

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5912

Chapter 191, Laws of 2003

58th Legislature
2003 Regular Session

PRODUCE RAILCAR POOL

EFFECTIVE DATE: 7/27/03

Passed by the Senate April 22, 2003
YEAS 45 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 17, 2003
YEAS 80 NAYS 18

FRANK CHOPP

Speaker of the House of Representatives

Approved May 9, 2003.

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
SUBSTITUTE SENATE BILL 5912 as
passed by the Senate and the House
of Representatives on the dates
hereon set forth.

MILTON H. DOUMIT JR.

Secretary

FILED

May 9, 2003 - 4:07 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5912

AS AMENDED BY THE HOUSE

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By Senate Committee on Highways & Transportation (originally sponsored by Senators Mulliken, Haugen, Sheahan, Horn, Parlette, Rasmussen and Spanel)

READ FIRST TIME 03/07/03.

1 AN ACT Relating to a state produce railcar pool; reenacting and
2 amending RCW 43.79A.040; adding new sections to chapter 47.76 RCW; and
3 creating a new section.

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

5 NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. The legislature finds
6 that an actively coordinated and cooperatively facilitated railcar pool
7 for transportation of perishable agricultural commodities is necessary
8 for the continued viability and competitiveness of Washington's
9 agricultural industry. The legislature also finds that the rail
10 transportation model established by the Washington Grain Train program
11 has been successful in serving the shipping needs of the wheat
12 industry.

13 It is, therefore, the intent of the legislature to authorize and
14 direct the Washington department of transportation to develop a railcar
15 program for Washington's perishable commodity industries to be known as
16 the Washington Produce Railcar Pool. This railcar program should be
17 modeled from the Washington Grain Train program, but be made flexible
18 enough to work with entities outside state government in order to

1 fulfill its mission, including, but not limited to, the federal and
2 local governments, commodity commissions, and private entities.

3 NEW SECTION. **Sec. 2.** DEFINITION. As used in this act "short line
4 railroad" means a Class II or Class III railroad as defined by the
5 United States Surface Transportation Board.

6 NEW SECTION. **Sec. 3.** DEPARTMENTAL AUTHORITY. In addition to
7 powers otherwise granted by law, the department may establish a
8 Washington Produce Railcar Pool to promote viable, cost-effective rail
9 service for Washington produce, including but not limited to apples,
10 onions, pears, and potatoes, both processed and fresh.

11 To the extent that funds are appropriated, the department may:

12 (1) Operate the Washington Produce Railcar Pool program while
13 working in close coordination with the department of agriculture,
14 interested commodity commissions, port districts, and other interested
15 parties;

16 (2) For the purposes of this program:

17 (a) Purchase or lease new or used refrigerated railcars;

18 (b) Accept donated refrigerated railcars; and

19 (c) Refurbish and remodel the railcars.

20 (3) Hire, in consultation with affected stakeholders, including but
21 not limited to short line railroads, commodity commissions, and port
22 districts, a transportation management firm to perform the function
23 outlined in section 5 of this act; and

24 (4) Contribute the efforts of a short line rail-financing expert to
25 find funding for the project to help interested short line railroads in
26 this state to accomplish the necessary operating arrangements once the
27 railcars are ready for service.

28 NEW SECTION. **Sec. 4.** FUNDING. To the extent that funds are
29 appropriated, the department shall fund the program as follows: The
30 department may accept funding from the federal government, or other
31 public or private sources, to purchase or lease new or used railcars
32 and to refurbish and remodel the railcars as needed. Nothing in this
33 section precludes other entities, including but not limited to short
34 line railroads, from performing the remodeling under sections 1 through
35 6 of this act.

1 NEW SECTION. **Sec. 5.** RAILCAR POOL MANAGEMENT. (1) The
2 transportation management firm hired under section 3(3) of this act
3 shall manage the day-to-day operations of the railcars, such as
4 monitoring the location of the cars, returning them to this state,
5 distributing them, arranging for pretrips and repairs, and arranging
6 for per diem, mileage allowances, and other freight billing charges
7 with the railroads.

8 (2) The railcar pool must be managed over the life of the railcars
9 so that the railcars will be distributed to railroads and port
10 districts around the state for produce loadings as market conditions
11 warrant or to other users, including out-of-state users by contractual
12 agreement, during times of excess capacity.

