

2 SB 5655 - H COMM AMD
3 By Committee on Transportation

4 ADOPTED AS AMENDED 4-23-95

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 47.76.200 and 1993 c 224 s 1 are each amended to read
8 as follows:

9 The legislature finds that a balanced multimodal transportation
10 system is required to maintain the state's commitment to the growing
11 mobility needs of its citizens and commerce. The state's freight rail
12 system(~~s~~are)), including branch lines, mainlines, rail corridors,
13 terminals, yards, and equipment, is an important element(~~s~~) of this
14 multimodal system. Washington's economy relies heavily upon the
15 freight rail system to ensure movement of the state's agricultural,
16 chemical, and natural resources and manufactured products to local,
17 national, and international markets and thereby contributes to the
18 economic vitality of the state.

19 Since 1970, Washington has lost (~~nearly~~) over one-third of its
20 (~~five thousand two hundred~~) rail miles to abandonment and
21 bankruptcies(~~, leaving approximately three thousand four hundred rail~~
22 ~~miles.~~

23 ~~Abandonment of rail lines and rail freight service)).~~ The
24 combination of rail abandonments and rail system capacity constraints
25 may alter the delivery to market of many commodities. In addition, the
26 resultant motor vehicle freight traffic increases the burden on state
27 highways and county roads. In many cases, the cost of maintaining and
28 upgrading the state highways and county roads exceeds the cost of
29 maintaining rail freight service. Thus, the economy of the state will
30 be best served by a policy of maintaining and encouraging a healthy
31 rail freight system by creating (~~a~~) mechanisms (~~which keeps~~) that
32 keep rail freight lines operating if the benefits of the service
33 outweigh the cost.

34 Recognizing the implications of this trend for freight mobility and
35 the state's economic future, the legislature (~~believes~~) finds that
36 better freight rail planning, better cooperation to preserve rail

1 lines, and increased financial assistance from the state are necessary
2 to maintain and improve the freight rail system within the state.

3 **Sec. 2.** RCW 47.76.210 and 1990 c 43 s 2 are each amended to read
4 as follows:

5 The Washington state department of transportation shall implement
6 a state freight rail program (~~((for rail coordination, planning, and~~
7 ~~technical assistance))~~) that supports the freight rail service
8 objectives identified in the state's multimodal transportation plan
9 required under chapter 47.06 RCW. The support may be in the form of
10 projects and strategies that support branch lines and light-density
11 lines, provide access to ports, maintain adequate mainline capacity,
12 and preserve or restore rail corridors and infrastructure.

13 **Sec. 3.** RCW 47.76.220 and 1993 c 224 s 2 are each amended to read
14 as follows:

15 (1) The department of transportation shall prepare and periodically
16 update a state rail plan, the objective of which is to identify,
17 evaluate, and encourage essential rail services. The plan shall:

18 (a) Identify and evaluate mainline capacity issues;

19 (b) Identify and evaluate port-to-rail access and congestion
20 issues;

21 (c) Identify and evaluate those rail freight lines that may be
22 abandoned or have recently been abandoned;

23 (~~((b))~~) (d) Quantify the costs and benefits of maintaining rail
24 service on those lines that are likely to be abandoned; (~~and~~

25 ~~(e))~~ (e) Establish priorities for determining which rail lines
26 should receive state support. The priorities should include the
27 anticipated benefits to the state and local economy, the anticipated
28 cost of road and highway improvements necessitated by the abandonment
29 or capacity constraints of the rail line, the likelihood the rail line
30 receiving funding can meet operating costs from freight charges,
31 surcharges on rail traffic, and other funds authorized to be raised by
32 a county or port district, and the impact of abandonment or capacity
33 constraints on changes in energy utilization and air pollution;

34 (f) Identify and describe the state's rail system;

35 (g) Prepare a state freight rail system map;

36 (h) Identify and evaluate rail commodity flows and traffic types;

1 (i) Identify lines and corridors that have been rail banked or
2 preserved; and

3 (j) Identify and evaluate other issues affecting the state's rail
4 traffic.

