

14 “(b) ‘Project’ means a highway improvement project or highway modernization project
15 included in the Statewide Transportation Improvement Program.

16 “(2) The Department of Transportation shall develop an access management strategy for
17 each project. In developing an access management strategy, the department shall engage
18 affected real property owners when:

19 “(a) Establishing the methodology by which private approaches will be considered for
20 modification, relocation or closure; or

21 “(b) The department proposes to acquire all rights of access to a segment of the state
22 highway.

23 “(3) Within 21 days after the department finalizes the methodology by which private ap-
24 proaches will be considered for modification, relocation or closure, an affected real property
25 owner may request a review of the methodology through:

26 “(a) A collaborative discussion as established by the department by rule; or

27 “(b) The Access Management Dispute Review Board established under ORS 374.360.

28 “(4) If a facility plan, as defined in section 4 of this 2013 Act, is created for a project, the
29 facility plan must include a sufficient level of detail to identify the location of the private
30 approaches affected by the project.

31 “(5) The department shall work with the cities, counties, highway users and real property
32 owners affected by a project to:

33 “(a) Identify deficiencies with each highway segment impacted by a project; and

34 “(b) Establish the long-term vision for each highway segment impacted by a project that
35 would guide the scope and design of improvements within the highway segment.

36 “(6) The following apply to all projects that include modification, relocation or closure
37 of existing private approaches to a state highway:

38 “(a) The location of intersecting county roads and city streets shall be consistent with
39 the city and county transportation system plans or shall be determined and agreed upon
40 through collaborative discussion between the department and the cities and counties affected
41 by the project.

42 “(b) The department shall determine the location of private approaches in the access
43 management strategy in collaboration with affected real property owners using a
44 collaborative discussion as established by the department by rule.”.

45 In line 10, delete “4” and insert “6”.

1 In line 30, delete “5” and insert “7”.

2 In line 40, delete “6” and insert “8”.

3 After line 44, insert:

4 **“SECTION 9. Sections 4 and 5 of this 2013 Act apply to facility plans and access man-**
5 **agement strategies that are initiated on or after the effective date of this 2013 Act.”.**

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