

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1717

Chapter 338, Laws of 2009

61st Legislature
2009 Regular Session

MILWAUKEE ROAD CORRIDOR--RAIL LINE

EFFECTIVE DATE: 06/30/09

Passed by the House April 18, 2009
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 9, 2009
Yeas 45 Nays 0

BRAD OWEN

President of the Senate

Approved May 5, 2009, 2:16 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1717** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

May 8, 2009

**Secretary of State
State of Washington**

HOUSE BILL 1717

AS AMENDED BY THE SENATE

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Representatives Clibborn, Armstrong, Wood, Warnick, and Klippert

Read first time 01/27/09. Referred to Committee on Transportation.

1 AN ACT Relating to a rail line over the Milwaukee Road corridor;
2 amending RCW 79A.05.115, 79A.05.120, 79A.05.125, and 79A.05.130;
3 providing an effective date; providing contingent expiration dates; and
4 declaring an emergency.

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

6 **Sec. 1.** RCW 79A.05.115 and 2006 c 160 s 1 are each amended to read
7 as follows:

8 (1) The commission shall develop and maintain a cross-state trail
9 facility with appropriate appurtenances.

10 (2) This section expires July 1, ~~((2009))~~ 2019, ~~((if))~~ unless the
11 department of transportation ~~((does not))~~ enters into a franchise
12 agreement for a rail line over any of the portions of the Milwaukee
13 Road corridor between Ellensburg and ~~((Lind))~~ Marengo by July 1,
14 ~~((2009))~~ 2019.

15 **Sec. 2.** RCW 79A.05.120 and 2006 c 160 s 2 are each amended to read
16 as follows:

17 (1) To facilitate completion of a cross-state trail under the
18 management of the parks and recreation commission, management and

1 control of lands known as the Milwaukee Road corridor shall be
2 transferred between state agencies as follows on the date a franchise
3 agreement is entered into for a rail line over portions of the
4 Milwaukee Road corridor:

5 (a) Portions owned by the state between Ellensburg and the Columbia
6 river that are managed by the parks and recreation commission are
7 transferred to the department of transportation;

8 (b) Portions owned by the state between the west side of the
9 Columbia river and Royal City Junction and between Warden and Lind that
10 are managed by the department of natural resources are transferred to
11 the department of transportation; (~~and~~)

12 (c) Portions owned by the state between Lind and the Idaho border
13 that are managed by the department of natural resources are transferred
14 to the parks and recreation commission as of June 7, 2006; and

15 (d) Portions owned by the state between Lind and Marengo are
16 transferred to the department of transportation.

17 (2) The department of natural resources may, by mutual agreement
18 with the parks and recreation commission, transfer management authority
19 over portions of the Milwaukee Road corridor to the state parks and
20 recreation commission, at any time prior to the department of
21 transportation entering into a franchise agreement.

22 (3) This section expires July 1, (~~(2009)~~) 2019, and no transfers
23 shall occur (~~(if)~~) unless the department of transportation (~~(does not)~~)
24 enters into a franchise agreement for a rail line over any of the
25 portions of the Milwaukee Road corridor between Ellensburg and (~~(Lind)~~)
26 Marengo by July 1, (~~(2009)~~) 2019.

27 **Sec. 3.** RCW 79A.05.125 and 2006 c 160 s 3 are each amended to read
28 as follows:

29 (1) The department of transportation shall negotiate (~~(a)~~) one or
30 more franchises with (~~(a)~~) rail carriers to establish and maintain a
31 rail line over portions of the Milwaukee Road corridor owned by the
32 state between Ellensburg and (~~(Lind)~~) Marengo. The department of
33 transportation may negotiate such a franchise with any qualified rail
34 carrier. Criteria for negotiating the franchise and establishing the
35 right-of-way include:

36 (a) Assurances that resources from the franchise will be sufficient

1 to compensate the state for use of the property, including completion
2 of a cross-state trail between Easton and the Idaho border;

3 (b) Types of payment for use of the franchise, including payment
4 for the use of federally granted trust lands in the transportation
5 corridor;

6 (c) Standards for maintenance of the line;

