
HOUSE BILL 1254

State of Washington

56th Legislature

1999 Regular Session

By Representatives DeBolt, Hatfield, Crouse, McMorris, Sump, Scott, Cooper, Hankins, Wood, Morris, Buck and Schoesler

Read first time 01/20/1999. Referred to Committee on Technology, Telecommunications & Energy.

1 AN ACT Relating to the right of utility facilities to be located on
2 railroad rights-of-way; amending RCW 80.36.050; creating a new section;
3 and providing an expiration date.

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

5 **Sec. 1.** RCW 80.36.050 and 1985 c 450 s 19 are each amended to read
6 as follows:

7 (1) Every railroad operated in this state, and carrying freight and
8 passengers for hire, or doing business in this state, is and shall be
9 designated a "post road," and the corporation or company owning the
10 same shall allow telecommunications companies and utilities to
11 construct, operate, and maintain telecommunications lines and utility
12 facilities on, over, under, and along the right-of-way of such
13 railroad. Utility facilities shall be placed upon the railroad right-
14 of-way as not to interfere with railroad operations.

15 (2) In case of the refusal or neglect of any railroad company or
16 corporation to comply with ((the provisions)) subsection (1) of this
17 section((, said)) as it applies to telecommunications companies, the
18 railroad company or corporation shall be liable for damages in the sum
19 of not less than one thousand dollars nor more than five thousand

1 dollars for each offense, and one hundred dollars per day during the
2 continuance thereof.

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

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

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

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

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

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

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

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

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

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

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

16 (b) Two members each from the senate and the house of
17 representatives; one each from the two largest caucuses in each house.
18 The president of the senate shall appoint the two members from the
19 senate and the co-speakers of the house of representatives shall
20 appoint the two members from the house of representatives.

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

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

26 This section expires June 30, 2000.

--- END ---