

Regular Session, 2013

HOUSE CONCURRENT RESOLUTION NO. 9

BY REPRESENTATIVES GUINN, GISCLAIR, AND ST. GERMAIN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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A CONCURRENT RESOLUTION

To amend the Department of Transportation and Development rules LAC 70:I.1501(C), 1515(D), (G), (H), (I), and (J), 1519(B), (C), and (D), 1521(A)(2) and (a)(introductory paragraph), (4), and (5), (B)(1), (4), and (5), and (E), 1529(C), 1531(B), (C), (D), and (E), 1533(E), 1535(B), and 1541(B), to enact LAC 70:I.1501(E), and to repeal LAC 70:I.1515(K) and 1531(F), which provide for requirements for access connection permits; to provide for access connection permit conditions and requirements; to provide for permit reapplication and modifications to existing commercial access connections; to provide for access connection design requirements; to provide for related matters; and to direct the Office of the State Register to print the amendments and enactments in the Louisiana Administrative Code.

WHEREAS, certain access connection permit requirements of the Department of Transportation and Development call for difficult processes to obtain access connections and costly traffic impact studies to be conducted at the cost of the applicants; and

WHEREAS, in order for the Department of Transportation and Development to consider granting these access connections, the traffic studies must show that the lack of requested access connections unreasonably negatively impacts traffic flow or that additional access connections will contribute to the overall improvement and safety of the roadways and transportation system; and

WHEREAS, the cost of these traffic impact studies is an overwhelming burden on applicants who are attempting to operate businesses in the state; and

1 WHEREAS, the Department of Transportation and Development has enacted policies
2 and administrative rules that place a burden on business and district administrators; and

3 WHEREAS, the lack of certain access connections can negatively affect a business
4 in that it may cause potential customers to go elsewhere; and

5 WHEREAS, these rules, as written and applied, stifle commerce; and

6 WHEREAS, a number of these policies have changed, but the changes to the
7 administrative rules are not yet implemented; and

8 WHEREAS, R.S. 49:969 provides that "the legislature, by Concurrent Resolution,
9 may suspend, amend, or repeal any rule or regulation or body of rules or regulations adopted
10 by a state department, agency, board, or commission".

11 THEREFORE, BE IT RESOLVED by the Legislature of Louisiana that LAC
12 70:I.1501(C), 1515(D), (G), (H), (I), and (J), 1519(B), (C), and (D), 1521(A)(2) and
13 (a)(introductory paragraph), (4), and (5), (B)(1), (4), and (5), and (E), 1529 (C), 1531(B),
14 (C), (D), and (E), 1533(E), 1535(B), and 1541(B) are hereby amended and LAC
15 70:I.1501(E) is hereby enacted, to read as follows:

16 §1501. Introduction

17 * * *

18 C. Incumbent with this is the obligation to protect the investment of the state
19 in the highway system. Access connections granted by the DOTD can be restrictive.
20 However, DOTD, through its district administrators, may grant exceptions to the
21 restrictions set forth in this Chapter based upon the uniqueness of the environment
22 in which access is sought.

23 * * *

24 E. The DOTD policy referred to throughout this Chapter is available on the
25 DOTD website.

26 * * *

27 §1515. Permit Conditions

28 * * *

29 D. The applicant may be required to post a bond in order to secure an access
30 connection permit. If required, this ~~This~~ bond shall be required and posted in

1 accordance with DOTD policy, and shall be an amount as identified by the DOTD
2 district office as sufficient to cover the expenses of all work or improvements
3 required within the DOTD right-of-way as a condition of an access connection
4 permit. The cost of restoration shall be borne by the applicant.

5 * * *

6 ~~G. Post-construction inspections are mandatory for traffic generator access~~
7 ~~connections.~~

8 ~~H.~~ After having been constructed, access connection(s) shall at all times be
9 subject to inspection with the right reserved to require changes, additions, repairs,
10 and relocations at any time considered necessary to permit the location and/or to
11 provide proper and safe protection to life and property on or adjacent to the highway.
12 The cost of making such mandated changes, additions, repairs, and relocations shall
13 be borne by the applicant.

14 ~~I~~ H. The relocations or alterations of any access, approach, or other
15 improvement constructed on the right-of-way shall require a new permit re-
16 evaluation of the access connection(s).

17 ~~I~~ I. If the applicant is unable to commence construction within 12 months of
18 the permit issue date, the applicant may request a six-month extension from the
19 DOTD. No more than two six-month extensions may be granted under any
20 circumstances. If the access connection is not constructed within 24 months from the
21 permit issue date, the permit shall be considered expired. Any person wishing to
22 reestablish an access connection permit that has expired shall begin again with the
23 application procedures.

