

3



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-1187# 2  
ARG:cjs&cmh:pg

stays (KMR)

DOA:.....Vail - BB0269, Eliminate office of commissioner of railroads

FOR 2003-05 BUDGET - NOT READY FOR INTRODUCTION

D-Note

~~Do NOT Gen~~

1 AN ACT...; relating to: eliminating the office of the commissioner of railroads and  
2 transferring the office's duties to the Department of Transportation, making an  
3 appropriation, and granting rule-making authority.

*Analysis by the Legislative Reference Bureau*

**TRANSPORTATION**

**RAIL AND AIR TRANSPORTATION**

***Office of Commissioner of Railroads eliminated***

Under current law, the Office of the Commissioner of Railroads (office) regulates railroad activities in Wisconsin. This bill eliminates the office, effective July 1, 2004, and provides for the elimination and transfer of its functions as follows:

1. The office is currently authorized to regulate railroads to prevent "unreasonable or unjustly discriminatory" rates and inadequate services within the state. The bill eliminates this authority.

2. Currently, before constructing any new track in the state, a railroad must have a certificate which is issued only after a hearing and a finding of "public convenience and necessity" by the office. Under this bill, the certificate is issued by DOT, the hearing is discretionary, and the public convenience and necessity standard is abolished.

3. Under current law, the office is authorized to control the issuance of, and impose special restrictions on, railroad corporation securities, including stock and

debt instruments. The office must approve issuance of railroad securities, may determine their number, character, purpose, and issuing value, and may impose other restrictions. The bill eliminates this authority.

4. Under current law, the office may order railroads to install protective devices at crossings or make other safety improvements and may determine the type of grade crossing used where a railroad intersects a street or another railroad. The bill transfers this authority to DOT and authorizes DOT to issue orders in these matters without a hearing, based on investigation and application of safety, programming, and cost allocation criteria promulgated by rule. The bill provides for review of DOT orders in these matters by the Division of Hearings and Appeals (division) in DOA.

5. The office is currently assigned various other functions relating to railroads. In most cases, those regulatory functions not eliminated in the bill are transferred to DOT, and functions having the character of contested case resolution are transferred to the division. The bill requires the division to give due weight to the experience, technical competence, and specialized knowledge of DOT in transportation hearings and reviews.

6. The bill transfers certain functions of the office relating to railroad organization to the department of financial institutions.

7. The bill transfers 4.0 FTE positions to DOT and 1.0 FTE position to the division.

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

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

8 SECTION 2. 15.06 (1) (ar) of the statutes is repealed.

9 SECTION 3. 15.79 of the statutes is amended to read:

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

18 SECTION 4. 15.795 of the statutes is repealed.

19 SECTION 5. 20.155 (intro.) of the statutes is amended to read:

20 **20.155 Public service commission.** (intro.) There is appropriated to the  
21 public service commission for the following ~~programs~~ program:

22 SECTION 6. 20.155 (2) of the statutes is repealed.

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

23 ~~SECTION 7. 20.395 (4) (aq) of the statutes is amended to read:~~

move  
3-22

insert  
4-1

1 20.395 (4) (aq) *Departmental management and operations, state funds.* The  
 2 amounts in the schedule for departmental planning and administrative activities  
 3 and the administration and management of departmental programs except those  
 4 programs under subs. (2) (bq), (cq), and (dq) and (3) (iq), including those activities in  
 5 s. 85.07 and including not less than \$220,000 in each fiscal year to reimburse the  
 6 department of justice for legal services provided the department under s. 165.25 (4)  
 7 (a) and including activities related to railroad regulation under chs. 190 to 195, the  
 8 transportation employment and mobility program under s. 85.24 that are not funded  
 9 from the appropriation under sub. (1) (bs), (bv) or (bx), the scholarship and loan  
 10 repayment incentive grant program under s. 85.107, and the Type 1 motorcycle,  
 11 moped, and motor bicycle safety program under s. 85.30 and to match federal funds  
 12 for mass transit planning.

SECTION 8. 20.395 (4) (ax) of the statutes is amended to read:

13 20.395 (4) (ax) *Departmental management and operations, federal funds.* All  
 14 moneys received from the federal government for the administration and  
 15 management of departmental programs except those programs under subs. (2) (bx)  
 16 and (dx) and (3) (ix), and for departmental planning and administrative activities  
 17 including all moneys received as federal aid as authorized by the governor under s.  
 18 16.54 to promote highway safety and continue the local traffic safety representatives  
 19 program and for purposes of s. 85.07 and for activities related to railroad regulation  
 20 under chs. 190 to 195 and for activities related to the transportation employment and  
 21 mobility program under s. 85.24 that are not funded from the appropriation under  
 22 sub. (1) (bs), (bv), or (bx), and to transfer to the appropriation account under s. 20.505  
 23 (1) (z) the amounts in the schedule under s. 20.505 (1) (z) for such purposes.

25  
move  
to 3-22

SECTION 9. 20.395 ~~(4) (ax)~~ of the statutes is created to read:

(2) (gg)

1

20.395 <sup>(2) (99)</sup> ~~(1) (11)~~ Railroad payments. <sup>From the general fund,</sup> ~~Twenty percent~~ of all moneys received from railroads under s. 195.60 <sup>and credited to this appropriation account</sup> 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.

4

SECTION 10. 20.923 (4) (e) 11. of the statutes is repealed.

5

SECTION 11. 25.40 (1) (a) 12m. of the statutes is created to read:

25.40 (1) (a) 12m. Moneys collected under s. 195.60 that are deposited in the general fund for costs of state government operations.

8

SECTION 12. 25.40 (1) (f) 1. <sup>X</sup> of the statutes is ~~amended to read:~~ <sup>repealed.</sup>

9

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

12

SECTION 13. 26.20 (3) of the statutes is amended to read:

13

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

23

FIX COMPONENT

1 and appeals in the department of administration for a decision of said matter, but  
2 pending such decision the locomotive, donkey, traction, or portable engine shall not  
3 be returned to service.

4 **SECTION 14.** 26.20 (10) of the statutes is amended to read:

5 26.20 (10) ~~APPEAL TO OFFICE OF THE COMMISSIONER OF RAILROADS~~ DIVISION OF  
6 HEARINGS AND APPEALS. In case the department and any person operating any  
7 locomotive, donkey, or threshing engine, or any engine, boiler, or locomotive cannot  
8 agree as to the most practicable device or devices for preventing the escape of sparks,  
9 cinders, or fire from smokestacks, ash pans or fire boxes, then the same shall be  
10 determined by the ~~office of the commissioner of railroads~~ division of hearings and  
11 appeals in the department of administration.

12 **SECTION 15.** 30.33 (1) of the statutes is amended to read:

13 30.33 (1) ~~BOARD TO HAVE POWERS OF RAILROAD CORPORATION.~~ Any municipality  
14 operating a public harbor through a board of harbor commissioners may, through  
15 such board, construct, maintain or operate railway facilities or a harbor belt line  
16 connecting various harbor facilities with one another or with other railroads within  
17 the municipality or its vicinity. The board of harbor commissioners is granted all of  
18 the rights, powers and privileges conferred upon railroad corporations by ss. 190.02  
19 and 190.025 (3), except such rights, powers and privileges as are conferred upon  
20 railroad corporations by s. 190.02 (9). Such facilities or belt line may be constructed,  
21 maintained or operated partly outside the corporate limits of the municipality. In  
22 constructing, maintaining or operating such facilities or belt line, the board of harbor  
23 commissioners has the powers and privileges of railroad corporations and shall be  
24 subject to the same restrictions as railroad corporations and to the supervision of the

1 ~~office of the commissioner of railroads~~ department of transportation, except as to the  
2 system of accounting and the payment of wages to employees.

