

1 **195.055 Judicial review.** All orders and determinations of the office
2 department under this chapter are subject to judicial review under ch. 227.

3 **SECTION 127.** 195.06 of the statutes is repealed.

4 **SECTION 128.** 195.07 (1) of the statutes is repealed.

5 **SECTION 129.** 195.07 (2) of the statutes is amended to read:

6 **195.07 (2) ATTORNEY GENERAL AND DISTRICT ATTORNEY TO PROSECUTE.** Upon
7 request of the office department, the attorney general or the district attorney of the
8 proper county shall aid in any investigation, hearing or trial had under, and shall
9 institute and prosecute all necessary actions or proceedings for the enforcement of,
10 laws relating to railroads.

11 **SECTION 130.** 195.08 of the statutes is repealed.

12 **SECTION 131.** 195.09 of the statutes is repealed.

13 **SECTION 132.** 195.10 of the statutes is repealed.

14 **SECTION 133.** 195.11 of the statutes is repealed.

15 **SECTION 134.** 195.12 of the statutes is repealed.

16 **SECTION 135.** 195.13 of the statutes is repealed.

17 **SECTION 136.** 195.14 of the statutes is repealed.

18 **SECTION 137.** 195.15 of the statutes is repealed.

19 **SECTION 138.** 195.16 of the statutes is repealed.

20 **SECTION 139.** 195.17 of the statutes is repealed.

21 **SECTION 140.** 195.19 (1) of the statutes is amended to read:

22 **195.19 (1) PASSENGER.** Every railroad shall provide and maintain adequate
23 passenger depots equipped with proper toilet facilities at its regular stations for the
24 accommodation of passengers, and said depots shall be kept clean, well-lighted and
25 warmed, for the comfort and accommodation of the traveling public, and shall be kept

1 open continuously from not less than 20 minutes before any train carrying
2 passengers is scheduled to arrive and until such train has departed and for such
3 longer period in any case as the ~~office~~ department may determine is necessary for the
4 convenience and accommodation of the public. Where the ~~office~~ department
5 determines that the service of certain trains in making stops on signals is in excess
6 of reasonably adequate service, the provisions of this section shall not apply in
7 connection with the rendition of such service.

8 **SECTION 141.** 195.19 (3) of the statutes is amended to read:

9 195.19 (3) UNION DEPOT. In every city, village or town in which 2 or more
10 railroads maintain passenger depots, it shall be the duty of such railroads to
11 construct, maintain and use an adequate union passenger depot, whenever practical
12 and required by public convenience and necessity. If, after investigation, the ~~office~~
13 department shall determine that it is practicable and that public convenience and
14 necessity required the construction, maintenance and use of a union passenger depot
15 in any such city, village or town the ~~office~~ department may order such railroads to
16 construct, maintain and use an adequate union passenger depot, and shall in such
17 order fix the location of such depot. If the railroads shall be unable to agree upon an
18 apportionment of the original cost of such union passenger depot, and the expense
19 of maintaining the same, within 20 days after the service of such order, the ~~office~~
20 department may, after a hearing, issue a supplemental order declaring the
21 apportionment of such original cost and the expense of maintaining such depot.

22 **SECTION 142.** 195.20 of the statutes is amended to read:

23 **195.20 Joint use of railroad property.** Whenever, upon complaint and after
24 hearing had, the ~~office~~ department finds that ~~public convenience and necessity~~
25 ~~require~~ the use by one or more railroads of the tracks, wires, poles, rights-of-way,

1 switches, bridges or other property belonging to another railroad over or on any
2 street, railroad, railway, right-of-way, bridge or viaduct, upon or over which said
3 railroads have a right to operate, ~~and that such use~~ will not prevent the owners or
4 other users thereof from performing their public duties, nor result in irreparable
5 injury to such owners or other users thereof, the ~~office~~ department may, by order,
6 direct that such use be permitted, and prescribe a reasonable compensation and
7 reasonable terms and conditions for such joint use.

8 **SECTION 143.** 195.21 of the statutes is amended to read:

9 **195.21 Warehouses.** Any person proposing to erect or maintain a public
10 elevator or public warehouse for the purchase, sale, storage, receiving or shipping of
11 grain, or other personal property, to be received from or transported upon any
12 railroad, shall be furnished by such railroad at a reasonable rental, a site upon its
13 right-of-way or depot grounds, within the yard limits of any station or terminal of
14 such railroad; and any private elevator or warehouse situated upon such grounds
15 may be converted into a public elevator or warehouse at the option of the owner, upon
16 notice in writing to the railroad and thereby be permitted to remain thereon under
17 the same conditions as provided herein for a public elevator or warehouse; and the
18 ~~office~~ department shall, upon application by such owner, if the public interest so
19 requires, by order, direct the railroad to furnish such site and the ~~office~~ department
20 shall make reasonable regulations therefor and in case of disagreement, the ~~office~~
21 department shall determine the rental therefor. Elevators and warehouses erected
22 or maintained under the foregoing provisions of this section shall be subject to such
23 rules and regulations as to charges and the manner of conducting business as the
24 ~~office~~ department shall prescribe.

25 **SECTION 144.** 195.26 of the statutes is amended to read:

1 **195.26 Safety devices; block system.** Every railroad shall adopt reasonably
2 adequate safety measures and install, operate and maintain reasonably adequate
3 safety devices for the protection of life and property. If after investigation the ~~office~~
4 department shall determine that public safety requires it, the ~~office~~ department may
5 order the railroad to install, operate and maintain a block system or other safety
6 device or measure as may be necessary to render the operation of such railroad
7 reasonably safe.

8 **SECTION 145.** 195.27 of the statutes is amended to read:

9 **195.27 Safe tracks and bridges.** Every railroad shall construct and
10 maintain its tracks, bridges and line structures in a reasonably adequate and safe
11 manner. ~~The office may direct the department to investigate complaints in the~~
12 ~~manner provided by s. 195.04.~~ If, upon complaint or upon its own motion and after
13 hearing, the office the department determines that the track or structures of any
14 railroad are inadequate or unsafe for the operation of its railroad, the ~~office~~
15 department shall order the railroad to reconstruct or repair the inadequate or unsafe
16 track or structures.

17 **SECTION 146.** 195.28 (1) of the statutes is amended to read:

18 **195.28 (1) PETITION; HEARING; ORDER.** Upon petition of ~~the department, city a~~
19 city council, village board, town board, superintendent of highways or by 5 or more
20 electors in any town, village or city, or of any railroad corporation or railroad
21 historical society, to determine whether a public highway and railroad grade crossing
22 protects and promotes public safety, or upon its own motion, the ~~office~~ department
23 may investigate and issue an appropriate order without a public hearing. The
24 department shall issue its order on the basis of investigation and criteria
25 promulgated by rule with respect to the adequacy of grade crossing protection. The

1 rule may include programming criteria relating to the priority of grade crossings in
2 need of protection. If the petitioner, railroad, railroad historical society or any
3 interested party objects to the order and requests a hearing within 20 days after the
4 date that the order is issued, the ~~office shall proceed under s. 195.04.~~ Notice of an
5 ~~investigation or hearing shall be served upon the department, which shall be an~~
6 ~~interested party, and any recommendation it may file with the office at or prior to a~~
7 ~~hearing, if there is one, regarding crossing protection shall be considered as evidence~~
8 ~~in the proceeding~~ department shall refer the order to the division of hearings and
9 appeals for review as provided in s. 195.325. The ~~office~~ department or the division
10 of hearings and appeals shall determine whether the existing warning devices at
11 such crossing are adequate to protect and promote public safety. If the ~~office~~
12 department or division of hearings and appeals determines, ~~either without or after~~
13 ~~a hearing,~~ that protection is not adequate, it may order the railroad company or
14 railroad historical society to keep a flagman at the crossing or to install automatic
15 signals or other suitable safety device at specific locations at such crossing. The ~~office~~
16 department or the division of hearings and appeals may order the relocation of
17 existing signals and devices to improve protection at a crossing. Any crossing
18 protection installed or maintained as approved by the ~~office~~ department or the
19 division of hearings and appeals, whether by order or otherwise, shall be deemed
20 adequate and appropriate protection for the crossing.

