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State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1187/6
ARG:cjs/cmh/kg/wlj:pg

DOA:.....Vail – BB0269, Eliminate office of commissioner of railroads
FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: eliminating the Office of the Commissioner of Railroads
2 and transferring the office’s duties to the Department of Transportation,
3 making an 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 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.

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

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

1 **SECTION 1.** 15.03 of the statutes is amended to read:

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

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

7 **SECTION 2.** 15.06 (1) (ar) of the statutes is repealed.

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

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

17 **SECTION 4.** 15.795 of the statutes is repealed.

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

19 **20.155 Public service commission.** (intro.) There is appropriated to the
20 public service commission for the following ~~programs~~ program:

21 **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.

22 **SECTION 7.** 20.395 (2) (gg) of the statutes is created to read:

1 20.395 (2) (gg) *Railroad payments*. From the general fund, all moneys received
2 from railroads under s. 195.60 and credited to this appropriation account for
3 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 8.** 20.395 (2) (gq) of the statutes is amended to read:

5 20.395 (2) (gq) *Railroad crossing improvement and protection maintenance*
6 *and railroad regulation, state funds*. The amounts in the schedule to pay the costs
7 for railroad crossing protection maintenance under s. 195.28 (3) and for activities
8 related to railroad regulation under chs. 190 to 195.

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

9 **SECTION 9.** 20.923 (4) (e) 11. of the statutes is repealed.

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

11 25.40 (1) (a) 12m. Moneys collected under s. 195.60 that are deposited in the
12 general fund, 90% of which are credited to the appropriation under s. 20.395 (2) (gg).

13 **SECTION 11.** 25.40 (1) (f) 1. of the statutes is repealed.

14 **SECTION 12.** 26.20 (3) of the statutes is amended to read:

15 26.20 (3) **LOCOMOTIVE INSPECTOR; POWERS.** Any locomotive inspector designated
16 by the department shall have the power to reject from service immediately any
17 locomotive, donkey, traction, or portable engine which, in the opinion of the inspector,
18 is deficient in adequate design, construction, or maintenance of the fire protective
19 devices designated in sub. (2), and any such locomotive, donkey, traction, or portable
20 engine so rejected from service shall not be returned to service until such defects have
21 been remedied to the satisfaction of the locomotive inspector. In case of disagreement
22 between the inspector and the owner of the locomotive, donkey, traction, or portable

1 engine so rejected from service as to the efficiency or proper maintenance of said
2 protective devices, then the owner of the locomotive, donkey, traction, or portable
3 engine may appeal to the ~~office of the commissioner of railroads~~ division of hearings
4 and appeals in the department of administration for a decision of said matter, but
5 pending such decision the locomotive, donkey, traction, or portable engine shall not
6 be returned to service.

7 **SECTION 13.** 26.20 (10) of the statutes is amended to read:

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

15 **SECTION 14.** 30.33 (1) of the statutes is amended to read:

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

1 commissioners has the powers and privileges of railroad corporations and shall be
2 subject to the same restrictions as railroad corporations and to the supervision of the
3 ~~office of the commissioner of railroads~~ department of transportation, except as to the
4 system of accounting and the payment of wages to employees.

5 **SECTION 15.** 30.33 (2) of the statutes is amended to read:

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

22 **SECTION 16.** 66.0801 (2) of the statutes is amended to read:

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

1 **SECTION 17.** 84.05 of the statutes is amended to read:

2 **84.05 Railroad crossing improvements.** On a highway which the
3 department has authority to construct and which crosses a railroad, if the
4 department determines that the construction or reconstruction of a grade separation
5 or the rearrangement or elimination of a grade crossing or other rearrangement of
6 the highway or tracks is necessary in the interest of public safety or for convenience
7 of public travel, the department shall make a plan of the construction proposed and
8 an estimate of the cost thereof, including the cost of needed right-of-way; and shall
9 endeavor to make an arrangement with all persons concerned as to all matters
10 involved in the plan, including the portion of the cost of the contemplated work which
11 the persons shall defray. If the department is unable to contract with the persons
12 concerned as to the distribution and payment of the cost of the work or the
13 maintenance thereof, the department shall ~~lay the matter before the office of the~~
14 ~~commissioner of railroads, and the office of the commissioner of railroads shall~~
15 ~~review the proceedings and hold a hearing thereon in accordance with ss. 195.28 and~~
16 ~~195.29, and shall fix the portion of the cost of the construction and of the maintenance~~
17 ~~which is to be paid by the persons or corporations concerned, and the portion of the~~
18 ~~cost, if any, to be paid by the public, which portion shall be paid from the~~
19 ~~transportation fund, and issue an appropriate order. The office of the commissioner~~
20 ~~of railroads~~ department shall determine the benefits, if any, which will inure to other
21 highways, and apportion and charge to the units of government responsible for the
22 construction of such other highways a fair portion of the cost. The department shall
23 promulgate a rule establishing criteria with respect to the allocation of costs under
24 this section. A person who is aggrieved by an order of the department under this
25 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 18.** 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 19.** 86.001 (2m) of the statutes is repealed.

14 **SECTION 20.** 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 21.** 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 22.** 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 23.** 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 24.** 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 25.** 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 26.** Chapter 189 of the statutes is repealed.

2 **SECTION 27.** 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 28.** 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 29.** 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~~ federal surface transportation board in the case of a railroad
21 corporation organized for the purpose of acquiring a railroad engaged in interstate
22 commerce, or any existing railroad corporation reorganized under the act and
23 acquiring railroad property used in interstate commerce. The evidences of debt may
24 be convertible, at the option of the holder, into stock, and shares of stock. The shares
25 may have a nominal or par value or, if the shares are shares of common stock, be

1 without nominal or par value. The shares may be of such classes, with such rights
2 and voting powers as may be expressed in the corporation's articles or any
3 amendment thereto.

4 SECTION 30. 190.03 of the statutes is amended to read:

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

20 SECTION 31. 190.13 of the statutes is amended to read:

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

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

6 **SECTION 32.** 190.16 (4) (a) of the statutes is amended to read:

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

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

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

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

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

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

16 **SECTION 35.** 190.16 (5) of the statutes is amended to read:

17 190.16 (5) REMOVAL, WHEN. Except where a spur track was constructed prior
18 to June 16, 1925, at the expense of the railroad company, no spur track shall be
19 removed, dismantled or otherwise rendered unfit for service except upon order of the
20 ~~office~~ department of transportation or the division of hearings and appeals made
21 after hearing held upon notice to all parties interested, and for good cause shown;
22 provided that if no objection has been filed with the ~~office~~ department of
23 transportation or the division of hearings and appeals within 20 days from the
24 original publication of such notice, the ~~office~~ department of transportation or the

1 division of hearings and appeals may without hearing authorize such spur track
2 removed, dismantled or otherwise rendered unfit for service.

3 **SECTION 36.** 191.001 of the statutes is amended to read:

4 **191.001 Definition.** In this chapter, “office” “department” means the office of
5 the commissioner of railroads department of transportation.

6 **SECTION 37.** 191.01 (2) of the statutes is amended to read:

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

13 **SECTION 38.** 191.02 (title) of the statutes is amended to read:

14 **191.02 (title) Application for certificate of necessity.**

15 **SECTION 39.** 191.03 of the statutes is amended to read:

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

22 **SECTION 40.** 191.05 of the statutes is amended to read:

23 **191.05 Maps and profiles with application; changes.** Complete maps and
24 profiles of the proposed railroad shall be filed with the application for a certificate
25 of convenience and necessity authorizing construction. The office department may

1 permit errors, omissions or defects in the application, maps and profiles to be
2 supplied or corrected, and permit changes in the proposed route to be made.

3 **SECTION 41.** 191.06 of the statutes is amended to read:

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

10 **SECTION 42.** 191.07 of the statutes is amended to read:

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

21 **SECTION 43.** 191.09 of the statutes is repealed and recreated to read:

22 **191.09 Procedures before the department.** Chapter 227 applies to all
23 proceedings under this chapter.

