



2005 SENATE BILL 657

March 6, 2006 – Introduced by Senator OLSEN, cosponsored by Representative TOWNSEND. Referred to Committee on Natural Resources and Transportation.

1 **AN ACT** *to repeal* 189.02 (5) and (6), 190.16 (1), (3) and (4), 192.14, 192.18,
2 192.255, 192.266, 192.267 and 192.268, 192.29 (1), 192.32 (1) (c), 192.42, 192.71
3 and 192.72, 195.05 (5) and (6), 195.08 (5), 195.08 (10), 195.17, 195.19 (1), 195.19
4 (3), 195.22 and 195.24 and 195.305 and 195.33; *to renumber and amend*
5 192.29 (2), 192.31 (1) and 195.39; *to amend* 15.79, 15.795 (1), 20.155 (2), 25.40
6 (1) (f) 1., 85.01 (5), 85.08 (4m) (e) 5., 85.09 (3) (a), 190.02 (5), 190.025 (2) (b),
7 190.16 (2), 190.16 (5), 191.17, 191.19 (1), 191.19 (3), 192.29 (title), 192.29 (4),
8 192.292, 192.295, 192.31 (4), 192.321, 192.33 (1), 192.52 (1), 192.53 (4) (b),
9 192.53 (6), 192.55 (6), 192.55 (7), chapter 195 (title), 195.02 (3), 195.02 (5),
10 195.03 (7), 195.03 (8), 195.03 (9), 195.03 (10), 195.03 (11), 195.03 (12), 195.03
11 (13), 195.03 (19), 195.04 (1), 195.04 (2), 195.04 (3), 195.041, 195.042, 195.043,
12 195.05 (title), 195.05 (1), 195.05 (3), 195.05 (4), 195.07 (1), 195.07 (2), 195.08
13 (title), 195.08 (1r), 195.08 (2), 195.08 (3), 195.08 (4), 195.08 (7), 195.08 (9),
14 195.08 (11), 195.10, 195.11, 195.12, 195.13, 195.14, 195.15, 195.16, 195.19

SENATE BILL 657

1 (title), 195.19 (2), 195.21, 195.26, 195.27, 195.286 (6) (title), 195.286 (7), 195.34,
2 195.35 (1), 195.36, 195.37 (title), 195.37 (1), 195.38, 195.50, 195.60 (title),
3 195.60 (1), 195.60 (2), 195.60 (3), 195.60 (4) (a), 195.60 (5), 197.10 (4), 201.01 (1),
4 201.01 (2), 201.13, 706.05 (2m) (b) 2. and 706.09 (3) (a); and **to create** 182.018
5 (4), 190.005, 192.005 and 195.02 (4m) of the statutes; **relating to:** repealing
6 provisions that may be inconsistent with federal law of, and modernizing,
7 chapters 189 to 192 and 195 and other provisions related to railroad regulation
8 and providing a penalty.

Analysis by the Legislative Reference Bureau

Under federal law, the jurisdiction of various federal agencies is exclusive as to certain operational aspects of rail carriers on interstate rail networks and as to certain aspects of railroad safety. Federal law preempts state law with respect to these matters, even when the activity appears confined to this state. This bill repeals many provisions of state law that may be inconsistent with federal law and also modernizes certain provisions of state law.

In this state, the Office of Commissioner of Railroads (OCR), attached to the Public Service Commission (PSC), and the Wisconsin Department of Transportation (DOT) both have some authority over railroad operations and railroad safety in the state, but most of the state's regulatory authority over railroads resides with OCR, which is generally charged with receiving complaints, conducting hearings, and entering orders related to railroad operations and safety. DOT also has certain investigative duties with respect to OCR proceedings, as well as additional responsibilities related to development of rail transportation infrastructure and use of abandoned railroad rights-of-way.

The bill repeals the following provisions of current state law related to economic regulation of railroads, which might be found to be inconsistent with, and therefore preempted by, federal law, but retains these provisions to the extent they also apply to water carriers:

1. Providing OCR authority over railroad rates and charges, pricing discrimination or preferences, and adequacy of service.

2. Providing OCR authority to receive complaints that a railroad's rate, fare, charge, classification, practice, or service in connection with the railroad's transportation of persons or property is unreasonable or unjustly discriminatory or that service is inadequate, to direct DOT to investigate these complaints, and to hold hearings and order a reasonable rate, fare, charge, classification, practice, or service in lieu of that found to be unreasonable or unjustly discriminatory or inadequate.

SENATE BILL 657

However, the bill entirely eliminates, for water carriers too, certain provisions relating to OCR's authority to apportion joint rates.

3. Requiring every railroad to furnish reasonably adequate service and facilities, and requiring the charges for the transportation of passengers or property or for any related service, including receiving, delivering, storing, or handling property, to be reasonable and just, and providing for OCR's authority to receive complaints and hold hearings on these matters and to determine if charges are unreasonable or unjustly discriminatory. However, the bill entirely eliminates, for water carriers too, certain provisions relating to OCR's authority over joint rates, fares, or charges.

4. Prohibiting rebates, concessions, or discrimination with respect to the transportation of property or any related service under which the property is transported at a rate less than the tariff rate.

5. Providing OCR authority to fix the time for filing railroad schedules (rate tariffs) and to prescribe forms for these schedules.

6. Requiring railroads to deliver to OCR copies of all contracts with other railroads or shippers that relate to the transportation of persons or property or any related service, if required by OCR.

7. Requiring all freight tariffs issued by any railroad relating to interstate traffic through this state to be filed with OCR and authorizing OCR to investigate all freight rates on interstate traffic affecting this state and, if they are excessive or discriminatory, allowing OCR to petition the ICC for relief.

8. Authorizing OCR to prescribe rules related to charges and operations of public elevators and warehouses on railroad grounds, and related to the furnishing of cars to shippers, the moving, loading or unloading, and weighing of cars and freight, and the testing of railroad weights and scales.

9. Requiring a common carrier receiving property for intrastate transportation to issue a bill of lading, making the carrier liable for loss of or injury to the property, and giving rights to the holder of the bill of lading.

10. Requiring OCR to gather certain financial information from railroads and include the information in a report.

11. Authorizing OCR to direct DOT to investigate complaints that railroad charges for the transportation of property or for any related service, including storage charges, are erroneous, illegal, unusual, or exorbitant, and to hold a hearing, determine what would have been a reasonable rate or charge, and order a refund.

12. Allowing a person who ships property by railroad to, within 3 years after the delivery of the property, submit to OCR expense bills or receipts showing charges paid for the transportation so that DOT may examine them to determine the correctness of weights, rates, and charges indicated on the bills or receipts and, if OCR finds any weights, rates, or charges to be incorrect, authorizing OCR to order the railroad in error to refund any over or excessive charges paid.

Current law imposes specific requirements on the issuance of securities by public service corporations, which are defined to include railroads. OCR is authorized to control the issuance of, and impose special restrictions on, railroad corporation securities, including stock and debt instruments. OCR must approve

SENATE BILL 657

issuance of railroad securities, may determine their number, character, purpose, and issuing value, and may impose other restrictions. The ICCTA repealed federal authority previously granted to the ICC to approve railroad issuance of securities and assumption of liabilities, although exclusive federal authority still exists with respect to certain transactions, including mergers and acquisitions, between railroads. This bill excludes railroads from the definition of public service corporation for these purposes, while retaining water carriers in the definition, thereby eliminating these specific requirements as applied to railroads.

The bill repeals the following provisions of current state law related to regulation of railroad construction and facilities, which might be found to be inconsistent with, and therefore preempted by, federal law, but retains these provisions to the extent they also apply to water carriers:

1. Prohibiting a railroad from abandoning a station, removing a depot, or withdrawing agency service without obtaining approval from OCR.
2. Imposing requirements related to, and providing OCR authority over, industrial spur tracks. However, the bill retains OCR's authority to order removal of tracks that have been abandoned but physically remain in place.
3. Requiring railroads to keep and maintain adequate and suitable depots, buildings, switches, and sidetracks for freight transported by the railroads.
4. Requiring railroads to provide and maintain adequate passenger depots meeting certain standards for amenities, comfort, and hours of service.
5. Requiring multiple railroads operating in the same municipality to attempt to maintain joint passenger depots, and giving OCR authority to order railroads to construct, maintain, and operate union passenger depots.
6. Requiring railroads to provide reasonable facilities for the interchange of passenger and freight traffic, and to transfer or switch without unreasonable delay or discrimination freight or cars, between their respective lines.
7. Providing that, whenever a railroad proposes to cross or join its track with another railroad track, OCR must determine, after a hearing, whether the surface road of the proposed track is to be above, below or at grade of any tracks proposed to be crossed, and requiring OCR to fix the proportion of the expense of the crossing or joining to be paid, respectively, by the owners of the tracks.
8. Requiring every railroad to transport grain at current rates to an elevator, warehouse, or mill under specified circumstances.
9. Requiring railroads to allow siting of certain facilities for elevators or warehouses associated with the transportation of property by railroad, and providing OCR authority over siting, rates, and operations of these elevator and warehouse facilities.
10. Requiring railroads to, when possible and under certain conditions, furnish, without discriminating between shippers or places, suitable cars for the transportation of freight.
11. Requiring OCR to gather certain cost data related to railroad construction and railroad equipment and include the information in a report.