21 **SECTION 147.** 195.28 (3) of the statutes is amended to read:

22 195.28 (3) MAINTENANCE COSTS. Except as otherwise provided in this
23 subsection, the cost of maintaining crossing protection devices ordered under sub. (1)
24 shall be the responsibility of the railroad or railroad historical society. Any railroad
25 company or railroad historical society that incurs expenses for maintenance of

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

9 **SECTION 148.** 195.28 (4) of the statutes is amended to read:

10 195.28 (4) PREVIOUS OFFICE ORDERS. Subsection (3) applies to maintenance costs
11 for all crossing protection devices regardless of any prior order ~~of the office~~
12 apportioning maintenance costs.

13 **SECTION 149.** 195.285 (1) of the statutes is amended to read:

14 195.285 (1) ~~Upon~~ If, upon its own motion or upon the petition of a railroad
15 corporation, ~~the department~~, or the governing body of any city, village, town or
16 county asserting that the stopping of vehicles under s. 346.45 at a railroad crossing
17 is hazardous to human life, ~~the office shall hold a hearing on the matter as provided~~
18 ~~under s. 195.04. Notice of petition shall be served upon the department, which shall~~
19 ~~be an interested party, and any recommendations it may file with the office regarding~~
20 ~~the hazardous effect of vehicles stopping at such crossings shall be considered as~~
21 ~~evidence in the proceedings. Upon the recommendation of the department and~~
22 ~~concurrence by the office, the petition may be dismissed without holding a hearing.~~
23 If, upon the public hearing, the office department determines that it would be in the
24 public interest to exempt vehicles specified in s. 346.45 from stopping at such grade
25 crossing, it may, without a hearing, order the public body having jurisdiction over the

1 highway to erect signs, signals, markings or other devices exempting such vehicles
2 from stopping at the crossing. If a petitioner or interested party objects to an order
3 under this subsection within 20 days after the date that the order is issued, the
4 department shall refer the order to the division of hearings and appeals for review
5 as provided in s. 195.325.

6 **SECTION 150.** 195.285 (2) of the statutes is amended to read:

7 195.285 (2) Signs placed upon the order of the ~~office~~ department or the division
8 of hearings and appeals under this section shall exempt vehicles from stopping as
9 required under s. 346.45, unless a train or engine is occupying or approaching the
10 crossing.

11 **SECTION 151.** 195.285 (3) of the statutes is amended to read:

12 195.285 (3) The department shall establish standards for the type of signs,
13 signals, markings or other devices for exempting vehicles from stopping as required
14 under s. 346.45 and their location in relation to the highway and railroad track. The
15 ~~office~~ department may upon petition or its own motion, with or without a hearing,
16 order the removal of a sign exempting vehicles from stopping at a crossing.

17 **SECTION 152.** 195.286 (2) of the statutes is repealed and recreated to read:

18 195.286 (2) DESCRIPTION AND LOCATION. The signs shall be constructed, erected
19 and located as specified by the manual adopted by the department under s. 84.02 (4)
20 (e). This subsection does not apply to any sign complying with s. 195.286 (2) and (3),
21 2001 stats., on the effective date of this subsection [revisor inserts date], until such
22 time as the sign is replaced or relocated.

23 **SECTION 153.** 195.286 (3) of the statutes is repealed.

24 **SECTION 154.** 195.286 (5) of the statutes is amended to read:

1 195.286 (5) OTHER SIGNS PROHIBITED. No other sign of the general size or
2 appearance of the signs provided for in this section shall be placed or permitted upon
3 any highway, ~~nor any sign between such advance signs except signs or signals now~~
4 ~~required by law or permitted by the office for protection at railway crossings.~~

5 **SECTION 155.** 195.286 (6) (title) of the statutes is amended to read:

6 195.286 (6) (title) PENALTIES RELATING TO ~~FENCES~~ SIGNS.

7 **SECTION 156.** 195.286 (8) of the statutes is amended to read:

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

12 **SECTION 157.** 195.29 (1) of the statutes is amended to read:

13 195.29 (1) ~~PETITION, HEARING, PUBLIC SAFETY~~ ORDER. ~~Upon~~ If, upon its own
14 motion or upon petition by the common council or board of any city, village, town or
15 county within or bordering upon which a highway or street crosses a railroad, or a
16 highway or street is proposed to be laid out across a railroad, or a public highway
17 bridge across a railroad is required to connect existing streets or highways, or upon
18 petition by any railroad whose track crosses or is about to cross, or is crossed or about
19 to be crossed by a street or highway, or ~~upon petition by the department,~~ in cases
20 where provision has been made for the improvement of the highway adjacent to such
21 crossing under any state aid or federal aid law, the department determines that
22 public safety requires an alteration in such crossing, its approaches, the method of
23 crossing, the location of the highway or crossing, or the closing of the crossing, and
24 the substitution of another therefor at grade or not at grade, or the removal of
25 obstructions to the view at such crossing, the relocation of the highway, or requires

1 the determination of the manner of making such new crossing, or of making the
2 proposed improvement or promoting the public safety or public convenience through
3 any other reasonable method, ~~and praying that the same may be ordered, the office~~
4 ~~shall give notice to the parties in interest and proceed to investigate the same and~~
5 ~~to order a hearing thereon in the manner provided by s. 195.04. The office shall~~
6 determine the department may issue an appropriate order without a public hearing.
7 The department shall make its determination on the basis of investigation and the
8 criteria relating to the requirements of public safety promulgated under sub. (9). The
9 order shall state what, if anything, shall be done to promote the public safety and the
10 means by which it shall be accomplished, whether by the relocation of the highway,
11 the alteration in such crossing, approaches, mode of crossing, location of highway
12 crossing, closing of highway crossing, with or without the substitution of another
13 therefor, the construction of a public highway bridge, the removal of obstructions to
14 sight at crossing, or by the use of other reasonable methods, and by whom the same
15 shall be made, and in case of new crossings the advisability of allowing such crossings
16 to be established and manner of making them.

17 **SECTION 158.** 195.29 (2) of the statutes is amended to read:

18 195.29 (2) APPORTIONMENT OF EXPENSE. The ~~office~~ department shall fix the
19 proportion of the cost and expense of alterations, removals and new crossings, or any
20 other work ordered, including the damages to any person whose land is taken, and
21 the special damages which the owner of any land adjoining the public street or
22 highway shall sustain by reason of a change in the grade of such street or highway,
23 or by reason of the removal of obstructions to view at such crossings, to be paid or
24 borne by the railroad companies and the municipalities in interest. In fixing such

1 proportion, the ~~office~~ department may order such cost and expense so apportioned
2 to be paid by the parties against which the apportionment shall be made.

3 **SECTION 159.** 195.29 (3) of the statutes is amended to read:

4 195.29 (3) RESTORATION OF SPUR TRACKS. Whenever the ~~office~~ department shall
5 have ordered a separation of the grade of a railway from the grade of a street or
6 highway, it may, if safe and practicable and if a necessity exists therefor, order the
7 alteration, restoration and connection of any track serving an industry. Demand for
8 such restoration shall be in writing and filed with the ~~office~~ department within 90
9 days after the date of the order for the separation of grades, and any such track for
10 which no such demand shall have been made shall be deemed abandoned. If the
11 ~~office~~ department shall order the alteration, restoration and connection of any such
12 track, it shall by its order apportion the cost thereof between the owner of the
13 industry served and the railway company, in such proportion as to the ~~office~~
14 department may seem just and equitable; and the ~~office~~ department shall in its order
15 prescribe the terms and conditions for securing the payment of such cost.

16 **SECTION 160.** 195.29 (4) of the statutes is amended to read:

17 195.29 (4) GRADE SEPARATION IN MILWAUKEE COUNTY. The ~~office~~ department may
18 upon petition of any town, city or village, or upon its own motion, when the interests
19 of the public demand it and it is found practicable so to do, establish the grade of the
20 tracks of any railroad, or of all the railroads throughout any county having a
21 population of 500,000 or more, or any part thereof, and the grades of the streets or
22 highways, or any of them, where they cross such railroad track or tracks, in
23 anticipation of the future separation of grades of the railroad tracks from the grades
24 of such streets or highways. The ~~office~~ department, before making any such order,
25 shall mail notice to the railroad company or companies affected, the owners or

1 occupants of any building abutting on that part of the railroad the grade of which is
2 to be established, all 1st class cities in the county, and if the grades to be established
3 are outside the 1st class city, the towns, cities or villages in which such grades are
4 to be established, of the filing of such petition or that the ~~office~~ department
5 contemplates establishing such grades, and fixing a time at which the 1st class cities
6 and such other towns, cities or villages and the railroad company or companies
7 affected thereby and any other person or corporation interested therein may be
8 heard. The grades so established under this subsection shall be described by
9 reference to a base or datum line to be established by the ~~office~~ department, from
10 which all elevations and the height of all grades shall be measured, and the grades
11 so established shall be such that when brought to the established grade the railroad
12 tracks will cross the streets and highways above or below the same. Such order shall
13 not necessarily require a present change in grade but the ~~office~~ department may at
14 any time order the railroad track or tracks and the street and highways brought to
15 the grade established or any street or highways closed by the order, in accordance
16 with sub. (1), and may, at the time of making the order, apportion the cost of
17 separating the grades as provided in sub. (2).