3 **SECTION 16.** 30.33 (2) of the statutes is amended to read:

4 30.33 (2) MUNICIPALITY MAY ORGANIZE HARBOR RAILWAY CORPORATION. Any  
5 municipality mentioned in sub. (1) may, with the consent of its board of harbor  
6 commissioners, organize a railroad corporation for the purpose of constructing,  
7 maintaining or operating a harbor belt line or may subscribe for stock in an existing  
8 railroad corporation organized for such purpose. If the municipality decides to  
9 organize a railroad corporation for such purpose, the governing body thereof may, by  
10 resolution, authorize the chief executive officer or presiding officer of such  
11 municipality to act, together with 4 citizens to be designated by the officer, as  
12 incorporators of such company. Such incorporators shall proceed to incorporate the  
13 railroad corporation in accordance with chs. 190 to 192, so far as applicable. Such  
14 harbor railroad corporation is subject to the supervisory and regulatory powers of the  
15 ~~office of the commissioner of railroads~~ department of transportation to the same  
16 extent as other railroad corporations. The municipality may subscribe to the stock  
17 of such harbor railroad corporation and may pay for such stock out of any funds it  
18 may lawfully have available for that purpose, including the proceeds of harbor  
19 improvement bonds.

20 **SECTION 17.** 66.0801 (2) of the statutes is amended to read:

21 66.0801 (2) Sections 66.0803 to 66.0825 do not deprive the ~~office of the~~  
22 ~~commissioner of railroads, department of transportation or~~ public service  
23 commission of any power under ss. ~~195.05 and~~ 197.01 to 197.10 and ch. 196.

24 **SECTION 18.** 84.05 of the statutes is amended to read:

1           **84.05 Railroad crossing improvements.** On a highway which the  
2 department has authority to construct and which crosses a railroad, if the  
3 department determines that the construction or reconstruction of a grade separation  
4 or the rearrangement or elimination of a grade crossing or other rearrangement of  
5 the highway or tracks is necessary in the interest of public safety or for convenience  
6 of public travel, the department shall make a plan of the construction proposed and  
7 an estimate of the cost thereof, including the cost of needed right-of-way; and shall  
8 endeavor to make an arrangement with all persons concerned as to all matters  
9 involved in the plan, including the portion of the cost of the contemplated work which  
10 the persons shall defray. If the department is unable to contract with the persons  
11 concerned as to the distribution and payment of the cost of the work or the  
12 maintenance thereof, the department shall ~~lay the matter before the office of the~~  
13 ~~commissioner of railroads, and the office of the commissioner of railroads shall~~  
14 ~~review the proceedings and hold a hearing thereon in accordance with ss. 195.28 and~~  
15 ~~195.29, and shall~~ fix the portion of the cost of the construction and of the maintenance  
16 which is to be paid by the persons or corporations concerned, and the portion of the  
17 cost, if any, to be paid by the public, which portion shall be paid from the  
18 transportation fund, and issue an appropriate order. ~~The office of the commissioner~~  
19 ~~of railroads~~ department shall determine the benefits, if any, which will inure to other  
20 highways, and apportion and charge to the units of government responsible for the  
21 construction of such other highways a fair portion of the cost. The department shall  
22 promulgate a rule establishing criteria with respect to the allocation of costs under  
23 this section. A person who is aggrieved by an order of the department under this  
24 section may, within 20 days after the date that the order is issued, request review of



1 the order by the division of hearings and appeals. The division of hearings and  
2 appeals shall review the order in the manner provided in s. 195.325.

3 **SECTION 19.** 85.013 (3) of the statutes is created to read:

4 85.013 (3) The division of hearings and appeals shall, in conducting any  
5 hearing or review for the department under s. 227.43 (1) (bk), give due weight to the  
6 experience, technical competence, and specialized knowledge of the department as  
7 well as discretionary authority conferred upon the department, and great weight to  
8 the department's interpretation of the statutes that it administers and rules  
9 promulgated under those statutes. If there is a conflict between this subsection and  
10 any other statute relating to any hearing or review conducted by the division of  
11 hearings and appeals for the department under s. 227.43 (1) (bk), the provisions of  
12 this subsection control.

13 **SECTION 20.** 86.001 (2m) of the statutes is repealed.

14 **SECTION 21.** 86.12 (2) of the statutes is amended to read:

15 86.12 (2) If a railroad company fails to comply with the resolution in sub. (1)  
16 within 30 days after service of the resolution, the county board, common council,  
17 village board or town board may file a complaint with the ~~office~~ department alleging  
18 the failure. The ~~office~~ department shall investigate and determine the matter in  
19 controversy as ~~provided in ch. 195. An order issued by the office under this~~  
20 ~~subsection has the same effect as an order in a proceeding brought under ch. 195, and~~  
21 may issue an appropriate order.

22 **SECTION 22.** 86.13 (3) of the statutes is amended to read:

23 86.13 (3) If any railroad company fails to grade, construct, pave, surface or  
24 otherwise improve or maintain in good and safe condition for public travel as  
25 required by this section any street or highway crossing after having been notified so

1 to do by the officer in charge thereof or of the highway improvement for 30 days after  
2 such notification, the highway authorities may file a complaint with the ~~office~~  
3 department. The ~~office department~~ shall investigate and determine the matter in  
4 controversy as provided in ch. 195. ~~An order issued by the office under this~~  
5 ~~subsection has the same effect as an order in a proceeding brought under ch. 195, and~~  
6 may issue an appropriate order.

7 SECTION 23. 88.66 (2) of the statutes is amended to read:

8 88.66 (2) Every district whose drains cross the right-of-way of a railway  
9 company is liable to such company for the reasonable cost of opening its right-of-way  
10 and also for the cost of the culverts and bridges made necessary by such drain. The  
11 drainage board shall include such costs in its cost of construction, as set forth in its  
12 report of benefits and damages, and shall award them as damages to the railway  
13 company. The bridge or culvert shall be designed by the district's engineer and the  
14 design submitted to the railway company for approval. If a dispute arises as to the  
15 adequacy of the design, either party may submit the dispute to the ~~office of the~~  
16 ~~commissioner of railroads~~ division of hearings and appeals in the department of  
17 administration by filing with the ~~office~~ division of hearings and appeals a statement  
18 as to the facts involved and the nature of the dispute. The ~~office~~ division of hearings  
19 and appeals shall ~~investigate and determine the matter in controversy in accordance~~  
20 ~~with ch. 195, and any order it makes in such proceeding has the same effect as an~~  
21 ~~order in any other proceeding properly brought under ch. 195.~~

22 SECTION 24. 88.87 (4) of the statutes is amended to read:

23 88.87 (4) If a railway company fails to comply with sub. (2), any person  
24 aggrieved thereby may file a complaint with the ~~office of the commissioner of~~  
25 railroads division of hearings and appeals in the department of administration

1 setting forth the facts. The ~~office~~ division of hearings and appeals shall investigate  
2 and determine the matter in controversy ~~in accordance with ch. 195, and any order~~  
3 ~~it makes in such proceeding has the same effect as an order in any other proceeding~~  
4 ~~properly brought under ch. 195.~~

5 SECTION 25. 88.88 (2) of the statutes is amended to read:

6 88.88 (2) If the railway company fails to comply with sub. (1), the person  
7 aggrieved thereby may file a complaint with the ~~office of the commissioner of~~  
8 ~~railroads~~ division of hearings and appeals in the department of administration  
9 setting forth the facts. The ~~office~~ division of hearings and appeals shall investigate  
10 and determine the matter in controversy ~~in accordance with ch. 195, and any order~~  
11 ~~it makes in such proceeding has the same effect as an order in any other proceeding~~  
12 ~~properly brought under ch. 195.~~

13 SECTION 26. 182.36 (3) of the statutes is amended to read:

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

1           **SECTION 27.** Chapter 189 of the statutes is repealed.

