

HOUSE BILL REPORT

SB 6363

As Reported by House Committee On:
Transportation

Title: An act relating to a rail line over the Milwaukee Road corridor.

Brief Description: Concerning a rail line over the Milwaukee Road corridor.

Sponsors: Senators Chase and Warnick.

Brief History:

Committee Activity:

Transportation: 2/21/18, 2/26/18 [DPA].

Brief Summary of Bill
(As Amended by Committee)

- Makes permanent the authority of the State Parks and Recreation Commission to develop and maintain a cross-state trail facility on the Milwaukee Road Railroad (Milwaukee Road) corridor between Ellensburg and Marengo independently of the Washington State Department of Transportation (WSDOT) entering into a franchise agreement with one or more rail lines to establish an active rail line on any portion of this corridor.
- Makes permanent the directive for the WSDOT to negotiate a franchise agreement with one or more rail lines to establish an active rail line on any portion of the Milwaukee Road corridor between Ellensburg and Marengo.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended. Signed by 25 members: Representatives Clibborn, Chair; Fey, Vice Chair; Wylie, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Chapman, Gregerson, Hayes, Irwin, Kloba, Lovick, McBride, Morris, Ortiz-Self, Pellicciotti, Pike, Riccelli, Rodne, Shea, Stambaugh, Tarleton, Valdez, Van Werven and Young.

Staff: Jennifer Harris (786-7143).

Background:

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.

Ownership and Usage History.

In 1980 the Milwaukee Road Railroad (Milwaukee Road) declared bankruptcy, sold a number of its properties, and salvaged its track. The old Milwaukee Road had operated rail service in Washington since 1909, including a portion of line extending from the Washington/Idaho border at Tekoa, across the state, and over the Columbia River. During bankruptcy proceedings, the railroad offered to sell the state its right of way in Eastern Washington.

In 1981 the Legislature appropriated \$3.5 million from the Outdoor Recreation Account to purchase this right of way. In 1982 the Department of Natural Resources (DNR) acquired 213 miles of the right of way for approximately \$2.2 million. The acquired corridor consists of two main segments: (1) land running from Easton across the Columbia River to Royal City Junction (89 miles); and (2) land running from Warden easterly to the Idaho line at Tekoa (124 miles). There is a 35-mile segment running from Royal City Junction to Warden that was not purchased by the DNR.

In 1985 rights of way on the corridor west of the Columbia River were transferred to the State Parks and Recreation Commission (Commission). The remaining rights of way east of the Columbia River remained under the management and control of the DNR. In 1993 the United States Army announced plans to condemn a segment of the corridor from Kittitas to the Columbia River to expand the Yakima Training Center.

In 1994 the Freight Rail Policy Advisory Committee, consisting of public and private entities with an interest in improving freight transportation, recommended that the corridor's potential for relieving freight congestion be explored. During the 1995 legislative interim, the Legislative Transportation Committee (LTC) convened a Freight Rail and Freight Mobility Task Force (Task Force) to examine a range of issues, including possible rail uses for the corridor. The Task Force recommended reinstating freight rail service over the portion of the old Milwaukee Road running from Ellensburg to Lind.

Legislative History.

In 1996 legislation created a transportation corridor for the Milwaukee Road corridor. State-owned portions of land between Ellensburg and Lind were to be consolidated into the single ownership of the Washington State Department of Transportation (WSDOT) upon the WSDOT entering into a franchise agreement for a rail line on this corridor. Upon establishment of this franchise agreement, portions of the corridor between Lind and the Idaho border owned by the state were to be transferred to the Commission. The WSDOT was directed to negotiate a franchise agreement with a qualified rail carrier to operate service over the line with input from the DNR, the Commission, the Attorney General's Office, and the LTC. Specified criteria for negotiating the franchise agreement included sufficient compensation, standards for maintenance, adequate service to local shippers, rail service over the Stampede Pass rail line (between Cle Elum and Auburn) if requested by another rail operator at commercially reasonable rates, compliance with environmental standards, and provisions for insurance and liability coverage. Any franchise agreement entered into required LTC approval.

Also in the legislation enacted in 1996, \$11.5 million was to be provided to the Commission for the acquisition and development of a cross-state trail. This amount was to be derived from franchise fees, unless the Legislature made a specific appropriation to reduce the amount owed from franchise fees. The franchise agreement was required to address payment of franchise fees and other considerations. Revenues from franchise fees were to be distributed, in order of priority: (1) to the WSDOT for costs of administration; (2) to the DNR, for federally granted trust lands used by the rail corridor; (3) to the Cross-State Trail Account, to acquire, construct, and maintain a replacement trail; and (4) to the Essential Rail Assistance Account.

