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ENGROSSED SUBSTITUTE SENATE BILL 6518

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State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Transportation (originally sponsored by Senators Fraser, Owen, Deccio, Schow, Thibaudeau, Moyer, Heavey, McAuliffe and Drew; by request of Governor Lowry)

Read first time 02/06/96.

1 AN ACT Relating to completing a cross-state trail system by  
2 changing management and control of property and establishing a  
3 franchise for rail line rights of way; amending RCW 43.51.405 and  
4 79.08.275; adding new sections to chapter 43.51 RCW; creating new  
5 sections; providing an effective date; and providing contingent  
6 expiration dates.

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

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

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

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

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

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

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

15 (b) Portions owned by the state between Lind and the Idaho border  
16 that are managed by the department of natural resources are transferred  
17 to the parks and recreation commission.

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

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

27 NEW SECTION. **Sec. 4.** (1) The department of transportation shall  
28 negotiate a franchise with a rail carrier to establish and maintain a  
29 rail line over portions of the Milwaukee Road corridor owned by the  
30 state between Ellensburg and Lind. The department of transportation  
31 may negotiate such a franchise with any qualified rail carrier.  
32 Criteria for negotiating the franchise and establishing the right of  
33 way include:

34 (a) Assurances that resources from the franchise will be sufficient  
35 to compensate the state for use of the property, including completion  
36 of a cross-state trail;

37 (b) Types of payment for use of the franchise;

1 (c) Standards for maintenance of the line;

2 (d) Provisions ensuring that both the conventional and intermodal  
3 rail service needs of local shippers are met. Such accommodations may  
4 comprise agreements with the franchisee to offer or maintain adequate  
5 service or to provide for service by other carriers at commercially  
6 reasonable rates;

7 (e) Provisions for haulage agreements or proportional rate  
8 agreements which shall enable other carriers to quote rates across what  
9 is commonly known as the Stampede Pass rail line from Cle Elum to  
10 Auburn;

11 (f) If any part of the franchise is invalidated by actions or  
12 rulings of the federal surface transportation board, the remaining  
13 portions of the franchise are not invalidated;

14 (g) Compliance with environmental standards; and

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

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

18 (3) The department of transportation, in consultation with the  
19 parks and recreation commission and the legislative transportation  
20 committee, shall negotiate the terms of the franchise, and shall  
21 present the agreement to the parks and recreation commission for  
22 approval of as to terms and provisions affecting the cross-state trail  
23 or the commission.

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

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

29 (1) The cross-state trail account is created in the custody of the  
30 state treasurer. The department of transportation shall deposit  
31 revenues from fees collected for use of the state's Milwaukee Road  
32 corridor into the account until the parks and recreation commission has  
33 received adequate funds to (a) replace portions of land converted to  
34 rail use; (b) acquire necessary properties to complete the cross-state  
35 trail between Easton and the Idaho border; and (c) provide maintenance  
36 on the cross-state trail over the term of the franchise agreement. The  
37 department of transportation may retain an administrative fee to cover  
38 the actual costs of administering the franchise. Any residual amount

1 shall be deposited into the essential rail assistance account, created  
2 under RCW 47.76.250. Expenditures from the account may be used only  
3 for the acquisition, development, operation, and maintenance of the  
4 cross-state trail. Only the director of the state parks and recreation  
5 commission or the director's designee may authorize expenditures from  
6 the account. The account is subject to allotment procedures under  
7 chapter 43.88 RCW, but no appropriation is required for expenditures.

8 (2) The commission may acquire land from willing sellers for the  
9 cross-state trail, but not by eminent domain.

10 (3) The commission shall adopt rules describing the cross-state  
11 trail.

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

15 NEW SECTION. **Sec. 6.** (1) Before entering into a final agreement  
16 to issue a franchise negotiated in accordance with section 4 of this  
17 act, the department of transportation shall submit the franchise to the  
18 legislative transportation committee for review and approval.

19 (2) If the department of transportation has not entered into a  
20 final agreement to franchise a rail line over portions of the Milwaukee  
21 Road corridor by December 1, 1998, a report of the progress and  
22 obstacles to such an agreement shall be made. The report shall be  
23 submitted by December 15, 1998, to appropriate committees of the  
24 legislature.

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

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

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

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

7        NEW SECTION.    **Sec. 9.** This act shall take effect July 1, 1996.

8        NEW SECTION.    **Sec. 10.** Sections 7 and 8, chapter . . ., Laws of  
9 1996 (sections 7 and 8 of this act) expire July 1, 1999, if the  
10 department of transportation does not enter into a franchise agreement  
11 for a rail line over portions of the Milwaukee Road corridor by July 1,  
12 1999.

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

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