
HOUSE BILL 2832

State of Washington 54th Legislature 1996 Regular Session

By Representatives Chandler, K. Schmidt, Scheuerman and Blanton

Read first time 01/22/96. Referred to Committee on Transportation.

1 AN ACT Relating to authorizing the department of transportation to
2 manage and control a rail transportation corridor and to enter into
3 agreements for the purpose of reinstating rail service over state-
4 owned former railroad rights of way; amending RCW 44.40.020, 43.51.405,
5 43.51.407, 43.51.409, 43.51.411, 79.08.275, 79.08.277, 79.08.279,
6 79.08.281, and 79.08.283; adding a new chapter to Title 81 RCW;
7 providing a contingent expiration date; and declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** The legislature intends to enact policies
10 that:

11 (1) Maintain and enhance our state's prominence in international
12 trade;

13 (2) Improve access to regional, national, and international markets
14 for Washington's agricultural producers and manufacturers;

15 (3) Reduce congestion on the state's system of mainline railroads;

16 (4) Ensure the viability of rail transportation as an alternative
17 mode, thereby helping to reduce roadway damage and congestion, improve
18 highway safety, and improve air quality; and

1 (5) Manage state resources to their greatest utility and in a
2 manner most beneficial to the state's taxpayers.

3 In order to accomplish these objectives, it is necessary to
4 consolidate ownership of certain properties currently owned by various
5 state agencies into a single transportation corridor, to be managed by
6 the department of transportation. The department shall negotiate
7 franchises to reinstitute rail service in the corridor. It is the
8 intent of the legislature that ownership of these properties not be
9 consolidated unless a franchise agreement for the provision of rail
10 service is entered into by the department of transportation.

11 NEW SECTION. **Sec. 2.** The definitions set forth in this section
12 apply throughout this chapter, unless specifically defined otherwise or
13 the context clearly indicates otherwise.

14 (1) "Corridor" means lands known as the Milwaukee Road corridor,
15 including portions of land running between the Woldale overcrossing at
16 milepost 2064.8 near Ellensburg to Othello at milepost 1988.5; and
17 lands running between West Warden at milepost 1975.5 to Lind at
18 milepost 1952.6.

19 (2) "Department" means the department of transportation, unless
20 otherwise specified.

21 NEW SECTION. **Sec. 3.** (1) Ownership of properties formerly known
22 as the Milwaukee Road corridor is transferred to the department of
23 transportation. The department of transportation is responsible for
24 the care, charge, management, and control of the corridor, and the
25 department shall manage the corridor for use in the transportation of
26 persons and property.

27 (2) The department, in consultation with the legislative
28 transportation committee, may negotiate and grant franchises to
29 qualified private entities for the construction and maintenance of
30 service to transport persons or property, or both, in the corridor.

31 (3) In addition to any other provisions deemed necessary by the
32 department, a franchise agreement for providing rail service in the
33 corridor must contain provisions:

34 (a) Indemnifying the state against liability for any incidents or
35 occurrences resulting from use of the corridor by the franchisee;

36 (b) Prohibiting the franchisee from constructing, maintaining, or
37 operating rail service within twenty-five miles to the north or south

1 of an existing railroad operator providing rail service from Cle Elum
2 at milepost 26.8 to Ellensburg at milepost 2064.8;

3 (c) Requiring adherence to environmental laws, unless specifically
4 exempted by other provisions of law, in constructing, maintaining, and
5 operating transportation services in the corridor;

6 (d) Establishing any combination of franchise fees, tariffs, rents,
7 profits, rates, lease payments, charges, tolls, or other good and
8 valuable consideration in exchange for granting the franchise;

9 (e) Providing for fire and weed control, and general maintenance of
10 the corridor;

11 (f) Addressing access issues along the corridor.

12 (4) For franchise agreements under subsection (3) of this section,
13 the department shall solicit advice from the department of natural
14 resources, the parks and recreation commission, and the attorneys
15 general responsible for transportation issues before entering into
16 negotiations for the establishment of rail service in the corridor.
17 The department shall consult with and advise the legislative
18 transportation committee on the status of negotiations.

19 (5) A franchise agreement entered into by the department is void
20 unless approved by a majority vote of the legislative transportation
21 committee.

22 NEW SECTION. **Sec. 4.** After the distribution of any revenue
23 designated for mitigation or other purposes under a franchise agreement
24 entered into under section 2 of this act, the department shall deposit
25 all other revenue into the essential rail assistance account created
26 under RCW 47.76.250.