24 **SECTION 44.** 191.10 (title) of the statutes is amended to read:

25 **191.10 (title) Certificate of necessity.**

1 **SECTION 45.** 191.10 (1) of the statutes is amended to read:

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

17 **SECTION 46.** 191.10 (2) of the statutes is amended to read:

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

24 **SECTION 47.** 191.10 (3) of the statutes is amended to read:

1 191.10 (3) REFUSAL OF CERTIFICATE; RENEWAL OF APPLICATION. If the office shall
2 determine that the proposed railroad is not a necessity or is not required by public
3 convenience, the office shall by order refuse to grant a certificate, department denies
4 the application for a certificate, the department shall issue an order refusing the
5 certificate and stating the reasons for the refusal. The application may be renewed
6 after 2 years from the date of the refusal, but not sooner.

7 SECTION 48. 191.11 of the statutes is amended to read:

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

15 SECTION 49. 191.13 (2) of the statutes is amended to read:

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

1 the ~~office~~ department, and after a hearing, upon notice to all parties interested and
2 good cause shown, discontinue, dismantle and remove the railroad.

3 **SECTION 50.** 191.16 of the statutes is amended to read:

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

15 **SECTION 51.** 191.17 of the statutes is amended to read:

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

1 **SECTION 52.** 191.19 (1) of the statutes is amended to read:

2 191.19 (1) Upon the completion of the construction of any railroad under the
3 approved specification, the company shall, before operating the same for public
4 service, report to the ~~office~~ department; and the ~~office~~ department shall inspect the
5 work. If the ~~office~~ department finds that the railroad has been constructed in
6 accordance with the approved specification and is otherwise suitable and properly
7 constructed so as to secure public safety in the operation thereof, the ~~office~~
8 department shall enter an order authorizing its operation, which order shall be
9 presumptive evidence of the sufficiency of such construction.

10 **SECTION 53.** 191.19 (3) of the statutes is amended to read:

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

18 **SECTION 54.** 191.20 of the statutes is amended to read:

19 **191.20 Railroad routes; right to alter.** Every railroad company may, by the
20 vote of two-thirds of its directors, alter or change the route of its railroad, by making
21 and filing with the ~~office of the commissioner of railroads~~ department and the
22 department of financial institutions and also by recording in the office of the register
23 of deeds of the county or counties where the alteration or change is to be made, a
24 surveyed map and certificate of the alteration or change. The alteration or change
25 may not deviate from the original route for a greater distance than one mile at any

1 point. No city or village may be left off the railroad by the change of route. The
2 original end points of the railroad, or the route in any city or village, shall not be
3 changed without the approval of the ~~office of the commissioner of railroads~~
4 department of transportation after notice to the municipality.

5 **SECTION 55.** 191.21 of the statutes is amended to read:

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

10 **SECTION 56.** 192.001 (1r) of the statutes is created to read:

11 192.001 (1r) “Division of hearings and appeals” means the division of hearings
12 and appeals in the department of administration.

13 **SECTION 57.** 192.001 (2) of the statutes is repealed.

14 **SECTION 58.** 192.14 (10) of the statutes is amended to read:

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

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

22 192.14 (12) The ~~office~~ department may after public hearing make rules and
23 establish the standards deemed necessary to carry out the purposes of this section.

24 **SECTION 60.** 192.15 (14) of the statutes is amended to read:

1 192.15 (14) If in any particular case any exemption from any requirement of
2 this section is deemed necessary by a carrier, the ~~office~~ department shall consider the
3 application of the carrier for exemption and may grant the exemption when
4 accompanied by a full statement of the conditions existing and the reasons for the
5 exemption. Any exemption so granted shall be limited to the particular case specified
6 and shall be limited to a stated period of time.

7 **SECTION 61.** 192.25 (3) (a) of the statutes is amended to read:

8 192.25 (3) (a) The ~~office~~ department, by rule, may grant an exception to sub.
9 (2) if the ~~office~~ department determines that the exception will not endanger the life
10 or property of any person.

11 **SECTION 62.** 192.27 (1) of the statutes is amended to read:

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

21 **SECTION 63.** 192.29 (1) of the statutes is amended to read:

22 192.29 (1) **SETTING MAXIMUM SPEED.** Upon petition to the ~~office~~ department by
23 the governing body of any city or village or by any railroad corporation alleging that
24 any railroad crossing of one or more public highways or streets in the city or village
25 is dangerous to human life and that public safety requires a designation of the

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

1 exclusive, but any order entered by the ~~office~~ department hereunder shall be subject
2 to judicial review in the manner provided by ch. 227.

3 **SECTION 64.** 192.29 (2) of the statutes is amended to read:

4 192.29 (2) ARTERIAL STOP SIGNS. In any proceeding under sub. (1) or under s.
5 195.28, the ~~office~~ department may by order require that the state or municipality
6 install at any crossing involved in such proceeding an official stop sign.

7 **SECTION 65.** 192.29 (4) of the statutes is amended to read:

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

15 **SECTION 66.** 192.29 (5) of the statutes is amended to read:

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

23 **SECTION 67.** 192.31 (1) of the statutes is amended to read:

24 192.31 (1) Every railroad corporation shall maintain suitable telltales
25 wherever any overhead structure or any part thereof is less than 23 feet above the

1 top of rail; except that if the office department finds that the installation of a telltale
2 at any particular place would be impracticable or would result in an increased
3 hazard to either the public or an employee and that either or both such factors
4 outweigh the safety benefit which would result from the installation of a telltale, the
5 office department may enter an order providing an exemption from this section. The
6 exemption shall be ordered by the office department only after public hearing under
7 sub. (4).

8 **SECTION 68.** 192.31 (2) of the statutes is amended to read:

9 192.31 (2) The office department may determine the materials for and the
10 construction and placing of such telltales.

11 **SECTION 69.** 192.31 (4) of the statutes is amended to read:

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

21 **SECTION 70.** 192.31 (5) of the statutes is amended to read:

22 192.31 (5) Prior to July 1, in each year every corporation operating a railroad
23 within the state shall file with the office department a verified statement showing
24 the location of every such bridge or other structure over any of its tracks at a height

1 of less than 23 feet above the top of rail, together with a statement showing whether
2 or not the provisions of this section have been fully complied with.

3 **SECTION 71.** 192.324 of the statutes is amended to read:

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

18 **SECTION 72.** 192.327 (3) of the statutes is amended to read:

19 **192.327 (3)** The ~~office~~ department shall make and enforce reasonable rules
20 relating to motor vehicles used to transport workers to and from their places of
21 employment or during the course of their employment.

22 **SECTION 73.** 192.327 (4) of the statutes is repealed.

23 **SECTION 74.** 192.327 (5) of the statutes is repealed.

24 **SECTION 75.** 192.327 (6) of the statutes is amended to read:

1 192.327 (6) The ~~office~~ department may, in enforcing the rules, inspect any
2 motor vehicle used to transport workers to and from their places of employment or
3 during the course of their employment. ~~Upon request of the office, the department~~
4 ~~shall direct its traffic officers to assist the office in those inspections.~~

5 **SECTION 76.** 192.327 (7) of the statutes is amended to read:

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

11 **SECTION 77.** 192.33 (5) of the statutes is amended to read:

12 192.33 (5) The maintenance of cattle guards may be omitted by the railroad
13 company with the written consent of the ~~office~~ department specifying the particular
14 crossings.

15 **SECTION 78.** 192.34 of the statutes is amended to read:

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

1 **SECTION 79.** 192.47 of the statutes is amended to read:

2 **192.47 Railroad police; oath; powers.** Any railway company may, at its own
3 expense, appoint and employ railroad police officers at the stations or other places
4 on the line of its road within this state as it deems necessary for the protection of its
5 property and the preservation of order on its premises and in and about its cars,
6 depots, depot grounds, yards, buildings or other structures. Each police officer shall
7 take an oath to support the constitution of the United States and claiming to be a
8 citizen of the United States and shall file it with the ~~office~~ department. Each police
9 officer shall, when on duty, wear a shield furnished by the company bearing the
10 words "Railroad Police" and the name of the company. These police officers may
11 arrest, with or without warrant, any person who in their presence commits upon the
12 premises of the company or in or about its cars, depots, depot grounds, yards,
13 buildings or other structures any offense against the laws of this state or the
14 ordinances of any town, city or village, and shall also have the authority of sheriffs
15 in regard to the arrest or apprehension of these offenders in or about the premises
16 or appurtenances. In case of the arrest, by a railroad police officer, of any person
17 without warrant the officer shall immediately take the offender before a judge
18 having jurisdiction and make complaint against the offender. Every railway
19 company shall be responsible for the acts of its police officers.