2           **SECTION 28.** 190.001 of the statutes is repealed and recreated to read:

3           **190.001 Definition.** In this chapter, “division of hearings and appeals” means  
4 the division of hearings and appeals in the department of administration.

5           **SECTION 29.** 190.02 (6) of the statutes is amended to read:

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

13           **SECTION 30.** 190.025 (2) (b) of the statutes is amended to read:

14           **190.025 (2) (b)** A railroad corporation that is subject to this subsection shall  
15 have all powers conferred by law upon railroad corporations. The railroad  
16 corporation may issue, sell, pledge or otherwise dispose of its evidences of debt, at  
17 such times, in such amounts, for such considerations and upon such terms and  
18 conditions as the board of directors of the corporation shall determine, and as shall  
19 be authorized by the ~~office~~ department of financial institutions, or the interstate  
20 commerce commission in the case of a railroad corporation organized for the purpose  
21 of acquiring a railroad engaged in interstate commerce, or any existing railroad  
22 corporation reorganized under the act and acquiring railroad property used in  
23 interstate commerce. The evidences of debt may be convertible, at the option of the  
24 holder, into stock, and shares of stock. The shares may have a nominal or par value  
25 or, if the shares are shares of common stock, be without nominal or par value. The

1 shares may be of such classes, with such rights and voting powers as may be  
2 expressed in the corporation's articles or any amendment thereto.

3 **SECTION 31.** 190.03 of the statutes is amended to read:

4 **190.03 Office in state; books produced.** Any railroad corporation existing  
5 under the laws of this state shall produce before the ~~office of the commissioner of~~  
6 ~~railroads~~ department of financial institutions, the legislature, or any committee of  
7 either house, or any court of record, its books of account and stock books, or so many  
8 and such parts thereof as may be required by them, or in the discretion of the ~~office~~  
9 ~~of the commissioner of railroads~~ department of financial institutions, legislature,  
10 committee or court, transcripts from such books, or such parts thereof as may be  
11 called for, duly authenticated; and each such railroad corporation shall designate  
12 some office within this state as its principal office and inform the ~~office of the~~  
13 ~~commissioner of railroads~~ department of financial institutions of such designation,  
14 and shall keep there or at the office of its transfer agents or registrars a list of its  
15 stockholders, giving the names and addresses of its stockholders, together with a  
16 statement of the number and class of shares of its stock held by each of them, as  
17 shown by its books. A failure or refusal to comply with any of the foregoing provisions  
18 shall be cause of forfeiture of its franchises.

19 **SECTION 32.** 190.13 of the statutes is amended to read:

20 **190.13 Report to stockholders.** Every railroad corporation shall make an  
21 annual report to its stockholders of its operations for the preceding calendar year, or  
22 for its fiscal year, as the case may be, which report shall contain a balance sheet  
23 showing its assets and liabilities, its capital stock, and funded debt, and an income  
24 account showing its operating revenues, operating expenses, gross and net income,  
25 as the result of its traffic or business operations, and such other information in

1 respect of its affairs as the board of directors shall deem advisable. A copy of each  
2 such report shall be kept on file in its principal office in this state, shall be mailed  
3 to each stockholder whose post-office address is known and shall be filed with the  
4 ~~office of the commissioner of railroads~~ department of financial institutions.

5 **SECTION 33.** 190.16 (4) (a) of the statutes is amended to read:

6 190.16 (4) (a) Every railroad shall acquire the necessary right-of-way for and  
7 shall construct, connect, maintain and operate a reasonably adequate spur track  
8 whenever such spur track does not necessarily exceed 3 miles in length, is practically  
9 indispensable to the successful operation of any existing or proposed industry or  
10 enterprise, and its construction and operation is not unusually dangerous, and is not  
11 unreasonably harmful to public interest, and any person aggrieved by the failure of  
12 any railroad to fully perform such obligation may prosecute proceedings before the  
13 ~~office~~ division of hearings and appeals to compel compliance therewith.

14 **SECTION 34.** 190.16 (4) (b) of the statutes is amended to read:

15 190.16 (4) (b) Such railroad may require the person primarily to be served  
16 thereby to pay the legitimate cost and expense of acquiring the necessary  
17 right-of-way for such spur track, and of constructing the same, the cost to be  
18 estimated in separate items by the ~~office~~ department of transportation or the division  
19 of hearings and appeals, and deposited with the railroad, before it shall be required  
20 to incur any expense whatever therefor; but such person, in lieu of depositing the  
21 total estimated cost may offer in writing to construct such spur track, the offer to be  
22 accompanied by a surety company bond, running to such railroad, and conditioned  
23 upon the construction of such spur track in a good and workmanlike manner,  
24 according to the plans and specifications of such railroad, approved by the ~~office~~  
25 department of transportation or the division of hearings and appeals, and deposit

1 with such railroad the estimated cost of the necessary right-of-way. Provided that  
2 before the railroad shall be required to incur any expense whatever in the  
3 construction of such spur track, the person primarily to be served thereby shall give  
4 the railroad a bond to be approved by the ~~office~~ department of transportation or the  
5 division of hearings and appeals as to form, amount and surety, securing the railroad  
6 against loss on account of any expense incurred beyond the estimated cost.

7 **SECTION 35.** 190.16 (4) (c) of the statutes is amended to read:

8 190.16 (4) (c) Whenever a spur track is so constructed at the expense of the  
9 owner of any industry or enterprise, and any other person shall desire a connection  
10 with such spur track, application therefor shall be made to the ~~office~~ department of  
11 transportation or the division of hearings and appeals, and such other person shall  
12 be required to pay to such owner an equitable proportion of the cost thereof, to be  
13 determined by the ~~office~~ department of transportation or the division of hearings and  
14 appeals.

15 **SECTION 36.** 190.16 (5) of the statutes is amended to read:

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

1           **SECTION 37.** 191.001 of the statutes is amended to read:

2           **191.001 Definition.** In this chapter, “~~office~~” “department” means the ~~office of~~  
3 ~~the commissioner of railroads~~ department of transportation.

