

which state assistance funds provided by this act are allocated.

SEC. 12. If any section, paragraph, sentence, clause, phrase or word of this act should be held to be invalid or unconstitutional, such act shall not affect or impair the validity or constitutionality of any other section, paragraph, sentence, clause, phrase or word of this act. It is hereby declared that had any section, paragraph, sentence, clause, phrase or word as to which this act is declared invalid been eliminated from the act at the time the same was considered, the act would have nevertheless been enacted with such portions eliminated. Severability.

SEC. 13. This act is necessary for the immediate preservation of the public peace, health and safety, and for the support of state government and its existing public institutions, and shall take effect immediately. Emergency.

Passed the Senate March 13, 1957.

Passed the House March 13, 1957.

Approved by the Governor March 23, 1957.

CHAPTER 235.

[S. B. 352.]

HIGHWAYS—LIMITED ACCESS FACILITIES THROUGH CITIES.

AN ACT relating to limited access facilities extending through cities and towns; amending section 2, chapter 202, Laws of 1947, as last amended by section 1, chapter 30, Laws of 1953 and section 5, chapter 167, Laws of 1951 and RCW 47.52.020 and 47.52.025; adding seven new sections to chapter 202, Laws of 1947 and to chapter 47.52 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Section 2, chapter 202, Laws of 1947, as last amended by section 1, chapter 30, Laws of 1953 Division and amendment.

and section 5, chapter 167, Laws of 1951 (heretofore divided and codified as RCW 47.52.020 and 47.52.025) are divided and amended as set forth in sections 2 and 3 of this act.

RCW 47.52.020 amended. Limited access facilities. Powers of highway authorities— State facility, county road crossings.

SEC. 2. (RCW 47.52.020) The highway authorities of the state, counties, and incorporated cities and towns, acting alone or in cooperation with each other, or with any federal, state, or local agency, or any other state having authority to participate in the construction and maintenance of highways, may plan, designate, establish, regulate, vacate, alter, improve, construct, maintain, and provide limited access facilities for public use wherever such authority or authorities are of the opinion that traffic conditions, present or future, will justify such special facilities: *Provided*, That upon county roads within counties, such state or county authorities shall be subject to the consent of the board of county commissioners, except that where a state limited access facility crosses a county road the state highway commission may, without the consent of the board of county commissioners, close off such county road so that it will not intersect such limited access facility.

The state highway commission may, in constructing or relocating any state highway, cross any county road at grade without obtaining the consent of the board of county commissioners, and in so doing may revise the alignment of such county road to the extent that the state highway commission finds necessary for reasons of traffic safety or practical engineering considerations.

RCW 47.52.025 enacted without amendment.

SEC. 3. (RCW 47.52.025) Such highway authorities of the state, counties, and incorporated cities and towns, in addition to the specific powers granted in this chapter, shall also have, and may exercise, relative to limited access facilities, any and all additional authority, now or hereafter vested in them relative to highways or streets within their respec-

tive jurisdictions, and may regulate, restrict, or prohibit the use of such limited access facilities by the various classes of vehicles or traffic in a manner consistent with RCW 47.52.010.

SEC. 4. Section 8, chapter 202, Laws of 1947 and RCW 47.52.090 are each amended to read as follows:

The highway authorities of the state, counties and incorporated cities and towns are authorized to enter into agreements with each other, or with the federal government, respecting the financing, planning, establishment, improvement, construction, maintenance, use, regulation, or vacation of limited access facilities in their respective jurisdictions to facilitate the purposes of this chapter: *Provided*, That within incorporated cities and towns the title to such facility, after purchase and construction by the state alone, shall vest in the state, and the Washington state highway commission shall exercise full jurisdiction, responsibility and control to, and over, such facility: *Provided further*, That:

(1) Cities and towns shall regulate all traffic restrictions on such facilities except as provided in RCW 46.48.041 and all regulations adopted shall be subject to approval of the state highway commission before becoming effective. Nothing herein shall preclude the state patrol, any county, or city or town from enforcing any traffic regulations and restrictions prescribed by state law, county resolution, or municipal ordinance.