20 **SECTION 80.** 192.52 (3) of the statutes is amended to read:

21 **192.52 (3)** No railroad company operating in this state shall remove its shops
22 from the place where the same are now located to any other point within or without
23 this state or permanently close any shops in this state without first having secured
24 ~~the consent and permission of the office~~ an order for such removal from the division
25 of hearings and appeals, after due notice and public hearing, and in all other respects

1 as provided for hearings in ch. 195 227. The ~~office~~ division of hearings and appeals
2 shall render its decision within 30 days after such hearing.

3 **SECTION 81.** 192.52 (4) of the statutes is amended to read:

4 192.52 (4) No railroad company operating in this state shall remove or transfer
5 its terminals or permanently close any terminals in this state without ~~the permission~~
6 ~~or consent of the office~~ an order for such removal, transfer or closing from the division
7 of hearings and appeals after due hearing had on the matter; in compliance with ch.
8 195 227.

9 **SECTION 82.** 192.52 (5) of the statutes is amended to read:

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

20 **SECTION 83.** 192.53 (4) (a) of the statutes is amended to read:

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

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

2 192.53 (4) (b) The ~~office~~ department shall make the findings described in par.
3 (a) only upon written application to it to exempt the construction or reconstruction
4 of a structure from the requirements of this section, setting forth fully the grounds
5 therefor, and only after public hearing. The ~~office's~~ department's findings and order
6 granting the exemption shall be in writing and shall contain complete provisions and
7 requirements as to the horizontal clearance to be maintained in the construction or
8 reconstruction. The structure shall be constructed or reconstructed only in
9 compliance with the ~~office's~~ department's order.

10 **SECTION 85.** 192.53 (5) (a) (intro.) of the statutes is amended to read:

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

15 **SECTION 86.** 192.53 (6) of the statutes is amended to read:

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

20 **SECTION 87.** 192.55 (5) of the statutes is repealed.

21 **SECTION 88.** 192.56 (1) of the statutes is amended to read:

22 192.56 (1) It is unlawful for any railroad company owning or operating any
23 railroad in whole or in part in this state, to abandon any station in any town, village
24 or city on its line of railroad, within this state, or to remove the depot therefrom, or

1 to withdraw agency service therefrom, without first obtaining from the ~~office~~ division
2 of hearings and appeals an order authorizing such action.

3 **SECTION 89.** 192.56 (2) of the statutes is amended to read:

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

11 **SECTION 90.** 192.56 (3) of the statutes is amended to read:

12 192.56 (3) Notice of the time and place of the hearing and of the purpose thereof
13 shall be given, by the ~~office~~ division of hearings and appeals, by posting the notice
14 in 5 conspicuous places in the town or village.

15 **SECTION 91.** 192.56 (5) of the statutes is amended to read:

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

20 **SECTION 92.** 192.56 (6) of the statutes is amended to read:

21 192.56 (6) At a station where no agency service is provided, the application to
22 the ~~office~~ division of hearings and appeals for such authorizing order shall set forth
23 the facts showing the necessity for such action by the railroad company. Notice of
24 proposed removal or abandonment shall be given by the ~~office~~ division of hearings
25 and appeals by posting notice in 5 conspicuous places in the town or village

1 concerned; and if within 20 days after the posting of notice no objections in writing
2 are filed with the ~~office~~ division of hearings and appeals by persons directly affected,
3 an order authorizing the abandonment of the station may be issued by the ~~office~~
4 division of hearings and appeals. If such objections to the granting of the order are
5 filed with the ~~office~~ division of hearings and appeals, the ~~office~~ division of hearings
6 and appeals shall proceed to hold a hearing in the matter as provided in subs. (4) and
7 (5).

8 **SECTION 93.** 195.001 (1r) of the statutes is created to read:

9 195.001 (1r) “Division of hearings and appeals” means the division of hearings
10 and appeals in the department of administration.

11 **SECTION 94.** 195.001 (2) of the statutes is repealed.

12 **SECTION 95.** 195.001 (3) of the statutes is created to read:

13 195.001 (3) “Secretary” means the secretary of transportation.

14 **SECTION 96.** 195.03 (title) of the statutes is amended to read:

15 **195.03 (title) Office Department; powers and duties, general**
16 **enumeration.**

17 **SECTION 97.** 195.03 (1) of the statutes is amended to read:

18 195.03 (1) PRACTICE RULES. The ~~office~~ department may take testimony and
19 administer oaths and may promulgate rules to govern its proceedings and to regulate
20 the mode and manner of all hearings. All hearings shall be open to the public.

21 **SECTION 98.** 195.03 (2) of the statutes is amended to read:

22 195.03 (2) ~~OFFICE~~ DEPARTMENT INITIATIVE. In any matter within its jurisdiction
23 under ch. 192 or this chapter, the ~~office~~ department may initiate, investigate and
24 order a hearing at its discretion upon such notice as it considers proper.

25 **SECTION 99.** 195.03 (7) of the statutes is amended to read:

1 195.03 (7) STUDY CARRIER BUSINESS, DEMAND INFORMATION. The ~~office~~
2 department may inquire into the management of the business of all railroads, and
3 shall keep itself informed as to the manner in which the same is conducted, and may
4 obtain from any railroad all necessary information to enable the ~~office~~ department
5 to perform the duties and carry out the objects for which it is responsible.

6 **SECTION 100.** 195.03 (8) of the statutes is amended to read:

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

15 **SECTION 101.** 195.03 (9) of the statutes is amended to read:

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

23 **SECTION 102.** 195.03 (10) of the statutes is amended to read:

24 195.03 (10) PRODUCTION OF RECORDS AND FILES KEPT OUT OF STATE. The ~~office~~
25 department may, by an order or subpoena to be served in the manner that a circuit

1 court summons is served, require the production within this state, at such time and
2 place as it may designate, of any books, papers or accounts kept by any railroad
3 without the state, or verified copies in lieu thereof, if the ~~office~~ department shall so
4 order.

5 **SECTION 103.** 195.03 (11) of the statutes is amended to read:

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

12 **SECTION 104.** 195.03 (12) of the statutes is repealed.

13 **SECTION 105.** 195.03 (13) of the statutes is repealed.

14 **SECTION 106.** 195.03 (14) of the statutes is repealed.

15 **SECTION 107.** 195.03 (15) of the statutes is repealed.

16 **SECTION 108.** 195.03 (16) of the statutes is repealed.

17 **SECTION 109.** 195.03 (17) of the statutes is amended to read:

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

22 **SECTION 110.** 195.03 (18) of the statutes is amended to read:

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

1 **SECTION 111.** 195.03 (19) of the statutes is amended to read:

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

4 **SECTION 112.** 195.03 (25) of the statutes is amended to read:

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

8 **SECTION 113.** 195.03 (28) of the statutes is amended to read:

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

12 **SECTION 114.** 195.03 (29) of the statutes is amended to read:

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

18 **SECTION 115.** 195.03 (30) (a) of the statutes is amended to read:

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

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

23 195.03 (30) (b) The ~~office~~ department shall give the department of natural
24 resources the ~~office's~~ department's opinion on whether the snowmobile crossing

1 should be closed or removed in testimony at the hearing under s. 350.1395 (2) (b) 2.
2 or in a written report for introduction into the hearing record.

3 **SECTION 117.** 195.04 of the statutes is repealed.

4 **SECTION 118.** 195.041 of the statutes is repealed.

5 **SECTION 119.** 195.042 of the statutes is repealed.

6 **SECTION 120.** 195.043 of the statutes is repealed.

7 **SECTION 121.** 195.044 of the statutes is repealed.

8 **SECTION 122.** 195.045 of the statutes is repealed.

9 **SECTION 123.** 195.046 of the statutes is repealed.

10 **SECTION 124.** 195.047 of the statutes is repealed.

11 **SECTION 125.** 195.05 of the statutes is repealed.

12 **SECTION 126.** 195.055 of the statutes is amended to read:

13 **195.055 Judicial review.** All orders and determinations of the office
14 department under this chapter are subject to judicial review under ch. 227.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 195.19 (1) PASSENGER. Every railroad shall provide and maintain adequate
10 passenger depots equipped with proper toilet facilities at its regular stations for the
11 accommodation of passengers, and said depots shall be kept clean, well-lighted and
12 warmed, for the comfort and accommodation of the traveling public, and shall be kept
13 open continuously from not less than 20 minutes before any train carrying
14 passengers is scheduled to arrive and until such train has departed and for such
15 longer period in any case as the ~~office~~ department may determine is necessary for the
16 convenience and accommodation of the public. Where the ~~office~~ department
17 determines that the service of certain trains in making stops on signals is in excess
18 of reasonably adequate service, the provisions of this section shall not apply in
19 connection with the rendition of such service.