4           **SECTION 38.** 191.01 (2) of the statutes is amended to read:

5           **191.01 (2) CONSTRUCTION, CERTIFICATE FROM OFFICE** DEPARTMENT **PREREQUISITE.**  
6 No railroad corporation shall begin the construction of any proposed line of railroad  
7 in this state until it shall have obtained from the ~~office~~ department a certificate ~~that~~  
8 ~~public convenience and a necessity require~~ authorizing the construction of the  
9 ~~railroad, and the certificate shall constitute the license from this state to the~~  
10 ~~company to build its proposed railroad.~~

11           **SECTION 39.** 191.02 (title) of the statutes is amended to read:

12           **191.02 (title) Application for certificate of necessity.**

13           **SECTION 40.** 191.03 of the statutes is amended to read:

14           **191.03 Articles; publication prerequisite to certificate.** No railroad  
15 corporation shall make application for a certificate authorizing construction of a  
16 railroad unless it has caused a copy of its corporate articles to be published as a class  
17 2 notice, under ch. 985, in each county in which the railroad is proposed to be located  
18 within 6 months next prior to the time of making such application, and files  
19 satisfactory proof thereof with the ~~office~~ department.

20           **SECTION 41.** 191.05 of the statutes is amended to read:

21           **191.05 Maps and profiles with application; changes.** Complete maps and  
22 profiles of the proposed railroad shall be filed with the application for a certificate  
23 ~~of convenience and necessity~~ authorizing construction. The ~~office~~ department may  
24 permit errors, omissions or defects in the application, maps and profiles to be  
25 supplied or corrected, and permit changes in the proposed route to be made.



1           **SECTION 42.** 191.06 of the statutes is amended to read:

2           **191.06 Railroad extensions; certificate and notice necessary.** If any  
3 railroad company organized prior to July 1, 1907, shall desire to extend its lines in  
4 this state or to build branches connected therewith, or to construct any portion of its  
5 authorized line of railroad, it shall, before beginning construction thereof, obtain a  
6 certificate ~~of convenience and necessity~~ authorizing the construction; but it shall not  
7 be necessary to publish the articles of such railroad.

8           **SECTION 43.** 191.07 of the statutes is amended to read:

9           **191.07 Hearing of applicants; notice.** Upon receiving such an application  
10 for a certificate authorizing construction, the ~~office shall~~ department may set a time  
11 and place for a hearing, which time shall not be less than 3 weeks nor more than 8  
12 weeks from the date of filing the application, and the place shall be at the city of  
13 Madison, or at some place along the line of the proposed railroad, if the ~~office~~  
14 department deems the latter more convenient, ~~and~~. If the department sets a hearing,  
15 the department shall give to the applicant notice thereof, which notice shall be  
16 published by the applicant, as a class 2 notice, under ch. 985, in each county in which  
17 the railroad, extension or branch is proposed to be located, and proof of such  
18 publication shall be filed with the ~~office~~ department.

19           **SECTION 44.** 191.09 of the statutes is repealed and recreated to read:

20           **191.09 Procedures before the department.** Chapter 227 applies to all  
21 proceedings under this chapter.

22           **SECTION 45.** 191.10 (title) of the statutes is amended to read:

23           **191.10 (title) Certificate of necessity.**

24           **SECTION 46.** 191.10 (1) of the statutes is amended to read:

1           191.10 (1) ~~ISSUANCE, FILING, RECORDING, CONDEMNATION. If the office of the~~  
2 ~~commissioner of railroads finds that the proposed railroad would be a public~~  
3 ~~convenience and that a necessity requires its construction, the office of the~~  
4 ~~commissioner of railroads shall enter an order to that effect and issue department~~  
5 ~~issues to the applicant a certificate that public convenience and a necessity require~~  
6 ~~the construction of the railroad as proposed. The certificate shall be filed in the office~~  
7 ~~of the department of financial institutions and the department of financial~~  
8 ~~institutions under this chapter, the applicant shall file the certificate with the~~  
9 ~~department of financial institutions. The department of transportation shall~~  
10 ~~approve the map showing the route of the railroad. The applicant shall record the~~  
11 ~~map certified by the ~~office of the commissioner of railroads~~ department of~~  
12 ~~transportation in the office of the register of deeds in each county in which the~~  
13 ~~railroad shall be located. The filing of the certificate with the department of financial~~  
14 ~~institutions and the recording of the map, as above provided, are conditions~~  
15 ~~precedent to the right of the applicant to institute condemnation proceedings.~~

16           **SECTION 47.** 191.10 (2) of the statutes is amended to read:

17           191.10 (2) **CERTIFICATE FOR PART OF LINE.** ~~Whenever it shall appear to the office~~  
18 ~~that public convenience and a necessity do not require the construction of the~~  
19 ~~railroad as proposed in the application, but do require the construction of a part~~  
20 ~~thereof, the office The department may issue a certificate for the construction of such~~  
21 ~~part of the railroad as public convenience and necessity require proposed in the~~  
22 ~~application.~~

23           **SECTION 48.** 191.10 (3) of the statutes is amended to read:

24           191.10 (3) **REFUSAL OF CERTIFICATE; RENEWAL OF APPLICATION.** ~~If the office shall~~  
25 ~~determine that the proposed railroad is not a necessity or is not required by public~~

1 ~~convenience, the office shall by order refuse to grant a certificate, department denies~~  
2 ~~the application for a certificate, the department shall issue an order refusing the~~  
3 ~~certificate and~~ stating the reasons for the refusal. The application may be renewed  
4 after 2 years from the date of the refusal, but not sooner.

5 **SECTION 49.** 191.11 of the statutes is amended to read:

6 **191.11 Revocation of certificate.** If any railroad company after obtaining  
7 a certificate ~~that public convenience and a necessity require~~ authorizing the  
8 construction of the whole or part of its railroad fails to begin construction within one  
9 year from the date of the certificate, or having begun such construction, fails to  
10 prosecute the same, the ~~office~~ department may inquire into the reasons for such  
11 failure and may revoke the certificate, if the ~~office~~ department finds, after notice and  
12 hearing, that such failure is unreasonable.

13 **SECTION 50.** 191.13 (2) of the statutes is amended to read:

14 191.13 (2) No railroad corporation shall exercise such power until it has  
15 obtained from the ~~office~~ department a certificate ~~that public convenience and~~  
16 ~~necessity require~~ authorizing the construction of the temporary railroad, ~~and the~~  
17 ~~certificate shall constitute the license to the company to build its proposed temporary~~  
18 ~~railroad.~~ The certificate shall specify the length of time the railroad may be  
19 maintained and operated, and may be renewed from time to time upon application  
20 by the railroad company. At the expiration of the time specified in the certificate, or  
21 any renewal thereof, the railroad company shall discontinue, dismantle and remove  
22 the temporary railroad; and may prior to the expiration of such time, upon order of  
23 the ~~office~~ department, and after a hearing, upon notice to all parties interested and  
24 good cause shown, discontinue, dismantle and remove the railroad.

25 **SECTION 51.** 191.16 of the statutes is amended to read:

1           **191.16 Construction items submitted to ~~office~~ department.** Upon  
2 receiving the certificate of ~~public convenience and necessity~~ authorizing  
3 construction, the applicant shall before commencing construction submit to the ~~office~~  
4 department a condensed specification of the character of construction that the  
5 applicant proposes to install, showing the kind, quality and weight of the rail  
6 proposed to be used, the mode of construction, character, quality, and strength of all  
7 bridges, culverts and viaducts, the abutments and approaches proposed to be built,  
8 the grade of and proposed method of draining the roadbed, and the kind of power to  
9 be used and the plant and appliances to be employed in power production, and such  
10 other facts relating to the construction of the proposed railroad as the ~~office~~  
11 department requires.