The bill also makes substantive modifications to modernize current law in the following ways:

SENATE BILL 657

1. The bill eliminates obsolete provisions related to a railroad's authority to move a highway in constructing a railroad over or across a highway.

2. Current law imposes certain specifications related to wires strung over railroads prior to August 1, 1949, and requires wires strung over any railroad on or after August 1, 1949 to be strung in such a way as to meet requirements of the Wisconsin state electrical code. The bill provides that these requirements do not apply to the extent they are inconsistent with federal law.

3. The bill repeals provisions relating to railroad authority with respect to certain railroad lands.

The bill repeals the following provisions of current state law related to railroad safety, which might be found to be inconsistent with, and therefore preempted by, federal law, but retains these provisions to the extent they also apply to water carriers:

1. Providing for OCR review of petitions asserting that a railroad-highway crossing is dangerous to human life and that public safety requires setting a maximum train speed at the crossing, and for OCR's authority to hold a hearing and order a maximum train speed for the crossing.

2. Requiring railroad trains or locomotives to sound the whistle or horn within specified distances of railroad-highway grade crossings but retaining such requirements with respect to ringing the engine bell.

3. Imposing requirements related to the qualifications of railroad conductors and flagmen.

4. Imposing equipment and safety requirements for cabooses.

5. Imposing lighting requirements for track cars operated at night, visibility marking requirements for engines and cars built in this state, and windshield and canopy requirements for track cars operated in this state.

6. Requiring railroads to maintain suitable telltales (arrangements of long strips of rope, wire, or other material hanging from a bar over railroad tracks to warn of an upcoming low overhead structure) wherever any part of an overhead structure is less than 23 feet above the top of a rail, except where OCR authorizes an exception. However, the bill requires telltales to the extent required under federal law and authorizes OCR, if it finds that the absence of a telltale would create an unreasonable risk of harm to the public or a railroad employee on a railroad not under the federal jurisdiction to order the installation of a telltale.

7. Requiring railroads to report to OCR all collisions, derailments, or other accidents resulting in injury to persons, equipment, or tracks, and authorizing OCR to issue rules concerning the reporting of accidents and, if public interests require, cause an investigation of any accident. However, the bill requires railroads to submit to OCR a copy of any accident or injury report provided by the railroad to the applicable federal authority.

The bill also makes substantive modifications to modernize current law in the following ways:

1. The bill prohibits any person (not just a person under the age of 17, as provided under current law), other than a railroad employee, from getting on or off a moving railroad car or train.

SENATE BILL 657

2. Under current law, a railroad must allow a specified amount of horizontal clearance, which varies depending on the circumstances, between any building or platform and the tracks. OCR may exempt any building or platform if it finds that such an exemption is in the public interest and will not imperil life or limb. The bill allows OCR to provide such an exemption without a hearing if no objection is made after notice is given.

3. The bill repeals an exception to the general prohibition against walking on railroad tracks for a person who walks directly across the tracks.

The bill changes penalties for the following offenses from imposition of a fine (a criminal penalty) or incarceration or both to imposition of a forfeiture (a civil penalty):

1. Getting on or off a moving railroad car or train.
2. Horizontal clearance violations by a railroad.
3. Trespassing on a railroad.
4. Receiving a rebate, concession, or discrimination with respect to water carrier transportation of property or any related service under which the property is transported at a rate less than the tariff rate.

5. Certain offenses related to the furnishing, installation, placement, and maintenance of advance warning signs near railroad-highway grade crossings. However, the bill does not change the penalty for damaging or interfering with these signs.

6. Willfully failing to sound an engine bell at a grade crossing.

The bill makes additional modifications to current state law in the following ways:

1. Under current law, “railroad” is defined to include common carriers of property by water which operate between fixed end points. Rather than include a common carrier of property by water within the definition of a railroad, the bill removes a water carrier from this definition and defines a “water carrier” to mean a common carrier of property by water that operates between fixed end points, but not including a water carrier under common control with a railroad when transporting property for continuous carriage or shipment.

2. Under current law, no member of the PSC (to which OCR is attached) may have a financial interest in a railroad or public utility. Also, the commissioner of railroads may not have a financial interest in a railroad. This bill also prohibits any member of the PSC or the commissioner of railroads from having a financial interest in a water carrier.

3. The bill provides for OCR, in various circumstances where under current law OCR requests DOT to conduct an investigation, to investigate the matter itself and eliminates DOT’s duty to investigate at OCR’s request.

4. Current law provides that state laws apply to railroads in interstate commerce only to the extent permitted by the federal constitution and federal laws. The bill clarifies that all state laws relating to railroads apply only to the extent they are not contrary to or inconsistent with any federal statute or regulation, or order of an applicable federal agency, or the federal constitution.

SENATE BILL 657

5. The bill provides for application of certain current law provisions relating to removing, relocating, or closing repair and maintenance shops or terminals to all railroads, not just steam railroads.

6. The bill eliminates DOT authority to request OCR to hold hearings and advise on railroad-related plans, policies, and programs and to request certain OCR review of DOT determinations.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 15.79 of the statutes is amended to read:

2 **15.79 Public service commission; creation.** There is created a public
3 service commission. No member of the commission may have a financial interest in
4 a railroad, water carrier, or public utility. If any member voluntarily becomes so
5 interested, the member's office shall become vacant. If the member involuntarily
6 becomes so interested, the member's office shall become vacant unless the member
7 divests himself or herself of the interest within a reasonable time. No commissioner
8 may serve on or under any committee of a political party. Each commissioner shall
9 hold office until a successor is appointed and qualified.

10 **SECTION 2.** 15.795 (1) of the statutes is amended to read:

11 **15.795 (1) OFFICE OF THE COMMISSIONER OF RAILROADS.** There is created an office
12 of the commissioner of railroads which is attached to the public service commission
13 under s. 15.03, provided that s. 85.02 (1) does not apply to the office of the
14 commissioner of railroads. The commissioner of railroads shall have expertise in
15 railroad issues and may not have a financial interest in a railroad, as defined in s.
16 195.02 (1), or a water carrier, as defined in s. 195.02 (5). The commissioner may not

SENATE BILL 657**SECTION 2**

1 serve on or under any committee of a political party. The commissioner shall hold
2 office until a successor is appointed and qualified.

3 **SECTION 3.** 20.155 (2) of the statutes is amended to read:

4 20.155 (2) OFFICE OF THE COMMISSIONER OF RAILROADS. (g) *Railroad and water*
5 *carrier regulation and general program operations.* The amounts in the schedule for
6 railroad and water carrier regulation under chs. 189 to 192 and 195 and general
7 program operations of the office of the commissioner of railroads. Ninety percent of
8 all moneys received by the office under s. 195.60 or 201.10 (3) shall be credited to this
9 appropriation.

10 (m) *Railroad and water carrier regulation; federal funds.* All moneys received
11 from the federal government for the regulation of railroads and water carriers, for
12 such purposes.

13 **SECTION 4.** 25.40 (1) (f) 1. of the statutes is amended to read:

14 25.40 (1) (f) 1. Moneys received from the federal government, for the regulation
15 of railroads and water carriers, that are deposited in the general fund and credited
16 to the appropriation under s. 20.155 (2) (m).

17 **SECTION 5.** 85.01 (5) of the statutes is amended to read:

18 85.01 (5) "Railroad" means ~~a railroad as defined in s. 192.15 (2) (e)~~, a railroad
19 as defined in s. 195.02 (1) and any company, association, corporation or person
20 managing, maintaining, operating or in possession of a railroad in whole or in part
21 within this state whether as owner, contractor, lessee, mortgagee, trustee, assignee
22 or receiver.

23 **SECTION 6.** 85.08 (4m) (e) 5. of the statutes is amended to read:

24 85.08 (4m) (e) 5. An application for a loan under this paragraph may not be
25 made if an abandonment or discontinuance application is pending on the line or

SENATE BILL 657

1 portion of line, or the line or portion of line on which the rail property improvements
2 are located has been designated by the railroad to the ~~interstate commerce~~
3 ~~commission~~ federal surface transportation board on its system diagram map as
4 anticipated to be the subject of an abandonment or discontinuance application
5 within a 3-year period following the date of the application or the date on which the
6 loan is scheduled, unless the secretary determines that this restriction may be
7 waived for a particular application.

