

1993 Senate Bill 487

Date of enactment: **December 16, 1993**
Date of publication*: **December 30, 1993**

1993 WISCONSIN ACT 123

AN ACT *to repeal* 86.001 (1), 192.001 (1c) and 195.001 (1c); *to renumber* 20.155 (1) (x); *to amend* 15.03, 20.155 (intro.), 20.155 (1) (title), 20.155 (1) (g), 25.40 (2) (b) 2e, 26.20 (3), 26.20 (10), 30.33 (1), 30.33 (2), 66.06 (2), 66.94 (30) (a), 84.05, 86.12 (2), 86.13 (3), 88.66 (2), 88.87 (4), 88.88 (2), 184.01 (1), 184.10 (3), 190.02 (6), 190.02 (9) (c), 190.03, 190.13, 190.16 (4) (a), 190.16 (4) (b), 190.16 (4) (c), 190.16 (5), 191.01 (2), 191.03, 191.05, 191.07, 191.09 (1), 191.09 (2), 191.10 (1), 191.10 (2), 191.10 (3), 191.11, 191.13 (2), 191.16, 191.17, 191.19 (1), 191.19 (3), 191.20, 191.21, 192.14 (10), 192.14 (12), 192.15 (14), 192.27 (1), 192.29 (1), 192.29 (2), 192.29 (4), 192.31 (1), 192.31 (2), 192.31 (4), 192.31 (5), 192.324, 192.327 (3), 192.327 (4), 192.327 (5), 192.327 (6), 192.327 (7), 192.33 (5), 192.34, 192.47, 192.52 (3), 192.52 (4), 192.52 (5), 192.53 (4), 192.53 (5), 192.53 (6), 192.55 (5), 192.56 (1), 192.56 (2), 192.56 (3), 192.56 (5), 192.56 (6), 195.03 (title), 195.03 (1), 195.03 (2), 195.03 (7), 195.03 (8), 195.03 (9), 195.03 (10), 195.03 (11), 195.03 (12), 195.03 (13), 195.03 (14), 195.03 (15), 195.03 (16), 195.03 (17), 195.03 (18), 195.03 (19), 195.03 (25), 195.03 (28), 195.03 (29), 195.04 (1), 195.04 (2), 195.04 (3), 195.041, 195.042, 195.043 (1), 195.043 (2), 195.044 (1), 195.044 (2), 195.045, 195.046, 195.05 (title), 195.05 (1), 195.05 (2), 195.05 (4), 195.05 (5), 195.05 (6), 195.055, 195.06, 195.07 (1), 195.07 (2), 195.08 (2), 195.08 (5), 195.08 (7), 195.08 (9), 195.10, 195.15, 195.16, 195.17, 195.19 (1), 195.19 (3), 195.20, 195.21, 195.26, 195.27, 195.28 (1), 195.28 (3), 195.28 (4), 195.285 (1), 195.285 (2), 195.285 (3), 195.286 (2), 195.286 (5), 195.286 (8), 195.29 (1), 195.29 (2), 195.29 (3), 195.29 (4), 195.29 (5), 195.29 (6), 195.29 (7), 195.30 (1), 195.305, 195.31, 195.32, 195.33 (1), 195.33 (3), 195.33 (4), 195.33 (5), 195.34, 195.36, 195.37 (1), 195.37 (2), 195.37 (3), 195.37 (4), 195.38, 195.45 (1), 195.45 (2), 195.45 (4), 195.50 (1), 195.60 (title), 195.60 (1), 195.60 (2), 195.60 (3), 195.60 (4) (a), 195.60 (4) (b), 195.60 (4) (c), 195.60 (4) (d), 195.60 (5), 195.60 (6), 195.60 (7) (intro.), 195.60 (7) (b), 226.025 (3), 227.01 (13) (s), 346.45 (3) (d), 552.23 (1) and 945.06; *to repeal and recreate* 190.001 (1) and 191.001 (1); and *to create* 15.06 (1) (ar), 15.795, 20.155 (2) (title), 20.155 (2) (g), 20.923 (4) (e) 11, 86.001 (2m), ch. 189, 192.001 (2) and 195.001 (2) of the statutes; and *to affect* 1993 Wisconsin Act 16, section 9154 (2) (a) 1; 1993 Wisconsin Act 16, section 9154 (2) (b) 2; 1993 Wisconsin Act 16, section 9154 (2) (c) 3m; 1993 Wisconsin Act 16, section 9154 (2) (d) 3. and (e) 3; and 1993 Wisconsin Act 16, section 9154 (2) (f) 3., **relating to:** creating the office of the commissioner of railroads, transferring railroad regulation from the public service commission to the office of the commissioner of railroads, granting rule-making authority and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1e. 15.03 of the statutes is amended to read:

15.03 Attachment for limited purposes. Any division, office, commission, council or board attached under this section to a department or independent agency or a specified division thereof shall be a distinct unit of that

department, independent agency or specified division. Any division, office, commission, council or board so attached shall exercise its powers, duties and functions prescribed by law, including rule making, licensing and regulation, and operational planning within the area of program responsibility of the division, office, commission, council or board, independently of the head of the department or independent agency, but budgeting, pro-

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gram coordination and related management functions shall be performed under the direction and supervision of the head of the department or independent agency, except that with respect to the office of the commissioner of railroads, all personnel and biennial budget requests by the office of the commissioner of railroads shall be processed and properly forwarded by the public service commission without change except as requested and concurred in by the office of the commissioner of railroads.

SECTION 1g. 15.06 (1) (ar) of the statutes is created to read:

15.06 (1) (ar) The commissioner of railroads shall be nominated by the governor, and with the advice and consent of the senate appointed, for a 6-year term expiring

SECTION 3. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

<u>1993-94</u>	<u>1994-95</u>
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20.155 Public service commission

(2) OFFICE OF THE COMMISSIONER OF RAILROADS

(g) Railroad regulation and general program operations PR A 242,800

SECTION 4. 20.155 (intro.) of the statutes is amended to read:

20.155 Public service commission. (intro.) There is appropriated to the public service commission for the following ~~program programs~~:

SECTION 5. 20.155 (1) (title) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

20.155 (1) (title) REGULATION OF PUBLIC UTILITIES.

SECTION 6. 20.155 (1) (g) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

20.155 (1) (g) (title) *Utility regulation.* The amounts in the schedule for the regulation of utilities ~~and railroads~~. Ninety percent of all moneys received by the commission under s. 184.10 (3), ~~195.60~~, 196.85 or 196.855 shall be credited to this appropriation. Ninety percent of all receipts from the sale of miscellaneous printed reports and other copied material, the cost of which was originally paid under this paragraph, shall be credited to this appropriation.

SECTION 7. 20.155 (1) (x) of the statutes, as created by 1993 Wisconsin Act 16, is renumbered 20.155 (2) (x).

SECTION 8. 20.155 (2) (title) of the statutes is created to read:

20.155 (2) (title) OFFICE OF THE COMMISSIONER OF RAILROADS.

SECTION 1lc1. 20.155 (2) (g) of the statutes is created to read:

20.155 (2) (g) *Railroad regulation and general program operations.* The amounts in the schedule for railroad regulation under chs. 189 to 192 and 195 and general program operations of the office of the commissioner of railroads. Ninety percent of all moneys received by the

on March 1 of an odd-numbered year.

SECTION 2. 15.795 of the statutes is created to read:

15.795 Same; attached office. (1) OFFICE OF THE COMMISSIONER OF RAILROADS. There is created an office of the commissioner of railroads which is attached to the public service commission under s. 15.03, provided that s. 85.02 does not apply to the office of the commissioner of railroads. The commissioner of railroads shall have expertise in railroad issues and may not have a financial interest in a railroad, as defined in s. 195.02 (1). The commissioner may not serve on or under any committee of a political party. The commissioner shall hold office until a successor is appointed and qualified.

433,500

office under s. 184.10 (3) or 195.60 shall be credited to this appropriation.

SECTION 9. 20.923 (4) (e) 11. of the statutes is created to read:

20.923 (4) (e) 11. Public service commission; office of the commissioner of railroads: commissioner.

SECTION 10. 25.40 (2) (b) 2e of the statutes, as created by 1993 Wisconsin Act 16, is amended to read:

25.40 (2) (b) 2e. Section 20.155 ~~(4)~~ (2) (x).

SECTION 11. 26.20 (3) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

26.20 (3) LOCOMOTIVE INSPECTOR; POWERS. Any locomotive inspector designated by the department shall have the power to reject from service immediately any locomotive, donkey, traction, or portable engine which, in the opinion of the inspector, is deficient in adequate design, construction, or maintenance of the fire protective devices designated in sub. (2), and any such locomotive, donkey, traction, or portable engine so rejected from service shall not be returned to service until such defects have been remedied to the satisfaction of the locomotive inspector. In case of disagreement between the inspector and the owner of the locomotive, donkey, traction, or portable engine so rejected from service as to the efficiency or proper maintenance of said protective devices, then the owner of the locomotive, donkey, traction, or portable engine may appeal to the ~~public service commission~~ office of the commissioner of railroads for a decision of said matter, but pending such decision the locomotive, donkey, traction, or portable engine shall not be returned to service.

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SECTION 12. 26.20 (10) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

26.20 (10) (title) APPEAL TO OFFICE OF THE COMMISSIONER OF RAILROADS. In case the department and any person operating any locomotive, donkey, or threshing engine, or any engine, boiler, or locomotive cannot agree as to the most practicable device or devices for preventing the escape of sparks, cinders, or fire from smokestacks, ash pans or fire boxes, then the same shall be determined by the ~~public service commission~~ office of the commissioner of railroads.

SECTION 13. 30.33 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

30.33 (1) BOARD TO HAVE POWERS OF RAILROAD CORPORATION. Any municipality operating a public harbor through a board of harbor commissioners may, through such board, construct, maintain or operate railway facilities or a harbor belt line connecting various harbor facilities with one another or with other railroads within the municipality or its vicinity. The board of harbor commissioners is granted all the rights, powers and privileges conferred upon railroad corporations by s. 190.02, except such rights, powers and privileges as are conferred upon railroad corporations by s. 190.02 (9). Such facilities or belt line may be constructed, maintained or operated partly outside the corporate limits of the municipality. In constructing, maintaining or operating such facilities or belt line, the board of harbor commissioners has the powers and privileges of railroad corporations and shall be subject to the same restrictions as railroad corporations and to the supervision of the ~~public service commission~~ office of the commissioner of railroads, except as to the system of accounting and the payment of wages to employes.

SECTION 14. 30.33 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

30.33 (2) MUNICIPALITY MAY ORGANIZE HARBOR RAILWAY CORPORATION. Any municipality mentioned in sub. (1) may, with the consent of its board of harbor commissioners, organize a railroad corporation for the purpose of constructing, maintaining or operating a harbor belt line or may subscribe for stock in an existing railroad corporation organized for such purpose. If the municipality decides to organize a railroad corporation for such purpose, the governing body thereof may, by resolution, authorize the chief executive officer or presiding officer of such municipality to act, together with 4 citizens to be designated by the officer, as incorporators of such company. Such incorporators shall proceed to incorporate the railroad corporation in accordance with chs. 190 to 192, so far as applicable. Such harbor railroad corporation is subject to the supervisory and regulatory powers of the ~~public service commission~~ office of the commissioner of railroads to the same extent as other railroad corporations. The municipality may subscribe to the stock of such harbor railroad corporation and may pay for such

stock out of any funds it may lawfully have available for that purpose, including the proceeds of harbor improvement bonds.

SECTION 15. 66.06 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

66.06 (2) LIMITATION. Nothing in ss. 66.06 to 66.078 shall be construed as depriving the office of the commissioner of railroads, department of transportation or public service commission of any power conferred by ss. 195.05 and 197.01 to 197.10 and ch. 196.

SECTION 16. 66.94 (30) (a) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

66.94 (30) (a) *Powers of board.* The board shall, notwithstanding any law to the contrary, have exclusive authority and it shall be its duty to establish rates, fares and other charges, and to make all rules and regulations for the operation of the transportation system. The board shall also have the authority, subject to the jurisdiction of the department of transportation or office of the commissioner of railroads as to the reasonableness and adequacy thereof, to determine and make effective standards of service, and to establish, change, extend, shorten or abandon routings all in accordance with the statutes in such cases made and provided subject to the provisions of any ordinance of any municipality granting rights to the authority.