12           **SECTION 52.** 191.17 of the statutes is amended to read:

13           **191.17 Public safety; investigation; approval of plans.** Upon receiving  
14 the specification required by s. 191.16, the ~~office~~ department shall examine the same  
15 and shall hear the applicant in support thereof, shall suggest and require  
16 modifications of the specification if the public safety so demands, eliminating so far  
17 as may be practicable, consistent with reasonable cost, all grade crossings of public  
18 highways, shall inspect the route of the proposed railroad if deemed desirable, and  
19 shall otherwise investigate and determine that the proposed construction will be  
20 adequate for securing public safety in the operation of the railroad, and thereupon  
21 the ~~office~~ department shall enter an order approving the specification and  
22 authorizing the construction of the railroad in accordance therewith.

23           **SECTION 53.** 191.19 (1) of the statutes is amended to read:

24           **191.19 (1)** Upon the completion of the construction of any railroad under the  
25 approved specification, the company shall, before operating the same for public

1 service, report to the ~~office~~ department; and the ~~office~~ department shall inspect the  
2 work. If the ~~office~~ department finds that the railroad has been constructed in  
3 accordance with the approved specification and is otherwise suitable and properly  
4 constructed so as to secure public safety in the operation thereof, the ~~office~~  
5 department shall enter an order authorizing its operation, which order shall be  
6 presumptive evidence of the sufficiency of such construction.

7 **SECTION 54.** 191.19 (3) of the statutes is amended to read:

8 191.19 (3) If upon inspection the ~~office~~ department shall deem that public  
9 safety requires the installation, operation and maintenance of some protective  
10 appliance at any grade crossing of railroad tracks the ~~office~~ department may, before  
11 granting the order, after notice and hearing, require the installation, operation and  
12 maintenance of suitable protective appliances, and shall apportion the expense of  
13 constructing, maintaining and operating such protective appliances among the  
14 owners of the tracks.

15 **SECTION 55.** 191.20 of the statutes is amended to read:

16 **191.20 Railroad routes; right to alter.** Every railroad company may, by the  
17 vote of two-thirds of its directors, alter or change the route of its railroad, by making  
18 and filing with the ~~office of the commissioner of railroads~~ department and the  
19 department of financial institutions and also by recording in the office of the register  
20 of deeds of the county or counties where the alteration or change is to be made, a  
21 surveyed map and certificate of the alteration or change. The alteration or change  
22 may not deviate from the original route for a greater distance than one mile at any  
23 point. No city or village may be left off the railroad by the change of route. The  
24 original end points of the railroad, or the route in any city or village, shall not be

1 changed without the approval of the ~~office of the commissioner of railroads~~  
2 department of transportation after notice to the municipality.

3 **SECTION 56.** 191.21 of the statutes is amended to read:

4 **191.21 Notices in counties without newspapers.** If no newspaper is  
5 published in any county in which a railroad is proposed to be located, the publications  
6 required by this chapter may be made in such manner and at such places as the ~~office~~  
7 department shall designate.

8 **SECTION 57.** 192.001 (1r) of the statutes is created to read:

9 192.001 (1r) “Division of hearings and appeals” means the division of hearings  
10 and appeals in the department of administration.

11 **SECTION 58.** 192.001 (2) of the statutes is repealed.

12 **SECTION 59.** 192.14 (10) of the statutes is amended to read:

13 192.14 (10) If in any particular case any temporary exemption from any  
14 requirement of this section is deemed necessary by a carrier, the ~~office~~ department  
15 shall consider the application of the carrier for temporary exemption and may grant  
16 the exemption when accompanied by a full statement of the conditions existing and  
17 the reasons for the exemption. Any exemption so granted will be limited to the  
18 particular case specified and shall be limited to a stated period of time.

19 **SECTION 60.** 192.14 (12) of the statutes is amended to read:

20 192.14 (12) The ~~office~~ department may after public hearing make rules and  
21 establish the standards deemed necessary to carry out the purposes of this section.

22 **SECTION 61.** 192.15 (14) of the statutes is amended to read:

23 192.15 (14) If in any particular case any exemption from any requirement of  
24 this section is deemed necessary by a carrier, the ~~office~~ department shall consider the  
25 application of the carrier for exemption and may grant the exemption when

1 accompanied by a full statement of the conditions existing and the reasons for the  
2 exemption. Any exemption so granted shall be limited to the particular case specified  
3 and shall be limited to a stated period of time.

4 **SECTION 62.** 192.25 (3) (a) of the statutes is amended to read:

5 192.25 (3) (a) The ~~office~~ department, by rule, may grant an exception to sub.  
6 (2) if the ~~office~~ department determines that the exception will not endanger the life  
7 or property of any person.

8 **SECTION 63.** 192.27 (1) of the statutes is amended to read:

9 192.27 (1) When the track of a railway corporation crosses the track of any  
10 other railway corporation at grade, or when their tracks and right-of-way are  
11 adjacent, except in counties having a population of at least 150,000, the corporations  
12 shall, within 60 days after a written request of the ~~office~~ department or the council  
13 or board of the city, town or village within which the tracks so cross or are adjacent,  
14 make a track connection within such town, city or village to afford reasonable and  
15 proper facilities for the interchange of traffic between their respective lines for  
16 forwarding and delivering freight, and the expense thereof shall be borne equally by  
17 those corporations, unless otherwise ordered by the ~~office~~ department.

18 **SECTION 64.** 192.29 (1) of the statutes is amended to read:

19 192.29 (1) SETTING MAXIMUM SPEED. Upon petition to the ~~office~~ department by  
20 the governing body of any city or village or by any railroad corporation alleging that  
21 any railroad crossing of one or more public highways or streets in the city or village  
22 is dangerous to human life and that public safety requires a designation of the  
23 maximum speed of a train over such crossing or crossings, or that an order previously  
24 made by the ~~office~~ department or, prior to the effective date of this subsection ....  
25 [revisor inserts date], by the office of the commissioner of transportation under ch.

1 195, 1991 stats., or the office of the commissioner of railroads under ch. 195, 2001  
2 stats., should be modified, the office department shall give notice to the parties in  
3 interest and order a hearing thereon in the manner provided by s. 195.04 under ch.  
4 227. If after the hearing the office shall determine department determines that the  
5 crossing or crossings described in the petition are dangerous to human life, it may  
6 by order determine what maximum speed of a train over the crossing is reasonably  
7 required by public safety and is consistent with the public need for adequate and  
8 expeditious passenger and freight service by railroad, having due regard for other  
9 orders entered by the office department, or, prior to the effective date of this  
10 subsection .... [revisor inserts date], by the office of the commissioner of  
11 transportation or the office of the commissioner of railroads, and to practical railroad  
12 operating conditions. Where the office department has designated the maximum  
13 speed of any train or trains over such crossing or crossings, or, prior to the effective  
14 date of this subsection .... [revisor inserts date], the office of the commissioner of  
15 transportation or the office of the commissioner of railroads has designated the  
16 maximum speed of any train or trains over such crossing or crossings and the  
17 designation remains unmodified by the department, the rate of speed shall be the  
18 lawful maximum speed at which any train affected by the order can be operated over  
19 the public highway or street crossing, until changed by subsequent order of the office  
20 department. Every railroad corporation violating any order entered under this  
21 subsection shall for every violation forfeit not less than \$10 nor more than \$100. The  
22 jurisdiction over train speeds hereby vested in the office department shall be  
23 exclusive, but any order entered by the office department hereunder shall be subject  
24 to judicial review in the manner provided by ch. 227.

