

2 **SHB 1678** - S COMM AMD  
3 By Committee on Transportation

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 47.26 RCW  
8 to read as follows:

9 The term "advance right-of-way acquisition" as used in this chapter  
10 means the acquisition of property and property rights, together with  
11 the engineering costs necessary for the advance right-of-way  
12 acquisition. Property or property rights purchased must be for  
13 projects approved by the transportation improvement board or the county  
14 road administration board as part of a city or county six-year plan or  
15 program.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 47.26 RCW  
17 to read as follows:

18 The city and county advance right-of-way revolving fund is created  
19 in the custody of the treasurer. The transportation improvement board  
20 is the administrator of the fund and may deposit directly and spend  
21 without appropriation.

22 The transportation improvement board and the county road  
23 administration board, in consultation with the association of  
24 Washington cities and the Washington association of counties, shall  
25 adopt reasonable rules and develop policies to implement this program.

26 NEW SECTION. **Sec. 3.** A new section is added to chapter 47.26 RCW  
27 to read as follows:

28 (1) After any properties or property rights are acquired through  
29 funds in the city and county advance right-of-way revolving fund, the  
30 acquiring city or county is responsible for the management of the  
31 properties in accordance with sound business practices and shall  
32 provide annual status reports to the board. Funds received by the city  
33 or county from the interim management of the properties must be  
34 deposited into the city and county advance right-of-way revolving fund.

1 (2) When the city or county proceeds with the construction of an  
2 arterial project that will require the use of any of the property so  
3 acquired, the city or county shall reimburse the city and county  
4 advance right-of-way revolving fund. Reimbursement must reflect the  
5 original cost of the acquired property or property rights required for  
6 the project plus an interest rate as determined annually by the board.  
7 The board shall report on the interest rate set to the transportation  
8 committees through its annual report.

9 (3) When the city or county determines that any properties or  
10 property rights acquired from funds in the city and county advance  
11 right-of-way revolving fund will not be required for an arterial  
12 construction project or the property has been held by the city or  
13 county for more than six years, the city or county shall either sell  
14 the property at fair market value or reimburse the fund at fair market  
15 value. All proceeds of the sale must be deposited in the city and  
16 county advance right-of-way revolving fund. At the board's discretion,  
17 a portion of savings on transportation improvement board projects  
18 realized through the use of the city and county advance revolving fund  
19 may be deposited back into the city and county advance right-of-way  
20 revolving fund.

21 (4) Deposits in the fund may be reexpended without further or  
22 additional appropriations.

23 **Sec. 4.** RCW 43.79A.040 and 2000 c 79 s 45 are each amended to read  
24 as follows:

25 (1) Money in the treasurer's trust fund may be deposited, invested,  
26 and reinvested by the state treasurer in accordance with RCW 43.84.080  
27 in the same manner and to the same extent as if the money were in the  
28 state treasury.

29 (2) All income received from investment of the treasurer's trust  
30 fund shall be set aside in an account in the treasury trust fund to be  
31 known as the investment income account.

32 (3) The investment income account may be utilized for the payment  
33 of purchased banking services on behalf of treasurer's trust funds  
34 including, but not limited to, depository, safekeeping, and  
35 disbursement functions for the state treasurer or affected state  
36 agencies. The investment income account is subject in all respects to  
37 chapter 43.88 RCW, but no appropriation is required for payments to

1 financial institutions. Payments shall occur prior to distribution of  
2 earnings set forth in subsection (4) of this section.

3 (4)(a) Monthly, the state treasurer shall distribute the earnings  
4 credited to the investment income account to the state general fund  
5 except under (b) and (c) of this subsection.

6 (b) The following accounts and funds shall receive their  
7 proportionate share of earnings based upon each account's or fund's  
8 average daily balance for the period: The Washington advanced college  
9 tuition payment program account, the agricultural local fund, the  
10 American Indian scholarship endowment fund, the basic health plan self-  
11 insurance reserve account, the Washington international exchange  
12 scholarship endowment fund, the developmental disabilities endowment  
13 trust fund, the energy account, the fair fund, the game farm  
14 alternative account, the grain inspection revolving fund, the juvenile  
15 accountability incentive account, the rural rehabilitation account, the  
16 stadium and exhibition center account, the youth athletic facility  
17 ((grant)) account, the self-insurance revolving fund, the sulfur  
18 dioxide abatement account, and the children's trust fund. However, the  
19 earnings to be distributed shall first be reduced by the allocation to  
20 the state treasurer's service fund pursuant to RCW 43.08.190.

