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SENATE BILL 5655

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State of Washington

54th Legislature

1995 Regular Session

By Senators Rasmussen and Sellar

Read first time 01/31/95. Referred to Committee on Transportation.

1 AN ACT Relating to rail freight service; amending RCW 47.76.200,  
2 47.76.210, 47.76.220, 47.76.230, 47.76.240, 47.76.250, 47.76.270, and  
3 47.76.280; adding a new section to chapter 47.76 RCW; and repealing RCW  
4 47.76.260.

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

6 **Sec. 1.** RCW 47.76.200 and 1993 c 224 s 1 are each amended to read  
7 as follows:

8 The legislature finds that a balanced multimodal transportation  
9 system is required to maintain the state's commitment to the growing  
10 mobility needs of its citizens and commerce. The state's freight rail  
11 system(~~s~~), including branch lines, mainlines, rail corridors,  
12 terminals, yards, and equipment, is an important element(~~s~~) of this  
13 multimodal system. Washington's economy relies heavily upon the  
14 freight rail system to ensure movement of the state's agricultural,  
15 chemical, and natural resources and manufactured products to local,  
16 national, and international markets and thereby contributes to the  
17 economic vitality of the state.

18 Since 1970, Washington has lost (~~nearly~~) over one-third of its  
19 (~~five thousand two hundred~~) rail miles to abandonment and

1 bankruptcies(~~(, leaving approximately three thousand four hundred rail~~  
2 ~~miles.~~

3 ~~Abandonment of rail lines and rail freight service)).~~ The  
4 combination of rail abandonments and rail system capacity constraints  
5 may alter the delivery to market of many commodities. In addition, the  
6 resultant motor vehicle freight traffic increases the burden on state  
7 highways and county roads. In many cases, the cost of maintaining and  
8 upgrading the state highways and county roads exceeds the cost of  
9 maintaining rail freight service. Thus, the economy of the state will  
10 be best served by a policy of maintaining and encouraging a healthy  
11 rail freight system by creating ((a)) mechanisms ~~((which keeps))~~ that  
12 keep rail freight lines operating if the benefits of the service  
13 outweigh the cost.

14 Recognizing the implications of this trend for freight mobility and  
15 the state's economic future, the legislature ~~((believes))~~ finds that  
16 better freight rail planning, better cooperation to preserve rail  
17 lines, and increased financial assistance from the state are necessary  
18 to maintain and improve the freight rail system within the state.

19 **Sec. 2.** RCW 47.76.210 and 1990 c 43 s 2 are each amended to read  
20 as follows:

21 The Washington state department of transportation shall implement  
22 a state freight rail program ~~((for rail coordination, planning, and~~  
23 ~~technical assistance))~~ that supports the freight rail service  
24 objectives identified in the state's multimodal transportation plan  
25 required under chapter 47.06 RCW. The support may be in the form of  
26 projects and strategies that support branch lines and light-density  
27 lines, provide access to ports, maintain adequate mainline capacity,  
28 and preserve or restore rail corridors and infrastructure.

29 **Sec. 3.** RCW 47.76.220 and 1993 c 224 s 2 are each amended to read  
30 as follows:

31 (1) The department of transportation shall prepare and periodically  
32 update a state rail plan, the objective of which is to identify,  
33 evaluate, and encourage essential rail services. The plan shall:

34 (a) Identify and evaluate mainline capacity issues;

35 (b) Identify and evaluate port-to-rail access and congestion  
36 issues;

1       (c) Identify and evaluate those rail freight lines that may be  
2 abandoned or have recently been abandoned;

3       (~~(b)~~) (d) Quantify the costs and benefits of maintaining rail  
4 service on those lines that are likely to be abandoned; (~~and~~

5       ~~(e)~~) (e) Establish priorities for determining which rail lines  
6 should receive state support. The priorities should include the  
7 anticipated benefits to the state and local economy, the anticipated  
8 cost of road and highway improvements necessitated by the abandonment  
9 or capacity constraints of the rail line, the likelihood the rail line  
10 receiving funding can meet operating costs from freight charges,  
11 surcharges on rail traffic, and other funds authorized to be raised by  
12 a county or port district, and the impact of abandonment or capacity  
13 constraints on changes in energy utilization and air pollution;

14       (f) Identify and describe the state's rail system;

15       (g) prepare a state freight rail system map;

16       (h) Identify and evaluate rail commodity flows and traffic types;

17       (i) Identify lines and corridors that have been rail banked or  
18 preserved; and

19       (j) Identify and evaluate other issues affecting the state's rail  
20 traffic.