18 **SECTION 161.** 195.29 (5) of the statutes is amended to read:

19 195.29 (5) ELIMINATION OF GRADE CROSSINGS, COSTS. ~~Upon~~ If, upon its own motion
20 or upon petition of the ~~department, or of the~~ common council or board of any city,
21 village, town or county, alleging that one or more of them have undertaken or propose
22 to undertake to relocate or improve an existing highway or to construct a new
23 highway in such manner as to eliminate a highway grade crossing with any railroad
24 or so as to permanently divert a material portion of the highway traffic from a
25 highway grade crossing with any railroad, the ~~office shall issue notice of~~

1 ~~investigation and hearing, as provided in s. 195.04.~~ If upon such hearing the office
2 department finds that the public safety will be promoted by the highway relocation,
3 improvement or new construction, the ~~office~~ department shall order the old crossings
4 closed and new crossings opened as are deemed necessary for public safety. The
5 department may issue an appropriate order without a public hearing. The order
6 shall require the railroad company or companies to pay to the interested
7 municipality or municipalities such sum as the ~~office~~ department finds to be an
8 equitable portion of the cost of the highway relocation, improvement or new
9 construction, if the work is performed by the municipalities; or to the state treasurer
10 if the work is performed by the state; or to the proper county treasurer if the work
11 is performed by the county. The sum shall be added to the joint fund available for
12 the improvement and may be expended in like manner as the other portions of the
13 fund.

14 **SECTION 162.** 195.29 (6) of the statutes is amended to read:

15 195.29 (6) VIEW AT CROSSINGS; TREES AND BRUSH NEAR CROSSINGS; FORFEITURE.

16 Every railroad shall keep its right-of-way clear of brush or trees for a distance of not
17 less than 330 feet in each direction from the center of its intersection at grade with
18 any public highway, and for such further distance as is necessary to provide an
19 adequate view of approaching trains, from the highway. Every municipality shall
20 keep the public highways within its jurisdiction clear of brush and shall adequately
21 trim all trees within 330 feet of the center of any railroad highway grade crossing.
22 Every person or corporation owning or occupying any land adjacent to any railroad
23 highway grade crossing shall keep all brush cut and adequately trim all trees on the
24 land within the triangles bounded on 2 sides by the railway and the highway, and on
25 the 3rd side by a line connecting points on the center lines of the railway and the

1 highway, 330 feet from the intersection of the center lines. The office department,
2 upon its own motion, or upon any complaint to the effect that any work required by
3 this subsection has not been performed, after due notice and hearing, may order the
4 corporation, municipality or person at fault to perform the work; provided, however,
5 that if the physical conditions at any crossing are such that the performance of the
6 required work will not materially improve the view for highway traffic, or, if
7 unreasonable loss would be caused thereby, the office department may excuse the
8 party in interest from performing the same. The office department may also order
9 the cutting of brush and the trimming of trees at private farm crossings as may be
10 necessary and reasonable. If any person shall violate any provision of this section,
11 or shall fail, neglect or refuse to obey any order made by the office department under
12 this section, or any judgment, order, or decree made by the division of hearings and
13 appeals or any court upon such an order, for every such violation, failure or refusal
14 such person shall forfeit not less than \$25 nor more than \$150.

15 **SECTION 163.** 195.29 (7) of the statutes is amended to read:

16 195.29 (7) STRUCTURE REQUIREMENTS. Whenever the office department shall
17 order the construction or reconstruction of a crossing not at grade, it may direct that
18 the structure required shall be of such character and constructed of such materials
19 as it shall deem appropriate to the situation and necessary for the public interest.

20 **SECTION 164.** 195.29 (9) of the statutes is created to read:

21 195.29 (9) RULES. The department shall promulgate a rule establishing criteria
22 for determining the requirements of public safety with respect to railroad highway
23 crossings under this section. The rule shall include criteria for apportioning
24 expenses under this section.

25 **SECTION 165.** 195.29 (10) of the statutes is created to read:

1 195.29 (10) REVIEW OF DEPARTMENT ORDERS. If a petitioner, railroad or any
2 interested party objects to an order under this section within 20 days after the date
3 that the order is issued, the department shall refer the order to the division of
4 hearings and appeals for review as provided in s. 195.325.

5 **SECTION 166.** 195.295 of the statutes is created to read:

6 **195.295 Highway crossings; public warning.** Notwithstanding s. 195.28,
7 195.285, 195.286, 195.29 and 195.30, the department shall monitor and investigate
8 all railroad highway grade crossings in this state, and determine, by order, rule or
9 otherwise, for each crossing whether any warning devices, advance warning signs
10 or other warning measures shall be required to protect and promote public safety.
11 The department may make a determination under this section without a hearing.
12 Any device, sign, or other measure, installed or maintained at a crossing, that
13 conforms to a determination of the department under this section or, if no such
14 determination has been made, that was approved by the office of the commissioner
15 of transportation under ch. 195, 1991 stats., or the office of the commissioner of
16 railroads under ch. 195, 2001 stats., before the effective date of this section
17 [revisor inserts date], whether by order or otherwise, shall be considered adequate
18 and appropriate warning for the crossing. If a railroad or interested party objects
19 to an order under this section within 20 days after the date that the order is issued,
20 the department shall refer the order to the division of hearings and appeals for
21 review as provided in s. 195.325.

22 **SECTION 167.** 195.30 (1) of the statutes is amended to read:

23 195.30 (1) Upon a petition by the common council of any city, or the board of
24 any village, town or county within which a railroad crosses another railroad at grade,
25 or by any such railroad, that public safety requires an alteration in the crossing or

1 the installation of protective appliances, ~~the office shall give notice to the parties in~~
2 ~~interest, and proceed to investigate the same and may order a hearing on the matter.~~
3 ~~The office shall determine what alteration in such crossing, if any, shall~~ or on its own
4 motion, the department may investigate the matter and determine what alteration
5 in the crossing, if any, is necessary. The department shall make its determination
6 on the basis of the criteria for public safety requirements promulgated as rules under
7 ss. 84.05 and 195.28. The department may issue an order, with or without a hearing,
8 specifying an alteration to be made, and by whom made and maintained, or what
9 protective appliances shall be installed, operated and maintained at the crossing and
10 by whom installed, operated and maintained. The office department's order shall fix
11 the proportion of the cost and expense of such change in grade and maintenance of
12 the crossing or of the installation, operation and maintenance of the safety appliance
13 which shall be paid by the railroad companies, respectively. If an interested party
14 objects to the order and requests a hearing within 20 days after the date on which
15 the order is issued, the department shall refer the matter to the division of hearings
16 and appeals for review as provided in s. 195.325.

17 **SECTION 168.** 195.305 of the statutes is amended to read:

18 **195.305 Railroad crossings; grade; expense.** Whenever a railroad
19 proposes to cross, intersect, join or unite its track with another railroad track, the
20 surface road of the proposed track shall be above, below or at grade of the tracks
21 proposed to be crossed as the ~~office~~ division of hearings and appeals determines after
22 hearing the parties upon reasonable notice. In its determination, the ~~office~~ division
23 of hearings and appeals shall fix the proportion of the expense of originally
24 constructing, operating, and maintaining such crossing, intersecting, joining or
25 uniting which shall be paid by the owners of the tracks respectively.

