

HOUSE BILL REPORT

ESHB 2832

As Amended by the Senate

Title: An act relating to authorizing the department of transportation to manage and control a rail transportation corridor and to enter into agreements for the purpose of reinstating rail service over state-owned former railroad rights of way.

Brief Description: Reinstating rail service in the Milwaukee Road corridor.

Sponsors: By House Committee on Transportation (originally sponsored by Representatives Chandler, K. Schmidt, Scheuerman and Blanton).

Brief History:

Committee Activity:

Transportation: 2/1/96, 2/5/96 [DPS].

Floor Activity:

Passed House: 2/12/96, 96-1.

Senate Amended.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 25 members: Representatives K. Schmidt, Chairman; Benton, Vice Chairman; Mitchell, Vice Chairman; Skinner, Vice Chairman; R. Fisher, Ranking Minority Member; Hatfield, Assistant Ranking Minority Member; Backlund; Blanton; Buck; Cairnes; Chandler; Chopp; Elliot; Hankins; Horn; Johnson; McMahan; Ogden; Quall; Robertson; Romero; D. Schmidt; Scott; Sterk and Tokuda.

Staff: Jeff Doyle (786-7322).

Background: In 1980 the Milwaukee Road (railroad) declared bankruptcy, sold some of its properties, and salvaged its track. The old Milwaukee Road had operated rail service in Washington since 1909, including a portion of line extending from the Washington/Idaho border at Tekoa, across the state, and over the Columbia River. During bankruptcy proceedings, the railroad offered to sell the state its right of way in eastern Washington.

In 1981 the Legislature appropriated \$3.5 million from the outdoor recreation account (general fund) to purchase the right of way. In 1982 the Department of Natural Resources (DNR) acquired 213 miles of right of way for about \$2.2 million. The

acquired corridor consists of two main segments: (1) land running from Easton across the Columbia River to Royal City Junction (89 miles); and (2) land running from Warden easterly to the Idaho line at Tekoa (124 miles). There is a 35-mile segment running from Royal City Junction to Warden that was not purchased by DNR. This segment is currently owned and operated as a rail line, with the Washington Central Railroad Company (WCRC) providing freight rail service.

Almost immediately after the purchase of the old Milwaukee Road corridor, questions arose about the permissible uses of the land. Because the land was not acquired under the federal rail banking statute (this federal law was not enacted until 1983, after DNR's purchase), there were no guarantees that the land could be converted to rail use. An unofficial memorandum from an assistant attorney general opined that further legislative action would be required in order to return the Milwaukee Road corridor to use as a rail line. At about the same time, DNR conducted a study to determine the most appropriate use of the land. The study concluded that the corridor should be maintained as a recreational trail.

In 1985 rights of way west of the Columbia River were transferred to the state Parks and Recreation Commission. The remaining rights of way east of the Columbia River remained under the management and control of DNR.

To date, the ownership of the land formerly comprising the old Milwaukee Road is fractured, with three different state agencies owning portions, the WCRC owning a segment, and private landowners owning parcels. Intended to be used as a cross-state recreational trail, these gaps in the corridor, along with vandalism of critical train trestles needed for passage, illegal barricades, legal challenges by adjacent property owners, and six-month trail closures, have prevented the trail from being utilized in a cross-state fashion. The heaviest usage of the trail occurs on the western half, which constitutes Iron Horse State Park.

In 1993 the United States Army announced plans to condemn a segment of the corridor from Kittitas to the Columbia River to expand the Yakima Firing Center. This reduces the remaining trail by another 18 miles.

In 1995 the Burlington Northern Sante Fe (BNSF) railroad announced its plan to reinstitute rail service over the Stampede Pass line. Reopening Stampede Pass became feasible due to the growing demand for freight rail transportation. Other than Stampede Pass, there are only two train routes across the Cascade Mountains: BNSF's Stevens Pass route in the northern part of the state and the route in Southwest Washington along the Columbia River gorge. Both of these routes suffer from serious capacity constraints and expansion opportunities (double tracking, additional sidings, etc.) are limited due to the geography in these areas.

