

2005 ASSEMBLY BILL 588

August 2, 2005 – Introduced by Representatives TOWNSEND, AINSWORTH, ALBERS, BIES, HAHN, KRAWCZYK and OTT, cosponsored by Senators GROTHMAN, OLSEN and ROESSLER. Referred to Committee on Highway Safety.

1 **AN ACT** *to repeal* 26.20 (2), (3), (10) and (11), 190.16 (1), (3) and (4), 192.14,
2 192.15, 192.18, 192.255, 192.266, 192.267 and 192.268, 192.29 (1) and (2),
3 192.29 (4), 192.292, 192.324, 192.42 and 192.52, 192.55 (7), 195.05 (5) and (6),
4 195.08 (5), 195.08 (10), 195.17, 195.19 (1), 195.19 (3), 195.22 and 195.24 and
5 195.305, 195.31 and 195.33; *to renumber and amend* 191.001, 192.31 (1) and
6 195.39; *to amend* 15.79, 15.795 (1), 20.155 (2), 25.40 (1) (f) 1., 85.01 (5), 85.08
7 (4m) (e) 5., 85.09 (3) (a), 190.02 (5), 190.025 (2) (b), 190.16 (2), 190.16 (5), 191.01
8 (1), 191.17, 191.19 (1), 191.19 (3), 192.29 (title), 192.29 (3) (title), 192.29 (3) (a),
9 192.29 (5), 192.295, 192.31 (4), 192.321, 192.33 (1), 192.53 (4) (b), 192.53 (6),
10 192.55 (6), chapter 195 (title), 195.02 (3), 195.02 (5), 195.03 (7), 195.03 (8),
11 195.03 (9), 195.03 (10), 195.03 (11), 195.03 (12), 195.03 (13), 195.03 (19), 195.04
12 (1), 195.04 (2), 195.04 (3), 195.041, 195.042, 195.043, 195.05 (title), 195.05 (1),
13 195.05 (3), 195.05 (4), 195.07 (1), 195.07 (2), 195.08 (title), 195.08 (1r), 195.08
14 (2), 195.08 (3), 195.08 (4), 195.08 (7), 195.08 (9), 195.08 (11), 195.10, 195.11,

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1 195.12, 195.13, 195.14, 195.15, 195.16, 195.19 (title), 195.19 (2), 195.21, 195.26,
2 195.27, 195.286 (6) (title), 195.286 (7), 195.34, 195.35 (1), 195.36, 195.37 (title),
3 195.37 (1), 195.38, 195.50, 195.60 (title), 195.60 (1), 195.60 (2), 195.60 (3),
4 195.60 (4) (a), 195.60 (5), 197.10 (4), 201.01 (1), 201.01 (2), 201.13, 706.05 (2m)
5 (b) 2. and 706.09 (3) (a); and **to create** 182.018 (4), 189.02 (2m), 190.005,
6 191.001 (2), 191.001 (3), 192.005, 192.145, 195.02 (4m), 195.04 (1m) and 195.28
7 (5) of the statutes; **relating to:** repealing provisions that may be inconsistent
8 with federal law of, and modernizing, chapters 189 to 192 and 195 and other
9 provisions related to railroad regulation and providing a penalty.

Analysis by the Legislative Reference Bureau

Under federal law, the jurisdiction of various federal agencies is exclusive as to certain operational aspects of rail carriers on interstate rail networks and as to certain aspects of railroad safety. Federal law preempts state law with respect to these matters, even when the activity appears confined to this state. This bill repeals many provisions of state law that may be inconsistent with federal law and also modernizes certain provisions of state law.

FEDERAL REGULATION OF RAILROADS

Federal economic regulation of rail carriers began in the United States with the Interstate Commerce Act of 1887, which created the Interstate Commerce Commission (ICC) to administer the regulation of railroad rates and practices. The ICC was later charged with additional responsibilities, including regulating railroad line construction, mergers, carrier practices, and line abandonments. The ICC also administered all federal rail safety requirements until the U.S. Department of Transportation (USDOT) was created in 1966. The Federal Railroad Safety Act of 1970 (FRSA) gave the USDOT broad powers to promote safety in all areas of railroad operations and the Federal Railroad Administration (FRA), within the USDOT, exercises primary authority over rail safety and safety standards. The Staggers Rail Act of 1980 (Staggers Act) substantially limited economic regulation of rail carriers and removed many regulatory restraints on the railroad industry, including limiting the authority of the ICC to regulate rates to certain traffic and allowing private railroad–shipper contracts in lieu of fixed tariffs. The FRSA was replaced by the Federal Railroad Safety Authorization Act of 1994 (FRSAA), the stated purpose of which is to promote safety in every area of railroad operations and reduce railroad–related accidents and incidents. The Interstate Commerce Commission Termination Act of 1995 (ICCTA) continued economic deregulation that began under the Staggers Act, eliminating many restrictions on rail carriers, abolishing the ICC,

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and transferring some ICC functions to the newly created federal Surface Transportation Board (STB) to administer more limited regulatory responsibilities.