21       (2) The state rail plan may be prepared in conjunction with the  
22 rail plan prepared by the department pursuant to the federal Railroad  
23 Revitalization and Regulatory Reform Act.

24       **Sec. 4.** RCW 47.76.230 and 1990 c 43 s 3 are each amended to read  
25 as follows:

26       (1) The department of transportation shall continue its  
27 responsibility for the development and implementation of the state rail  
28 plan and programs, and the utilities and transportation commission  
29 shall continue its responsibility for intrastate rates, service, and  
30 safety issues.

31       (2) The department of transportation shall maintain an enhanced  
32 data file on the rail system. Proprietary annual station traffic data  
33 from each railroad and the modal use of major shippers shall be  
34 obtained to the extent that such information is available.

35       (3) The department of transportation shall provide technical  
36 assistance, upon request, to state agencies and local interests.  
37 Technical assistance includes, but is not limited to, the following:

1 (a) ~~((Abandonment))~~ Rail project cost-benefit analyses~~((, to~~  
2 ~~include the public and private costs and benefits of maintaining the~~  
3 ~~service, providing alternative service including necessary road~~  
4 ~~improvement costs, or of taking no action))~~ conducted in accordance  
5 with methodologies recommended by the Federal Railroad Administration;

6 (b) Assistance in the formation of county rail districts and port  
7 districts; and

8 (c) Feasibility studies for rail service continuation and/or rail  
9 service assistance.

10 (4) With funding authorized by the legislature, the department of  
11 transportation, in collaboration with the department of community,  
12 trade, and economic development, and local economic development  
13 agencies, and other interested public and private organizations, shall  
14 develop a cooperative process to conduct community and business  
15 information programs and to regularly disseminate information on rail  
16 matters. ~~((The following agencies and jurisdictions shall be involved~~  
17 ~~in the process:~~

18 ~~(a) The state departments of community development and trade and~~  
19 ~~economic development;~~

20 ~~(b) Local jurisdictions and local economic development agencies;~~  
21 ~~and~~

22 ~~(c) Other interested public and private organizations.))~~

23 **Sec. 5.** RCW 47.76.240 and 1993 c 224 s 3 are each amended to read  
24 as follows:

25 The state, counties, local communities, ports, railroads, labor,  
26 and shippers all benefit from continuation of rail service and should  
27 participate in its preservation. Lines ~~((which))~~ that provide benefits  
28 to the state and local jurisdictions, such as avoided roadway costs,  
29 reduced traffic congestion, economic development potential,  
30 environmental protection, and safety, should be assisted through the  
31 joint efforts of the state, local jurisdictions, and the private  
32 sector.

33 State funding for rail service ~~((or)),~~ rail preservation, and  
34 corridor preservation projects must benefit the state's interests~~((,~~  
35 ~~which include)).~~ The state's interest is served by reducing public  
36 roadway maintenance and repair costs, increasing economic development  
37 opportunities, increasing domestic and international trade, preserving  
38 jobs, and enhancing safety~~((, and)).~~ State funding for projects is

1 contingent upon appropriate local jurisdiction and private sector  
2 participation and cooperation. Before spending state moneys on  
3 projects the department shall seek federal, local, and private funding  
4 and participation to the greatest extent possible.

5 (1) The department of transportation shall continue to monitor the  
6 status of the state's (~~light density line system~~) mainline and  
7 branchline common carrier railroads and preserved rail corridors  
8 through the state rail plan and various analyses, and shall seek  
9 alternatives to abandonment prior to interstate commerce commission  
10 proceedings, where feasible.

11 (2) The utilities and transportation commission shall intervene in  
12 interstate commerce commission proceedings on abandonments, when  
13 necessary, to protect the state's interest.

14 (3) (~~As conditions warrant, the following criteria shall be used~~  
15 ~~for identifying the state's essential rail system:~~

16 ~~(a) Established regional and short-line carriers excluding private~~  
17 ~~operations which are not common carriers;~~

18 ~~(b) Former state project lines, which are lines that have been~~  
19 ~~studied and have received funds from the state and federal governments;~~

20 ~~(c) Lines serving major agricultural and forest product areas or~~  
21 ~~terminals, with such terminals generally being within a fifty mile~~  
22 ~~radius of producing areas, and sites associated with commodities~~  
23 ~~shipped by rail;~~

24 ~~(d) Lines serving ports, seaports, and navigable river ports;~~

25 ~~(e) Lines serving power plants or energy resources;~~

26 ~~(f) Lines used for passenger service;~~

27 ~~(g) Mainlines connecting to the national and Canadian rail systems;~~

28 ~~(h) Major intermodal service points or hubs; and~~

29 ~~(i) The military's strategic rail network))~~ The department of  
30 transportation, in consultation with the Washington state rail policy  
31 development committee, shall establish criteria for evaluating rail  
32 projects and corridors of significance to the state.