SECTION 17. 84.05 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

84.05 Railroad crossing improvements. On a highway which the department has authority to construct and which crosses a railroad, if the department determines that the construction or reconstruction of a grade separation or the rearrangement or elimination of a grade crossing or other rearrangement of the highway or tracks is necessary in the interest of public safety or for convenience of public travel, the department shall make a plan of the construction proposed and an estimate of the cost thereof, including the cost of needed right-of-way; and shall endeavor to make an arrangement with all persons concerned as to all matters involved in the plan, including the portion of the cost of the contemplated work which the persons shall defray. If the department is unable to contract with the persons concerned as to the distribution and payment of the cost of the work or the maintenance thereof, the department shall lay the matter before the ~~public service commission~~ office of the commissioner of railroads, and the ~~public service commission~~ office of the commissioner of railroads shall review the proceedings and hold a hearing thereon in accordance with ss. 195.28 and 195.29, and shall fix the portion of the cost of the construction and of the maintenance which is to be paid by the persons or corporations concerned, and the portion of the cost, if any, to be paid by the public, which portion shall be paid from the transportation fund. The ~~public service commission~~ office of the commissioner of railroads shall determine the benefits, if any, which will inure to other highways, and apportion and charge to the

units of government responsible for the construction of such other highways a fair portion of the cost.

SECTION 18. 86.001 (1) of the statutes, as created by 1993 Wisconsin Act 16, is repealed.

SECTION 19. 86.001 (2m) of the statutes is created to read:

86.001 (2m) "Office" means the office of the commissioner of railroads.

SECTION 20. 86.12 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

86.12 (2) If a railroad company fails to comply with the resolution in sub. (1) within 30 days after service of the resolution, the county board, common council, village board or town board may file a complaint with the commission office alleging the failure. The commission office shall investigate and determine the matter in controversy as provided in ch. 195. An order issued by the commission office under this subsection has the same effect as an order in a proceeding brought under ch. 195.

SECTION 21. 86.13 (3) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

86.13 (3) If any railroad company fails to grade, construct, pave, surface or otherwise improve or maintain in good and safe condition for public travel as required by this section any street or highway crossing after having been notified so to do by the officer in charge thereof or of the highway improvement for 30 days after such notification, the highway authorities may file a complaint with the commission office. The commission office shall investigate and determine the matter in controversy as provided in ch. 195. An order issued by the commission office under this subsection has the same effect as an order in a proceeding brought under ch. 195.

SECTION 22. 88.66 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

88.66 (2) Every district whose drains cross the right-of-way of a railway company is liable to such company for the reasonable cost of opening its right-of-way and also for the cost of the culverts and bridges made necessary by such drain. The drainage board shall include such costs in its cost of construction, as set forth in its report of benefits and damages, and shall award them as damages to the railway company. The bridge or culvert shall be designed by the district's engineer and the design submitted to the railway company for approval. If a dispute arises as to the adequacy of the design, either party may submit the dispute to the public service commission office of the commissioner of railroads by filing with the commission office a statement as to the facts involved and the nature of the dispute. The commission office shall investigate and determine the matter in controversy in accordance with ch. 195, and any order it makes in such proceeding has the same effect as an order in any other proceeding properly brought under ch. 195.

SECTION 23. 88.87 (4) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

88.87 (4) If a railway company fails to comply with sub. (2), any person aggrieved thereby may file a complaint with the public service commission office of the commissioner of railroads setting forth the facts. The commission office shall investigate and determine the matter in controversy in accordance with ch. 195, and any order it makes in such proceeding has the same effect as an order in any other proceeding properly brought under ch. 195.

SECTION 24. 88.88 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

88.88 (2) If the railway company fails to comply with sub. (1), the person aggrieved thereby may file a complaint with the public service commission office of the commissioner of railroads setting forth the facts. The commission office shall investigate and determine the matter in controversy in accordance with ch. 195, and any order it makes in such proceeding has the same effect as an order in any other proceeding properly brought under ch. 195.

SECTION 25. 184.01 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

184.01 (1) "Commission" means the office of the commissioner of railroads in the case of railroads and the public service commission in the case of other public service corporations.

SECTION 26. 184.10 (3) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

184.10 (3) Whenever the commission deems it necessary to make an investigation of the books, accounts and practices or to make an appraisal of the property of any public service corporation which has filed an application for authority to issue any securities to which this chapter is applicable, such public service corporation shall pay all expenses reasonably attributable to such special investigation, or to such an appraisal of the property. For the purpose of calculating investigative and appraisal expenses of the commission, 90% of the costs determined shall be costs of the commission and 10% of the costs determined shall be costs of state government operations. The procedure set up by s. 195.60 or 196.85, whichever is appropriate, for the rendering and collection of bills shall be in all ways applicable to the rendering and collection of bills under this section. Ninety percent of the amounts paid to the public service commission under authority of this subsection shall be credited to the appropriation account under s. 20.155 (1) (g).

SECTION 27. Chapter 189 of the statutes is created to read:

**CHAPTER 189
OFFICE OF THE COMMISSIONER
OF RAILROADS**

189.01 Definitions. In this chapter:

(1) "Department" means the department of transportation.

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(2) “Office” means the office of the commissioner of railroads.

(3) “Secretary” means the secretary of transportation.

189.02 Office of the commissioner of railroads; powers and duties. (1) The office may adopt rules to govern its proceedings and to regulate the mode and manner of hearings.

(2) The office may employ staff, including hearing examiners.

(3) The office may administer oaths, subpoena witnesses and documents or other physical evidence, take testimony and cause the taking of depositions.

(3m) (a) Except as provided in s. 15.03, the public service commission shall have no control or jurisdiction over the office in matters relating to railroad regulation.

(b) Notwithstanding par. (a), the commissioner of railroads shall seek the input of, and give considerable weight to the advice given by, the chairperson of the public service commission on matters relating to the employment of persons by the office.

(4) Decisions of the office are not appealable to the public service commission. Decisions of the office are subject to judicial review under ch. 227.

(5) The secretary may request the office to hold hearings and advise the secretary on transportation plans, policies, goals, priorities and programs affecting railroads.

(6) The secretary may by rule provide for administrative appellate review by the office of determinations of the department in areas that affect railroads and that are specified by the secretary. In areas where such administrative appellate review is provided, recourse thereto shall be a condition precedent to judicial review under ch. 227.

189.03 Transportation plans. In performing its duties and making its decisions the office may consider transportation plans, policies, or other documents if they are admitted into evidence. A party may conduct cross-examinations reasonably required for a full and true disclosure of the facts.

SECTION 28. 190.001 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is repealed and recreated to read:

190.001 (1) “Office” means the office of the commissioner of railroads.

SECTION 29. 190.02 (6) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

190.02 (6) **RAILROAD INTERSECTIONS.** To cross, intersect, join or unite its railroad with any other railroad, at any point, with the necessary turnouts, sidings and switches and other conveniences in furtherance of the objects of its connections. And if the 2 corporations cannot agree upon the amount of compensation to be made therefor or the points and manner of such crossings and connections the same shall be ascertained by the ~~commission~~ office on application of either corporation.

SECTION 30. 190.02 (9) (c) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

190.02 (9) (c) Any railroad corporation organized to and which shall acquire, directly or by mesne conveyances, the property of another railroad corporation sold in judicial proceedings, or any railroad corporation reorganized under the federal bankruptcy act which corporation under a plan of reorganization as confirmed by the act, shall have been authorized to put into effect and carry out said plan, or any new railroad corporation which shall be organized for the like purpose, shall have all powers by law conferred upon railroad corporations, and may, at such times, in such amounts, for such considerations and upon such terms and conditions as the board of directors of said corporation shall determine, and as shall be authorized by the ~~secretary of state~~ office, or in the case of a railroad corporation organized for the purpose of acquiring a railroad engaged in interstate commerce, or any existing railroad corporation reorganized under the act and acquiring railroad property used in interstate commerce, by the interstate commerce commission, as the case may be, issue, sell, pledge or otherwise dispose of its evidences of debt, which may be convertible, at the option of the holder, into stock, and shares of stock, which shares may have such nominal or par value or if the same be common stock, be without nominal or par value, and may be of such classes, with such rights and voting powers as may be expressed in its articles or any amendment thereto. In the case of a railroad corporation reorganized as aforesaid, the filing with the secretary of state of a certified copy of the plan of reorganization as confirmed by the federal bankruptcy act, if it shall so elect, shall accomplish and evidence the amendment of its charter or articles of incorporation without the necessity for any other or further action, corporate or otherwise, with respect thereto. Such reorganized railroad corporation shall thereupon have all powers necessary to put into effect and carry out such plan of reorganization in all respects but such filing of the plan of reorganization shall not preclude such existing corporation from amending its charter or articles in the manner now provided by law. The fees for filing such copy of plan of reorganization shall be the same as prescribed in s. 190.01 (3).

SECTION 31. 190.03 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

190.03 Office in state; books produced. Any railroad corporation existing under the laws of this state shall produce before the ~~secretary of state~~ office of the commissioner of railroads, the legislature, or any committee of either house, or any court of record, its books of account and stock books, or so many and such parts thereof as may be required by them, or in the discretion of the ~~secretary of state~~ office of the commissioner of railroads, legislature, committee or court, transcripts from such books, or such parts thereof as may be called for, duly authenticated; and each such railroad corporation

shall designate some office within this state as its principal office and inform the ~~secretary of state~~ office of the commissioner of railroads of such designation, and shall keep there or at the office of its transfer agents or registrars a list of its stockholders, giving the names and addresses of its stockholders, together with a statement of the number and class of shares of its stock held by each of them, as shown by its books. A failure or refusal to comply with any of the foregoing provisions shall be cause of forfeiture of its franchises.

SECTION 32. 190.13 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

190.13 Report to stockholders. Every railroad corporation shall make an annual report to its stockholders of its operations for the preceding calendar year, or for its fiscal year, as the case may be, which report shall contain a balance sheet showing its assets and liabilities, its capital stock, and funded debt, and an income account showing its operating revenues, operating expenses, gross and net income, as the result of its traffic or business operations, and such other information in respect of its affairs as the board of directors shall deem advisable. A copy of each such report shall be kept on file in its principal office in this state, shall be mailed to each stockholder whose post-office address is known and shall be filed with the ~~secretary of state~~ office of the commissioner of railroads.

SECTION 33. 190.16 (4) (a) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

190.16 (4) (a) Every railroad shall acquire the necessary right-of-way for and shall construct, connect, maintain and operate a reasonably adequate spur track whenever such spur track does not necessarily exceed 3 miles in length, is practically indispensable to the successful operation of any existing or proposed industry or enterprise, and its construction and operation is not unusually dangerous, and is not unreasonably harmful to public interest, and any person aggrieved by the failure of any railroad to fully perform such obligation may prosecute proceedings before the ~~commission~~ office to compel compliance therewith.

SECTION 34. 190.16 (4) (b) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

190.16 (4) (b) Such railroad may require the person primarily to be served thereby to pay the legitimate cost and expense of acquiring the necessary right-of-way for such spur track, and of constructing the same, the cost to be estimated in separate items by the ~~commission~~ office, and deposited with the railroad, before it shall be required to incur any expense whatever therefor; but such person, in lieu of depositing the total estimated cost may offer in writing to construct such spur track, the offer to be accompanied by a surety company bond, running to such railroad, and conditioned upon the construction of such spur track in a good and workmanlike manner, according to the plans and specifications of such railroad, approved by the ~~commission~~ office, and deposit with such railroad

the estimated cost of the necessary right-of-way. Provided that before the railroad shall be required to incur any expense whatever in the construction of such spur track, the person primarily to be served thereby shall give the railroad a bond to be approved by the ~~commission~~ office as to form, amount and surety, securing the railroad against loss on account of any expense incurred beyond the estimated cost.

SECTION 35. 190.16 (4) (c) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

190.16 (4) (c) Whenever a spur track is so constructed at the expense of the owner of any industry or enterprise, and any other person shall desire a connection with such spur track, application therefor shall be made to the ~~commission~~ office, and such other person shall be required to pay to such owner an equitable proportion of the cost thereof, to be determined by the ~~commission~~ office.

SECTION 36. 190.16 (5) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

190.16 (5) REMOVAL, WHEN. Except where a spur track was constructed prior to June 16, 1925, at the expense of the railroad company, no spur track shall be removed, dismantled or otherwise rendered unfit for service except upon order of the ~~commission~~ office made after hearing held upon notice to all parties interested, and for good cause shown; provided that if no objection has been filed with the ~~commission~~ office within 20 days from the original publication of such notice, the ~~commission~~ office may without hearing authorize such spur track removed, dismantled or otherwise rendered unfit for service.

SECTION 37. 191.001 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is repealed and recreated to read:

191.001 (1) "Office" means the office of the commissioner of railroads.

SECTION 38. 191.01 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

191.01 (2) (title) CONSTRUCTION, CERTIFICATE FROM OFFICE PREREQUISITE. No railroad corporation shall begin the construction of any proposed line of railroad in this state until it shall have obtained from the ~~commission~~ office a certificate that public convenience and a necessity require the construction of the railroad, and the certificate shall constitute the license from this state to the company to build its proposed railroad.

SECTION 39. 191.03 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

191.03 Articles; publication prerequisite to certificate. No railroad corporation shall make application for a certificate unless it has caused a copy of its corporate articles to be published as a class 2 notice, under ch. 985, in each county in which the railroad is proposed to be located within 6 months next prior to the time of making

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such application, and files satisfactory proof thereof with the ~~commission~~ office.

