

State of Wisconsin



2005 Assembly Bill 588

Date of enactment: **March 22, 2006**

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2005 WISCONSIN ACT 179

AN ACT *to repeal* 189.02 (5) and (6), 190.16 (1), (3) and (4), 192.14, 192.18, 192.255, 192.266, 192.267 and 192.268, 192.29 (1), 192.32 (1) (c), 192.42, 192.71 and 192.72, 195.05 (5) and (6), 195.08 (5), 195.08 (10), 195.17, 195.19 (1), 195.19 (3), 195.22 and 195.24 and 195.305 and 195.33; *to renumber and amend* 192.29 (2), 192.31 (1) and 195.39; *to amend* 15.79, 15.795 (1), 20.155 (2), 25.40 (1) (f) 1., 85.01 (5), 85.08 (4m) (e) 5., 85.09 (3) (a), 190.02 (5), 190.025 (2) (b), 190.16 (2), 190.16 (5), 191.17, 191.19 (1), 191.19 (3), 192.29 (title), 192.29 (4), 192.292, 192.295, 192.31 (4), 192.321, 192.33 (1), 192.52 (1), 192.53 (4) (b), 192.53 (6), 192.55 (6), 192.55 (7), chapter 195 (title), 195.02 (3), 195.02 (5), 195.03 (7), 195.03 (8), 195.03 (9), 195.03 (10), 195.03 (11), 195.03 (12), 195.03 (13), 195.03 (19), 195.04 (1), 195.04 (2), 195.04 (3), 195.041, 195.042, 195.043, 195.05 (title), 195.05 (1), 195.05 (3), 195.05 (4), 195.07 (1), 195.07 (2), 195.08 (title), 195.08 (1r), 195.08 (2), 195.08 (3), 195.08 (4), 195.08 (7), 195.08 (9), 195.08 (11), 195.10, 195.11, 195.12, 195.13, 195.14, 195.15, 195.16, 195.19 (title), 195.19 (2), 195.21, 195.26, 195.27, 195.286 (6) (title), 195.286 (7), 195.34, 195.35 (1), 195.36, 195.37 (title), 195.37 (1), 195.38, 195.50, 195.60 (title), 195.60 (1), 195.60 (2), 195.60 (3), 195.60 (4) (a), 195.60 (5), 197.10 (4), 201.01 (1), 201.01 (2), 201.13, 706.05 (2m) (b) 2. and 706.09 (3) (a); and *to create* 182.018 (4), 190.005, 192.005 and 195.02 (4m) of the statutes; **relating to:** repealing provisions that may be inconsistent with federal law of, and modernizing, chapters 189 to 192 and 195 and other provisions related to railroad regulation and providing a penalty.

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

SECTION 1. 15.79 of the statutes is amended to read:
15.79 Public service commission; creation. There is created a public service commission. No member of the commission may have a financial interest in a railroad, water carrier, or public utility. If any member voluntarily becomes so interested, the member's office shall become vacant. If the member involuntarily becomes so interested, the member's office shall become vacant unless the member divests himself or herself of the interest within a reasonable time. No commissioner may serve on or under any committee of a political party. Each

commissioner shall hold office until a successor is appointed and qualified.

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

15.795 (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 (1) 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), or a water carrier, as defined in s. 195.02 (5). The commissioner may not serve on or under any committee of a political party. The commis-

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

sioner shall hold office until a successor is appointed and qualified.

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

20.155 (2) OFFICE OF THE COMMISSIONER OF RAILROADS. (g) *Railroad and water carrier regulation and general program operations.* The amounts in the schedule for railroad and water carrier 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 office under s. 195.60 or 201.10 (3) shall be credited to this appropriation.

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

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

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

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

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

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

85.08 (4m) (e) 5. An application for a loan under this paragraph may not be made if an abandonment or discontinuance application is pending on the line or portion of line, or the line or portion of line on which the rail property improvements are located has been designated by the railroad to the ~~interstate commerce commission~~ federal surface transportation board on its system diagram map as anticipated to be the subject of an abandonment or discontinuance application within a 3-year period following the date of the application or the date on which the loan is scheduled, unless the secretary determines that this restriction may be waived for a particular application.

