
SENATE BILL 5912

State of Washington

58th Legislature

2003 Regular Session

By Senators Mulliken, Haugen, Sheahan, Horn, Parlette, Rasmussen and Spanel

Read first time 02/19/2003. Referred to Committee on Highways & Transportation.

1 AN ACT Relating to a state produce railcar pool; amending RCW
2 47.76.250; adding new sections to chapter 47.76 RCW; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. The legislature finds
6 that an actively coordinated and cooperatively facilitated railcar pool
7 for transportation of perishable agricultural commodities is necessary
8 for the continued viability and competitiveness of Washington's
9 agricultural industry. The legislature also finds that the rail
10 transportation model established by the Washington Grain Train program
11 has been successful in serving the shipping needs of the wheat
12 industry.

13 It is, therefore, the intent of the legislature to authorize and
14 direct the Washington department of transportation to develop a railcar
15 program for Washington's perishable commodity industries to be known as
16 the Washington Produce Railcar Pool. This railcar program should be
17 modeled from the Washington Grain Train program, but be made flexible
18 enough to work with entities outside state government in order to

1 fulfill its mission, including, but not limited to, the federal and
2 local governments, commodity commissions, and private entities.

3 NEW SECTION. **Sec. 2.** DEPARTMENTAL AUTHORITY. In addition to
4 powers otherwise granted by law, the department may:

5 (1) Establish a Washington Produce Railcar Pool to promote viable,
6 cost-effective rail service for Washington produce, including but not
7 limited to apples, onions, pears, and potatoes;

8 (2) Operate the Washington Produce Railcar Pool program while
9 working in close coordination with the department of agriculture,
10 interested commodity commissions, and port districts;

11 (3) Purchase used refrigerated railcars, or accept donated
12 refrigerated railcars;

13 (4) Refurbish and remodel the railcars.

14 NEW SECTION. **Sec. 3.** FUNDING. The department shall fund the
15 program as follows:

16 (1) The department may accept funding from the state and the
17 federal government, or other public or private sources, to refurbish
18 and remodel the railcars.

19 (2) The program must be funded at a level suitable for the
20 departments of transportation and agriculture, or such entity as they
21 may wish to designate, to facilitate and coordinate the program.

22 (3) The department may contribute the efforts of a short line rail-
23 financing expert to find funding for the project to help interested
24 short line railroads in this state to accomplish the necessary
25 operating arrangements once the railcars are rebuilt.

26 NEW SECTION. **Sec. 4.** RAILCAR REFURBISHMENT. The department or
27 any other entity, including but not limited to a short line railroad,
28 may dismantle some cars to obtain parts to put other cars in operating
29 condition, or may totally rebuild some cars. As used in sections 1
30 through 6 of this act "short line railroad" means a Class II or Class
31 III railroad as defined by the United States Surface Transportation
32 Board.

33 NEW SECTION. **Sec. 5.** FLEET MANAGEMENT. (1) The fleet must be
34 managed over the life of the cars so that the railcars will be evenly

1 distributed to railroads and port districts around the state for
2 produce loadings as market conditions warrant or periodically to other
3 users during times of excess capacity.

4 (2) The department shall act in an oversight role to verify that
5 the car fleet is managed in accordance with subsection (1) of this
6 section.

7 (3) The department shall work with affected stakeholders, including
8 but not limited to short line railroads, commodity commissions, and
9 port districts, to hire a transportation management firm to manage the
10 day-to-day operations of the cars, such as monitoring where the cars
11 are located, getting them back to this state, distributing them,
12 arranging for pretrips and repairs, and arranging for per diem, mileage
13 allowances, and other freight billing charges with the railroads.

14 NEW SECTION. **Sec. 6.** REPAYMENT OF PROGRAM START-UP COSTS. (1)
15 The transportation management firm employed under section 5(3) of this
16 act is responsible for repaying any loans used in the rebuilding
17 process from revenue derived from the per diem charges, mileage
18 charges, and freight billing charges paid by the railroads and shippers
19 that use the cars.

20 (2) Interest may be charged at a rate similar to the federal
21 discount rate.

22 **Sec. 7.** RCW 47.76.250 and 1996 c 73 s 2 are each amended to read
23 as follows:

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

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

- 31 (a) Acquiring, rebuilding, rehabilitating, or improving rail lines;
- 32 (b) Purchasing or rehabilitating railroad equipment necessary to
33 maintain or improve essential rail service;
- 34 (c) Constructing railroad improvements to mitigate port access or
35 mainline congestion;

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

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

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

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

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

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

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

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

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

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

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

35 (8) The department of transportation shall develop criteria for
36 prioritizing freight rail projects that meet the minimum eligibility
37 requirements for state assistance under RCW 47.76.240. The department
38 shall develop criteria in consultation with the Washington state

1 freight rail policy advisory committee. Project criteria should
2 consider the level of local financial commitment to the project as well
3 as cost/benefit ratio. Counties, local communities, railroads,
4 shippers, and others who benefit from the project should participate
5 financially to the greatest extent practicable.

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

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

18 (11) Moneys distributed under this chapter should be provided as
19 loans wherever practicable. Except as provided by section 3, chapter
20 73, Laws of 1996, for improvements on or to privately owned railroads,
21 railroad property, or other private property, moneys distributed shall
22 be provided solely as loans.

23 NEW SECTION. **Sec. 8.** Section captions used in this act are not
24 part of the law.

25 NEW SECTION. **Sec. 9.** Sections 1 through 6 of this act are each
26 added to chapter 47.76 RCW.

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