

RCW 47.44.020 Grant of franchise—Conditions—Hearing. (1) If the department of transportation deems it to be for the public interest, the franchise may be granted in whole or in part, with or without hearing under such regulations and conditions as the department may prescribe, with or without compensation, but not in excess of the reasonable cost for investigating, handling, and granting the franchise. The department may require that the utility and appurtenances be so placed on the highway that they will, in its opinion, least interfere with other uses of the highway.

(2) If a hearing is held, it must be conducted by the department, and may be adjourned from time to time until completed. The applicant may be required to produce all facts pertaining to the franchise, and evidence may be taken for and against granting it.

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

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

(5) The holder of a franchise granted under this section is financially responsible to the department for trenching work not completed within the period of the permit and for compensating for the loss of useful pavement life caused by trenching. In the case of common trenching operations, liability under this subsection will be assessed equally between the franchisees. The assessed parties may thereafter pursue claims of contribution or indemnity in accord with such fault as may be determined by arbitration or other legal action. [2001 c 201 s 6; 1980 c 28 s 2; 1975 1st ex.s. c 46 s 2; 1961 c 13 s 47.44.020. Prior: 1959 c 330 s 1; 1937 c 53 s 84; RRS s 6400-84.]

***Reviser's note:** RCW 47.44.030 was repealed by 2023 c 102 s 31.