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

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

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

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

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

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

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

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

190.02 (5) CROSS HIGHWAYS, STREETS, STREAMS; HIGHWAY BRIDGES. To construct its railroad across, over, under, along or upon any stream, watercourse, street, highway, road or canal; ~~to carry any highway, street or road which it shall intersect over or under its tracks as may be most expedient for the public good; to change the course and direction of any highway, street or road when made necessary or desirable by the construction of the railroad and acquire land necessary therefor; provided, such highway or road be not so changed from its original course more than six rods, nor its distance thereby lengthened more than five rods; and provided, further, that every, subject to the limitation that any~~ bridge erected over any highway or street shall leave a clear passageway at least ~~twenty~~ 20 feet wide or ~~two~~ 2 passageways, each not less than ~~fourteen~~ 14 feet in width, and subject to any other limitation on such construction provided by law.

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

190.025 (2) (b) A railroad corporation that is subject to this subsection shall have all powers conferred by law upon railroad corporations. The railroad corporation may issue, sell, pledge or otherwise dispose of its evidences of debt, at such times, in such amounts, for such considerations and upon such terms and conditions as the board of directors of the corporation shall determine, and as shall be authorized by the office, or the ~~interstate commerce commission~~ federal surface transportation board 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. The evidences of debt may be convertible, at the option of the holder, into stock, and shares of stock. The shares may have a nominal or par value or, if the shares are shares of common stock, be without nominal or par value. The shares may be of such classes, with such rights and voting powers as may be expressed in the corporation's articles or any amendment thereto.

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

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

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

SECTION 15. 190.16 (5) of the statutes 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~~ When a spur track has been abandoned, as defined in s. 85.09, the office made, after hearing held upon notice to all parties interested, and for good cause shown; provided may order the removal of the track except that, if no objection has been filed with the office within 20 days from the original publication of such notice, the office may without hearing authorize such spur track removed, dismantled or otherwise rendered unfit for service the removal of the track.

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

191.17 Public safety; investigation; approval of plans. Upon receiving the specification required by s. 191.16, the 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 office shall enter an order approving the specification and authorizing the construction of the railroad in accordance therewith and with the provisions of ch. 195.

SECTION 17. 191.19 (1) of the statutes 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 office; and the office shall inspect the work. If the office finds that the railroad has been constructed in accordance with the approved specification and with the provisions of ch. 195 and is otherwise suitable and properly constructed so as to secure public safety in the operation thereof, the office shall enter an order authorizing its operation, which order shall be presumptive evidence of the sufficiency of such construction.

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

191.19 (3) If upon inspection the office shall deem that public safety requires the installation, operation and maintenance of some protective appliance at any grade crossing of railroad tracks the office may, before granting the order, after notice and hearing under s. 195.28, 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 19. 192.005 of the statutes is created to read:

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

SECTION 20. 192.14 of the statutes is repealed.

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

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

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

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

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

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

SECTION 25. 192.29 (4) of the statutes 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 engine bell shall be blown rung continuously from 1,320 feet from such before the crossing and the engine bell rung continuously from thence until the crossing be is reached. But the 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 26. 192.292 of the statutes is amended to read:

192.292 Trains obstructing highways. It shall be unlawful to stop any railroad train, locomotive or car upon or across any highway or street crossing, outside of cities, or leave the same standing upon such crossing longer than 10 minutes, except in cases of accident; and any conductor, engineer, brakeman or other person in charge thereof ~~or responsible therefor who~~ railroad company that shall violate this section shall be liable to a fine of not more than \$25 \$500 or any officer of such company responsible for the violation shall be liable to imprisonment of not more than 15 days.

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

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

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

192.31 (1) (a) ~~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; Telltales shall not be required except to the extent required under federal law and except that if as provided in par. (b).~~

(b) ~~If the 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 employee and that either or both such factors outweigh the safety benefit which would result from the installation of a telltale, absence of a telltale would create an unreasonable risk of harm to the public or a railroad employee on a railroad not under the jurisdiction of the federal railroad administration, the office may enter an order providing an exemption from this section. The exemption requiring the installation of a telltale. A telltale shall be ordered by the office only after public hearing according to the hearing procedure provided under sub. (4).~~

SECTION 28. 192.31 (4) of the statutes 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 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 held upon notice to all interested parties except that, if no objection is filed with the office within 20 days of the notice, the office may require the installation of a telltale without hearing. The findings and order ~~granting exemption requiring the installation of a telltale~~ 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 29. 192.32 (1) (c) of the statutes is repealed

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

192.321 Getting on and off cars. Any person under the age of 17 years who shall get upon, attempt to get

upon, cling to, jump or step from any railroad car or train while the same is in motion shall ~~be punished by fine of not more than \$20 nor less than \$2~~ forfeit not less than \$100 nor more than \$200, provided that this section shall not apply to the employees of any ~~railway or express railroad~~ company.

