

2003 DRAFTING REQUEST

Bill

Received: **02/04/2004**

Received By: **agary**

Wanted: **Today**

Identical to LRB:

For: **Scott Fitzgerald (608) 266-5660**

By/Representing: **Judi Rhodes Engels (aide)**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - railroads**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Fitzgerald@legis.state.wi.us**

Carbon copy (CC:) to: **Judi.Rhodes-Engels@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Transfer of OCR to DOT and allowing DOT bypass of OCR regarding railroad highway crossings

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

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→ At
Intro.

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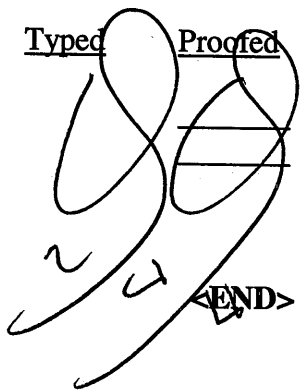
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FE Sent For:

PA's: send out jacketed.
Mh.
ARC

1/28/04

H/c w/ Judi - Fitzgerald
- RR legislation →

- want to make sure Foti & Fitzgerald
drafts are the same

- see Joel e-mail

Gary, Aaron

From: Kleefisch, Joel
Sent: Wednesday, January 28, 2004 2:44 PM
To: Gary, Aaron
Subject: RE: OCR draft option

Aaron,

That sounds like an amicable solution.

Joel

-----Original Message-----

From: Gary, Aaron
Sent: Wednesday, January 28, 2004 1:51 PM
To: Kleefisch, Joel
Subject: OCR draft option

Joel,

Following up on our telephone conversation yesterday, would it meet your needs if, instead of providing for ultimate DOT review of *every* OCR decision, the bill created an exception to the usual process so that DOT, on its own initiative and on a case-by-case basis, could preempt the OCR process and directly make the final determination on matters related to railroad crossings. This would essentially give DOT the authority, to use whenever it felt was necessary, to step in and make the ultimate decision without being subject to OCR review. I think this could address the concerns we discussed giving rise to the draft, and take care of particular problematic situations, without the complexity of totally revising the existing system. Let me know if you think this would work or if you have other ideas. Thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

TODAY
if possible

4/88/1

LRB-~~2003~~
ARG:kjf:lg

R M N R

2003 BILL

Reger

1 AN ACT *to repeal* 20.155 (2) and 189.02 (7); *to renumber* 15.795 (title); *to*
2 *renumber and amend* 15.795 (1) and 84.05; *to amend* 15.03, 15.79, 20.395
3 (2) (gq), 20.395 (2) (gx), 20.923 (4) (e) 11., 25.40 (1) (f) 1., 84.05 (title), 86.13 (5),
4 182.36 (3), 189.02 (3m), 189.02 (4), 195.055, 195.28 (2) to (4), 195.285 (2) and
5 (3), 195.286 (2) and (5), 195.29 (6), 195.60 (1), 195.60 (2), 197.10 (4), 201.01 (1),
6 201.01 (2), 201.10 (3), 201.13 and 226.025 (3); and *to create* 20.395 (2) (gg),
7 25.40 (1) (a) 12m. and 84.05 (1) and (3) of the statutes; **relating to:** attaching
8 the Office of the Commissioner of Railroads to the Department of
9 Transportation, decisions related to railroad crossing protection
10 improvements, and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, the Office of the Commissioner of Railroads (OCR), which is attached to the Public Service Commission (PSC), regulates railroad activities in Wisconsin. OCR has general oversight authority with regard to public safety at railroad highway crossings. The Department of Transportation (DOT), a local authority, or a railroad may petition OCR with regard to a public safety concern

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related to a railroad highway crossing. Upon petition, OCR must investigate, must usually hold a public hearing, and may make determinations and issue orders to promote public safety, including ordering installation of signals or other safety devices at the crossing, alteration of the crossing or the approaches to the crossing or the mode of crossing, relocation of the crossing, closing of the crossing (with or without the reopening of a substitute crossing), relocation of the highway, construction of a bridge, and other reasonable modifications. OCR must apportion the expense of the work required by the order, which may be borne by railroads, local authorities, or DOT, or a combination. All orders of OCR are subject to judicial review.

