

**SENATE BILL REPORT**

**ESSB 5768**

**AS PASSED SENATE, MARCH 18, 1991**

**Brief Description:** Requiring certain procedures when dealing with railroad rights of way.

**SPONSORS:** Senate Committee on Agriculture & Water Resources (originally sponsored by Senators Hayner, Barr, Newhouse and Anderson).

**SENATE COMMITTEE ON AGRICULTURE & WATER RESOURCES**

**Majority Report:** That Substitute Senate Bill No. 5768 be substituted therefor, and the substitute bill do pass.

Signed by Senators Barr, Chairman; Anderson, Vice Chairman; Bailey, Conner, Gaspard, Hansen, and Newhouse.

**Staff:** Bob Lee (786-7404)

**Hearing Dates:** February 26, 1991; March 1, 1991

**BACKGROUND:**

Since 1970, approximately 1800 miles of railroad line have been abandoned in the State of Washington. This represents about one-third of the railroad lines that existed in the state in 1970.

Located adjacent to these abandoned railroad rights of way are businesses which traditionally shipped or received commodities by rail. In many instances, the land upon which these businesses are located is owned by the railroad companies or their successors. The property is leased by the railroad frequently on a year to year basis.

Some states have recently enacted laws that provide the owner of facilities to have a first right of refusal to purchase or lease land adjacent to abandoned right or way. Other states provide a mechanism for determining the fair rental rate for leases of such land.

**SUMMARY:**

If land adjoining an abandoned railroad right of way is offered for sale, the occupant of such property must be offered a right of first refusal to purchase the property at fair market value. If the holder of the right of first refusal disagrees with the value placed upon the property, the holder may have the value of the property determined by the county board of equalization. The county board of equalization may determine the value using its procedures and regulations, or hire an independent appraiser to establish the fair market value. The fair market value is the price a

willing buyer would pay a willing seller with such value not including the enhanced value of the leasehold improvements. The cost of hiring an independent appraiser is to be shared equally between the seller and the purchaser.

The charge for leasing property adjoining abandoned railroad rights of way shall be just, reasonable and nondiscriminatory. If the leaseholder does not agree to the fair market rental or similar charges, the fair market rental value shall be 12 percent of the fair market assessed value as provided in the most recent tax assessment. Such value shall be deemed the fair market rental value unless one of the parties appeals to the county board of equalization. In that case, the county board of equalization may hire a person with expertise in determining the fair market rental of property. The fair market rental value is the price a willing lessee would pay a willing lessor with such value not including the enhanced value of leasehold improvements. The cost of establishing this determination is paid by the party making the appeal.

If any provision of the act is held invalid, the remainder of the act shall not be affected.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none

**TESTIMONY FOR:**

Persons and entities that own the buildings or other improvements on land adjacent to an abandoned railroad right-of-way need protection from unjustified rental rate increases or potential sales to third parties.

**TESTIMONY AGAINST:**

The bill would establish an artificial way of determining lease rates and property value that do not allow the inclusion of value of the improvements made to the property.

**TESTIFIED:** Pat Halstead, Class One Railroads (con); Steve Myhr, Burlington Northern Railroad (con); Bob Zagelow, Minnick-Hayner (pro); Jonathan Schlueter, Pacific NW Grain and Feed Association (pro); Don Schmidt, Walla Walla Grain Growers (pro)