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

192.33 (1) ~~Every Subject to s. 190.09, every~~ corporation operating any railroad shall erect and maintain on both sides of its ~~road~~ railroad, depot grounds excepted, sufficient fences with openings or gates or bars therein, and suitable and convenient farm crossings for the use of the occupants of the lands adjoining and shall maintain cattle guards at all highway crossings, outside of municipalities, and connect their fences therewith. This section shall not apply to that part of the ~~road~~ railroad where side-tracks or switch tracks are used in cities of the first 1st class.

SECTION 32. 192.42 of the statutes is repealed.

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

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

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

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

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

SECTION 35. 192.53 (6) of the statutes 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 office under this section, shall ~~be fined for-~~ forfeit not more less than \$100 or imprisoned for not more than 60 days or both nor more than \$200.

SECTION 36. 192.55 (6) of the statutes is amended to read:

192.55 (6) Any person violating s. 192.32 shall be punished by a fine of forfeit not less than \$1 \$100 nor more than \$50, ~~or by imprisonment not exceeding 30 days, or by both such fine and imprisonment \$200.~~

SECTION 37. 192.55 (7) of the statutes is amended to read:

192.55 (7) Any railroad which violates s. ~~192.14 or~~ 192.15 shall forfeit to the state \$100 for each violation and each day that the violation continues shall be deemed a separate offense.

SECTION 38. 192.71 and 192.72 of the statutes are repealed.

SECTION 39. Chapter 195 (title) of the statutes is amended to read:

**CHAPTER 195
RAILROAD AND WATER CARRIER REGULA-
TION**

SECTION 40. 195.02 (3) of the statutes is amended to read:

195.02 (3) This chapter applies to the transportation of passengers and property between points within this state, and to the receiving, switching, delivering, storing and handling of such property, and to all water carrier charges connected therewith, and applies to all common carriers engaged in the transportation of passengers or property wholly by rail or partly by rail and partly by water, and to all common carriers of property wholly by water which operate between fixed end points, but shall not apply to transportation of property by water under contract as a private carrier.

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

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

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

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

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

195.03 (7) STUDY RAILROAD AND WATER CARRIER BUSINESS, DEMAND INFORMATION. The office may inquire

into the management of the business of all railroads and water carriers, and shall keep itself informed as to the manner in which the same is conducted, and may obtain from any railroad or water carrier all necessary information to enable the office to perform the duties and carry out the objects for which it is responsible.

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

195.03 (8) QUESTIONNAIRES, ANSWERS COMPULSORY. The office shall prepare forms 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~~ federal railroad administration, federal surface transportation board, or other applicable federal agency or authority, and shall furnish the forms to railroads and water carriers, and every railroad and water carrier receiving the forms shall cause the forms to be properly completed and verified under oath by its proper officer and returned to the office within the time fixed by the office.

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

195.03 (9) EXAMINE BOOKS AND FILES OF RAILROADS AND WATER CARRIERS. The 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 or water carrier and to examine under oath any officer, agent or employee of such railroad or water carrier 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 office.

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

195.03 (10) PRODUCTION OF RECORDS AND FILES KEPT OUT OF STATE. The 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 or water carrier without the state, or verified copies in lieu thereof, if the office shall so order.

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

195.03 (11) UNIFORM SYSTEM OF ACCOUNTING. The office may prescribe a uniform system of keeping and rendering accounts of all railroad and water carrier business transacted in this state, and the time within which railroads and water carriers shall adopt such system; provided that all forms of accounts which may be prescribed by the office shall conform to any applicable requirement under 49 USC 11141 to 11164 or 49 CFR 1201 and, as nearly as practicable, to similar forms prescribed by federal authority.

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

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

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

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

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

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

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

195.04 (1) Upon complaint of any person, including any state agency, water carrier, or railroad, either relating to a railroad as provided under s. 192.324, 192.34, 195.20, 195.28 (1), 195.285 (1), 195.29 (1), (5), or (6), 195.31, or 195.32 or that any railroad water carrier 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 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 office only at the hearing on the complaint, if hearing is requested and held.~~ No order may be entered by the office without a public hearing, except as otherwise provided in this chapter.