25 **SECTION 65.** 192.29 (2) of the statutes is amended to read:



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

4           **SECTION 66.** 192.29 (4) of the statutes is amended to read:

5           192.29 (4) HIGHWAYS, WHISTLE, HORN, BELL. No railroad train or locomotive shall  
6           run over any public traveled grade highway crossing outside of the limits of  
7           municipalities unless the whistle or horn shall be blown 1,320 feet from such crossing  
8           and the engine bell rung continuously from thence until the crossing be reached. But  
9           the office department may order that the ringing of the bell or the blowing of the  
10          whistle, or horn, or both, as required by this subsection shall be omitted at any  
11          crossing.

12          **SECTION 67.** 192.29 (5) of the statutes is amended to read:

13          192.29 (5) DANGER SIGNS. Wherever its track crosses a public highway or street,  
14          every railroad corporation shall maintain on each side of the track and near such  
15          crossing a ~~large signboard with the following inscription, painted in large letters:~~  
16          ~~“Railroad Crossing,” in such manner as to be visible to approaching traffic on the~~  
17          ~~highway or street at least 100 feet distant~~ railroad crossing sign. The sign shall be  
18          constructed and erected as provided in the manual adopted by the department under  
19          s. 84.02 (4) (e).

20          **SECTION 68.** 192.31 (1) of the statutes is amended to read:

21          192.31 (1) Every railroad corporation shall maintain suitable telltales  
22          wherever any overhead structure or any part thereof is less than 23 feet above the  
23          top of rail; except that if the office department finds that the installation of a telltale  
24          at any particular place would be impracticable or would result in an increased  
25          hazard to either the public or an employee and that either or both such factors

1 outweigh the safety benefit which would result from the installation of a telltale, the  
2 office department may enter an order providing an exemption from this section. The  
3 exemption shall be ordered by the office department only after public hearing under  
4 sub. (4).

5 **SECTION 69.** 192.31 (2) of the statutes is amended to read:

6 192.31 (2) The office department may determine the materials for and the  
7 construction and placing of such telltales.

8 **SECTION 70.** 192.31 (4) of the statutes is amended to read:

9 192.31 (4) Upon finding that any such structure will not imperil life or limb,  
10 and that the public interest requires or permits such structure to be constructed or  
11 reconstructed otherwise than as permitted by sub. (3), the office department may  
12 exempt such structure from such provision. Such findings shall be made only upon  
13 written application, setting forth fully the grounds therefor and shall be made only  
14 after public hearing. The findings and order granting exemption shall be in writing  
15 and contain complete provisions and requirements as to the vertical clearance to be  
16 maintained in such construction or reconstruction. Such structure shall be  
17 constructed or reconstructed only in compliance with such order.

18 **SECTION 71.** 192.31 (5) of the statutes is amended to read:

19 192.31 (5) Prior to July 1, in each year every corporation operating a railroad  
20 within the state shall file with the office department a verified statement showing  
21 the location of every such bridge or other structure over any of its tracks at a height  
22 of less than 23 feet above the top of rail, together with a statement showing whether  
23 or not the provisions of this section have been fully complied with.

24 **SECTION 72.** 192.324 of the statutes is amended to read:

1           **192.324 Railroad bridges to be safe for employees.** Whenever a complaint  
2 is lodged with the ~~office~~ department by any person to the effect that a railroad bridge  
3 because of its style of construction does not have walks or railings and for that reason  
4 is dangerous to the life and limb of railroad employees and the safety of such  
5 employees requires the alteration so as to provide for such walks and railings of such  
6 bridge, the ~~office~~ department shall give notice to the party in interest, other than the  
7 complainant, of the filing of the complaint and furnish such party with a copy thereof,  
8 and order a hearing thereon, ~~in the manner provided for hearings in s. 195.31. The~~  
9 ~~office~~ under s. 85.013 (3) and ch. 227 by the division of hearings and appeals. The  
10 department may proceed in a similar manner in the absence of a complaint when,  
11 in the opinion of the ~~office~~ department, the safety of railroad employees requires the  
12 alteration of a railroad bridge. After the hearing, the ~~office~~ division of hearings and  
13 appeals shall determine what alteration, if any, of such bridge, shall be made. The  
14 expense of such alteration shall be borne by the railroad company.

15           **SECTION 73.** 192.327 (3) of the statutes is amended to read:

16           192.327 (3) The ~~office~~ department shall make and enforce reasonable rules  
17 relating to motor vehicles used to transport workers to and from their places of  
18 employment or during the course of their employment.

19           **SECTION 74.** 192.327 (4) of the statutes is repealed.

20           **SECTION 75.** 192.327 (5) of the statutes is repealed.

21           **SECTION 76.** 192.327 (6) of the statutes is amended to read:

22           192.327 (6) The ~~office~~ department may, in enforcing the rules, inspect any  
23 motor vehicle used to transport workers to and from their places of employment or  
24 during the course of their employment. ~~Upon request of the office, the department~~  
25 ~~shall direct its traffic officers to assist the office in those inspections.~~

1           **SECTION 77.** 192.327 (7) of the statutes is amended to read:

2           192.327 (7) Whenever the ~~office~~ department finds that a motor vehicle used to  
3 transport workers to and from their places of employment or during the course of  
4 their employment violates any provision of the rules, the ~~office~~ department shall  
5 make, enter and serve upon the owner of the motor vehicle such order as may be  
6 necessary to protect the safety of workers transported in the motor vehicle.

7           **SECTION 78.** 192.33 (5) of the statutes is amended to read:

8           192.33 (5) The maintenance of cattle guards may be omitted by the railroad  
9 company with the written consent of the ~~office~~ department specifying the particular  
10 crossings.

11           **SECTION 79.** 192.34 of the statutes is amended to read:

12           **192.34 Fences; complaint of insufficient; hearing; order.** Upon  
13 complaint to the division of hearings and appeals by the owner or occupant of any  
14 land contiguous to the right-of-way of any railroad that the railroad company  
15 operating the line has failed to construct or keep in good repair fences along its  
16 right-of-way opposite to the complainant's land as required under s. 192.33, the  
17 ~~office~~ division of hearings and appeals shall proceed on the complaint in the manner  
18 provided in s. 195.04 under ch. 227. If it shall appear that the complaint is well  
19 founded, the ~~office~~ division of hearings and appeals may order and direct the railroad  
20 company to repair the complained of fences so that the fences will be sufficient or to  
21 construct legal fences.

22           **SECTION 80.** 192.47 of the statutes is amended to read:

23           **192.47 Railroad police; oath; powers.** Any railway company may, at its own  
24 expense, appoint and employ railroad police officers at the stations or other places  
25 on the line of its road within this state as it deems necessary for the protection of its

1 property and the preservation of order on its premises and in and about its cars,  
2 depots, depot grounds, yards, buildings or other structures. Each police officer shall  
3 take an oath to support the constitution of the United States and claiming to be a  
4 citizen of the United States and shall file it with the ~~office~~ department. Each police  
5 officer shall, when on duty, wear a shield furnished by the company bearing the  
6 words “Railroad Police” and the name of the company. These police officers may  
7 arrest, with or without warrant, any person who in their presence commits upon the  
8 premises of the company or in or about its cars, depots, depot grounds, yards,  
9 buildings or other structures any offense against the laws of this state or the  
10 ordinances of any town, city or village, and shall also have the authority of sheriffs  
11 in regard to the arrest or apprehension of these offenders in or about the premises  
12 or appurtenances. In case of the arrest, by a railroad police officer, of any person  
13 without warrant the officer shall immediately take the offender before a judge  
14 having jurisdiction and make complaint against the offender. Every railway  
15 company shall be responsible for the acts of its police officers.

