

2005 ASSEMBLY BILL 649

September 7, 2005 – Introduced by Representatives ALBERS, KERKMAN, HAHN, MUSSER, AINSWORTH, HUNDERTMARK, PETROWSKI, LEMAHIEU, OWENS and GUNDERSON, cosponsored by Senators GROTHMAN and LASSA. Referred to Committee on Property Rights and Land Management.

- 1 **AN ACT to amend** 86.073 (1) and 86.073 (2); and **to create** 86.073 (2m) of the
2 statutes; **relating to:** access to highways.

Analysis by the Legislative Reference Bureau

Under current law, no person may excavate, fill, alter, or disturb a state trunk highway or a connecting highway maintained by the Department of Transportation (DOT), including opening a driveway or otherwise constructing access to the highway, without first obtaining a permit issued by DOT. If DOT denies an application to construct an entrance to a state trunk highway from an abutting property, the applicant may request a reconsideration of that decision.

Under this bill, DOT must reverse an initial decision to deny an application to construct an entrance to a state trunk highway from an abutting property if all of the following are true:

1. The most recent reconstruction or alteration of the highway that abuts the applicant's premises resulted in loss of access from the premises to the highway.
2. The distance between the nearest edge of the proposed access is at least 400 feet from the center point of the closest controlled intersection.
3. There is no frontage road parallel to that portion of the highway and DOT does not anticipate constructing a frontage road parallel to that portion of the highway.
4. No city street abuts or connects to the applicant's premises.
5. The premises is abutted by the highway on one side and by private property on each of the other sides.
6. The premises that would have direct access to the highway under the proposed plan has at least 150 feet of frontage along the highway.

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7. The applicant submits proof that the police chief or sheriff of the municipality where the premises is located approves the proposed plan for access to the highway.

8. The segment of highway that abuts the premises has a low rate of accidents.

9. The municipality approved the applicant's plat or the applicant provides other proof that the municipality approves the proposed plan for access to the highway.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 86.073 (1) of the statutes is amended to read:

2 86.073 (1) If a district office of the department denies a request for a permit
3 under s. 86.07 (2) to construct an entrance to a state trunk highway from abutting
4 premises or revokes a permit issued under s. 86.07 (2), the department shall, upon
5 written request by the applicant within 30 days after the denial, review the decision
6 of the district office. The 30-day requirement does not apply to an applicant who
7 seeks a reversal of the decision under sub. (2m).

8 **SECTION 2.** 86.073 (2) of the statutes is amended to read:

9 86.073 (2) After Except as provided in sub. (2m), after review, the department
10 may reverse, confirm or modify the decision of the district office.

11 **SECTION 3.** 86.073 (2m) of the statutes is created to read:

12 86.073 (2m) The department shall reverse the decision of the district office to
13 deny a request for a permit under s. 86.07 (2) to construct an entrance to a state trunk
14 highway from abutting premises if all of the following are true:

15 (a) The most recent reconstruction or alteration of the highway that abuts the
16 applicant's premises resulted in loss of access from the premises to the highway.

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1 (b) The distance between the closest edge of the proposed access is at least 400
2 feet from the center point of the nearest controlled intersection.

3 (c) There is no frontage road parallel to that portion of the highway and DOT
4 does not anticipate constructing a frontage road parallel to that portion of the
5 highway.

6 (d) No city street abuts or connects to the applicant's premises.

7 (e) The premises is abutted by the highway on one side and by private property
8 on each of the other sides.

9 (f) The premises that would have direct access to the highway under the
10 proposed plan has at least 150 feet of frontage along the highway.

11 (g) The applicant submits proof that the police chief or sheriff of the
12 municipality where the premises is located approves the proposed plan for access to
13 the highway.

14 (h) The segment of highway that abuts the premises has a low rate of accidents.

15 (i) The municipality approved the applicant's plat or the applicant provides
16 other proof that the municipality approves the proposed plan for access to the
17 highway.

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(END)