

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(a), Transportation Code, is amended to read as follows:

(a) Subject to Section 203.035, the ~~The~~ commission, by order entered in its minutes, may:

(1) designate a state highway of the designated state highway system as a controlled access highway;

(2) deny access to or from a controlled access highway from or to adjoining public or private real property and from or to a public or private way intersecting the highway, except at specific locations designated by the commission;

(3) close a public or private way at or near its intersection with a controlled access highway;

(4) designate locations on a controlled access highway at which access to or from the highway is permitted and determine the type and extent of access permitted at each location;

(5) erect protective devices to preserve the integrity, utility, and use of the controlled access highway; and

(6) repeal an order entered under this section.

SECTION 2. Subchapter C, Chapter 203, Transportation Code, is amended by adding Section 203.035 to read as follows:

1 Sec. 203.035. REQUIRED PROCEDURES. (a) The commission
2 shall comply with this section in managing access to or from a
3 controlled access highway under Section 203.031.

4 (b) The commission by rule shall:

5 (1) require that a decision by a district engineer
6 denying access to a controlled access highway be in writing and
7 include the reasons for the denial;

8 (2) provide procedures for appealing a denial under
9 Subdivision (1), including procedures that:

10 (A) allow the applicant to appeal the denial to
11 the department's design division before the 31st day after the date
12 the decision is made;

13 (B) provide that if an appeal under Paragraph (A)
14 is not decided before the 46th day after the date the appeal was
15 filed, the access applied for must be granted; and

16 (C) allow the applicant to appeal the decision of
17 the design division to the executive director and the State Office
18 of Administrative Hearings;

19 (3) provide that properly platted access points to or
20 from a controlled access highway that are located on undeveloped
21 property are subject to any access management rules in effect at the
22 time the points were platted;

23 (4) require that:

24 (A) owners of land adjacent to a proposed
25 construction project be provided written notice of the project at
26 least 60 days before construction begins if the project will
27 permanently alter the owners' existing access to a controlled

1 access highway; and

2 (B) the access described by Paragraph (A) be
3 reinstated to the most practicable extent possible;

4 (5) adopt standards for:

5 (A) determining when a variance to access
6 management criteria may be granted, including a variance based on
7 the denial of reasonable access to a business or an undue hardship
8 on a business; and

9 (B) requiring that the granting of a variance be
10 considered precedent and applicable to adjacent landowners; and

11 (6) clarify that the remodeling or demolition and
12 rebuilding of a business may not cause new access management
13 standards to apply unless the department makes an affirmative
14 finding in writing that the remodeled or rebuilt business will
15 significantly impact traffic patterns to the extent that the
16 current access presents a threat to public safety.

17 (c) An appeal of a decision by the executive director under
18 Subsection (b) is held in Austin and is a contested case under
19 Chapter 2001, Government Code, conducted as a de novo hearing by the
20 State Office of Administrative Hearings.

21 SECTION 3. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2009.