33 (4) Local jurisdictions may implement rail service preservation  
34 projects in the absence of state participation.

35 (5) The department of transportation shall continue to monitor  
36 projects for which it provides assistance.

37 **Sec. 6.** RCW 47.76.250 and 1993 c 224 s 4 are each amended to read  
38 as follows:

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

4 (2) Moneys appropriated from the account to the department of  
5 transportation may be used by the department or distributed by the  
6 department to cities, county rail districts, counties, economic  
7 development councils, and port districts for the purpose of:

8 (a) Acquiring, rebuilding, rehabilitating, or improving ((branch))  
9 rail lines;

10 (b) Purchasing or rehabilitating railroad equipment necessary to  
11 maintain essential rail service;

12 (c) Constructing railroad improvements to mitigate port access or  
13 mainline congestion;

14 (d) Construction of transloading facilities to increase business on  
15 light density lines or to mitigate the impacts of abandonment; ((or

16 (d))) (e) Preservation, including operation, of ((viable)) light  
17 density lines, as identified by the Washington state department of  
18 transportation, in compliance with this chapter; or

19 (f) Preserving rail corridors for future rail purposes by purchase  
20 of rights of way. Purchase of rights of way may include track,  
21 bridges, and associated elements, and must meet the following criteria:

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

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

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

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

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

32 ((+3)) (5) The department, cities, county rail districts,  
33 counties, and port districts may grant franchises to private railroads  
34 for the right to operate on lines acquired under this chapter.

35 ((+4)) (6) The department, cities, county rail districts,  
36 counties, and port districts may grant trackage rights over rail lines  
37 acquired under this chapter.

38 ((+5)) (7) If rail lines or rail rights of way are used by county  
39 rail districts, port districts, state agencies, or other public

1 agencies for the purposes of rail operations and are later abandoned,  
2 the rail lines or rail rights of way cannot be used for any other  
3 purposes without the consent of the underlying fee title holder or  
4 reversionary rights holder, or until compensation has been made to the  
5 underlying fee title holder or reversionary rights holder.

6 ~~((6) Projects should be prioritized on the basis))~~ (8) The  
7 department of transportation shall develop criteria for prioritizing  
8 freight rail projects that meet the minimum eligibility requirements  
9 for state assistance under RCW 47.76.240. The department shall develop  
10 criteria in consultation with the Washington state freight rail policy  
11 advisory committee. Project criteria should consider the level of  
12 local financial commitment to the project as well as cost/benefit  
13 ratio. Counties, local communities, railroads, shippers, and others  
14 who benefit from the project should participate financially to the  
15 greatest extent practicable.

16 ~~((7))~~ (9) Moneys received by the department from franchise fees,  
17 trackage rights fees, and loan payments shall be redeposited in the  
18 essential rail assistance account. Repayment of loans made under this  
19 section shall occur within a period not longer than fifteen years, as  
20 set by the department. The repayment schedule and rate of interest, if  
21 any, shall be determined before the distribution of the moneys.

22 ~~((8))~~ (10) The state shall maintain a contingent interest in ~~((a~~  
23 ~~line))~~ any equipment, property, rail line, or facility that has  
24 outstanding grants or loans. The owner may not use the line as  
25 collateral, remove track, bridges, or associated elements for salvage,  
26 or use it in any other manner subordinating the state's interest  
27 without permission from the department.

28 **Sec. 7.** RCW 47.76.270 and 1993 c 224 s 6 are each amended to read  
29 as follows:

30 (1) The essential rail banking account is ~~((created in the state~~  
31 ~~treasury. Moneys in the account may be spent only after appropriation.~~  
32 ~~Expenditures from the account may be used only for the purposes~~  
33 ~~specified in this section.~~

34 ~~(2) Moneys in the account may be used by the department to:~~

35 ~~(a) Acquire rail rights of way;~~

36 ~~(b) Provide funding to cities, port districts, counties, and county~~  
37 ~~rail districts to acquire rail rights of way; or~~

1       ~~(c) Provide for essential corridor maintenance including drainage~~  
2 ~~management and fire and weed control when necessary.~~