24 ~~K~~ J. When the adjacent highway is under construction, a letter of no
25 objection ~~must~~ shall be obtained from the highway contractor before the application
26 can be approved and the permit can be issued. A copy of this letter shall be attached
27 to the permit.

28 * * *

1 §1519. Permit ~~Reapplication~~ Re-evaluation and Modifications to Existing
2 Commercial Access Connections

3 * * *

4 B. If the property is reconstructed/remodeled /redeveloped, the owner shall
5 submit a request for a re-evaluation of the access connection(s) ~~new application for~~
6 ~~an access connection~~ permit. The ~~new application~~ evaluation shall contain all
7 necessary information and documentation as described in ~~Section entitled Process~~
8 ~~for Acquiring an Access Permit~~ DOTD policies, as well as a copy of the old access
9 connection permit.

10 C. If the property owner reconstructs the access connection, a ~~new access~~
11 ~~connection permit application~~ request for re-evaluation shall be submitted. The
12 DOTD reserves the right to make changes to the original permit during this process
13 in order to improve safety and operations.

14 D. If DOTD road maintenance and/or construction operations affect the
15 condition or necessitate the reconstruction, improvement, modification, or removal
16 of an existing access connection, a re-evaluation of the access connection
17 geometrics, location, etc., ~~shall~~ may be performed by the district traffic operations
18 engineer. The access connection permit ~~shall~~ may be re-issued according to the most
19 current DOTD standards, and DOTD reconstruction efforts shall follow these
20 standards. The cost to reconstruct the access connection to the right-of-way shall be
21 borne by the DOTD. Any additional costs to improve on-site conditions ~~shall~~ may
22 be borne by the property owner.

23 * * *

24 §1521. Access Connection Requirements

25 A.

26 * * *

27 2. In addition, the following constraints shall apply:

28 a. Full access ~~shall~~ may not be granted within the functional influence area
29 of the intersection. The influence area shall be as defined in DOTD policies. For
30 purposes of this Chapter, the functional influence area of an intersection shall be

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 defined as the area beyond the physical intersection of two roadways and/or access
2 connection points that:

3 * * *

4 4. If the subject property is located at the intersection of two routes, an
5 access connection may be permitted on ~~one of the~~ both routes, but one must be
6 limited to right-in/right-out access. The determination of the access connection
7 ~~location~~ locations and restrictions on each shall be at the discretion of the DOTD
8 according to this rule and other applicable DOTD policies.

9 5. The applicant shall provide sufficient on-site circulation to ensure the safe
10 ingress and egress of vehicles on the site. This on-site circulation shall be contained
11 within the ~~owned~~ owner's property boundaries and shall not encroach upon the right-
12 of-way in any way. Adequate on-site vehicle storage shall be provided in order to
13 prevent any overflow of queued/waiting traffic in the travel lane(s) of the adjacent
14 roadway(s).

15 * * *

16 B. The granting of access shall adhere to the following decision hierarchy:;

17 1. Each property or group of adjacent properties with a single owner or
18 development plan ~~shall~~ may be granted no more than one access point, unless
19 Paragraphs 4 and 5 of this Section are completed and approved. The DOTD reserves
20 the right to limit access to adjacent properties to those access connections which
21 already exist. All properties shall receive adequate access, but that may be
22 accomplished through required access sharing with a neighboring property.

23 * * *

24 4. A request for an access connection on a state route where alternative
25 access connection opportunities exist on non-state route(s) ~~shall~~ may be accompanied
26 by a traffic impact study. This study shall comply with the guidelines and policies
27 set forth by the DOTD for such studies. In order to consider state route access in
28 these cases, the study shall show that the lack of access on the state route causes
29 unreasonable negative impacts to the traffic flow in the vicinity of the property.

1 5. Requests for access connections in excess of one access connection or for
 2 an access connection on a state route where non-state route access exists must be
 3 reviewed and approved by the district engineer administrator. Such requests ~~shall~~
 4 may be accompanied by a traffic impact study. This study shall comply with the
 5 guidelines and policies set forth by the DOTD for such studies. In order to consider
 6 an additional access connection or an access connection on a state route where non-
 7 state route access exists, the study shall show that the lack of the requested access
 8 connections causes unreasonable negative impacts to the traffic flow and safety in
 9 the vicinity of the property and shall demonstrate that an additional access
 10 connection will contribute to the overall improvement of the safety and efficiency
 11 of the adjacent roadways and of the transportation system.

