



Oregon

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DATE: April 5, 2011

TO: Senate Committee on Business, Transportation and Economic Development

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SUBJECT: Senate Bill 264 with the -1 amendments

Introduction

Senate Bill 264 with the -1 amendments reflect the work of a collaborative stakeholder committee in response to legislative direction to review the Oregon Department of Transportation's (ODOT) administrative rules for managing access to state highways.

Background

Enrolled Senate Bill 1024 (2010) directed ODOT, in cooperation with stakeholders, to develop proposed legislation that will codify, clarify and bring consistency to issuance of access permits based on objective standards and to establish less stringent access management rules, mitigation measures and spacing and mobility standards for highway segments where the annual average amount of daily traffic is 5,000 vehicles or fewer.

ODOT convened the Access Management (AM) Committee and provided staff support for the Committee. The Committee's 25 participants included senators, representatives, city and county staff, and external industry stakeholders from the Oregon Trucking Association, private engineering firms, developers, the Retail Task Force, and the Oregon Home Builders Association to develop proposed changes to Oregon's access management rules.

The goal of the committee was to develop objective standards and procedural changes, based on its review of the existing access management rules for state highways, that provide for a more appropriate balance between managing a safe and effective system of highways with the goal of promoting and facilitating urban growth and economic development opportunities in Oregon's communities.

The AM Committee has recommended that the proposed changes along with key elements of the existing administrative rule be incorporated into Oregon Revised Statute 374.

PROCEDURAL REQUIREMENTS THAT APPLY TO APPLICATIONS FOR AN APPROACH PERMIT

Reasonable Access

The proposed legislation would place into statute the objective standards for considering an application to permit a private approach to the highway. It eliminates the determination currently made by the agency on whether a property abutting the highway has existing access that is reasonable or that can be made reasonable to serve property. Where the applicant meets

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the standards in the urban areas, the applicant will be approved for one or more driveways to the state highway regardless of whether or not there is alternate access to the property on a city street or county road. In rural areas, an applicant's permit application for one driveway will be approved if it meets the standards; a second or additional driveways may be approved although the applicant must show that additional access is required to provide reasonable access to the site as a function of the business or land use.

The objective standards significantly reduce the current requirements for the applicant for small and medium size developments to provide an engineering analysis as part of their applications. The legislation creates clarity on what development conditions trigger the requirement for a traffic impact analysis by the applicant as part of the application for an approach.

For applications that meet the objective standards but have potential for creating traffic safety or operational issues not addressed by the standards, it is the responsibility of the agency to conduct the analysis and produce the findings that would be used to affect the decision on whether to approve or deny that application. This would be based on a specific list included as part of SB 264-1 of potential traffic safety or operational concerns.

Applicants will be advised of a pending decision prior to the decision's final issuance, and will have the opportunity to enter into a collaborative discussion or dispute review process to address deficiencies in meeting the objective standards or specific traffic safety or operational issues identified by the agency. In addition, the legislation includes a process that allows for the applicant to request a deviation or exception to the proposed objective standards.

OBJECTIVE STANDARDS FOR APPROVING APPROACHES TO THE STATE HIGHWAY

Access Management Standards

SB 264-1 places into statute a clear and objective set of standards that will provide greater certainty for applicants on when approach permits can be approved. The objective standards distinguish between level of importance of the state highway from a statewide mobility standpoint, and are based on safe sight distance, driveway spacing, posted speed, traffic volume, and lane configuration requirements.

The standards set up less stringent spacing standards, mobility, and mitigation requirements for all low-volume regional and district classification highways having fewer than 5,000 vehicles per day. Higher standards are proposed for low-volume urban statewide classification routes where the posted speed is 50 mph or higher, and for rural statewide classification routes except where they traverse through unincorporated communities where the posted speed is 45 mph or lower. The AM Committee proposal is due to the travel characteristics on the roadway, the varied types of vehicles, crash severity, increased potential for roadway users that are unfamiliar with the route, and the priority these highways have to facilitate efficient movement of goods and people across the state.

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The agency's focus in the past was to limit access to state highways as national research has shown that increased access may result in an increase in the number of crashes and increased congestion. It should be acknowledged that less stringent standards that allow for increased numbers of driveways to the highway may result in increased congestion and an increased number of crashes.

