
SUBSTITUTE HOUSE BILL 2478

State of Washington

55th Legislature

1998 Regular Session

By House Committee on Natural Resources (originally sponsored by Representatives Schoesler, Honeyford, Sump and Sheahan)

Read first time 02/05/98. Referred to Committee on .

1 AN ACT Relating to railroad corridors acquired by state agencies
2 for trail use; amending RCW 79.08.277; adding a new section to chapter
3 43.51 RCW; adding a new section to chapter 79.08 RCW; and adding a new
4 chapter to Title 81 RCW.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that state agencies
7 have acquired railroad corridors under the national trails system act
8 to preserve these unique and valuable corridors for future railroad use
9 and possible future utility corridors. The legislature also finds that
10 such railroad corridors are surrounded by privately owned properties,
11 or contain easements across privately owned properties, and that,
12 because the operation of the corridors can significantly affect these
13 properties, certain operation standards should be implemented to serve
14 the citizens of the state adequately. The purpose of this chapter is
15 to establish minimum requirements for the management and operation of
16 such corridors in order to protect privately owned property.

1 NEW SECTION. **Sec. 2.** Unless the context clearly requires
2 otherwise, the definitions in this section apply throughout this
3 chapter.

4 (1) "State agency" means and includes every state office,
5 department, division, board, or commission.

6 (2) "National trails system act" means section 1247 of the national
7 trails system act, 16 U.S.C. Sec. 1247(d).

8 (3) "Railroad corridor" means railroad rights-of-way acquired by a
9 state agency under the national trails system act for interim trail
10 use.

11 NEW SECTION. **Sec. 3.** A state agency that has acquired a railroad
12 corridor under the national trails system act shall manage and operate
13 the corridor in compliance with the requirements of this section to the
14 extent that funds are specifically appropriated for the purpose of
15 implementing plans consistent with section 4 of this act.

16 (1) The agency shall comply with all applicable rules and standards
17 for the control of noxious weeds under chapters 17.04 and 17.10 RCW.

18 (2) The agency shall, at a minimum, maintain, reconstruct, or
19 replace livestock control fences, or pay the costs of maintaining,
20 reconstructing, or replacing livestock control fences, in the same
21 manner as when the corridor was managed and operated to support active
22 railroad service or in a manner agreed upon by the adjacent landowner
23 and the agency. This may include, but is not limited to, maintaining
24 or constructing livestock control fences where the full cost of such
25 maintenance or construction is borne by the state agency, providing
26 fencing materials to adjacent landowners, or otherwise sharing the
27 costs of maintaining or constructing fencing with adjacent landowners.

28 (3) The agency shall close trails that are not yet developed or
29 portions of trails that are not yet developed during hunting season,
30 except that the agency shall not close the trail for access to property
31 owned or controlled by the department of fish and wildlife that
32 immediately borders the corridor. For those trails or portions of
33 trails that have been developed, the agency shall prohibit hunting on
34 and from the trail and shall provide signage to warn trail users not to
35 trespass on private property.

36 (4) The agency shall regularly patrol the trail and enforce state
37 laws and rules that, at a minimum, prohibit littering, vandalism,
38 disturbing livestock, lighting fires in nondesignated areas, illegal

1 dumping, motorized vehicle use, fireworks, and camping and picnicking
2 in nondesignated areas. The agency shall post signs warning the public
3 regarding prohibitions against disturbing livestock, lighting fires in
4 nondesignated camping areas, and trespassing upon privately owned
5 property. The agency shall post informational signs at each trail
6 entrance to warn trail users that the failure to obey state law and the
7 agency's rules may result in a citation or expulsion from the trail.

8 NEW SECTION. **Sec. 4.** State agencies shall develop long-term
9 implementation plans and budgets to meet the requirements of section 3
10 of this act for each railroad corridor acquired under the national
11 trails system act. Each plan and budget shall be developed in
12 consultation with an advisory committee composed of interested owners
13 of properties adjacent to the corridor as well as representatives from
14 trail user groups. Plans and long-term budgets shall be submitted to
15 the appropriate standing committees of the legislature by January 1,
16 1999.