21 (c) The following accounts and funds shall receive eighty percent  
22 of their proportionate share of earnings based upon each account's or  
23 fund's average daily balance for the period: The advanced right of way  
24 revolving fund, the advanced environmental mitigation revolving  
25 account, the city and county advance right-of-way revolving fund, the  
26 federal narcotics asset forfeitures account, the high occupancy vehicle  
27 account, the local rail service assistance account, and the  
28 miscellaneous transportation programs account.

29 (5) In conformance with Article II, section 37 of the state  
30 Constitution, no trust accounts or funds shall be allocated earnings  
31 without the specific affirmative directive of this section.

32 **Sec. 5.** RCW 47.44.010 and 1980 c 28 s 1 are each amended to read  
33 as follows:

34 (1) The department of transportation may grant franchises to  
35 persons, associations, private or municipal corporations, the United  
36 States government, or any agency thereof, to use any state highway for  
37 the construction and maintenance of water pipes, flume, gas, oil or  
38 coal pipes, telephone, telegraph and electric light and power lines and

1 conduits, trams or railways, and any structures or facilities (~~which~~)  
2 that are part of an urban public transportation system owned or  
3 operated by a municipal corporation, agency, or department of the state  
4 of Washington other than the department of transportation, and any  
5 other such facilities. In order to minimize the disruption to traffic  
6 and damage to the roadway, the department is encouraged to develop a  
7 joint trenching policy with other affected jurisdictions so that all  
8 permittees and franchisees requiring access to ground under the roadway  
9 may do so at one time.

10 (2) All applications for (~~such~~) the franchise (~~shall~~) must be  
11 made in writing and subscribed by the applicant, and (~~shall~~) describe  
12 the state highway or portion thereof over which franchise is desired  
13 and the nature of the franchise. The application must also include the  
14 identification of all jurisdictions affected by the franchise and the  
15 names of other possible franchisees who should receive notice of the  
16 application for a franchise.

17 (3) The department of transportation shall adopt rules providing  
18 for a hearing or an opportunity for a hearing with reasonable public  
19 notice thereof with respect to any franchise application involving the  
20 construction and maintenance of utilities or other facilities within  
21 the highway right of way which the department determines may (~~(1)~~)  
22 (a) during construction, significantly disrupt the flow of traffic or  
23 use of driveways or other facilities within the right of way, or  
24 (~~(2)~~) (b) during or following construction, cause a significant and  
25 adverse effect upon the surrounding environment.

26 **Sec. 6.** RCW 47.44.020 and 1980 c 28 s 2 are each amended to read  
27 as follows:

28 (1) If the department of transportation deems it to be for the  
29 public interest, the franchise may be granted in whole or in part, with  
30 or without hearing under such regulations and conditions as the  
31 department may prescribe, with or without compensation, but not in  
32 excess of the reasonable cost for investigating, handling, and granting  
33 the franchise. The department may require that the utility and  
34 appurtenances be so placed on the highway that they will, in its  
35 opinion, least interfere with other uses of the highway.

36 (2) If a hearing is held, it (~~shall~~) must be conducted by the  
37 department, and may be adjourned from time to time until completed.

1 The applicant may be required to produce all facts pertaining to the  
2 franchise, and evidence may be taken for and against granting it.

3 (3) The facility (~~((shall))~~) must be made subject to removal when  
4 necessary for the construction, alteration, repair, or improvement of  
5 the highway and at the expense of the franchise holder, except that the  
6 state shall pay the cost of (~~((such))~~) the removal whenever the state  
7 (~~((shall-be))~~) is entitled to receive proportionate reimbursement  
8 therefor from the United States in the cases and in the manner set  
9 forth in RCW 47.44.030. Renewal upon expiration of a franchise  
10 (~~((shall))~~) must be by application.

11 (4) A person constructing or operating such a utility on a state  
12 highway is liable to any person injured thereby for any damages  
13 incident to the work of installation or the continuation of the  
14 occupancy of the highway by the utility, and except as provided above,  
15 is liable to the state for all necessary expenses incurred in restoring  
16 the highway to a permanent suitable condition for travel. A person  
17 constructing or operating such a utility on a state highway is also  
18 liable to the state for all necessary expenses incurred in inspecting  
19 the construction and restoring the pavement or other related  
20 transportation equipment or facilities to a permanent condition  
21 suitable for travel and operation in accordance with requirements set  
22 by the department. Permit and franchise holders are also financially  
23 responsible to the department for trenching work not completed within  
24 the contractual period and for compensating for the loss of useful  
25 pavement life caused by trenching. No franchise may be granted for a  
26 longer period than fifty years, and no exclusive franchise or privilege  
27 may be granted.

28 (5) The holder of a franchise granted under this section is  
29 financially responsible to the department for trenching work not  
30 completed within the period of the permit and for compensating for the  
31 loss of useful pavement life caused by trenching. In the case of  
32 common trenching operations, liability under this subsection will be  
33 assessed equally between the franchisees. The assessed parties may  
34 thereafter pursue claims of contribution or indemnity in accord with  
35 such fault as may be determined by arbitration or other legal action.