With intermodal (containerized) freight at Puget Sound ports projected to double by the year 2015, the importance of creating additional capacity on the state's freight rail system is magnified. If BNSF reopens the Stampede Pass rail line as expected, additional freight trains will be routed through Yakima and down to the Pasco rail yard, which is already a congestion point. Delays caused by routing intermodal trains through the Yakima Valley could jeopardize the Puget Sound ports' attractiveness as a major destination for Asian and other Pacific shipping companies and importers. In 1994 the Freight Rail Policy Advisory Committee, consisting of public and private entities with an interest in improving freight transportation, recommended that the old Milwaukee Road corridor's potential for relieving this congestion be explored. During the 1995 legislative interim, the Legislative Transportation Committee (LTC) convened a Freight Rail and Freight Mobility Task Force to examine these and other issues. After public meetings in Olympia, Ellensburg, and Spokane, the task force recommended reopening the Stampede Pass line and reinstating rail service over the portion of the old Milwaukee Road railroad running from Ellensburg to Lind.

Summary of Bill: A transportation corridor is created. State-owned portions of land running from Ellensburg to Lind are consolidated into a single owner, the Department of Transportation (DOT). DOT is charged with management and control of the corridor, and is directed to negotiate a franchise agreement with a qualified rail carrier to operate service over the line.

DOT negotiates the franchise agreement, with input from DNR, the state Parks and Recreation Commission, the Attorney General's Office, and the Legislative Transportation Committee (LTC). Any franchise agreement entered into must be approved by LTC.

The corridor may be used for other future transportation purposes, such as high-speed intercity passenger rail service.

The franchise agreement must address payment of franchise fees and other considerations. The agreement requires adequate rail service to local shippers along the corridor. The state of Washington is granted legal standing to enforce this provision in court. The agreement also requires the franchisee to provide service over the Stampede Pass rail line.

The franchisee must provide local rail service and must use the existing operator's line (WCRC) between Cle Elum and Ellensburg.

Revenues from franchise fees are distributed (in order of priority): (1) to DNR for federally-granted trust lands used by the rail corridor; (2) to DOT for costs of administration; (3) an amount equal to \$8 million amortized and paid over the first six years of the franchise agreement; and (4) the remainder to the essential rail assistance account.

If the Department of Transportation does not enter into a franchise agreement authorized by section 3 of this act, sections 1 through 21 of the act are null and void.

EFFECT OF SENATE AMENDMENT(S): The total amount of funding for the replacement trail is raised to \$11.5 million. If no agreement is reached by July 1, 1999, the act is null and void.

Appropriation: None.

Fiscal Note: Requested on January 22, 1996.

Effective Date: The bill contains an emergency clause and takes effect immediately. However, sections 1 through 21 of this act are null and void if the Department of Transportation does not enter into the franchise agreement authorized by section 3 of this act.

Testimony For: Reinstating rail service over the Milwaukee Road corridor is a critical piece in improving freight rail service in Washington, and is intertwined with the expected reopening of rail service over Stampede Pass by BNSF.

Testimony Against: The original bill makes no provision to compensate the state Parks and Recreation Commission for the trail that would be taken and converted to rail use. The recreational trail users are willing to give up the connecting piece in the cross-state trail, but only with assurances that a replacement trail will be sited and funded.

Testified: Representative Gary Chandler, prime sponsor (pro); Ralph Munro, Secretary of State (pro, with concerns); Bill Daley, Office of the Governor (pro, with concerns); Patty Otley, Burlington Northern Santa Fe Railroad (pro, with concerns); Russ Cahill, Washington State Parks and Recreation Commission (con); Amy Bell, Department of Natural Resources (con); Pat Jones, Washington Public Ports Association (pro); Mike Gehrke, Port of Tacoma (pro); Alan Harger, Department of Transportation (pro); Dick Ducharme, Washington Central Railroad (pro); and Steve Gano, Washington Central Railroad (pro).