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**SENATE BILL 6592**

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**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** Senators Rasmussen, Prince, Hale, Loveland, Sellar, Swecker, Heavey and Goings

Read first time 01/18/96. Referred to Committee on Transportation.

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 44.40.020, 43.51.405,  
5 43.51.407, 43.51.409, 43.51.411, 79.08.275, 79.08.277, 79.08.279,  
6 79.08.281, and 79.08.283; adding a new chapter to Title 81 RCW;  
7 providing a contingent expiration date; and declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** The legislature intends to enact policies  
10 that:

11 (1) Maintain and enhance our state's prominence in international  
12 trade;

13 (2) Improve access to regional, national, and international markets  
14 for Washington's agricultural producers and manufacturers;

15 (3) Reduce congestion on the state's system of mainline railroads;

16 (4) Ensure the viability of rail transportation as an alternative  
17 mode, thereby helping to reduce roadway damage and congestion, improve  
18 highway safety, and improve air quality; and

1 (5) Manage state resources to their greatest utility and in a  
2 manner most beneficial to the state's taxpayers.

3 In order to accomplish these objectives, it is necessary to  
4 consolidate ownership of certain properties currently owned by various  
5 state agencies into a single transportation corridor, to be managed by  
6 the department of transportation. The department shall negotiate  
7 franchises to reinstitute rail service in the corridor. It is the  
8 intent of the legislature that ownership of these properties not be  
9 consolidated unless a franchise agreement for the provision of rail  
10 service is entered into by the department of transportation.

11 NEW SECTION. **Sec. 2.** The definitions set forth in this section  
12 apply throughout this chapter, unless specifically defined otherwise or  
13 the context clearly indicates otherwise.

14 (1) "Corridor" means lands known as the Milwaukee Road corridor,  
15 including portions of land running between the Woldale overcrossing at  
16 milepost 2064.8 near Ellensburg to Othello at milepost 1988.5; and  
17 lands running between West Warden at milepost 1975.5 to Lind at  
18 milepost 1952.6.

19 (2) "Department" means the department of transportation, unless  
20 otherwise specified.

21 NEW SECTION. **Sec. 3.** (1) Ownership of properties formerly known  
22 as the Milwaukee Road corridor is transferred to the department of  
23 transportation. The department of transportation is responsible for  
24 the care, charge, management, and control of the corridor, and the  
25 department shall manage the corridor for use in the transportation of  
26 persons and property.

27 (2) The department, in consultation with the legislative  
28 transportation committee, may negotiate and grant franchises to  
29 qualified private entities for the construction and maintenance of  
30 service to transport persons or property, or both, in the corridor.

31 (3) In addition to any other provisions deemed necessary by the  
32 department, a franchise agreement for providing rail service in the  
33 corridor must contain provisions:

34 (a) Indemnifying the state against liability for any incidents or  
35 occurrences resulting from use of the corridor by the franchisee;

36 (b) Prohibiting the franchisee from constructing, maintaining, or  
37 operating rail service within twenty-five miles to the north or south

1 of an existing railroad operator providing rail service from Cle Elum  
2 at milepost 26.8 to Ellensburg at milepost 2064.8;

3 (c) Requiring adherence to environmental laws, unless specifically  
4 exempted by other provisions of law, in constructing, maintaining, and  
5 operating transportation services in the corridor;

6 (d) Establishing any combination of franchise fees, tariffs, rents,  
7 profits, rates, lease payments, charges, tolls, or other good and  
8 valuable consideration in exchange for granting the franchise;

9 (e) Providing for fire and weed control, and general maintenance of  
10 the corridor;

11 (f) Addressing access issues along the corridor.

12 (4) For franchise agreements under subsection (3) of this section,  
13 the department shall solicit advice from the department of natural  
14 resources, the parks and recreation commission, and the attorneys  
15 general responsible for transportation issues before entering into  
16 negotiations for the establishment of rail service in the corridor.  
17 The department shall consult with and advise the legislative  
18 transportation committee on the status of negotiations.

19 (5) A franchise agreement entered into by the department is void  
20 unless approved by a majority vote of the legislative transportation  
21 committee.

22 NEW SECTION. **Sec. 4.** After the distribution of any revenue  
23 designated for mitigation or other purposes under a franchise agreement  
24 entered into under section 2 of this act, the department shall deposit  
25 all other revenue into the essential rail assistance account created  
26 under RCW 47.76.250.