36 **Sec. 7.** RCW 47.44.050 and 1984 c 7 s 237 are each amended to read  
37 as follows:

1       (1) The department (~~(is empowered to)~~) may grant a permit to  
2 construct or maintain on, over, across, or along any state highway any  
3 water, gas, telephone, telegraph, light, power, or other such  
4 facilities when they do not extend along the state highway for a  
5 distance greater than three hundred feet. The department may require  
6 such information as it deems necessary in the application for any such  
7 permit, and may grant or withhold the permit within its discretion.  
8 Any permit granted may be canceled at any time, and any facilities  
9 remaining upon the right of way of the state highway after thirty days  
10 written notice of the cancellation (~~(is [are])~~) are an unlawful  
11 obstruction and may be removed in the manner provided by law.

12       (2) The holder of a permit granted under this section is  
13 financially responsible to the department for trenching work not  
14 completed within the period of the permit and for compensating for the  
15 loss of useful pavement life caused by trenching. In the case of  
16 common trenching operations, liability under this subsection will be  
17 assessed equally between the permit holders. The assessed parties may  
18 thereafter pursue claims of contribution or indemnity in accord with  
19 such fault as may be determined by arbitration or other legal action.

20       **Sec. 8.** RCW 47.24.020 and 1993 c 126 s 1 are each amended to read  
21 as follows:

22       The jurisdiction, control, and duty of the state and city or town  
23 with respect to such streets (~~(shall be)~~) is as follows:

24       (1) The department has no authority to change or establish any  
25 grade of any such street without approval of the governing body of such  
26 city or town, except with respect to limited access facilities  
27 established by the commission;

28       (2) The city or town shall exercise full responsibility for and  
29 control over any such street beyond the curbs and if no curb is  
30 installed, beyond that portion of the highway used for highway  
31 purposes. However, within incorporated cities and towns the title to  
32 a state limited access highway vests in the state, and, notwithstanding  
33 any other provision of this section, the department shall exercise full  
34 jurisdiction, responsibility, and control to and over such facility as  
35 provided in chapter 47.52 RCW;

36       (3) The department has authority to prohibit the suspension of  
37 signs, banners, or decorations above the portion of such street between

1 the curbs or portion used for highway purposes up to a vertical height  
2 of twenty feet above the surface of the roadway;

3 (4) The city or town shall at its own expense maintain all  
4 underground facilities in such streets, and has the right to construct  
5 such additional underground facilities as may be necessary in such  
6 streets. However, pavement trenching and restoration performed as part  
7 of installation of such facilities must meet or exceed requirements  
8 established by the department;

9 (5) The city or town has the right to grant the privilege to open  
10 the surface of any such street, but all damage occasioned thereby shall  
11 promptly be repaired either by the city or town itself or at its  
12 direction. Pavement trenching and restoration performed under a  
13 privilege granted by the city under this subsection must meet or exceed  
14 requirements established by the department;

15 (6) The city or town at its own expense shall provide street  
16 illumination and shall clean all such streets, including storm sewer  
17 inlets and catch basins, and remove all snow, except that the state  
18 shall when necessary plow the snow on the roadway. In cities and towns  
19 having a population of twenty-two thousand five hundred or less  
20 according to the latest determination of population by the office of  
21 financial management, the state, when necessary for public safety,  
22 shall assume, at its expense, responsibility for the stability of the  
23 slopes of cuts and fills and the embankments within the right of way to  
24 protect the roadway itself. When the population of a city or town  
25 first exceeds twenty-two thousand five hundred according to the  
26 determination of population by the office of financial management, the  
27 city or town shall have three years from the date of the determination  
28 to plan for additional staffing, budgetary, and equipment requirements  
29 before being required to assume the responsibilities under this  
30 subsection. The state shall install, maintain, and operate all  
31 illuminating facilities on any limited access facility, together with  
32 its interchanges, located within the corporate limits of any city or  
33 town, and shall assume and pay the costs of all such installation,  
34 maintenance, and operation incurred after November 1, 1954;

35 (7) The department has the right to use all storm sewers on such  
36 highways without cost; and if new storm sewer facilities are necessary  
37 in construction of new streets by the department, the cost of the  
38 facilities shall be borne by the state and/or city as may be mutually

1 agreed upon between the department and the governing body of the city  
2 or town;

3 (8) Cities and towns have exclusive right to grant franchises not  
4 in conflict with state laws and rules, over, beneath, and upon such  
5 streets, but the department is authorized to enforce in an action  
6 brought in the name of the state any condition of any franchise which  
7 a city or town has granted on such street. No franchise for  
8 transportation of passengers in motor vehicles may be granted on such  
9 streets without the approval of the department, but the department  
10 shall not refuse to approve such franchise unless another street  
11 conveniently located and of strength of construction to sustain travel  
12 of such vehicles is accessible;