This bill attaches OCR to DOT instead of the PSC and removes certain vestigial references to railroads in statutes relating to the PSC and utilities. The bill also allows DOT to bypass OCR review with regard to public safety concerns at railroad highway crossings. DOT may, on its own motion, provide notice to OCR and interested parties and proceed to investigate and determine matters of public safety at any railroad highway crossing in the same manner that OCR would. If DOT provides such notice to OCR, OCR is divested of any authority to consider the matter and any determination by DOT on the matter is not subject to review by OCR and is not subject to judicial review.

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.** 15.03 of the statutes is amended to read:

2 **15.03 Attachment for limited purposes.** Any division, office, commission,
3 council or board attached under this section to a department or independent agency
4 or a specified division thereof shall be a distinct unit of that department, independent
5 agency or specified division. Any division, office, commission, council or board so
6 attached shall exercise its powers, duties and functions prescribed by law, including
7 rule making, licensing and regulation, and operational planning within the area of
8 program responsibility of the division, office, commission, council or board,
9 independently of the head of the department or independent agency, but budgeting,
10 program coordination and related management functions shall be performed under
11 the direction and supervision of the head of the department or independent agency;

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1 ~~except that with respect to the office of the commissioner of railroads, all personnel~~
2 ~~and biennial budget requests by the office of the commissioner of railroads shall be~~
3 ~~provided to the department of transportation as required under s. 189.02 (7) and~~
4 ~~shall be processed and properly forwarded by the public service commission without~~
5 ~~change except as requested and concurred in by the office of the commissioner of~~
6 ~~railroads.~~

7 **SECTION 2.** 15.79 of the statutes is amended to read:

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

16 **SECTION 3.** 15.795 (title) of the statutes is renumbered 15.469 (title).

17 **SECTION 4.** 15.795 (1) of the statutes, as affected by 2003 Wisconsin Act 89, is
18 renumbered 15.469 (1) and amended to read:

19 **15.469 (1) OFFICE OF THE COMMISSIONER OF RAILROADS.** There is created an office
20 of the commissioner of railroads which is attached to the ~~public service commission~~
21 department of transportation under s. 15.03, provided that s. 85.02 (1) does not apply
22 to the office of the commissioner of railroads. The commissioner of railroads shall
23 have expertise in railroad issues and may not have a financial interest in a railroad,
24 as defined in s. 195.02 (1). The commissioner may not serve on or under any

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1 committee of a political party. The commissioner shall hold office until a successor
2 is appointed and qualified.

3 **SECTION 5.** 20.155 (2) of the statutes is repealed.

4 **SECTION 6.** 20.395 (2) (gg) of the statutes is created to read:

5 20.395 (2) (gg) *Railroad payments.* From the general fund, all moneys received
6 from railroads under s. 195.60 and credited to this appropriation account for
7 activities related to railroad regulation under chs. 190 to 195, for such purposes.

8 **SECTION 7.** 20.395 (2) (gq) of the statutes is amended to read:

9 20.395 (2) (gq) *Railroad crossing improvement and protection maintenance*
10 *and railroad regulation, state funds.* The amounts in the schedule to pay the costs
11 for railroad crossing protection maintenance under s. 195.28 (3) and for activities
12 related to railroad regulation under chs. 190 to 195.

13 **SECTION 8.** 20.395 (2) (gx) of the statutes is amended to read:

14 20.395 (2) (gx) *Railroad crossing improvement and railroad regulation, federal*
15 *funds.* All moneys received from the federal government for the purposes of railroad
16 crossing protection under s. 195.28, for activities related to railroad regulation under
17 chs. 190 to 195, and for the purposes of railroad crossing gates under 1999 Wisconsin
18 Act 9, section 9150 (9g), for such purposes.