8 **SECTION 7.** 85.09 (3) (a) of the statutes is amended to read:

9 85.09 (3) (a) A certificate or approval of abandonment has been issued by the
10 ~~interstate commerce commission~~ federal surface transportation board or federal
11 court or any other federal or state agency having jurisdiction over the rail property.

12 **SECTION 8.** 182.018 (4) of the statutes is created to read:

13 182.018 (4) This section applies only to the extent that it is not contrary to or
14 inconsistent with federal law.

15 **SECTION 9.** 189.02 (5) and (6) of the statutes are repealed.

16 **SECTION 10.** 190.005 of the statutes is created to read:

17 **190.005 Scope of chapter.** Each provision of this chapter applies only to the
18 extent that it is not contrary to or inconsistent with federal law or the constitution
19 of the United States.

20 **SECTION 11.** 190.02 (5) of the statutes is amended to read:

21 190.02 (5) **CROSS HIGHWAYS, STREETS, STREAMS; HIGHWAY BRIDGES.** To construct its
22 railroad across, over, under, along or upon any stream, watercourse, street, highway,
23 road or canal; ~~to carry any highway, street or road which it shall intersect over or~~
24 ~~under its tracks as may be most expedient for the public good; to change the course~~
25 ~~and direction of any highway, street or road when made necessary or desirable by the~~

SENATE BILL 657**SECTION 11**

1 ~~construction of the railroad and acquire land necessary therefor; provided, such~~
2 ~~highway or road be not so changed from its original course more than six rods, nor~~
3 ~~its distance thereby lengthened more than five rods; and provided, further, that~~
4 ~~every, subject to the limitation that any bridge erected over any highway or street~~
5 ~~shall leave a clear passageway at least twenty 20 feet wide or two 2 passageways,~~
6 ~~each not less than fourteen 14 feet in width, and subject to any other limitation on~~
7 ~~such construction provided by law.~~

8 **SECTION 12.** 190.025 (2) (b) of the statutes is amended to read:

9 190.025 (2) (b) A railroad corporation that is subject to this subsection shall
10 have all powers conferred by law upon railroad corporations. The railroad
11 corporation may issue, sell, pledge or otherwise dispose of its evidences of debt, at
12 such times, in such amounts, for such considerations and upon such terms and
13 conditions as the board of directors of the corporation shall determine, and as shall
14 be authorized by the office, or the ~~interstate commerce commission~~ federal surface
15 transportation board in the case of a railroad corporation organized for the purpose
16 of acquiring a railroad engaged in interstate commerce, or any existing railroad
17 corporation reorganized under the act and acquiring railroad property used in
18 interstate commerce. The evidences of debt may be convertible, at the option of the
19 holder, into stock, and shares of stock. The shares may have a nominal or par value
20 or, if the shares are shares of common stock, be without nominal or par value. The
21 shares may be of such classes, with such rights and voting powers as may be
22 expressed in the corporation's articles or any amendment thereto.

23 **SECTION 13.** 190.16 (1), (3) and (4) of the statutes are repealed.

24 **SECTION 14.** 190.16 (2) of the statutes is amended to read:

SENATE BILL 657

1 190.16 (2) MUNICIPAL CONSENT. No ~~such~~ spur tracks shall be constructed across,
2 or upon any street, road or alley, within any city, village or town, until application
3 therefor shall have been made to and acted upon by such city, village or town. The
4 city may prescribe any reasonable terms and conditions for the construction of any
5 such spur track. Construction of spur tracks across or upon any street, road, or alley
6 is subject to the provisions of ch. 195.

7 **SECTION 15.** 190.16 (5) of the statutes is amended to read:

8 190.16 (5) REMOVAL, WHEN. ~~Except where a spur track was constructed prior~~
9 ~~to June 16, 1925, at the expense of the railroad company, no spur track shall be~~
10 ~~removed, dismantled or otherwise rendered unfit for service except upon order of~~
11 When a spur track has been abandoned, as defined in s. 85.09, the office made, after
12 hearing held upon notice to all parties interested, and for good cause shown; provided
13 may order the removal of the track except that, if no objection has been filed with the
14 office within 20 days from the original publication of such notice, the office may
15 without hearing authorize such spur track removed, dismantled or otherwise
16 rendered unfit for service the removal of the track.

17 **SECTION 16.** 191.17 of the statutes is amended to read:

18 **191.17 Public safety; investigation; approval of plans.** Upon receiving
19 the specification required by s. 191.16, the office shall examine the same and shall
20 hear the applicant in support thereof, shall suggest and require modifications of the
21 specification if the public safety so demands, eliminating so far as may be
22 practicable, consistent with reasonable cost, all grade crossings of public highways,
23 shall inspect the route of the proposed railroad if deemed desirable, and shall
24 otherwise investigate and determine that the proposed construction will be adequate
25 for securing public safety in the operation of the railroad, and thereupon the office

SENATE BILL 657**SECTION 16**

1 shall enter an order approving the specification and authorizing the construction of
2 the railroad in accordance therewith and with the provisions of ch. 195.

3 **SECTION 17.** 191.19 (1) of the statutes is amended to read:

4 191.19 (1) Upon the completion of the construction of any railroad under the
5 approved specification, the company shall, before operating the same for public
6 service, report to the office; and the office shall inspect the work. If the office finds
7 that the railroad has been constructed in accordance with the approved specification
8 and with the provisions of ch. 195 and is otherwise suitable and properly constructed
9 so as to secure public safety in the operation thereof, the office shall enter an order
10 authorizing its operation, which order shall be presumptive evidence of the
11 sufficiency of such construction.

12 **SECTION 18.** 191.19 (3) of the statutes is amended to read:

13 191.19 (3) If upon inspection the office shall deem that public safety requires
14 the installation, operation and maintenance of some protective appliance at any
15 grade crossing of railroad tracks the office may, before granting the order, after notice
16 and hearing under s. 195.28, require the installation, operation and maintenance of
17 suitable protective appliances, and shall apportion the expense of constructing,
18 maintaining and operating such protective appliances among the owners of the
19 tracks.

20 **SECTION 19.** 192.005 of the statutes is created to read:

21 **192.005 Scope of chapter.** Each provision of this chapter applies only to the
22 extent that it is not contrary to or inconsistent with federal law or the constitution
23 of the United States.

24 **SECTION 20.** 192.14 of the statutes is repealed.

SENATE BILL 657

1 **SECTION 21.** 192.18, 192.255, 192.266, 192.267 and 192.268 of the statutes are
2 repealed.

3 **SECTION 22.** 192.29 (title) of the statutes is amended to read:

4 **192.29** (title) **Train speed bells and crossing signs at street and highway**
5 **crossings.**

6 **SECTION 23.** 192.29 (1) of the statutes is repealed.

7 **SECTION 24.** 192.29 (2) of the statutes is renumbered 195.28 (1m) and amended
8 to read:

9 195.28 **(1m)** ARTERIAL STOP SIGNS. In any proceeding under sub. (1) ~~or under~~
10 ~~s. 195.28~~, the office may by order require that the state or municipality install at any
11 crossing involved in such proceeding an official stop sign.

12 **SECTION 25.** 192.29 (4) of the statutes is amended to read:

13 192.29 **(4)** ~~HIGHWAYS, WHISTLE, HORN, BELL.~~ No railroad train or locomotive shall
14 run over any public traveled grade highway crossing outside of the limits of
15 municipalities unless the ~~whistle or horn~~ engine bell shall be blown rung
16 continuously from 1,320 feet ~~from such~~ before the crossing and ~~the engine bell rung~~
17 ~~continuously from thence~~ until the crossing be is reached. But the office may order
18 that the ringing of the bell ~~or the blowing of the whistle, or horn, or both~~, as required
19 by this subsection shall be omitted at any crossing.

20 **SECTION 26.** 192.292 of the statutes is amended to read:

21 **192.292 Trains obstructing highways.** It shall be unlawful to stop any
22 railroad train, locomotive or car upon or across any highway or street crossing,
23 outside of cities, or leave the same standing upon such crossing longer than 10
24 minutes, except in cases of accident; and any ~~conductor, engineer, brakeman or other~~
25 ~~person in charge thereof or responsible therefor~~ who railroad company that shall

SENATE BILL 657**SECTION 26**

1 violate this section shall be liable to a fine of not more than ~~\$25~~ \$500 or any officer
2 of such company responsible for the violation shall be liable to imprisonment of not
3 more than 15 days.