27 NEW SECTION. **Sec. 5.** Revenues designated for distribution to the  
28 parks and recreation commission under the terms of an interagency  
29 agreement or a franchise agreement entered into under section 3(3) of  
30 this act shall be deposited into the parkland acquisition account  
31 created under RCW 43.51.200.

32 **Sec. 6.** RCW 44.40.020 and 1977 ex.s. c 235 s 5 are each amended to  
33 read as follows:

34 (1) The committee is authorized and directed to continue its  
35 studies and for that purpose shall have the powers set forth in chapter  
36 111, Laws of 1947. The committee is further authorized to make studies

1 related to bills assigned to the house and senate transportation  
2 committees and such other studies as provided by law. The executive  
3 committee of the committee may assign responsibility for all or part of  
4 the conduct of studies to the house and/or senate transportation  
5 committees.

6 (2) The committee may review and approve franchise agreements  
7 entered into by the department of transportation under section 3(5) of  
8 this act.

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 1 through 5 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 43.51.407 and 1987 c 438 s 39 are each amended to read  
20 as follows:

21 Except as provided in sections 1 through 5 of this act, the state  
22 parks and recreation commission shall do the following with respect to  
23 the portion of the Milwaukee Road corridor under its control:

24 (1) Manage the corridor as a recreational trail except when closed  
25 under RCW 43.51.409;

26 (2) Close the corridor to hunting;

27 (3) Close the corridor to all motorized vehicles except: (a)  
28 Emergency or law enforcement vehicles; (b) vehicles necessary for  
29 access to utility lines; and (c) vehicles necessary for maintenance of  
30 the corridor, or construction of the trail;

31 (4) Comply with legally enforceable conditions contained in the  
32 deeds for the corridor;

33 (5) Control weeds under the applicable provisions of chapters  
34 17.04, 17.06, and 17.10 RCW; and

35 (6) Clean and maintain culverts.

1       **Sec. 9.** RCW 43.51.409 and 1989 c 129 s 3 are each amended to read  
2 as follows:

3       Except as provided in sections 1 through 5 of this act, the state  
4 parks and recreation commission may do the following with respect to  
5 the portion of the Milwaukee Road corridor under its control:

6       (1) Enter into agreements to allow the realignment or modification  
7 of public roads, farm crossings, water conveyance facilities, and other  
8 utility crossings;

9       (2) Regulate activities and restrict uses, including, but not  
10 limited to, closing portions of the corridor to reduce fire danger or  
11 protect public safety;

12       (3) Place hazard warning signs and close hazardous structures;

13       (4) Renegotiate deed restrictions upon agreement with affected  
14 parties; and

15       (5) Approve and process the sale or exchange of lands or easements  
16 if such a sale or exchange will not adversely affect the recreational  
17 potential of the corridor; and

18       (6) Manage the portion of the Milwaukee Road corridor lying between  
19 the eastern corporate limits of the city of Kittitas and the eastern  
20 end of the corridor under commission control for recreational access  
21 limited to holders of permits issued by the commission. The commission  
22 shall, for the purpose of issuing permits for corridor use, adopt rules  
23 necessary for the orderly and safe use of the corridor and the  
24 protection of adjoining landowners, which may include restrictions on  
25 the total numbers of permits issued, numbers in a permitted group, and  
26 periods during which the corridor is available for permitted users.  
27 The commission may increase recreational management of this portion of  
28 the corridor and eliminate the permit system as it determines in its  
29 discretion based upon available funding and other resources.

30       **Sec. 10.** RCW 43.51.411 and 1984 c 174 s 5 are each amended to read  
31 as follows:

32       Except as provided in sections 1 through 5 of this act, the state  
33 parks and recreation commission shall identify opportunities and  
34 encourage volunteer work, private contributions, and support from tax-  
35 exempt foundations to develop, operate, and maintain the recreation  
36 trail on the portion of the Milwaukee Road under its control.