1 **SECTION 169.** 195.31 of the statutes is amended to read:

2 **195.31 Bridges made safe.** Whenever a complaint is lodged with the office
3 department by the common council of any city, the village board of any village, a
4 member of a town board, or a supervisor of highways, or by 5 or more electors and
5 taxpayers in any town, or 5 or more electors of the county in which such bridge is
6 located, and who are users of such bridge or railway, to the effect that a bridge erected
7 over a stream intersecting a public highway or highways upon which a railway is
8 constructed and operated, is unsafe and dangerous to travelers over such highway
9 or highways or bridge or railroad, and that public safety requires the alteration, the
10 repair or reconstruction of such bridge, or the substitution of another bridge therefor,
11 ~~it shall be the duty of the office to give notice to the party or parties in interest, other~~
12 ~~than the petitioners, of the filing of such complaint, and to furnish a copy of the~~
13 ~~complaint to the party or parties in interest other than the petitioners, and to order~~
14 ~~a hearing thereon, in the manner provided for hearings in ss. 195.04 to 195.043. The~~
15 ~~office~~ the department shall investigate the matter. The department may proceed in
16 a similar manner in the absence of a petition when, in the opinion of the office
17 department, public safety requires the alteration, repair or reconstruction of a bridge
18 or the substitution of another bridge for the bridge in question. ~~After the hearing,~~
19 ~~the office~~ The department shall determine what alteration or repair or
20 reconstruction of such bridge, and the approaches thereto, shall be made, or if it shall
21 determine determines that public safety requires the substitution of a new bridge,
22 it shall determine the character, manner of construction and location of such bridge
23 and the approaches thereto. ~~The office~~ department shall fix the proportion of the cost
24 and expense of such alteration, repair, reconstruction or substitution of a new bridge,
25 ~~including the damage to any person whose land is taken, and the special damage~~

1 ~~which the owner of any land adjoining the approaches to said bridge shall sustain~~
2 ~~by reason of the alteration, repair, reconstruction or substitution of a new bridge, to~~
3 ~~be paid by the railroad company and the city, village or town in interest. The~~
4 ~~department may issue appropriate orders incorporating its determinations and may~~
5 ~~proceed without a hearing on the matter. The department shall make its~~
6 ~~determinations on the basis of investigation and criteria for bridge safety~~
7 ~~promulgated by rule. If a petitioner or interested party objects to an order under this~~
8 ~~section within 20 days after the date that the order is issued, the department shall~~
9 ~~refer the order to the division of hearings and appeals for review as provided in s.~~
10 ~~195.325.~~

11 SECTION 170. 195.32 of the statutes is amended to read:

12 **195.32 Safety gates on drawbridges.** Whenever a complaint is filed with
13 the ~~office~~ department to the effect that any drawbridge is not equipped with gates
14 or other safety devices, the ~~office~~ department may notify the proper party or parties
15 in interest of the complaint, and may proceed to investigate the ~~complaint and to hold~~
16 ~~a hearing on the matter in the manner provided for hearings in ss. 195.04 to 195.043~~
17 ~~matter.~~ If after the investigation the ~~office~~ department determines that public safety
18 requires the erection and maintenance of gates or other safety devices at the points
19 mentioned in the complaint, it may order the county, city, village, town, corporation
20 or person whose duty it is to maintain such bridge to erect and maintain at such
21 points such gates or other safety devices as the ~~office~~ department prescribes. The
22 ~~office~~ department may conduct the investigations, hold the hearings and make the
23 orders provided for in this section upon its own motion in the same manner and with
24 the same effect as though a complaint were filed. The department shall make its
25 determination on the basis of the investigation and criteria for drawbridge safety

1 promulgated by rule. If an interested party objects to an order under this section
2 within 20 days after the date that the order is issued, the department shall refer the
3 order to the division of hearings and appeals for review as provided in s. 195.325.

4 **SECTION 171.** 195.325 of the statutes is created to read:

5 **195.325 Review of department orders on crossings and bridges.** If an
6 order of the department under s. 84.05, 195.28, 195.285, 195.29, 195.295, 195.30,
7 195.31, or 195.32 is referred to the division of hearings and appeals for review, the
8 division of hearings and appeals shall review the order under s. 85.013 (3) in light
9 of the application of the criteria relating to the matter promulgated as rules by the
10 department.

11 **SECTION 172.** 195.33 of the statutes is repealed.

12 **SECTION 173.** 195.34 of the statutes is amended to read:

13 **195.34 Reports of accidents, investigation.** Every railroad shall report to
14 the ~~office~~ department all collisions, derailments or other accidents resulting in injury
15 to persons, equipment or roadway arising from its operation. The ~~office~~ department
16 may issue rules concerning the reporting of accidents and may also, if public
17 interests require, cause an investigation of any accident.

18 **SECTION 174.** 195.36 of the statutes is amended to read:

19 **195.36 General penalty upon railroads.** If any railroad shall violate any
20 provision of this chapter, or shall do any act herein prohibited, or shall fail or refuse
21 to perform any duty enjoined upon it, for which a penalty has not been provided, or
22 shall fail, neglect or refuse to obey any lawful requirement or order made by the ~~office~~
23 department or division of hearings and appeals, or any judgment or decree made by
24 any court upon its application, for every such violation, failure or refusal in respect
25 to any matter prescribed by this chapter such railroad shall forfeit not less than \$100

1 nor more than \$10,000. The act, omission or failure of any officer, agent or other
2 person employed by any railroad, acting within the scope of his or her employment,
3 shall be deemed to be the act, omission or failure of such railroad.

4 **SECTION 175.** 195.37 of the statutes is repealed.

5 **SECTION 176.** 195.38 of the statutes is repealed.

6 **SECTION 177.** 195.45 (1) of the statutes is amended to read:

7 195.45 (1) No person shall operate as a common carrier of passengers or
8 property by water except in accordance with the terms and conditions of a certificate
9 of public convenience and necessity issued by the office. ~~The office shall issue any~~
10 ~~certificate upon a finding that the service proposed to be performed is in the public~~
11 ~~interest and required by public convenience and necessity~~ department.

12 **SECTION 178.** 195.45 (2) of the statutes is amended to read:

13 195.45 (2) Application for the certificate shall be made on forms furnished by
14 the ~~office~~ department and shall contain such information as the ~~office~~ department
15 requires.

16 **SECTION 179.** 195.45 (4) of the statutes is amended to read:

17 195.45 (4) The ~~office~~ department may promulgate rules for the operation of this
18 section.

19 **SECTION 180.** 195.50 (1) of the statutes is amended to read:

20 195.50 (1) Any officer, agent or employee of any railroad who fails to fill out and
21 return any forms required by this chapter, or fails to answer any question therein,
22 or knowingly gives a false answer to any such question, or evades the answer to any
23 such question where the fact inquired of is within his or her knowledge, or who, upon
24 proper demand, fails to exhibit to the ~~office or~~ department or the division of hearings
25 and appeals or any person authorized to examine the same, any book, paper, account,

1 record or memoranda of such railroad which is in the possession or under control of
2 the officer, agent or employee, or who fails to properly use and keep the system of
3 accounting prescribed by the ~~office~~ department, or who refuses to do any act or thing
4 in connection with such system of accounting when so directed by the ~~office or its~~
5 department, the division of hearings and appeals, or their authorized
6 representatives, shall forfeit not less than \$100 nor more than \$1,000 for each
7 offense.

