

# SENATE BILL REPORT

## ESSB 6679

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As Passed Senate, February 14, 2006

**Title:** An act relating to the jurisdiction of regulating train speeds.

**Brief Description:** Introducing federal law preemption in regulating train speeds.

**Sponsors:** Senate Committee on Transportation (originally sponsored by Senator Haugen).

**Brief History:**

**Committee Activity:** Transportation: 2/2/06, 2/6/06 [DPS, w/oRec].

Passed Senate: 2/14/06, 48-0.

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### SENATE COMMITTEE ON TRANSPORTATION

**Majority Report:** That Substitute Senate Bill No. 6679 be substituted therefor, and the substitute bill do pass.

Signed by Senators Haugen, Chair; Poulsen, Vice Chair; Benson, Ranking Minority Member; Berkey, Eide, Esser, Mulliken, Oke, Sheldon, Spanel, Swecker and Weinstein.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Jacobsen, Vice Chair and Benton.

**Staff:** Dory On (786-7321)

**Background:** The Federal Railroad Safety Act (FRSA) preempts state or local regulation of railroad safety. Federal regulations enacted pursuant to FRSA prescribe operating speed limits for each class of railroad track.

Federal law provides that a state may adopt a more stringent standard with respect to railroad safety and security when the standard: 1) is necessary to eliminate or reduce an essentially local safety or security hazard; 2) is not incompatible with federal law; and 3) does not unreasonably burden interstate commerce.

Under current Washington law, the Washington Utilities and Transportation Commission (Commission) regulates the speed of railway trains, other than street railways, within the limits of cities and towns, and at grade crossings. The speed limits established by the Commission are: 1) discretionary; 2) may be different for different cities, towns, or grade crossings; and 3) must be commensurate with the hazard presented and the practical operation of trains.

Rules promulgated by the Commission acknowledge federal preemption of train speed regulation, and constrain the Commission's regulation of train speeds to fixing lower train speed limits those allowed by federal law only where the Commission finds that 1) a local safety hazard exists; and 2) that reduction of the train speed is necessary to eliminate or reduce that hazard.

**Summary of Bill:** The provisions vesting authority to regulate railway speeds in the Commission are modified and made subject to federal preemption regarding train speed regulation.

Any speed limit that was fixed by the Commission prior to the effective date of the bill without a finding permitted under federal law has no effect.

Before increasing operating speeds, a railroad operator must provide 60 days written notice to the Commission, and the applicable local government or road authority. The notice must include specified details regarding the proposed speed increase. After 60 days, the railroad operator may increase operating speed as proposed unless the Commission has determined that a lower limit is necessary to address local conditions consistent with federal law. If the railroad operator disputes the Commission's determination regarding the need for a lower limit to address local conditions, then the matter will be scheduled for a hearing before the Commission.

A railroad operator may provide no more than five notices in any 60 day period without the consent of the Commission.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This bill provides clarity regarding train speed regulation, represents good cooperation between railroad operators and the Commission, and establishes a clear process for changing train speed limits that is consistent with other states.

The Washington Association of Rail Passengers favors measures that increase safety, and rail movement of passengers and freight. There is no evidence to support the idea that faster trains are more dangerous; faster trains tend to decrease danger as individuals crossing rail tracks may be more willing to wait for a fast train to pass.

The bill does shift the burden of initiating a change of train speeds to the party seeking to increase speed. The Commission is not giving away any jurisdiction to regulate train speeds; except as provided by the exceptions within preemptive federal law, the Commission has no jurisdiction to regulate train speeds.

**Testimony Against:** There are safety concerns associated with increasing train speeds, and shifting the burden for initiating a change in train speeds away from current practices is cause for concern. Local jurisdictions may be unprepared for train speed changes, and sixty days is too little time to review whether a local safety hazard exists. There will be significant changes within the rail industry over the next year, and the Legislature should wait and revisit this issue in the future rather than act now.

**Who Testified:** PRO: Dave Danner, Washington Utilities and Transportation Commission; Steve King, Washington Utilities and Transportation Commission; Andrew Johnsen,

Burlington Northern Sante Fe Railway; Lloyd H. Flem, Washington Association of Rail Passengers.

CON: Mark K. Ricci; Washington State Rail Labor Coalition.