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

21 195.19 (3) UNION DEPOT. In every city, village or town in which 2 or more
22 railroads maintain passenger depots, it shall be the duty of such railroads to
23 construct, maintain and use an adequate union passenger depot, whenever practical
24 and required by public convenience and necessity. If, after investigation, the ~~office~~
25 department shall determine that it is practicable and that public convenience and

1 necessity required the construction, maintenance and use of a union passenger depot
2 in any such city, village or town the ~~office~~ department may order such railroads to
3 construct, maintain and use an adequate union passenger depot, and shall in such
4 order fix the location of such depot. If the railroads shall be unable to agree upon an
5 apportionment of the original cost of such union passenger depot, and the expense
6 of maintaining the same, within 20 days after the service of such order, the ~~office~~
7 department may, after a hearing, issue a supplemental order declaring the
8 apportionment of such original cost and the expense of maintaining such depot.

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

10 **195.20 Joint use of railroad property.** Whenever, upon complaint and after
11 hearing had, the ~~office~~ department finds that ~~public convenience and necessity~~
12 ~~require~~ the use by one or more railroads of the tracks, wires, poles, rights-of-way,
13 switches, bridges or other property belonging to another railroad over or on any
14 street, railroad, railway, right-of-way, bridge or viaduct, upon or over which said
15 railroads have a right to operate, and that such use will not prevent the owners or
16 other users thereof from performing their public duties, nor result in irreparable
17 injury to such owners or other users thereof, the ~~office~~ department may, by order,
18 direct that such use be permitted, and prescribe a reasonable compensation and
19 reasonable terms and conditions for such joint use.

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

21 **195.21 Warehouses.** Any person proposing to erect or maintain a public
22 elevator or public warehouse for the purchase, sale, storage, receiving or shipping of
23 grain, or other personal property, to be received from or transported upon any
24 railroad, shall be furnished by such railroad at a reasonable rental, a site upon its
25 right-of-way or depot grounds, within the yard limits of any station or terminal of

1 such railroad; and any private elevator or warehouse situated upon such grounds
2 may be converted into a public elevator or warehouse at the option of the owner, upon
3 notice in writing to the railroad and thereby be permitted to remain thereon under
4 the same conditions as provided herein for a public elevator or warehouse; and the
5 ~~office~~ department shall, upon application by such owner, if the public interest so
6 requires, by order, direct the railroad to furnish such site and the ~~office~~ department
7 shall make reasonable regulations therefor and in case of disagreement, the ~~office~~
8 department shall determine the rental therefor. Elevators and warehouses erected
9 or maintained under the foregoing provisions of this section shall be subject to such
10 rules and regulations as to charges and the manner of conducting business as the
11 ~~office~~ department shall prescribe.

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

13 **195.26 Safety devices; block system.** Every railroad shall adopt reasonably
14 adequate safety measures and install, operate and maintain reasonably adequate
15 safety devices for the protection of life and property. If after investigation the ~~office~~
16 department shall determine that public safety requires it, the ~~office~~ department may
17 order the railroad to install, operate and maintain a block system or other safety
18 device or measure as may be necessary to render the operation of such railroad
19 reasonably safe.

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

21 **195.27 Safe tracks and bridges.** Every railroad shall construct and
22 maintain its tracks, bridges and line structures in a reasonably adequate and safe
23 manner. ~~The office may direct the department to investigate complaints in the~~
24 ~~manner provided by s. 195.04.~~ If, upon complaint or upon its own motion and after
25 hearing, ~~the office~~ the department determines that the track or structures of any

1 railroad are inadequate or unsafe for the operation of its railroad, the office
2 department shall order the railroad to reconstruct or repair the inadequate or unsafe
3 track or structures.

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

5 195.28 (1) PETITION; HEARING; ORDER. Upon petition of ~~the department, city a~~
6 city council, village board, town board, superintendent of highways or by 5 or more
7 electors in any town, village or city, or of any railroad corporation or railroad
8 historical society, to determine whether a public highway and railroad grade crossing
9 protects and promotes public safety, or upon its own motion, the office department
10 may investigate and issue an appropriate order without a public hearing. The
11 department shall issue its order on the basis of investigation and criteria
12 promulgated by rule with respect to the adequacy of grade crossing protection. The
13 rule may include programming criteria relating to the priority of grade crossings in
14 need of protection. If the petitioner, railroad, railroad historical society or any
15 interested party objects to the order and ~~requests a hearing~~ within 20 days after the
16 date that the order is issued, ~~the office shall proceed under s. 195.04.~~ Notice of an
17 investigation or hearing ~~shall be served upon the department, which shall be an~~
18 ~~interested party, and any recommendation it may file with the office at or prior to a~~
19 ~~hearing, if there is one, regarding crossing protection shall be considered as evidence~~
20 ~~in the proceeding~~ department shall refer the order to the division of hearings and
21 appeals for review as provided in s. 195.325. The ~~office department or the division~~
22 of hearings and appeals shall determine whether the existing warning devices at
23 such crossing are adequate to protect and promote public safety. If the ~~office~~
24 department or division of hearings and appeals determines, ~~either without or after~~
25 a hearing, that protection any such warning device is not adequate, it may order the

1 railroad company or railroad historical society to keep a flagman at the crossing or
2 to install automatic signals or other suitable safety device at specific locations at
3 such crossing. The ~~office~~ department or the division of hearings and appeals may
4 order the relocation of existing signals and devices to improve protection at a
5 crossing. Any crossing ~~protection~~ warning device installed or maintained as
6 approved by the ~~office~~ department or the division of hearings and appeals, whether
7 by order or otherwise, shall be deemed adequate and appropriate protection for the
8 crossing.

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

10 195.28 (3) MAINTENANCE COSTS. Except as otherwise provided in this
11 subsection, the cost of maintaining crossing ~~protection~~ warning devices ordered
12 under sub. (1) shall be the responsibility of the railroad or railroad historical society.
13 Any railroad company or railroad historical society that incurs expenses for
14 maintenance of signals or other safety devices may file a claim for reimbursement
15 with the department regardless of the date of installation of the signals or devices.
16 At the close of each fiscal year the department shall reimburse claimants under this
17 subsection for 50% of the costs, as determined by the ~~office~~ department, incurred for
18 maintenance of railroad crossing ~~protection~~ warning devices from the
19 appropriations under s. 20.395 (2) (gj) and (gq). If the amount in the appropriations
20 under s. 20.395 (2) (gj) and (gq) is not adequate to fund maintenance reimbursement
21 under this subsection, the amount shall be prorated in the manner determined by
22 the ~~office~~ department.

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

1 195.28 (4) ~~PREVIOUS OFFICE ORDERS.~~ Subsection (3) applies to maintenance costs
2 for all crossing ~~protection~~ warning devices regardless of any prior order of the office
3 apportioning maintenance costs.

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

5 195.285 (1) ~~Upon~~ If, upon its own motion or upon the petition of a railroad
6 corporation, ~~the department,~~ or the governing body of any city, village, town or
7 county asserting that the stopping of vehicles under s. 346.45 at a railroad crossing
8 is hazardous to human life, ~~the office shall hold a hearing on the matter as provided~~
9 ~~under s. 195.04. Notice of petition shall be served upon the department, which shall~~
10 ~~be an interested party, and any recommendations it may file with the office regarding~~
11 ~~the hazardous effect of vehicles stopping at such crossings shall be considered as~~
12 ~~evidence in the proceedings. Upon the recommendation of the department and~~
13 ~~concurrence by the office, the petition may be dismissed without holding a hearing.~~
14 ~~If, upon the public hearing, the office~~ department determines that it would be in the
15 public interest to exempt vehicles specified in s. 346.45 from stopping at such grade
16 crossing, it may, without a hearing, order the public body having jurisdiction over the
17 highway to erect signs, signals, markings or other devices exempting such vehicles
18 from stopping at the crossing. If a petitioner or interested party objects to an order
19 under this subsection within 20 days after the date that the order is issued, the
20 department shall refer the order to the division of hearings and appeals for review
21 as provided in s. 195.325.