13 (9) Every franchise or permit granted any person by a city or town  
14 for use of any portion of such street by a public utility (~~shall~~)  
15 must require the grantee or permittee to restore, repair, and replace  
16 (~~to its original condition~~) any portion of the street damaged or  
17 injured by it to conditions that meet or exceed requirements  
18 established by the department;

19 (10) The city or town has the right to issue overload or overwidth  
20 permits for vehicles to operate on such streets or roads subject to  
21 regulations printed and distributed to the cities and towns by the  
22 department;

23 (11) Cities and towns shall regulate and enforce all traffic and  
24 parking restrictions on such streets, but all regulations adopted by a  
25 city or town relating to speed, parking, and traffic control devices on  
26 such streets not identical to state law relating thereto are subject to  
27 the approval of the department before becoming effective. All  
28 regulations pertaining to speed, parking, and traffic control devices  
29 relating to such streets heretofore adopted by a city or town not  
30 identical with state laws shall become null and void unless approved by  
31 the department heretofore or within one year after March 21, 1963;

32 (12) The department shall erect, control, and maintain at state  
33 expense all route markers and directional signs, except street signs,  
34 on such streets;

35 (13) The department shall install, operate, maintain, and control  
36 at state expense all traffic control signals, signs, and traffic  
37 control devices for the purpose of regulating both pedestrian and motor  
38 vehicular traffic on, entering upon, or leaving state highways in  
39 cities and towns having a population of twenty-two thousand five



1 hundred or less according to the latest determination of population by  
2 the office of financial management. Such cities and towns may submit  
3 to the department a plan for traffic control signals, signs, and  
4 traffic control devices desired by them, indicating the location,  
5 nature of installation, or type thereof, or a proposed amendment to  
6 such an existing plan or installation, and the department shall consult  
7 with the cities or towns concerning the plan before installing such  
8 signals, signs, or devices. Cities and towns having a population in  
9 excess of twenty-two thousand five hundred according to the latest  
10 determination of population by the office of financial management shall  
11 install, maintain, operate, and control such signals, signs, and  
12 devices at their own expense, subject to approval of the department for  
13 the installation and type only. When the population of a city or town  
14 first exceeds twenty-two thousand five hundred according to the  
15 determination of population by the office of financial management, the  
16 city or town shall have three years from the date of the determination  
17 to plan for additional staffing, budgetary, and equipment requirements  
18 before being required to assume the responsibilities under this  
19 subsection. For the purpose of this subsection, striping, lane  
20 marking, and channelization are considered traffic control devices;

21 (14) All revenue from parking meters placed on such streets belongs  
22 to the city or town;

23 (15) Rights of way for such streets shall be acquired by either the  
24 city or town or by the state as shall be mutually agreed upon. Costs  
25 of acquiring rights of way may be at the sole expense of the state or  
26 at the expense of the city or town or at the expense of the state and  
27 the city or town as may be mutually agreed upon. Title to all such  
28 rights of way so acquired shall vest in the city or town: PROVIDED,  
29 That no vacation, sale, rental, or any other nontransportation use of  
30 any unused portion of any such street may be made by the city or town  
31 without the prior written approval of the department; and all revenue  
32 derived from sale, vacation, rental, or any nontransportation use of  
33 such rights of way shall be shared by the city or town and the state in  
34 the same proportion as the purchase costs were shared;

35 (16) If any city or town fails to perform any of its obligations as  
36 set forth in this section or in any cooperative agreement entered into  
37 with the department for the maintenance of a city or town street  
38 forming part of the route of a state highway, the department may notify  
39 the mayor of the city or town to perform the necessary maintenance

1 within thirty days. If the city or town within the thirty days fails  
2 to perform the maintenance or fails to authorize the department to  
3 perform the maintenance as provided by RCW 47.24.050, the department  
4 may perform the maintenance, the cost of which is to be deducted from  
5 any sums in the motor vehicle fund credited or to be credited to the  
6 city or town.

7 NEW SECTION. **Sec. 9.** If specific funding for the purposes of this  
8 act, referencing this act by bill or chapter number, is not provided by  
9 June 30, 2001, in the transportation appropriations act, this act is  
10 null and void."

11 **SHB 1678** - S COMM AMD  
12 By Committee on Transportation

13

14 In line 1 of the title, after "acquisition;" strike the remainder  
15 of the title and insert "amending RCW 43.79A.040, 47.44.010, 47.44.020,  
16 47.44.050, and 47.24.020; adding new sections to chapter 47.26 RCW; and  
17 creating a new section."

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