(2) The city or town or franchise holder shall at its own expense maintain its underground facilities beneath the surface across the highway and shall have the right to construct such additional facilities underground or beneath the surface of the facility or necessary overcrossings of power lines and other utilities as may be necessary insofar as such facilities do not interfere with the use of the right of way for limited access highway purposes, and the

RCW 47.52.090 amended.

Cooperative agreements.

Proviso.

Title to facility.

Proviso.

Traffic regulations.

Underground facilities, utilities.

Limited access facilities. Cooperative agreements.

city or town shall have the right to maintain any municipal utility and the right to open the surface of such highway, and the construction, maintenance until permanent repair is made, and permanent repair of such facilities shall be done in a time and manner authorized by permit to be issued by the state highway commission or its authorized representative, except to meet emergency conditions for which no permit will be required, but any damage occasioned thereby shall promptly be repaired by the city or town itself, or at its direction. Where a city or town is required to relocate overhead facilities within the corporate limits of a city or town as a result of the construction of a limited access facility, the cost of such relocation shall be paid by the state.

Franchises.

(3) Cities and towns shall have the right to grant utility franchises crossing the facility underground and beneath its surface insofar as such franchises are not inconsistent with the use of the right of way for limited access facility purposes: *Provided*, That such franchises are not in conflict with state laws: *Provided further*, That the state highway commission shall be authorized to enforce, in an action brought in the name of the state, any condition of any franchise which a city or town shall have granted: *And provided further*, That no franchise for transportation of passengers in motor vehicles shall be granted on such highways without the approval of the state highway commission, except cities and towns shall not be required to obtain a franchise for the operation of municipal vehicles or vehicles operating under franchises from the city or town operating within the corporate limits of a city or town and within a radius not to exceed eight miles outside of such corporate limits for public transportation on such facilities, but such vehicles may not stop on the limited access portion of such facility to receive or to discharge passengers.

Proviso.

Proviso.

Proviso.

Passenger transportation.

Every franchise or permit granted any person by a city or town for use of any portion of a limited access facility shall require the grantee or permittee to restore, permanently repair and replace to its original condition any portion if the highway damaged or injured by it. Except to meet emergency conditions, the construction and permanent repair of any limited access facility by the grantee of a franchise shall be in a time and manner authorized by permit to be issued by the state highway commission, or its authorized representative.

(4) The state highway commission shall have the right to utilize all storm sewers which are adequate and available for the additional quantity of run-off proposed to be passed through such storm sewers.

Storm sewers.

(5) The construction and maintenance of city streets over and under crossings and surface intersections of the limited access facility shall be in accordance with the governing policy entered into between the state highway commission and the Association of Washington Cities on June 21, 1956, or as such policy may be amended by agreement between the Washington state highway commission and the Association of Washington Cities.

City street crossings.

SEC. 5. There is added to chapter 202, Laws of 1947 and to chapter 47.52. RCW a new section to read as follows:

New section.

When the state highway commission is planning a limited access facility through an incorporated city or town, the commission, or its staff, shall give careful consideration to available data as to the city's comprehensive plan, land use pattern, present and potential traffic volumes of city streets crossing the proposed facility, origin and destination traffic surveys, existing utilities and other pertinent surveys, and shall submit to the city officials for study a report showing how these factors have been taken into account and how the proposed plan for a limited

State facility through city or town. Report.

Limited access facility. Proposed facility through city or town. Conferences—Proposed plan, hearing, notice.

access facility will serve public convenience and necessity, together with the locations and access and egress plans, and over and under crossings under consideration.

Conferences shall be held on the merits of this state report and plans, recommended locations and the economic effects of the plan and any proposed modification or alternate proposal of the cities or towns, in order to attempt to reach an agreement between the state highway commission and the city officials. As a result of the conference, the proposed plan, together with any modifications thereof, shall be prepared by the state highway commission and presented to the city for approval at least thirty days before final approval thereof is desired. The highway commission shall hold a public hearing within the city or town to determine the desirability of the plan proposed by the commission, at which hearing any city official or person may appear and be heard even though such official or person is not an abutting property owner. Notice of such hearing shall be given by publication once each week for two weeks, the date of first publication to be not less than fifteen days nor more than twenty days prior to such hearing in one or more newspapers of general circulation within the city or town.

New section.

SEC. 6. There is added to chapter 202, Laws of 1947 and to chapter 47.52 RCW a new section to read as follows:

Adoption of plan—Transmittal to mayor—Publication—Objections, request for hearing.