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

20 20.923 (4) (e) 11. ~~Public service commission~~ Transportation, department of;
21 office of the commissioner of railroads: commissioner.

22 **SECTION 10.** 25.40 (1) (a) 12m. of the statutes is created to read:

23 25.40 (1) (a) 12m. Moneys collected under s. 195.60 that are deposited in the
24 general fund, 90 percent of which are credited to the appropriation under s. 20.395
25 (2) (gg).

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1 **SECTION 11.** 25.40 (1) (f) 1. of the statutes is amended to read:

2 25.40 (1) (f) 1. Moneys received from the federal government, for the regulation
3 of railroads, that are deposited in the general fund and credited to the appropriation
4 under s. ~~20.155 (2) (m)~~ 20.395 (2) (gx).

5 **SECTION 12.** 84.05 (title) of the statutes is amended to read:

6 **84.05 (title) Railroad ~~crossing improvements~~ crossings.**

7 **SECTION 13.** 84.05 of the statutes is renumbered 84.05 (2) and amended to read:

8 84.05 (2) On a highway which the department has authority to construct and
9 which crosses a railroad, if the department determines that the construction or
10 reconstruction of a grade separation or the rearrangement or elimination of a grade
11 crossing or other rearrangement of the highway or tracks is necessary in the interest
12 of public safety or for convenience of public travel, the department shall make a plan
13 of the construction proposed and an estimate of the cost thereof, including the cost
14 of needed right-of-way; and shall endeavor to make an arrangement with all
15 persons concerned as to all matters involved in the plan, including the portion of the
16 cost of the contemplated work which the persons shall defray. If the department is
17 unable to contract with the persons concerned as to the distribution and payment of
18 the cost of the work or the maintenance thereof, the department ~~shall lay the matter~~
19 ~~before~~ may petition the office ~~of the commissioner of railroads~~, and the office of the
20 ~~commissioner of railroads~~ shall review the proceedings and hold a hearing thereon
21 in accordance with ss. 195.28 and 195.29, and shall fix the portion of the cost of the
22 construction and of the maintenance which is to be paid by the persons or
23 corporations concerned, and the portion of the cost, if any, to be paid by the public,
24 which portion shall be paid from the transportation fund. The office ~~of the~~
25 ~~commissioner of railroads~~ shall determine the benefits, if any, which will inure to

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1 other highways, and apportion and charge to the units of government responsible for
2 the construction of such other highways a fair portion of the cost.

3 **SECTION 14.** 84.05 (1) and (3) of the statutes are created to read:

4 84.05 (1) In this section, "office" means the office of the commissioner of
5 railroads.

6 (3) Whenever the department may petition, or file a complaint with, the office
7 under sub. (2) or s. 86.13 (3), 195.28, 195.285, or 195.29, the department may, on its
8 own motion and in lieu of such a petition or complaint, provide notice to the office and
9 the parties in interest and proceed to investigate and determine the matter itself
10 under this subsection. In proceeding under this subsection, the department shall
11 have the same power and authority, and proceed in the same manner, specified for
12 the office under sub. (2) and ss. 86.13, 195.28, 195.285, and 195.29, including the
13 making of any determination and issuance of any order authorized for the office
14 under sub. (2) and ss. 86.13, 195.28, 195.285, and 195.29. The department may
15 proceed under this subsection regardless of any prior order of the office or any
16 pending proceeding before the office, and, notwithstanding sub. (2) and ss. 86.13,
17 195.28, 195.285, and 195.29, notice from the department to the office under this
18 subsection shall divest the office of authority over the matter specified in the notice.
19 Notwithstanding sub. (2) and ss. 86.13, 195.28, 195.285, and 195.29, all decisions
20 and orders of the department under this subsection are final and are not subject to
21 review by the office or to judicial review under ch. 227.