7 (d) Provisions ensuring that both the conventional and intermodal
8 rail service needs of local shippers are met. Such accommodations may
9 comprise agreements with the franchisee to offer or maintain adequate
10 service or to provide service by other carriers at commercially
11 reasonable rates;

12 (e) Provisions requiring the franchisee, upon reasonable request of
13 any other rail operator, to provide rail service and interchange
14 freight over what is commonly known as the Stampede Pass rail line from
15 Cle Elum to Auburn at commercially reasonable rates;

16 (f) If any part of the franchise agreement is invalidated by
17 actions or rulings of the federal surface transportation board or a
18 court of competent jurisdiction, the remaining portions of the
19 franchise agreement are not affected;

20 (g) Compliance with environmental standards; and

21 (h) Provisions for insurance and the coverage of liability.

22 (2) The franchise may provide for periodic review of financial
23 arrangements under the franchise.

24 (3) The department of transportation, in consultation with the
25 parks and recreation commission and the senate and house transportation
26 committees, shall negotiate the terms of the franchise, and shall
27 present the agreement to the parks and recreation commission for
28 approval of as to terms and provisions affecting the cross-state trail
29 or affecting the commission.

30 (4) This section expires July 1, (~~(2009)~~) 2019, (~~(if)~~) unless the
31 department of transportation (~~(does not)~~) enters into a franchise
32 agreement for a rail line over any of the portions of the Milwaukee
33 Road corridor between Ellensburg and Marengo by July 1, (~~(2009)~~) 2019.

34 **Sec. 4.** RCW 79A.05.130 and 2006 c 160 s 4 are each amended to read
35 as follows:

36 (1) The cross-state trail account is created in the custody of the
37 state treasurer. Eleven million five hundred thousand dollars is

1 provided to the state parks and recreation commission to acquire,
2 construct, and maintain a cross-state trail. This amount may consist
3 of: (a) Legislative appropriations intended for trail development; (b)
4 payments for the purchase of federally granted trust lands; and (c)
5 franchise fees derived from use of the rail corridor. The legislature
6 intends that any amounts provided from the transportation fund are to
7 be repaid to the transportation fund from franchise fees.

8 (2) The department shall deposit franchise fees from use of the
9 rail corridor according to the following priority: (a) To the
10 department of transportation for actual costs incurred in administering
11 the franchise; (b) to the department of natural resources as
12 compensation for use of federally granted trust lands in the rail
13 corridor; (c) to the transportation fund to reimburse any amounts
14 transferred or appropriated from that fund by the legislature for trail
15 development; (d) to the cross-state trail account, not to exceed eleven
16 million five hundred thousand dollars, provided that this amount shall
17 be reduced proportionate with any funds transferred or appropriated by
18 the 1996 legislature or paid from franchise fees for the purchase of
19 federally granted trust lands or for trail development; and (e) the
20 remainder to the essential rail assistance account, created under RCW
21 47.76.250. Expenditures from the cross-state trail account may be used
22 only for the acquisition, development, operation, and maintenance of
23 the cross-state trail. Only the director of the state parks and
24 recreation commission or the director's designee may authorize
25 expenditures from the account. The account is subject to allotment
26 procedures under chapter 43.88 RCW, but no appropriation is required
27 for expenditures.

28 (3) The commission may acquire land from willing sellers for the
29 cross-state trail, but not by eminent domain.

30 (4) The commission shall adopt rules describing the cross-state
31 trail.

32 (5) This section expires July 1, (~~(2009)~~) 2019, (~~(if)~~) unless the
33 department of transportation (~~(does not)~~) enters into a franchise
34 agreement for a rail line over any of the portions of the Milwaukee
35 Road corridor between Ellensburg and Marengo by July 1, (~~(2009)~~) 2019.

36 NEW SECTION. **Sec. 5.** This act is necessary for the immediate

1 preservation of the public peace, health, or safety, or support of the
2 state government and its existing public institutions, and takes effect
3 June 30, 2009.

Passed by the House April 18, 2009.

Passed by the Senate April 9, 2009.

Approved by the Governor May 5, 2009.

Filed in Office of Secretary of State May 8, 2009.