

CHAPTER 108.

[Senate Bill No. 390.]

HIGHWAYS—URBAN PUBLIC TRANSPORTATION
SYSTEMS.

AN ACT relating to transportation; authorizing and regulating public highways, streets, bridges, ferries, tunnels, urban public transportation systems and related means of transportation; amending section 47.08.070, chapter 13, Laws of 1961 and RCW 47.08.070; amending section 47.12.010, chapter 13, Laws of 1961 and RCW 47.12.010; amending section 62, chapter 170, Laws of 1965 extraordinary session and RCW 47.12.250; amending section 47.28.140, chapter 13, Laws of 1961 and RCW 47.28.140; amending section 47.44.010, chapter 13, Laws of 1961 as last amended by section 1, chapter 70, Laws of 1963, and RCW 47.44.010; amending section 47.44.040, chapter 13, Laws of 1961 and RCW 47.44.040; amending section 47.48.010, chapter 13, Laws of 1961 and RCW 47.48.010; amending section 47.52.010, chapter 13, Laws of 1961 and RCW 47.52.010; amending section 47.52.090, chapter 13, Laws of 1961 and RCW 47.52.090; amending section 5, chapter 257, Laws of 1961 and RCW 47.56.256; amending section 63, chapter 170, Laws of 1965 extraordinary session and RCW 47.04.081.

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

Section 1. As used in this act the term "urban public transportation system" shall mean a system for the public transportation of persons or property by buses, street cars, trains, electric trolley coaches, other public transit vehicles, or any combination thereof operating in or through predominantly urban areas and owned and operated by the state, any city or county or any municipal corporation of the state, including all structures, facilities, vehicles and other property rights and interests forming a part of such a system.

Highways—
Urban public
transportation
systems—
Defined.

Sec. 2. The separate and uncoordinated development of public highways and urban public transportation systems is wasteful of this state's natural and financial resources. It is the public policy of this state to encourage wherever feasible the joint plan-

Public high-
way purpose.

Urban public
transportation
systems.

ning, construction and maintenance of public highways and urban public transportation systems serving common geographical areas as joint use facilities. To this end the legislature declares it to be a highway purpose to use motor vehicle funds, city and town street funds or county roads funds to pay the full proportionate highway, street or road share of the costs of design, right of way acquisition, construction and maintenance of any highway, street or road to be used jointly with an urban public transportation system.

RCW 47.08.070
amended.

Sec. 3. Section 47.08.070, chapter 13, Laws of 1961 and RCW 47.08.070 are each amended to read as follows:

Highways—
Cooperation in
public works
projects.

When in the opinion of the highway commission it appears that any state highway will be benefited or improved by the construction of any public works project, including any urban public transportation system, within the state of Washington by any of the departments of the state of Washington, by the federal government, or by any agency, instrumentality or municipal corporation of either the state of Washington or the United States, the highway commission is hereby authorized to enter into cooperative agreements with any such state department, with the United States, or with any agency, instrumentality or municipal corporation of either the state of Washington or the United States, wherein the state of Washington, acting through its highway commission, will participate in the cost of the public works project in such amount as may be determined by the highway commission to be the value of the benefits or improvements to the particular state highway derived from the construction of said public works project. Under any such agreement the highway commission may contribute to the cost of the public works project by making direct payment to the particular state department, federal govern-

ment or to any agency, instrumentality or municipal corporation of either the state or the United States, or any thereof, which may be involved in said project, from any funds appropriated to the highway commission and available for highway purposes, or by doing a portion of the project either by day labor or by contract, or in any other manner as may be deemed advisable and necessary by the highway commission.

Sec. 4. Section 47.12.010, chapter 13, Laws of 1961 and RCW 47.12.010 are each amended to read as follows:

RCW 47.12.010
amended.

Whenever it is necessary to secure any lands or interests in land for a right of way for any state highway, or for the drainage thereof or construction of a protection therefor or so as to afford unobstructed vision therefor toward any railroad crossing or another public highway crossing or any point of danger to public travel or to provide a visual or sound buffer between highways and adjacent properties or for the purpose of acquiring sand pits, gravel pits, borrow pits, stone quarries or any other land for the extraction of materials for construction or maintenance or both, or for any site for the erection upon and use as a maintenance camp, of any state highway, or any site for other necessary structures or for structures for the health and accommodation of persons traveling or stopping upon the state highways of this state, or any site for the construction and maintenance of structures and facilities adjacent to, under, upon, within, or above the right of way of any state highway for exclusive or nonexclusive use by an urban public transportation system, or for any other highway purpose, together with right of way to reach such property and gain access thereto, the highway commission is authorized to acquire such lands or interests in land in behalf of the state by gift, purchase or condemna-

Highways—
Acquisition
and disposition
of state high-
way property—
Authorized—
Condemnation
actions—Costs.

