

## **BILL ANALYSIS**

S.B. 1609  
By: Hegar  
Transportation  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Current law is largely silent on access management. The Texas Department of Transportation (TxDOT) outlines those standards that are written in its Access Management Manual, a document that is not part of the Administrative Code. Revision of the manual does not involve stakeholder input or public decision.

S.B. 1609 amends current law relating to the control of access to state highways by TxDOT.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Transportation Commission in SECTION 1 (Section 203.031, Transportation Code) of this bill.

### **ANALYSIS**

SECTION 1. Amends Section 203.031, Transportation Code, by adding Subsection (a-1), as follows:

(a-1) Requires the Texas Transportation Commission by rule, in the exercise of its authority to manage access to or from a controlled access highway under Subsection (a)(2) (relating to denying access to or from a controlled access highway) or (4) (relating to designating locations on a controlled access highway) to:

(1) require that a decision by a Texas Department of Transportation (TxDOT) district office denying a request for access to a specific location on a controlled access highway be in writing and include the reasons for the denial;

(2) provide procedures for appealing a denial under Subdivision (1), including procedures that allow the applicant to appeal the denial to TxDOT's design division before the 31st day after the date written notice of the denial is given to the applicant; provide that if an appeal under Paragraph (A) (relating to providing certain procedures for appealing a denial under Subdivision (1)) is not decided before the 91st day after the date the appeal was filed, the access applied for is required to be granted; and allow the applicant to appeal the decision of the design division to the executive director of TxDOT (executive director), and if the decision is affirmed, to a board of variance appointed by the executive director and composed of at least three persons who are prohibited from being below the level of TxDOT division director, office director, or district engineer, and who were not involved in the original decision to deny access;

(3) provide that properly platted access points to or from a controlled access highway that are located on undeveloped property are subject to the access management standards in effect at the time the points were platted regardless of when the initial request for access was submitted to TxDOT, but only if development of the property begins and the request for access at the platted locations is submitted to TxDOT before the fifth anniversary of the date the plat was recorded, and the design of the highway facility in the vicinity of the platted access points did not materially change after the date the plat was recorded so as

to significantly impact traffic patterns to the extent that the platted access points present a threat to public safety;

(4) require that owners of land adjacent to a proposed construction project be provided written notice of the project at least 60 days before the date construction begins if the project will permanently alter permitted access to or from a controlled access highway at the owners' existing locations; and the access described by Paragraph (A) (relating to requiring that owners of land adjacent to a proposed construction project be provided written notice of the project within a certain amount of time) be reinstated to the most practicable extent possible after due consideration of the impact on highway safety, mobility, and efficient operation of any changed traffic patterns resulting from the construction;

(5) adopt criteria for determining when a variance to access management standards is authorized to be granted, including criteria that, in addition to highway safety, mobility, and efficient operation concerns, takes into consideration and of the following consequences resulting from denial of the owner's request for access to a specific location on a controlled access highway that may impact a property owner: denial of reasonable access to the property and an undue hardship on a business located on the property; and

(6) clarify that the remodeling or demolition and rebuilding of a business does not cause new access management standards to apply unless TxDOT makes an affirmative finding in writing that the remodeled or rebuilt business will significantly impact traffic patterns to the extent that the current access location presents a threat to public safety.

SECTION 2. Effective date: upon passage or September 1, 2009.

#### **EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2009.