
SENATE BILL 5680

State of Washington 56th Legislature 1999 Regular Session

By Senators Haugen, Swecker, T. Sheldon, Morton, Benton and Patterson

Read first time 02/02/1999. Referred to Committee on Transportation.

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 a new section; 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 on, over, under, and along the
11 railroad right-of-way. Renewal of a previously imposed fee at the same
12 rate is not prohibited by this section. Railroad companies are
13 prohibited from refusing to allow a utility to construct facilities
14 within the railroad right-of-way solely because of a dispute between
15 the parties concerning compensation for or conditions to the placement
16 of utility facilities on, over, under, and along the railroad right-of-
17 way. Utility facilities shall be placed upon the railroad right-of-way
18 as not to interfere with railroad operations. Utilities are
19 responsible for providing proper notification to the railroad company

1 regarding planned construction and repairs and any emergencies that may
2 have an effect on railroad operations.

3 During the period of the moratorium, railroad companies may not
4 require utilities to remove utility facilities from the railroad right-
5 of-way. Railroad companies may require relocation of utility
6 facilities within the right-of-way when such facilities cause
7 interference with railroad operations or create a safety hazard.

8 (2) For the purposes of this section: (a) "Utility facilities"
9 means lines, conduits, ducts, poles, wires, pipes, conductors, cables,
10 cross-arms, receivers, transmitters, transformers, instrumentalities,
11 drains, channels, aqueducts, collection systems, and all devices,
12 apparatus, and property used, operated, owned, or controlled by an
13 electric utility, gas company, water utility, or sewer utility for the
14 purposes of manufacturing, transmitting, transporting, distributing,
15 selling, furnishing, or disposing of electricity, natural gas, water,
16 and sewage; and (b) "utility" means an electric utility, gas company,
17 water utility, natural gas pipeline company, and sewer utility,
18 including a metropolitan municipal corporation.

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

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

24 (a) How an easement, right, permit, or other form of permanent
25 access can be established for utilities to construct and maintain
26 utility facilities on, over, under, and along the railroad right-of-
27 way;

28 (b) How a permanent easement can be created for utility facilities
29 when a railroad abandons a rail right-of-way;

30 (c) What costs should a utility pay to a railroad to reimburse the
31 railroad for any expenses incurred by the railroad as a result of the
32 construction of utility facilities in the railroad right-of-way;

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

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

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

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

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

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

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

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

29 (b) Two members each from the senate and the house of
30 representatives; one each from the two largest caucuses in each house.
31 The president of the senate shall appoint the two members from the
32 senate and the co-speakers of the house of representatives shall
33 appoint the two members from the house of representatives.

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

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

39 This section expires June 30, 2000.

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

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