Highways.

tion. In case of condemnation to secure such lands or interests in land, the action shall be brought in the name of the state of Washington in the manner provided for the acquiring of property for the public uses of the state, and in such action the selection of the lands or interests in land by the highway commission shall, in the absence of bad faith, arbitrary, capricious or fraudulent action, be conclusive upon the court and judge before which the action is brought that said lands or interests in land are necessary for public use for the purposes sought. The cost and expense of such lands or interests in land may be paid as a part of the cost of the state highway for which such right of way, drainage, unobstructed vision, sand pits, gravel pits, borrow pits, stone quarries, maintenance camp sites and structure sites or other lands are acquired.

RCW 47.12.250
amended.

Sec. 5. Section 62, chapter 170, Laws of 1965 extraordinary session and RCW 47.12.250 are each amended to read as follows:

Highways—
Acquisition
for beauty,
historic sites,
sound buffers,
viewpoint or
safety rest
areas.

The state highway commission is authorized to acquire by purchase, lease, condemnation, gift, devise, bequest, grant or exchange, title to or any interests or rights in real property adjacent to state highways for the preservation of natural beauty, historic sites or viewpoints or for safety rest areas or to provide a visual or sound buffer between highways and adjacent properties: *Provided*, That the state highway commission shall not acquire, by condemnation, less than an owner's entire interest for providing a visual or sound buffer between highways and adjacent properties under sections 4 and 5 of this act if said owner objects to the taking of said lesser interest or right.

RCW 47.28.140
amended.

Sec. 6. Section 47.28.140, chapter 13, Laws of 1961 and RCW 47.28.140 are each amended to read as follows:

When in the opinion of the governing authorities representing the state department of highways and any agency, instrumentality, municipal corporation or political subdivision of the state of Washington, any highway, road or street will be benefited or improved by constructing, reconstructing, locating, relocating, laying out, repairing, surveying, altering, improving or maintaining, or by the establishment adjacent to, under, upon, within or above any portion of any such highway, road or street of an urban public transportation system, by either the said highway department or any agency, instrumentality, municipal corporation or political subdivision of the state, and it is in the public interest to do so, the authorities may enter into cooperative agreements wherein either agrees to perform the work and furnish the materials necessary and pay the cost thereof, including necessary engineering assistance, which costs and expenses shall be reimbursed by the party whose responsibility it was to do or perform such work or improvement in the first instance. Said work may be done by either day labor or contract, and the cooperative agreement between the parties shall provide for the method of reimbursement. In the case of some special benefit or improvement to a state highway derived from the construction of any public works project, including any urban public transportation system, the department of highways may contribute to the cost thereof by making direct payment to the particular state department, agency, instrumentality, municipal corporation or political subdivision on the basis of benefits received, but such payment shall be made only after a cooperative agreement has been entered into for a specified amount or on an actual cost basis prior to the commencement of said particular public works project.

Highways—
Agreements to
benefit or im-
prove high-
ways, roads or
streets—Labor
—Costs.

RCW 47.44.010
amended.

Sec. 7. Section 47.44.010, chapter 13, Laws of 1961, as last amended by section 1, chapter 70, Laws of 1963, and RCW 47.44.010 are each amended to read as follows:

Highways—
Franchises on
state highways
—Application
—Notice—
Hearing.

The highway commission shall have the power to grant franchises to persons, associations, private or municipal corporations, the United States government or any agency thereof, to use any state highway for the construction and maintenance of water pipes, flume, gas pipes, telephone, telegraph and electric light and power lines and conduits, trams or railways, and any structures or facilities which are part of an urban public transportation system owned or operated by a municipal corporation, agency or department of the state of Washington other than the highway commission, and any other such facilities. All applications for such franchise shall be made in writing and subscribed by the applicant, and shall describe the state highway or portion thereof over which franchise is desired and the nature of the franchise. Upon the filing of any such application a time and place for hearing the same shall be fixed and a notice thereof shall be given in the county or counties in which any portion of the state highway upon which such franchise is applied for is located, at the expense of the applicant, by posting written or printed notices in three public places at the county seat of such county or counties for at least twenty days before the day fixed for such hearing, and by publishing a like notice in three successive weekly issues of a newspaper having a general circulation in such county or counties, the last publication to be at least five days before the day fixed for the hearing; which notice shall state the name or names of the applicant or applicants, a description of the state highway or part thereof over which the franchise is applied for, and the time and place of such hearing. It shall be the

duty of the county auditor of the respective counties to cause such notices to be posted and published and to file proof of such posting and publication with the highway commission.

Sufficient copies of the notice required by this section shall be sent directly to the county auditor of the respective counties at least forty-five days prior to the date fixed for the hearing.

Sec. 8. Section 47.44.040, chapter 13, Laws of 1961 and RCW 47.44.040 are each amended to read as follows:

RCW 47.44.040 amended.