4 **SECTION 27.** 192.295 of the statutes is amended to read:

5 **192.295 Willful neglect of railroad employees.** Any officer, agent,
6 conductor, engineer or employee of any railroad company operating within this state
7 who willfully neglects or omits to ring or cause to be rung the bell on the engine of
8 any train of cars or on an engine alone ~~or to blow the whistle~~, as required by s. 192.29
9 (3) and (4), ~~shall be imprisoned not more than 6 months or fined not exceeding~~ forfeit
10 \$100.

11 **SECTION 27.** 192.31 (1) of the statutes is renumbered 192.31 (1) (a) and
12 amended to read:

13 192.31 (1) (a) ~~Every railroad corporation shall maintain suitable telldales~~
14 ~~wherever any overhead structure or any part thereof is less than 23 feet above the~~
15 ~~top of rail; Telldales shall not be required except to the extent required under federal~~
16 law and except that if as provided in par. (b).

17 (b) If the office finds that the installation of a telldale at any particular place
18 would be impracticable or would result in an increased hazard to either the public
19 or an employee and that either or both such factors outweigh the safety benefit which
20 would result from the installation of a telldale, absence of a telldale would create an
21 unreasonable risk of harm to the public or a railroad employee on a railroad not
22 under the jurisdiction of the federal railroad administration, the office may enter an
23 order providing an exemption from this section. The exemption requiring the
24 installation of a telldale. A telldale shall be ordered by the office only after public
25 hearing according to the hearing procedure provided under sub. (4).

SENATE BILL 657

1 **SECTION 28.** 192.31 (4) of the statutes is amended to read:

2 192.31 (4) Upon finding that any such structure will not imperil life or limb,
3 and that the public interest requires or permits such structure to be constructed or
4 reconstructed otherwise than as permitted by sub. (3), the office may exempt such
5 structure from such provision. Such findings shall be made only upon written
6 application, setting forth fully the grounds therefor and shall be made only after
7 public hearing held upon notice to all interested parties except that, if no objection
8 is filed with the office within 20 days of the notice, the office may require the
9 installation of a telltale without hearing. The findings and order ~~granting exemption~~
10 ~~requiring the installation of a telltale~~ shall be in writing and contain complete
11 provisions and requirements as to the vertical clearance to be maintained in such
12 construction or reconstruction. Such structure shall be constructed or reconstructed
13 only in compliance with such order.

14 **SECTION 29.** 192.32 (1) (c) of the statutes is repealed

15 **SECTION 30.** 192.321 of the statutes is amended to read:

16 **192.321 Getting on and off cars.** Any person ~~under the age of 17 years~~ who
17 shall get upon, attempt to get upon, cling to, jump or step from any railroad car or
18 train while the same is in motion shall be punished by ~~fine of not more than \$20 nor~~
19 ~~less than \$2~~ forfeit not less than \$100 nor more than \$200, provided that this section
20 shall not apply to the employees of any ~~railway or express~~ railroad company.

21 **SECTION 31.** 192.33 (1) of the statutes is amended to read:

22 192.33 (1) ~~Every~~ Subject to s. 190.09, every corporation operating any railroad
23 shall erect and maintain on both sides of its ~~road~~ railroad, depot grounds excepted,
24 sufficient fences with openings or gates or bars therein, and suitable and convenient
25 farm crossings for the use of the occupants of the lands adjoining and shall maintain

SENATE BILL 657**SECTION 31**

1 cattle guards at all highway crossings, outside of municipalities, and connect their
2 fences therewith. This section shall not apply to that part of the ~~road~~ railroad where
3 sidetracks or switch tracks are used in cities of the ~~first~~ 1st class.

4 **SECTION 32.** 192.42 of the statutes is repealed.

5 **SECTION 33.** 192.52 (1) of the statutes is amended to read:

6 192.52 (1) (a) The term “shops” shall mean and embrace plants and locations
7 where ~~steam~~ railroads engage in the general work of repairing, painting,
8 overhauling or constructing locomotives, cars, coaches and other rolling stock and
9 appurtenances thereto.

10 (b) The word “terminal” as employed in this section shall mean where trains
11 are customarily and normally made up, or where train and engine crews on through
12 trains are normally and customarily changed on the main line of any ~~steam~~ railroad
13 operating in this state.

14 **SECTION 34.** 192.53 (4) (b) of the statutes is amended to read:

15 192.53 (4) (b) The office shall make the findings described in par. (a) only upon
16 written application to it to exempt the construction or reconstruction of a structure
17 from the requirements of this section, setting forth fully the grounds therefor, and
18 only after public hearing held upon notice to all interested parties except that, if no
19 objection is filed with the office within 20 days of the notice, the office may authorize
20 the exemption without hearing. The office’s findings and order granting the
21 exemption shall be in writing and shall contain complete provisions and
22 requirements as to the horizontal clearance to be maintained in the construction or
23 reconstruction. The structure shall be constructed or reconstructed only in
24 compliance with the office’s order.

25 **SECTION 35.** 192.53 (6) of the statutes is amended to read:

SENATE BILL 657**SECTION 41**

1 **SECTION 41.** 195.02 (4m) of the statutes is created to read:

2 195.02 (4m) Each provision of this chapter applies only to the extent that it is
3 not contrary to or inconsistent with federal law or the constitution of the United
4 States.

5 **SECTION 42.** 195.02 (5) of the statutes is amended to read:

6 195.02 (5) "~~Railroad~~" also "Water carrier" means and embraces a common
7 carriers or contract carrier of property by water ~~which operate that operates~~ between
8 fixed end points, and ~~all of the duties required of, and penalties imposed upon, any~~
9 ~~railroad or any agent or officer thereof shall, insofar as the same are applicable, be~~
10 ~~required of, and imposed upon, such common carriers of property by water but does~~
11 ~~not include a water carrier under common control with a railroad when transporting~~
12 ~~freight for continuous carriage or shipment. In this chapter, "common carrier," with~~
13 ~~respect to a water carrier, includes a contract carrier other than a private contract~~
14 carrier.

15 **SECTION 43.** 195.03 (7) of the statutes is amended to read:

16 195.03 (7) STUDY RAILROAD AND WATER CARRIER BUSINESS, DEMAND INFORMATION.
17 The office may inquire into the management of the business of all railroads and water
18 carriers, and shall keep itself informed as to the manner in which the same is
19 conducted, and may obtain from any railroad or water carrier all necessary
20 information to enable the office to perform the duties and carry out the objects for
21 which it is responsible.

22 **SECTION 44.** 195.03 (8) of the statutes is amended to read:

23 195.03 (8) QUESTIONNAIRES, ANSWERS COMPULSORY. The office shall prepare
24 forms for the purpose of obtaining the information which it may deem necessary or
25 useful to the proper exercise of its functions, which shall conform as nearly as

SENATE BILL 657

1 practicable to the forms prescribed by the ~~interstate commerce commission~~ federal
2 railroad administration, federal surface transportation board, or other applicable
3 federal agency or authority, and shall furnish the forms to railroads and water
4 carriers, and every railroad and water carrier receiving the forms shall cause the
5 forms to be properly completed and verified under oath by its proper officer and
6 returned to the office within the time fixed by the office.

7 **SECTION 45.** 195.03 (9) of the statutes is amended to read:

8 195.03 (9) EXAMINE BOOKS AND FILES OF RAILROADS AND WATER CARRIERS. The
9 commissioner of railroads or any person employed by the office for that purpose shall,
10 upon demand, have the right to inspect the books and papers of any railroad or water
11 carrier and to examine under oath any officer, agent or employee of such railroad or
12 water carrier in relation to its business and affairs; provided that any person other
13 that the commissioner of railroads who makes such demand shall produce his or her
14 authority under the hand and seal of the office.

15 **SECTION 46.** 195.03 (10) of the statutes is amended to read:

16 195.03 (10) PRODUCTION OF RECORDS AND FILES KEPT OUT OF STATE. The office may,
17 by an order or subpoena to be served in the manner that a circuit court summons is
18 served, require the production within this state, at such time and place as it may
19 designate, of any books, papers or accounts kept by any railroad or water carrier
20 without the state, or verified copies in lieu thereof, if the office shall so order.

21 **SECTION 47.** 195.03 (11) of the statutes is amended to read:

22 195.03 (11) UNIFORM SYSTEM OF ACCOUNTING. The office may prescribe a uniform
23 system of keeping and rendering accounts of all railroad and water carrier business
24 transacted in this state, and the time within which railroads and water carriers shall
25 adopt such system; provided that all forms of accounts which may be prescribed by

SENATE BILL 657**SECTION 47**

1 the office shall conform to any applicable requirement under 49 USC 11141 to 11164
2 or 49 CFR 1201 and, as nearly as practicable, to similar forms prescribed by federal
3 authority.

4 **SECTION 48.** 195.03 (12) of the statutes is amended to read:

5 195.03 (12) TIME FOR FILING WATER CARRIER RATE TARIFFS. The office shall fix the
6 time for filing railroad water carrier schedules relative to the transportation of
7 passengers and property and of any service in connection therewith.

