
SENATE BILL 5496

State of Washington

61st Legislature

2009 Regular Session

By Senators Becker and Swecker

Read first time 01/23/09. Referred to Committee on Transportation.

1 AN ACT Relating to extending the time period for a franchise
2 agreement for a rail line over the Milwaukee Road corridor; amending
3 RCW 79A.05.115, 79A.05.120, 79A.05.125, and 79A.05.130; providing an
4 effective date; providing contingent expiration dates; and declaring an
5 emergency.

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

7 **Sec. 1.** RCW 79A.05.115 and 2006 c 160 s 1 are each amended to read
8 as follows:

9 (1) The commission shall develop and maintain a cross-state trail
10 facility with appropriate appurtenances.

11 (2) This section expires July 1, (~~2009~~) 2012, if the department
12 of transportation does not enter into a franchise agreement for a rail
13 line over the portions of the Milwaukee Road corridor between
14 Ellensburg and Lind by July 1, (~~2009~~) 2012.

15 **Sec. 2.** RCW 79A.05.120 and 2006 c 160 s 2 are each amended to read
16 as follows:

17 (1) To facilitate completion of a cross-state trail under the
18 management of the parks and recreation commission, management and

1 control of lands known as the Milwaukee Road corridor shall be
2 transferred between state agencies as follows on the date a franchise
3 agreement is entered into for a rail line over portions of the
4 Milwaukee Road corridor:

5 (a) Portions owned by the state between Ellensburg and the Columbia
6 river that are managed by the parks and recreation commission are
7 transferred to the department of transportation;

8 (b) Portions owned by the state between the west side of the
9 Columbia river and Royal City Junction and between Warden and Lind that
10 are managed by the department of natural resources are transferred to
11 the department of transportation; and

12 (c) Portions owned by the state between Lind and the Idaho border
13 that are managed by the department of natural resources are transferred
14 to the parks and recreation commission as of June 7, 2006.

15 (2) The department of natural resources may, by mutual agreement
16 with the parks and recreation commission, transfer management authority
17 over portions of the Milwaukee Road corridor to the state parks and
18 recreation commission, at any time prior to the department of
19 transportation entering into a franchise agreement.

20 (3) This section expires July 1, (~~2009~~) 2012, and no transfers
21 shall occur if the department of transportation does not enter into a
22 franchise agreement for a rail line over the portions of the Milwaukee
23 Road corridor between Ellensburg and Lind by July 1, (~~2009~~) 2012.

24 **Sec. 3.** RCW 79A.05.125 and 2006 c 160 s 3 are each amended to read
25 as follows:

26 (1) The department of transportation shall negotiate a franchise
27 with a rail carrier to establish and maintain a rail line over portions
28 of the Milwaukee Road corridor owned by the state between Ellensburg
29 and Lind. The department of transportation may negotiate such a
30 franchise with any qualified rail carrier. Criteria for negotiating
31 the franchise and establishing the right-of-way include:

32 (a) Assurances that resources from the franchise will be sufficient
33 to compensate the state for use of the property, including completion
34 of a cross-state trail between Easton and the Idaho border;

35 (b) Types of payment for use of the franchise, including payment
36 for the use of federally granted trust lands in the transportation
37 corridor;

1 (c) Standards for maintenance of the line;

2 (d) Provisions ensuring that both the conventional and intermodal
3 rail service needs of local shippers are met. Such accommodations may
4 comprise agreements with the franchisee to offer or maintain adequate
5 service or to provide service by other carriers at commercially
6 reasonable rates;

7 (e) Provisions requiring the franchisee, upon reasonable request of
8 any other rail operator, to provide rail service and interchange
9 freight over what is commonly known as the Stampede Pass rail line from
10 Cle Elum to Auburn at commercially reasonable rates;

11 (f) If any part of the franchise agreement is invalidated by
12 actions or rulings of the federal surface transportation board or a
13 court of competent jurisdiction, the remaining portions of the
14 franchise agreement are not affected;

15 (g) Compliance with environmental standards; and

16 (h) Provisions for insurance and the coverage of liability.

17 (2) The franchise may provide for periodic review of financial
18 arrangements under the franchise.

19 (3) The department of transportation, in consultation with the
20 parks and recreation commission and the senate and house transportation
21 committees, shall negotiate the terms of the franchise, and shall
22 present the agreement to the parks and recreation commission for
23 approval of as to terms and provisions affecting the cross-state trail
24 or affecting the commission.

25 (4) This section expires July 1, (~~2009~~) 2012, if the department
26 of transportation does not enter into a franchise agreement for a rail
27 line over portions of the Milwaukee Road corridor between Ellensburg
28 and Lind by July 1, (~~2009~~) 2012.

29 **Sec. 4.** RCW 79A.05.130 and 2006 c 160 s 4 are each amended to read
30 as follows:

31 (1) The cross-state trail account is created in the custody of the
32 state treasurer. Eleven million five hundred thousand dollars is
33 provided to the state parks and recreation commission to acquire,
34 construct, and maintain a cross-state trail. This amount may consist
35 of: (a) Legislative appropriations intended for trail development; (b)
36 payments for the purchase of federally granted trust lands; and (c)

1 franchise fees derived from use of the rail corridor. The legislature
2 intends that any amounts provided from the transportation fund are to
3 be repaid to the transportation fund from franchise fees.

4 (2) The department shall deposit franchise fees from use of the
5 rail corridor according to the following priority: (a) To the
6 department of transportation for actual costs incurred in administering
7 the franchise; (b) to the department of natural resources as
8 compensation for use of federally granted trust lands in the rail
9 corridor; (c) to the transportation fund to reimburse any amounts
10 transferred or appropriated from that fund by the legislature for trail
11 development; (d) to the cross-state trail account, not to exceed eleven
12 million five hundred thousand dollars, provided that this amount shall
13 be reduced proportionate with any funds transferred or appropriated by
14 the 1996 legislature or paid from franchise fees for the purchase of
15 federally granted trust lands or for trail development; and (e) the
16 remainder to the essential rail assistance account, created under RCW
17 47.76.250. Expenditures from the cross-state trail account may be used
18 only for the acquisition, development, operation, and maintenance of
19 the cross-state trail. Only the director of the state parks and
20 recreation commission or the director's designee may authorize
21 expenditures from the account. The account is subject to allotment
22 procedures under chapter 43.88 RCW, but no appropriation is required
23 for expenditures.

24 (3) The commission may acquire land from willing sellers for the
25 cross-state trail, but not by eminent domain.

26 (4) The commission shall adopt rules describing the cross-state
27 trail.

28 (5) This section expires July 1, (~~(2009)~~) 2012, if the department
29 of transportation does not enter into a franchise agreement for a rail
30 line over portions of the Milwaukee Road corridor between Ellensburg
31 and Lind by July 1, (~~(2009)~~) 2012.

32 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
33 preservation of the public peace, health, or safety, or support of the
34 state government and its existing public institutions, and takes effect
35 June 30, 2009.

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