17 NEW SECTION. **Sec. 5.** An owner of property located immediately
18 adjacent to a railroad corridor may register a formal complaint with
19 the state agency managing the corridor regarding the agency's
20 compliance with the requirements in section 3 of this act. The
21 complaint shall be in writing, shall describe the place and time of any
22 violations, and may include a request that the violation be corrected.
23 Within fifteen days of receiving a complaint under this section, state
24 agencies shall, in writing, acknowledge receipt of the complaint and
25 respond to the complainant with either (1) a plan for meeting the
26 requirement, or (2) if the agency believes that it is in compliance
27 with the requirement, documentation of such compliance, or (3) if the
28 agency believes that additional time is necessary to investigate and
29 respond to the complaint under subsection (1) or (2) of this section,
30 a reasonable estimate of the amount of time necessary to so respond,
31 which shall not exceed forty-five days from the date the agency
32 received the complaint.

33 NEW SECTION. **Sec. 6.** (1) Beginning July 1, 2001, an owner of
34 property located immediately adjacent to a railroad corridor who has
35 filed a complaint under section 5 of this act may file an action in the
36 superior court of the county in which the property is located

1 requesting a declaration of whether the state agency managing the
2 railroad corridor is substantially meeting the requirements of section
3 3 of this act. Except as otherwise provided by this section, an action
4 filed under this section is governed by chapter 7.24 RCW and applicable
5 court rules.

6 (2) An action filed under this section shall be brought no sooner
7 than fifty days and no later than one year following the date the
8 agency received the complaint under section 5 of this act.

9 (3) The superior court shall hold a hearing on the action within
10 ninety days of the filing of the action, absent a showing of good cause
11 or stipulation of the parties.

12 (4) In an action filed under subsection (1) of this section, if the
13 court determines that the state agency is not substantially meeting the
14 requirements of section 3 of this act, the court shall issue an order
15 to the state agency to expeditiously undertake such action as is
16 necessary to bring the agency into compliance with the requirements of
17 section 3 of this act. The agency shall close that portion of the
18 trail where the court has determined the agency is not substantially
19 meeting the requirements of section 3 of this act until the agency is
20 substantially meeting the requirements. The closure shall be from the
21 nearest public access points on either side of the problem area.

22 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.51 RCW
23 to read as follows:

24 Sections 3 through 6 of this act apply to the state parks and
25 recreation commission with respect to the portion of the Milwaukee Road
26 corridor under its control, including the management and operation of
27 the corridor in compliance with section 3 of this act, the requirement
28 to develop long-term implementation plans and budgets in compliance
29 with section 4 of this act, and the provisions regarding complaints of
30 adjacent landowners as provided in sections 5 and 6 of this act.

31 NEW SECTION. **Sec. 8.** A new section is added to chapter 79.08 RCW
32 to read as follows:

33 Sections 3 through 6 of this act apply to the department of natural
34 resources with respect to the portion of the Milwaukee Road corridor
35 under its control, including the management and operation of the
36 corridor in compliance with section 3 of this act, the requirement to
37 develop long-term implementation plans and budgets in compliance with

1 section 4 of this act, and the provisions regarding complaints of
2 adjacent landowners as provided in sections 5 and 6 of this act.

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

5 The portion of the Milwaukee Road corridor under management and
6 control of the department of natural resources shall be open to
7 individuals or organized groups which obtain permits from the
8 department of natural resources to travel the corridor for recreational
9 purposes. The department shall not issue permits for use of the trail
10 during hunting season, except that the department shall allow use of
11 the trail as access to property owned or controlled by the department
12 of fish and wildlife that immediately borders the corridor. The
13 department of natural resources shall, for the purpose of issuing
14 permits for corridor use, promulgate rules necessary for the orderly
15 and safe use of the corridor and protection of adjoining landowners.
16 Permit fees shall be established at a level that will cover costs of
17 issuance. Upon request of abutting landowners, the department shall
18 notify the landowners of permits issued for use of the corridor
19 adjacent to their property.

20 NEW SECTION. **Sec. 10.** Sections 1 through 6 of this act constitute
21 a new chapter in Title 81 RCW.

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