The ICCTA's significant economic deregulation of railroads applies to both interstate and intrastate rail transportation and impacts railroads not only on a federal level but also significantly preempts certain areas of state regulation of railroads. Under the ICCTA, the STB maintains exclusive jurisdiction over those aspects of rail carrier transportation related to: rail carrier rates and classifications; rail carrier operating rules and practices, including rules related to the use, control, supply, movement, and interchange of locomotives, rolling stock, and other equipment; rail carrier routes, services, and facilities; and the construction, acquisition, operation, abandonment, and discontinuance of industrial and side tracks and facilities, even if the tracks and facilities are located entirely in one state. The ICCTA specifically preempts state regulation of rail transportation with respect to these matters. The STB's jurisdiction extends to both interstate rail transportation and intrastate rail transportation that is part of the interstate rail network. The STB's jurisdiction applies to rail carriers, which means those providing common carrier railroad transportation of property or persons for compensation, and includes all related services and facilities but does not include, with certain safety exceptions, mass transit or street, suburban, or interurban electric railways not operated as part of the general system of rail transportation. Some areas of broad and exclusive authority conferred on the STB under the ICCTA include: rail carrier corporate and facilities transactions, such as mergers and acquisitions of rail carriers and other "control" transactions, line sales, and agreements between rail carriers to use each other's tracks or facilities; freight rates for common carriers and contract carriers, including matters of rate reasonableness and rate discrimination; railroad construction and abandonment matters, including construction of new lines, the removal of rail lines from the national rail network, and the discontinuation of railroad facilities such as agency stations; access of one rail carrier across or over the tracks of another carrier or to another carrier's terminal facilities, including portions of the main-line track; and line crossing arrangements where one railroad's right-of-way physically blocks the access of another railroad to a particular shipper or destination.

The FRSA and FRSA provide that railroad safety laws should be nationally uniform to the extent practicable, so these acts preempt state laws relating to railroad safety. Under the FRSA, state regulation of locomotive and rolling stock equipment standards, train crews and their qualifications, train speed restrictions, restrictions on the amount of time that trains can obstruct traffic at crossings, and train horn requirements have been, or may be, found to be preempted under federal law.

The ICCTA and FRSA do not preempt all state efforts to regulate railroads. States retain certain "police powers" despite the broad scope of exclusive federal railroad regulation. With certain exceptions, state regulation of railroad-highway crossing safety is generally not preempted. State laws are generally not preempted where they do not frustrate the federal scheme governing the construction, acquisition, or operation of railroad tracks or facilities or railroad safety and can be

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applied without interfering with federal law. Courts typically resolve issues of federal preemption on a fact-specific, case-by-case basis.

STATE REGULATION OF RAILROADS

In this state, the Office of Commissioner of Railroads (OCR), attached to the Public Service Commission (PSC), and the Wisconsin Department of Transportation (DOT) both have some authority over railroad operations and railroad safety in the state, but most of the state's regulatory authority over railroads resides with OCR, which is generally charged with receiving complaints, conducting hearings, and entering orders related to railroad operations and safety. DOT also has certain investigative duties with respect to OCR proceedings, as well as additional responsibilities related to development of rail transportation infrastructure and use of abandoned railroad rights-of-way.

This bill repeals many provisions of state law relating to, and eliminates the authority of OCR with respect to, economic and safety regulation of railroads that may be inconsistent with, and therefore preempted by, federal law, but retains these provisions in a more limited application to water carriers. The bill also modernizes certain provisions of state law by repealing obsolete provisions and updating other provisions.

ECONOMIC REGULATION

The bill repeals the following provisions of current state law related to economic regulation of railroads, which might be found to be inconsistent with, and therefore preempted by, federal law, but retains these provisions to the extent they also apply to water carriers:

1. Providing OCR authority over railroad rates and charges, pricing discrimination or preferences, and adequacy of service.