8 **SECTION 181.** 195.60 (title) of the statutes is amended to read:

9 **195.60 (title) Payment of office department expenses by railroads.**

10 **SECTION 182.** 195.60 (1) of the statutes is amended to read:

11 195.60 (1) Whenever the ~~office~~ department in a proceeding upon its own
12 motion, on complaint, or upon an application to it deems it necessary in order to carry
13 out the duties imposed upon it by law to investigate the books, accounts, practices
14 and activities of, or make appraisals of the property of any railroad or to render any
15 engineering or accounting services to any railroad, the railroad shall pay the
16 expenses attributable to such investigation, appraisal or service. The ~~office~~
17 department shall ascertain such expenses, ~~including all expenses incurred by the~~
18 ~~department at the request or direction of the office~~ and shall render a bill therefor,
19 by mail, to the railroad, either at the conclusion of the investigation, appraisal or
20 services, or during its progress. The bill shall constitute notice of assessment and
21 demand of payment thereof. The railroad shall, within 30 days after the mailing
22 thereof, pay to the ~~office~~ department the amount of the special expense for which it
23 is billed. ~~Ninety percent of the payment shall be credited to the appropriation~~
24 ~~account under s. 20.155 (2) (g).~~ The total amount, in any one calendar year, for which
25 any railroad becomes liable, by reason of costs incurred by the ~~office~~ department

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

12 **SECTION 183.** 195.60 (2) of the statutes is amended to read:

13 195.60 (2) The office department shall annually, within 90 days after the close
14 of each fiscal year, ascertain the total of its expenditures during such year which are
15 reasonably attributable to the performance of its duties relating to railroads. For
16 purposes of such calculation, 90% of the expenditures so determined shall be
17 expenditures of the office department and 10% of the expenditures so determined
18 shall be expenditures for state government operations. The office department shall
19 deduct therefrom all amounts chargeable to railroads under sub. (1) ~~and s. 201.10 (3)~~.
20 A sum equal to the remainder plus 10% of the remainder shall be assessed by the
21 office department to the several railroads in proportion to their respective gross
22 operating revenues during the last calendar year, derived from intrastate
23 operations. Such assessment shall be paid within 30 days after the bill has been
24 mailed to the several railroads, which bill shall constitute notice of assessment and
25 demand of payment thereof. The total amount which may be assessed to the

1 railroads under authority of this subsection shall not exceed 1.85% of the total gross
2 operating revenues of such railroads, during such calendar year, derived from
3 intrastate operations. ~~Ninety percent of the payment shall be credited to the~~
4 ~~appropriation account under s. 20.155 (2) (g).~~ The railroads shall furnish such
5 financial information as the ~~office~~ department requires.

6 **SECTION 184.** 195.60 (3) of the statutes is amended to read:

7 195.60 (3) If any railroad against which a bill has been rendered under sub. (1)
8 or (2) within 30 days after the rendering of such bill neglects or refuses to pay the
9 same or fails to file objections to the bill with the ~~office~~ division of hearings and
10 appeals, the ~~office~~ department shall transmit to the state treasurer a certified copy
11 of the bill, together with notice of neglect or refusal to pay the bill, and on the same
12 day the ~~office~~ department shall mail to the railroad against which the bill has been
13 rendered a copy of the notice which it has transmitted to the state treasurer. Within
14 10 days after the receipt of such notice and certified copy of such bill, the state
15 treasurer shall levy the amount stated on such bill to be due, with interest, by
16 distress and sale of any goods and chattels, including stocks, securities, bank
17 accounts, evidences of debt, and accounts receivable belonging to such delinquent
18 railroad. Such levy by distress and sale shall be governed by the provisions of s.
19 74.10, 1985 stats., except that it shall be made by the state treasurer and that said
20 goods and chattels anywhere within the state may be levied upon.

21 **SECTION 185.** 195.60 (4) (a) of the statutes is amended to read:

22 195.60 (4) (a) Within 30 days after the date of the mailing of any bill as provided
23 by subs. (1) and (2), the railroad against which such bill has been rendered may file
24 with the ~~office~~ division of hearings and appeals objections setting out in detail the
25 grounds upon which the objector regards the bill to be excessive, erroneous, unlawful

1 or invalid. The ~~office~~ division of hearings and appeals, after notice to the objector,
2 shall hold a hearing upon such objections, not less than 5 nor more than 10 days after
3 such notice. If after such hearing the ~~office~~ division of hearings and appeals finds
4 any part of the bill to be excessive, erroneous, unlawful or invalid it shall record its
5 findings ~~upon its minutes~~ with respect to the objections and transmit to the objector
6 an amended bill, in accordance with such findings. The amended bill shall have in
7 all ways the same force and effect under this section as an original bill rendered
8 under subs. (1) and (2).

9 **SECTION 186.** 195.60 (4) (b) of the statutes is amended to read:

10 195.60 (4) (b) If after the hearing the ~~office~~ division of hearings and appeals
11 finds the entire bill unlawful or invalid, it shall notify the objector of such
12 determination, in which case the original bill shall be deemed void.

13 **SECTION 187.** 195.60 (4) (c) of the statutes is amended to read:

14 195.60 (4) (c) If after the hearing the ~~office~~ division of hearings and appeals
15 finds that the bill as rendered is neither excessive, erroneous, unlawful or invalid,
16 either in whole or in part, it shall record such findings ~~upon its minutes~~ with respect
17 to the objections, and transmit to the objector notice of such finding.

18 **SECTION 188.** 195.60 (4) (d) of the statutes is amended to read:

19 195.60 (4) (d) If any bill against which objections have been filed is not paid
20 within 10 days after notice of a finding that such objections have been overruled and
21 disallowed by the ~~office~~ division of hearings and appeals has been mailed to the
22 objector, the ~~office~~ department shall give notice of such delinquency to the state
23 treasurer and to the objector, in the manner provided in sub. (3). The state treasurer
24 shall then proceed to collect the amount of the bill as provided in sub. (3). If an
25 amended bill is not paid within 10 days after a copy thereof is mailed to the objector

1 by registered mail, the ~~office~~ department shall notify the state treasurer and the
2 objector as in the case of delinquency in the payment of an original bill. The state
3 treasurer shall then proceed to collect the amount of the bill as provided in the case
4 of an original bill.

5 **SECTION 189.** 195.60 (5) of the statutes is amended to read:

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

17 **SECTION 190.** 195.60 (6) of the statutes is amended to read:

18 195.60 (6) No action for recovery of any amount paid under this section shall
19 be maintained in any court unless objections have been filed with the ~~office~~ division
20 of hearings and appeals as provided in this section. In any action for recovery of any
21 payments made under this section the claimant shall be entitled to raise every
22 relevant issue of law, but the ~~office's~~ findings of fact of the division of hearings and
23 appeals made pursuant to this section shall be prima facie evidence of the facts
24 therein stated.

25 **SECTION 191.** 195.60 (7) (intro.) of the statutes is repealed.

1 **SECTION 192.** 195.60 (7) (a) of the statutes is renumbered 195.60 (7) and
2 amended to read:

3 195.60 (7) Determinations of fact expressed in bills rendered under this
4 section; and shall be considered to be findings of fact of the division of hearings and
5 appeals, within the meaning of this section.

6 **SECTION 193.** 195.60 (7) (b) of the statutes is repealed.

7 **SECTION 194.** 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,

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

3 **SECTION 195.** 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 196.** 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).

1 **SECTION 197.** 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% of the costs determined
9 shall be costs of the commission and 10% of the costs determined shall be costs of
10 state government operations. The procedure set up by s. ~~195.60 or 196.85~~, whichever
11 ~~is appropriate~~, for the rendering and collection of bills shall be in all ways applicable
12 to the rendering and collection of bills under this section. Ninety percent of the
13 amounts paid to the ~~public service~~ commission under authority of this subsection
14 shall be credited to the appropriation account under s. 20.155 (1) (g).

15 **SECTION 198.** 201.13 of the statutes is amended to read:

16 **201.13 Stock.** Subject to the regulatory jurisdiction of the commission under
17 this chapter and to all other applicable provisions of law relating to ~~railroad or other~~
18 special types of corporations, all classes and series of stock of a public service
19 corporation shall be governed by the provisions of ch. 180.

20 **SECTION 199.** 226.025 (3) of the statutes is amended to read:

21 **226.025 (3)** The appointment of the department of financial institutions or the
22 designation of a resident agent as attorney for the service of summons, notice,
23 pleadings or process under s. 180.1507 shall be applicable only to actions or
24 proceedings against the foreign corporations described in this section (unless such
25 corporations have been admitted to this state for purposes other than those

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

8 **SECTION 200.** 227.01 (13) (s) of the statutes is amended to read:

9 227.01 (13) (s) Prescribes or relates to a uniform system of accounts for any
10 person, including a municipality, that is regulated by the ~~office of the commissioner~~
11 ~~of railroads or the public service commission.~~

12 **SECTION 201.** 227.43 (1) (bk) of the statutes is created to read:

13 227.43 (1) (bk) Assign a hearing examiner to preside over any hearing or review
14 under ss. 26.20 (3) and (10), 84.05, 88.66 (2), 88.87 (4), 88.88 (2), 190.02 (6), 190.16
15 (4) and (5), 192.324, 192.34, 192.52, 192.56, 195.28 (1), 195.285 (1), 195.29 (10),
16 195.295, 195.30 (1), 195.305, 195.31, 195.32, 195.325, and 195.60.