If the WSDOT did not enter into a franchise agreement by June 30, 1999, the 1996 legislation was set to expire, and the portion of the corridor from the Columbia River to the Idaho border purchased by the state was otherwise to be retained under the management and control of the DNR. In 1999 this expiration date was extended to June 30, 2006. In 2005 franchise approval by the LTC was removed from law. In 2006 the expiration date was again extended to June 30, 2009, and the law was also modified to allow the DNR, by mutual agreement, to transfer management authority over portions of the corridor to the Commission at any time prior to the WSDOT entering into a franchise agreement for a rail line over the portions of the corridor between Ellensburg and Lind.

Finally, in 2009 legislation extended the expiration date to June 30, 2019. Currently, as authorized in 2015 legislation, Frontier Rail operates a 26-mile section of the corridor from Royal City to Othello as a rail line under a right-of-way transfer agreement between the WSDOT and the Port of Royal.

Current Ownership and Usage.

The Commission operates the Iron Horse State Park Trail in Washington, a 212-mile section of the former roadbed of the Milwaukee Road corridor from the Cascade Mountains to the border with Idaho, except for the center section between Royal City Junction and Warden, which has intact rail. The DNR manages the portions of the trail between Beverly and Royal City Junction and between Warden and Lind. The only portion of the corridor that is operated as a rail line is the section from Royal City to Warden.

Improvements have been made by the Commission on the portion of the trail west of the Columbia River, and plans are in place to improve the nine-mile segment from Malden to Rosalia in the eastern portion of the corridor. The trail is not continuous, with some detours around rail lines, missing bridges, and private property required. Planning for the 110-mile western portion of the trail from Cedar Falls (near North Bend) to Beverly Bridge (on the west side of the Columbia River) was completed in 2000. Planning for the 34-mile section of the corridor between Malden and the Idaho border was completed in 2014. In 2016 the Commission completed a planning process for the remaining 140-mile eastern portion of the trail that extends from Beverly Bridge to Malden.

The Commission issued a resolution in 2016, noting that the Iron Horse State Park Trail was undeveloped and required investment, and affirming its commitment to the trail's long-term development.

Summary of Amended Bill:

The authority of the Commission to develop and maintain a cross-state trail facility on the Milwaukee Rail corridor between Ellensburg and Marengo is permanently established independently of the WSDOT entering into a franchise agreement with one or more rail lines to establish an active rail line on any portion of this corridor.

The expiration date of June 30, 2019, is removed, permitting the WSDOT to negotiate a franchise agreement for the use of the Milwaukee Road corridor at any time in the future. Upon such a franchise agreement being negotiated, ownership transfers to the WSDOT and the Commission that are specified in current law will take effect, and revenues obtained from franchise fees will be distributed as specified under current law (as noted above).

Amended Bill Compared to Original Bill:

The amended bill provides clarification that the designated portion of the Milwaukee Road corridor must be managed and controlled by the DNR only to the extent that this management and control does not conflict with state law governing the transfer of portions of this corridor to another state agency related to the WSDOT entering into a franchise agreement for the operation of a rail line on a portion of the corridor, or as otherwise specified in related provisions.

Appropriation: None.**Fiscal Note:** Not requested.**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.**Staff Summary of Public Testimony:**

(In support) Washington ports are the origin or destination for just over 50 percent of the freight tonnage that is carried by Washington's rail system. The Marine Cargo Forecast from 2017 showed adequate capacity to handle freight by rail at this time, but future growth in freight could create bottlenecks and congestion. This bill simply extends the expiration date and retains existing state law to allow the cross-trail known as the Milwaukee Road corridor, or the John Wayne Trail, to again be used for rail transportation should it become necessary. Otherwise, existing law and practice will remain the same.

To have fewer bills in the future, this bill will eliminate the sunset clause. The current statute is a well-crafted balance of transportation and recreation interests. The bill preserved a strategic rail corridor. The middle section of the corridor has been in freight service since the early 1980s, and the bill addresses the two portions on either side of it. The bill would allow a connecting rail line between a Burlington Northern Santa Fe Railway mainline across

Stampede Pass and a Union Pacific Railroad mainline across the Tri-Cities to Spokane at some point in the future. This connecting rail line would create an additional opportunity for east-west rail service across the state. In addition, if this rail line were to be reinstated, this could potentially provide a source of funding for the Commission.

(Opposed) None.

Persons Testifying: Senator Chase, prime sponsor; and Eric Johnson, Washington Public Ports Association.

Persons Signed In To Testify But Not Testifying: None.