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

23 195.285 (2) Signs placed upon the order of the ~~office~~ department or the division
24 of hearings and appeals under this section shall exempt vehicles from stopping as

1 required under s. 346.45, unless a train or engine is occupying or approaching the
2 crossing.

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

4 195.285 (3) The department shall establish standards for the type of signs,
5 signals, markings or other devices for exempting vehicles from stopping as required
6 under s. 346.45 and their location in relation to the highway and railroad track. The
7 ~~office~~ department may upon petition or its own motion, with or without a hearing,
8 order the removal of a sign exempting vehicles from stopping at a crossing.

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

10 195.286 (2) DESCRIPTION AND LOCATION. The signs shall be constructed, erected
11 and located as specified by the manual adopted by the department under s. 84.02 (4)
12 (e). This subsection does not apply to any sign complying with s. 195.286 (2) and (3),
13 2001 stats., on the effective date of this subsection [revisor inserts date], until such
14 time as the sign is replaced or relocated.

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

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

17 195.286 (5) OTHER SIGNS PROHIBITED. No other sign of the general size or
18 appearance of the signs provided for in this section shall be placed or permitted upon
19 any highway, ~~nor any sign between such advance signs except signs or signals now~~
20 ~~required by law or permitted by the office for protection at railway crossings.~~

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

22 195.286 (6) (title) PENALTIES RELATING TO FENCES SIGNS.

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

24 195.286 (8) PROSECUTIONS. The district attorney shall prosecute any person
25 violating this section, or begin and maintain any civil action necessary for its

1 enforcement upon the demand of any county highway commissioner, or the
2 department, ~~or the office.~~

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

4 195.29 (1) ~~PETITION, HEARING, PUBLIC SAFETY, ORDER.~~ Upon If, upon its own
5 motion or upon petition by the common council or board of any city, village, town or
6 county within or bordering upon which a highway or street crosses a railroad, or a
7 highway or street is proposed to be laid out across a railroad, or a public highway
8 bridge across a railroad is required to connect existing streets or highways, or upon
9 petition by any railroad whose track crosses or is about to cross, or is crossed or about
10 to be crossed by a street or highway, or ~~upon petition by the department,~~ in cases
11 where provision has been made for the improvement of the highway adjacent to such
12 crossing under any state aid or federal aid law, the department determines that
13 public safety requires an alteration in such crossing, its approaches, the method of
14 crossing, the location of the highway or crossing, or the closing of the crossing, and
15 the substitution of another therefor at grade or not at grade, or the removal of
16 obstructions to the view at such crossing, the relocation of the highway, or requires
17 the determination of the manner of making such new crossing, or of making the
18 proposed improvement or promoting the public safety or public convenience through
19 any other reasonable method, ~~and praying that the same may be ordered, the office~~
20 ~~shall give notice to the parties in interest and proceed to investigate the same and~~
21 ~~to order a hearing thereon in the manner provided by s. 195.04. The office shall~~
22 determine the department may issue an appropriate order without a public hearing.
23 The department shall make its determination on the basis of investigation and the
24 criteria relating to the requirements of public safety promulgated under sub. (9). The
25 order shall state what, if anything, shall be done to promote the public safety and the

1 means by which it shall be accomplished, whether by the relocation of the highway,
2 the alteration in such crossing, approaches, mode of crossing, location of highway
3 crossing, closing of highway crossing, with or without the substitution of another
4 therefor, the construction of a public highway bridge, the removal of obstructions to
5 sight at crossing, or by the use of other reasonable methods, and by whom the same
6 shall be made, and in case of new crossings the advisability of allowing such crossings
7 to be established and manner of making them.

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

9 195.29 (2) APPORTIONMENT OF EXPENSE. The ~~office~~ department shall fix the
10 proportion of the cost and expense of alterations, removals and new crossings, or any
11 other work ordered, including the damages to any person whose land is taken, and
12 the special damages which the owner of any land adjoining the public street or
13 highway shall sustain by reason of a change in the grade of such street or highway,
14 or by reason of the removal of obstructions to view at such crossings, to be paid or
15 borne by the railroad companies and the municipalities in interest. In fixing such
16 proportion, the ~~office~~ department may order such cost and expense so apportioned
17 to be paid by the parties against which the apportionment shall be made.

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

19 195.29 (3) RESTORATION OF SPUR TRACKS. Whenever the ~~office~~ department shall
20 have ordered a separation of the grade of a railway from the grade of a street or
21 highway, it may, if safe and practicable and if a necessity exists therefor, order the
22 alteration, restoration and connection of any track serving an industry. Demand for
23 such restoration shall be in writing and filed with the ~~office~~ department within 90
24 days after the date of the order for the separation of grades, and any such track for
25 which no such demand shall have been made shall be deemed abandoned. If the

1 ~~office~~ department shall order the alteration, restoration and connection of any such
2 track, it shall by its order apportion the cost thereof between the owner of the
3 industry served and the railway company, in such proportion as to the ~~office~~
4 department may seem just and equitable; and the ~~office~~ department shall in its order
5 prescribe the terms and conditions for securing the payment of such cost.

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

7 195.29 (4) GRADE SEPARATION IN MILWAUKEE COUNTY. The ~~office~~ department may
8 upon petition of any town, city or village, or upon its own motion, when the interests
9 of the public demand it and it is found practicable so to do, establish the grade of the
10 tracks of any railroad, or of all the railroads throughout any county having a
11 population of 500,000 or more, or any part thereof, and the grades of the streets or
12 highways, or any of them, where they cross such railroad track or tracks, in
13 anticipation of the future separation of grades of the railroad tracks from the grades
14 of such streets or highways. The ~~office~~ department, before making any such order,
15 shall mail notice to the railroad company or companies affected, the owners or
16 occupants of any building abutting on that part of the railroad the grade of which is
17 to be established, all 1st class cities in the county, and if the grades to be established
18 are outside the 1st class city, the towns, cities or villages in which such grades are
19 to be established, of the filing of such petition or that the ~~office~~ department
20 contemplates establishing such grades, and fixing a time at which the 1st class cities
21 and such other towns, cities or villages and the railroad company or companies
22 affected thereby and any other person or corporation interested therein may be
23 heard. The grades so established under this subsection shall be described by
24 reference to a base or datum line to be established by the ~~office~~ department, from
25 which all elevations and the height of all grades shall be measured, and the grades

1 so established shall be such that when brought to the established grade the railroad
2 tracks will cross the streets and highways above or below the same. Such order shall
3 not necessarily require a present change in grade but the ~~office~~ department may at
4 any time order the railroad track or tracks and the street and highways brought to
5 the grade established or any street or highways closed by the order, in accordance
6 with sub. (1), and may, at the time of making the order, apportion the cost of
7 separating the grades as provided in sub. (2).

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

9 195.29 (5) **ELIMINATION OF GRADE CROSSINGS, COSTS.** ~~Upon~~ If, upon its own motion
10 or upon petition of the ~~department, or of the~~ common council or board of any city,
11 village, town or county, alleging that one or more of them have undertaken or propose
12 to undertake to relocate or improve an existing highway or to construct a new
13 highway in such manner as to eliminate a highway grade crossing with any railroad
14 or so as to permanently divert a material portion of the highway traffic from a
15 highway grade crossing with any railroad, the ~~office shall issue notice of~~
16 ~~investigation and hearing, as provided in s. 195.04. If upon such hearing the office~~
17 department finds that the public safety will be promoted by the highway relocation,
18 improvement or new construction, the ~~office~~ department shall order the old crossings
19 closed and new crossings opened as are deemed necessary for public safety. The
20 department may issue an appropriate order without a public hearing. The order
21 shall require the railroad company or companies to pay to the interested
22 municipality or municipalities such sum as the ~~office~~ department finds to be an
23 equitable portion of the cost of the highway relocation, improvement or new
24 construction, if the work is performed by the municipalities; or to the state treasurer
25 if the work is performed by the state; or to the proper county treasurer if the work

1 is performed by the county. The sum shall be added to the joint fund available for
2 the improvement and may be expended in like manner as the other portions of the
3 fund.

