

SENATE BILL REPORT

SB 6678

As Reported By Senate Committee On:
Transportation, February 10, 1998

Title: An act relating to development of a highway access management program for the benefit of motor vehicles.

Brief Description: Developing a vehicle-oriented highway access management program.

Sponsors: Senators Rasmussen and Franklin.

Brief History:

Committee Activity: Transportation: 2/9/98, 2/10/98 [DPS].

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 6678 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prince, Chair; Benton, Vice Chair; Wood, Vice Chair; Goings, Haugen, Heavey, Horn, Jacobsen, Morton, Oke, Patterson, Prentice, Rasmussen and Sellar.

Staff: Ashley Probart (786-7319)

Background: In 1991, the state Legislature found that regulating access to the state highway system was necessary in order to protect the public's health and safety, and to preserve the functional integrity of the state highway system. The Legislature also required an access management program, and declared all state highways to be controlled access facilities, except for highways already defined as limited access facilities. An access management program's primary functions are to increase the traffic carrying capacity of the highway, reduce traffic accidents, mitigate environmental degradation, and reduce highway maintenance costs. Access standards are based on criteria that focuses on the minimum distance between driveways, topography, traffic volume, and the cumulative effects to the highway.

The Legislature declared the access rights of property owners abutting the state highway system to be subordinate to the public's right and interest in a safe and efficient highway system.

Property owners abutting a state controlled access highway have a right to reasonable highway access, but may not have the right to a particular access. The state highway access right may be restricted if, pursuant to local regulation, reasonable access can be provided to another public road which abuts the property.

Controlled access facilities are structured around a permitting process that went into effect on July 1, 1990. Access permits are required after July 1, 1990 for all planned connections to the state highway system. Access standards are adopted with the consent of local county

governments, and cities retain all access permitting authority within their city limits. The state can deny access to a permit applicant and can require a permit applicant to pay for construction costs or alterations that will affect the traffic flow of the connection. Permit applicants are not required to pay for alterations that are made at the request of and for the convenience of the permitting authority.

State law allows unpermitted access connections to the state highway system that were in existence prior to July 1, 1990. However, an originally unpermitted access may require a permit if the connection does not meet minimum acceptable highway safety standards, or if a significant change occurs in the use, design or traffic flow of the connection, or the adjacent highway.

Access permits granted prior to the adoption of the permitting authority's access standards remain valid, unless modified or revoked. After written notification, the permitting authority may modify or revoke an access permit, including the alteration or closure of a connection if a significant change occurs in its use, design, or traffic flow.

Summary of Substitute Bill: State law regulating access management is modified. Existing law is changed to require the access rights of property owners abutting the state highway system to be fairly considered with, instead of subordinate to, the public's right and interest in a safe and efficient highway system.

Every property owner who has access to the state highway must be notified of proposed changes to their access.

The access management planning process is expanded to include a public involvement process. The public involvement process must include abutting property owners, business owners, and emergency services that may require access to the affected property. The public involvement process must provide the affected ownership with standards and principles of access management. The public involvement process may include, but is not limited to, public notices, public meetings, public hearings, written notification, and individual meetings with the affected ownership.

Permittees must bear the cost of construction or alteration of their connection to the highway. This includes alterations of their connection that are required due to increased or altered traffic flows generated by the nature of the business conducted at the location specified in the permit. The permittee is not required to pay for alterations that are not required by law or administrative rule, but are made at the request of and the convenience of the permitting authority. The permittee is not required to pay for connection alterations that are required by the permitting authority due to increased or altered traffic flows along the state highway, or in the general area of the permittee's facility.

Unpermitted connections on the state highway system that were in existence and in active use prior to July 1, 1990 are not required to have a permit and can continue to have access to the state highway system, unless the permitting authority determines the connection does not meet minimum acceptable highway safety and mobility standards. These standards are based on accident data, traffic data, and accepted traffic engineering criteria. A copy of these standards must be provided to the property owner, upon written request.

Access permits granted prior to adoption of the permitting authorities' standards remain valid until modified or revoked as provided in highway access management law. Revoking or modification of this type of permit can only occur if: a significant change occurs in the use, design or traffic flow of the connection, or if a change occurs in the use, design, or traffic flow of the highway in the general area of the permittee's facility, and if the connection does not meet minimum acceptable standards of highway safety and mobility based on accident and traffic data and accepted traffic engineering criteria.

Substitute Bill Compared to Original Bill: The substitute bill represents a compromise between the state Department of Transportation and affected property owners who have experienced the first large scale application of access management under current law. Property owner's rights are to be fairly considered along with, instead of balanced with, the public's right and interest in a safe and efficient highway system.

A property owner's access may be restricted only if significant use, design or traffic flow changes occur to a connection or the highway, and if the connection does not meet minimum acceptable highway safety and mobility standards. These standards are based on accident and traffic data and accepted traffic engineering criteria. In the original bill, access connections could not be changed if already permitted under current access law, or if they were in existence prior to 1990, or if the permitting authority determined a connection needed to be changed due to its failure to meet minimum acceptable standards of highway safety that is based on objective accident and traffic data.

Property owners are required to be notified of proposed changes to their access. A coordinated planning process is required to include abutting property owners, business owners, and emergency services that may require access to the affected property.

Permit authority and permittee responsibility is further clarified. Permittees are required to pay for connection changes if they have a business that increases or alters traffic flow to their connection. The permitting authority is required to pay for connection changes that they request, or if there are changes to the highway. The original bill stated that a permittee is required to pay the cost of construction or alteration to a connection, except for alterations after the issuance of the permit.

Original bill language is expanded to require unpermitted state highway connections that were in existence prior to July 1, 1990, to also have been in active use in order to continue to have access to the state highway. Original bill language is also expanded to include mobility and accepted engineering traffic engineering criteria as an access management standard.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The revision of access management law is necessary. This bill balances the needs of individual property owners with the state's need to address safety and traffic carrying capacity of the highway. Access connections that were in existence prior to 1990,

or that have already been permitted are protected from changes by the state that will adversely affect the businesses and property owners on a transportation corridor.

Testimony Against: The bill creates a property right at a specific location because an access connection cannot be modified or revoked. The restriction on the ability to modify or revoke an access connection effectively eliminates the access management program's ability to increase the traffic carrying capacity of the highway, reduce traffic accidents, mitigate environmental degradation, and reduce maintenance costs.

Testified: Representative Roger Bush; Meade McDonald (pro to original); Scott Vanderflute, PSASA (pro to original); Mark Jacobs (pro to original); Cliff Mansfield, WSDOT (con to original); Gary Demich, WSDOT (con to original).