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SENATE BILL 6776

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State of Washington

54th Legislature

1996 Regular Session

By Senators Owen and Prince

Read first time 02/20/96. Referred to Committee on Transportation.

1 AN ACT Relating to emergency grants to flood-damaged short-line or  
2 light-density railroads; amending RCW 47.76.250 and 47.76.250; creating  
3 a new section; providing an effective date; providing an expiration  
4 date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that damage to light-  
7 density rail lines caused by recent flooding threatens public safety  
8 and the economic survival of several rail lines in the state.  
9 Therefore, the legislature intends to make an emergency exception to  
10 its policy of providing only loans to privately held rail lines. It is  
11 the further intent of the legislature that once the damages caused by  
12 the recent flooding have been sufficiently mitigated to restore these  
13 rail lines to safe operation, this emergency exception expires.

14 **Sec. 2.** RCW 47.76.250 and 1995 c 380 s 6 are each amended to read  
15 as follows:

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

1 (2) Moneys appropriated from the account to the department of  
2 transportation may be used by the department or distributed by the  
3 department to cities, county rail districts, counties, economic  
4 development councils, short-line or light-density railroads, and port  
5 districts for the purpose of:

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

7 (b) Purchasing or rehabilitating railroad equipment necessary to  
8 maintain essential rail service;

9 (c) Constructing railroad improvements to mitigate port access or  
10 mainline congestion;

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

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

16 (f) Preserving rail corridors for future rail purposes by purchase  
17 of rights of way. The department shall first pursue transportation  
18 enhancement program funds, available under the federal surface  
19 transportation program, to the greatest extent practicable to preserve  
20 rail corridors. Purchase of rights of way may include track, bridges,  
21 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 (5) The department, cities, county rail districts, counties, and  
33 port districts may grant franchises to private railroads for the right  
34 to operate on lines acquired under this chapter.

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

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

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

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

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

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

27 (11) Moneys distributed under this chapter should be provided as  
28 loans wherever practicable. (~~(For improvements on or to privately~~  
29 ~~owned railroads, railroad property, or other private property, moneys~~  
30 ~~distributed shall be provided solely as loans.)~~)

31 **Sec. 3.** RCW 47.76.250 and 1996 c . . . s 2 (section 2 of this act)  
32 are each amended to read as follows:

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

36 (2) Moneys appropriated from the account to the department of  
37 transportation may be used by the department or distributed by the  
38 department to cities, county rail districts, counties, economic

1 development councils, (~~(short line or light density railroads,~~) and  
2 port districts for the purpose of:

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

4 (b) Purchasing or rehabilitating railroad equipment necessary to  
5 maintain essential rail service;

6 (c) Constructing railroad improvements to mitigate port access or  
7 mainline congestion;

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

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

13 (f) Preserving rail corridors for future rail purposes by purchase  
14 of rights of way. The department shall first pursue transportation  
15 enhancement program funds, available under the federal surface  
16 transportation program, to the greatest extent practicable to preserve  
17 rail corridors. Purchase of rights of way may include track, bridges,  
18 and associated elements, and must meet the following criteria:

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

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

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

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

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

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

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

35 (7) If rail lines or rail rights of way are used by county rail  
36 districts, port districts, state agencies, or other public agencies for  
37 the purposes of rail operations and are later abandoned, the rail lines  
38 or rail rights of way cannot be used for any other purposes without the  
39 consent of the underlying fee title holder or reversionary rights

1 holder, or until compensation has been made to the underlying fee title  
2 holder or reversionary rights holder.

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

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16 the department. The repayment schedule and rate of interest, if any,  
17 shall be determined before the distribution of the moneys.

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

24 (11) Moneys distributed under this chapter should be provided as  
25 loans wherever practicable. For improvements on or to privately owned  
26 railroads, railroad property, or other private property, moneys  
27 distributed shall be provided solely as loans.

28 NEW SECTION. Sec. 4. Sections 2 of this act expires January 1,  
29 1999.

30 NEW SECTION. Sec. 5. (1) Sections 1 and 2 of this act are  
31 necessary for the immediate preservation of the public peace, health,  
32 or safety, or support of the state government and its existing public  
33 institutions, and take effect immediately.

34 (2) Section 3 of this act takes effect January 1, 1999.

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