2. Providing OCR authority to receive complaints that a railroad's rate, fare, charge, classification, practice, or service in connection with the railroad's transportation of persons or property is unreasonable or unjustly discriminatory or that service is inadequate, to direct DOT to investigate these complaints, and to hold hearings and order a reasonable rate, fare, charge, classification, practice, or service in lieu of that found to be unreasonable or unjustly discriminatory or inadequate. However, the bill entirely eliminates, for water carriers too, certain provisions relating to OCR's authority to apportion joint rates.

3. Requiring every railroad to furnish reasonably adequate service and facilities, and requiring the charges for the transportation of passengers or property or for any related service, including receiving, delivering, storing, or handling property, to be reasonable and just, and providing for OCR's authority to receive complaints and hold hearings on these matters and to determine if charges are unreasonable or unjustly discriminatory. However, the bill entirely eliminates, for water carriers too, certain provisions relating to OCR's authority over joint rates, fares, or charges.

4. Prohibiting rebates, concessions, or discrimination with respect to the transportation of property or any related service under which the property is transported at a rate less than the tariff rate.

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5. Providing OCR authority to fix the time for filing railroad schedules (rate tariffs) and to prescribe forms for these schedules.

6. Requiring railroads to deliver to OCR copies of all contracts with other railroads or shippers that relate to the transportation of persons or property or any related service, if required by OCR.

7. Requiring all freight tariffs issued by any railroad relating to interstate traffic through this state to be filed with OCR and authorizing OCR to investigate all freight rates on interstate traffic affecting this state and, if they are excessive or discriminatory, allowing OCR to petition the ICC for relief.

8. Authorizing OCR to prescribe rules related to charges and operations of public elevators and warehouses on railroad grounds, and related to the furnishing of cars to shippers, the moving, loading or unloading, and weighing of cars and freight, and the testing of railroad weights and scales.

9. Requiring a common carrier receiving property for intrastate transportation to issue a bill of lading, making the carrier liable for loss of or injury to the property, and giving rights to the holder of the bill of lading.

10. Requiring OCR to gather certain financial information from railroads and include the information in a report.

11. Authorizing OCR to direct DOT to investigate complaints that railroad charges for the transportation of property or for any related service, including storage charges, are erroneous, illegal, unusual, or exorbitant, and to hold a hearing, determine what would have been a reasonable rate or charge, and order a refund.

12. Allowing a person who ships property by railroad to, within 3 years after the delivery of the property, submit to OCR expense bills or receipts showing charges paid for the transportation so that DOT may examine them to determine the correctness of weights, rates, and charges indicated on the bills or receipts and, if OCR finds any weights, rates, or charges to be incorrect, authorizing OCR to order the railroad in error to refund any over or excessive charges paid.

Current law imposes specific requirements on the issuance of securities by public service corporations, which are defined to include railroads. OCR is authorized to control the issuance of, and impose special restrictions on, railroad corporation securities, including stock and debt instruments. OCR must approve issuance of railroad securities, may determine their number, character, purpose, and issuing value, and may impose other restrictions. The ICCTA repealed federal authority previously granted to the ICC to approve railroad issuance of securities and assumption of liabilities, although exclusive federal authority still exists with respect to certain transactions, including mergers and acquisitions, between railroads. This bill excludes railroads from the definition of public service corporation for these purposes, while retaining water carriers in the definition, thereby eliminating these specific requirements as applied to railroads.

CONSTRUCTION AND FACILITIES REGULATION

The bill repeals the following provisions of current state law related to regulation of railroad construction and facilities, which might be found to be inconsistent with, and therefore preempted by, federal law, but retains these provisions to the extent they also apply to water carriers:

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1. Prohibiting a railroad from abandoning a station, removing a depot, or withdrawing agency service without obtaining approval from OCR.

2. Imposing requirements related to, and providing OCR authority over, industrial spur tracks. However, the bill retains OCR's authority to order removal of tracks that have been abandoned but physically remain in place.

3. Prohibiting a railroad from removing, relocating, or closing its repair and maintenance shops or terminals without the consent of OCR, after a public hearing. That consent may not be given if the removal, relocation, or closure is not in the public interest or is unreasonable or unfair to railroad employees.

4. Requiring railroads to keep and maintain adequate and suitable depots, buildings, switches, and sidetracks for freight transported by the railroads.

5. Requiring railroads to provide and maintain adequate passenger depots meeting certain standards for amenities, comfort, and hours of service.

6. Requiring multiple railroads operating in the same municipality to attempt to maintain joint passenger depots, and giving OCR authority to order railroads to construct, maintain, and operate union passenger depots.

7. Requiring railroads to provide reasonable facilities for the interchange of passenger and freight traffic, and to transfer or switch without unreasonable delay or discrimination freight or cars, between their respective lines.