22 **SECTION 15.** 86.13 (5) of the statutes is amended to read:

23 86.13 (5) Any railroad company that receives notice from the department
24 under this section, or under s. 84.05 (3) with respect to a matter arising under this
25 section, with respect to a state trunk highway may file a claim for reimbursement

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1 with the department. The department shall reimburse claimants for ~~85%~~ 85 percent
2 of the eligible costs incurred in the repair of a highway grade crossing. No claim for
3 reimbursement may be paid by the department under this subsection unless the
4 department approved the plans and estimated cost of the project prior to the start
5 of the project. The department may inspect each completed project to verify the
6 amount of the claim for reimbursement. The department shall create a procedure
7 for establishing the priority for projects with respect to state trunk highways under
8 this section for the purpose of programming reimbursements.

9 **SECTION 16.** 182.36 (3) of the statutes is amended to read:

10 182.36 (3) The corporation may enter into contracts with public utilities,
11 ~~including and~~ and railroads, for the removal or change in location of the lines of such
12 public utilities and railroads where the same is deemed necessary by the corporation
13 in the construction of the project. Such contracts shall be for the payment of damages
14 caused the utilities and railroads by the relocation of their lines. In the event the
15 corporation and the utility or railroad are unable to reach an agreement, the public
16 service commission in the case of a utility or the office of the commissioner of
17 railroads in the case of a railroad shall direct the manner, location and time allowed
18 for the change in the utility or railroad line and the corporation shall be liable for the
19 reasonable costs of such change. In the event the public utility or railroad fails to
20 comply with the order of the public service commission or the office of the
21 commissioner of railroads it shall be liable to the corporation for all damages
22 occasioned by such failure.

23 **SECTION 17.** 189.02 (3m) of the statutes is amended to read:

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1 189.02 (3m) (a) Except as provided in s. 15.03, and subject to s. 84.05 (3), the
2 ~~public service commission~~ department of transportation shall have no control or
3 jurisdiction over the office in matters relating to railroad regulation.

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

8 **SECTION 18.** 189.02 (4) of the statutes is amended to read:

9 189.02 (4) ~~Decisions~~ Subject to s. 84.05 (3), decisions of the office are not
10 appealable to the ~~public service commission~~ department. Decisions of the office are
11 subject to judicial review under ch. 227.

12 **SECTION 19.** 189.02 (7) of the statutes is repealed.

13 **SECTION 20.** 195.055 of the statutes is amended to read:

14 **195.055 Judicial review.** ~~All~~ Subject to s. 84.05 (3), all orders and
15 determinations of the office are subject to judicial review under ch. 227.

16 **SECTION 21.** 195.28 (2) to (4) of the statutes are amended to read:

17 195.28 (2) **INSTALLATION COSTS.** The cost of any signal or other crossing
18 protection device which is ordered installed under sub. (1), or under s. 84.05 (3) with
19 respect to a matter arising under sub. (1), and the cost of installing any such device
20 shall be paid by the department from the appropriations under s. 20.395 (2) (gj), (gr)
21 and (gx).

22 **(3) MAINTENANCE COSTS.** Except as otherwise provided in this subsection, the
23 cost of maintaining crossing protection devices ordered under sub. (1), or under s.
24 84.05 (3) with respect to a matter arising under sub. (1), shall be the responsibility
25 of the railroad or railroad historical society. Any railroad company or railroad

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1 historical society that incurs expenses for maintenance of signals or other safety
2 devices may file a claim for reimbursement with the department regardless of the
3 date of installation of the signals or devices. At the close of each fiscal year the
4 department shall reimburse claimants under this subsection for ~~50%~~ 50 percent of
5 the costs, as determined by the office or, with respect to an order under s. 84.05 (3),
6 as determined by the department, incurred for maintenance of railroad crossing
7 protection devices from the appropriations under s. 20.395 (2) (gj) and (gq). If the
8 amount in the appropriations under s. 20.395 (2) (gj) and (gq) is not adequate to fund
9 maintenance reimbursement under this subsection, the amount shall be prorated in
10 the manner determined by the office.

11 (4) PREVIOUS OFFICE ORDERS. Subsection (3) applies to maintenance costs for all
12 crossing protection devices regardless of any prior order of the office or of the
13 department under s. 84.05 (3) apportioning maintenance costs.