16 **SECTION 81.** 192.52 (3) of the statutes is amended to read:

17 192.52 (3) No railroad company operating in this state shall remove its shops  
18 from the place where the same are now located to any other point within or without  
19 this state or permanently close any shops in this state without first having secured  
20 ~~the consent and permission of the office~~ an order for such removal from the division  
21 of hearings and appeals, after due notice and public hearing, and in all other respects  
22 as provided for hearings in ch. 195 227. The ~~office~~ division of hearings and appeals  
23 shall render its decision within 30 days after such hearing.

24 **SECTION 82.** 192.52 (4) of the statutes is amended to read:

1           192.52 (4) No railroad company operating in this state shall remove or transfer  
2 its terminals or permanently close any terminals in this state without the permission  
3 or consent of the office an order for such removal, transfer or closing from the division  
4 of hearings and appeals after due hearing had on the matter, in compliance with ch.  
5 195 227.

6           **SECTION 83.** 192.52 (5) of the statutes is amended to read:

7           192.52 (5) Before any railroad company operating in this state shall make any  
8 removal or transfer of shops or terminals or abandons the same, it shall file notice  
9 of intention so to do with the office division of hearings and appeals, and the office  
10 division of hearings and appeals shall have the power to investigate whether such  
11 proposed removal, transfer or abandonment, as the case may be, is in the public  
12 interest and is not unreasonable or unfair as to the employees of such railroad  
13 company. No such removal or transfer shall be made during such investigation, or  
14 thereafter, if the office division of hearings and appeals finds such removal, transfer  
15 or abandonment is not in the public interest or is unreasonable or unfair as to the  
16 employees of such railroad.

17           **SECTION 84.** 192.53 (4) (a) of the statutes is amended to read:

18           192.53 (4) (a) Upon finding that any structure that is subject to the provisions  
19 of this section will not imperil life or limb, and that the public interest requires or  
20 permits the structure to be constructed or reconstructed otherwise than as permitted  
21 by the provisions of this section, the office department may exempt the structure  
22 from the provisions of this section.

23           **SECTION 85.** 192.53 (4) (b) of the statutes is amended to read:

24           192.53 (4) (b) The office department shall make the findings described in par.  
25 (a) only upon written application to it to exempt the construction or reconstruction

1 of a structure from the requirements of this section, setting forth fully the grounds  
2 therefor, and only after public hearing. The ~~office's~~ department's findings and order  
3 granting the exemption shall be in writing and shall contain complete provisions and  
4 requirements as to the horizontal clearance to be maintained in the construction or  
5 reconstruction. The structure shall be constructed or reconstructed only in  
6 compliance with the ~~office's~~ department's order.

7 **SECTION 86.** 192.53 (5) (a) (intro.) of the statutes is amended to read:

8 192.53 (5) (a) (intro.) Except as otherwise provided in this section and subject  
9 to the power of the ~~office~~ department to make exceptions to this section in a manner  
10 similar to the power given it in sub. (4), no railroad or shipper may do any of the  
11 following:

12 **SECTION 87.** 192.53 (6) of the statutes is amended to read:

13 192.53 (6) Any railroad or shipper to which this section applies, who violates  
14 any provision of this section or who fails, neglects or refuses to obey any lawful order  
15 made by the ~~office~~ department under this section, shall be fined not more than \$100  
16 or imprisoned for not more than 60 days or both.

17 **SECTION 88.** 192.55 (5) of the statutes is repealed.

18 **SECTION 89.** 192.56 (1) of the statutes is amended to read:

19 192.56 (1) It is unlawful for any railroad company owning or operating any  
20 railroad in whole or in part in this state, to abandon any station in any town, village  
21 or city on its line of railroad, within this state, or to remove the depot therefrom, or  
22 to withdraw agency service therefrom, without first obtaining from the ~~office~~ division  
23 of hearings and appeals an order authorizing such action.

24 **SECTION 90.** 192.56 (2) of the statutes is amended to read:

1           192.56 (2) At a station where agency service is provided the application to the  
2       office division of hearings and appeals for such authorizing order shall set forth the  
3       facts showing the necessity for such action by the railroad company, and if the office  
4       division of hearings and appeals finds that the application is sufficient  
5       presumptively to justify the order prayed for, it shall enter an order fixing the time  
6       and place of hearing on the application, which time shall not be less than 20 days  
7       after the posting provided for in sub. (3).

8           **SECTION 91.** 192.56 (3) of the statutes is amended to read:

9           192.56 (3) Notice of the time and place of the hearing and of the purpose thereof  
10       shall be given, by the office division of hearings and appeals, by posting the notice  
11       in 5 conspicuous places in the town or village.

12          **SECTION 92.** 192.56 (5) of the statutes is amended to read:

13          192.56 (5) The hearing shall be held as other hearings before the office division  
14       of hearings and appeals are held as far as applicable. The office division of hearings  
15       and appeals may dismiss the application or may grant it in whole or in part and under  
16       such conditions as it may deem equitable.

17          **SECTION 93.** 192.56 (6) of the statutes is amended to read:

18          192.56 (6) At a station where no agency service is provided, the application to  
19       the office division of hearings and appeals for such authorizing order shall set forth  
20       the facts showing the necessity for such action by the railroad company. Notice of  
21       proposed removal or abandonment shall be given by the office division of hearings  
22       and appeals by posting notice in 5 conspicuous places in the town or village  
23       concerned; and if within 20 days after the posting of notice no objections in writing  
24       are filed with the office division of hearings and appeals by persons directly affected,  
25       an order authorizing the abandonment of the station may be issued by the office



1 division of hearings and appeals. If such objections to the granting of the order are  
2 filed with the office division of hearings and appeals, the office division of hearings  
3 and appeals shall proceed to hold a hearing in the matter as provided in subs. (4) and  
4 (5).

5 **SECTION 94.** 195.001 (1r) of the statutes is created to read:

6 195.001 (1r) “Division of hearings and appeals” means the division of hearings  
7 and appeals in the department of administration.

8 **SECTION 95.** 195.001 (2) of the statutes is repealed.

9 **SECTION 96.** 195.001 (3) of the statutes is created to read:

10 195.001 (3) “Secretary” means the secretary of transportation.

11 **SECTION 97.** 195.03 (title) of the statutes is amended to read:

12 **195.03 (title) Office Department; powers and duties, general**  
13 **enumeration.**

14 **SECTION 98.** 195.03 (1) of the statutes is amended to read:

15 195.03 (1) PRACTICE RULES. The office department may take testimony and  
16 administer oaths and may promulgate rules to govern its proceedings and to regulate  
17 the mode and manner of all hearings. All hearings shall be open to the public.

18 **SECTION 99.** 195.03 (2) of the statutes is amended to read:

19 195.03 (2) OFFICE DEPARTMENT INITIATIVE. In any matter within its jurisdiction  
20 under ch. 192 or this chapter, the office department may initiate, investigate and  
21 order a hearing at its discretion upon such notice as it considers proper.