After said hearing has been held as provided in section 5 herein, the commission shall adopt a plan with such modifications, if any, as the commission deems proper and necessary. A copy of such plan shall be transmitted to the mayor of the city or town affected thereby, and a resume of such plan shall be published once each week for two weeks in one or more newspapers of general circulation within such city or town beginning not less than ten days after

receipt of such plan. Unless such plan shall be disapproved in writing filed with the state highway commission within thirty days after the mailing thereof to such mayor and if the city or town affected does not request in writing a hearing before a board of review, hereinafter referred to as the board, and file such request with the state highway commission within thirty days after mailing of such plan, such plan shall be final. Such request for hearing shall set forth the portions of the plan of the state highway commission to which the city or town objects, and shall include every issue to be considered by the board.

SEC. 7. There is added to chapter 202, Laws of 1947 and to chapter 47.52 RCW a new section to read as follows: New section.

Upon request for a hearing before the board by any city or town, a board consisting of five members shall be appointed as follows: The mayor shall appoint two members of the board, subject to confirmation by the legislative body of the city or town; the state highway commission shall appoint two members of the board who shall not be members of such commission; and one member shall be selected by the four members thus appointed. Such fifth member shall be a licensed civil engineer or a recognized professional city or town planner, who shall be chairman of the board. Such board shall be appointed within thirty days after the next meeting of the state highway commission immediately following the receipt of such a request by the commission. In the event the state highway commission or a city or town shall not appoint members of the board or members thus appointed fail to appoint a fifth member of the board, either the state highway commission or the city or town may apply to the superior court of the county in which the city or town is situated Board of
review—Com-
position—
Appointment.

to appoint the member or members of the board in accordance with the provisions of this chapter.

New section.

SEC. 8. There is added to chapter 202, Laws of 1947 and to chapter 47.52 RCW a new section to read as follows:

Limited access facility. Proposed facility through city or town. Hearing—Evidence by city or town—Determination.

The board shall fix a reasonable time not more than thirty days after the date of their appointment and shall indicate the time and place for the hearing, and shall give notice thereof to the city or town and to the state highway commission. At the time and place fixed for the hearing, the state and the city or town shall present all of their evidence with respect to the objections set forth in the request for the hearing before the board, and if either the state or the city or town fails to do so, the board may determine the issues upon such evidence as may be presented to it at said hearing.

New section.

SEC. 9. There is added to chapter 202, Laws of 1947 and to chapter 47.52 RCW a new section to read as follows:

Procedure.

No witness's testimony shall be received unless he shall have been duly sworn, and the board may cause all oral testimony to be stenographically reported. Members of the board, its duly authorized representatives, and all persons duly commissioned by it for the purpose of taking depositions, shall have power to administer oaths; to preserve and enforce order during such hearings; to issue subpoenas for, and to compel the attendance and testimony of witnesses, or the production of books, papers, documents and other evidence, or the taking of depositions before any designated individual competent to administer oaths, and it shall be their duty so to do; to examine witnesses; and to do all things conformable to law which may be necessary to enable them, or any of them, effectively to discharge the duties of their office.

SEC. 10. There is added to chapter 202, Laws of 1947 and to chapter 47.52 RCW a new section to read as follows:

New section.

At the conclusion of such hearing, the board shall consider the evidence taken and shall make specific findings with respect to the objections and issues within thirty days after the hearing, which findings shall approve, disapprove or modify the proposed plan of the state highway commission. Such findings shall be final and binding upon both parties.

Findings of board.

SEC. 11. There is added to chapter 202, Laws of 1947 and to chapter 47.52 RCW a new section to read as follows:

New section.

The board shall employ such assistance and clerical help as is necessary in the performance of its duties. The costs thereby incurred and incident to the conduct of the hearing, necessary expenses and fees, if any, of members of the board shall be borne equally by the city or town requesting the hearing and the state highway commission. When oral testimony is stenographically reported, the state highway commission shall provide a reporter at its expense.

Assistants—
Costs—
Reporter.

SEC. 12. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Emergency.

Passed the Senate March 13, 1957

Passed the House March 12, 1957.

Approved by the Governor March 23, 1957.