14 SECTION 22. 195.285 (2) and (3) of the statutes are amended to read:

15 195.285 (2) Signs placed upon the order of the office under this section, or of
16 the department under s. 84.05 (3) with respect to a matter arising under this section,
17 shall exempt vehicles from stopping as required under s. 346.45, unless a train or
18 engine is occupying or approaching the crossing.

19 (3) The department shall establish standards for the type of signs, signals,
20 markings or other devices for exempting vehicles from stopping as required under
21 s. 346.45 and their location in relation to the highway and railroad track. ~~The~~ Except
22 with respect to a sign placed upon order of the department under s. 84.05 (3), the
23 office may upon petition or its own motion, with or without a hearing, order the
24 removal of a sign exempting vehicles from stopping at a crossing.

25 SECTION 23. 195.286 (2) and (5) of the statutes are amended to read:

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1 195.286 (2) SIGNS DESCRIBED. Such signs shall be round and of a size, color and
2 message as specified by the department and, except with respect to a sign subject to
3 the department's authority under s. 84.05 (3), approved by the office. Any change in
4 these signs shall not be retroactive.

5 (5) OTHER SIGNS PROHIBITED. No other sign of the general size or appearance of
6 the signs provided for in this section shall be placed or permitted upon any highway,
7 nor any sign between such advance signs except signs or signals now required by law
8 or, except with respect to signs subject to the department's authority under s. 84.05
9 (3), permitted by the office for protection at railway crossings.

10 **SECTION 24.** 195.29 (6) of the statutes is amended to read:

11 195.29 (6) VIEW AT CROSSINGS; TREES AND BRUSH NEAR CROSSINGS; FORFEITURE.
12 Every railroad shall keep its right-of-way clear of brush or trees for a distance of not
13 less than 330 feet in each direction from the center of its intersection at grade with
14 any public highway, and for such further distance as is necessary to provide an
15 adequate view of approaching trains, from the highway. Every municipality shall
16 keep the public highways within its jurisdiction clear of brush and shall adequately
17 trim all trees within 330 feet of the center of any railroad highway grade crossing.
18 Every person or corporation owning or occupying any land adjacent to any railroad
19 highway grade crossing shall keep all brush cut and adequately trim all trees on the
20 land within the triangles bounded on 2 sides by the railway and the highway, and on
21 the 3rd side by a line connecting points on the center lines of the railway and the
22 highway, 330 feet from the intersection of the center lines. The office, upon its own
23 motion, or upon any complaint to the effect that any work required by this subsection
24 has not been performed, after due notice and hearing, may order the corporation,
25 municipality or person at fault to perform the work; provided, however, that if the

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1 physical conditions at any crossing are such that the performance of the required
2 work will not materially improve the view for highway traffic, or, if unreasonable loss
3 would be caused thereby, the office may excuse the party in interest from performing
4 the same. The office may also order the cutting of brush and the trimming of trees
5 at private farm crossings as may be necessary and reasonable. If any person shall
6 violate any provision of this section, or shall fail, neglect or refuse to obey any order
7 made by the office under this section or by the department under s. 84.05 (3) with
8 respect to a matter arising under this section, or any judgment or decree made by any
9 court upon such an order, for every such violation, failure or refusal such person shall
10 forfeit not less than \$25 nor more than \$150.

11 **SECTION 25.** 195.60 (1) of the statutes is amended to read:

12 195.60 (1) Whenever the office in a proceeding upon its own motion, on
13 complaint, or upon an application to it deems it necessary in order to carry out the
14 duties imposed upon it by law to investigate the books, accounts, practices and
15 activities of, or make appraisals of the property of any railroad or to render any
16 engineering or accounting services to any railroad, the railroad shall pay the
17 expenses attributable to such investigation, appraisal or service. The office shall
18 ascertain such expenses, including all expenses incurred by the department at the
19 request or direction of the office and shall render a bill therefor, by mail, to the
20 railroad, either at the conclusion of the investigation, appraisal or services, or during
21 its progress. The bill shall constitute notice of assessment and demand of payment
22 thereof. The railroad shall, within 30 days after the mailing thereof, pay to the office
23 the amount of the special expense for which it is billed. Ninety percent of the
24 payment shall be deposited in the general fund and credited to the appropriation
25 account under s. ~~20.155 (2) (g)~~ 20.395 (2) (gg). The total amount, in any one calendar