22 **SECTION 100.** 195.03 (7) of the statutes is amended to read:

23 195.03 (7) STUDY CARRIER BUSINESS, DEMAND INFORMATION. The office  
24 department may inquire into the management of the business of all railroads, and  
25 shall keep itself informed as to the manner in which the same is conducted, and may

1 obtain from any railroad all necessary information to enable the ~~office~~ department  
2 to perform the duties and carry out the objects for which it is responsible.

3 **SECTION 101.** 195.03 (8) of the statutes is amended to read:

4 195.03 (8) QUESTIONNAIRES, ANSWERS COMPULSORY. The ~~office~~ department shall  
5 prepare forms for the purpose of obtaining the information which it may deem  
6 necessary or useful to the proper exercise of its functions, which shall conform as  
7 nearly as practicable to the forms prescribed by the interstate commerce  
8 commission, and shall furnish the forms to railroads, and every railroad receiving  
9 the forms shall cause the forms to be properly completed and verified under oath by  
10 its proper officer and returned to the ~~office~~ department within the time fixed by the  
11 ~~office~~ department.

12 **SECTION 102.** 195.03 (9) of the statutes is amended to read:

13 195.03 (9) EXAMINE BOOKS AND FILES OF CARRIERS. The ~~commissioner of railroads~~  
14 secretary or any person employed by the ~~office~~ department for that purpose shall,  
15 upon demand, have the right to inspect the books and papers of any railroad and to  
16 examine under oath any officer, agent or employee of such railroad in relation to its  
17 business and affairs; provided that any person other than ~~the commissioner of~~  
18 ~~railroads~~ secretary who makes such demand shall produce his or her authority under  
19 the hand and seal of the ~~office~~ secretary.

20 **SECTION 103.** 195.03 (10) of the statutes is amended to read:

21 195.03 (10) PRODUCTION OF RECORDS AND FILES KEPT OUT OF STATE. The ~~office~~  
22 department may, by an order or subpoena to be served in the manner that a circuit  
23 court summons is served, require the production within this state, at such time and  
24 place as it may designate, of any books, papers or accounts kept by any railroad

1 without the state, or verified copies in lieu thereof, if the ~~office~~ department shall so  
2 order.

3 **SECTION 104.** 195.03 (11) of the statutes is amended to read:

4 195.03 (11) UNIFORM SYSTEM OF ACCOUNTING. The ~~office~~ department may  
5 prescribe a uniform system of keeping and rendering accounts of all railroad  
6 business transacted in this state, and the time within which railroads shall adopt  
7 such system; provided that all forms of accounts which may be prescribed by the  
8 ~~office~~ department shall conform as nearly as practicable to similar forms prescribed  
9 by federal authority.

10 **SECTION 105.** 195.03 (12) of the statutes is repealed.

11 **SECTION 106.** 195.03 (13) of the statutes is repealed.

12 **SECTION 107.** 195.03 (14) of the statutes is repealed.

13 **SECTION 108.** 195.03 (15) of the statutes is repealed.

14 **SECTION 109.** 195.03 (16) of the statutes is repealed.

15 **SECTION 110.** 195.03 (17) of the statutes is amended to read:

16 195.03 (17) PRIVATE TRACKS. The ~~office~~ department shall have control of private  
17 railroad tracks insofar as the same are used by common carriers for the  
18 transportation of freight, in all respects the same as though such tracks were part  
19 of a public railroad.

20 **SECTION 111.** 195.03 (18) of the statutes is amended to read:

21 195.03 (18) SAFETY DEVICES. The ~~office~~ department may make reasonable rules,  
22 regulations, specifications and standards for the installation, operation and  
23 maintenance of all safety devices and measures.

24 **SECTION 112.** 195.03 (19) of the statutes is amended to read:

1           195.03 (19) RAILROAD STRUCTURES. The ~~office~~ department may order the repair  
2 or reconstruction of any inadequate or unsafe railroad track or structure.

3           **SECTION 113.** 195.03 (25) of the statutes is amended to read:

4           195.03 (25) DISTRIBUTION OF ORDERS. The ~~office~~ department shall upon  
5 application furnish certified copies, under its seal, of any order made by it, which  
6 shall be prima facie evidence of the facts stated therein.

7           **SECTION 114.** 195.03 (28) of the statutes is amended to read:

8           195.03 (28) LEGAL ACTIONS. The ~~office may sue and be sued in that name, and~~  
9 department may confer with or participate in any proceedings before any regulatory  
10 agency of any other state or of the federal government.

11          **SECTION 115.** 195.03 (29) of the statutes is amended to read:

12          195.03 (29) TRAIN PRIVILEGES. The employees authorized by the ~~office~~  
13 department to perform railroad inspection duties may, in the performance of such  
14 duties, ride in and upon any engine, car or train of any class, of any railroad, upon  
15 payment of the lawful passenger fare, but such railroad shall not thereby be deemed  
16 to become a common carrier of passengers other than on passenger cars.

17          **SECTION 116.** 195.03 (30) (a) of the statutes is amended to read:

18          195.03 (30) (a) The ~~office~~ department shall give testimony at the hearing under  
19 s. 350.138 (4) (b), or shall submit a written report for introduction into the hearing  
20 record, on the factors stated in s. 350.138 (4) (d) 1., 2., 3., and 4.

21          **SECTION 117.** 195.03 (30) (b) of the statutes is amended to read:

22          195.03 (30) (b) The ~~office~~ department shall give the department of natural  
23 resources the ~~office's~~ department's opinion on whether the snowmobile crossing  
24 should be closed or removed in testimony at the hearing under s. 350.1395 (2) (b) 2.  
25 or in a written report for introduction into the hearing record.

1           **SECTION 118.** 195.04 of the statutes is repealed.

2           **SECTION 119.** 195.041 of the statutes is repealed.

3           **SECTION 120.** 195.042 of the statutes is repealed.

4           **SECTION 121.** 195.043 of the statutes is repealed.

5           **SECTION 122.** 195.044 of the statutes is repealed.

6           **SECTION 123.** 195.045 of the statutes is repealed.

7           **SECTION 124.** 195.046 of the statutes is repealed.

8           **SECTION 125.** 195.047 of the statutes is repealed.

9           **SECTION 126.** 195.05 of the statutes is repealed.

10          **SECTION 127.** 195.055 of the statutes is amended to read:

11           **195.055 Judicial review.** All orders and determinations of the office  
12          department under this chapter are subject to judicial review under ch. 227.

13          **SECTION 128.** 195.06 of the statutes is repealed.

14          **SECTION 129.** 195.07 (1) of the statutes is repealed.

15          **SECTION 130.** 195.07 (2) of the statutes is amended to read:

16           195.07 (2) ATTORNEY GENERAL AND DISTRICT ATTORNEY TO PROSECUTE. Upon  
17          request of the office department, the attorney general or the district attorney of the  
18          proper county shall aid in any investigation, hearing or trial had under, and shall  
19          institute and prosecute all necessary actions or proceedings for the enforcement of,  
20          laws relating to railroads.

21          **SECTION 131.** 195.08 of the statutes is repealed.

22          **SECTION 132.** 195.09 of the statutes is repealed.

23          **SECTION 133.** 195.10 of the statutes is repealed.

24          **SECTION 134.** 195.11 of the statutes is repealed.

25          **SECTION 135.** 195.12 of the statutes is repealed.