

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2832

Chapter 129, Laws of 1996

54th Legislature
1996 Regular Session

RAIL TRANSPORTATION--CREATING A TRANSPORTATION CORRIDOR
AND REINSTITUTING RAIL SERVICE OVER FORMER RIGHTS OF WAY

EFFECTIVE DATE: 7/1/96

Passed by the House March 4, 1996
Yeas 94 Nays 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate March 1, 1996
Yeas 48 Nays 0

JOEL PRITCHARD
President of the Senate

Approved March 21, 1996

MIKE LOWRY
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2832** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

March 21, 1996 - 1:18 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2832

AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

State of Washington

54th Legislature

1996 Regular Session

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

Read first time 02/05/96.

1 AN ACT Relating to authorizing the department of transportation to
2 manage and control a rail transportation corridor and to enter into
3 agreements for the purpose of reinstating rail service over state-
4 owned former railroad rights of way; amending RCW 43.51.405, 79.08.275,
5 and 44.40.020; adding new sections to chapter 43.51 RCW; creating new
6 sections; providing an effective date; and providing contingent
7 expiration dates.

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

9 NEW SECTION. **Sec. 1.** The legislature intends to complete a cross-
10 state trail system while maintaining long-term ownership of the
11 Milwaukee Road corridor. In order to accomplish this, it will be
12 beneficial to change the management and control of certain portions of
13 the Milwaukee Road corridor currently managed and controlled by several
14 state agencies and to provide a franchise to establish and maintain a
15 rail line. It is the intent of the legislature that if a franchise is
16 not agreed upon, no changes in the current management and control shall
17 occur.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.51 RCW
2 to read as follows:

3 (1) The commission shall develop and maintain a cross-state trail
4 facility with appropriate appurtenances.

5 (2) This section expires July 1, 1999, if the department of
6 transportation does not enter into a franchise agreement for a rail
7 line over portions of the Milwaukee Road corridor by July 1, 1999.

8 NEW SECTION. **Sec. 3.** (1) To facilitate completion of a cross-
9 state trail under the management of the parks and recreation
10 commission, management and control of lands known as the Milwaukee Road
11 corridor shall be transferred between state agencies as follows on the
12 date a franchise agreement is entered into for a rail line over
13 portions of the Milwaukee Road corridor:

14 (a) Portions owned by the state between Ellensburg and the Columbia
15 River that are managed by the parks and recreation commission are
16 transferred to the department of transportation;

17 (b) Portions owned by the state between the west side of the
18 Columbia River and Royal City Junction and between Warden and Lind that
19 are managed by the department of natural resources are transferred to
20 the department of transportation; and

21 (c) Portions owned by the state between Lind and the Idaho border
22 that are managed by the department of natural resources are transferred
23 to the parks and recreation commission.

24 (2) The department of natural resources and the parks and
25 recreation commission may by mutual agreement transfer the management
26 authority over portions of the Milwaukee Road corridor between their
27 two respective agencies without legislative approval if the portion
28 transferred does not exceed ten miles in length.

29 (3) This section expires July 1, 1999, and no transfers shall occur
30 if the department of transportation does not enter into a franchise
31 agreement for a rail line over portions of the Milwaukee Road corridor
32 by July 1, 1999.

33 NEW SECTION. **Sec. 4.** (1) The department of transportation shall
34 negotiate a franchise with a rail carrier to establish and maintain a
35 rail line over portions of the Milwaukee Road corridor owned by the
36 state between Ellensburg and Lind. The department of transportation
37 may negotiate such a franchise with any qualified rail carrier.

1 Criteria for negotiating the franchise and establishing the right of
2 way include:

3 (a) Assurances that resources from the franchise will be sufficient
4 to compensate the state for use of the property, including completion
5 of a cross-state trail between Easton and the Idaho border;

6 (b) Types of payment for use of the franchise, including payment
7 for the use of federally granted trust lands in the transportation
8 corridor;

9 (c) Standards for maintenance of the line;

10 (d) Provisions ensuring that both the conventional and intermodal
11 rail service needs of local shippers are met. Such accommodations may
12 comprise agreements with the franchisee to offer or maintain adequate
13 service or to provide service by other carriers at commercially
14 reasonable rates;

15 (e) Provisions requiring the franchisee, upon reasonable request of
16 any other rail operator, to provide rail service and interchange
17 freight over what is commonly known as the Stampede Pass rail line from
18 Cle Elum to Auburn at commercially reasonable rates;

19 (f) If any part of the franchise agreement is invalidated by
20 actions or rulings of the federal surface transportation board or a
21 court of competent jurisdiction, the remaining portions of the
22 franchise agreement are not affected;

23 (g) Compliance with environmental standards; and

24 (h) Provisions for insurance and the coverage of liability.

25 (2) The franchise may provide for periodic review of financial
26 arrangements under the franchise.

27 (3) The department of transportation, in consultation with the
28 parks and recreation commission and the legislative transportation
29 committee, shall negotiate the terms of the franchise, and shall
30 present the agreement to the parks and recreation commission for
31 approval of as to terms and provisions affecting the cross-state trail
32 or affecting the commission.