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1 year, for which any railroad becomes liable, by reason of costs incurred by the office
2 within such calendar year, shall not exceed four-fifths of one percent of its gross
3 operating revenues derived from intrastate operations in the last preceding calendar
4 year. Where, under this subsection, costs are incurred within any calendar year,
5 which are in excess of four-fifths of one percent of such gross operating revenues, the
6 excess costs shall not be chargeable as part of the remainder under sub. (2) but shall
7 be paid out of the general appropriation to the office. Nothing in this subsection shall
8 prevent the office from rendering bills in one calendar year for costs incurred within
9 a previous year. For the purpose of calculating the costs of investigations, appraisals
10 and other services under this subsection, ~~90%~~ 90 percent of the costs determined
11 shall be costs of the office and ~~10%~~ 10 percent of the costs determined shall be costs
12 of state government operations.

13 **SECTION 26.** 195.60 (2) of the statutes is amended to read:

14 195.60 (2) The office shall annually, within 90 days after the close of each fiscal
15 year, ascertain the total of its expenditures during such year which are reasonably
16 attributable to the performance of its duties relating to railroads. For purposes of
17 such calculation, ~~90%~~ 90 percent of the expenditures so determined shall be
18 expenditures of the office and ~~10%~~ 10 percent of the expenditures so determined shall
19 be expenditures for state government operations. The office shall deduct therefrom
20 all amounts chargeable to railroads under sub. (1) ~~and s. 201.10 (3)~~. A sum equal to
21 the remainder plus ~~10%~~ 10 percent of the remainder shall be assessed by the office
22 to the several railroads in proportion to their respective gross operating revenues
23 during the last calendar year, derived from intrastate operations. Such assessment
24 shall be paid within 30 days after the bill has been mailed to the several railroads,
25 which bill shall constitute notice of assessment and demand of payment thereof. The

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1 total amount which may be assessed to the railroads under authority of this
2 subsection shall not exceed ~~1.85%~~ ^{1.85} percent of the total gross operating revenues
3 of such railroads, during such calendar year, derived from intrastate operations.

4 Ninety percent of the payment shall be deposited in the general fund and credited
5 to the appropriation account under s. ~~20.155 (2) (g)~~ 20.395 (2) (gg). The railroads
6 shall furnish such financial information as the office requires.

7 **SECTION 27.** 197.10 (4) of the statutes is amended to read:

8 197.10 (4) Insofar as the use, operation, service, management, control, sale,
9 lease, purchase, extension, improvement, rates, value or earnings of the properties
10 of the public utility or provisions looking toward the ultimate acquisition of the same
11 are made subject to the terms of any contract provided for in sub. (1), and so long as
12 said contract remains in force, the following sections of the statutes shall be
13 inapplicable to the same: ss. ~~195.05, 195.10~~, 196.02 (1) and (2), 196.05, 196.09,
14 196.10, 196.11, 196.15, 196.16, 196.19 (6), 196.20, 196.21, 196.22, 196.26, 196.28,
15 196.30, 196.37, 196.39, 196.40, 196.58, 196.70, 197.01 (2) to (4), 197.02, 197.03,
16 197.04, 197.05, 197.06, 197.08 and 197.09; provided that nothing in any contract
17 made hereunder shall operate to prevent an appeal to the public service commission
18 by any person, other than a party to said contract, upon any complaint alleging that
19 any rate, fare, charge or classification, or any joint rate, or any regulation, act or
20 practice relating to the production, transmission, delivery or furnishing of gas, heat,
21 light or power, or any service in connection therewith, is unjustly discriminatory, or
22 that any such service is inadequate or cannot be obtained. Upon said appeal the
23 commission shall, as provided by law, determine and by order fix a rate, fare, charge,
24 classification, joint rate or regulation, act or practice or service to be imposed,