8 **SECTION 49.** 195.03 (13) of the statutes is amended to read:

9 195.03 (13) SCHEDULE FORMS. The office may prescribe the forms for railroad
10 water carrier schedules.

11 **SECTION 50.** 195.03 (19) of the statutes is amended to read:

12 195.03 (19) RAILROAD AND WATER CARRIER STRUCTURES. The office may order the
13 repair or reconstruction of any inadequate or unsafe railroad track or water carrier
14 structure.

15 **SECTION 51.** 195.04 (1) of the statutes is amended to read:

16 195.04 (1) Upon complaint of any person, including any state agency, water
17 carrier, or railroad, either relating to a railroad as provided under s. 192.324, 192.34,
18 195.20, 195.28 (1), 195.285 (1), 195.29 (1), (5), or (6), 195.31, or 195.32 or that any
19 railroad water carrier rate, fare, charge, or classification or any regulation or
20 practice whatever affecting the transportation of persons or property, or any service
21 in connection therewith, is in any respect unreasonable or unjustly discriminatory
22 or that any service is inadequate, the office may ~~direct the department to~~ investigate
23 the complaint and shall set the complaint for hearing. ~~The report of the department~~
24 ~~shall be presented to the office only at the hearing on the complaint, if hearing is~~

SENATE BILL 657

1 ~~requested and held.~~ No order may be entered by the office without a public hearing,
2 except as otherwise provided in this chapter.

3 **SECTION 52.** 195.04 (2) of the statutes is amended to read:

4 195.04 (2) The office shall, prior to such ~~any~~ any hearing, notify the water carrier
5 or railroad complained of that a complaint has been made, and 20 days after such
6 notice has been given the office may proceed to set a time and place for a hearing.

7 **SECTION 53.** 195.04 (3) of the statutes is amended to read:

8 195.04 (3) The office shall give the water carrier or railroad and the
9 complainant 20 days' notice of the hearing and the matters to be considered and
10 determined. Both the water carrier or railroad and the complainant shall be entitled
11 to be heard and shall have process to enforce the attendance of witnesses.

12 **SECTION 54.** 195.041 of the statutes is amended to read:

13 **195.041 Separate rate hearings; absence of direct damage.** The office
14 may, when complaint is made of more than one water carrier rate or charge, order
15 separate hearings thereon, and may consider and determine the several matters
16 complained of separately and at such times as it may prescribe. No complaint shall
17 at any time be dismissed because of the absence of direct damage to the complainant.

18 **SECTION 55.** 195.042 of the statutes is amended to read:

19 **195.042 Summary investigations.** Whenever the office believes that any
20 water carrier rate or charge may be unreasonable or unjustly discriminatory or that
21 any service is inadequate or cannot be obtained or that an investigation of any matter
22 relating to any water carrier or, if a matter arising under s. 192.324, 192.34, 195.20,
23 195.28 (1), 195.285 (1), 195.29 (1), (5), or (6), 195.31, or 195.32, to any railroad should
24 for any reason be made, it may request the department to investigate the same with
25 or without notice.

SENATE BILL 657**SECTION 56**

1 **SECTION 56.** 195.043 of the statutes is amended to read:

2 **195.043 Procedure after summary investigation.** (1) If, after summary
3 investigation ~~by the department~~, the office becomes satisfied that sufficient grounds
4 exist to warrant a formal hearing being ordered as to the matters investigated, it
5 shall set a time and place for a hearing. The office shall publish notice of any such
6 investigation in its weekly calendar and the any report of the ~~department~~ and all
7 matters considered by the office with respect thereto shall be available for public
8 inspection upon request.

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

16 **SECTION 57.** 195.05 (title) of the statutes is amended to read:

17 **195.05** (title) **Office; water carrier rates, regulations, service,**
18 **procedure.**

19 **SECTION 58.** 195.05 (1) of the statutes is amended to read:

20 195.05 (1) **ORDERS FOR RATES AND SERVICE.** Whenever the office shall find that
21 any existing water carrier rate, fare, charge, or classification, or any joint rate, or any
22 regulation or practice affecting the transportation of persons or property, or any
23 service in connection therewith is unreasonable or unjustly discriminatory or that
24 any service is inadequate, it shall determine and by order fix a reasonable rate, fare,
25 charge, classification, joint rate, regulation, practice or service to be imposed,

SENATE BILL 657

1 observed and followed in the future, in lieu of that found to be unreasonable or
2 unjustly discriminatory or inadequate.

3 **SECTION 59.** 195.05 (3) of the statutes is amended to read:

4 195.05 (3) RATES NOT CHANGED BY ~~RAILROAD~~ WATER CARRIER. All ~~railroads~~ water
5 carriers to which the order applies shall make such changes in their schedule on file
6 as may be necessary to make the same conform to said order, and no change shall
7 thereafter be made by any ~~railroad~~ water carrier in any such rates, fares or charges,
8 or in any joint rates except as provided in s. 195.08.

9 **SECTION 60.** 195.05 (4) of the statutes is amended to read:

10 195.05 (4) MODIFICATION OF ORDERS. The office may by order at any time, upon
11 notice to the ~~railroad~~ water carrier and after opportunity to be heard, rescind, alter
12 or amend any order fixing any rate or rates, fares, charges or classification, or any
13 other order made by the office.

14 **SECTION 61.** 195.05 (5) and (6) of the statutes are repealed.

15 **SECTION 62.** 195.07 (1) of the statutes is amended to read:

16 195.07 (1) POWERS. The office shall inquire into the neglect or violation of the
17 laws of this state by water carriers and railroads, or by the officers, agents or
18 employees thereof, or by persons operating water carriers and railroads, and shall
19 report violations to the attorney general.

20 **SECTION 63.** 195.07 (2) of the statutes is amended to read:

21 195.07 (2) ATTORNEY GENERAL AND DISTRICT ATTORNEY TO PROSECUTE. Upon
22 request of the office, the attorney general or the district attorney of the proper county
23 shall aid in any investigation, hearing or trial had under, and shall institute and
24 prosecute all necessary actions or proceedings for the enforcement of, laws relating
25 to water carriers and railroads.

SENATE BILL 657**SECTION 64**

1 **SECTION 64.** 195.08 (title) of the statutes is amended to read:

2 **195.08 (title) Railroad Water carrier rates, schedules, service.**

3 **SECTION 65.** 195.08 (1r) of the statutes is amended to read:

4 195.08 (1r) SERVICE RATES TO BE ADEQUATE AND JUST. Every railroad water
5 carrier shall furnish reasonably adequate service and facilities, and the charges
6 made for the transportation of passengers or property or for any service in connection
7 therewith, or for the receiving, ~~switching~~, delivering, storing or handling of property
8 shall be reasonable and just, and every unjust and unreasonable charge for such
9 service is prohibited and declared to be unlawful.

10 **SECTION 66.** 195.08 (2) of the statutes is amended to read:

11 195.08 (2) SCHEDULES; PUBLICATION. Every railroad water carrier shall print in
12 plain type and file with the office schedules which shall be open to public inspection
13 showing all rates, fares and charges for the transportation of passengers and
14 property and any service in connection therewith which it has established and which
15 are in force at the time between all points in this state upon its line or any line
16 controlled or operated by it. The schedules shall plainly state the places upon its line
17 or any line controlled or operated by it in this state between which passengers and
18 property will be carried, and there shall be filed therewith the classification of freight
19 in force.

20 **SECTION 67.** 195.08 (3) of the statutes is amended to read:

21 195.08 (3) SCHEDULES, RULES AND REGULATIONS. Every railroad water carrier
22 shall publish with and as a part of such schedules all rules and regulations that in
23 any manner affect the rates charged or to be charged for the transportation of
24 passengers or property, and its charges for delay in loading or unloading ears, ~~for~~
25 ~~track and car service or rental and for demurrage, switching, terminal or transfer~~

SENATE BILL 657

1 service, property or for rendering any other service in connection with the
2 transportation of persons or property.

3 **SECTION 68.** 195.08 (4) of the statutes is amended to read:

4 195.08 (4) SCHEDULES, COPIES IN ~~DEPOTS~~ TERMINALS. Two copies of said schedules
5 for the use of the public shall be kept in every ~~depot, station~~ terminal and office of
6 such ~~railroad~~ water carrier in such form and place as to be easily accessible to the
7 public.

8 **SECTION 69.** 195.08 (5) of the statutes is repealed.

