

SENATE BILL REPORT

SB 6558

As Reported by Senate Committee On:
Transportation, February 1, 2010

Title: An act relating to timelines for the issuance of final orders applicable to railroad crossing petitions.

Brief Description: Addressing timelines for the issuance of final orders applicable to railroad crossing petitions. [**Revised for Substitute:** Addressing petitions for administrative review of railroad crossing closures.]

Sponsors: Senator Haugen.

Brief History:

Committee Activity: Transportation: 1/27/10, 2/01/10 [DPS].

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 6558 be substituted therefor, and the substitute bill do pass.

Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker, Ranking Minority Member; Becker, Benton, Berkey, Delvin, Eide, Hatfield, Jacobsen, Kastama, Kauffman, Kilmer, King, Ranker and Sheldon.

Staff: Wendy Malkin (786-7434)

Background: The Utilities and Transportation Commission (UTC) is responsible for approving the opening and closing of railroad crossings and changes to the configuration of railroad crossings. If a local jurisdiction would like to close, open, or alter a railroad crossing within its boundaries, it can file a petition with the UTC. Similarly, if a railroad company wishes to close, open, or alter the crossing between its railroad tracks and a highway, it must file a petition with the UTC. If the existing or proposed crossing is on a state road or highway, the petition may be filed by the Secretary of Transportation (Secretary) or the State Parks and Recreation Commission. The UTC must hold a hearing, unless a hearing is not required under statute, as part of an administrative proceeding to allow affected parties to be heard. At the conclusion of the hearing, the UTC may issue a final order on the petition.

The State Environmental Policy Act (SEPA) review is required for a broad range of actions at all levels of state and local government. Under SEPA, an environmental impact statement

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is required for any major action having a probable significant adverse environmental impact. The environmental impact statement is an analysis of the adverse environmental impacts. A lead agency is designated for most proposed actions. The lead agency is responsible for ensuring adequate environmental analysis is done and the SEPA procedural requirements are met.

Most railroad crossing closure actions require SEPA review, and the UTC considers the outcome of the review before issuing its final order. The lead SEPA agency is not always a party in closure actions.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Recommended Substitute): The Secretary may file the petition for closure of a railroad crossing when the closure is adjacent to a Department of Transportation (DOT)-managed project that receives state funding and the closure is part of the project. If another entity files a petition for closure in such a case, the Secretary must intervene if the petition is contested. If DOT is not the lead SEPA agency, the lead SEPA agency must intervene if the closure is contested.

The Secretary must be given proper notice of a hearing on a petition for closure when the closure is adjacent to a DOT-managed project that receives state funding, and the closure is part of the project.

Appropriation: None.

Fiscal Note: Requested on January 26, 2010.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: If we are going to have high-speed rail in this state, we need to be able to close grade crossings quickly. It is important to find a cost-effective and efficient way to do the closings. Grade crossings are truly dangerous. Parties affected by grade crossing closures need to have their day in court, and the Administrative Procedures Act requires that the UTC provide them certain processes. We want to provide this in a timely manner. The parties with essential information need to be before the court to help speed the process. That is why requiring the lead SEPA agency to be a party in certain cases will decrease delay. It should be noted that the UTC had 22 rail crossing closure petitions last year, and only one was contested. Uncontested closures go very quickly. When closures are not done quickly, it delays spending money that needs to be spent.

OTHER: We want to support the UTC in its hearing process.

Persons Testifying: PRO: Senator Haugen, prime sponsor; Dave Danner, UTC; Terry Finn, Burlington Northern Santa Fe Railroad.

OTHER: Brent Thompson, DOT.