5 (2) The state rail plan may be prepared in conjunction with the
6 rail plan prepared by the department pursuant to the federal Railroad
7 Revitalization and Regulatory Reform Act.

8 **Sec. 4.** RCW 47.76.230 and 1990 c 43 s 3 are each amended to read
9 as follows:

10 (1) The department of transportation shall continue its
11 responsibility for the development and implementation of the state rail
12 plan and programs, and the utilities and transportation commission
13 shall continue its responsibility for intrastate rates, service, and
14 safety issues.

15 (2) The department of transportation shall maintain an enhanced
16 data file on the rail system. Proprietary annual station traffic data
17 from each railroad and the modal use of major shippers shall be
18 obtained to the extent that such information is available.

19 (3) The department of transportation shall provide technical
20 assistance, upon request, to state agencies and local interests.
21 Technical assistance includes, but is not limited to, the following:

22 (a) (~~(Abandonment)~~) Rail project cost-benefit analyses(~~(, to~~
23 ~~include the public and private costs and benefits of maintaining the~~
24 ~~service, providing alternative service including necessary road~~
25 ~~improvement costs, or of taking no action)) conducted in accordance
26 with methodologies recommended by the Federal Railroad Administration;~~

27 (b) Assistance in the formation of county rail districts and port
28 districts; and

29 (c) Feasibility studies for rail service continuation and/or rail
30 service assistance.

31 (4) With funding authorized by the legislature, the department of
32 transportation, in collaboration with the department of community,
33 trade, and economic development, and local economic development
34 agencies, and other interested public and private organizations, shall
35 develop a cooperative process to conduct community and business
36 information programs and to regularly disseminate information on rail
37 matters. (~~The following agencies and jurisdictions shall be involved~~
38 ~~in the process:~~

- 1 ~~(a) The state departments of community development and trade and~~
2 ~~economic development;~~
3 ~~(b) Local jurisdictions and local economic development agencies;~~
4 ~~and~~
5 ~~(c) Other interested public and private organizations.)~~

6 **Sec. 5.** RCW 47.76.240 and 1993 c 224 s 3 are each amended to read
7 as follows:

8 The state, counties, local communities, ports, railroads, labor,
9 and shippers all benefit from continuation of rail service and should
10 participate in its preservation. Lines (~~(which)~~) that provide benefits
11 to the state and local jurisdictions, such as avoided roadway costs,
12 reduced traffic congestion, economic development potential,
13 environmental protection, and safety, should be assisted through the
14 joint efforts of the state, local jurisdictions, and the private
15 sector.

16 State funding for rail service (~~(or)~~), rail preservation, and
17 corridor preservation projects must benefit the state's interests(~~(~~
18 ~~which include)~~). The state's interest is served by reducing public
19 roadway maintenance and repair costs, increasing economic development
20 opportunities, increasing domestic and international trade, preserving
21 jobs, and enhancing safety(~~(, and)~~). State funding for projects is
22 contingent upon appropriate local jurisdiction and private sector
23 participation and cooperation. Before spending state moneys on
24 projects the department shall seek federal, local, and private funding
25 and participation to the greatest extent possible.

26 (1) The department of transportation shall continue to monitor the
27 status of the state's (~~(light density line system)~~) mainline and
28 branchline common carrier railroads and preserved rail corridors
29 through the state rail plan and various analyses, and shall seek
30 alternatives to abandonment prior to interstate commerce commission
31 proceedings, where feasible.

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

35 (3) (~~As conditions warrant, the following criteria shall be used~~
36 ~~for identifying the state's essential rail system:~~

37 ~~(a) Established regional and short-line carriers excluding private~~
38 ~~operations which are not common carriers;~~

1 ~~(b) Former state project lines, which are lines that have been~~
2 ~~studied and have received funds from the state and federal governments;~~

3 ~~(c) Lines serving major agricultural and forest product areas or~~
4 ~~terminals, with such terminals generally being within a fifty mile~~
5 ~~radius of producing areas, and sites associated with commodities~~
6 ~~shipped by rail;~~

7 ~~(d) Lines serving ports, seaports, and navigable river ports;~~

8 ~~(e) Lines serving power plants or energy resources;~~

9 ~~(f) Lines used for passenger service;~~

10 ~~(g) Mainlines connecting to the national and Canadian rail systems;~~

11 ~~(h) Major intermodal service points or hubs; and~~

12 ~~(i) The military's strategic rail network))~~ The department of
13 transportation, in consultation with the Washington state freight rail
14 policy advisory committee, shall establish criteria for evaluating rail
15 projects and corridors of significance to the state.