SECTION 40. 191.05 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

191.05 Maps and profiles with application; changes. Complete maps and profiles of the proposed railroad shall be filed with the application for a certificate of convenience and necessity. The ~~commission~~ office may permit errors, omissions or defects in the application, maps and profiles to be supplied or corrected, and permit changes in the proposed route to be made.

SECTION 41. 191.07 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

191.07 Hearing of applicants; notice. Upon receiving such application the ~~commission~~ office shall set a time and place for a hearing, which time shall not be less than 3 weeks nor more than 8 weeks from the date of filing the application, and the place shall be at the city of Madison, or at some place along the line of the proposed railroad, if the ~~commission~~ office deems the latter more convenient, and shall give to the applicant notice thereof, which notice shall be published by the applicant, as a class 2 notice, under ch. 985, in each county in which the railroad, extension or branch is proposed to be located, and proof of such publication shall be filed with the ~~commission~~ office.

SECTION 42. 191.09 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

191.09 (1) (title) BEFORE THE OFFICE. The provisions of ch. 195 relating to the subpoenaing of witnesses, the production of books, documents and papers, the administration of oaths, punishment for disobedience of an order of the ~~commission~~ office or the commissioner of railroads, or of a subpoena, or for refusal of a witness to be sworn or to testify, witness fees, taking depositions, the keeping of a record of the proceedings, the taking of testimony, transcribing the evidence, or relating to the procedure before the ~~commission~~ office not inconsistent with this chapter shall apply to all proceedings under this chapter.

SECTION 43. 191.09 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

191.09 (2) COURT REVIEW OF ORDERS. Orders of the ~~commission~~ office under this chapter shall be subject to review in the manner provided in ch. 227.

SECTION 44. 191.10 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

191.10 (1) ISSUANCE, FILING, CONDEMNATION. If the ~~commission~~ office of the commissioner of railroads finds that the proposed railroad would be a public convenience and that a necessity requires its construction, the ~~commission~~ office of the commissioner of railroads shall enter an order to that effect and forthwith issue to the applicant a certificate that public convenience and a necessity require the construction of the railroad as proposed. The certificate shall be filed in the office of the secretary of

state. The office of the secretary of state shall approve the map showing the route of the railroad. The applicant shall file a copy of the map certified by the ~~commission~~ office of the commissioner of railroads in the office of the register of deeds in each county in which the railroad shall be located. The filing of the certificate with the secretary of state and the filing of a copy of the map, as above provided, are conditions precedent to the right of the applicant to institute condemnation proceedings.

SECTION 45. 191.10 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

191.10 (2) CERTIFICATE FOR PART OF LINE. Whenever it shall appear to the ~~commission~~ office that public convenience and a necessity do not require the construction of the railroad as proposed in the application, but do require the construction of a part thereof, the ~~commission~~ office may issue a certificate for the construction of such part of the railroad as public convenience and necessity require.

SECTION 46. 191.10 (3) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

191.10 (3) REFUSAL OF CERTIFICATE; RENEWAL OF APPLICATION. If the ~~commission~~ office shall determine that the proposed railroad is not a necessity or is not required by public convenience, the ~~commission~~ office shall by order refuse to grant a certificate, stating the reasons for the refusal. The application may be renewed after 2 years from the date of the refusal, but not sooner.

SECTION 47. 191.11 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

191.11 Revocation of certificate. If any railroad company after obtaining a certificate that public convenience and a necessity require the construction of the whole or part of its railroad fails to begin construction within one year from the date of the certificate, or having begun such construction, fails to prosecute the same, the ~~commission~~ office may inquire into the reasons for such failure and may revoke the certificate, if the ~~commission~~ office finds, after notice and hearing, that such failure is unreasonable.

SECTION 48. 191.13 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

191.13 (2) No railroad corporation shall exercise such power until it has obtained from the ~~commission~~ office a certificate that public convenience and necessity require the construction of the temporary railroad, and the certificate shall constitute the license to the company to build its proposed temporary railroad. The certificate shall specify the length of time the railroad may be maintained and operated, and may be renewed from time to time upon application by the railroad company. At the expiration of the time specified in the certificate, or any renewal thereof, the railroad company shall discontinue, dismantle and remove the temporary railroad; and may prior to the expiration of such time, upon order of the ~~commission~~ office, and after a hearing, upon notice to all

parties interested and good cause shown, discontinue, dismantle and remove the railroad.

SECTION 49. 191.16 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

191.16 (title) Construction items submitted to office. Upon receiving the certificate of public convenience and necessity, the applicant shall before commencing construction submit to the ~~commission office~~ a condensed specification of the character of construction that the applicant proposes to install, showing the kind, quality and weight of the rail proposed to be used, the mode of construction, character, quality, and strength of all bridges, culverts and viaducts, the abutments and approaches proposed to be built, the grade of and proposed method of draining the roadbed, and the kind of power to be used and the plant and appliances to be employed in power production, and such other facts relating to the construction of the proposed railroad as the ~~commission office~~ requires.

SECTION 50. 191.17 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

191.17 Public safety; investigation; approval of plans. Upon receiving the specification required by s. 191.16, the ~~commission office~~ shall examine the same and shall hear the applicant in support thereof, shall suggest and require modifications of the specification if the public safety so demands, eliminating so far as may be practicable, consistent with reasonable cost, all grade crossings of public highways, shall inspect the route of the proposed railroad if deemed desirable, and shall otherwise investigate and determine that the proposed construction will be adequate for securing public safety in the operation of the railroad, and thereupon the ~~commission office~~ shall enter an order approving the specification and authorizing the construction of the railroad in accordance therewith.

SECTION 51. 191.19 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

191.19 (1) Upon the completion of the construction of any railroad under the approved specification, the company shall, before operating the same for public service, report to the ~~commission office~~; and the ~~commission office~~ shall inspect the work. If the ~~commission office~~ finds that the railroad has been constructed in accordance with the approved specification and is otherwise suitable and properly constructed so as to secure public safety in the operation thereof, the ~~commission office~~ shall enter an order authorizing its operation, which order shall be presumptive evidence of the sufficiency of such construction.

SECTION 52. 191.19 (3) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

191.19 (3) If upon inspection the ~~commission office~~ shall deem that public safety requires the installation, operation and maintenance of some protective appliance at any grade crossing of railroad tracks the ~~commission~~

~~office~~ may, before granting the order, after notice and hearing, require the installation, operation and maintenance of suitable protective appliances, and shall apportion the expense of constructing, maintaining and operating such protective appliances among the owners of the tracks.

SECTION 53. 191.20 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

191.20 Railroad routes; right to alter. Every railroad company may, by the vote of two-thirds of its directors, alter or change the route of its railroad, by making and filing with the ~~commission office of the commissioner of railroads~~ and also by recording in the office of the register of deeds of the county or counties where the alteration or change is to be made, a surveyed map and certificate of the alteration or change. The alteration or change may not deviate from the original route for a greater distance than one mile at any point. No city or village may be left off the railroad by the change of route. The original end points of the railroad, or the route in any city or village, shall not be changed without the approval of the ~~commission office of the commissioner of railroads~~ after notice to the municipality.

SECTION 54. 191.21 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

191.21 Notices in counties without newspapers. If no newspaper is published in any county in which a railroad is proposed to be located, the publications required by this chapter may be made in such manner and at such places as the ~~commission office~~ shall designate.

SECTION 55. 192.001 (1c) of the statutes, as created by 1993 Wisconsin Act 16, is repealed.

SECTION 56. 192.001 (2) of the statutes is created to read:

192.001 (2) “Office” means the office of the commissioner of railroads.

SECTION 57. 192.14 (10) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.14 (10) If in any particular case, any temporary exemption from any requirement of this section is deemed necessary by a carrier, the ~~commission office~~ shall consider the application of the carrier for temporary exemption and may grant the exemption when accompanied by a full statement of the conditions existing and the reasons for the exemption. Any exemption so granted will be limited to the particular case specified and shall be limited to a stated period of time.

SECTION 58. 192.14 (12) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.14 (12) The ~~commission office~~ may after public hearing make rules and establish the standards deemed necessary to carry out the purposes of this section.

SECTION 59. 192.15 (14) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.15 (14) If in any particular case any exemption from any requirement of this section is deemed necessary

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by a carrier, the ~~commission~~ office shall consider the application of the carrier for exemption and may grant the exemption when accompanied by a full statement of the conditions existing and the reasons for the exemption. Any exemption so granted shall be limited to the particular case specified and shall be limited to a stated period of time.

SECTION 60. 192.27 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.27 (1) When the track of a railway corporation crosses the track of any other railway corporation at grade, or when their tracks and right-of-way are adjacent, except in counties having a population of at least 150,000, the corporations shall, within 60 days after a written request of the ~~commission~~ office or the council or board of the city, town or village within which the tracks so cross or are adjacent, make a track connection within such town, city or village to afford reasonable and proper facilities for the interchange of traffic between their respective lines for forwarding and delivering freight, and the expense thereof shall be borne equally by those corporations, unless otherwise ordered by the ~~commission~~ office.

SECTION 61. 192.29 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.29 (1) **SETTING MAXIMUM SPEED.** Upon petition to the ~~commission~~ office by the governing body of any city or village or by any railroad corporation alleging that any railroad crossing of one or more public highways or streets in the city or village is dangerous to human life and that public safety requires a designation of the maximum speed of a train over such crossing or crossings, or that an order previously made by the ~~commission~~ office should be modified, the ~~commission~~ office shall give notice to the parties in interest and order a hearing thereon in the manner provided by s. 195.04. If after the hearing the ~~commission~~ office shall determine that the crossing or crossings described in the petition are dangerous to human life, it may by order determine what maximum speed of a train over the crossing is reasonably required by public safety and is consistent with the public need for adequate and expeditious passenger and freight service by railroad, having due regard for other orders entered by the ~~commission~~ office and to practical railroad operating conditions. Where the ~~commission~~ office has designated the maximum speed of any train or trains over such crossing or crossings, the rate of speed shall be the lawful maximum speed at which any train affected by the order can be operated over the public highway or street crossing, until changed by subsequent order of the ~~commission~~ office. Every railroad corporation violating any order entered under this subsection shall for every violation forfeit not less than \$10 nor more than \$100. The jurisdiction over train speeds hereby vested in the ~~commission~~ office shall be exclusive, but any order entered by the

~~commission~~ office hereunder shall be subject to judicial review in the manner provided by ch. 227.

SECTION 62. 192.29 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.29 (2) **ARTERIAL STOP SIGNS.** In any proceeding under sub. (1) or under s. 195.28, the ~~commission~~ office may by order require that the state or municipality install at any crossing involved in such proceeding an official stop sign.

SECTION 63. 192.29 (4) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.29 (4) **HIGHWAYS, WHISTLE, HORN, BELL.** No railroad train or locomotive shall run over any public traveled grade highway crossing outside of the limits of municipalities unless the whistle or horn shall be blown 1,320 feet from such crossing and the engine bell rung continuously from thence until the crossing be reached. But the ~~commission~~ office may order that the ringing of the bell or the blowing of the whistle, or horn, or both, as required by this subsection shall be omitted at any crossing.

SECTION 64. 192.31 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.31 (1) Every railroad corporation shall maintain suitable telltales wherever any overhead structure or any part thereof is less than 23 feet above the top of rail; except that if the ~~commission~~ office finds that the installation of a telltale at any particular place would be impracticable or would result in an increased hazard to either the public or an employe and that either or both such factors outweigh the safety benefit which would result from the installation of a telltale, the ~~commission~~ office may enter an order providing an exemption from this section. The exemption shall be ordered by the ~~commission~~ office only after public hearing under sub. (4).

SECTION 65. 192.31 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.31 (2) The ~~commission~~ office may determine the materials for and the construction and placing of such telltales.

SECTION 66. 192.31 (4) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.31 (4) Upon finding that any such structure will not imperil life or limb, and that the public interest requires or permits such structure to be constructed or reconstructed otherwise than as permitted by sub. (3), the ~~commission~~ office may exempt such structure from such provision. Such findings shall be made only upon written application, setting forth fully the grounds therefor and shall be made only after public hearing. The findings and order granting exemption shall be in writing and contain complete provisions and requirements as to the vertical clearance to be maintained in such construction or reconstruction. Such structure shall be constructed or reconstructed only in compliance with such order.

SECTION 67. 192.31 (5) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.31 (5) Prior to July 1, in each year every corporation operating a railroad within the state shall file with the commission office a verified statement showing the location of every such bridge or other structure over any of its tracks at a height of less than 23 feet above the top of rail, together with a statement showing whether or not the provisions of this section have been fully complied with.

SECTION 68. 192.324 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.324 Railroad bridges to be safe for employes.

