

# SENATE BILL REPORT

## ESHB 2832

---

As Reported By Senate Committee On:  
Transportation, February 26, 1996

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

**Brief History:**

**Committee Activity:** Transportation: 2/26/96 [DPA].

---

### SENATE COMMITTEE ON TRANSPORTATION

**Majority Report:** Do pass as amended.

Signed by Senators Owen, Chair; Heavey, Vice Chair; Goings, Morton, Oke, Prentice, Prince, Rasmussen, Schow, Sellar, Thibaudeau and Wood.

**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 Santa 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 Amended 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. Parks must approve any provisions affecting the trail or affecting operations of Parks.

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 agreement also requires the franchisee to provide service over the Stampede Pass rail line.

Revenues from franchise fees must be deposited into a new cross-state trail account, to be used to build and maintain a replacement trail. Any remaining funds are deposited into the essential rail assistance account.

If the Department of Transportation does not enter into a franchise agreement by July 1, 1999, this act is null and void.

**Amended Bill Compared to Substitute Bill:** The striking amendment removes requirements for haulage agreements and proportional rate agreements over BN's Stampede Pass rail line. The provision for \$8 million for a replacement trail is removed, and is replaced with funding from franchise fees in an amount necessary to fully replace the trail, and to provide ongoing maintenance. Franchisees are required to provide local service to shippers along the line. If a franchise agreement has not been entered into by July 1, 1999, this act is null and void.

**Appropriation:** None.

**Fiscal Note:** Requested on January 22, 1996.

**Effective Date:** July 1, 1996.

**Testimony For:** This bill, with the Senate committee amendments, would be beneficial to trail users, rail shippers and rail labor. Without the Senate committee amendment, labor has serious concerns about provisions requiring "haulage agreements."

**Testimony Against:** While the reversionary property owners do not mind the reinstatement of rail service, they object to the provisions for an alternate trail. The establishment of new trails is not supported.

**Testified:** Representative Chandler, original prime sponsor; Bill Daley, Office of the Governor (pro); Tom Retterath, United Transportation Union (pro); Nick Flores, Daniel Potoshuik, Brotherhood of Locomotive Engineers (pro); Paul Chilcote, Port of Tacoma (pro); Rich Wagner, Jim Murphy, Eddie Armstrong, Backcountry Horsemen (pro); Dick Welsh, National Assn. of Reversionary Property Owners (con); Nancy Grub (con).