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ENGROSSED SUBSTITUTE HOUSE BILL 1512

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State of Washington

61st Legislature

2009 Regular Session

By House Transportation (originally sponsored by Representatives Haler, Roach, and Klippert)

READ FIRST TIME 02/10/09.

1 AN ACT Relating to funding rail freight service through grants; and  
2 amending RCW 47.76.250.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 47.76.250 and 1996 c 73 s 2 are each amended to read  
5 as follows:

6 (1) The essential rail assistance account is created in the state  
7 treasury. Moneys in the account may be appropriated only for the  
8 purposes specified in this section.

9 (2) Moneys appropriated from the account to the department of  
10 transportation may be used by the department or distributed by the  
11 department to cities, county rail districts, counties, economic  
12 development councils, ~~((and))~~ port districts, and privately or publicly  
13 owned railroads for the purpose of:

14 (a) Acquiring, rebuilding, rehabilitating, or improving rail lines;

15 (b) Purchasing or rehabilitating railroad equipment necessary to  
16 maintain essential rail service;

17 (c) Constructing railroad improvements to mitigate port access or  
18 mainline congestion;

1 (d) Construction of loading facilities to increase business on  
2 light density lines or to mitigate the impacts of abandonment;

3 (e) Preservation, including operation, of light density lines, as  
4 identified by the Washington state department of transportation, in  
5 compliance with this chapter; or

6 (f) Preserving rail corridors for future rail purposes by purchase  
7 of rights-of-way. The department shall first pursue transportation  
8 enhancement program funds, available under the federal surface  
9 transportation program, to the greatest extent practicable to preserve  
10 rail corridors. Purchase of rights-of-way may include track, bridges,  
11 and associated elements, and must meet the following criteria:

12 (i) The right-of-way has been identified and evaluated in the state  
13 rail plan prepared under this chapter;

14 (ii) The right-of-way may be or has been abandoned; and

15 (iii) The right-of-way has potential for future rail service.

16 (3) The department or the participating local jurisdiction is  
17 responsible for maintaining any right-of-way acquired under this  
18 chapter, including provisions for drainage management, fire and weed  
19 control, and liability associated with ownership.

20 (4) Nothing in this section impairs the reversionary rights of  
21 abutting landowners, if any, without just compensation.

22 (5) The department, cities, county rail districts, counties, and  
23 port districts may grant franchises to private railroads for the right  
24 to operate on lines acquired under this chapter.

25 (6) The department, cities, county rail districts, counties, and  
26 port districts may grant trackage rights over rail lines acquired under  
27 this chapter.

28 (7) If rail lines or rail rights-of-way are used by county rail  
29 districts, port districts, state agencies, or other public agencies for  
30 the purposes of rail operations and are later abandoned, the rail lines  
31 or rail rights-of-way cannot be used for any other purposes without the  
32 consent of the underlying fee title holder or reversionary rights  
33 holder, or until compensation has been made to the underlying fee title  
34 holder or reversionary rights holder.

35 (8) The department of transportation shall develop criteria for  
36 prioritizing freight rail projects that meet the minimum eligibility  
37 requirements for state assistance under RCW 47.76.240. The department  
38 shall develop criteria in consultation with the Washington state

1 freight rail policy advisory committee. Project criteria should  
2 consider the level of local financial commitment to the project as well  
3 as cost/benefit ratio. Counties, local communities, railroads,  
4 shippers, and others who benefit from the project should participate  
5 financially to the greatest extent practicable.

6 (9) Moneys received by the department from franchise fees, trackage  
7 rights fees, and loan payments shall be redeposited in the essential  
8 rail assistance account. Repayment of loans made under this section  
9 shall occur within a period not longer than fifteen years, as set by  
10 the department. The repayment schedule and rate of interest, if any,  
11 shall be determined before the distribution of the moneys.

12 (10) The state shall maintain a contingent interest in any  
13 equipment, property, rail line, or facility that has outstanding grants  
14 or loans. The owner may not use the line as collateral, remove track,  
15 bridges, or associated elements for salvage, or use it in any other  
16 manner subordinating the state's interest without permission from the  
17 department.

18 ~~(11) ((Moneys distributed under this chapter should be provided as~~  
19 ~~loans wherever practicable. Except as provided by section 3, chapter~~  
20 ~~73, Laws of 1996, for improvements on or to privately owned railroads,~~  
21 ~~railroad property, or other private property, moneys distributed shall~~  
22 ~~be provided solely as loans.))~~ Moneys may be granted for improvements  
23 to privately owned railroads, railroad property, or other private  
24 property under this chapter for freight rail projects that meet the  
25 minimum eligibility criteria for state assistance under RCW 47.76.240,  
26 and which are supported by contractual consideration. At a minimum,  
27 such contractual consideration shall consist of defined benefits to the  
28 public with a value equal to or greater than the grant amount, and  
29 where the grant recipient provides the state a contingent interest  
30 adequate to ensure that such public benefits are realized.

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