27 **Sec. 5.** RCW 44.40.020 and 1977 ex.s. c 235 s 5 are each amended to
28 read as follows:

29 (1) The committee is authorized and directed to continue its
30 studies and for that purpose shall have the powers set forth in chapter
31 111, Laws of 1947. The committee is further authorized to make studies
32 related to bills assigned to the house and senate transportation
33 committees and such other studies as provided by law. The executive
34 committee of the committee may assign responsibility for all or part of
35 the conduct of studies to the house and/or senate transportation
36 committees.

1 (2) The committee may review and approve franchise agreements
2 entered into by the department of transportation under section 3(5) of
3 this act.

4 **Sec. 6.** RCW 43.51.405 and 1989 c 129 s 1 are each amended to read
5 as follows:

6 Except as provided in sections 1 through 4 of this act, management
7 control of the portion of the Milwaukee Road corridor, beginning at the
8 western terminus near Easton and concluding at the west end of the
9 bridge structure over the Columbia river, which point is located in
10 section 34, township 16 north, range 23 east, W.M., inclusive of the
11 northerly spur line therefrom, shall be transferred by the department
12 of natural resources to the state parks and recreation commission at no
13 cost to the commission.

14 **Sec. 7.** RCW 43.51.407 and 1987 c 438 s 39 are each amended to read
15 as follows:

16 Except as provided in sections 1 through 4 of this act, the state
17 parks and recreation commission shall do the following with respect to
18 the portion of the Milwaukee Road corridor under its control:

19 (1) Manage the corridor as a recreational trail except when closed
20 under RCW 43.51.409;

21 (2) Close the corridor to hunting;

22 (3) Close the corridor to all motorized vehicles except: (a)
23 Emergency or law enforcement vehicles; (b) vehicles necessary for
24 access to utility lines; and (c) vehicles necessary for maintenance of
25 the corridor, or construction of the trail;

26 (4) Comply with legally enforceable conditions contained in the
27 deeds for the corridor;

28 (5) Control weeds under the applicable provisions of chapters
29 17.04, 17.06, and 17.10 RCW; and

30 (6) Clean and maintain culverts.

31 **Sec. 8.** RCW 43.51.409 and 1989 c 129 s 3 are each amended to read
32 as follows:

33 Except as provided in sections 1 through 4 of this act, the state
34 parks and recreation commission may do the following with respect to
35 the portion of the Milwaukee Road corridor under its control:

1 (1) Enter into agreements to allow the realignment or modification
2 of public roads, farm crossings, water conveyance facilities, and other
3 utility crossings;

4 (2) Regulate activities and restrict uses, including, but not
5 limited to, closing portions of the corridor to reduce fire danger or
6 protect public safety;

7 (3) Place hazard warning signs and close hazardous structures;

8 (4) Renegotiate deed restrictions upon agreement with affected
9 parties; and

10 (5) Approve and process the sale or exchange of lands or easements
11 if such a sale or exchange will not adversely affect the recreational
12 potential of the corridor; and

13 (6) Manage the portion of the Milwaukee Road corridor lying between
14 the eastern corporate limits of the city of Kittitas and the eastern
15 end of the corridor under commission control for recreational access
16 limited to holders of permits issued by the commission. The commission
17 shall, for the purpose of issuing permits for corridor use, adopt rules
18 necessary for the orderly and safe use of the corridor and the
19 protection of adjoining landowners, which may include restrictions on
20 the total numbers of permits issued, numbers in a permitted group, and
21 periods during which the corridor is available for permitted users.
22 The commission may increase recreational management of this portion of
23 the corridor and eliminate the permit system as it determines in its
24 discretion based upon available funding and other resources.

25 **Sec. 9.** RCW 43.51.411 and 1984 c 174 s 5 are each amended to read
26 as follows:

27 Except as provided in sections 1 through 4 of this act, the state
28 parks and recreation commission shall identify opportunities and
29 encourage volunteer work, private contributions, and support from tax-
30 exempt foundations to develop, operate, and maintain the recreation
31 trail on the portion of the Milwaukee Road under its control.

32 **Sec. 10.** RCW 79.08.275 and 1989 c 129 s 2 are each amended to read
33 as follows:

34 Except as provided in sections 1 through 4 of this act, the portion
35 of the Milwaukee Road corridor from the west end of the bridge
36 structure over the Columbia river, which point is located in section
37 34, township 16 north, range 23 east, W.M., to the Idaho border

1 purchased by the state shall be under the management and control of the
2 department of natural resources.