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

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

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

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

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

195.041 Separate rate hearings; absence of direct damage. The office may, when complaint is made of more than one water carrier 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 55. 195.042 of the statutes is amended to read:

195.042 Summary investigations. Whenever the office believes that any water carrier 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 water carrier or, if a matter arising under s. 192.324, 192.34, 195.20, 195.28 (1), 195.285 (1), 195.29 (1), (5), or (6), 195.31, or 195.32, to any railroad should for any reason be made, it may ~~request the department to~~ investigate the same with or without notice.

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

195.043 Procedure after summary investigation. (1) If, after summary investigation ~~by the department,~~ the 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 office shall publish notice of any such investigation in its weekly calendar and ~~the any~~ report ~~of the department~~ and all matters considered by the office with respect thereto shall be available for public inspection upon request.

(2) Notice of the time and place for such hearing shall be given to the water carrier or railroad, and to such other interested persons as the 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 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 57. 195.05 (title) of the statutes is amended to read:

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

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

195.05 (1) ORDERS FOR RATES AND SERVICE. Whenever the office shall find that any existing water carrier 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 59. 195.05 (3) of the statutes is amended to read:

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

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

195.05 (4) MODIFICATION OF ORDERS. The office may by order at any time, upon notice to the railroad water carrier 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 office.

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

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

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

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

195.07 (2) ATTORNEY GENERAL AND DISTRICT ATTORNEY TO PROSECUTE. Upon request of the 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 water carriers and railroads.

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

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

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

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

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

195.08 (2) SCHEDULES; PUBLICATION. Every railroad water carrier shall print in plain type and file with the 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 67. 195.08 (3) of the statutes is amended to read:

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

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

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

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

SECTION 70. 195.08 (7) of the statutes 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 required in this section~~ in every ~~depot, station~~ terminal and office of such railroad water carrier 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 office of the ~~commissioner of railroads~~ shall prescribe a less time.

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

195.08 (9) COMPLAINT AGAINST CHANGE IN SCHEDULES. Whenever a complaint is filed with the office before any change in any water carrier schedule, or in any classification, rule, regulation or practice becomes effective to the effect that the change is unreasonable or unjustly discriminatory, the office shall give notice to the railroad water carrier 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 office only at the hearing on the complaint.~~ The 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 office shall order the discontinuance thereof. The 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 72. 195.08 (10) of the statutes is repealed.

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

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

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

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

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

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

(2) It shall be unlawful for any railroad water carrier to demand, charge, collect or receive from any shipper a less compensation for the transportation of property or for any service rendered or to be rendered by said railroad water carrier, in consideration of said shipper furnishing any part of the facilities incident thereto; but any railroad

water carrier may rent any facilities incident to transportation and pay a reasonable rental therefor, but no payment shall be made by any carrier to an industry for performing any part of the service incident to the origination or determination of ~~carload-line haul~~ shipments which the carriers have assumed to perform under the provisions of the bill of lading.

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

195.12 Preference by water carriers prohibited. If any railroad water carrier shall make or give any undue or unreasonable preference or advantage to any person, firm or corporation, or shall subject any person, firm or corporation to any undue or unreasonable prejudice or disadvantage in any respect whatsoever, such railroad water carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited.

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

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

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

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

(2) (a) Railroads Water carriers may give transportation free or at reduced rates to any minister of the gospel, officers or agent of incorporated colleges, inmates of soldiers' homes, regular agents of charitable societies when traveling upon the business of the society only, destitute and homeless persons, railroad water carrier officers, attorneys, physicians, directors, employees or members of their families, or to former railroad water carrier

employees or members of their families where the employees have become disabled in the railroad water carrier service, or are unable from physical disqualification to continue in the service, or to members of families of deceased railroad water carrier employees.

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

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

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

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

195.15 Transportation contracts, filed. Every railroad water carrier shall, when required and within the time fixed by the office, deliver to the 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 water carrier or any shipper or other person doing business with it.

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

195.16 Pass lists. Every railroad water carrier 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 office upon reasonable notice during such period of 2 years.

SECTION 81. 195.17 of the statutes is repealed.

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

195.19 (title) Depots; ~~relocation~~ Relocation of facilities.

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

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

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

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

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

195.21 Warehouses. Any person proposing to erect or maintain a public elevator or public warehouse for the purchase, sale, storage, receiving or shipping of grain, or other personal property, to be received from or transported upon any railroad water carrier, shall be furnished by such railroad water carrier at a reasonable rental, a site upon its ~~right-of-way or depot grounds, within the yard limits of any station property~~ 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 water carrier and thereby be permitted to remain thereon under the same conditions as provided herein for a public elevator or warehouse; and the office shall, upon application by such owner, if the public interest so requires, by order, direct the railroad water carrier to furnish such site and the office shall make reasonable regulations therefor and in case of disagreement, the 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 office shall prescribe.