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

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

20 **Sec. 6.** RCW 47.76.250 and 1993 c 224 s 4 are each amended to read
21 as follows:

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

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

29 (a) Acquiring, rebuilding, rehabilitating, or improving (~~branch~~)
30 rail lines;

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

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

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

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

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

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

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

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

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

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

20 ~~((+3))~~ (5) The department, cities, county rail districts,
21 counties, and port districts may grant franchises to private railroads
22 for the right to operate on lines acquired under this chapter.

23 ~~((+4))~~ (6) The department, cities, county rail districts,
24 counties, and port districts may grant trackage rights over rail lines
25 acquired under this chapter.

26 ~~((+5))~~ (7) If rail lines or rail rights of way are used by county
27 rail districts, port districts, state agencies, or other public
28 agencies for the purposes of rail operations and are later abandoned,
29 the rail lines or rail rights of way cannot be used for any other
30 purposes without the consent of the underlying fee title holder or
31 reversionary rights holder, or until compensation has been made to the
32 underlying fee title holder or reversionary rights holder.

33 ~~((+6) Projects should be prioritized on the basis))~~ (8) The
34 department of transportation shall develop criteria for prioritizing
35 freight rail projects that meet the minimum eligibility requirements
36 for state assistance under RCW 47.76.240. The department shall develop
37 criteria in consultation with the Washington state freight rail policy
38 advisory committee. Project criteria should consider the level of
39 local financial commitment to the project as well as cost/benefit

1 ratio. Counties, local communities, railroads, shippers, and others
2 who benefit from the project should participate financially to the
3 greatest extend practicable.

4 ~~((+7))~~ (9) Moneys received by the department from franchise fees,
5 trackage rights fees, and loan payments shall be redeposited in the
6 essential rail assistance account. Repayment of loans made under this
7 section shall occur within a period not longer than fifteen years, as
8 set by the department. The repayment schedule and rate of interest, if
9 any, shall be determined before the distribution of the moneys.

10 ~~((+8))~~ (10) The state shall maintain a contingent interest in ~~((a~~
11 ~~line))~~ any equipment, property, rail line, or facility that has
12 outstanding grants or loans. The owner may not use the line as
13 collateral, remove track, bridges, or associated elements for salvage,
14 or use it in any other manner subordinating the state's interest
15 without permission from the department.

16 (11) Moneys distributed under this chapter should be provided as
17 loans wherever practicable. For improvements on or to privately owned
18 railroads, railroad property, or other private property, moneys
19 distributed shall be provided solely as loans.

20 **Sec. 7.** RCW 47.76.270 and 1993 c 224 s 6 are each amended to read
21 as follows:

22 (1) ~~The essential rail banking account is ((created in the state~~
23 ~~treasury. Moneys in the account may be spent only after appropriation.~~
24 ~~Expenditures from the account may be used only for the purposes~~
25 ~~specified in this section.~~

26 ~~(2) Moneys in the account may be used by the department to:~~

27 ~~(a) Acquire rail rights of way;~~

28 ~~(b) Provide funding to cities, port districts, counties, and county~~
29 ~~rail districts to acquire rail rights of way; or~~

30 ~~(c) Provide for essential corridor maintenance including drainage~~
31 ~~management and fire and weed control when necessary.~~

32 ~~(3) Use of the moneys pursuant to subsection (2) of this section~~
33 ~~shall be for rights of way that meet the following criteria:~~

34 ~~(a) The right of way has been identified and evaluated in the state~~
35 ~~rail plan prepared pursuant to this chapter;~~

36 ~~(b) The right of way may be or has been abandoned; and~~

37 ~~(c) The right of way has potential for future rail service. The~~
38 ~~department of transportation shall immediately report any expenditure~~

1 of essential rail banking account funds on rail banking projects to the
2 legislative transportation committee. The report shall include a
3 description of the project, the project's rank in relation to other
4 potential projects, the amount of funds expended, the terms and parties
5 to the transaction, and any other information that the legislative
6 transportation committee may require.

