
SUBSTITUTE SENATE BILL 5680

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Transportation (originally sponsored by Senators Haugen, Swecker, T. Sheldon, Morton, Benton and Patterson)

Read first time 03/08/1999.

1 AN ACT Relating to the right of utility facilities to be located on
2 railroad rights-of-way; adding a new section to chapter 80.36 RCW;
3 creating new sections; making an appropriation; and providing an
4 expiration date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 80.36 RCW
7 to read as follows:

8 (1) A moratorium is established on the imposition of new fees and
9 fee increases by a railroad company upon a utility for the construction
10 and placement of utility facilities in a railroad right-of-way, unless
11 otherwise agreed to by the parties. Renewal of a previously imposed
12 fee at the same rate is not prohibited by this section. During the
13 period of the moratorium, railroad companies may not require utilities
14 to remove utility facilities from the railroad right-of-way solely
15 because of a dispute between the parties concerning compensation for
16 placement of utility facilities in the railroad right-of-way. Unless
17 otherwise agreed to by the parties, railroad companies may only require
18 relocation of utility facilities within the railroad right-of-way when

1 such facilities cause interference with railroad operations or create
2 a safety hazard.

3 (2) 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 (3) The moratorium created by this section is in effect until
15 December 31, 2000.

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

20 (a) How an easement, right, permit, or other form of permanent
21 access can be established for utilities and telecommunications
22 companies to construct and maintain utility and telecommunications
23 facilities on, over, under, and along the railroad right-of-way;

24 (b) How a permanent easement can be created for utility and
25 telecommunications facilities when a railroad abandons a rail right-of-
26 way;

27 (c) What costs should a utility or telecommunications company pay
28 to a railroad to reimburse the railroad for any expenses incurred by
29 the railroad as a result of the construction of utility and
30 telecommunications facilities in the railroad right-of-way;

31 (d) How much compensation, if any, should a utility or
32 telecommunications company pay for locating utility or
33 telecommunications facilities in the railroad right-of-way;

34 (e) What other costs or expenses, if any, should a utility or
35 telecommunications company pay for locating utility or
36 telecommunications facilities in the railroad right-of-way;

1 (f) What amount and scope of insurance should a railroad, utility,
2 or telecommunications company have, if any, to indemnify the other for
3 damages resulting from its own negligence;

4 (g) What kind of notification requirements should be required of
5 utilities and telecommunications companies before constructing utility
6 or telecommunications facilities in a railroad right-of-way;

7 (h) Under what conditions might it be necessary for a utility or
8 telecommunications company to relocate utility or telecommunications
9 facilities that are located in a railroad right-of-way; and

10 (i) What, if any mechanism should be created to resolve disputes
11 between utilities, telecommunications companies, and railroads relative
12 to the issues enumerated in this section.

13 (2) The task force shall be composed of thirteen members as
14 follows:

15 (a) Nine members shall be appointed by the governor as follows:
16 One person representing an electrical company or natural gas company,
17 as defined under RCW 80.04.010; one person representing a municipal
18 corporation, including public utility districts, that operates as a
19 water or sewer utility; one person representing a cooperative
20 association engaged in the business of distributing electricity within
21 the state; one person representing telecommunications companies; two
22 persons representing railroads that operate within and without the
23 state; two people representing railroads that operate solely in the
24 state; and one person representing the public at large, which could
25 include a representative from the office of public counsel in the
26 office of the attorney general. The public representative shall not
27 be, or have ever been, an employee or agent of, or otherwise have a
28 connection with a utility or railroad, other than as a consumer. The
29 governor shall select one of these members to serve as chair of the
30 task force; and

31 (b) Two members each from the senate and the house of
32 representatives; one each from the two largest caucuses in each house
33 including one member each from the senate and house transportation
34 committees, one member from the house technology, telecommunications
35 and energy committee, and one member from the senate energy, technology
36 and telecommunications committee. The president of the senate shall
37 appoint the two members from the senate and the co-speakers of the
38 house of representatives shall appoint the two members from the house
39 of representatives.

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

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

6 This section expires June 30, 2000.

7 NEW SECTION. **Sec. 3.** The sum of forty-five thousand dollars, or
8 as much thereof as may be necessary, is appropriated for the fiscal
9 year ending June 30, 2000, from the general fund to the Washington
10 utilities and transportation commission for the purposes of section 2
11 of this act.

12 NEW SECTION. **Sec. 4.** The provisions of this act do not apply to
13 railroads owned and operated by a municipal corporation in the state of
14 Washington.

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