Whenever a complaint is lodged with the commission office by any person to the effect that a railroad bridge because of its style of construction does not have walks or railings and for that reason is dangerous to the life and limb of railroad employes and the safety of such employes requires the alteration so as to provide for such walks and railings of such bridge, the commission office shall give notice to the party in interest, other than the complainant, of the filing of the complaint and furnish such party with a copy thereof, and order a hearing thereon, in the manner provided for hearings in s. 195.31. The commission office may proceed in a similar manner in the absence of a complaint when, in the opinion of the commission office, the safety of railroad employes requires the alteration of a railroad bridge. After the hearing, the commission office shall determine what alteration, if any, of such bridge, shall be made. The expense of such alteration shall be borne by the railroad company.

SECTION 69. 192.327 (3) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.327 (3) The commission office shall make and enforce reasonable rules relating to motor vehicles used to transport workers to and from their places of employment or during the course of their employment.

SECTION 70. 192.327 (4) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.327 (4) Before formulating such rules, the commission office shall conduct hearings under ch. 227 and invite the participation of interested groups. These groups may make suggestions relating to the minimum standards to be embodied in the rules. The commission office may consider the suggestions prior to the issuance of any rules.

SECTION 71. 192.327 (5) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.327 (5) The commission office may amend the rules at any time upon its own motion after due notice to interested parties.

SECTION 72. 192.327 (6) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.327 (6) The commission office may, in enforcing the rules, inspect any motor vehicle used to transport workers to and from their places of employment or during the course of their employment. Upon request of the

commission office, the department shall direct its traffic officers to assist the office in those inspections.

SECTION 73. 192.327 (7) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.327 (7) Whenever the commission office finds that a motor vehicle used to transport workers to and from their places of employment or during the course of their employment violates any provision of the rules, the commission office shall make, enter and serve upon the owner of the motor vehicle such order as may be necessary to protect the safety of workers transported in the motor vehicle.

SECTION 74. 192.33 (5) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.33 (5) The maintenance of cattle guards may be omitted by the railroad company with the written consent of the commission office specifying the particular crossings.

SECTION 75. 192.34 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.34 Fences; complaint of insufficient; hearing; order. Upon complaint by the owner or occupant of any land contiguous to the right-of-way of any railroad that the railroad company operating such line has failed to construct or keep in good repair such fences as the law requires along its right-of-way opposite to such land, the commission office shall proceed thereon in the manner provided in s. 195.04. If it shall appear that the complaint is well founded the commission office may order and direct the railroad company to repair such fences so that the same shall be sufficient or to construct legal fences.

SECTION 76. 192.47 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.47 Railroad police; oath; powers. Any railway company may, at its own expense, appoint and employ railroad police officers at the stations or other places on the line of its road within this state as it deems necessary for the protection of its property and the preservation of order on its premises and in and about its cars, depots, depot grounds, yards, buildings or other structures. Each police officer shall take an oath to support the constitution of the United States and claiming to be a citizen of the United States and shall file it with the commission office. Each police officer shall, when on duty, wear a shield furnished by the company bearing the words "Railroad Police" and the name of the company. These police officers may arrest, with or without warrant, any person who in their presence commits upon the premises of the company or in or about its cars, depots, depot grounds, yards, buildings or other structures any offense against the laws of this state or the ordinances of any town, city or village, and shall also have the authority of sheriffs in regard to the arrest or apprehension of these offenders in or about the premises or appurtenances. In case of the arrest, by a railroad police officer, of any person without warrant the officer shall immediately take

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the offender before a judge having jurisdiction and make complaint against the offender. Every railway company shall be responsible for the acts of its police officers.

SECTION 77. 192.52 (3) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.52 (3) No railroad company operating in this state shall remove its shops from the place where the same are now located to any other point within or without this state or permanently close any shops in this state without first having secured the consent and permission of the commission office for such removal, after due notice and public hearing, and in all other respects as provided for hearings in ch. 195. The commission office shall render its decision within 30 days after such hearing.

SECTION 78. 192.52 (4) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.52 (4) No railroad company operating in this state shall remove or transfer its terminals or permanently close any terminals in this state without the permission or consent of the commission office after due hearing had on the matter, in compliance with ch. 195.

SECTION 79. 192.52 (5) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.52 (5) Before any railroad company operating in this state shall make any removal or transfer of shops or terminals or abandons the same, it shall file notice of intention so to do with the commission office, and the commission office shall have the power to investigate whether such proposed removal, transfer or abandonment, as the case may be, is in the public interest and is not unreasonable or unfair as to the employes of such railroad company. No such removal or transfer shall be made during such investigation, or thereafter, if the commission office finds such removal, transfer or abandonment is not in the public interest or is unreasonable or unfair as to the employes of such railroad.

SECTION 80. 192.53 (4) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.53 (4) Upon finding that any such structure will not imperil life or limb, and that the public interest requires or permits such structure to be constructed or reconstructed otherwise than as permitted by the foregoing provisions of this section, the commission office may exempt such structure from such provision. Such findings shall be made only upon written application, setting forth fully the grounds therefor and shall be made only after public hearing, and the findings and order granting exemption shall be in writing and shall contain complete provisions and requirements as to the horizontal clearance to be maintained in such construction or reconstruction. Such structure shall be constructed or reconstructed only in compliance with such order.

SECTION 81. 192.53 (5) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.53 (5) Except as hereinbefore provided in this section and subject to the power of the commission office to make exceptions hereto in a manner similar to the power given it in sub. (4), no railroad or shipper shall after May 28, 1943, place or construct, within 8 feet 6 inches of the center line of any railroad track, any retaining walls, fences, signs, stand pipes, conveyors, or any other like obstruction, except railroad bridges, switch stands, mail cranes, coal, ice and water stations, inter-track fences and signals and other necessary interlocking mechanisms, or permit, within 8 feet 6 inches of the center line of any railroad track, the accumulation of any rubbish, waste or material of any sort, except material used for repair or construction work by such railroad company. The intent of this subsection is to afford proper clearance between railroad cars and obstructions and to promote the safety of railroad employes in switching cars.

SECTION 82. 192.53 (6) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.53 (6) Any railroad or shipper to which this section applies, who violates any provision of this section or who fails, neglects or refuses to obey any lawful order made by the commission office under this section, shall be fined not more than \$100 or imprisoned for not more than 60 days or both.

SECTION 83. 192.55 (5) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.55 (5) Any corporation or person operating a railroad that shall fail to erect the telltales required by s. 192.31 for the space of 60 days after notice from the commission office requiring such erection shall forfeit not less than \$50 nor more than \$100, and each 20 days' delay thereafter in erecting such telltales shall be a separate offense.

SECTION 84. 192.56 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.56 (1) It is unlawful for any railroad company owning or operating any railroad in whole or in part in this state, to abandon any station in any town, village or city on its line of railroad, within this state, or to remove the depot therefrom, or to withdraw agency service therefrom, without first obtaining from the commission office an order authorizing such action.

SECTION 85. 192.56 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.56 (2) At a station where agency service is provided the application to the commission office for such authorizing order shall set forth the facts showing the necessity for such action by the railroad company, and if the commission office finds that the application is sufficient presumptively to justify the order prayed for, it shall enter an order fixing the time and place of hearing on the application, which time shall not be less than 20 days after the posting provided for in sub. (3).

SECTION 86. 192.56 (3) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.56 (3) Notice of the time and place of the hearing and of the purpose thereof shall be given, by the ~~commission~~ office, by posting the notice in 5 conspicuous places in the town or village.

SECTION 87. 192.56 (5) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.56 (5) The hearing shall be held as other hearings before the ~~commission~~ office are held as far as applicable. The ~~commission~~ office may dismiss the application or may grant it in whole or in part and under such conditions as it may deem equitable.

SECTION 88. 192.56 (6) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

192.56 (6) At a station where no agency service is provided, the application to the ~~commission~~ office for such authorizing order shall set forth the facts showing the necessity for such action by the railroad company. Notice of proposed removal or abandonment shall be given by the ~~commission~~ office by posting notice in 5 conspicuous places in the town or village concerned; and if within 20 days after the posting of notice no objections in writing are filed with the ~~commission~~ office by persons directly affected, an order authorizing the abandonment of the station may be issued by the ~~commission~~ office. If such objections to the granting of the order are filed with the ~~commission~~ office, the ~~commission~~ office shall proceed to hold a hearing in the matter as provided in subs. (4) and (5).

SECTION 89. 195.001 (1c) of the statutes, as created by 1993 Wisconsin Act 16, is repealed.

SECTION 90. 195.001 (2) of the statutes is created to read:

195.001 (2) "Office" means the office of the commissioner of railroads.

SECTION 91. 195.03 (title) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.03 (title) Office; powers and duties, general enumeration.

SECTION 92. 195.03 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.03 (1) PRACTICE RULES. The ~~commission~~ office may take testimony and administer oaths and may promulgate rules to govern its proceedings and to regulate the mode and manner of all hearings. All hearings shall be open to the public.

SECTION 93. 195.03 (2) of the statutes, as created by 1993 Wisconsin Act 16, is amended to read:

195.03 (2) (title) OFFICE INITIATIVE. In any matter within its jurisdiction under ch. 192 or this chapter, the ~~commission~~ office may initiate, investigate and order a hearing at its discretion upon such notice as it considers proper.

SECTION 94. 195.03 (7) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.03 (7) STUDY CARRIER BUSINESS, DEMAND INFORMATION. The ~~commission~~ office may inquire into the management of the business of all railroads, and shall keep itself informed as to the manner in which the same is conducted, and may obtain from any railroad all necessary information to enable the ~~commission~~ office to perform the duties and carry out the objects for which it is responsible.

SECTION 95. 195.03 (8) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.03 (8) QUESTIONNAIRES, ANSWERS COMPULSORY. The ~~public service commission~~ office shall prepare blanks for the purpose of obtaining the information which it may deem necessary or useful to the proper exercise of its functions, which shall conform as nearly as practicable to the forms prescribed by the interstate commerce commission, and shall furnish such blanks to railroads, and every railroad receiving such blanks, shall cause the same to be properly filled out and verified under oath by its proper officer and returned to the ~~public service commission~~ office within the time fixed by the ~~public service commission~~ office.

SECTION 96. 195.03 (9) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.03 (9) EXAMINE BOOKS AND FILES OF CARRIERS. The ~~commission~~ commissioner of railroads or any person employed by the office for that purpose shall, upon demand, have the right to inspect the books and papers of any railroad and to examine under oath any officer, agent or employe of such railroad in relation to its business and affairs; provided that any person other than the commissioner of railroads who makes such demand shall produce his or her authority under the hand and seal of the ~~commission~~ office.

SECTION 97. 195.03 (10) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.03 (10) PRODUCTION OF RECORDS AND FILES KEPT OUT OF STATE. The ~~commission~~ office may, by an order or subpoena to be served in the manner that a circuit court summons is served, require the production within this state, at such time and place as it may designate, of any books, papers or accounts kept by any railroad without the state, or verified copies in lieu thereof, if the ~~commission~~ office shall so order.

SECTION 98. 195.03 (11) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.03 (11) UNIFORM SYSTEM OF ACCOUNTING. The ~~commission~~ office may prescribe a uniform system of keeping and rendering accounts of all railroad business transacted in this state, and the time within which railroads shall adopt such system; provided that all forms of accounts which may be prescribed by the ~~commission~~ office shall conform as nearly as practicable to similar forms prescribed by federal authority.

SECTION 99. 195.03 (12) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

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195.03 (12) TIME FOR FILING RATE TARIFFS. The ~~com-~~mission office shall fix the time for filing railroad schedules relative to the transportation of passengers and property and of any service in connection therewith.

SECTION 100. 195.03 (13) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.03 (13) SCHEDULE FORMS. The ~~com-~~mission office may prescribe the forms for railroad schedules.

SECTION 101. 195.03 (14) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.03 (14) PASSES TO SHIPPERS. The ~~com-~~mission office may prescribe regulations for free transportation of attendants upon shipments of live stock.

SECTION 102. 195.03 (15) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.03 (15) ELEVATORS AND WAREHOUSES. The ~~com-~~mission office may prescribe rules and regulations covering the charges and manner of conducting the business of public elevators and warehouses upon railroad ground.

SECTION 103. 195.03 (16) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.03 (16) CAR SERVICE. The ~~com-~~mission office may make reasonable regulations for furnishing cars to shippers, and for moving, loading and unloading cars and for weighing cars and freight, and to test railroad weights and scales used in weighing freight or cars.

SECTION 104. 195.03 (17) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.03 (17) PRIVATE TRACKS. The ~~com-~~mission office shall have control of private railroad tracks insofar as the same are used by common carriers for the transportation of freight, in all respects the same as though such tracks were part of a public railroad.

SECTION 105. 195.03 (18) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.03 (18) SAFETY DEVICES. The ~~com-~~mission office may make reasonable rules, regulations, specifications and standards for the installation, operation and maintenance of all safety devices and measures.

SECTION 106. 195.03 (19) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.03 (19) RAILROAD STRUCTURES. The ~~com-~~mission office may order the repair or reconstruction of any inadequate or unsafe railroad track or structure.