8. Providing for OCR authority over the requirement that every railroad construct and maintain its tracks, bridges, and line structures in a reasonably adequate and safe manner, and for OCR to direct DOT to investigate complaints and, upon hearing, if OCR determines that any railroad track or structure is inadequate or unsafe for the operation of the railroad, to order the railroad to reconstruct or repair the inadequate or unsafe track or structure. However, the bill allows OCR to participate in federal track inspection programs, including the certification of OCR staff for track inspection under federal law. The bill also retains the current law requirement that railroads construct and maintain their tracks, bridges, and line structures in a reasonably adequate and safe manner, as well as the current law requirement that railroads adopt reasonably adequate safety measures and install, operate, and maintain reasonably adequate safety devices for the protection of life and property, but qualifies these requirements by limiting them to the extent that they are consistent with federal law.

9. Providing that, whenever a railroad proposes to cross or join its track with another railroad track, OCR must determine, after a hearing, whether the surface road of the proposed track is to be above, below or at grade of any tracks proposed to be crossed, and requiring OCR to fix the proportion of the expense of the crossing or joining to be paid, respectively, by the owners of the tracks.

10. Requiring every railroad to transport grain at current rates to an elevator, warehouse, or mill under specified circumstances.

11. Requiring railroads to allow siting of certain facilities for elevators or warehouses associated with the transportation of property by railroad, and providing OCR authority over siting, rates, and operations of these elevator and warehouse facilities.

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12. Requiring railroads to, when possible and under certain conditions, furnish, without discriminating between shippers or places, suitable cars for the transportation of freight.

13. Requiring OCR to gather certain cost data related to railroad construction and railroad equipment and include the information in a report.

The bill also makes substantive modifications to modernize current law in the following ways:

1. The bill eliminates obsolete provisions related to a railroad's authority to move a highway in constructing a railroad over or across a highway.

2. Current law imposes certain specifications related to wires strung over railroads prior to August 1, 1949, and requires wires strung over any railroad on or after August 1, 1949 to be strung in such a way as to meet requirements of the Wisconsin state electrical code. The bill provides that these requirements do not apply to the extent they are inconsistent with federal law.

SAFETY REGULATION

The bill repeals the following provisions of current state law related to railroad safety, which might be found to be inconsistent with, and therefore preempted by, federal law, but retains these provisions to the extent they also apply to water carriers:

1. Providing for OCR review of petitions asserting that a railroad-highway crossing is dangerous to human life and that public safety requires setting a maximum train speed at the crossing, and for OCR's authority to hold a hearing and order a maximum train speed for the crossing and installation of a stop sign at the crossing.

2. Prohibiting a train conductor, engineer, or brakeman from stopping or leaving a railroad train, locomotive, or car on or across a highway crossing outside of a city for more than 10 minutes.

3. Requiring railroad trains or locomotives to sound the whistle or horn 1,320 feet from a railroad-highway grade crossing outside the limits of a municipality and to ring the engine bell continuously from that point until the crossing is reached, and allowing OCR to order that these requirements be withheld at any crossing.

4. Requiring railroad trains or locomotives to ring the engine bell continuously within 330 feet of a railroad-highway grade crossing within any city or village, and until the crossing is reached, except where gates are operated or a flagman is stationed. However, the bill recognizes the duty of railroad trains and locomotives to comply with federal law.

5. Imposing requirements related to the qualifications of railroad conductors and flagmen.

6. Imposing equipment and safety requirements for cabooses and engines. However, the bill requires railroads to operate and maintain their equipment and rolling stock in a reasonably adequate and safe manner consistent with federal law, and authorizes OCR to participate in federal equipment inspection programs, including the certification of OCR staff for inspection under federal law.

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7. Imposing lighting requirements for track cars operated at night, visibility marking requirements for engines and cars built in this state, and windshield and canopy requirements for track cars operated in this state.

8. Requiring that locomotives be equipped with spark arresters meeting standards of the Department of Natural Resources (DNR), providing DNR authority to remove from service non-complying locomotives, and providing OCR authority to make determinations related to spark arresters and similar devices.

9. Providing for complaints to OCR, and OCR hearings and orders, concerning the safety of railroad bridges lacking walks and railings.

10. Providing for complaints to OCR, or action on OCR's own initiative, that a bridge erected over a stream intersecting a highway upon which a railway is constructed and operated is unsafe and dangerous to travelers and that public safety requires the repair, alteration, or reconstruction (including in a different location) of the bridge, and for OCR's authority to hold hearings and to order repair, alteration, or reconstruction of the bridge.