3 **Sec. 11.** RCW 79.08.277 and 1984 c 174 s 7 are each amended to read
4 as follows:

5 Except as provided in sections 1 through 4 of this act, the portion
6 of the Milwaukee Road corridor under management and control of the
7 department of natural resources shall be open to individuals or
8 organized groups which obtain permits from the department of natural
9 resources to travel the corridor for recreational purposes. The
10 department of natural resources shall, for the purpose of issuing
11 permits for corridor use, promulgate rules necessary for the orderly
12 and safe use of the corridor and protection of adjoining landowners.
13 Permit fees shall be established at a level that will cover costs of
14 issuance. Upon request of abutting landowners, the department shall
15 notify the landowners of permits issued for use of the corridor
16 adjacent to their property.

17 **Sec. 12.** RCW 79.08.279 and 1984 c 174 s 8 are each amended to read
18 as follows:

19 Except as provided in sections 1 through 4 of this act, the
20 department of natural resources may do the following with respect to
21 the portion of the Milwaukee Road corridor under its control:

22 (1) Enter into agreements to allow the realignment or modification
23 of public roads, farm crossings, water conveyance facilities, and other
24 utility crossings;

25 (2) Regulate activities and restrict uses, including, but not
26 limited to, closing portions of the corridor to reduce fire danger or
27 protect public safety in consultation with local legislative
28 authorities or fire districts;

29 (3) Place hazard warning signs and close hazardous structures;

30 (4) Renegotiate deed restrictions upon agreement with affected
31 parties; and

32 (5) Approve and process the sale or exchange of lands or easements
33 if (a) such a sale or exchange will not adversely affect the
34 recreational, transportation or utility potential of the corridor and
35 (b) the department has not entered into a lease of the property in
36 accordance with RCW 79.08.281.

1 **Sec. 13.** RCW 79.08.281 and 1984 c 174 s 9 are each amended to read
2 as follows:

3 Except as provided in sections 1 through 4 of this act:

4 (1) The department of natural resources shall offer to lease, and
5 shall subsequently lease if a reasonable offer is made, portions of the
6 Milwaukee Road corridor under its control to the person who owns or
7 controls the adjoining land for periods of up to ten years commencing
8 with June 7, 1984. The lessee shall assume the responsibility for fire
9 protection, weed control, and maintenance of water conveyance
10 facilities and culverts. The leases shall follow standard department
11 of natural resources leasing procedures, with the following exceptions:

12 (a) The lessee may restrict public access pursuant to RCW 79.08.277
13 and 79.08.281(3).

14 (b) The right of renewal shall be to the current lessee if the
15 lessee still owns or controls the adjoining lands.

16 (c) If two persons own or control opposite sides of the corridor,
17 each person shall be eligible for equal portions of the available
18 property.

19 (2) The department of natural resources has the authority to renew
20 leases in existence on June 7, 1984.

21 (3) The leases shall contain a provision allowing the department of
22 natural resources to issue permits to travel the corridor for
23 recreational purposes.

24 (4) Unleased portions of the Milwaukee Road property under this
25 section shall be managed by the department of natural resources. On
26 these unleased portions, the department solely shall be responsible for
27 weed control, culvert, bridge, and other necessary maintenance and fire
28 protection services. The department shall place hazard warning signs
29 and close hazardous structures on unleased portions and shall regulate
30 activities and restrict uses, including closing the corridor during
31 seasons of high fire danger.

32 **Sec. 14.** RCW 79.08.283 and 1984 c 174 s 10 are each amended to
33 read as follows:

34 Except as provided in sections 1 through 4 of this act, the state,
35 through the department of natural resources, shall reserve the right to
36 terminate a lease entered into pursuant to RCW 79.08.281 or modify
37 authorized uses of the corridor for future recreation, transportation,

1 or utility uses. If the state elects to terminate the lease, the state
2 shall provide the lessee with a minimum of six months' notice.

3 NEW SECTION. **Sec. 15.** If the department of transportation does
4 not enter into a franchise agreement authorized by section 3 of this
5 act, sections 1 through 14 of this act are null and void.

6 NEW SECTION. **Sec. 16.** Sections 1 through 4 of this act constitute
7 a new chapter in Title 81 RCW.

8 NEW SECTION. **Sec. 17.** This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of the
10 state government and its existing public institutions, and shall take
11 effect immediately.

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