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

5 **195.29 (6) VIEW AT CROSSINGS; TREES AND BRUSH NEAR CROSSINGS; FORFEITURE.**

6 Every railroad shall keep its right-of-way clear of brush or trees for a distance of not
7 less than 330 feet in each direction from the center of its intersection at grade with
8 any public highway, and for such further distance as is necessary to provide an
9 adequate view of approaching trains, from the highway. Every municipality shall
10 keep the public highways within its jurisdiction clear of brush and shall adequately
11 trim all trees within 330 feet of the center of any railroad highway grade crossing.

12 Every person or corporation owning or occupying any land adjacent to any railroad
13 highway grade crossing shall keep all brush cut and adequately trim all trees on the
14 land within the triangles bounded on 2 sides by the railway and the highway, and on
15 the 3rd side by a line connecting points on the center lines of the railway and the
16 highway, 330 feet from the intersection of the center lines. The ~~office~~ department,
17 upon its own motion, or upon any complaint to the effect that any work required by
18 this subsection has not been performed, after due notice and hearing, may order the
19 corporation, municipality or person at fault to perform the work; provided, however,
20 that if the physical conditions at any crossing are such that the performance of the
21 required work will not materially improve the view for highway traffic, or, if
22 unreasonable loss would be caused thereby, the ~~office~~ department may excuse the
23 party in interest from performing the same. The ~~office~~ department may also order
24 the cutting of brush and the trimming of trees at private farm crossings as may be
25 necessary and reasonable. If any person shall violate any provision of this section,

1 or shall fail, neglect or refuse to obey any order made by the office department under
2 this section, or any judgment, order, or decree made by the division of hearings and
3 appeals or any court upon such an order, for every such violation, failure or refusal
4 such person shall forfeit not less than \$25 nor more than \$150.

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

6 195.29 (7) STRUCTURE REQUIREMENTS. Whenever the office department shall
7 order the construction or reconstruction of a crossing not at grade, it may direct that
8 the structure required shall be of such character and constructed of such materials
9 as it shall deem appropriate to the situation and necessary for the public interest.

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

11 195.29 (9) RULES. The department shall promulgate a rule establishing criteria
12 for determining the requirements of public safety with respect to railroad highway
13 crossings under this section. The rule shall include criteria for apportioning
14 expenses under this section.

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

16 195.29 (10) REVIEW OF DEPARTMENT ORDERS. If a petitioner, railroad or any
17 interested party objects to an order under this section within 20 days after the date
18 that the order is issued, the department shall refer the order to the division of
19 hearings and appeals for review as provided in s. 195.325.

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

21 **195.295 Highway crossings; public warning.** Notwithstanding ss. 195.28,
22 195.285, 195.286, 195.29, and 195.30, the department shall monitor and investigate
23 all railroad highway grade crossings in this state, and determine, by order, rule or
24 otherwise, for each crossing whether any warning devices, advance warning signs
25 or other warning measures shall be required to protect and promote public safety.

1 The department may make a determination under this section without a hearing.
2 Any device, sign, or other measure, installed or maintained at a crossing, that
3 conforms to a determination of the department under this section or, if no such
4 determination has been made, that was approved by the office of the commissioner
5 of transportation under ch. 195, 1991 stats., or the office of the commissioner of
6 railroads under ch. 195, 2001 stats., before the effective date of this section ...
7 [revisor inserts date], whether by order or otherwise, shall be considered adequate
8 and appropriate warning for the crossing. If a railroad or interested party objects
9 to an order under this section within 20 days after the date that the order is issued,
10 the department shall refer the order to the division of hearings and appeals for
11 review as provided in s. 195.325.

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

13 195.30 (1) Upon a petition by the common council of any city, or the board of
14 any village, town or county within which a railroad crosses another railroad at grade,
15 or by any such railroad, that public safety requires an alteration in the crossing or
16 the installation of protective appliances, ~~the office shall give notice to the parties in~~
17 ~~interest, and proceed to investigate the same and may order a hearing on the matter.~~
18 ~~The office shall determine what alteration in such crossing, if any, shall~~ or on its own
19 motion, the department may investigate the matter and determine what alteration
20 in the crossing, if any, is necessary. The department shall make its determination
21 on the basis of the criteria for public safety requirements promulgated as rules under
22 ss. 84.05 and 195.28. The department may issue an order, with or without a hearing,
23 specifying an alteration to be made, and by whom made and maintained, or what
24 protective appliances shall be installed, operated and maintained at the crossing and
25 by whom installed, operated and maintained. The office department's order shall fix

1 the proportion of the cost and expense of such change in grade and maintenance of
2 the crossing or of the installation, operation and maintenance of the safety appliance
3 which shall be paid by the railroad companies, respectively. If an interested party
4 objects to the order and requests a hearing within 20 days after the date on which
5 the order is issued, the department shall refer the matter to the division of hearings
6 and appeals for review as provided in s. 195.325.

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

8 **195.305 Railroad crossings; grade; expense.** Whenever a railroad
9 proposes to cross, intersect, join or unite its track with another railroad track, the
10 surface road of the proposed track shall be above, below or at grade of the tracks
11 proposed to be crossed as the ~~office~~ division of hearings and appeals determines after
12 hearing the parties upon reasonable notice. In its determination, the ~~office~~ division
13 of hearings and appeals shall fix the proportion of the expense of originally
14 constructing, operating, and maintaining such crossing, intersecting, joining or
15 uniting which shall be paid by the owners of the tracks respectively.

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

17 **195.31 Bridges made safe.** Whenever a complaint is lodged with the ~~office~~
18 department by the common council of any city, the village board of any village, a
19 member of a town board, or a supervisor of highways, or by 5 or more electors and
20 taxpayers in any town, or 5 or more electors of the county in which such bridge is
21 located, and who are users of such bridge or railway, to the effect that a bridge erected
22 over a stream intersecting a public highway or highways upon which a railway is
23 constructed and operated, is unsafe and dangerous to travelers over such highway
24 or highways or bridge or railroad, and that public safety requires the alteration, the
25 repair or reconstruction of such bridge, or the substitution of another bridge therefor,

1 ~~it shall be the duty of the office to give notice to the party or parties in interest, other~~
2 ~~than the petitioners, of the filing of such complaint, and to furnish a copy of the~~
3 ~~complaint to the party or parties in interest other than the petitioners, and to order~~
4 ~~a hearing thereon, in the manner provided for hearings in ss. 195.04 to 195.043. The~~
5 ~~office~~ the department shall investigate the matter. The department may proceed in
6 a similar manner in the absence of a petition when, in the opinion of the ~~office~~
7 department, public safety requires the alteration, repair or reconstruction of a bridge
8 or the substitution of another bridge for the bridge in question. ~~After the hearing,~~
9 ~~the office~~ The department shall determine what alteration or repair or
10 reconstruction of such bridge, and the approaches thereto, shall be made, or if it ~~shall~~
11 ~~determine~~ determines that public safety requires the substitution of a new bridge,
12 it shall determine the character, manner of construction and location of such bridge
13 and the approaches thereto. ~~The office~~ department shall fix the proportion of the cost
14 and expense of such alteration, repair, reconstruction or substitution of a new bridge,
15 ~~including the damage to any person whose land is taken, and the special damage~~
16 ~~which the owner of any land adjoining the approaches to said bridge shall sustain~~
17 ~~by reason of the alteration, repair, reconstruction or substitution of a new bridge, to~~
18 be paid by the railroad company and the city, village or town in interest. The
19 department may issue appropriate orders incorporating its determinations and may
20 proceed without a hearing on the matter. The department shall make its
21 determinations on the basis of investigation and criteria for bridge safety
22 promulgated by rule. If a petitioner or interested party objects to an order under this
23 section within 20 days after the date that the order is issued, the department shall
24 refer the order to the division of hearings and appeals for review as provided in s.
25 195.325.

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

2 **195.32 Safety gates on drawbridges.** Whenever a complaint is filed with
3 the ~~office~~ department to the effect that any drawbridge is not equipped with gates
4 or other safety devices, the ~~office~~ department may notify the proper party or parties
5 in interest of the complaint, and may proceed to investigate the ~~complaint and to hold~~
6 ~~a hearing on the matter in the manner provided for hearings in ss. 195.04 to 195.043~~
7 matter. If after the investigation the ~~office~~ department determines that public safety
8 requires the erection and maintenance of gates or other safety devices at the points
9 mentioned in the complaint, it may order the county, city, village, town, corporation
10 or person whose duty it is to maintain such bridge to erect and maintain at such
11 points such gates or other safety devices as the ~~office~~ department prescribes. The
12 ~~office~~ department may conduct the investigations, hold the hearings and make the
13 orders provided for in this section upon its own motion in the same manner and with
14 the same effect as though a complaint were filed. The department shall make its
15 determination on the basis of the investigation and criteria for drawbridge safety
16 promulgated by rule. If an interested party objects to an order under this section
17 within 20 days after the date that the order is issued, the department shall refer the
18 order to the division of hearings and appeals for review as provided in s. 195.325.