9 **SECTION 70.** 195.08 (7) of the statutes is amended to read:

10 195.08 (7) CHANGES IN SCHEDULE. No change shall be made in any schedule, or
11 in any classification, unless the change shall be plainly indicated upon existing
12 schedules, or by filing new schedules in lieu thereof, 30 days prior to the time the
13 same are to take effect. Copies of all new schedules shall be filed as ~~hereinbefore~~
14 ~~provided~~ required in this section in every ~~depot, station~~ terminal and office of such
15 ~~railroad~~ water carrier at places to or from which the rates in such schedules apply,
16 30 days prior to the time the same are to take effect, unless the office of ~~the~~
17 ~~commissioner of railroads~~ shall prescribe a less time.

18 **SECTION 71.** 195.08 (9) of the statutes is amended to read:

19 195.08 (9) COMPLAINT AGAINST CHANGE IN SCHEDULES. Whenever a complaint is
20 filed with the office before any change in any water carrier schedule, or in any
21 classification, rule, regulation or practice becomes effective to the effect that the
22 change is unreasonable or unjustly discriminatory, the office shall give notice to the
23 ~~railroad~~ water carrier that a complaint has been made, may ~~direct the department~~
24 ~~to~~ investigate the complaint and shall set the complaint for hearing. ~~Any report of~~
25 ~~the department shall be presented to the office only at the hearing on the complaint.~~

SENATE BILL 657**SECTION 71**

1 The office may, in its discretion, by order, stay the change pending the determination
2 of the matters investigated at any time before the change shall take effect. If the
3 change complained of is found unreasonable or unjustly discriminatory, the change
4 shall not take effect and, if the change has become effective, the office shall order the
5 discontinuance thereof. The office may fix and order substituted for any such change
6 such rates, joint rates, fares, charges, classification, rule, regulation, practice or
7 service as it shall have determined to be just and reasonable and which shall be
8 charged, imposed or followed in the future, and shall make such order respecting
9 such rule, regulation, practice or service as it shall determine to be reasonable and
10 which shall be observed and followed in the future. Procedure and notice shall be as
11 provided in s. 195.04 (2) to (4).

12 **SECTION 72.** 195.08 (10) of the statutes is repealed.

13 **SECTION 73.** 195.08 (11) of the statutes is amended to read:

14 195.08 (11) FREIGHT CLASSIFICATION. There shall be but one classification of
15 freight which shall be uniform on all ~~railroads~~ water carriers.

16 **SECTION 74.** 195.10 of the statutes is amended to read:

17 **195.10 Emergency rates.** The office shall have power, when deemed by it
18 necessary to prevent injury to the business or interests of the people or ~~railroads~~
19 water carriers of this state in consequence of ~~interstate rate wars, or in case of any~~
20 ~~other~~ emergency to be judged of by the office, to temporarily alter, amend, or, with
21 the consent of the ~~railroad~~ water carrier company concerned, suspend any existing
22 passenger rates, freight rates, schedules and orders on any ~~railroad or part of~~
23 ~~railroad~~ water carrier in this state. Such rates so made by the office shall apply on
24 one or more of the ~~railroads~~ water carriers in this state or any portion thereof as may

SENATE BILL 657

1 be directed by the office, and shall take effect at such time and remain in force for
2 such length of time as may be prescribed by the office.

3 **SECTION 75.** 195.11 of the statutes is amended to read:

4 **195.11 Discriminations prohibited.** (1) If any ~~railroad~~ water carrier, or any
5 agent or officer thereof, shall directly or indirectly, or by any device whatsoever,
6 charge, demand, collect or receive a greater, less or different compensation for the
7 transportation of persons or property or of any service in connection therewith than
8 that prescribed in the tariffs then in force, or than it charges, demands, collects or
9 receives from any other person, firm or corporation for a like and contemporaneous
10 service, such ~~railroad~~ water carrier shall be deemed guilty of unjust discrimination,
11 which is hereby prohibited.

12 (2) It shall be unlawful for any ~~railroad~~ water carrier to demand, charge, collect
13 or receive from any shipper a less compensation for the transportation of property
14 or for any service rendered or to be rendered by said ~~railroad~~ water carrier, in
15 consideration of said shipper furnishing any part of the facilities incident thereto;
16 but any ~~railroad~~ water carrier may rent any facilities incident to transportation and
17 pay a reasonable rental therefor, but no payment shall be made by any carrier to an
18 industry for performing any part of the service incident to the origination or
19 determination of ~~earload line haul~~ shipments which the carriers have assumed to
20 perform under the provisions of the bill of lading.

21 **SECTION 76.** 195.12 of the statutes is amended to read:

22 **195.12 Preference by water carriers prohibited.** If any ~~railroad~~ water
23 carrier shall make or give any undue or unreasonable preference or advantage to any
24 person, firm or corporation, or shall subject any person, firm or corporation to any
25 undue or unreasonable prejudice or disadvantage in any respect whatsoever, such

SENATE BILL 657**SECTION 76**

1 railroad water carrier shall be deemed guilty of unjust discrimination, which is
2 hereby prohibited.

3 **SECTION 77.** 195.13 of the statutes is amended to read:

4 **195.13 Rebates and concessions, unlawful to accept.** It shall be unlawful
5 for any person, firm or corporation knowingly to accept or receive any rebate,
6 concession or discrimination in respect to water carrier transportation of property
7 wholly within this state, or for any service in connection therewith, whereby any
8 such property shall, by any device whatsoever, be transported at a less rate than that
9 named in the tariffs in force, or whereby any service or advantage is received other
10 than is therein specified. Any person, firm or corporation violating the provisions of
11 this section shall be fined forfeit not less than \$50 \$100 nor more than \$1,000 for each
12 offense.

13 **SECTION 78.** 195.14 of the statutes is amended to read:

14 **195.14 Free transportation; reduced rates, passes, limitations.** (1) This
15 chapter does not prohibit the carriage, storage or handling by water carriers of
16 freight free or at reduced rates for the United States, the state, or any municipality
17 thereof, or for charitable purposes, or to and from fairs and expositions for exhibition
18 thereat, or household goods the property of railway water carrier employees, or
19 commodities shipped by employees for their exclusive use or consumption; or the
20 issuance of mileage, commutation, party or excursion passengers' tickets; or the sale
21 of such tickets as were usually and customarily sold at reduced rates prior to June
22 15, 1905; provided the same are issued and sold without discrimination to all persons
23 applying therefor under like circumstances and conditions.

24 **(2)** (a) Railroads Water carriers may give transportation free or at reduced
25 rates to any minister of the gospel, officers or agent of incorporated colleges, inmates

SENATE BILL 657

1 of soldiers' homes, regular agents of charitable societies when traveling upon the
2 business of the society only, destitute and homeless persons, railroad water carrier
3 officers, attorneys, physicians, directors, employees or members of their families, or
4 to former railroad water carrier employees or members of their families where the
5 employees have become disabled in the railway water carrier service, or are unable
6 from physical disqualification to continue in the service, or to members of families
7 of deceased railroad water carrier employees.

8 (b) Railroads Water carriers may exchange passes with officers, attorneys,
9 physicians or employees of other railroads water carriers and members of their
10 families. No person holding any public office or position under the laws of this state
11 shall be given transportation free or at reduced rates that are not open to the public,
12 except that notaries public and regular employees of a railroad water carrier or other
13 public utility who are candidates for or hold public office for which the annual
14 compensation is not more than \$300 to whom no passes or privileges are extended
15 beyond those that are extended to other regular employees of such corporations may
16 be granted free transportation or reduced rates for the transmission of any message
17 or communication.

18 (3) Upon any shipment of livestock or other property of such nature as to
19 require the care of an attendant, the railroad water carrier may furnish to the
20 shipper or persons designated by the shipper, free transportation for such attendant,
21 including return passage to the point at which the shipment originated; provided,
22 there shall be no discrimination in reference thereto.

23 (4) Except as provided in this section, no free transportation for intrastate
24 traffic shall be given by any railroad water carrier.

25 **SECTION 79.** 195.15 of the statutes is amended to read:

SENATE BILL 657**SECTION 79**

1 **195.15 Transportation contracts, filed.** Every railroad water carrier shall,
2 when required and within the time fixed by the office, deliver to the office for its use
3 copies of all contracts which relate to the transportation of persons or property, or any
4 service in connection therewith, made or entered into by it with any other railroad
5 water carrier or any shipper or other person doing business with it.

6 **SECTION 80.** 195.16 of the statutes is amended to read:

7 **195.16 Pass lists.** Every railroad water carrier shall keep and for 2 years
8 preserve a record of every railroad ticket, pass or mileage book issued to a resident
9 of this state free or for a money consideration less than that charged the general
10 public. Such record shall consist of the name of the recipient, the amount received,
11 and the reason for issuance, and shall be open to inspection by the office upon
12 reasonable notice during such period of 2 years.

13 **SECTION 81.** 195.17 of the statutes is repealed.

