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**HOUSE BILL 1623**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Manweller, Moscoso, Hayes, Blake, Zeiger, Kirby, Vick, Sells, Buys, Fagan, Haler, Tarleton, and Tharinger

AN ACT Relating to railroad funding; and amending RCW 47.76.250.

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

**Sec.**  RCW 47.76.250 and 2009 c 160 s 1 are each amended to read as follows:

(1) The essential rail assistance account is created in the state treasury. Moneys in the account may be appropriated only for the purposes specified in this section.

(2) Moneys appropriated from the account to the department of transportation may be used by the department or distributed by the department to cities, county rail districts, counties, economic development councils, port districts, and privately or publicly owned railroads for the purpose of:

(a) Acquiring, rebuilding, rehabilitating, or improving rail lines;

(b) Purchasing or rehabilitating railroad equipment necessary to maintain essential rail service;

(c) Constructing railroad improvements to mitigate port access or mainline congestion;

(d) Construction of loading facilities to increase business on light density lines or to mitigate the impacts of abandonment;

(e) Preservation, including operation, of light density lines, as identified by the Washington state department of transportation, in compliance with this chapter; or

(f) Preserving rail corridors for future rail purposes by purchase of rights-of-way. The department shall first pursue transportation enhancement program funds, available under the federal surface transportation program, to the greatest extent practicable to preserve rail corridors. Purchase of rights-of-way may include track, bridges, and associated elements, and must meet the following criteria:

(i) The right-of-way has been identified and evaluated in the state rail plan prepared under this chapter;

(ii) The right-of-way may be or has been abandoned; and

(iii) The right-of-way has potential for future rail service.

(3) The department or the participating local jurisdiction is responsible for maintaining any right-of-way acquired under this chapter, including provisions for drainage management, fire and weed control, and liability associated with ownership.

(4) Nothing in this section impairs the reversionary rights of abutting landowners, if any, without just compensation.

(5) The department, cities, county rail districts, counties, and port districts may grant franchises to private railroads for the right to operate on lines acquired under this chapter.

(6) The department, cities, county rail districts, counties, and port districts may grant trackage rights over rail lines acquired under this chapter.

(7) If rail lines or rail rights-of-way are used by county rail districts, port districts, state agencies, or other public agencies for the purposes of rail operations and are later abandoned, the rail lines or rail rights-of-way cannot be used for any other purposes without the consent of the underlying fee title holder or reversionary rights holder, or until compensation has been made to the underlying fee title holder or reversionary rights holder.

(8) The department of transportation shall develop criteria for prioritizing freight rail projects that meet the minimum eligibility requirements for state assistance under RCW 47.76.240. The department shall develop criteria in consultation with the Washington state freight rail policy advisory committee. Project criteria should consider the level of local financial commitment to the project as well as cost/benefit ratio. Counties, local communities, railroads, shippers, and others who benefit from the project should participate financially to the greatest extent practicable.

(9) Moneys received by the department from franchise fees, trackage rights fees, and loan payments shall be redeposited in the essential rail assistance account. Repayment of loans made under this section shall occur within a period not longer than fifteen years, as set by the department. The repayment schedule and rate of interest, if any, shall be determined before the distribution of the moneys.

(10) The state shall maintain a contingent interest in any equipment, property, rail line, or facility that has outstanding grants or loans. The owner may not use the line as collateral, remove track, bridges, or associated elements for salvage, or use it in any other manner subordinating the state's interest without permission from the department.

(11) Moneys may be granted for improvements to privately owned railroads, railroad property, or other private property under this chapter for freight rail projects that meet the minimum eligibility criteria for state assistance under RCW 47.76.240, and which are supported by contractual consideration. At a minimum, such contractual consideration shall consist of defined benefits to the public with a value equal to or greater than the grant amount, and where the grant recipient provides the state a contingent interest adequate to ensure that such public benefits are realized.

(12)(a) Beginning June 2016, by the last day of each fiscal year, the state treasurer shall transfer from the multimodal transportation account to the essential rail assistance account such amounts as reflect the excess fund balance of the multimodal transportation account not to exceed ten million dollars.

(b) A minimum of fifty percent of the moneys deposited in the account pursuant to (a) of this subsection must be expended by the department for the maintenance and improvement of state-owned railroads.

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