SECTION 107. 195.03 (25) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.03 (25) DISTRIBUTION OF ORDERS. The ~~com-~~mission office shall upon application furnish certified copies, under its seal, of any order made by it, which shall be prima facie evidence of the facts stated therein.

SECTION 108. 195.03 (28) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.03 (28) TITLE. The ~~com-~~mission office may sue and be sued in that name, and may confer with or participate in any proceedings before any regulatory agency of any other state or of the federal government.

SECTION 109. 195.03 (29) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.03 (29) TRAIN PRIVILEGES. The employes authorized by the ~~com-~~mission office to perform railroad inspection duties may, in the performance of such duties, ride in and upon any engine, car or train of any class, of any railroad, upon payment of the lawful passenger fare, but such railroad shall not thereby be deemed to become a common carrier of passengers other than on passenger cars.

SECTION 110. 195.04 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.04 (1) Upon complaint of any person, including any state agency or railroad, that any railroad rate, fare, charge, or classification or any regulation or practice whatever affecting the transportation of persons or property, or any service in connection therewith, is in any respect unreasonable or unjustly discriminatory or that any service is inadequate, the ~~com-~~mission office may direct the department to investigate the complaint and shall set the complaint for hearing. The report of the department shall be presented to the ~~com-~~mission office only at the hearing on the complaint, if hearing is requested and held. No order may be entered by the ~~com-~~mission office without a public hearing.

SECTION 111. 195.04 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.04 (2) The ~~com-~~mission office shall, prior to such hearing, notify the railroad complained of that a complaint has been made, and 20 days after such notice has been given the ~~com-~~mission office may proceed to set a time and place for a hearing.

SECTION 112. 195.04 (3) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.04 (3) The ~~com-~~mission office shall give the railroad and the complainant 20 days' notice of the hearing and the matters to be considered and determined. Both the railroad and complainant shall be entitled to be heard and shall have process to enforce the attendance of witnesses.

SECTION 113. 195.041 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.041 Separate rate hearings; absence of direct damage. The ~~com-~~mission office may, when complaint is made of more than one rate or charge, order separate hearings thereon, and may consider and determine the several matters complained of separately and at such times as it may prescribe. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

SECTION 114. 195.042 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.042 Summary investigations. Whenever the ~~com-~~mission office believes that any rate or charge may be unreasonable or unjustly discriminatory or that any service is inadequate or cannot be obtained or that an

investigation of any matter relating to any railroad should for any reason be made, it may request the department to investigate the same with or without notice.

SECTION 115. 195.043 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.043 (1) If, after summary investigation by the department, the ~~commission~~ office becomes satisfied that sufficient grounds exist to warrant a formal hearing being ordered as to the matters investigated, it shall set a time and place for a hearing. The ~~commission~~ office shall publish notice of any such investigation in its weekly calendar and the report of the department and all matters considered by the ~~commission~~ office with respect thereto shall be available for public inspection upon request.

SECTION 116. 195.043 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.043 (2) Notice of the time and place for such hearing shall be given to the railroad, and to such other interested persons as the ~~commission~~ office deems necessary, as provided in s. 195.04, and thereafter proceedings shall be had and conducted in reference to the matter investigated in like manner as though complaint had been filed with the ~~commission~~ office relative to the matter investigated, and the same order or orders may be made in reference thereto as if such investigation had been made on complaint.

SECTION 117. 195.044 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.044 (1) Each witness who appears before the ~~commission~~ office or its agent, by its order, shall receive for attendance the fees and mileage now provided for witnesses in civil cases in courts of record, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers sworn to by such witnesses and approved by the ~~commission~~ office. Said fees and mileage shall be charged to the appropriation for the ~~commission~~ office.

SECTION 118. 195.044 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.044 (2) No witness subpoenaed at the instance of parties other than the ~~commission~~ office is entitled to compensation from the state for attendance or travel unless the ~~commission~~ office certifies that the witness' testimony was material to the matter investigated.

SECTION 119. 195.045 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.045 Depositions. The ~~commission~~ office or any party may in any hearing cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in circuit courts. Any expense incurred or authorized by the ~~commission~~ office in taking such depositions shall be charged to the appropriation for the ~~commission~~ office.

SECTION 120. 195.046 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.046 Record. A full and complete record shall be kept of all proceedings before the ~~commission~~ office or its hearing examiners.

SECTION 121. 195.05 (title) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.05 (title) Office; rates, regulations, service, procedure.

SECTION 122. 195.05 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.05 (1) (title) ORDERS FOR RATES AND SERVICE. Whenever the ~~commission~~ office shall find that any existing rate, fare, charge, or classification, or any joint rate, or any regulation or practice affecting the transportation of persons or property, or any service in connection therewith is unreasonable or unjustly discriminatory or that any service is inadequate, it shall determine and by order fix a reasonable rate, fare, charge, classification, joint rate, regulation, practice or service to be imposed, observed and followed in the future, in lieu of that found to be unreasonable or unjustly discriminatory or inadequate.

SECTION 123. 195.05 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.05 (2) TIME TO COMPLY WITH ORDERS. Where the order made relates to service, and the same cannot, in the judgment of the ~~commission~~ office, be complied with within 20 days, the ~~commission~~ office may prescribe such additional time as in its judgment is reasonably necessary to comply with the order and may on application and for good cause shown further extend the time.

SECTION 124. 195.05 (4) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.05 (4) MODIFICATION OF ORDERS. The ~~commission~~ office may by order at any time, upon notice to the railroad and after opportunity to be heard, rescind, alter or amend any order fixing any rate or rates, fares, charges or classification, or any other order made by the ~~commission~~ office.

SECTION 125. 195.05 (5) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.05 (5) JOINT RATES APPORTIONED. Whenever the rate ordered substituted by the ~~commission~~ office shall be a joint rate or charge, and the railroads shall fail to agree upon the apportionment thereof within 20 days after the service of such order, the ~~commission~~ office may, after a like hearing, issue a supplemental order declaring the apportionment of such joint rate or charge and the same shall take effect as a part of the original order.

SECTION 126. 195.05 (6) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.05 (6) JOINT RATES ORDERED. Whenever the railroads shall refuse or neglect to establish joint rates the ~~commission~~ office may, upon notice to the railroads and

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after opportunity to be heard, fix and establish such joint rates, and if the railroads shall fail to agree upon the apportionment thereof within 20 days after service of such order, the ~~commission~~ office may, upon a like hearing, issue a supplemental order declaring the apportionment of such joint rates and the same shall take effect as part of the original order.

SECTION 127. 195.055 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.055 Judicial review. All orders and determinations of the ~~commission~~ office are subject to judicial review under ch. 227.

SECTION 128. 195.06 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.06 (title) Office orders prima facie lawful. All orders, determinations and decisions made by the ~~commission~~ office shall be in force and effective 20 days after the same has been served as required by s. 227.48 unless the ~~commission~~ office shall specify a different date upon which the same shall be effective, and shall be prima facie lawful, and all regulations, practices and service prescribed by the ~~commission~~ office shall be in force and shall be prima facie lawful and reasonable, until finally found otherwise upon judicial review thereof instituted pursuant to ch. 227.

SECTION 129. 195.07 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.07 (1) **POWERS.** The ~~commission~~ office shall inquire into the neglect or violation of the laws of this state by railroads, or by the officers, agents or employes thereof, or by persons operating railroads, and shall report violations to the attorney general.

SECTION 130. 195.07 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.07 (2) **ATTORNEY GENERAL AND DISTRICT ATTORNEY TO PROSECUTE.** Upon request of the ~~commission~~ office, the attorney general or the district attorney of the proper county shall aid in any investigation, hearing or trial had under, and shall institute and prosecute all necessary actions or proceedings for the enforcement of, laws relating to railroads.

SECTION 131. 195.08 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.08 (2) **SCHEDULES; PUBLICATION.** Every railroad shall print in plain type and file with the ~~commission~~ office schedules which shall be open to public inspection showing all rates, fares and charges for the transportation of passengers and property and any service in connection therewith which it has established and which are in force at the time between all points in this state upon its line or any line controlled or operated by it. The schedules shall plainly state the places upon its line or any line controlled or operated by it in this state between which passengers and property will be carried, and there shall be filed therewith the classification of freight in force.

SECTION 132. 195.08 (5) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.08 (5) **SAME, JOINT RATES.** When passengers or property are transported over connecting lines in this state, and the several railroads operating the lines establish joint rates, fares and charges, a schedule thereof shall in like manner be printed and filed with the ~~commission~~ office and in every depot, station and office of the railroads.

SECTION 133. 195.08 (7) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.08 (7) **CHANGES IN SCHEDULE.** No change shall be made in any schedule, or in any classification, unless the change shall be plainly indicated upon existing schedules, or by filing new schedules in lieu thereof, 30 days prior to the time the same are to take effect. Copies of all new schedules shall be filed as hereinbefore provided in every depot, station and office of such railroad at places to or from which the rates in such schedules apply, 30 days prior to the time the same are to take effect, unless the ~~commission~~ office of the commissioner of railroads shall prescribe a less time.

SECTION 134. 195.08 (9) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.08 (9) **COMPLAINT AGAINST CHANGE IN SCHEDULES.** Whenever a complaint is filed with the ~~commission~~ office before any change in any schedule, or in any classification, rule, regulation or practice becomes effective to the effect that the change is unreasonable or unjustly discriminatory, the ~~commission~~ office shall give notice to the railroad that a complaint has been made, may direct the department to investigate the complaint and shall set the complaint for hearing. Any report of the department shall be presented to the ~~commission~~ office only at the hearing on the complaint. The ~~commission~~ office may, in its discretion, by order, stay the change pending the determination of the matters investigated at any time before the change shall take effect. If the change complained of is found unreasonable or unjustly discriminatory, the change shall not take effect and, if the change has become effective, the ~~commission~~ office shall order the discontinuance thereof. The ~~commission~~ office may fix and order substituted for any such change such rates, joint rates, fares, charges, classification, rule, regulation, practice or service as it shall have determined to be just and reasonable and which shall be charged, imposed or followed in the future, and shall make such order respecting such rule, regulation, practice or service as it shall determine to be reasonable and which shall be observed and followed in the future. Procedure and notice shall be as provided in s. 195.04 (2) to (4).

SECTION 135. 195.10 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.10 Emergency rates. The ~~commission~~ office shall have power, when deemed by it necessary to prevent

injury to the business or interests of the people or railroads of this state in consequence of interstate rate wars, or in case of any other emergency to be judged of by the ~~commission~~ office, to temporarily alter, amend, or, with the consent of the railroad company concerned, suspend any existing passenger rates, freight rates, schedules and orders on any railroad or part of railroad in this state. Such rates so made by the ~~commission~~ office shall apply on one or more of the railroads in this state or any portion thereof as may be directed by the ~~commission~~ office, and shall take effect at such time and remain in force for such length of time as may be prescribed by the ~~commission~~ office.

SECTION 136. 195.15 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.15 Transportation contracts, filed. Every railroad shall, when required and within the time fixed by the ~~commission~~ office, deliver to the ~~commission~~ office for its use copies of all contracts which relate to the transportation of persons or property, or any service in connection therewith, made or entered into by it with any other railroad or any shipper or other person doing business with it.

SECTION 137. 195.16 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.16 Pass lists. Every railroad shall keep and for 2 years preserve a record of every railroad ticket, pass or mileage book issued to a resident of this state free or for a money consideration less than that charged the general public. Such record shall consist of the name of the recipient, the amount received, and the reason for issuance, and shall be open to inspection by the ~~commission~~ office upon reasonable notice during such period of 2 years.

SECTION 138. 195.17 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.17 Interstate rate investigation, petition for relief, tariffs filed. The ~~public service commission~~ office may investigate all freight rates on interstate traffic affecting Wisconsin, and when the same are, in the opinion of the ~~public service commission~~ office, excessive or discriminatory or are levied or laid in violation of the law, or in conflict with the rulings, orders or regulations of the interstate commerce commission, the ~~public service commission~~ office shall present the facts to the interstate carrier, with a request to make such changes as the ~~public service commission~~ office may advise and, if such changes are not made within a reasonable time, the ~~public service commission~~ office shall petition the interstate commerce commission for relief. All freight tariffs issued by any railroad relating to interstate traffic in this state shall be filed with the ~~public service commission~~ office when issued.

SECTION 139. 195.19 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.19 (1) PASSENGER. Every railroad shall provide and maintain adequate passenger depots equipped with

proper toilet facilities at its regular stations for the accommodation of passengers, and said depots shall be kept clean, well-lighted and warmed, for the comfort and accommodation of the traveling public, and shall be kept open continuously from not less than 20 minutes before any train carrying passengers is scheduled to arrive and until such train has departed and for such longer period in any case as the ~~commission~~ office may determine is necessary for the convenience and accommodation of the public. Where the ~~commission~~ office determines that the service of certain trains in making stops on signals is in excess of reasonably adequate service, the provisions of this section shall not apply in connection with the rendition of such service.

