

# HOUSE BILL REPORT

## SHB 1861

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### As Amended by the Senate

**Title:** An act relating to the sale or lease of surplus state-owned railroad properties.

**Brief Description:** Concerning the sale or lease of surplus state-owned railroad properties.

**Sponsors:** House Committee on Transportation (originally sponsored by Representatives Armstrong, Clibborn, Hargrove, Lias, Billig and Schmick).

### Brief History:

#### Committee Activity:

Transportation: 2/17/11, 2/22/11 [DPS].

#### Floor Activity:

Passed House: 3/5/11, 97-1.

Senate Amended.

Passed Senate: 4/7/11, 48-0.

### Brief Summary of Substitute Bill

- Allows the sale or lease by the Washington State Department of Transportation (WSDOT), at fair market value, of property that is not essential for the operation of rail service to a prioritized list of persons or entities.
- Requires notification and provides a right of first refusal to entities or persons higher on the prioritized list if the WSDOT intends to sell or lease nonessential property to a person or entity that does not have the highest priority.
- Requires moneys received from sales or leases of property related to the Palouse River and Coulee City Railroad (PCC) to be used only for the refurbishment or improvement of the PCC.
- Requires revenue received from operating leases or other business operations of the PCC to be used only for the refurbishment or improvement of the PCC.

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### HOUSE COMMITTEE ON TRANSPORTATION

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 25 members: Representatives Clibborn, Chair; Liias, Vice Chair; Armstrong, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Angel, Asay, Eddy, Finn, Fitzgibbon, Jinkins, Johnson, Klippert, Kristiansen, Ladenburg, Morris, Moscoso, Overstreet, Reykdal, Rivers, Rodne, Rolfes, Ryu, Shea, Takko and Upthegrove.

**Staff:** David Munnecke (786-7315).

**Background:**

Washington owns the former Palouse River and Coulee City Railroad (PCC), which consists of three branches. The Washington State Department of Transportation (WSDOT) purchased the rights of way and rail in the P&L Branch and PV Hooper Branch of the PCC in November 2004. The purchase of the CW Branch and the remaining rights in the other two branches was completed in May 2007. The WSDOT contracts with private railroads to operate each of the branches. The PCC operates the PV Hooper Branch, the Eastern Washington Gateway Railroad operates the CW Branch, and the Washington and Idaho Railway operates the P & L Branch. The WSDOT oversees the facilities and regulatory portions of the operating leases. The PCC Rail Authority, which is an intergovernmental entity formed by Grant, Lincoln, Spokane, and Whitman counties, oversees the business and economic development portions of the operating leases.

Real property acquired by the WSDOT as part of the state freight rail program may be sold or leased immediately after purchase to a county rail district, a county, a port district, or any other public or private entity authorized to operate rail service. If none of these entities purchase or lease such property within six years of its acquisition, the WSDOT may sell or lease the property at fair market value to any of the following entities: (1) any other state agency; (2) the city or county in which the property is located; (3) any other municipal corporation; (4) the former owner, heir, or successor of the property from whom the property was acquired; or (5) an abutting property owner. There is no priority established in statute for sales to the designated entities, and the proceeds of any sale or lease must be deposited into the Essential Rail Assistance Account.

**Summary of Substitute Bill:**

The WSDOT is allowed to sell or lease at fair market value any property that is not essential for the operation of rail service to the following prioritized list of persons or entities: (1) the current tenant or lessee of the property or property abutting the property being sold or leased; (2) an abutting private owner; (3) any other state agency; (4) the city or county in which the property is located; (5) any other municipal corporation; or (6) the former owner, heir, or successor of the property from whom the property was acquired. The sale or lease of such property may occur immediately after acquisition.

If the WSDOT intends to sell or lease property that is not essential for the operation of rail service to a person or entity that does not have the highest priority status on the list, the WSDOT is required to notify and provide a right of first refusal to entities or persons higher on the prioritized list.

Any property of the PCC that was purchased with bond proceeds may be sold only for cash. Any moneys received from sales or leases of property related to the PCC must be used only for the refurbishment or improvement of the PCC, and must be expended within two years of receipt. Any revenue received from operating leases or other business operations of the PCC must be used only for the refurbishment or improvement of the PCC.

**EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment limits the notification of sale requirement to an entity or person with a higher priority on the eligible purchaser list to those reasonably considered to have an interest in the property. The Senate amendment includes the account to deposit revenue from leases or other business operations on the Palouse River and Coulee City rail lines in the section requiring that revenue received from operating leases or other business revenue only be used for refurbishment or improvements to the line.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

(In support) The state has purchased five or six shortline railroads in the last eight years in order to assist with the movement of freight. Adjacent to those rails are items such as grain silos, and there is no need for the WSDOT to keep these items. In the event that the WSDOT decides to sell these properties, it makes sense that the property be sold to the current tenants, which is what the bill requires.

The State of Washington literally saved the PCC from the scrapyard, and 40 percent of the state's wheat crop is transported along this line. The current statute prohibits the sale of railroad property to the lessees of the property. This bill would allow for the sale of the property to the lessees, who in many cases have been on the property for many years. The sale of these properties would in turn provide funds for the needed rehabilitation of the line, and lower the potential state contribution.

The McGregor Company has 25 sites in Washington, and many of them were constructed along rail lines for shipping purposes. The lease rates for the land were low and the stores were a desired part of the community. This bill would allow for the sale of these properties at fair market value and would give lessees the first option for purchase. A realtor recently contacted the company regarding the sale of a parcel on which one of its plants is located, and the company does not know if it will be able to purchase the property for a reasonable price. This bill would help protect the future of these critical businesses.

(Opposed) None.

**Persons Testifying:** Representative Armstrong, prime sponsor; Tom Dooley, Coalition of Palouse River and Coulee City Rail Shippers; and Fred Morscheck, The McGregor Company.

**Persons Signed In To Testify But Not Testifying:** None.