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

20 **195.325 Review of department orders on crossings and bridges.** If an
21 order of the department under s. 84.05, 195.28, 195.285, 195.29, 195.295, 195.30,
22 195.31, or 195.32 is referred to the division of hearings and appeals for review, the
23 division of hearings and appeals shall review the order under s. 85.013 (3) in light
24 of the application of the criteria relating to the matter promulgated as rules by the
25 department.

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

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

3 **195.34 Reports of accidents, investigation.** Every railroad shall report to
4 the ~~office~~ department all collisions, derailments or other accidents resulting in injury
5 to persons, equipment or roadway arising from its operation. The ~~office~~ department
6 may issue rules concerning the reporting of accidents and may also, if public
7 interests require, cause an investigation of any accident.

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

9 **195.36 General penalty upon railroads.** If any railroad shall violate any
10 provision of this chapter, or shall do any act herein prohibited, or shall fail or refuse
11 to perform any duty enjoined upon it, for which a penalty has not been provided, or
12 shall fail, neglect or refuse to obey any lawful requirement or order made by the ~~office~~
13 department or division of hearings and appeals, or any judgment or decree made by
14 any court upon its application, for every such violation, failure or refusal in respect
15 to any matter prescribed by this chapter such railroad shall forfeit not less than \$100
16 nor more than \$10,000. The act, omission or failure of any officer, agent or other
17 person employed by any railroad, acting within the scope of his or her employment,
18 shall be deemed to be the act, omission or failure of such railroad.

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

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

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

22 **195.45 (1)** No person shall operate as a common carrier of passengers or
23 property by water except in accordance with the terms and conditions of a certificate
24 ~~of public convenience and necessity issued by the office. The office shall issue any~~

1 ~~certificate upon a finding that the service proposed to be performed is in the public~~
2 ~~interest and required by public convenience and necessity~~ department.

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

4 195.45 (2) Application for the certificate shall be made on forms furnished by
5 the ~~office~~ department and shall contain such information as the ~~office~~ department
6 requires.

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

8 195.45 (4) The ~~office~~ department may promulgate rules for the operation of this
9 section.

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

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

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

25 **195.60 (title) Payment of ~~office~~ department expenses by railroads.**

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

2 195.60 (1) Whenever the ~~office~~ department in a proceeding upon its own
3 motion, on complaint, or upon an application to it deems it necessary in order to carry
4 out the duties imposed upon it by law to investigate the books, accounts, practices
5 and activities of, or make appraisals of the property of any railroad or to render any
6 engineering or accounting services to any railroad, the railroad shall pay the
7 expenses attributable to such investigation, appraisal or service. The ~~office~~
8 department shall ascertain such expenses, ~~including all expenses incurred by the~~
9 ~~department at the request or direction of the office~~ and shall render a bill therefor,
10 by mail, to the railroad, either at the conclusion of the investigation, appraisal or
11 services, or during its progress. The bill shall constitute notice of assessment and
12 demand of payment thereof. The railroad shall, within 30 days after the mailing
13 thereof, pay to the ~~office~~ department the amount of the special expense for which it
14 is billed. Ninety percent of the payment shall be deposited in the general fund and
15 credited to the appropriation account under s. ~~20.155 (2) (g)~~ 20.395 (2) (gg). The total
16 amount, in any one calendar year, for which any railroad becomes liable, by reason
17 of costs incurred by the ~~office~~ department within such calendar year, shall not exceed
18 four-fifths of one percent of its gross operating revenues derived from intrastate
19 operations in the last preceding calendar year. Where, under this subsection, costs
20 are incurred within any calendar year, which are in excess of four-fifths of one
21 percent of such gross operating revenues, the excess costs shall not be chargeable as
22 part of the remainder under sub. (2) but shall be paid out of the general appropriation
23 to the ~~office~~ department. Nothing in this subsection shall prevent the ~~office~~
24 department from rendering bills in one calendar year for costs incurred within a
25 previous year. For the purpose of calculating the costs of investigations, appraisals

1 and other services under this subsection, 90% of the costs determined shall be costs
2 of the ~~office~~ department and 10% of the costs determined shall be costs of state
3 government operations.

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

5 195.60 (2) The ~~office~~ department shall annually, within 90 days after the close
6 of each fiscal year, ascertain the total of its expenditures during such year which are
7 reasonably attributable to the performance of its duties relating to railroads. For
8 purposes of such calculation, 90% of the expenditures so determined shall be
9 expenditures of the ~~office~~ department and 10% of the expenditures so determined
10 shall be expenditures for state government operations. The ~~office~~ department shall
11 deduct therefrom all amounts chargeable to railroads under sub. (1) ~~and s. 201.10 (3).~~
12 A sum equal to the remainder plus 10% of the remainder shall be assessed by the
13 ~~office~~ department to the several railroads in proportion to their respective gross
14 operating revenues during the last calendar year, derived from intrastate
15 operations. Such assessment shall be paid within 30 days after the bill has been
16 mailed to the several railroads, which bill shall constitute notice of assessment and
17 demand of payment thereof. The total amount which may be assessed to the
18 railroads under authority of this subsection shall not exceed 1.85% of the total gross
19 operating revenues of such railroads, during such calendar year, derived from
20 intrastate operations. Ninety percent of the payment shall be deposited in the
21 general fund and credited to the appropriation account under s. ~~20.155 (2) (g)~~ 20.395
22 (2) (gg). The railroads shall furnish such financial information as the ~~office~~
23 department requires.

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

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

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

16 195.60 (4) (a) Within 30 days after the date of the mailing of any bill as provided
17 by subs. (1) and (2), the railroad against which such bill has been rendered may file
18 with the ~~office~~ division of hearings and appeals objections setting out in detail the
19 grounds upon which the objector regards the bill to be excessive, erroneous, unlawful
20 or invalid. The ~~office~~ division of hearings and appeals, after notice to the objector and
21 the department, shall hold a hearing upon such objections, not less than 5 nor more
22 than 10 days after such notice. If after such hearing the ~~office~~ division of hearings
23 and appeals finds any part of the bill to be excessive, erroneous, unlawful or invalid
24 it shall record its findings ~~upon its minutes~~ with respect to the objections and
25 transmit to the objector and the department an amended bill, in accordance with

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

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

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

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

9 195.60 (4) (c) If after the hearing the ~~office~~ division of hearings and appeals
10 finds that the bill as rendered is neither excessive, erroneous, unlawful or invalid,
11 either in whole or in part, it shall record such findings ~~upon its minutes~~ with respect
12 to the objections, and transmit to the objector and the department notice of such
13 finding.

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

15 195.60 (4) (d) If any bill against which objections have been filed is not paid
16 within 10 days after notice of a finding that such objections have been overruled and
17 disallowed by the ~~office~~ division of hearings and appeals has been mailed to the
18 objector, the ~~office~~ department shall give notice of such delinquency to the state
19 treasurer and to the objector, in the manner provided in sub. (3). The state treasurer
20 shall then proceed to collect the amount of the bill as provided in sub. (3). If an
21 amended bill is not paid within 10 days after a copy thereof is mailed to the objector
22 by registered mail, the ~~office~~ department shall notify the state treasurer and the
23 objector as in the case of delinquency in the payment of an original bill. The state
24 treasurer shall then proceed to collect the amount of the bill as provided in the case
25 of an original bill.

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

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

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

14 195.60 (6) No action for recovery of any amount paid under this section shall
15 be maintained in any court unless objections have been filed with the ~~office~~ division
16 of hearings and appeals as provided in this section. In any action for recovery of any
17 payments made under this section the claimant shall be entitled to raise every
18 relevant issue of law, but the ~~office's~~ findings of fact of the division of hearings and
19 appeals made pursuant to this section shall be prima facie evidence of the facts
20 therein stated.