SECTION 140. 195.19 (3) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.19 (3) UNION DEPOT. In every city or village or town in which 2 or more railroads maintain passenger depots, it shall be the duty of such railroads to construct, maintain and use an adequate union passenger depot, whenever practical and required by public convenience and necessity. If, after investigation, the ~~commission~~ office shall determine that it is practicable and that public convenience and necessity required the construction, maintenance and use of a union passenger depot in any such city or village or town the ~~commission~~ office may order such railroads to construct, maintain and use an adequate union passenger depot, and shall in such order fix the location of such depot. If the railroads shall be unable to agree upon an apportionment of the original cost of such union passenger depot, and the expense of maintaining the same, within 20 days after the service of such order, the ~~commission~~ office may, after a hearing, issue a supplemental order declaring the apportionment of such original cost and the expense of maintaining such depot.

SECTION 141. 195.20 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.20 Joint use of railroad property. Whenever, upon complaint and after hearing had, the ~~commission~~ office finds that public convenience and necessity require the use by one or more railroads of the tracks, wires, poles, rights-of-way, switches, bridges or other property belonging to another railroad over or on any street, railroad, railway, right-of-way, bridge or viaduct, upon or over which said railroads have a right to operate, and that such use will not prevent the owners or other users thereof from performing their public duties, nor result in irreparable injury to such owners or other users thereof, the ~~commission~~ office may, by order, direct that such use be permitted, and prescribe a reasonable compensation and reasonable terms and conditions for such joint use.

SECTION 142. 195.21 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.21 Warehouses. Any person proposing to erect or maintain a public elevator or public warehouse for the

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purchase, sale, storage, receiving or shipping of grain, or other personal property, to be received from or transported upon any railroad, shall be furnished by such railroad at a reasonable rental, a site upon its right of way or depot grounds, within the yard limits of any station or terminal of such railroad; and any private elevator or warehouse situated upon such grounds may be converted into a public elevator or warehouse at the option of the owner, upon notice in writing to the railroad and thereby be permitted to remain thereon under the same conditions as provided herein for a public elevator or warehouse; and the ~~commission~~ office shall, upon application by such owner, if the public interest so requires, by order, direct the railroad to furnish such site and the ~~commission~~ office shall make reasonable regulations therefor and in case of disagreement, the ~~commission~~ office shall determine the rental therefor. Elevators and warehouses erected or maintained under the foregoing provisions of this section shall be subject to such rules and regulations as to charges and the manner of conducting business as the ~~commission~~ office shall prescribe.

SECTION 143. 195.26 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.26 Safety devices; block system. Every railroad shall adopt reasonably adequate safety measures and install, operate and maintain reasonably adequate safety devices for the protection of life and property. If after investigation the ~~commission~~ office shall determine that public safety requires it, the ~~commission~~ office may order the railroad to install, operate and maintain a block system or other safety device or measure as may be necessary to render the operation of such railroad reasonably safe.

SECTION 144. 195.27 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.27 Safe tracks and bridges. Every railroad shall construct and maintain its tracks, bridges and line structures in a reasonably adequate and safe manner. The ~~commission~~ office may direct the department to investigate complaints in the manner provided by s. 195.04. If, upon hearing, the ~~commission~~ office determines that the track or structures of any railroad are inadequate or unsafe for the operation of its railroad, the ~~commission~~ office shall order the railroad to reconstruct or repair the inadequate or unsafe track or structures.

SECTION 145. 195.28 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.28 (1) PETITION; HEARING; ORDER. Upon petition of the department, city council, village board, town board, superintendent of highways or by 5 or more electors in any town, village or city, or of any railroad corporation or railroad historical society, to determine whether a public highway and railroad grade crossing protects and promotes public safety, the ~~commission~~ office may investigate and issue an appropriate order without a public hearing. If the petitioner, railroad, railroad historical

society or any interested party objects to the order and requests a hearing within 20 days after the date that the order is issued, the ~~commission~~ office shall proceed under s. 195.04. Notice of an investigation or hearing shall be served upon the department, which shall be an interested party, and any recommendation it may file with the ~~commission~~ office at or prior to a hearing, if there is one, regarding crossing protection shall be considered as evidence in the proceeding. The ~~commission~~ office shall determine whether the existing warning devices at such crossing are adequate to protect and promote public safety. If the ~~commission~~ office determines, either without or after a hearing, that protection is not adequate, it may order the railroad company or railroad historical society to keep a flagman at the crossing or to install automatic signals or other suitable safety device at specific locations at such crossing. The ~~commission~~ office may order the relocation of existing signals and devices to improve protection at a crossing. Any crossing protection installed or maintained as approved by the ~~commission~~ office, whether by order or otherwise, shall be deemed adequate and appropriate protection for the crossing.

SECTION 146. 195.28 (3) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.28 (3) MAINTENANCE COSTS. Except as otherwise provided in this subsection, the cost of maintaining crossing protection devices ordered under sub. (1) shall be the responsibility of the railroad or railroad historical society. Any railroad company or railroad historical society that incurs expenses for maintenance of signals or other safety devices may file a claim for reimbursement with the department regardless of the date of installation of the signals or devices. At the close of each fiscal year the department shall reimburse claimants under this subsection for 50% of the costs, as determined by the ~~commission~~ office, incurred for maintenance of railroad crossing protection devices from the appropriation under s. 20.395 (2) (gq). If the amount in the appropriation under s. 20.395 (2) (gq) is not adequate to fund maintenance reimbursement under this subsection, the amount shall be prorated in the manner determined by the ~~commission~~ office.

SECTION 147. 195.28 (4) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.28 (4) (title) PREVIOUS OFFICE ORDERS. Subsection (3) applies to maintenance costs for all crossing protection devices regardless of any prior order of the ~~commission~~ office apportioning maintenance costs.

SECTION 148. 195.285 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.285 (1) Upon the petition of a railroad corporation, the department, or the governing body of any city, village, town or county asserting that the stopping of vehicles under s. 346.45 at a railroad crossing is hazardous to human life, the ~~commission~~ office shall hold a

hearing on the matter as provided under s. 195.04. Notice of petition shall be served upon the department, which shall be an interested party, and any recommendations it may file with the ~~commission~~ office regarding the hazardous effect of vehicles stopping at such crossings shall be considered as evidence in the proceedings. Upon the recommendation of the department and concurrence by the ~~commission~~ office, the petition may be dismissed without holding a hearing. If, upon the public hearing, the ~~commission~~ office determines that it would be in the public interest to exempt vehicles specified in s. 346.45 from stopping at such grade crossing, it may order the public body having jurisdiction over the highway to erect signs, signals, markings or other devices exempting such vehicles from stopping at the crossing.

SECTION 149. 195.285 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.285 (2) Signs placed upon the order of the ~~commission~~ office under this section shall exempt vehicles from stopping as required under s. 346.45, unless a train or engine is occupying or approaching the crossing.

SECTION 150. 195.285 (3) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.285 (3) The department shall establish standards for the type of signs, signals, markings or other devices for exempting vehicles from stopping as required under s. 346.45 and their location in relation to the highway and railroad track. The ~~commission~~ office may upon petition or its own motion, with or without a hearing, order the removal of a sign exempting vehicles from stopping at a crossing.

SECTION 151. 195.286 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.286 (2) SIGNS DESCRIBED. Such signs shall be round and of a size, color and message as specified by the department and approved by the ~~commission~~ office. Any change in these signs shall not be retroactive.

SECTION 152. 195.286 (5) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.286 (5) OTHER SIGNS PROHIBITED. No other sign of the general size or appearance of the signs provided for in this section shall be placed or permitted upon any highway, nor any sign between such advance signs except signs or signals now required by law or permitted by the ~~commission~~ office for protection at railway crossings.

SECTION 153. 195.286 (8) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.286 (8) PROSECUTIONS. The district attorney shall prosecute any person violating this section, or begin and maintain any civil action necessary for its enforcement upon the demand of any county highway commissioner, the department, or the ~~commission~~ office.

SECTION 154. 195.29 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.29 (1) PETITION, HEARING, ORDER. Upon petition by the common council or board of any city, village, town

or county within or bordering upon which a highway or street crosses a railroad, or a highway or street is proposed to be laid out across a railroad, or a public highway bridge across a railroad is required to connect existing streets or highways, or upon petition by any railroad whose track crosses or is about to cross, or is crossed or about to be crossed by a street or highway, or upon petition by the department, in cases where provision has been made for the improvement of the highway adjacent to such crossing under any state aid or federal aid law, that public safety requires an alteration in such crossing, its approaches, the method of crossing, the location of the highway or crossing, or the closing of the crossing, and the substitution of another therefor at grade or not at grade, or the removal of obstructions to the view at such crossing, the relocation of the highway, or requires the determination of the manner of making such new crossing, or of making the proposed improvement or promoting the public safety or public convenience through any other reasonable method, and praying that the same may be ordered, the ~~commission~~ office shall give notice to the parties in interest and proceed to investigate the same and to order a hearing thereon in the manner provided by s. 195.04. The ~~commission~~ office shall determine what, if anything, shall be done to promote the public safety and the means by which it shall be accomplished, whether by the relocation of the highway, the alteration in such crossing, approaches, mode of crossing, location of highway crossing, closing of highway crossing, with or without the substitution of another therefor, the construction of a public highway bridge, the removal of obstructions to sight at crossing, or by the use of other reasonable methods, and by whom the same shall be made, and in case of new crossings the advisability of allowing such crossings to be established and manner of making them.

SECTION 155. 195.29 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.29 (2) APPORTIONMENT OF EXPENSE. The ~~commission~~ office shall fix the proportion of the cost and expense of alterations, removals and new crossings, or any other work ordered, including the damages to any person whose land is taken, and the special damages which the owner of any land adjoining the public street or highway shall sustain by reason of a change in the grade of such street or highway, or by reason of the removal of obstructions to view at such crossings, to be paid or borne by the railroad companies and the municipalities in interest. In fixing such proportion, the ~~commission~~ office may order such cost and expense so apportioned to be paid by the parties against which the apportionment shall be made.

SECTION 156. 195.29 (3) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.29 (3) RESTORATION OF SPUR TRACKS. Whenever the ~~commission~~ office shall have ordered a separation of the grade of a railway from the grade of a street or high-

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way, it may, if safe and practicable and if a necessity exists therefor, order the alteration, restoration and connection of any track serving an industry. Demand for such restoration shall be in writing and filed with the ~~commission~~ office within 90 days after the date of the order for the separation of grades, and any such track for which no such demand shall have been made shall be deemed abandoned. If the ~~commission~~ office shall order the alteration, restoration and connection of any such track, it shall by its order apportion the cost thereof between the owner of the industry served and the railway company, in such proportion as to the ~~commission~~ office may seem just and equitable; and the ~~commission~~ office shall in its order prescribe the terms and conditions for securing the payment of such cost.

SECTION 157. 195.29 (4) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.29 (4) GRADE SEPARATION IN MILWAUKEE COUNTY. The ~~commission~~ office may upon petition of any town, city or village, or upon its own motion, when the interests of the public demand it and it is found practicable so to do, establish the grade of the tracks of any railroad, or of all the railroads throughout any county having a population of 500,000 or more, or any part thereof, and the grades of the streets or highways, or any of them, where they cross such railroad track or tracks, in anticipation of the future separation of grades of the railroad tracks from the grades of such streets or highways. The ~~commission~~ office, before making any such order, shall mail notice to the railroad company or companies affected, the owners or occupants of any building abutting on that part of the railroad the grade of which is to be established, all 1st class cities in the county, and if the grades to be established are outside the 1st class city, the towns, cities or villages in which such grades are to be established, of the filing of such petition or that the ~~commission~~ office contemplates establishing such grades, and fixing a time at which the 1st class cities and such other towns, cities or villages and the railroad company or companies affected thereby and any other person or corporation interested therein may be heard. The grades so established under this subsection shall be described by reference to a base or datum line to be established by the ~~commission~~ office, from which all elevations and the height of all grades shall be measured, and the grades so established shall be such that when brought to the established grade the railroad tracks will cross the streets and highways above or below the same. Such order shall not necessarily require a present change in grade but the ~~commission~~ office may at any time order the railroad track or tracks and the street and highways brought to the grade established or any street or highways closed by the order, in accordance with sub. (1), and may, at the time of making the order, apportion the cost of separating the grades as provided in sub. (2).