13 (3) To maximize railcar availability and use, the department or the
14 transportation management firm may make agreements with the
15 transcontinental railroad systems to pool Washington-owned or
16 Washington-managed railcars with those of the railroads. In such
17 instances, the railroad must agree to provide immediately an equal
18 number of railcars to the Washington railcar pool.

19 (4) The department shall act in an oversight role to verify that
20 the railcar pool is managed in accordance with subsections (2) and (3)
21 of this section.

22 NEW SECTION. **Sec. 6.** PRODUCE RAILCAR POOL ACCOUNT. The produce
23 railcar pool account is created in the custody of the state treasurer.
24 All receipts from per diem charges, mileage charges, and freight
25 billing charges paid by railroads and shippers that use the railcars in
26 the Washington Produce Railcar Pool must be deposited into the account.
27 Expenditures from the account may be used only for the purposes of
28 sections 1 through 5 of this act. Only the secretary of transportation
29 or the secretary's designee may authorize expenditures from the
30 account. The account is subject to allotment procedures under chapter
31 43.88 RCW, but an appropriation is not required for expenditures.

32 **Sec. 7.** RCW 43.79A.040 and 2002 c 322 s 5, 2002 c 204 s 7, and
33 2002 c 61 s 6 are each reenacted and amended to read as follows:

34 (1) Money in the treasurer's trust fund may be deposited, invested,
35 and reinvested by the state treasurer in accordance with RCW 43.84.080

1 in the same manner and to the same extent as if the money were in the
2 state treasury.

3 (2) All income received from investment of the treasurer's trust
4 fund shall be set aside in an account in the treasury trust fund to be
5 known as the investment income account.

6 (3) The investment income account may be utilized for the payment
7 of purchased banking services on behalf of treasurer's trust funds
8 including, but not limited to, depository, safekeeping, and
9 disbursement functions for the state treasurer or affected state
10 agencies. The investment income account is subject in all respects to
11 chapter 43.88 RCW, but no appropriation is required for payments to
12 financial institutions. Payments shall occur prior to distribution of
13 earnings set forth in subsection (4) of this section.

14 (4)(a) Monthly, the state treasurer shall distribute the earnings
15 credited to the investment income account to the state general fund
16 except under (b) and (c) of this subsection.

17 (b) The following accounts and funds shall receive their
18 proportionate share of earnings based upon each account's or fund's
19 average daily balance for the period: The Washington promise
20 scholarship account, the college savings program account, the
21 Washington advanced college tuition payment program account, the
22 agricultural local fund, the American Indian scholarship endowment
23 fund, the basic health plan self-insurance reserve account, the
24 Washington state combined fund drive account, the Washington
25 international exchange scholarship endowment fund, the developmental
26 disabilities endowment trust fund, the energy account, the fair fund,
27 the fruit and vegetable inspection account, the game farm alternative
28 account, the grain inspection revolving fund, the juvenile
29 accountability incentive account, the produce railcar pool account, the
30 rural rehabilitation account, the stadium and exhibition center
31 account, the youth athletic facility account, the self-insurance
32 revolving fund, the sulfur dioxide abatement account, and the
33 children's trust fund. However, the earnings to be distributed shall
34 first be reduced by the allocation to the state treasurer's service
35 fund pursuant to RCW 43.08.190.

36 (c) The following accounts and funds shall receive eighty percent
37 of their proportionate share of earnings based upon each account's or
38 fund's average daily balance for the period: The advanced right of way

1 revolving fund, the advanced environmental mitigation revolving
2 account, the city and county advance right-of-way revolving fund, the
3 federal narcotics asset forfeitures account, the high occupancy vehicle
4 account, the local rail service assistance account, and the
5 miscellaneous transportation programs account.

6 (5) In conformance with Article II, section 37 of the state
7 Constitution, no trust accounts or funds shall be allocated earnings
8 without the specific affirmative directive of this section.

9 NEW SECTION. **Sec. 8.** Section captions used in this act are not
10 part of the law.

11 NEW SECTION. **Sec. 9.** Sections 1 through 6 of this act are each
12 added to chapter 47.76 RCW.

Passed by the Senate April 22, 2003.

Passed by the House April 17, 2003.

Approved by the Governor May 9, 2003.

Filed in Office of Secretary of State May 9, 2003.