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

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

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

SECTION 89. 195.27 of the statutes 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 office may direct the department to investigate com-~~

plaints in the manner provided by s. 195.04. If, upon hearing, the office determines that the track or structures of any railroad are inadequate or unsafe for the operation of its railroad, the office shall order the railroad to reconstruct or repair the inadequate or unsafe track or structures consistent with federal law.

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

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

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

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

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

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

195.34 Reports of accidents, investigation. Every ~~railroad~~ water carrier shall report to the office all ~~collisions, derailments or other accidents~~ resulting in injury to persons, ~~equipment or roadway~~ arising from its operation. The office may issue rules concerning the reporting of accidents by water carriers and may also, if public interests require, cause an investigation of any accident. Every railroad shall submit to the office a copy of any accident or injury report provided by the railroad to the applicable federal authority for all collisions, derailments or other accidents resulting in injury to persons, equipment, or roadway arising from its operation. The office may issue rules concerning the submission of copies of federal reports under this section and may also, to the extent permitted by federal law, participate in any accident investigation.

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

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

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

195.36 General penalty upon railroads and water carriers. If any railroad or water carrier shall violate any provision of this chapter, or shall do any act herein pro-

hibited, 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 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 or water carrier 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 or water carrier, acting within the scope of his or her employment, shall be deemed to be the act, omission or failure of such railroad or water carrier.

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

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

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

195.37 (1) COMPLAINTS, INVESTIGATIONS, HEARINGS, FINDINGS, REFUND. The office may ~~direct the department~~ to investigate the complaint of any person aggrieved that the charge exacted by a water carrier 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 by a water carrier for the storage of such property, or that any ~~car service or demurrage~~ charge exacted by a water carrier is erroneous, illegal, unusual or exorbitant and shall set the complaint for hearing as provided in s. 195.04 (2) to (4). If the office finds that the rate or charge exacted by a water carrier 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 98. 195.38 of the statutes is amended to read:

195.38 Freight Water carrier freight bills; examination; refunds. Within 3 years after the delivery of any shipment of property at destination by a water carrier, any person, firm or corporation may submit to the office, by mail or in person, any ~~railroad~~ water carrier 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 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 office shall order the ~~railroad company~~ water carrier 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 99. 195.39 of the statutes is renumbered 196.012 and amended to read:

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

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

195.50 Information, papers and accounting. (1) Any officer, agent or employee of any railroad or water carrier 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 office or department or any person authorized to examine the same, any book, paper, account, record or memoranda of such railroad or water carrier which is in the possession or under control of the officer, agent or employee, or who fails to properly use and keep the system of accounting prescribed by the office, or who refuses to do any act or thing in connection with such system of accounting when so directed by the office or its authorized representatives, shall forfeit not less than \$100 nor more than \$1,000 for each offense.

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

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

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

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

195.60 (1) Whenever the 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 water carrier or to render any engineering or accounting services to any railroad or water carrier, the railroad or water carrier shall pay the expenses attributable to such investigation, appraisal or service. The office shall ascertain such expenses, ~~including all expenses incurred by the department at the request or direction of the office~~ and shall render a bill therefor, by mail, to the railroad or water carrier, 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 or water carrier shall, within 30 days after the mailing thereof, pay to the 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 (2) (g). The total amount, in any one calendar

year, for which any railroad or water carrier becomes liable, by reason of costs incurred by the 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 office. Nothing in this subsection shall prevent the 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%~~ 90 percent of the costs determined shall be costs of the office and ~~40%~~ 10 percent of the costs determined shall be costs of state government operations.

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

195.60 (2) The 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 and water carriers. For purposes of such calculation, ~~90%~~ 90 percent of the expenditures so determined shall be expenditures of the office and ~~40%~~ 10 percent of the expenditures so determined shall be expenditures for state government operations. The office shall deduct therefrom all amounts chargeable to railroads and water carriers under sub. (1) and s. 201.10 (3). A sum equal to the remainder plus ~~40%~~ 10 percent of the remainder shall be assessed by the office to the several railroads and water carriers 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 and water carriers, which bill shall constitute notice of assessment and demand of payment thereof. The total amount which may be assessed to the railroads and water carriers under authority of this subsection shall not exceed ~~1.85%~~ 1.85 percent of the total gross operating revenues of such railroads and water carriers, during such calendar year, derived from intrastate operations. Ninety percent of the payment shall be credited to the appropriation account under s. 20.155 (2) (g). The railroads and water carriers shall furnish such financial information as the office requires for purposes of this section.