SECTION 158. 195.29 (5) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.29 (5) ELIMINATION OF GRADE CROSSINGS, COSTS. Upon petition of the department, or of the common council or board of any city, village, town or county, alleging that one or more of them have undertaken or propose to undertake to relocate or improve an existing highway or to construct a new highway in such manner as to eliminate a highway grade crossing with any railroad or so as to permanently divert a material portion of the highway traffic from a highway grade crossing with any railroad, the ~~commission~~ office shall issue notice of investigation and hearing, as provided in s. 195.04. If upon such hearing the ~~commission~~ office finds that the public safety will be promoted by the highway relocation, improvement or new construction, the ~~commission~~ office shall order the old crossings closed and new crossings opened as are deemed necessary for public safety. The order shall require the railroad company or companies to pay to the interested municipality or municipalities such sum as the ~~commission~~ office finds to be an equitable portion of the cost of the highway relocation, improvement or new construction, if the work is performed by the municipalities; or to the state treasurer if the work is performed by the state; or to the proper county treasurer if the work is performed by the county. The sum shall be added to the joint fund available for the improvement and may be expended in like manner as the other portions of the fund.

SECTION 159. 195.29 (6) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.29 (6) VIEW AT CROSSINGS; TREES AND BRUSH NEAR CROSSINGS; FORFEITURE. Every railroad shall keep its right-of-way clear of brush or trees for a distance of not less than 330 feet in each direction from the center of its intersection at grade with any public highway, and for such further distance as is necessary to provide an adequate view of approaching trains, from the highway. Every municipality shall keep the public highways within its jurisdiction clear of brush and shall adequately trim all trees within 330 feet of the center of any railroad highway grade crossing. Every person or corporation owning or occupying any land adjacent to any railroad highway grade crossing shall keep all brush cut and adequately trim all trees on the land within the triangles bounded on 2 sides by the railway and the highway, and on the 3rd side by a line connecting points on the center lines of the railway and the highway, 330 feet from the intersection of the center lines. The ~~commission~~ office, upon its own motion, or upon any complaint to the effect that any work required by this subsection has not been performed, after due notice and hearing, may order the corporation, municipality or person at fault to perform the work; provided, however, that if the physical conditions at any crossing are such that the performance of the required work will not materially improve the view for

highway traffic, or, if unreasonable loss would be caused thereby, the ~~commission~~ office may excuse the party in interest from performing the same. The ~~commission~~ office may also order the cutting of brush and the trimming of trees at private farm crossings as may be necessary and reasonable. If any person shall violate any provision of this section, or shall fail, neglect or refuse to obey any order made by the ~~commission~~ office under this section, or any judgment or decree made by any court upon such an order, for every such violation, failure or refusal such person shall forfeit not less than \$25 nor more than \$150.

SECTION 160. 195.29 (7) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.29 (7) STRUCTURE REQUIREMENTS. Whenever the ~~commission~~ office shall order the construction or reconstruction of a crossing not at grade, it may direct that the structure required shall be of such character and constructed of such materials as it shall deem appropriate to the situation and necessary for the public interest.

SECTION 161. 195.30 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.30 (1) Upon a petition by the common council of any city, or the board of any village, town or county within which a railroad crosses another railroad at grade, or by any such railroad, that public safety requires an alteration in the crossing or the installation of protective appliances, the ~~commission~~ office shall give notice to the parties in interest, and proceed to investigate the same and may order a hearing on the matter. The ~~commission~~ office shall determine what alteration in such crossing, if any, shall be made, and by whom made and maintained, or what protective appliances shall be installed, operated and maintained at the crossing and by whom installed, operated and maintained. The ~~commission~~ office shall fix the proportion of the cost and expense of such change in grade and maintenance of the crossing or of the installation, operation and maintenance of the safety appliance which shall be paid by the railroad companies, respectively.

SECTION 162. 195.305 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.305 Railroad crossings; grade; expense. Whenever a railroad proposes to cross, intersect, join or unite its track with another railroad track, the surface road of the proposed track shall be above, below or at grade of the tracks proposed to be crossed as the ~~commission~~ office determines after hearing the parties upon reasonable notice. In its determination, the ~~commission~~ office shall fix the proportion of the expense of originally constructing, operating, and maintaining such crossing, intersecting, joining or uniting which shall be paid by the owners of the tracks respectively.

SECTION 163. 195.31 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.31 Bridges made safe. Whenever a complaint is lodged with the ~~commission~~ office by the common council of any city, the village board of any village, a member of a town board, or a supervisor of highways, or by 5 or more electors and taxpayers in any town, or 5 or more electors of the county in which such bridge is located, and who are users of such bridge or railway, to the effect that a bridge erected over a stream intersecting a public highway or highways upon which a railway is constructed and operated, is unsafe and dangerous to travelers over such highway or highways or bridge or railroad, and that public safety requires the alteration, the repair or reconstruction of such bridge, or the substitution of another bridge therefor, it shall be the duty of the ~~commission~~ office to give notice to the party or parties in interest, other than the petitioners, of the filing of such complaint, and to furnish a copy of the complaint to the party or parties in interest other than the petitioners, and to order a hearing thereon, in the manner provided for hearings in ss. 195.04 to 195.043. The ~~commission~~ office may proceed in a similar manner in the absence of a petition when, in the opinion of the ~~commission~~ office, public safety requires the alteration, repair or reconstruction of a bridge or the substitution of another bridge for the bridge in question. After the hearing, the ~~commission~~ office shall determine what alteration or repair or reconstruction of such bridge, and the approaches thereto, shall be made, or if it shall determine that public safety requires the substitution of a new bridge, it shall determine the character, manner of construction and location of such bridge and the approaches thereto. The ~~commission~~ office shall fix the proportion of the cost and expense of such alteration, repair, reconstruction or substitution of a new bridge, including the damage to any person whose land is taken, and the special damage which the owner of any land adjoining the approaches to said bridge shall sustain by reason of the alteration, repair, reconstruction or substitution of a new bridge, to be paid by the railroad company and the city, village or town in interest.

SECTION 164. 195.32 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.32 Safety gates on drawbridges. Whenever a complaint is filed with the ~~commission~~ office to the effect that any drawbridge is not equipped with gates or other safety devices, the ~~commission~~ office may notify the proper party or parties in interest of the complaint, and may proceed to investigate the complaint and to hold a hearing on the matter in the manner provided for hearings in ss. 195.04 to 195.043. If after the investigation the ~~commission~~ office determines that public safety requires the erection and maintenance of gates or other safety devices at the points mentioned in the complaint, it may order the county, city, village, town, corporation or person whose duty it is to maintain such bridge to erect and maintain at such points such gates or other safety devices

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as the ~~commission~~ office prescribes. The ~~commission~~ office may conduct the investigations, hold the hearings and make the orders provided for in this section upon its own motion in the same manner and with the same effect as though a complaint were filed.

SECTION 165. 195.33 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.33 (1) The ~~commission~~ office shall ascertain, as early as practicable, the amount of money expended in the construction and equipment of every railroad, the amount of money expended to procure the right-of-way, also the amount of money it would require to secure the right-of-way, reconstruct the roadbed, track, depots and other facilities for transportation, and to replace all the physical properties belonging to the railroad.

SECTION 166. 195.33 (3) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.33 (3) The ~~commission~~ office shall ascertain the gross and net income of the railroad from all sources in detail; the amounts paid for salaries to the officers of the road, and the wages paid to its employes and the maximum hours of continuous service required of each class.

SECTION 167. 195.33 (4) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.33 (4) In making any investigation under this section, the ~~commission~~ office may avail itself of any information in possession of the department of revenue.

SECTION 168. 195.33 (5) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.33 (5) When the information required by this section is obtained, the information shall be printed in the next report of the ~~commission~~ office.

SECTION 169. 195.34 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.34 Reports of accidents, investigation. Every railroad shall report to the ~~commission~~ office all collisions, derailments or other accidents resulting in injury to persons, equipment or roadway arising from its operation. The ~~commission~~ office may issue rules concerning the reporting of accidents and may also, if public interests require, cause an investigation of any accident.

SECTION 170. 195.36 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.36 General penalty upon railroads. If any railroad shall violate any provision of this chapter, or shall do any act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it, for which a penalty has not been provided, or shall fail, neglect or refuse to obey any lawful requirement or order made by the ~~commission~~ office, or any judgment or decree made by any court upon its application, for every such violation, failure or refusal in respect to any matter prescribed by this chapter such railroad shall forfeit not less than \$100 nor more than \$10,000. The act, omission or failure of any officer, agent or other person employed by any railroad, acting within

the scope of his or her employment, shall be deemed to be the act, omission or failure of such railroad.

SECTION 171. 195.37 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.37 (1) COMPLAINTS, INVESTIGATIONS, HEARINGS, FINDINGS, REFUND. The ~~commission~~ office may direct the department to investigate the complaint of any person aggrieved that the charge exacted for the transportation of property between points in this state, or for any service in connection with transportation of property, or that the charge exacted for the storage of such property, or that any car service or demurrage charge exacted is erroneous, illegal, unusual or exorbitant and shall set the complaint for hearing as provided in s. 195.04 (2) to (4). If the ~~commission~~ office finds that the rate or charge exacted is erroneous, illegal, unusual or exorbitant, it shall find what would have been a reasonable rate or charge for such service. If the rate or charge so found is less than the charge exacted, the carrier shall refund the excess.

SECTION 172. 195.37 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.37 (2) ACTIONS; FINDINGS AS EVIDENCE, DEFENSES. In an action to recover the amount of such excess charge, the findings of the ~~commission~~ office shall be prima facie evidence of the truth of the facts found by it, and no carrier shall be permitted to avail itself of the defense that the shipment involved was in fact made on the published tariff rate in force at the time such shipment was made, but no carrier making a refund upon the order of the ~~commission~~ office or the judgment of a court shall be liable for any penalty or subject to any prosecution on account of making such refund.

SECTION 173. 195.37 (3) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.37 (3) LIMITATION FOR FILING CLAIM. All complaints provided for in sub. (1), except those for straight overcharges, shall be filed with the ~~commission~~ office within 2 years after delivery of the shipment of property at destination, subject to sub. (6).

SECTION 174. 195.37 (4) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.37 (4) STRAIGHT OVERCHARGES, LIMITATION OF ACTIONS, EXCEPTION. For recovery of straight overcharges which mean charges in excess of those applicable under the lawful tariffs on file with the ~~commission~~ office, neither this section nor s. 195.38 shall be deemed exclusive remedies. Complaints for the same may be filed or actions begun within 3 years from the delivery of the shipment of property at destination, and not after, except that if a claim for the overcharge has been presented in writing to the carrier within the 3-year period, said period shall be extended to include 6 months from the time notice in writing is given by the carrier to the claimant of disallowance of the claim or any part thereof.

SECTION 175. 195.38 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.38 Freight bills; examination; refunds. Within 3 years after the delivery of any shipment of property at destination, any person, firm or corporation may submit to the ~~commission~~ office, by mail or in person, any railroad expense bill or receipt showing charges paid for transportation of such property by freight for the purpose of having the expense bill or receipt examined with respect to the correctness of weights, rates and charges indicated thereon. Upon receipt of any such expense bill or receipt, the ~~commission~~ office may request the department to make such examination as is necessary, and if it is found that any such weights, rates or charges are incorrect, the ~~commission~~ office shall order the railroad company in error to refund to the person, firm or corporation which submitted such expense bills or receipts, any over or excessive charges paid by such person, firm or corporation.

SECTION 176. 195.45 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.45 (1) No person shall operate as a common carrier of passengers or property by water except in accordance with the terms and conditions of a certificate of public convenience and necessity issued by the ~~commission~~ office. The ~~commission~~ office shall issue any certificate upon a finding that the service proposed to be performed is in the public interest and required by public convenience and necessity.

SECTION 177. 195.45 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.45 (2) Application for the certificate shall be made on forms furnished by the ~~commission~~ office and shall contain such information as the ~~commission~~ office requires.

SECTION 178. 195.45 (4) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.45 (4) The ~~commission~~ office may promulgate rules for the operation of this section.

SECTION 179. 195.50 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.50 (1) Any officer, agent or employe of any railroad who fails to fill out and return any forms required by this chapter, or fails to answer any question therein, or knowingly gives a false answer to any such question, or evades the answer to any such question where the fact inquired of is within his or her knowledge, or who, upon proper demand, fails to exhibit to the ~~commission~~ office or department or any person authorized to examine the same, any book, paper, account, record or memoranda of such railroad which is in the possession or under control of the officer, agent or employe, or who fails to properly use and keep the system of accounting prescribed by the ~~commission~~ office, or who refuses to do any act or thing in connection with such system of accounting when so directed by the ~~commission~~ office or its authorized repre-

sentatives, shall forfeit not less than \$100 nor more than \$1,000 for each offense.

SECTION 180. 195.60 (title) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.60 (title) Payment of office expenses by railroads.