12 * * *

13 E. Gates, fences, signage, landscaping, or other decorative or access-control
 14 features (i.e. gated subdivision) shall not be located within the right-of-way. Any
 15 such access-control feature shall be located so that a minimum storage of two
 16 vehicles (50' storage length minimum; greater distances may be required by the
 17 DOTD) is provided outside of the limits of the right-of-way. Gated access shall not
 18 be permitted as an approach to a traffic signal.

19 * * *

20 §1529. Access Connections on Roadways with Medians

21 * * *

22 C. All access on roadways with medians may be restricted to right-in/right-
 23 out movements only, and, if required, shall be constructed in such a way as to
 24 prevent any other movements. This shall apply to both residential and commercial
 25 access.

26 * * *

27 §1531. Design Requirements

28 * * *

29 B. All ~~single-family residential~~ and traffic generator access connections shall
 30 be constructed with permanent hard surface type materials (i.e. asphalt or concrete)

1 as shown on the standard plans for access connections for a distance shown in DOTD
2 policy. Aggregate access connections shall not be permitted within the right-of-way
3 for these types of connections. ~~The hard surface type materials shall extend the~~
4 ~~following distances from the edge of pavement:~~

5 1. ~~single-family residential access connections: 10 feet from the edge of~~
6 ~~pavement;~~

7 2. ~~traffic generator access connections: 25 feet from the edge of pavement.~~

8 C. ~~Non-commercial agricultural operations may not be required to be~~
9 ~~constructed of hard surface type materials.~~

10 ~~D.~~ All entrances and exits shall be located so that drivers approaching or
11 using them will have adequate sight distance in all directions along the highway in
12 order to maneuver safely and without interfering with traffic. Minimum required
13 sight distance shall be calculated using the methods outlined in ~~the AASHTO~~
14 ~~Geometric Design Guide for sight distance based on the posted speeds of the~~
15 ~~adjacent roadway or a speed other than the posted speed limit for these calculations~~
16 DOTD policies.

17 ED. All access connections shall be designed and constructed in accordance
18 with all DOTD plans and specifications regarding drainage requirements. Culvert
19 sizes, proposed elevations, and proposed slopes shall be approved by the DOTD
20 prior to issuance of an access connection permit. The DOTD may require a drainage
21 study to be performed at the expense of the applicant.

22 FE. Access connections shall be constructed according to DOTD Standard
23 Plans and other applicable policies and ~~provision~~ provisions.

24 * * *

25 §1533. Construction Requirements

26 * * *

27 E. The services of an independent DOTD-approved inspector ~~shall~~ may be
28 ~~obtained~~ required to inspect the construction of all DOTD-required improvements
29 in the DOTD right-of-way. The inspection process shall be in accordance with
30 current DOTD policy. The DOTD district office may elect to perform independent

1 inspections of work. Satisfactory completion and acceptance of the improvements
2 by DOTD will be based upon the reports received from the inspector(s).

3 * * *

4 §1535. Improvements to the Adjacent Transportation System

5 * * *

6 B. Mitigation, which may be required by the DOTD, may be determined
7 through a complete traffic impact study and/or traffic signal study review process.
8 Required mitigation shall be reviewed by the district engineer administrator. Any
9 required mitigation shall be noted on the ~~permit~~ permit(s) as required in accordance
10 with DOTD policies, and bond amounts shall be appropriate for such mitigation, if
11 required.

12 * * *

13 §1541. Appeals Process

14 * * *

15 B. Appeals shall be filed in accordance with the DOTD appeals policies
16 ~~set forth in LAC 70:I.1101 et seq.~~

17 BE IT FURTHER RESOLVED that LAC 70:I.1515(K) and 1531(F) are hereby
18 repealed in their entirety.

19 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the
20 Office of the State Register.

21 BE IT FURTHER RESOLVED that the Office of the State Register is hereby
22 directed to have the amendments to LAC 70:I.1501(C), 1515(D), (G), (H), (I), and (J),
23 1519(B), (C), and (D), 1521(A)(2) and (a)(introductory paragraph), (4), and (5), (B)(1), (4),
24 and (5), and (E), 1529(C), 1531(B), (C), (D), and (E), 1533(E), 1535(B), and 1541(B) and
25 the enactment of LAC 70:I.1501(E) printed and incorporated into the Louisiana
26 Administrative Code.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE