
ENGROSSED SUBSTITUTE SENATE BILL 6120

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Transportation (originally sponsored by Senators Marr, Swecker, Oemig, Haugen, Rockefeller, Kauffman, Berkey, Murray, Spanel, Eide, Kilmer, Poulsen, Delvin, Regala, Jacobsen, Fraser, Kohl-Welles and Rasmussen)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to rail and freight infrastructure; amending RCW
2 47.06A.020 and 47.76.240; and adding a new chapter to Title 47 RCW.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that the economic
5 vitality of Washington state requires robust rail and freight systems
6 capable of providing its businesses, ports, and agricultural producers
7 with competitive access to domestic and international markets. The
8 legislature further finds that a carefully planned program of state
9 investments in rail and freight infrastructure will allow Washington
10 state to realize important public benefits, including increased safety
11 and economic growth. To the extent that state funds are used to
12 improve rail infrastructure, the legislature declares that it is the
13 policy of the state of Washington to examine the cost of any rail
14 infrastructure improvement as compared to the public benefits to be
15 gained by making the improvement according to the following priorities,
16 in order of relative importance: (1) Economic, safety, or
17 environmental advantages of freight movement by rail compared to
18 alternative modes; (2) self-sustaining economic development that
19 creates family-wage jobs; (3) preservation of transportation corridors

1 that would otherwise be lost; (4) increased access to efficient and
2 cost-effective transport to market for Washington's agricultural and
3 industrial products; (5) better integration and cooperation within the
4 regional, national, and international systems of freight distribution;
5 and (6) mitigation of impacts of increased rail traffic on communities.
6 In all cases, state investment in rail infrastructure should be
7 allocated to leverage the greatest amount of partnership funding
8 possible, and should only be considered when there is a demonstrably
9 lower likelihood of obtaining the benefits specified in this section
10 without at least some state funding of the infrastructure improvement.

11 NEW SECTION. **Sec. 2.** The department of transportation shall plan
12 and coordinate the state's investment in the preservation and
13 improvement of rail infrastructure and the rail transportation system.
14 The department shall furnish quarterly updates to the transportation
15 commission and the transportation committees of the house of
16 representatives and senate regarding the development and execution of
17 the plan for the state's participation in the preservation and
18 improvement of rail infrastructure and the rail transportation system.
19 In executing its duties under this chapter, the department shall
20 carefully consider the recommendations that the transportation
21 commission shall, from time to time, but at least annually by August
22 1st, make in writing to the department. The department shall promptly
23 and diligently furnish information that the transportation commission
24 or the transportation committees of the house of representatives or
25 senate may request relating to the rail transportation system or the
26 rail infrastructure actions and projects plan described in section 3 of
27 this act.

28 NEW SECTION. **Sec. 3.** The department of transportation shall
29 identify rail infrastructure needs that could be addressed through the
30 state's financial or other participation. The department shall
31 consider possible types of state participation to address a rail
32 infrastructure need, and shall analyze reasonable possibilities
33 according to priorities identified in section 1 of this act by
34 developing and implementing the benefit/impact evaluation methodology
35 referenced in the statewide rail capacity and needs study finalized in
36 December 2006. The department shall convene a work group comprised of

1 people representing the following: (1) The transportation commission;
2 (2) the freight mobility strategic investment board; (3) Washington
3 public ports association; (4) Washington trucking association; (5) the
4 department of community, trade and economic development; (6) union
5 pacific railroad; (7) burlington northern santa fe railway; (8) all
6 aboard Washington; (9) association of counties; (10) association of
7 cities; (11) the department of agriculture; and (12) manufacturers and
8 agricultural growers that use the rail system to distribute their
9 products. The work group shall collaborate with the department to
10 develop the benefit/impact analysis method to be used to evaluate all
11 proposed state actions or projects according to the priorities
12 established in section 1 of this act. Based upon the benefit/impact
13 analysis, the department shall develop and sequence a plan of actions
14 and projects in which the state should participate. The rail
15 infrastructure actions and projects plan must include an explanation of
16 the analysis undertaken, and the conclusions derived from the analysis,
17 for actions and projects recommended for state participation, as well
18 as those actions and projects considered, but not recommended. The
19 department shall update and report the plan to the transportation
20 commission and the transportation committees of the house of
21 representatives and senate by October 1st each year. The department
22 shall monitor any circumstance with a foreseeable impact on the plan,
23 and advise the transportation commission and the transportation
24 committees of the house of representatives and senate by February 15th
25 each year regarding any changed circumstances that affect the plan.

26 NEW SECTION. **Sec. 4.** By December 15th each year, the
27 transportation commission shall report to the transportation committees
28 of the house of representatives and senate the commission's concurrence
29 or disagreement with the advisability of the actions and projects
30 recommended by the department of transportation in the plan developed
31 by the department under section 3 of this act. The commission shall
32 base its determinations on the priorities identified in section 1 of
33 this act, and an evaluation of each action or project according to the
34 methodology developed as part of the statewide rail capacity and needs
35 study finalized in December 2006. If the commission finds that certain
36 actions or projects do not appear within the department's plan, but

1 warrant consideration, then the commission shall report its own
2 analysis of the action or project to the transportation committees of
3 the house of representatives and senate.

4 **Sec. 5.** RCW 47.06A.020 and 2005 c 319 s 125 are each amended to
5 read as follows:

6 (1) The board shall:

7 (a) Adopt rules and procedures necessary to implement the freight
8 mobility strategic investment program;

9 (b) Solicit from public entities proposed projects that meet
10 eligibility criteria established in accordance with subsection (4) of
11 this section; and

12 (c) Review and evaluate project applications based on criteria
13 established under this section, and prioritize and select projects
14 comprising a portfolio to be funded in part with grants from state
15 funds appropriated for the freight mobility strategic investment
16 program. In determining the appropriate level of state funding for a
17 project, the board shall ensure that state funds are allocated to
18 leverage the greatest amount of partnership funding possible. After
19 selecting projects comprising the portfolio, the board shall submit
20 them as part of its budget request to the office of financial
21 management and the legislature, and by August 1st each year, the board
22 shall provide a copy of its portfolio of selected projects to the
23 department and the commission. The board shall ensure that projects
24 submitted as part of the portfolio are not more appropriately funded
25 with other federal, state, or local government funding mechanisms or
26 programs. The board shall reject those projects that appear to improve
27 overall general mobility with limited enhancement for freight mobility.

28 The department shall consider the portfolio furnished by the board
29 in developing and updating the state's plan for participation in rail
30 infrastructure improvements, and the commission shall consider the
31 portfolio furnished by the board when reviewing the department's plan
32 and making recommendations to the legislature under section 4 of this
33 act. The board shall provide periodic progress reports on its
34 activities to the office of financial management and the senate and
35 house transportation committees.

36 (2) The board may:

1 (a) Accept from any state or federal agency, loans or grants for
2 the financing of any transportation project and enter into agreements
3 with any such agency concerning the loans or grants;

4 (b) Provide technical assistance to project applicants;

5 (c) Accept any gifts, grants, or loans of funds, property, or
6 financial, or other aid in any form from any other source on any terms
7 and conditions which are not in conflict with this chapter;

8 (d) Adopt rules under chapter 34.05 RCW as necessary to carry out
9 the purposes of this chapter; and

10 (e) Do all things necessary or convenient to carry out the powers
11 expressly granted or implied under this chapter.

12 (3) The board shall designate strategic freight corridors within
13 the state. The board shall update the list of designated strategic
14 corridors not less than every two years, and shall establish a method
15 of collecting and verifying data, including information on city and
16 county-owned roadways.

17 (4) The board shall utilize threshold project eligibility criteria
18 that, at a minimum, includes the following:

19 (a) The project must be on a strategic freight corridor;

20 (b) The project must meet one of the following conditions:

21 (i) It is primarily aimed at reducing identified barriers to
22 freight movement with only incidental benefits to general or personal
23 mobility; or

24 (ii) It is primarily aimed at increasing capacity for the movement
25 of freight with only incidental benefits to general or personal
26 mobility; or

27 (iii) It is primarily aimed at mitigating the impact on communities
28 of increasing freight movement, including roadway/railway conflicts;
29 (~~and~~)

30 (c) The project must have a total public benefit/total public cost
31 ratio of equal to or greater than one; and

32 (d) To the greatest extent possible, the project must be consistent
33 with the benefit/impact analysis developed by the department and
34 freight stakeholders under section 3 of this act, and address the
35 legislative priorities identified in section 1 of this act.

36 (5) From June 11, 1998, through the biennium ending June 30, 2001,
37 the board shall use the multicriteria analysis and scoring framework
38 for evaluating and ranking eligible freight mobility and freight

1 mitigation projects developed by the freight mobility project
2 prioritization committee and contained in the January 16, 1998, report
3 entitled "Project Eligibility, Priority and Selection Process for a
4 Strategic Freight Investment Program." The prioritization process
5 shall measure the degree to which projects address important program
6 objectives and shall generate a project score that reflects a project's
7 priority compared to other projects. The board shall assign scoring
8 points to each criterion that indicate the relative importance of the
9 criterion in the overall determination of project priority. After June
10 30, 2001, the board may supplement and refine the initial project
11 priority criteria and scoring framework developed by the freight
12 mobility project prioritization committee as expertise and experience
13 is gained in administering the freight mobility program.

14 (6) It is the intent of the legislature that each freight mobility
15 project contained in the project portfolio submitted by the board
16 utilize the greatest amount of nonstate funding possible. The board
17 shall adopt rules that give preference to projects that contain the
18 greatest levels of financial participation from nonprogram fund
19 sources. The board shall consider twenty percent as the minimum
20 partnership contribution, but shall also ensure that there are
21 provisions allowing exceptions for projects that are located in areas
22 where minimal local funding capacity exists or where the magnitude of
23 the project makes the adopted partnership contribution financially
24 unfeasible.

25 (7) The board shall develop and recommend policies that address
26 operational improvements that primarily benefit and enhance freight
27 movement, including, but not limited to, policies that reduce
28 congestion in truck lanes at border crossings and weigh stations and
29 provide for access to ports during nonpeak hours.

30 **Sec. 6.** RCW 47.76.240 and 1995 c 380 s 5 are each amended to read
31 as follows:

32 The state, counties, local communities, ports, railroads, labor,
33 and shippers all benefit from continuation of rail service and should
34 participate in its preservation. Lines that provide benefits to the
35 state and local jurisdictions, such as avoided roadway costs, reduced
36 traffic congestion, economic development potential, environmental

1 protection, and safety, should be assisted through the joint efforts of
2 the state, local jurisdictions, and the private sector.

3 State funding for rail service, rail preservation, and corridor
4 preservation projects must benefit the state's interests. The state's
5 (~~interest is served by reducing public roadway maintenance and repair~~
6 ~~costs, increasing economic development opportunities, increasing~~
7 ~~domestic and international trade, preserving jobs, and enhancing~~
8 ~~safety. State funding for projects is contingent upon appropriate~~
9 ~~local jurisdiction and private sector participation and cooperation.~~
10 ~~Before spending state moneys on projects the department shall seek~~
11 ~~federal, local, and private funding and participation to the greatest~~
12 ~~extent possible)) participation in rail infrastructure improvements is
13 governed by chapter 47.-- RCW (created in section 7 of this act).~~

14 (1) The department of transportation shall continue to monitor the
15 status of the state's mainline and branchline common carrier railroads
16 and preserved rail corridors through the state rail plan and various
17 analyses, and shall seek alternatives to abandonment prior to
18 interstate commerce commission proceedings, where feasible.

19 (2) The utilities and transportation commission shall intervene in
20 interstate commerce commission proceedings on abandonments, when
21 necessary, to protect the state's interest.

22 (3) The department of transportation, in consultation with the
23 Washington state freight rail policy advisory committee, shall
24 establish criteria for evaluating rail projects and corridors of
25 significance to the state.

26 (4) Local jurisdictions may implement rail service preservation
27 projects in the absence of state participation.

28 (5) The department of transportation shall continue to monitor
29 projects for which it provides assistance.

30 NEW SECTION. Sec. 7. Sections 1 through 4 of this act constitute
31 a new chapter in Title 47 RCW.

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