SECTION 181. 195.60 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.60 (1) Whenever the ~~commission~~ office in a proceeding upon its own motion, on complaint, or upon an application to it deems it necessary in order to carry out the duties imposed upon it by law to investigate the books, accounts, practices and activities of, or make appraisals of the property of any railroad or to render any engineering or accounting services to any railroad, the railroad shall pay the expenses attributable to such investigation, appraisal or service. The ~~commission~~ office shall ascertain such expenses, including all expenses incurred by the department at the request or direction of the ~~commission~~ office and shall render a bill therefor, by mail, to the railroad, either at the conclusion of the investigation, appraisal or services, or during its progress. The bill shall constitute notice of assessment and demand of payment thereof. The railroad shall, within 30 days after the mailing thereof, pay to the ~~commission~~ office the amount of the special expense for which it is billed. Ninety percent of the payment shall be credited to the appropriation account under s. 20.155 ~~(4)~~ (2) (g). The total amount, in any one calendar year, for which any railroad becomes liable, by reason of costs incurred by the ~~commission~~ office within such calendar year, shall not exceed four-fifths of one percent of its gross operating revenues derived from intrastate operations in the last preceding calendar year. Where, under this subsection, costs are incurred within any calendar year, which are in excess of four-fifths of one percent of such gross operating revenues, the excess costs shall not be chargeable as part of the remainder under sub. (2) but shall be paid out of the general appropriation to the ~~commission~~ office. Nothing in this subsection shall prevent the ~~commission~~ office from rendering bills in one calendar year for costs incurred within a previous year. For the purpose of calculating the costs of investigations, appraisals and other services under this subsection, 90% of the costs determined shall be costs of the ~~commission~~ office and 10% of the costs determined shall be costs of state government operations.

SECTION 182. 195.60 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.60 (2) The ~~commission~~ office shall annually, within 90 days after the close of each fiscal year, ascertain the total of its expenditures during such year which are reasonably attributable to the performance of its duties relating to railroads. For purposes of such calculation, 90% of the expenditures so determined shall be expenditures of the ~~commission~~ office and 10% of the expendi-

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tures so determined shall be expenditures for state government operations. The ~~commission~~ office shall deduct therefrom all amounts chargeable to railroads under sub. (1) and s. 184.10 (3). A sum equal to the remainder plus 10% of the remainder shall be assessed by the ~~commission~~ office to the several railroads in proportion to their respective gross operating revenues during the last calendar year, derived from intrastate operations. Such assessment shall be paid within 30 days after the bill has been mailed to the several railroads, which bill shall constitute notice of assessment and demand of payment thereof. The total amount which may be assessed to the railroads under authority of this subsection shall not exceed one percent of the total gross operating revenues of such railroads, during such calendar year, derived from intrastate operations. Ninety percent of the payment shall be credited to the appropriation account under s. 20.155 (4) (2) (g). The railroads shall furnish such financial information as the ~~commission~~ office requires.

SECTION 183. 195.60 (3) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.60 (3) If any railroad against which a bill has been rendered under sub. (1) or (2) within 30 days after the rendering of such bill neglects or refuses to pay the same or fails to file objections to the bill with the ~~commission~~ office, the ~~commission~~ office shall transmit to the state treasurer a certified copy of the bill, together with notice of neglect or refusal to pay the bill, and on the same day the ~~commission~~ office shall mail to the railroad against which the bill has been rendered a copy of the notice which it has transmitted to the state treasurer. Within 10 days after the receipt of such notice and certified copy of such bill, the state treasurer shall levy the amount stated on such bill to be due, with interest, by distress and sale of any goods and chattels, including stocks, securities, bank accounts, evidences of debt, and accounts receivable belonging to such delinquent railroad. Such levy by distress and sale shall be governed by the provisions of s. 74.10, 1985 stats., except that it shall be made by the state treasurer and that said goods and chattels anywhere within the state may be levied upon.

SECTION 184. 195.60 (4) (a) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.60 (4) (a) Within 30 days after the date of the mailing of any bill as provided by subs. (1) and (2), the railroad against which such bill has been rendered may file with the ~~commission~~ office objections setting out in detail the grounds upon which the objector regards the bill to be excessive, erroneous, unlawful or invalid. The ~~commission~~ office, after notice to the objector, shall hold a hearing upon such objections, not less than 5 nor more than 10 days after such notice. If after such hearing the ~~commission~~ office finds any part of the bill to be excessive, erroneous, unlawful or invalid it shall record its findings upon its minutes and transmit to the objector an amended bill, in accordance with such findings. The

amended bill shall have in all ways the same force and effect under this section as an original bill rendered under subs. (1) and (2).

SECTION 185. 195.60 (4) (b) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.60 (4) (b) If after the hearing the ~~commission~~ office finds the entire bill unlawful or invalid, it shall notify the objector of such determination, in which case the original bill shall be deemed void.

SECTION 186. 195.60 (4) (c) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.60 (4) (c) If after the hearing the ~~commission~~ office finds that the bill as rendered is neither excessive, erroneous, unlawful or invalid, either in whole or in part, it shall record such findings upon its minutes, and transmit to the objector notice of such finding.

SECTION 187. 195.60 (4) (d) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.60 (4) (d) If any bill against which objections have been filed is not paid within 10 days after notice of a finding that such objections have been overruled and disallowed by the ~~commission~~ office has been mailed to the objector, the ~~commission~~ office shall give notice of such delinquency to the state treasurer and to the objector, in the manner provided in sub. (3). The state treasurer shall then proceed to collect the amount of the bill as provided in sub. (3). If an amended bill is not paid within 10 days after a copy thereof is mailed to the objector by registered mail, the ~~commission~~ office shall notify the state treasurer and the objector as in the case of delinquency in the payment of an original bill. The state treasurer shall then proceed to collect the amount of the bill as provided in the case of an original bill.

SECTION 188. 195.60 (5) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.60 (5) No suit or proceeding shall be maintained in any court for the purpose of restraining or in any way delaying the collection or payment of any bill rendered under subs. (1) and (2). Every railroad against which a bill is rendered shall pay the amount thereof, and after such payment may in the manner herein provided, at any time within 2 years from the date the payment was made, sue the state in an action at law to recover the amount paid with legal interest thereon from the date of payment, upon the ground that the assessment was excessive, erroneous, unlawful or invalid in whole or in part. If it is finally determined in such action that any part of the bill for which payment was made was excessive, erroneous, unlawful or invalid, the state treasurer shall make a refund to the claimant as directed by the court, which shall be charged to the appropriations to the ~~commission~~ office.

SECTION 189. 195.60 (6) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.60 (6) No action for recovery of any amount paid under this section shall be maintained in any court unless

objections have been filed with the ~~commission~~ office as provided in this section. In any action for recovery of any payments made under this section the claimant shall be entitled to raise every relevant issue of law, but the ~~commission's~~ office's findings of fact made pursuant to this section shall be prima facie evidence of the facts therein stated.

SECTION 190. 195.60 (7) (intro.) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.60 (7) (intro.) The following shall be deemed to be findings of fact of the ~~commission~~ office, within the meaning of this section:

SECTION 191. 195.60 (7) (b) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

195.60 (7) (b) Determinations of fact set out in those minutes of the commission which record the action of the ~~commission~~ office in passing upon said bills, and in passing upon objections thereto.

SECTION 192. 226.025 (3) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

226.025 (3) The appointment of the secretary of state or the designation of a resident agent as attorney for the service of summons, notice, pleadings or process under s. 180.1507 shall be applicable only to actions or proceedings against the foreign corporations described in this section (unless such corporations have been admitted to this state for purposes other than those mentioned in this section) where the cause of action or proceeding arises out of transactions between such foreign corporations and public utilities operating in this state with which such foreign corporations are affiliated; and to actions or proceedings by or before the public service commission or office of the commissioner of railroads involving the transactions described in sub. (1), or involving the relation between such foreign corporations and public utilities operating in this state with which they are affiliated.

SECTION 193. 227.01 (13) (s) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

227.01 (13) (s) Prescribes or relates to a uniform system of accounts for any person, including a municipality, that is regulated by the office of the commissioner of railroads or the public service commission.

SECTION 194. 346.45 (3) (d) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

346.45 (3) (d) A railroad grade crossing which is marked with a sign in accordance with s. 195.285 (3). Such signs shall be erected by the maintaining authority only upon order of the ~~public service commission~~ office of the commissioner of railroads as set forth in s. 195.285.

SECTION 195. 552.23 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

552.23 (1) If the target company is an insurance company subject to regulation by the commissioner of insurance, a banking corporation subject to regulation by the commissioner of banking, a savings bank or savings and loan association subject to regulation by the commis-

sioner of savings and loan, or a public service corporation subject to regulation by the public service commission ~~or~~, the department of transportation or the office of the commissioner of railroads, the commissioner shall promptly furnish a copy of the registration statement filed under this chapter to the regulatory agency having supervision of the target company. Any hearing under this chapter involving any such target company shall be held jointly with the regulatory agency having supervision, and any determination following the hearing shall be made jointly with that regulatory agency.

SECTION 196. 945.06 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

945.06 Public utilities to cease service. When any public utility, common carrier, contract carrier, or railroad, subject to the jurisdiction of the public service commission, office of the commissioner of railroads or department of transportation of this state, is notified in writing by a federal, state or local law enforcement agency, acting within its jurisdiction, that any facility furnished by it is being used or will be used for the purpose of transmitting or receiving gambling information in violation of the laws of this state it shall discontinue or refuse the leasing, furnishing or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any such public utility, common carrier, contract carrier or railroad, for any act done in compliance with any notice received from a law enforcement agency under this section. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination as otherwise provided by law in any court or tribunal or agency, that such facility should not be discontinued or removed, or should be restored.

SECTION 197. 1993 Wisconsin Act 16, section 9154 (2) (a) 1. is amended to read:

[1993 Wisconsin Act 16] Section 9154 (2) (a) 1. "Commission" means the public service commission, except that after December 31, 1993, the term means the office of the commissioner of railroads.

SECTION 197m. 1993 Wisconsin Act 16, section 9154 (2) (b) 2. is amended to read:

[1993 Wisconsin Act 16] Section 9154 (2) (b) 2. All assets and liabilities of the office not transferred to the department under subdivision 1 shall, on January 1, 1994, become the assets and liabilities of the public service commission.

SECTION 198. 1993 Wisconsin Act 16, section 9154 (2) (c) 3m is amended to read:

[1993 Wisconsin Act 16] Section 9154 (2) (c) 3m. On January 1, 1994, the authorized FTE positions for the commission are increased by 7.0 PR positions, to be funded from the appropriation under section 20.155 ~~(4)~~ (2) (g) of the statutes, as affected created by this act 1993 Wisconsin Act (Senate Bill (LRB-4051)), for the

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purpose of performing duties relating to railroad regulation. The ~~chairperson of the~~ commission shall appoint any incumbents who request to be transferred under subdivision 3 to the positions authorized in this subdivision.

SECTION 198m. 1993 Wisconsin Act 16, section 9154 (2) (d) 3. and (e) 3. are amended to read:

[1993 Wisconsin Act 16] Section 9154 (2) (d) 3. The remaining furniture, equipment, supplies and records that are not transferred to the division or the department are transferred to the public service commission.

(e) 3. Those contracts entered into by the office in effect on January 1, 1994, and not transferred to the division or the department remain in effect and are transferred to the public service commission, and the public service commission and the commission shall carry out any such contractual obligations.

SECTION 199. 1993 Wisconsin Act 16, section 9154 (2) (f) 3. is amended to read:

[1993 Wisconsin Act 16] Section 9154 (2) (f) 3. Those rules promulgated by the office that are in effect on January 1, 1994, and that are not identified under subdivisions 1 and 2 remain in effect until their specified expiration date or until amended or repealed by the commission. ~~If the commission promulgates rules that are to take effect on January 1, 1994, and that relate to the functions assigned to the commission as a result of the elimination of the office by this act, the commission shall submit the proposed rules to the legislative council staff for review under section 227.15 (1) of the statutes no later than November 15, 1993.~~

SECTION 199m. Nonstatutory provisions. (1) COMMISSIONER OF RAILROADS. (a) Notwithstanding sec-

tion 15.06 (1) (ar) of the statutes, as created by this act, upon nomination by the governor of a person to serve as the initial commissioner of railroads, the governor may appoint that person to serve, upon appointment and qualification, as the commissioner of railroads on an interim basis until the senate confirms or rejects the nomination, or the governor withdraws the nomination, whichever occurs first. A person serving as the commissioner of railroads on an interim basis may exercise all of the powers and duties of the commissioner of railroads prescribed by law during the time in which the appointee qualifies.

(b) Notwithstanding section 15.06 (1) (ar) of the statutes, as created by this act, the term of the initial commissioner of railroads shall expire on March 1, 1999.

SECTION 200. Appropriation changes. In the schedule under section 20.005 (3) of the statutes for the appropriation to the public service commission under section 20.155 (1) (g) of the statutes, as affected by the acts of 1993, the dollar amount is decreased by \$192,200 for fiscal year 1993–94 and the dollar amount is decreased by \$338,800 for fiscal year 1994–95 to reflect the transfer of the regulation of railroads from the public service commission to the office of the commissioner of railroads.

SECTION 201. Effective dates. This act takes effect on January 1, 1994, or on the day after publication, whichever is later, except as follows:

(1) SECTION 199 of this act takes effect on the day after publication.