1       **Sec. 11.** RCW 79.08.275 and 1989 c 129 s 2 are each amended to read  
2 as follows:

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

9       **Sec. 12.** RCW 79.08.277 and 1984 c 174 s 7 are each amended to read  
10 as follows:

11       Except as provided in sections 1 through 5 of this act, the portion  
12 of the Milwaukee Road corridor under management and control of the  
13 department of natural resources shall be open to individuals or  
14 organized groups which obtain permits from the department of natural  
15 resources to travel the corridor for recreational purposes. The  
16 department of natural resources shall, for the purpose of issuing  
17 permits for corridor use, promulgate rules necessary for the orderly  
18 and safe use of the corridor and protection of adjoining landowners.  
19 Permit fees shall be established at a level that will cover costs of  
20 issuance. Upon request of abutting landowners, the department shall  
21 notify the landowners of permits issued for use of the corridor  
22 adjacent to their property.

23       **Sec. 13.** RCW 79.08.279 and 1984 c 174 s 8 are each amended to read  
24 as follows:

25       Except as provided in sections 1 through 5 of this act, the  
26 department of natural resources may do the following with respect to  
27 the portion of the Milwaukee Road corridor under its control:

28       (1) Enter into agreements to allow the realignment or modification  
29 of public roads, farm crossings, water conveyance facilities, and other  
30 utility crossings;

31       (2) Regulate activities and restrict uses, including, but not  
32 limited to, closing portions of the corridor to reduce fire danger or  
33 protect public safety in consultation with local legislative  
34 authorities or fire districts;

35       (3) Place hazard warning signs and close hazardous structures;

36       (4) Renegotiate deed restrictions upon agreement with affected  
37 parties; and

1 (5) Approve and process the sale or exchange of lands or easements  
2 if (a) such a sale or exchange will not adversely affect the  
3 recreational, transportation or utility potential of the corridor and  
4 (b) the department has not entered into a lease of the property in  
5 accordance with RCW 79.08.281.

6 **Sec. 14.** RCW 79.08.281 and 1984 c 174 s 9 are each amended to read  
7 as follows:

8 Except as provided in sections 1 through 5 of this act:

9 (1) The department of natural resources shall offer to lease, and  
10 shall subsequently lease if a reasonable offer is made, portions of the  
11 Milwaukee Road corridor under its control to the person who owns or  
12 controls the adjoining land for periods of up to ten years commencing  
13 with June 7, 1984. The lessee shall assume the responsibility for fire  
14 protection, weed control, and maintenance of water conveyance  
15 facilities and culverts. The leases shall follow standard department  
16 of natural resources leasing procedures, with the following exceptions:

17 (a) The lessee may restrict public access pursuant to RCW 79.08.277  
18 and 79.08.281(3).

19 (b) The right of renewal shall be to the current lessee if the  
20 lessee still owns or controls the adjoining lands.

21 (c) If two persons own or control opposite sides of the corridor,  
22 each person shall be eligible for equal portions of the available  
23 property.

24 (2) The department of natural resources has the authority to renew  
25 leases in existence on June 7, 1984.

26 (3) The leases shall contain a provision allowing the department of  
27 natural resources to issue permits to travel the corridor for  
28 recreational purposes.

29 (4) Unleased portions of the Milwaukee Road property under this  
30 section shall be managed by the department of natural resources. On  
31 these unleased portions, the department solely shall be responsible for  
32 weed control, culvert, bridge, and other necessary maintenance and fire  
33 protection services. The department shall place hazard warning signs  
34 and close hazardous structures on unleased portions and shall regulate  
35 activities and restrict uses, including closing the corridor during  
36 seasons of high fire danger.

1       **Sec. 15.** RCW 79.08.283 and 1984 c 174 s 10 are each amended to  
2 read as follows:

3       Except as provided in sections 1 through 5 of this act, the state,  
4 through the department of natural resources, shall reserve the right to  
5 terminate a lease entered into pursuant to RCW 79.08.281 or modify  
6 authorized uses of the corridor for future recreation, transportation,  
7 or utility uses. If the state elects to terminate the lease, the state  
8 shall provide the lessee with a minimum of six months' notice.

9       NEW SECTION. **Sec. 16.** If the department of transportation does  
10 not enter into a franchise agreement authorized by section 3 of this  
11 act, sections 1 through 15 of this act are null and void.

12       NEW SECTION. **Sec. 17.** Sections 1 through 5 of this act constitute  
13 a new chapter in Title 81 RCW.

14       NEW SECTION. **Sec. 18.** This act is necessary for the immediate  
15 preservation of the public peace, health, or safety, or support of the  
16 state government and its existing public institutions, and shall take  
17 effect immediately.

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