17 **SECTION 202.** 227.43 (4) (b) of the statutes is amended to read:

18 227.43 (4) (b) The department of transportation shall pay all costs of the
19 services of a hearing examiner assigned under sub. (1) (bg) or (bk) or assigned to the
20 department under sub. (1) (br), according to the fees set under sub. (3) (b).

21 **SECTION 203.** 227.46 (2m) of the statutes is amended to read:

22 227.46 (2m) In any hearing or review assigned to a hearing examiner under
23 s. 227.43 (1) (bg) or (bk), the hearing examiner presiding at the hearing shall prepare
24 a proposed decision, including findings of fact, conclusions of law, order and opinion,
25 in a form that may be adopted as the final decision in the case. The proposed decision

1 shall be a part of the record and shall be served by the division of hearings and
2 appeals in the department of administration on all parties. Each party adversely
3 affected by the proposed decision shall be given an opportunity to file objections to
4 the proposed decision within 15 days, briefly stating the reasons and authorities for
5 each objection, and to argue with respect to them before the administrator of the
6 division of hearings and appeals. The administrator of the division of hearings and
7 appeals may direct whether such argument shall be written or oral. If the decision
8 of the administrator of the division of hearings and appeals varies in any respect from
9 the decision of the hearing examiner, the decision of the administrator of the division
10 of hearings and appeals shall include an explanation of the basis for each variance.
11 The decision of the administrator of the division of hearings and appeals is a final
12 decision of the agency subject to judicial review under s. 227.52. The department of
13 transportation may petition for judicial review.

14 **SECTION 204.** 227.46 (3) (intro.) of the statutes is amended to read:

15 227.46 (3) (intro.) With respect to contested cases except a hearing or review
16 assigned to a hearing examiner under s. 227.43 (1) (bg) or (bk), an agency may by rule
17 or in a particular case may by order:

18 **SECTION 205.** 281.36 (1) (cr) of the statutes is amended to read:

19 281.36 (1) (cr) “State transportation agency” means the department of
20 transportation ~~or the office of the commissioner of railroads.~~

21 **SECTION 206.** 346.45 (3) (d) of the statutes is amended to read:

22 346.45 (3) (d) A railroad grade crossing which is marked with a sign in
23 accordance with s. 195.285 (3). Such signs shall be erected by the maintaining
24 authority only upon order of the ~~office of the commissioner of railroads as set forth~~

1 in ~~s. 195.285~~ department or the division of hearings and appeals in accordance with

2 ~~s. 195.285~~ plain

3 SECTION 207. 350.137 (1) of the statutes is amended to read:

4 350.137 (1) The department, after having consulted with each rail authority,
5 as defined in s. 350.138 (1) (b), in this state, that has furnished the department with
6 the information required under s. 350.138 (2m), an established snowmobile
7 association that represents snowmobile clubs, as defined in s. 350.138 (1) (e), in this
8 state, and the ~~office of the commissioner of railroads~~ department of transportation,
9 shall promulgate rules to establish uniform maintenance standards and uniform
10 design and construction standards for snowmobile rail crossings under ss. 350.138
11 and 350.139.

12 SECTION 208. 350.138 (4) (c) of the statutes is amended to read:

13 350.138 (4) (c) The department shall give notice of any hearing scheduled
14 under par. (b) to the applicant, to the applicable rail authority, and to the ~~office of the~~
15 ~~commissioner of railroads~~ department of transportation. The hearing shall be a
16 contested case hearing under ch. 227. The department's department of natural
17 resources' order issuing or denying a permit is a final order subject to judicial review
18 under ch. 227.

19 SECTION 209. 350.138 (9) of the statutes is amended to read:

20 350.138 (9) INSPECTION AUTHORIZED. The department or the ~~office of the~~
21 ~~commissioner of railroads~~ department of transportation may inspect the site of a
22 proposed snowmobile rail crossing or the site of a snowmobile rail crossing for which
23 a permit has been issued to determine whether there are grounds to refuse to issue
24 a permit under sub. (4) or to revoke a permit under sub. (8).

25 SECTION 210. 350.139 (5) of the statutes is amended to read:

1 350.139 (5) INSPECTION AUTHORIZED. The department or the ~~office of the~~
2 ~~commissioner of railroads~~ department of transportation may inspect an established
3 snowmobile rail crossing to determine whether the snowmobile organization
4 maintaining the crossing is in compliance with the requirements imposed under sub.
5 (4).

6 **SECTION 211.** 350.1395 (2) (b) 2. of the statutes is amended to read:

7 350.1395 (2) (b) 2. The department shall hold a hearing on a petition filed under
8 subd. 1. after giving notice of the hearing to the rail authority, the snowmobile
9 organization, and the ~~office of the commissioner of railroads~~ department of
10 transportation. The hearing shall be a contested case hearing under ch. 227. The
11 department's department of natural resources' order shall be a final order subject to
12 judicial review under ch. 227.

13 **SECTION 212.** 350.1395 (2) (b) 3. (intro.) of the statutes is amended to read:

14 350.1395 (2) (b) 3. (intro.) The department shall grant a rail authority's petition
15 under subd. 2. to close or remove a snowmobile rail crossing if, after a hearing under
16 subd. 2., and after giving substantial weight to the ~~office of the commissioner of~~
17 ~~railroads'~~ department of transportation's testimony or report given under s. 195.03
18 (30) (b), the department of natural resources finds that any of the following applies:

19 **SECTION 213.** 350.1395 (4) (b) of the statutes is amended to read:

20 350.1395 (4) (b). The department may not promulgate a rule under this
21 subsection without first consulting with each rail authority in this state that has
22 furnished the department with the information required under s. 350.138 (2m), an
23 established snowmobile association that represents snowmobile clubs, as defined in
24 s. 350.138 (1) (e), in this state, and the ~~office of the commissioner of railroads~~
25 department of transportation.

1 **SECTION 214.** 552.23 (1) of the statutes is amended to read:

2 552.23 (1) If the target company is an insurance company subject to regulation
3 by the commissioner of insurance, a banking corporation subject to regulation by the
4 division of banking, a savings bank or savings and loan association subject to
5 regulation by the division of savings institutions, or a company subject to regulation
6 by the public service commission, or the department of transportation ~~or the office~~
7 ~~of the commissioner of railroads~~, the division of securities shall promptly furnish a
8 copy of the registration statement filed under this chapter to the regulatory agency
9 having supervision of the target company. Any hearing under this chapter involving
10 any such target company shall be held jointly with the regulatory agency having
11 supervision, and any determination following the hearing shall be made jointly with
12 that regulatory agency.

13 **SECTION 215.** 945.06 of the statutes is amended to read:

14 **945.06 Public utilities to cease service.** When any public utility, common
15 carrier, contract carrier, or railroad, subject to the jurisdiction of the public service
16 commission, ~~office of the commissioner of railroads~~ or department of transportation
17 of this state, is notified in writing by a federal, state or local law enforcement agency,
18 acting within its jurisdiction, that any facility furnished by it is being used or will be
19 used for the purpose of transmitting or receiving gambling information in violation
20 of the laws of this state it shall discontinue or refuse the leasing, furnishing or
21 maintaining of such facility, after reasonable notice to the subscriber, but no
22 damages, penalty or forfeiture, civil or criminal, shall be found against any such
23 public utility, common carrier, contract carrier or railroad, for any act done in
24 compliance with any notice received from a law enforcement agency under this
25 section. Nothing in this section shall be deemed to prejudice the right of any person

1 affected thereby to secure an appropriate determination as otherwise provided by
2 law in any court or tribunal or agency, that such facility should not be discontinued
3 or removed, or should be restored.

4 **SECTION 9143. Nonstatutory provisions; public service commission.**

5 (1) ABOLISHING THE OFFICE OF COMMISSIONER OF RAILROADS; TRANSITIONAL
6 PROVISIONS.

7 (a) *Definitions.* In this subsection:

8 1. "Department" means the department of transportation.

9 2. "Division" means the division of hearings and appeals in the department of
10 administration.

11 3. "Office" means the office of the commissioner of railroads.

12 (b) *Assets and liabilities.* On the effective date of this paragraph, the assets and
13 liabilities of the office shall become the assets and liabilities of the department.

14 (c) *Staff.*

15 1. On the effective date of this subdivision, the position of the commissioner of
16 railroads is abolished.

