

**PROPOSED AMENDMENTS TO
SENATE BILL 408**

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**
5 **highway with an existing approach road is presumed to have the De-**
6 **partment of Transportation’s written permission for the approach road**
7 **based upon documentation for a highway project completed by the**
8 **department that shows that the approach road was built or rebuilt as**
9 **part of the project or that the department intended to issue an ap-**
10 **proach permit to the property owner for the approach road.**

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

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

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

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

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

1 “(b) The department shall have the burden to establish that the
2 factual basis for the presumption in paragraph (a) of this subsection
3 does not exist. The department may rebut the presumption in para-
4 graph (a) of this subsection by a showing that there is insufficient
5 documentation to determine whether the approach road was built or
6 rebuilt with the department’s knowledge or permission.

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

9 “(4) For approach roads presumed to have written permission under
10 this section, the determination of prior use for the purposes of ORS
11 374.312 (4) and (5) is the use of the property on the effective date of this
12 2013 Act.

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

16 “(6) For purposes of ORS 374.302 to 374.330, 374.335 and 374.345, the
17 presumption of written permission of the department for an approach
18 road is deemed to be an approach permit issued by the department
19 under ORS 374.310.”.

20 After line 9, insert:

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

24 “(2) Every facility plan and access management strategy developed
25 for a highway improvement or modernization project under this sec-
26 tion or section 5 of this 2013 Act must include a methodology that
27 balances the economic development objectives of properties abutting
28 state highways with the transportation safety and access management
29 objectives of state highways, in a manner consistent with local trans-
30 portation system plans and the land uses permitted in the local com-

1 **prehensive plans acknowledged under ORS chapter 197.**

2 **“(3) The following apply to all facility plans developed by the De-**
3 **partment of Transportation:**

4 **“(a) The location of county roads and city streets within the area**
5 **described in the facility plan must be determined through collaborative**
6 **discussion and agreement between the department and the affected**
7 **cities and counties. Each facility plan must document the agreement**
8 **regarding the location of county roads and city streets that intersect**
9 **a state highway within the area described in the plan.**

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

17 **“(A) The local transportation system plans and the land uses per-**
18 **mitted in the local comprehensive plans of cities and counties; and**

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

21 **“(c) If a facility plan identifies the need to modify, relocate or close**
22 **existing private approaches, the plan must include key principles for**
23 **managing access to the state highway. The key principles must con-**
24 **tain a level of detail sufficient to inform affected real property owners**
25 **of the potential for the modification, relocation or closure of existing**
26 **private approaches within the area described in the facility plan.**

27 **“(d) Each facility plan affecting access to a state highway must in-**
28 **clude a timeline by which the plan may need to be implemented in**
29 **order to meet the safety and operational needs of the state highway.**

30 **“(e) Each facility plan must include the long term safety and oper-**

1 ational needs for the state highway and for all intersecting highways,
2 roads or streets based on an engineering analysis conducted by a
3 traffic engineer.

4 “(f)(A) Until a facility plan is adopted by the Oregon Transportation
5 Commission or finalized by the department, an affected real property
6 owner may request a review of the key principles and related meth-
7 odology developed by the department through:

8 “(i) A collaborative discussion as established by the department by
9 rule; or

10 “(ii) The Access Management Dispute Review Board established
11 under ORS 374.360.

12 “(B) The recommendation of the Access Management Dispute Re-
13 view Board under subparagraph (A) of this paragraph is not a land use
14 decision, as defined in ORS 197.015, that may be appealed to the Land
15 Use Board of Appeals.

16 “(4) Prior to adopting any key principle under subsection (5) of this
17 section, the department shall provide notice and an opportunity to be
18 heard to the affected cities and counties and to affected real property
19 owners. The department shall provide notice by first class mail.

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

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

25 “(a) ‘Access management strategy’ means a project delivery strat-
26 egy developed by the Department of Transportation, in collaboration
27 with cities, counties and owners of real property abutting a state
28 highway in the affected area, that identifies the location and type of
29 public and private approaches and other necessary improvements that
30 are planned to occur primarily in the highway right of way and that

1 are intended to improve current conditions on the section of highway
2 by moving in the direction of the objective standards described in ORS
3 374.311, subject to safety and highway operations concerns.

4 “(b) ‘Project’ means a highway improvement project or highway
5 modernization project included in the Statewide Transportation Im-
6 provement Program.

7 “(2) The Department of Transportation shall develop an access
8 management strategy for each project. In developing an access man-
9 agement strategy, the department shall engage affected real property
10 owners when:

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

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

15 “(3) Within 21 days after the department finalizes the methodology
16 by which private approaches will be considered for modification, relo-
17 cation or closure, an affected real property owner may request a re-
18 view of the methodology through:

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

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

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

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

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

1 **“(b) Establish the long-term vision for each highway segment im-**
2 **acted by a project that would guide the scope and design of im-**
3 **provements within the highway segment.**

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

6 **“(a) The location of intersecting county roads and city streets shall**
7 **be consistent with the city and county transportation system plans or**
8 **shall be determined and agreed upon through collaborative discussion**
9 **between the department and the cities and counties affected by the**
10 **project.**

11 **“(b) The department shall determine the location of private ap-**
12 **proaches in the access management strategy in collaboration with af-**
13 **ected real property owners using a collaborative discussion as**
14 **established by the department by rule.”.**

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

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

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

18 After line 44, insert:

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

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