

By: Hegar

S.B. No. 1609

A BILL TO BE ENTITLED

AN ACT

relating to the control of access to state highways by the Texas Department of Transportation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 203.031, Transportation Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In the exercise of its authority to manage access to or from a controlled access highway under Subsection (a)(2) or (4), the commission by rule shall:

(1) require that a decision by a department 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:

(A) allow the applicant to appeal the denial to the department's design division before the 31st day after the date written notice of the denial is given to the applicant;

(B) provide that if an appeal under Paragraph (A) is not decided before the 91st day after the date the appeal was filed, the access applied for must be granted; and

(C) allow the applicant to appeal the decision of the design division to the director and, if the decision is affirmed, to a board of variance appointed by the director and

1 composed of at least three persons who may not be below the level of
2 department division director, office director, or district
3 engineer and who were not involved in the original decision to deny
4 access;

5 (3) provide that properly platted access points to or
6 from a controlled access highway that are located on undeveloped
7 property are subject to the access management standards in effect
8 at the time the points were platted regardless of when the initial
9 request for access was submitted to the department, but only if:

10 (A) development of the property begins and the
11 request for access at the platted locations is submitted to the
12 department before the fifth anniversary of the date the plat was
13 recorded; and

14 (B) the design of the highway facility in the
15 vicinity of the platted access points did not materially change
16 after the date the plat was recorded so as to significantly impact
17 traffic patterns to the extent that the platted access points
18 present a threat to public safety;

19 (4) require that:

20 (A) owners of land adjacent to a proposed highway
21 construction project be provided written notice of the project at
22 least 60 days before the date construction begins if the project
23 will permanently alter permitted access to or from a controlled
24 access highway at the owners' existing locations; and

25 (B) the access described by Paragraph (A) be
26 reinstated to the most practicable extent possible after due
27 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 may be granted, including criteria that, in addition to highway safety, mobility, and efficient operation concerns, takes into consideration any 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:

(A) denial of reasonable access to the property;
and

(B) 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 the department 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. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.