17 (2) ^{with auto-ref "a"} On the effective date of this subdivision, 1.0 FTE PR hearing examiner
18 position and the incumbent employee holding that position in the office are
19 transferred to the division.

20 3. On the effective date of this subdivision, the following 4.0 FTE PR positions
21 and the incumbent employees, identified by the secretary of transportation, holding
22 those positions in the office are transferred to the department:

23 a. One program assistant position.

24 b. Three regulation compliance investigator positions.

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1 4. a. The employee transferred under subdivision 2. to the division has all of
2 the rights and the same status under subchapter V of chapter 111 and chapter 230
3 of the statutes in the division that he or she enjoyed in the office immediately before
4 the transfer. Notwithstanding section 230.28 (4) of the statutes, the employee so
5 transferred who has attained permanent status in class is not required to serve a
6 probationary period.

7 b. Employees transferred under subdivision 3. to the department have all of
8 the rights and the same status under subchapter V of chapter 111 and chapter 230
9 of the statutes in the department that they enjoyed in the office immediately before
10 the transfer. Notwithstanding section 230.28 (4) of the statutes, no employee so
11 transferred who has attained permanent status in class is required to serve a
12 probationary period.

13 5. On the effective date of this subdivision, the remaining FTE PR positions of
14 the office not transferred under subdivisions 2. and 3. or abolished under subdivision
15 1. are deauthorized.

16 6. The commissioner of railroads shall, in addition to his or her other duties,
17 assist the department in the orderly transfer of the functions of the office to the
18 department and perform the duties specified in paragraphs (d), (e), (f), and (g).

19 (d) *Tangible personal property.* On the effective date of this paragraph, all
20 tangible personal property, including records, of the office is transferred to the
21 department.

22 (e) *Contracts.* All contracts entered into by the office in effect on the effective
23 date of this paragraph remain in effect and are transferred to the department. The
24 department shall carry out any obligations under such a contract until the contract
25 is modified or rescinded by the department to the extent allowed under the contract.

1 (f) *Rules and orders.*

2 1. All rules promulgated by the office that are in effect on the effective date of
3 this subdivision remain in effect until their specified expiration date or until
4 amended or repealed by the department.

5 2. All orders issued by the office that are in effect on the effective date of this
6 subdivision remain in effect until their specified expiration date or until modified or
7 rescinded by the department.

8 (g) *Pending matters.* Any matter pending with the office on the effective date
9 of this paragraph is transferred to the department and all materials submitted to or
10 actions taken by the office with respect to the pending matter are considered as
11 having been submitted to or taken by the department.

12 (h) *Department of administration to arbitrate disputes.* In the case of
13 disagreement between the secretary of transportation and the commissioner of
14 railroads with respect to any matter specified in paragraph (d), (e), (f), or (g), the
15 department of administration shall determine the matter and shall develop a plan
16 for an orderly transfer.

17 **SECTION 9443. Effective dates; public service commission.**

18 (1) **ABOLISHING THE OFFICE OF COMMISSIONER OF RAILROADS.** The treatment of
19 sections 15.03, 15.06 (1) (ar), 15.79, 15.795, 20.155 (intro.) and (2), 20.395 (4) (aq) ~~and~~
20 (ax), 20.923 (4) (e) 11., 25.40 (1) (a) 12m. and (f) 1., 26.20 (3) and (10), 30.33 (1) and
21 (2), 66.0801 (2), 84.05, 85.013 (3), 86.001 (2m), 86.12 (2), 86.13 (3), 88.66 (2), 88.87
22 (4), 88.88 (2), 182.36 (3), 190.001, 190.02 (6), 190.025 (2) (b), 190.03, 190.13, 190.16
23 (4) (a), (b), and (c) and (5), 191.001, 191.01 (2), 191.02 (title), 191.03, 191.05, 191.06,
24 191.07, 191.09, 191.10 (title), (1), (2), and (3), 191.11, 191.13 (2), 191.16, 191.17,
25 191.19 (1) and (3), 191.20, 191.21, 192.001 (1r) and (2), 192.14 (10) and (12), 192.15

and
(fg)
↑
fg
19
20

1 (14), 192.25 (3) (a), 192.27 (1), 192.29 (1), (2), (4), and (5), 192.31 (1), (2), (4), and (5),
 2 192.324, 192.327 (3), (4), (5), (6), and (7), 192.33 (5), 192.34, 192.47, 192.52 (3), (4),
 3 and (5), 192.53 (4) (a) and (b), (5) (a) (intro.), and (6), 192.55 (5), 192.56 (1), (2), (3),
 4 (5), and (6), 195.001 (1r), (2), and (3), 195.03 (title), (1), (2), (7), (8), (9), (10), (11), (12),
 5 (13), (14), (15), (16), (17), (18), (19), (25), (28), (29), and (30) (a) and (b), 195.04,
 6 195.041, 195.042, 195.043, 195.044, 195.045, 195.046, 195.047, 195.05, 195.055,
 7 195.06, 195.07 (1) and (2), 195.08, 195.09, 195.10, 195.11, 195.12, 195.13, 195.14,
 8 195.15, 195.16, 195.17, 195.19 (1) and (3), 195.20, 195.21, 195.26, 195.27, 195.28 (1),
 9 (3), and (4), 195.285 (1), (2), and (3), 195.286 (2), (3), (5), and (8), 195.29 (1), (2), (3),
 10 (4), (5), (6), (7), (9), and (10), 195.295, 195.30 (1), 195.305, 195.31, 195.32, 195.325,
 11 195.33, 195.34, 195.36, 195.37, 195.38, 195.45 (1), (2), and (4), 195.50 (1), 195.60
 12 (title), (1), (2), (3), (4) (a), (b), (c), and (d), (5), (6), and (7) (intro.), (a), and (b), 197.10
 13 (4), 201.01 (1) and (2), 201.10 (3), 201.13, 226.025 (3), 227.01 (13) (s), 227.43 (1) (bk)
 14 and (4) (b), 227.46 (2m) and (3) (intro.), 281.36 (1) (cr), 346.45 (3) (d), 350.137 (1),
 15 350.138 (4) (c) and (9), 350.139 (5), 350.1395 (2) (b) 2. and 3. (intro.) and (4) (b), 552.23
 16 (1), and 945.06 and chapter 189 of the statutes and SECTION 9143 (1) (b), (c) 1., 2., 3.,
 17 4., and 5., (d), (e), (f) and (g) of this act take effect on July 1, 2004.

18

(END)

↑ ↑

Note

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1187/lins
ARG:.....

①

— LPS — please
thaw
frozen #

INSERT 4-24:

SECTION ~~Sm.~~ 20.395 (4) (fg) of the statutes is created to read:

20.395 (4) (fg) *Railroad payments*. Ninety percent of all moneys received from railroads under s. 195.60 for activities related to railroad regulation under chs. 190 to 195, for such purposes.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1187/1dn

ARG:.....

emb

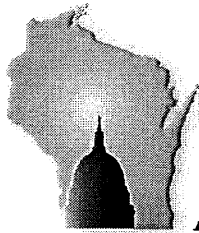
date

ATTN: Benjamin Vail

The attached draft creates a PR continuing appropriation (s. 20.395 (4) (fg)) for payments from railroads received under s. 195.60 and deposited into the transportation fund (i.e. 90% of all railroad payments received under s. 195.60). All other funding related to the regulation of railroads under chs. 190 to 195 is from the appropriations under amended s. 20.395 (4) (aq) and (ax). ✓ ✓

The attached draft reflects direction provided at a meeting with DOT personnel and the previous DOA analyst on October 15, 2002. In particular, the draft eliminates rather than transfers certain vestigial elements of railroad regulation and generally provides DOT with authority to issue orders, if DOT chooses, which are subject to review and final (administrative) determination by the DOA Division of Hearings and Appeals. Please advise if this is not okay. ✓

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
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**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

SCOTT McCALLUM
GOVERNOR

GEORGE LIGHTBOURN
SECRETARY

Division of Executive Budget and Finance
Post Office Box 7864
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Voice (608) 266-1736
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TTY (608) 267-9629

Date: December 10, 2002

To: Stephen R. Miller, Chief
Legislative Reference Bureau

From: Benjamin J. Vail
Policy and Budget Analyst
ECR Team

Subject: **Biennial Budget Drafting Request**
Agency 395 – Department of Transportation (DOT)

Budget Office Request Title:

Eliminate Office of Commissioner of Railroads

Request Description:

Eliminate the Office of the Commissioner of Railroads and create a new PR continuing appropriation in the Department of Transportation to accommodate the transfer of railroad assessment fees. Transfer the functions, responsibilities and funding of the Office of Commissioner of Railroads to the Department of Transportation and the Department of Administration as follows:

Department of Administration

- Orders railroads to install protective devices at crossings and other safety improvements.
- Determines type of grade crossing used where a railroad intersects a street or another railroad.
- Conducts hearings for openings/closings/improvements of a rail crossing or track
- Transfers 1.0 FTE attorney position to the department.