7 (4) The department may also expend funds from the receipt of a
8 donation of funds sufficient to cover the property acquisition and
9 management costs. The department may receive donations of funds for
10 this purpose, which shall be conditioned upon, and made in
11 consideration for the repurchase rights contained in RCW 47.76.280.

12 (5) The department or the participating local jurisdiction shall be
13 responsible for maintaining the right of way, including provisions for
14 drainage management, for fire and weed control, and for liability
15 associated with ownership.

16 (6) Nothing in this section and in RCW 47.76.260 and 47.76.250
17 shall be interpreted or applied so as to impair the reversionary rights
18 of abutting landowners, if any, without just compensation.

19 (7) The department shall develop guidelines for expenditure of
20 essential rail banking funds in the best interest of the state.

21 (8) Moneys loaned under this section must be repaid to the state by
22 the city, port district, county, or county rail district. The
23 repayment must occur within a period not longer than fifteen years, as
24 set by the department, of the distribution of the moneys and deposited
25 in the essential rail banking account. The repayment schedule and rate
26 of interest, if any, must be set at the time of the distribution of the
27 moneys.

28 (9) The state shall maintain a contingent interest in any property
29 that has outstanding grants or loans. The owner may not use the line
30 as collateral, remove track, bridges, and associated elements for
31 salvage, or use the line in any other manner subordinating the state's
32 interest without permission from the department)) merged into the
33 essential rail assistance account created under RCW 47.76.250. Any
34 appropriations made to the essential rail banking account are
35 transferred to the essential rail assistance account, and are subject
36 to the restrictions of that account.

37 **Sec. 8.** RCW 47.76.280 and 1993 c 224 s 7 are each amended to read
38 as follows:

1 The department may sell or lease property acquired under this
2 chapter to a county rail district established under chapter 36.60 RCW,
3 a county, a port district, or any other public or private entity
4 authorized to operate rail service. Any public or private entity
5 (~~which~~) that originally donated funds to the department under this
6 chapter shall receive credit against the purchase price for the amount
7 donated to the department, less management costs, in the event such
8 public or private entity purchases the property from the department.

9 If no county rail district, county, port district, or other public
10 or private entity authorized to operate rail service purchases or
11 leases the property within six years after its acquisition by the
12 department, the department may sell or lease such property in the
13 manner provided in RCW 47.76.290. Failing this, the department may
14 sell or convey all such property in the manner provided in RCW
15 47.76.300 or 47.76.320.

16 NEW SECTION. **Sec. 9.** A new section is added to chapter 47.76 RCW
17 to read as follows:

18 The department of transportation shall convene a Washington state
19 freight rail policy advisory committee from time to time as necessary
20 to accomplish the purposes of this chapter. The committee shall
21 consist of representatives from large and small railroads, agriculture,
22 rural regional transportation planning organizations, urban
23 metropolitan planning organizations, select department of
24 transportation regions, the transportation commission, port districts,
25 cities, counties, organized rail labor, and other parties with an
26 interest in the vitality of freight rail. The purpose of this
27 committee will be to provide policy direction and program oversight.

28 NEW SECTION. **Sec. 10.** RCW 47.76.260 and 1993 c 224 s 5 & 1990 c
29 43 s 5 are each repealed."

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33 In line 1 of the title, after "service;" strike the remainder of
34 the title and insert "amending RCW 47.76.200, 47.76.210, 47.76.220,

1 47.76.230, 47.76.240, 47.76.250, 47.76.270, and 47.76.280; adding a new
2 section to chapter 47.76 RCW; and repealing RCW 47.76.260."

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