33 (4) This section expires July 1, 1999, if the department of
34 transportation does not enter into a franchise agreement for a rail
35 line over portions of the Milwaukee Road corridor by July 1, 1999.

36 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.51 RCW
37 to read as follows:

1 (1) The cross-state trail account is created in the custody of the
2 state treasurer. Eleven million five hundred thousand dollars is
3 provided to the state parks and recreation commission to acquire,
4 construct, and maintain a cross-state trail. This amount may consist
5 of: (a) Legislative appropriations intended for trail development; (b)
6 payments for the purchase of federally-granted trust lands; and (c)
7 franchise fees derived from use of the rail corridor. The legislature
8 intends that any amounts provided from the transportation fund are to
9 be repaid to the transportation fund from franchise fees.

10 (2) The department shall deposit franchise fees from use of the
11 rail corridor according to the following priority: (a) To the
12 department of transportation for actual costs incurred in administering
13 the franchise; (b) to the department of natural resources as
14 compensation for use of federally granted trust lands in the rail
15 corridor; (c) to the transportation fund to reimburse any amounts
16 transferred or appropriated from that fund by the legislature for trail
17 development; (d) to the cross-state trail account, not to exceed eleven
18 million five hundred thousand dollars, provided that this amount shall
19 be reduced proportionate with any funds transferred or appropriated by
20 the 1996 legislature or paid from franchise fees for the purchase of
21 federally-granted trust lands or for trail development; and (e) the
22 remainder to the essential rail assistance account, created under RCW
23 47.76.250. Expenditures from the cross-state trail account may be used
24 only for the acquisition, development, operation, and maintenance of
25 the cross-state trail. Only the director of the state parks and
26 recreation commission or the director's designee may authorize
27 expenditures from the account. The account is subject to allotment
28 procedures under chapter 43.88 RCW, but no appropriation is required
29 for expenditures.

30 (3) The commission may acquire land from willing sellers for the
31 cross-state trail, but not by eminent domain.

32 (4) The commission shall adopt rules describing the cross-state
33 trail.

34 (5) This section expires July 1, 1999, if the department of
35 transportation does not enter into a franchise agreement for a rail
36 line over portions of the Milwaukee Road corridor by July 1, 1999.

37 NEW SECTION. **Sec. 6.** (1) Before entering into a final agreement
38 to issue a franchise negotiated in accordance with section 4 of this

1 act, the department of transportation shall submit the franchise to the
2 legislative transportation committee for review and approval.

3 (2) If the department of transportation has not entered into a
4 final agreement to franchise a rail line over portions of the Milwaukee
5 Road corridor by December 1, 1998, a report of the progress and
6 obstacles to such an agreement shall be made. The report shall be
7 submitted by December 15, 1998, to appropriate committees of the
8 legislature.

9 **Sec. 7.** RCW 43.51.405 and 1989 c 129 s 1 are each amended to read
10 as follows:

11 Except as provided in sections 3 and 4 of this act, management
12 control of the portion of the Milwaukee Road corridor, beginning at the
13 western terminus near Easton and concluding at the west end of the
14 bridge structure over the Columbia river, which point is located in
15 section 34, township 16 north, range 23 east, W.M., inclusive of the
16 northerly spur line therefrom, shall be transferred by the department
17 of natural resources to the state parks and recreation commission at no
18 cost to the commission.

19 **Sec. 8.** RCW 79.08.275 and 1989 c 129 s 2 are each amended to read
20 as follows:

21 Except as provided in sections 3 and 4 of this act, the portion of
22 the Milwaukee Road corridor from the west end of the bridge structure
23 over the Columbia river, which point is located in section 34, township
24 16 north, range 23 east, W.M., to the Idaho border purchased by the
25 state shall be under the management and control of the department of
26 natural resources.

27 **Sec. 9.** RCW 44.40.020 and 1977 ex.s. c 235 s 5 are each amended to
28 read as follows:

29 (1) The committee is authorized and directed to continue its
30 studies and for that purpose shall have the powers set forth in chapter
31 111, Laws of 1947. The committee is further authorized to make studies
32 related to bills assigned to the house and senate transportation
33 committees and such other studies as provided by law. The executive
34 committee of the committee may assign responsibility for all or part of
35 the conduct of studies to the house and/or senate transportation
36 committees.

1 (2) The committee may review and approve franchise agreements
2 entered into by the department of transportation under section 4 of
3 this act.

4 NEW SECTION. **Sec. 10.** This act takes effect July 1, 1996.

5 NEW SECTION. **Sec. 11.** Sections 7 and 8, chapter . . ., Laws of
6 1996 (sections 7 and 8 of this act) expire July 1, 1999, if the
7 department of transportation does not enter into a franchise agreement
8 for a rail line over portions of the Milwaukee Road corridor by July 1,
9 1999.

10 NEW SECTION. **Sec. 12.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

Passed the House March 4, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 21, 1996.

Filed in Office of Secretary of State March 21, 1996.