Department of Transportation

- Assume regulatory and operational functions.
- Make recommendations on whether or not to install, improve or close a railroad crossing.
- Transfers 1.0 FTE program assistant position and 3.0 FTE safety analyst (investigators) positions to the department.

BB269

**Department of Transportation
2003-2005 Biennial Budget Request
STATUTORY MODIFICATIONS**

DIN NUMBER: 5207

TOPIC: Create a Program Revenue (PR) Continuing Appropriation and Delete Office of the Commissioner of Railroads (OCR) PR Funding Appropriation

DESCRIPTION OF CHANGE:

The Department requests the creation of a new PR continuing appropriation in order to accommodate the transfer of railroad assessment fees from the OCR to the Department of Transportation (DOT). This is an ongoing source of funds that is used to support railroad regulation and program operations. In addition, delete the current appropriation under s. 20.155 (2) Wis. Stats., to reflect the elimination of the OCR.

JUSTIFICATION:

Currently, railroad regulation and general program operations (including salaries) for the OCR are funded under s. 20.155 (2) (g) Wis. Stats. Program revenues are generated mainly through the use of an assessment fee on railroads. Because the OCR would now be incorporated into DOT, funding should be transferred to reflect this change.

**Department of Transportation
2003-2005 Biennial Budget Request
ISSUE PAPER**

PROGRAM: Division of Transportation Infrastructure Development

DIN NUMBER: 5207

ISSUE TITLE: Eliminate the Office of the Commissioner of Railroads

REQUEST:

The Department requests elimination the Office of the Commissioner of Railroads (OCR) and transfer of its functions and responsibilities to the Department of Transportation (DOT) and the Department of Administration (DOA). In addition, transfer \$608,800 in Program Revenue (PR) for FY 04 and FY 05 to DOT.

SUMMARY:

The OCR is an independent railroad regulatory agency dedicated to promoting the public interest in a variety of matters involving railroads. It also regulates the service and economic activity of intrastate water carriers. For administrative purposes, it is attached to the Public Service Commission. Currently, the office is staffed by 1.0 program assistant, 4.0 safety analysts (investigators), 1.0 attorney, and 1.0 commissioner.

The primary mission of the OCR is to promote public safety and convenience in matters involving railroads, especially at highway/rail crossings. The OCR investigates petitions, conducts hearings and issues orders regarding some 5,400 highway/rail crossings located throughout the state and also oversees a signal maintenance program which funds roughly 50% of the cost of maintaining signal equipment at about 2,500 crossings. Finally, the OCR issues orders approving the construction of a new crossing or alternation, or closing of an existing crossing.

With the elimination of the OCR, operational and investigational functions would be transferred to DOT and issuing orders and conducting hearings would be transferred to DOA. DOT would only make recommendations on whether or not to install, improve, or close a railroad crossing. Also, the commissioner position and one investigator position would be eliminated and its functions absorbed either into the Department's Bureau of Railroads and Harbors or DOA.

Specifically, this request would transfer the following functions and responsibilities:

1. Currently, the OCR may order railroads to install protective devices at crossing or make other safety improvements and may determine the type of grade crossing used where a railroad intersects a street or another railroad. This authority would be transferred to DOA.
2. Hearings for opening/closing/improvement of a rail crossing or track would now be reviewed and conducted by the Division of Hearings and Appeals under DOA.
3. The OCR is responsible for various other functions relating to railroads. These regulatory functions will now be handled through the DOT.
4. The 1.0 program assistant and 3.0 safety analysts (investigators) positions would be transferred to the DOT and the 1.0 attorney position would be transferred to DOA.

In addition, railroad regulation and general program operations (including salaries) for the OCR are funded under s. 20.155 (2) (g) Wis. Stats. The program revenue is generated mainly through the use of an assessment fee on railroad revenues. The total amount needed for FY 04 is \$608,800 and in FY 05 it is \$608,800. Under this proposed change, the funding would now be transferred to the DOT. After consolidation of the OCR, the funding amount will be reviewed to see if it can be reduced.

JUSTIFICATION:

Incorporating the OCR functions into the DOT will increase efficiencies and help to deliver a more consistent policy decision making process on issues pertaining to rail crossing closings and improvements. The change will enhance overall railroad program management efficiency. The Department's Bureau of Railroads and Harbors is currently

involved in similar issues as the OCR. For example, the Bureau of Railroads and Harbors has the responsibility for negotiating the contracts with railroads for the installation or improvement of rail crossings. Therefore, combining the two programs can improve the efficiency by reducing the number of overall positions needed. In addition, combining the administrative functions can also reduce costs and improve efficiency.

By transferring the OCR into DOT, policy decisions and issue resolutions will be handled uniformly and will result in a more consistent railroad policies. Currently, DOT provides all the state funding for the rail crossings and is also responsible for the construction and maintenance of highways at rail crossings. Having the funding, management authority, and highway control all within the DOT will result in a streamlined process when working with the railroads to make Wisconsin highways safer.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1187/1dn
ARG:cmh:pg

January 2, 2003

ATTN: Benjamin Vail

The attached draft creates a PR continuing appropriation (s. 20.395 (4) (fg)) for payments from railroads received under s. 195.60 and deposited into the transportation fund (i.e. 90% of all railroad payments received under s. 195.60). All other funding related to the regulation of railroads under chs. 190 to 195 is from the appropriations under amended s. 20.395 (4) (aq) and (ax).

The attached draft reflects direction provided at a meeting with DOT personnel and the previous DOA analyst on October 15, 2002. In particular, the draft eliminates rather than transfers certain vestigial elements of railroad regulation and generally provides DOT with authority to issue orders, if DOT chooses, which are subject to review and final (administrative) determination by the DOA Division of Hearings and Appeals. Please advise if this is not okay.

Aaron R. Gary
Legislative Attorney
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LRB 1187

2/1/03

Telephone messages from Kirsten Grinde. 6-1040. DOT sees rail function as more of a local function. Wants apprn changes in program 2 rather than program 4. Section 7, instead of amending 4 aq, amend 2 gj RR crossing protection and maintenance, state funds. Did not feel need to modify fed apprn. Take out section 8, 4 ax. Re section 9, creating 4 fg, put it in program 2, want it to start with a g, so CR 20.395 2 gg.

In apprn created in DOT, RR payments, DOT sees this as PR, not SEG, deposited into the general fund in program revenue account. Add language "from the general fund" re 90% of all moneys received because of intro. to 20.395.

ARG

Gary, Aaron

From: Grinde, Kirsten
Sent: Monday, February 03, 2003 11:37 AM
To: Gary, Aaron
Subject: RE: LRB-1187 - OCR

Yes, that looks fine. Thanks, Kirsten

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

From: Gary, Aaron
Sent: Monday, February 03, 2003 11:34 AM
To: Grinde, Kirsten
Subject: LRB-1187 - OCR

Kirsten,

This redraft is finished but I wanted to confirm one thing. In your voice mail, you indicated that, in bill section 7 of the draft, the amended language should be inserted in s. 20.395 (2) (gj) instead of s. 20.395 (4) (aq) as it is in the current draft. Existing s. 20.395 (2) (gj) is a continuing appropriation funded from specified fees. But s. 20.395 (2) (gq) is an annual sum certain appropriation, with expenditure authority designated in the schedule. The structure of what is now in s. 20.395 (4) (aq) can be "moved" directly into s. 20.395 (2) (gq), but it doesn't seem to fit well in s. 20.395 (2) (gj) unless you want to change the character of the appropriation. I have put the amended in language in (2) (gq) instead of (2) (gj). Is this okay? Thanks. Aaron

Aaron R. Gary
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