14 **SECTION 82.** 195.19 (title) of the statutes is amended to read:

15 **195.19 (title) Depots; relocation Relocation of facilities.**

16 **SECTION 83.** 195.19 (1) of the statutes is repealed.

17 **SECTION 84.** 195.19 (2) of the statutes is amended to read:

18 **195.19 (2) FREIGHT WATER CARRIER FREIGHT.** All railroads water carriers shall
19 keep and maintain adequate and suitable ~~freight depots, buildings, switches and~~
20 ~~sidetraeks~~ and facilities for the receiving, handling and delivering of freight
21 transported or to be transported by such railroads water carriers.

22 **SECTION 85.** 195.19 (3) of the statutes is repealed.

23 **SECTION 86.** 195.21 of the statutes is amended to read:

24 **195.21 Warehouses.** Any person proposing to erect or maintain a public
25 elevator or public warehouse for the purchase, sale, storage, receiving or shipping of

SENATE BILL 657

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

15 **SECTION 87.** 195.22 and 195.24 of the statutes are repealed.

16 **SECTION 88.** 195.26 of the statutes is amended to read:

17 **195.26 Safety devices; block system.** Every railroad and water carrier shall
18 adopt reasonably adequate safety measures and install, operate and maintain
19 reasonably adequate safety devices for the protection of life and property to the
20 extent consistent with federal law. If after investigation the office shall determine
21 that public safety requires it, the office may, if permitted under federal law, order the
22 a railroad to install, operate and maintain a block system or order a railroad or water
23 carrier to install, operate, and maintain any other safety device or measure as may
24 be necessary to render the operation of such the railroad or water carrier reasonably
25 safe.

SENATE BILL 657**SECTION 89**

1 **SECTION 89.** 195.27 of the statutes is amended to read:

2 **195.27 Safe tracks and bridges.** Every railroad shall construct and
3 maintain its tracks, bridges and line structures in a reasonably adequate and safe
4 manner. ~~The office may direct the department to investigate complaints in the~~
5 ~~manner provided by s. 195.04. If, upon hearing, the office determines that the track~~
6 ~~or structures of any railroad are inadequate or unsafe for the operation of its railroad,~~
7 ~~the office shall order the railroad to reconstruct or repair the inadequate or unsafe~~
8 ~~track or structures~~ consistent with federal law.

9 **SECTION 90.** 195.286 (6) (title) of the statutes is amended to read:

10 195.286 **(6)** (title) PENALTIES RELATING TO FENCES INTERFERENCE WITH SIGNS.

11 **SECTION 91.** 195.286 (7) of the statutes is amended to read:

12 195.286 **(7)** PENALTIES GENERALLY. Any person or corporation upon conviction
13 for the violation of any of the provisions of this section, except sub. (6), shall ~~be fined~~
14 forfeit not less than \$10 \$100 nor more than \$50 \$200 for each violation.

15 **SECTION 92.** 195.305 and 195.33 of the statutes are repealed.

16 **SECTION 93.** 195.34 of the statutes is amended to read:

17 **195.34 Reports of accidents, investigation.** Every railroad water carrier
18 shall report to the office all collisions, ~~derailments or other accidents~~ resulting in
19 injury to persons, ~~equipment or roadway~~ arising from its operation. The office may
20 issue rules concerning the reporting of accidents by water carriers and may also, if
21 public interests require, cause an investigation of any accident. Every railroad shall
22 submit to the office a copy of any accident or injury report provided by the railroad
23 to the applicable federal authority for all collisions, derailments or other accidents
24 resulting in injury to persons, equipment, or roadway arising from its operation. The
25 office may issue rules concerning the submission of copies of federal reports under

SENATE BILL 657

1 this section and may also, to the extent permitted by federal law, participate in any
2 accident investigation.

3 **SECTION 94.** 195.35 (1) of the statutes is amended to read:

4 195.35 (1) If any director, officer, employee or agent of a railroad or water
5 carrier, in the course of the discharge of his or her duties, willfully, wantonly or
6 recklessly causes to be done or permits to be done any matter, act or thing in this
7 chapter prohibited or declared to be unlawful, or willfully, wantonly or recklessly
8 fails to do any act, matter or thing required to be done by this chapter, the railroad
9 or water carrier shall be liable to the person injured thereby in treble the amount of
10 damages sustained in consequence of the violation. No recovery as in this section
11 provided shall affect a recovery by the state of the penalty prescribed for such
12 violation.

13 **SECTION 95.** 195.36 of the statutes is amended to read:

14 **195.36 General penalty upon railroads and water carriers.** If any
15 railroad or water carrier shall violate any provision of this chapter, or shall do any
16 act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it, for
17 which a penalty has not been provided, or shall fail, neglect or refuse to obey any
18 lawful requirement or order made by the office, or any judgment or decree made by
19 any court upon its application, for every such violation, failure or refusal in respect
20 to any matter prescribed by this chapter such railroad or water carrier shall forfeit
21 not less than \$100 nor more than \$10,000. The act, omission or failure of any officer,
22 agent or other person employed by any railroad or water carrier, acting within the
23 scope of his or her employment, shall be deemed to be the act, omission or failure of
24 such railroad or water carrier.

25 **SECTION 96.** 195.37 (title) of the statutes is amended to read:

SENATE BILL 657**SECTION 96**

1 **195.37** (title) **Freight Water carrier freight charges; collection, refund.**

2 **SECTION 97.** 195.37 (1) of the statutes is amended to read:

3 **195.37 (1)** COMPLAINTS, INVESTIGATIONS, HEARINGS, FINDINGS, REFUND. The office
4 may ~~direct the department to~~ investigate the complaint of any person aggrieved that
5 the charge exacted by a water carrier for the transportation of property between
6 points in this state, or for any service in connection with transportation of property,
7 or that the charge exacted by a water carrier for the storage of such property, or that
8 any ~~car service or demurrage~~ charge exacted by a water carrier is erroneous, illegal,
9 unusual or exorbitant and shall set the complaint for hearing as provided in s. 195.04
10 (2) to (4). If the office finds that the rate or charge exacted by a water carrier is
11 erroneous, illegal, unusual or exorbitant, it shall find what would have been a
12 reasonable rate or charge for such service. If the rate or charge so found is less than
13 the charge exacted, the carrier shall refund the excess.

14 **SECTION 98.** 195.38 of the statutes is amended to read:

15 **195.38** **Freight Water carrier freight bills; examination; refunds.**

16 Within 3 years after the delivery of any shipment of property at destination by a
17 water carrier, any person, firm or corporation may submit to the office, by mail or in
18 person, any ~~railroad~~ water carrier expense bill or receipt showing charges paid for
19 transportation of such property by freight for the purpose of having the expense bill
20 or receipt examined with respect to the correctness of weights, rates and charges
21 indicated thereon. Upon receipt of any such expense bill or receipt, the office may
22 ~~request the department to~~ make such examination as is necessary, and if it is found
23 that any such weights, rates or charges are incorrect, the office shall order the
24 ~~railroad company~~ water carrier in error to refund to the person, firm or corporation

SENATE BILL 657

1 which submitted such expense bills or receipts, any over or excessive charges paid
2 by such person, firm or corporation.

3 **SECTION 99.** 195.39 of the statutes is renumbered 196.012 and amended to
4 read:

5 **196.012 Interstate commerce.** ~~Chapters 190 to 196 apply~~ This chapter
6 applies to interstate commerce only so far as the constitution and laws of the United
7 States permit.

8 **SECTION 100.** 195.50 of the statutes is amended to read:

9 **195.50 Information, papers and accounting. (1)** Any officer, agent or
10 employee of any railroad or water carrier who fails to fill out and return any forms
11 required by this chapter, or fails to answer any question therein, or knowingly gives
12 a false answer to any such question, or evades the answer to any such question where
13 the fact inquired of is within his or her knowledge, or who, upon proper demand, fails
14 to exhibit to the office or department or any person authorized to examine the same,
15 any book, paper, account, record or memoranda of such railroad or water carrier
16 which is in the possession or under control of the officer, agent or employee, or who
17 fails to properly use and keep the system of accounting prescribed by the office, or
18 who refuses to do any act or thing in connection with such system of accounting when
19 so directed by the office or its authorized representatives, shall forfeit not less than
20 \$100 nor more than \$1,000 for each offense.

21 **(2)** A forfeiture of not less than \$500 nor more than \$1,000 shall be recovered
22 from the railroad or water carrier for each such offense when such officer, agent or
23 employee acted in obedience to the direction, instruction or request of such railroad
24 or water carrier or any general officer thereof.