3       ~~(3) Use of the moneys pursuant to subsection (2) of this section~~  
4 ~~shall be for rights of way that meet the following criteria:~~

5       ~~(a) The right of way has been identified and evaluated in the state~~  
6 ~~rail plan prepared pursuant to this chapter;~~

7       ~~(b) The right of way may be or has been abandoned; and~~

8       ~~(c) The right of way has potential for future rail service. The~~  
9 ~~department of transportation shall immediately report any expenditure~~  
10 ~~of essential rail banking account funds on rail banking projects to the~~  
11 ~~legislative transportation committee. The report shall include a~~  
12 ~~description of the project, the project's rank in relation to other~~  
13 ~~potential projects, the amount of funds expended, the terms and parties~~  
14 ~~to the transaction, and any other information that the legislative~~  
15 ~~transportation committee may require.~~

16       ~~(4) The department may also expend funds from the receipt of a~~  
17 ~~donation of funds sufficient to cover the property acquisition and~~  
18 ~~management costs. The department may receive donations of funds for~~  
19 ~~this purpose, which shall be conditioned upon, and made in~~  
20 ~~consideration for the repurchase rights contained in RCW 47.76.280.~~

21       ~~(5) The department or the participating local jurisdiction shall be~~  
22 ~~responsible for maintaining the right of way, including provisions for~~  
23 ~~drainage management, for fire and weed control, and for liability~~  
24 ~~associated with ownership.~~

25       ~~(6) Nothing in this section and in RCW 47.76.260 and 47.76.250~~  
26 ~~shall be interpreted or applied so as to impair the reversionary rights~~  
27 ~~of abutting landowners, if any, without just compensation.~~

28       ~~(7) The department shall develop guidelines for expenditure of~~  
29 ~~essential rail banking funds in the best interest of the state.~~

30       ~~(8) Moneys loaned under this section must be repaid to the state by~~  
31 ~~the city, port district, county, or county rail district. The~~  
32 ~~repayment must occur within a period not longer than fifteen years, as~~  
33 ~~set by the department, of the distribution of the moneys and deposited~~  
34 ~~in the essential rail banking account. The repayment schedule and rate~~  
35 ~~of interest, if any, must be set at the time of the distribution of the~~  
36 ~~moneys.~~

37       ~~(9) The state shall maintain a contingent interest in any property~~  
38 ~~that has outstanding grants or loans. The owner may not use the line~~  
39 ~~as collateral, remove track, bridges, and associated elements for~~



1 ~~salvage, or use the line in any other manner subordinating the state's~~  
2 ~~interest without permission from the department)) merged into the~~  
3 ~~essential rail assistance account created under RCW 47.76.250. Any~~  
4 ~~appropriations made to the essential rail banking account are~~  
5 ~~transferred to the essential rail assistance account, and are subject~~  
6 ~~to the restrictions of that account.~~

7 **Sec. 8.** RCW 47.76.280 and 1993 c 224 s 7 are each amended to read  
8 as follows:

9 The department may sell or lease property acquired under this  
10 chapter to a county rail district established under chapter 36.60 RCW,  
11 a county, a port district, or any other public or private entity  
12 authorized to operate rail service. Any public or private entity  
13 (~~which~~) that originally donated funds to the department under this  
14 chapter shall receive credit against the purchase price for the amount  
15 donated to the department, less management costs, in the event such  
16 public or private entity purchases the property from the department.

17 If no county rail district, county, port district, or other public  
18 or private entity authorized to operate rail service purchases or  
19 leases the property within six years after its acquisition by the  
20 department, the department may sell or lease such property in the  
21 manner provided in RCW 47.76.290. Failing this, the department may  
22 sell or convey all such property in the manner provided in RCW  
23 47.76.300 or 47.76.320.

24 NEW SECTION. **Sec. 9.** A new section is added to chapter 47.76 RCW  
25 to read as follows:

26 The department of transportation shall convene a Washington state  
27 freight rail policy advisory committee from time to time as necessary  
28 to accomplish the purposes of this chapter. The committee shall  
29 consist of representatives from large and small railroads, agriculture,  
30 rural regional transportation planning organizations, urban  
31 metropolitan planning organizations, select department of  
32 transportation regions, the transportation commission, port districts,  
33 cities, counties, organized rail labor, and other parties with an  
34 interest in the vitality of freight rail.

1        NEW SECTION.   **Sec. 10.**   RCW 47.76.260 and 1993 c 224 s 5 & 1990 c  
2   43 s 5 are each repealed.

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