

SENATE BILL 728

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1999 Regular Session
9r2408
CF 9r1502

By: **Senators Middleton, Green, and Dorman**
Introduced and read first time: February 23, 1999
Assigned to: Rules
Re-referred to: Finance, February 26, 1999

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 23, 1999

CHAPTER _____

1 AN ACT concerning

2 **State Highways - Cost of Right of Access - Process and Review Appeal**

3 FOR the purpose of authorizing a property owner whose property abuts certain State
4 highways to petition the State Highway Administration (SHA) to sell a right of
5 access; requiring the SHA to take specified actions in response to a petition
6 within prescribed times; establishing a State Highway Access Valuation Board
7 to review certain decisions of the SHA; providing for the composition of the
8 Board and requiring SHA to provide staff support to the Board; authorizing
9 certain persons to appeal certain access decisions to the Board; requiring the
10 Board to take certain actions in relation to the appeal; specifying certain
11 substantive and procedural requirements; providing that certain decisions of the
12 Board are binding on the SHA, but subject to approval of the Board of Public
13 Works; and generally relating to a process under which certain property owners
14 may seek a right of access to State highways.

15 BY adding to
16 Article - Transportation
17 Section 8-310
18 Annotated Code of Maryland
19 (1993 Replacement Volume and 1998 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

1 (I) APPROVE THE GRANTING OF THE RIGHT TO ACCESS THE STATE
2 HIGHWAY, THE TERMS GOVERNING ACCESS, AND, IF AVAILABLE AT THE TIME, THE
3 COST OF THE RIGHT OF ACCESS; OR

4 (II) DENY THE PETITION, CITING THE ADMINISTRATION'S REASONS
5 FOR DENIAL.

6 (5) IF THE ADMINISTRATION IS WILLING TO GRANT ACCESS TO A STATE
7 HIGHWAY TO THE OWNER OF ABUTTING PROPERTY BUT IS UNABLE TO DETERMINE
8 THE COST WITHIN THE TIME REQUIRED UNDER PARAGRAPH (3) OF THIS
9 SUBSECTION, THE ADMINISTRATION SHALL INFORM THE PROPERTY OWNER OF THE
10 COST OF THE RIGHT OF ACCESS WITHIN 60 DAYS AFTER ITS RESPONSE UNDER
11 PARAGRAPH (4)(I) OF THIS SUBSECTION.

12 (D) IF A PETITIONER IS NOT SATISFIED WITH THE DECISION OF THE
13 ADMINISTRATION ON THE COST OF THE RIGHT OF ACCESS UNDER SUBSECTION (C)(4)
14 OR (5) OF THIS SECTION, THE OWNER MAY APPEAL THE ADMINISTRATION'S DECISION
15 TO THE BOARD.

16 (E) FOLLOWING RECEIPT OF AN APPEAL UNDER SUBSECTION (D) OF THIS
17 SECTION, THE BOARD SHALL:

18 (1) REVIEW THE ~~APPLICATION~~ APPEAL AND REQUEST ANY
19 DOCUMENTATION THAT THE BOARD CONSIDERS NECESSARY TO FULLY CONSIDER
20 THE PROPERTY OWNER'S REQUEST TO PURCHASE THE RIGHT OF ACCESS AND THE
21 ADMINISTRATION'S RESPONSE;

22 (2) HOLD AT LEAST ONE PUBLIC HEARING ON THE ~~APPLICATION~~
23 APPEAL OF THE PROPERTY OWNER AND RESPONSE OF THE ADMINISTRATION; AND

24 (3) ~~FULLY~~ EVALUATE THE ~~APPLICATION~~ APPEAL IN TERMS OF THE
25 IMPACT THAT A GRANT OF ACCESS RIGHTS WOULD HAVE ON ~~TRAFFIC FLOW~~,
26 ECONOMIC DEVELOPMENT, ENVIRONMENTAL PROTECTION, AND OTHER POLICY
27 CONSIDERATIONS THAT THE BOARD CONSIDERS RELEVANT.

28 (F) (1) AT ANY TIME FOLLOWING THE PUBLIC HEARING, BUT WITHIN 6
29 MONTHS OF THE DATE OF THE PETITION, THE BOARD SHALL RENDER A FINAL
30 DECISION ON THE ~~APPLICATION~~ APPEAL.

31 (2) THE BOARD MAY AFFIRM, REVERSE, OR MODIFY THE DECISION OF
32 THE ADMINISTRATION ON THE COST OF THE RIGHT OF ACCESS FROM WHICH THE
33 PROPERTY OWNER APPEALED.

34 (3) THE BOARD ~~SHALL~~ MAY INCLUDE THE TERMS OF THE SALE RELATED
35 TO THE COST OF THE RIGHT OF ACCESS IN ITS DECISION ON THE COST OF THE RIGHT
36 OF ACCESS ~~AND THE TERMS GOVERNING THE SALE OF ACCESS RIGHTS~~.

37 (4) A DECISION BY THE BOARD UNDER THIS SUBSECTION:

38 (I) SHALL BE BASED ON THE RECORD DEVELOPED BY THE BOARD;

1 (II) SHALL REQUIRE THE AFFIRMATIVE VOTE OF AT LEAST TWO
2 MEMBERS OF THE BOARD; AND

3 (III) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, SHALL BE
4 BINDING ON THE ADMINISTRATION, BUT SUBJECT TO APPROVAL OF THE BOARD OF
5 PUBLIC WORKS.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
7 effect October 1, 1999.