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**SENATE BILL 5722**

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**State of Washington                      63rd Legislature                      2013 Regular Session**

**By** Senators Hasegawa, Rivers, Litzow, Sheldon, Hobbs, and Billig

Read first time 02/12/13. Referred to Committee on Transportation.

1            AN ACT Relating to the utilities and transportation commission's  
2 regulatory authority over railroads and the transfer and consolidation  
3 of all state railroad matters within the commission; adding new  
4 sections to chapter 81.48 RCW; creating new sections; and providing an  
5 expiration date.

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

7            NEW SECTION.    **Sec. 1.**    The legislature finds that commercial  
8 transportation upon railroads is a critical aspect of the state's  
9 economic well-being, and that public safety, together with the safety  
10 of workers and passengers, is essential to the railroad system. The  
11 legislature further finds that a patchwork of oversight authority,  
12 split among various regulatory agencies and local governments,  
13 undermines efficiency, oversight, and enforcement of railroad  
14 operations and safety laws. Therefore, it is the intent of the  
15 legislature to direct the utilities and transportation commission to  
16 develop a plan through which the commission will consolidate and assume  
17 authority over all Washington state railroad operations, programs,  
18 regulations, safety, and security to the maximum extent permitted by  
19 federal law.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 81.48 RCW  
2 to read as follows:

3        The commission must exercise all powers and duties in relation to  
4 (1) the inspection of tracks, bridges, tunnels, structures, equipment,  
5 apparatus, and appliances of railroads with respect to the safety of  
6 employees and the public and (2) the administration and enforcement of  
7 all laws providing for the protection of the public and employees of  
8 railroads which prior to April 1, 1955, were vested in and required to  
9 be performed by the director of labor and industries.

10       NEW SECTION.    **Sec. 3.**    A new section is added to chapter 81.48 RCW  
11 to read as follows:

12        (1) By December 1, 2013, the commission must develop a plan to  
13 consolidate and assume regulatory authority over railroad operations,  
14 programs, regulations, and safety to the maximum extent permitted by  
15 federal law.    The commission must consult with the department of  
16 transportation, the department of labor and industries, local  
17 authorities, federal agencies, and representatives from railroads and  
18 their labor organizations to determine the most comprehensive and  
19 efficient process to develop the plan required under this section.

20        (2) The department of transportation and the department of labor  
21 and industries must cooperate fully with the commission in the  
22 development of the plan required under this section.    The commission  
23 must consult with local authorities and federal agencies to determine  
24 what areas of authority over railroad safety may be completely assumed  
25 by the commission and what areas of safety must be jointly shared under  
26 chapter 49.17 RCW.    The commission may not plan to assume authority  
27 over any program where such an assumption disqualifies the state, or  
28 any political subdivision of the state, from receiving federal funds.

29        (3) The commission's plan must:

30        (a) Prioritize the safety of railroad workers and the public;

31        (b) Consolidate within the commission operational and programmatic  
32 authority over all passenger and freight railroad activities currently  
33 existing within the department of transportation;

34        (c) Consolidate within the commission regulatory authority over all  
35 railroad matters, including safety and operations, to the maximum  
36 extent permitted by federal law;

1 (d) Facilitate communication between employees and regulatory  
2 agencies to notify the agencies of safety concerns;

3 (e) Require communication among agencies regarding regulatory  
4 authority that may not be transferred to the commission from another  
5 agency or jurisdiction;

6 (f) Calculate the expense and any potential savings that will  
7 result from reorganizing and consolidating regulatory and operational  
8 oversight; and

9 (g) Identify sources of revenue to cover any additional expenses.

10 (4) In developing the plan required under this section, the  
11 commission may, when appropriate, consult with individuals from the  
12 public or private sector if such consultation is necessary for the  
13 commission to achieve the goals listed in subsection (3) of this  
14 section.

15 (5) By December 1, 2013, the commission must submit to the  
16 legislature a final report with its findings and recommendations, along  
17 with draft legislation to implement the plan developed by the  
18 commission.

19 (6) By December 1, 2014, and annually thereafter, the commission  
20 must submit to the legislature an interim report on its progress in  
21 implementing the plan required under this section.

22 (7) This section expires December 31, 2017.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 81.48 RCW  
24 to read as follows:

25 The commission must:

26 (1) Increase the number of qualified, expert, and federalized  
27 railroad safety and operational inspectors to an adequate level  
28 compared to other west coast states based on the railroad volume and  
29 number of railroad employees;

30 (2) Assume authority for all railroad walkway and footpath safety  
31 issues both inside and outside of railroad yards, as well as for  
32 railroad station platforms;

33 (3) Review and enhance the current state of railroad walkway  
34 regulations to provide improved safety conditions for railroad workers,  
35 including minimum walkway standards for common and frequent crew  
36 changes and train inspection locations along railroad mainline rights-  
37 of-way;

1 (4) Adopt rules regarding adequate lighting in railroad yards and  
2 at common and frequent crew changes and train inspection locations  
3 along railroad mainline rights-of-way;

4 (5) Adopt rules regarding the maximum human force required to  
5 utilize hand-operated switches and derails in foot-pounds, as well as  
6 ergonomics, adequate maintenance, and proper lubrication to prevent  
7 injuries to railroad workers who utilize such appliances;

8 (6) Develop and enforce regulations regarding areas and  
9 obstructions that pose a hazard to the public or railroad workers,  
10 including obstructive vegetation at crossings and fences, as well as  
11 addressing public safety issues regarding railroad trackage in public  
12 parks, on paths, and walkway areas of frequent pedestrian use;

13 (7) Provide class II and class III shortline railroads and logging  
14 railroads relief from burdensome regulations based on lower freight  
15 volume or revenue, or both, provided that significant employee and  
16 public safety hazards are minimized;

17 (8) Review, and enhance and strengthen when appropriate, fines and  
18 penalties for violations of laws and regulations by railroad carriers.  
19 The commission may develop a reduced fine schedule for smaller class II  
20 and class III shortline operations with low freight volumes or revenue,  
21 or both, and small logging railroads; and

22 (9) Develop and enforce safety and operational regulations for  
23 logging railroads operating within the state of Washington.

24 NEW SECTION. **Sec. 5.** This act does not affect any existing right  
25 acquired or liability or obligation incurred under the sections amended  
26 or repealed or under any rule or order adopted under those sections,  
27 nor does it affect any proceeding instituted under those sections.

28 NEW SECTION. **Sec. 6.** If any provision of this act or its  
29 application to any person or circumstance is held invalid, the  
30 remainder of the act or the application of the provision to other  
31 persons or circumstances is not affected.

32 NEW SECTION. **Sec. 7.** If any part of this act is found to be in  
33 conflict with federal requirements that are a prescribed condition to  
34 the allocation of federal funds to the state, the conflicting part of  
35 this act is inoperative solely to the extent of the conflict and with

1 respect to the agencies directly affected, and this finding does not  
2 affect the operation of the remainder of this act in its application to  
3 the agencies concerned. Rules adopted under this act must meet federal  
4 requirements that are a necessary condition to the receipt of federal  
5 funds by the state.

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