Mitigation Measures and Medians

The current requirements for developers and businesses to mitigate their impacts to the highway will be significantly reduced as a result of proposed changes resulting from SB 264-1. Many of the committee members acknowledged that as fewer mitigation measures are required, levels of congestion will increase. Where this occurs, ODOT does not believe it should be a basis for diverting public funds allocated to other existing higher priority improvement needs on the system.

Currently, applicants are required to analyze and meet the mobility requirements for the traffic leaving a driveway. This could potentially result in the need for mitigation including a raised center island or median barrier to restrict turning movements. With the exception of large development proposals, legislation included as part of SB 264-1 eliminates the need for most applicants to meet mobility requirements for vehicles exiting a driveway.

SB 264-1 places limitations on ODOT and local governments as to when non traversable medians can be used on state highways to mitigate impacts associated with a private approach application, and places requirements on the agency to work collaboratively with highway users when barriers are being proposed for use on two lane highways.

DISPUTE RESOLUTIONS AND APPEALS PROCESSES

SB 264-1 includes a proposal established by the AM Committee to utilize a collaborative process and Dispute Review Board to replace the existing Region Review process for appeals. The proposed Dispute Review Board will consist of a representative from ODOT, the local jurisdiction where the development is proposed, and an external consultant. It is anticipated that the board will provide a broader review of the application than may currently exist.

The process would allow the applicant to request a collaborative discussion with the Dispute Review Board prior to the issuance of a decision on an application and/or after the agency has made a final decision.

HIGHWAY CLASSIFICATIONS AND JURISDICTIONAL TRANSFERS

The proposed legislation establishes clear objective standards based on the District, Regional, or Statewide classification of the state highways as described in the Oregon Highway Plan (OHP). In addition, it sets forth special conditions for highways designated within the Oregon Highway Plan as Expressways, or sections having access management plans, corridor plans, or interchange area management plans. SB 264-1 places requirements on the Oregon Transportation Commission to review the OHP classifications and designations to ensure they are appropriate for the intended function of the highway.

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The proposed legislation also includes provisions that would facilitate the transfer of state highways to a local government. The bill allows for an ongoing transfer of transportation funding to address the fiscal burden of a local government agreeing to take jurisdiction of a state highway.

The legislation also allows for the agency to delegate its access management responsibilities to a local government by agreement.

ACCESS MANAGEMENT LEGISLATIVE OVERSIGHT TASK FORCE

The legislation proposes for the formation of a Legislative Access Management Oversight Task Force to provide a forum to address issues that arise as SB 264-1 is implemented and provide the oversight to the on-going work of codifying, clarifying and bringing consistency to the agency's access management decision-making process.

Next Steps

Legislation that is approved and adopted by the 2011 Legislature require that ODOT revise its administrative rules to be consistent with the revised statute. In addition, the AM Committee has supported the proposal to re-write significant portions of the access management rule, OAR 734 Division 51. Portions of the 1999 Oregon Highway Plan (OHP) will also need to be revised or portions moved to other documents and will require approval from the Oregon Transportation Commission. It is anticipated that a revised OAR 734 Division 51 and needed changes to the OHP would be ready for adoption by the end of 2011.

Summary

The proposed changes as set forth by the AM Committee will result in new access management with a process to: 1) approve an application based on agreed upon set of objective standards, 2) reduce the number of applications requiring deviations for the approval, 3) scale back the mitigation requirements that are currently a responsibility of the developer, 4) clarify when a Traffic Impact Analysis is required, and 5) provide for managing disputes and appeals.

ODOT is ready to implement the AM Committee's proposal to change the management of access to state highways contained in the -1 amendments to SB 264, along with the commensurate changes to the Oregon Administrative Rules to codify the legislative intent as put forth in the Enrolled SB 1024 (2010). The proposal will change the balance between managing traffic safety and mobility with the goal of promoting and facilitating urban growth and economic development opportunities in Oregon's communities. ODOT has endeavored to communicate to the committee and to its stakeholders that shifting the balance in how access is permitted to state highways has the potential impact of increasing levels of congestion and reducing mobility from what exists within the existing rules.