Whenever any bridge shall exist on the route of any state highway and crosses any stream, body of water, gulch, navigable water, swamp or other topographical formation constituting the boundary of a county, city or town of this state or the boundary of this state and the same is owned or operated by this state jointly with any such county, city or town or with any municipal corporation of this state, or with such other state or with any county, city or town of such other state, the highway commission is empowered to join with the proper officials of such county, city or town or such municipal corporation of this state or of such other state or of such county, city or town of such other state in granting franchises to persons or private or municipal corporations for the construction and maintenance thereon of water pipes, flumes, gas pipes, telephone, telegraph and electric light and power lines and conduits, trams and railways, and any structures or facilities which are part of an urban public transportation system owned or operated by a municipal corporation, agency or department of the state of Washington other than the highway commission, or any other such facilities. All such franchises shall be granted in the same manner as provided for the granting of like franchises on state highways. Any revenue accruing to the state of Washington from such fran-

Franchises to use toll facility property.

chises shall be paid to the state treasurer and by him deposited to the credit of the fund from which this state's share of the cost of joint operation of such bridge is paid.

RCW 47.48.010 amended.

Sec. 9. Section 47.48.010, chapter 13, Laws of 1961 and RCW 47.48.010 are each amended to read as follows:

Highways—closing and restricting traffic.

Whenever the condition of any state highway, county road or city street, either newly or previously constructed, altered, repaired or improved, or any part thereof is such that for any reason its use or continued use by vehicles or by any class of vehicles will greatly damage such state highway, county road or city street or will be dangerous to traffic thereon or the same is being constructed, altered, repaired, improved or maintained in such a manner as to require that such state highway, county road or city street or any portion thereof be closed to travel by all vehicles or by any class of vehicles for any period of time, the highway commission if it be a state highway, the county commissioners if it be a county road, or the governing body of any city or town if it be a city street, is authorized to close such state highway, county road or city street, as the case may be, to travel by all vehicles or by any class of vehicles for such a definite period as they shall determine: *Provided*, That nothing in the law of this state shall prevent the highway commission, county commissioners, or governing body of any city or town from classifying vehicles according to gross weight, axle weight, height, width, length, braking area, performance, or tire equipment for the purposes of this section, or from restricting the use of any portion of any public highway within the jurisdiction and control of any such commission or governing body to its use by an urban public transportation system.

Sec. 10. Section 47.52.010, chapter 13, Laws of 1961 and RCW 47.52.010 are each amended to read as follows:

RCW 47.52.010 amended.

For the purposes of this chapter, a "limited access facility" is defined as a highway or street especially designed or designated for through traffic, and over, from, or to which owners or occupants of abutting land, or other persons, have no right or easement, or only a limited right or easement of access, light, air, or view by reason of the fact that their property abuts upon such limited access facility, or for any other reason to accomplish the purpose of a limited access facility. Such highways or streets may be parkways, from which vehicles forming part of an urban public transportation system, trucks, buses, or other commercial vehicles may be excluded; or they may be freeways open to use by all customary forms of street and highway traffic, including vehicles forming a part of an urban public transportation system.

Limited access facilities. Defined.

Sec. 11. Section 47.52.090, chapter 13, Laws of 1961 and RCW 47.52.090 are each amended to read as follows:

RCW 47.52.090 amended.

The highway authorities of the state, counties, incorporated cities and towns, and municipal corporations owning or operating an urban public transportation system 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. Any such agreement may provide for the exclusive or nonexclusive use of a portion of such facility by street cars, trains or other vehicles forming a part of an urban public transportation system and for the erection, construction and maintenance thereon of structures and facilities of

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such a system including facilities for the receipt and discharge of passengers: *Provided*, That within incorporated cities and towns the title to such limited access 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 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.

(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 unless appropriate special lanes or deceleration, stopping and acceleration space is provided for such vehicles.

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 of 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

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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.

(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.

RCW 47.56.256
amended.

Sec. 12. Section 5, chapter 257, Laws of 1961 and RCW 47.56.256 are each amended to read as follows:

Toll bridges,
tunnels,
ferries. Fran-
chises on.

If the Washington state highway commission deems it not inconsistent with the use and operation of any facility of the toll bridge authority, the commission may grant franchises to persons, associations, private or municipal corporations, the United States government or any agency thereof, to use any portion of the property of any toll bridge, toll road, toll tunnel or the Washington state ferry system, including approaches thereto, for the construction and maintenance of water pipes, flume, gas pipes, telephone, telegraph and electric light and power lines and conduits, trams or railways, any structures or facilities which are part of an urban public transportation system owned or operated by a municipal corporation, agency or department of the state of Washington other than the state highway commission, and any other such facilities in the manner of granting franchises on state highways.

Sec. 13. Section 63, chapter 170, Laws of 1965 extraordinary session and RCW 47.04.081 are each amended to read as follows:

RCW 47.04.081 amended.

The highway commission is empowered to join financially or otherwise with any public agency or any county, city or town in the state of Washington or any other state, or with the federal government or any agency thereof, or with any or all thereof for the planning, development and establishment of urban public transportation systems in conjunction with new or existing highway facilities.

State participation in urban public transportation systems development.

Sec. 14. If any provision of this act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Severability.

Passed the Senate March 9, 1967.

Passed the House March 8, 1967.

Approved by the Governor March 21, 1967.