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

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

1 195.60 (7) Determinations of fact expressed in bills rendered under this
2 section; and shall be considered to be findings of fact of the division of hearings and
3 appeals, within the meaning of this section.

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

5 **SECTION 194.** 197.10 (4) of the statutes is amended to read:

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

25 **SECTION 195.** 201.01 (1) of the statutes is amended to read:

1 201.01 (1) ~~“Commission” means the office of the commissioner of railroads in~~
2 ~~the case of railroads and the public service commission in the case of other public~~
3 ~~service corporations.~~

4 **SECTION 196.** 201.01 (2) of the statutes is amended to read:

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

23 **SECTION 197.** 201.10 (3) of the statutes is amended to read:

24 201.10 (3) Whenever the commission deems it necessary to make an
25 investigation of the books, accounts and practices or to make an appraisal of the

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

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

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

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

18 226.025 (3) The appointment of the department of financial institutions or the
19 designation of a resident agent as attorney for the service of summons, notice,
20 pleadings or process under s. 180.1507 shall be applicable only to actions or
21 proceedings against the foreign corporations described in this section (unless such
22 corporations have been admitted to this state for purposes other than those
23 mentioned in this section) where the cause of action or proceeding arises out of
24 transactions between such foreign corporations and public utilities operating in this
25 state with which such foreign corporations are affiliated; and to actions or

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1 proceedings by or before the public service commission ~~or office of the commissioner~~
2 ~~of railroads~~ involving the transactions described in sub. (1), or involving the relation
3 between such foreign corporations and public utilities operating in this state with
4 which they are affiliated.

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

6 227.01 (13) (s) Prescribes or relates to a uniform system of accounts for any
7 person, including a municipality, that is regulated by the ~~office of the commissioner~~
8 ~~of railroads or the public service commission.~~

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

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

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

15 227.43 (4) (b) The department of transportation shall pay all costs of the
16 services of a hearing examiner assigned under sub. (1) (bg) or (bk) or assigned to the
17 department under sub. (1) (br), according to the fees set under sub. (3) (b).

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

19 227.46 (2m) In any hearing or review assigned to a hearing examiner under
20 s. 227.43 (1) (bg) or (bk), the hearing examiner presiding at the hearing shall prepare
21 a proposed decision, including findings of fact, conclusions of law, order and opinion,
22 in a form that may be adopted as the final decision in the case. The proposed decision
23 shall be a part of the record and shall be served by the division of hearings and
24 appeals in the department of administration on all parties. Each party adversely
25 affected by the proposed decision shall be given an opportunity to file objections to

1 the proposed decision within 15 days, briefly stating the reasons and authorities for
2 each objection, and to argue with respect to them before the administrator of the
3 division of hearings and appeals. The administrator of the division of hearings and
4 appeals may direct whether such argument shall be written or oral. If the decision
5 of the administrator of the division of hearings and appeals varies in any respect from
6 the decision of the hearing examiner, the decision of the administrator of the division
7 of hearings and appeals shall include an explanation of the basis for each variance.
8 The decision of the administrator of the division of hearings and appeals is a final
9 decision of the agency subject to judicial review under s. 227.52. The department of
10 transportation may petition for judicial review.

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

12 227.46 (3) (intro.) With respect to contested cases except a hearing or review
13 assigned to a hearing examiner under s. 227.43 (1) (bg) or (bk), an agency may by rule
14 or in a particular case may by order:

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

16 281.36 (1) (cr) “State transportation agency” means the department of
17 transportation ~~or the office of the commissioner of railroads.~~

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

19 346.45 (3) (d) A railroad grade crossing which is marked with a sign in
20 accordance with s. 195.285 (3). Such signs shall be erected by the maintaining
21 authority only upon order of the ~~office of the commissioner of railroads as set forth~~
22 in department or the division of hearings and appeals in accordance with s. 195.285.

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

24 350.137 (1) The department, after having consulted with each rail authority,
25 as defined in s. 350.138 (1) (b), in this state, that has furnished the department with

1 the information required under s. 350.138 (2m), an established snowmobile
2 association that represents snowmobile clubs, as defined in s. 350.138 (1) (e), in this
3 state, and the ~~office of the commissioner of railroads~~ department of transportation,
4 shall promulgate rules to establish uniform maintenance standards and uniform
5 design and construction standards for snowmobile rail crossings under ss. 350.138
6 and 350.139.

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

8 350.138 (4) (c) The department shall give notice of any hearing scheduled
9 under par. (b) to the applicant, to the applicable rail authority, and to the ~~office of the~~
10 ~~commissioner of railroads~~ department of transportation. The hearing shall be a
11 contested case hearing under ch. 227. The ~~department's~~ department of natural
12 resources' order issuing or denying a permit is a final order subject to judicial review
13 under ch. 227.

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

15 350.138 (9) INSPECTION AUTHORIZED. The department or the ~~office of the~~
16 ~~commissioner of railroads~~ department of transportation may inspect the site of a
17 proposed snowmobile rail crossing or the site of a snowmobile rail crossing for which
18 a permit has been issued to determine whether there are grounds to refuse to issue
19 a permit under sub. (4) or to revoke a permit under sub. (8).

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

21 350.139 (5) INSPECTION AUTHORIZED. The department or the ~~office of the~~
22 ~~commissioner of railroads~~ department of transportation may inspect an established
23 snowmobile rail crossing to determine whether the snowmobile organization
24 maintaining the crossing is in compliance with the requirements imposed under sub.
25 (4).

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

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

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

9 350.1395 (2) (b) 3. (intro.) The department shall grant a rail authority's petition
10 under subd. 2. to close or remove a snowmobile rail crossing if, after a hearing under
11 subd. 2., and after giving substantial weight to the ~~office of the commissioner of~~
12 ~~railroads'~~ department of transportation's testimony or report given under s. 195.03
13 (30) (b), the department of natural resources finds that any of the following applies:

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

15 350.1395 (4) (b) The department may not promulgate a rule under this
16 subsection without first consulting with each rail authority in this state that has
17 furnished the department with the information required under s. 350.138 (2m), an
18 established snowmobile association that represents snowmobile clubs, as defined in
19 s. 350.138 (1) (e), in this state, and the ~~office of the commissioner of railroads~~
20 department of transportation.

21 **SECTION 214.** 945.06 of the statutes is amended to read:

22 **945.06 Public utilities to cease service.** When any public utility, common
23 carrier, contract carrier, or railroad, subject to the jurisdiction of the public service
24 commission, ~~office of the commissioner of railroads~~ or department of transportation
25 of this state, is notified in writing by a federal, state or local law enforcement agency,

1 acting within its jurisdiction, that any facility furnished by it is being used or will be
2 used for the purpose of transmitting or receiving gambling information in violation
3 of the laws of this state it shall discontinue or refuse the leasing, furnishing or
4 maintaining of such facility, after reasonable notice to the subscriber, but no
5 damages, penalty or forfeiture, civil or criminal, shall be found against any such
6 public utility, common carrier, contract carrier or railroad, for any act done in
7 compliance with any notice received from a law enforcement agency under this
8 section. Nothing in this section shall be deemed to prejudice the right of any person
9 affected thereby to secure an appropriate determination as otherwise provided by
10 law in any court or tribunal or agency, that such facility should not be discontinued
11 or removed, or should be restored.

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

13 (1) ABOLISHING THE OFFICE OF COMMISSIONER OF RAILROADS; TRANSITIONAL
14 PROVISIONS.

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

- 16 1. “Department” means the department of transportation.
17 2. “Division” means the division of hearings and appeals in the department of
18 administration.
19 3. “Office” means the office of the commissioner of railroads.

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

22 (c) *Staff.*

- 23 1. On the effective date of this subdivision, the position of the commissioner of
24 railroads is abolished.

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

4 a. One program assistant position.

5 b. Three regulation compliance investigator positions.

6 3. Employees transferred under subdivision 2. to the department have all of the
7 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
8 statutes in the department that they enjoyed in the office immediately before the
9 transfer. Notwithstanding section 230.28 (4) of the statutes, no employee so
10 transferred who has attained permanent status in class is required to serve a
11 probationary period.

12 4. On the effective date of this subdivision, the remaining FTE PR positions of
13 the office not transferred under subdivision 2. or abolished under subdivision 1. are
14 deauthorized.

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

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

22 (f) *Rules and orders.*

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