25 **SECTION 101.** 195.60 (title) of the statutes is amended to read:

SENATE BILL 657**SECTION 101**

1 **195.60** (title) **Payment of office expenses by railroads and water**
2 **carriers.**

3 **SECTION 102.** 195.60 (1) of the statutes is amended to read:

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

SENATE BILL 657**SECTION 102**

1 calendar year for costs incurred within a previous year. For the purpose of
2 calculating the costs of investigations, appraisals and other services under this
3 subsection, ~~90%~~ 90 percent of the costs determined shall be costs of the office and ~~10%~~
4 10 percent of the costs determined shall be costs of state government operations.

5 **SECTION 103.** 195.60 (2) of the statutes is amended to read:

6 195.60 (2) The office shall annually, within 90 days after the close of each fiscal
7 year, ascertain the total of its expenditures during such year which are reasonably
8 attributable to the performance of its duties relating to railroads and water carriers.
9 For purposes of such calculation, ~~90%~~ 90 percent of the expenditures so determined
10 shall be expenditures of the office and ~~10%~~ 10 percent of the expenditures so
11 determined shall be expenditures for state government operations. The office shall
12 deduct therefrom all amounts chargeable to railroads and water carriers under sub.
13 (1) and s. 201.10 (3). A sum equal to the remainder plus ~~10%~~ 10 percent of the
14 remainder shall be assessed by the office to the several railroads and water carriers
15 in proportion to their respective gross operating revenues during the last calendar
16 year, derived from intrastate operations. Such assessment shall be paid within 30
17 days after the bill has been mailed to the several railroads and water carriers, which
18 bill shall constitute notice of assessment and demand of payment thereof. The total
19 amount which may be assessed to the railroads and water carriers under authority
20 of this subsection shall not exceed ~~1.85%~~ 1.85 percent of the total gross operating
21 revenues of such railroads and water carriers, during such calendar year, derived
22 from intrastate operations. Ninety percent of the payment shall be credited to the
23 appropriation account under s. 20.155 (2) (g). The railroads and water carriers shall
24 furnish such financial information as the office requires for purposes of this section.

25 **SECTION 104.** 195.60 (3) of the statutes is amended to read:

SENATE BILL 657**SECTION 104**

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

16 **SECTION 105.** 195.60 (4) (a) of the statutes is amended to read:

17 195.60 (4) (a) Within 30 days after the date of the mailing of any bill as provided
18 by subs. (1) and (2), the railroad or water carrier against which such bill has been
19 rendered may file with the office objections setting out in detail the grounds upon
20 which the objector regards the bill to be excessive, erroneous, unlawful or invalid.
21 The office, after notice to the objector, shall hold a hearing upon such objections, not
22 less than 5 nor more than 10 days after such notice. If after such hearing the office
23 finds any part of the bill to be excessive, erroneous, unlawful or invalid it shall record
24 its findings upon its minutes and transmit to the objector an amended bill, in

SENATE BILL 657**SECTION 105**

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

3 **SECTION 106.** 195.60 (5) of the statutes is amended to read:

4 195.60 (5) No suit or proceeding shall be maintained in any court for the
5 purpose of restraining or in any way delaying the collection or payment of any bill
6 rendered under subs. (1) and (2). Every railroad or water carrier against which a bill
7 is rendered shall pay the amount thereof, and after such payment may in the manner
8 herein provided, at any time within 2 years from the date the payment was made,
9 sue the state in an action at law to recover the amount paid with legal interest
10 thereon from the date of payment, upon the ground that the assessment was
11 excessive, erroneous, unlawful, or invalid in whole or in part. If it is finally
12 determined in such action that any part of the bill for which payment was made was
13 excessive, erroneous, unlawful, or invalid, the secretary of administration shall
14 make a refund to the claimant as directed by the court, which shall be charged to the
15 appropriations to the office.

16 **SECTION 107.** 197.10 (4) of the statutes is amended to read:

17 197.10 (4) Insofar as the use, operation, service, management, control, sale,
18 lease, purchase, extension, improvement, rates, value or earnings of the properties
19 of the public utility or provisions looking toward the ultimate acquisition of the same
20 are made subject to the terms of any contract provided for in sub. (1), and so long as
21 said contract remains in force, the following sections of the statutes shall be
22 inapplicable to the same: ss. ~~195.05, 195.10~~, 196.02 (1) and (2), 196.05, 196.09,
23 196.10, 196.11, 196.15, 196.16, 196.19 (6), 196.20, 196.21, 196.22, 196.26, 196.28,
24 196.30, 196.37, 196.39, 196.40, 196.58, 196.70, 197.01 (2) to (4), 197.02, 197.03,
25 197.04, 197.05, 197.06, 197.08 and 197.09; provided that nothing in any contract

SENATE BILL 657**SECTION 107**

1 made hereunder shall operate to prevent an appeal to the public service commission
2 by any person, other than a party to said contract, upon any complaint alleging that
3 any rate, fare, charge or classification, or any joint rate, or any regulation, act or
4 practice relating to the production, transmission, delivery or furnishing of gas, heat,
5 light or power, or any service in connection therewith, is unjustly discriminatory, or
6 that any such service is inadequate or cannot be obtained. Upon said appeal the
7 commission shall, as provided by law, determine and by order fix a rate, fare, charge,
8 classification, joint rate or regulation, act or practice or service to be imposed,
9 observed or followed in the future in lieu of that found to be unjustly discriminatory
10 or inadequate.

11 **SECTION 108.** 201.01 (1) of the statutes is amended to read:

12 201.01 (1) "Commission" means the office of the commissioner of railroads in
13 the case of railroads water carriers and the public service commission in the case of
14 other public service corporations.

15 **SECTION 109.** 201.01 (2) of the statutes is amended to read:

16 201.01 (2) "Public service corporation" means and embraces every corporation,
17 except municipalities and other political subdivisions, which is a public utility as
18 defined in s. 196.01, and every corporation which is a railroad water carrier as
19 defined in s. 195.02, but shall not include a public utility corporation receiving an
20 annual gross revenue of less than \$1,000 for the calendar year next preceding the
21 issuance of any securities by it. "Public service corporation" includes a holding
22 company, as defined under s. 196.795 (1) (h), which is a public utility, as defined
23 under s. 196.01 (5). "Public service corporation" does not include a
24 telecommunications utility, as defined in s. 196.01 (10). "Public service corporation"
25 does not include any other holding company unless the holding company was formed

SENATE BILL 657

1 after November 28, 1985, and unless the commission has determined, under s.
2 196.795 (7) (a), that each nonutility affiliate, as defined under s. 196.795 (1) (j), does
3 not and cannot reasonably be expected to do at least one of the items specified in s.
4 196.795 (7) (a). "Public service corporation" does not include a company, as defined
5 in s. 196.795 (1) (f), which owns, operates, manages or controls a telecommunications
6 utility, as defined in s. 196.01 (10), unless such company also owns, operates,
7 manages or controls a public utility which is not a telecommunications utility.
8 "Public service corporation" does not include a transmission company, as defined in
9 s. 196.485 (1) (ge).

10 **SECTION 110.** 201.13 of the statutes is amended to read:

11 **201.13 Stock.** Subject to the regulatory jurisdiction of the commission under
12 this chapter and to all other applicable provisions of law relating to railroad water
13 carrier or other special types of corporations, all classes and series of stock of a public
14 service corporation shall be governed by the provisions of ch. 180.

15 **SECTION 111.** 706.05 (2m) (b) 2. of the statutes is amended to read:

16 706.05 (2m) (b) 2. Descriptions of property that is subject to liens granted on
17 property thereafter acquired by a rural electric cooperative, or a telephone
18 cooperative, organized under ch. 185, by a pipeline company under s. 76.02 (5), by
19 a public utility under s. 196.01 (5) or by a railroad under s. 195.02 (1) or a water
20 carrier under s. 195.02 (5).

21 **SECTION 112.** 706.09 (3) (a) of the statutes is amended to read:

22 706.09 (3) (a) *Public service corporations, railroads, electric cooperatives,*
23 *trustees, governmental units.* While owned, occupied or used by any public service
24 corporation, any railroad corporation as defined in s. 195.02 (1), any water carrier
25 as defined in s. 195.02 (5), any electric cooperative organized and operating on a

SENATE BILL 657**SECTION 112**

1 nonprofit basis under ch. 185, or any trustee or receiver of any such corporation or
2 electric cooperative, or any mortgagee or trust deed trustee or receiver thereof; nor
3 any such interest while held by the United States, the state or any political
4 subdivision or municipal corporation thereof; or

5 **SECTION 113. Nonstatutory provisions.**

6 (1) All orders issued by the office of the commissioner of railroads, including
7 any order requiring the placement of any crossing protection device or official traffic
8 control device, that are in effect on the effective date of this subsection remain in
9 effect until their specified expiration date or until modified or rescinded by the office.

10 **SECTION 114. Initial applicability.**

11 (1) This act first applies to railroad activities and operations occurring on the
12 effective date of this subsection.

13 (END)