
SUBSTITUTE HOUSE BILL 1254

State of Washington

56th Legislature

1999 Regular Session

By House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives DeBolt, Hatfield, Crouse, McMorris, Sump, Scott, Cooper, Hankins, Wood, Morris, Buck and Schoesler)

Read first time 03/02/1999.

1 AN ACT Relating to the right of utility facilities to be located on
2 railroad rights-of-way; adding a new section to chapter 80.36 RCW;
3 creating new sections; making an appropriation; and providing an
4 expiration date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 80.36 RCW
7 to read as follows:

8 (1) A moratorium is established on the imposition of new fees and
9 fee increases by a railroad company upon a utility for the construction
10 and placement of utility facilities in a railroad right-of-way, unless
11 otherwise agreed to by the parties. Renewal of a previously imposed
12 fee at the same rate is not prohibited by this section. During the
13 period of the moratorium, railroad companies may not require utilities
14 to remove utility facilities from the railroad right-of-way solely
15 because of a dispute between the parties concerning compensation for
16 placement of utility facilities in the railroad right-of-way. Unless
17 otherwise agreed to by the parties, railroad companies may only require
18 relocation of utility facilities within the railroad right-of-way when

1 such facilities cause interference with railroad operations or create
2 a safety hazard.

3 (2) For the purposes of this section: (a) "Utility facilities"
4 means lines, conduits, ducts, poles, wires, pipes, conductors, cables,
5 cross-arms, receivers, transmitters, transformers, instrumentalities,
6 drains, channels, aqueducts, collection systems, and all devices,
7 apparatus, and property used, operated, owned, or controlled by an
8 electric utility, gas company, water utility, or sewer utility for the
9 purposes of manufacturing, transmitting, transporting, distributing,
10 selling, furnishing, or disposing of electricity, natural gas, water,
11 and sewage; and (b) "utility" means an electric utility, gas company,
12 water utility, natural gas pipeline company, and sewer utility,
13 including a metropolitan municipal corporation.

14 (3) The moratorium created by this section is in effect until
15 December 31, 1999.

16 NEW SECTION. **Sec. 2.** (1) A task force is created to study and
17 make recommendations on the following issues related to the siting of
18 utility facilities on, over, under, and along railroad rights-of-way.

19 (a) How a permanent easement can be created for utility facilities
20 when a railroad abandons a rail right-of-way;

21 (b) What costs should a utility pay to a railroad to reimburse the
22 railroad for any expenses incurred by the railroad as a result of the
23 construction of utility facilities in the railroad right-of-way;

24 (c) How much compensation, if any, should a utility pay for
25 locating utility facilities in the railroad right-of-way;

26 (d) What other costs or expenses, if any, should a utility pay for
27 locating utility facilities in the railroad right-of-way;

28 (e) What amount and scope of insurance should a railroad and a
29 utility have, if any, to indemnify the other for damages resulting from
30 its own negligence;

31 (f) What kind of notification requirements should be required of
32 utilities before constructing utility facilities in a railroad right-
33 of-way;

34 (g) Under what conditions might it be necessary for a utility to
35 relocate utility facilities that are located in a railroad right-of-
36 way; and

1 (h) What, if any mechanism should be created to resolve disputes
2 between utilities and railroads relative to the issues enumerated in
3 this section.

4 (2) The task force shall be composed of eleven members as follows:

5 (a) Seven members shall be appointed by the governor as follows:
6 One person representing an electrical company or natural gas company,
7 as defined under RCW 80.04.010; one person representing a municipal
8 corporation, including public utility districts, that operates as a
9 water or sewer utility; one person representing a cooperative
10 association engaged in the business of distributing electricity within
11 the state; two persons representing railroads that operate within and
12 without the state; one person representing a railroad that operates
13 solely in the state; and one person representing the public at large,
14 which could include a representative from the office of public counsel
15 in the office of the attorney general. The public representative shall
16 not be, or have ever been, an employee or agent of, or otherwise have
17 a connection with a utility or railroad, other than as a consumer. The
18 governor shall select one of these members to serve as chair of the
19 task force; and

20 (b) Two members each from the senate and the house of
21 representatives transportation committees; one each from the two
22 largest caucuses in each house. The president of the senate shall
23 appoint the two members from the senate and the co-speakers of the
24 house of representatives shall appoint the two members from the house
25 of representatives.

26 (3) The Washington utilities and transportation commission shall
27 provide staff assistance to the task force.

28 (4) The task force shall complete its study and submit a report to
29 the governor and the appropriate standing committees of the legislature
30 by December 1, 1999.

31 This section expires June 30, 2000.

32 NEW SECTION. **Sec. 3.** This act does not apply to municipal
33 railroads.

34 NEW SECTION. **Sec. 4.** The sum of forty-five thousand dollars, or
35 as much thereof as may be necessary, is appropriated for the fiscal
36 year ending June 30, 2000, from the public service revolving fund in

1 the general fund to the Washington utilities and transportation
2 commission for the purposes of section 2 of this act.

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