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

3 **SECTION 28.** 201.01 (1) of the statutes is amended to read:

4 201.01 (1) "Commission" means the ~~office of the commissioner of railroads in~~
5 ~~the case of railroads and the public service commission in the case of other public~~
6 ~~service corporations.~~

7 **SECTION 29.** 201.01 (2) of the statutes is amended to read:

8 201.01 (2) "Public service corporation" means and embraces every corporation,
9 except municipalities and other political subdivisions, which is a public utility as
10 defined in s. 196.01, ~~and every corporation which is a railroad as defined in s. 195.02,~~
11 but shall not include a public utility corporation receiving an annual gross revenue
12 of less than \$1,000 for the calendar year next preceding the issuance of any securities
13 by it. "Public service corporation" includes a holding company, as defined under s.
14 196.795 (1) (h), which is a public utility, as defined under s. 196.01 (5). "Public service
15 corporation" does not include a telecommunications utility, as defined in s. 196.01
16 (10). "Public service corporation" does not include any other holding company unless
17 the holding company was formed after November 28, 1985, and unless the
18 commission has determined, under s. 196.795 (7) (a), that each nonutility affiliate,
19 as defined under s. 196.795 (1) (j), does not and cannot reasonably be expected to do
20 at least one of the items specified in s. 196.795 (7) (a). "Public service corporation"
21 does not include a company, as defined in s. 196.795 (1) (f), which owns, operates,
22 manages or controls a telecommunications utility, as defined in s. 196.01 (10), unless
23 such company also owns, operates, manages or controls a public utility which is not
24 a telecommunications utility. "Public service corporation" does not include a
25 transmission company, as defined in s. 196.485 (1) (ge).

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1 **SECTION 30.** 201.10 (3) of the statutes is amended to read:

2 201.10 (3) Whenever the commission deems it necessary to make an
3 investigation of the books, accounts and practices or to make an appraisal of the
4 property of any public service corporation which has filed an application for
5 authority to issue any securities to which this chapter is applicable, such public
6 service corporation shall pay all expenses reasonably attributable to such special
7 investigation, or to such an appraisal of the property. For the purpose of calculating
8 investigative and appraisal expenses of the commission, ~~90%~~ 90 percent of the costs
9 determined shall be costs of the commission and ~~10%~~ 10 percent of the costs
10 determined shall be costs of state government operations. The procedure set up by
11 s. ~~195.60 or 196.85, whichever is appropriate,~~ for the rendering and collection of bills
12 shall be in all ways applicable to the rendering and collection of bills under this
13 section. Ninety percent of the amounts paid to the ~~public service~~ commission under
14 authority of this subsection shall be credited to the appropriation account under s.
15 20.155 (1) (g).

16 **SECTION 31.** 201.13 of the statutes is amended to read:

17 **201.13 Stock.** Subject to the regulatory jurisdiction of the commission under
18 this chapter and to all other applicable provisions of law relating to ~~railroad or other~~
19 special types of corporations, all classes and series of stock of a public service
20 corporation shall be governed by the provisions of ch. 180.

21 **SECTION 32.** 226.025 (3) of the statutes is amended to read:

22 226.025 (3) The appointment of the department of financial institutions or the
23 designation of a resident agent as attorney for the service of summons, notice,
24 pleadings or process under s. 180.1507 shall be applicable only to actions or
25 proceedings against the foreign corporations described in this section (unless such

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1 corporations have been admitted to this state for purposes other than those
2 mentioned in this section) where the cause of action or proceeding arises out of
3 transactions between such foreign corporations and public utilities operating in this
4 state with which such foreign corporations are affiliated; and to actions or
5 proceedings by or before the public service commission ~~or office of the commissioner~~
6 ~~of railroads~~ involving the transactions described in sub. (1), or involving the relation
7 between such foreign corporations and public utilities operating in this state with
8 which they are affiliated.

9 (END)