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

195.60 (3) If any railroad or water carrier 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 office, the office shall transmit to the secretary of

administration a certified copy of the bill, together with notice of neglect or refusal to pay the bill, and on the same day the office shall mail to the railroad or water carrier against which the bill has been rendered a copy of the notice which it has transmitted to the secretary of administration. Within 10 days after the receipt of such notice and certified copy of such bill, the secretary of administration 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 or water carrier. 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 secretary of administration and that said goods and chattels anywhere within the state may be levied upon.

SECTION 105. 195.60 (4) (a) of the statutes 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 or water carrier against which such bill has been rendered may file with the office objections setting out in detail the grounds upon which the objector regards the bill to be excessive, erroneous, unlawful or invalid. The 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 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 106. 195.60 (5) of the statutes 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 or water carrier 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 secretary of administration shall make a refund to the claimant as directed by the court, which shall be charged to the appropriations to the office.

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

197.10 (4) Insofar as the use, operation, service, management, control, sale, lease, purchase, extension,

improvement, rates, value or earnings of the properties of the public utility or provisions looking toward the ultimate acquisition of the same are made subject to the terms of any contract provided for in sub. (1), and so long as said contract remains in force, the following sections of the statutes shall be inapplicable to the same: ss. ~~195.05, 195.10,~~ 196.02 (1) and (2), 196.05, 196.09, 196.10, 196.11, 196.15, 196.16, 196.19 (6), 196.20, 196.21, 196.22, 196.26, 196.28, 196.30, 196.37, 196.39, 196.40, 196.58, 196.70, 197.01 (2) to (4), 197.02, 197.03, 197.04, 197.05, 197.06, 197.08 and 197.09; provided that nothing in any contract made hereunder shall operate to prevent an appeal to the public service commission by any person, other than a party to said contract, upon any complaint alleging that any rate, fare, charge or classification, or any joint rate, or any regulation, act or practice relating to the production, transmission, delivery or furnishing of gas, heat, light or power, or any service in connection therewith, is unjustly discriminatory, or that any such service is inadequate or cannot be obtained. Upon said appeal the commission shall, as provided by law, determine and by order fix a rate, fare, charge, classification, joint rate or regulation, act or practice or service to be imposed, observed or followed in the future in lieu of that found to be unjustly discriminatory or inadequate.

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

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

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

201.01 (2) "Public service corporation" means and embraces every corporation, except municipalities and other political subdivisions, which is a public utility as defined in s. 196.01, and every corporation which is a ~~railroad~~ water carrier as defined in s. 195.02, but shall not include a public utility corporation receiving an annual gross revenue of less than \$1,000 for the calendar year next preceding the issuance of any securities by it. "Public service corporation" includes a holding company, as defined under s. 196.795 (1) (h), which is a public utility, as defined under s. 196.01 (5). "Public service corporation" does not include a telecommunications utility, as defined in s. 196.01 (10). "Public service corporation" does not include any other holding company unless the holding company was formed after November 28, 1985, and unless the commission has determined, under s. 196.795 (7) (a), that each nonutility affiliate, as defined under s. 196.795 (1) (j), does not and cannot reasonably be expected to do at least one of the items specified in s. 196.795 (7) (a). "Public service corporation" does not include a company, as defined in s. 196.795 (1) (f), which owns, operates, manages or controls a telecommunications utility, as defined in s. 196.01 (10), unless such com-

pany also owns, operates, manages or controls a public utility which is not a telecommunications utility. "Public service corporation" does not include a transmission company, as defined in s. 196.485 (1) (ge).

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

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

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

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

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

706.09 (3) (a) *Public service corporations, railroads, electric cooperatives, trustees, governmental units.* While owned, occupied or used by any public service corporation, any railroad corporation as defined in s. 195.02 (1), any water carrier as defined in s. 195.02 (5), any electric cooperative organized and operating on a nonprofit basis under ch. 185, or any trustee or receiver of any such corporation or electric cooperative, or any mortgagee or trust deed trustee or receiver thereof; nor any such interest while held by the United States, the state or any political subdivision or municipal corporation thereof; or

SECTION 113. Nonstatutory provisions.

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

SECTION 114. Initial applicability.

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