11. Requiring railroads to maintain suitable telltales (arrangements of long strips of rope, wire, or other material hanging from a bar over railroad tracks to warn of an upcoming low overhead structure) wherever any part of an overhead structure is less than 23 feet above the top of a rail, except where OCR authorizes an exception. However, the bill requires telltales to the extent required under federal law and authorizes OCR, if it finds that the absence of a telltale would create an unreasonable risk of harm to the public or a railroad employee on a railroad not under the jurisdiction of the STB or FRA, to order the installation of a telltale.

12. Requiring railroads to report to OCR all collisions, derailments, or other accidents resulting in injury to persons, equipment, or tracks, and authorizing OCR to issue rules concerning the reporting of accidents and, if public interests require, cause an investigation of any accident. However, the bill requires railroads to submit to OCR a copy of any monthly accident or injury report provided by the railroad to the applicable federal authority.

The bill also makes substantive modifications to modernize current law in the following ways:

1. The bill prohibits any person (not just a person under the age of 17, as provided under current law), other than a railroad employee, from getting on or off a moving railroad car or train.

2. Under current law, a railroad must allow a specified amount of horizontal clearance, which varies depending on the circumstances, between any building or platform and the tracks. OCR may exempt any building or platform if it finds that such an exemption is in the public interest and will not imperil life or limb. The bill allows OCR to provide such an exemption without a hearing if no objection is made after notice is given.

3. Under current law, upon petition to determine whether a public highway and railroad grade crossing protects and promotes public safety, OCR may investigate and issue an appropriate order, after a hearing or without a hearing if no objection is made. OCR must determine whether the existing warning devices at the crossing are adequate to protect and promote public safety. If OCR determines that protection

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is not adequate, it may order suitable crossing protection or safety devices at specific locations at the crossing. State regulation of railroad–highway crossing safety is generally not preempted, although preemption may occur if federal funds participate in the installation of crossing warning devices and the devices are subject to the approval of the Federal Highway Administration. The bill authorizes OCR to participate in federal signal inspection programs, including the certification of office staff for signal inspection under federal law.

4. Current law requires railroads to maintain “Railroad Crossing” signs on each side of the tracks wherever their tracks cross public highways or streets. The bill modernizes terms used to refer to the “Railroad Crossing” sign, commonly known as a crossbuck sign, and requires that these signs conform with the Manual on Uniform Traffic Control Devices adopted by DOT.

The bill also creates a new provision specifically recognizing OCR’s regulatory jurisdiction over railroad safety practices related to railroad equipment, facilities, rolling stock, and operations to the extent consistent with federal law, and authorizing OCR to participate in federal investigative activities necessary to enforce the federal safety regulations that apply to railroad equipment, facilities, rolling stock, and operations in this state.

ADDITIONAL PROVISIONS

The bill changes penalties for the following offenses from imposition of a fine (a criminal penalty) or incarceration or both to imposition of a forfeiture (a civil penalty):

1. Getting on or off a moving railroad car or train.
2. Horizontal clearance violations by a railroad.
3. Trespassing on a railroad.
4. Receiving a rebate, concession, or discrimination with respect to water carrier transportation of property or any related service under which the property is transported at a rate less than the tariff rate.
5. Certain offenses related to the furnishing, installation, placement, and maintenance of advance warning signs near railroad–highway grade crossings. However, the bill does not change the penalty for damaging or interfering with these signs.
6. Willfully failing to sound an engine horn at a grade crossing.

The bill makes additional modifications to current state law in the following ways:

1. Under current law, “railroad” is defined to include common carriers of property by water which operate between fixed end points. Rather than include a common carrier of property by water within the definition of a railroad, the bill removes a water carrier from this definition and defines a “water carrier” to mean a common carrier of property by water that operates between fixed end points, but not including a water carrier under common control with a railroad when transporting property for continuous carriage or shipment.

2. Under current law, no member of the PSC (to which OCR is attached) may have a financial interest in a railroad or public utility. Also, the commissioner of railroads may not have a financial interest in a railroad. This bill also prohibits any

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member of the PSC or the commissioner of railroads from having a financial interest in a water carrier.

3. The bill provides for OCR authority, in various circumstances where under current law OCR requests DOT to conduct an investigation, to investigate the matter itself.

4. The bill specifically provides for OCR authority to receive complaints, direct investigation by DOT, and hold a hearing on the complaint with respect to any railroad practice or activity under OCR's regulatory jurisdiction.

5. Current law provides that state laws apply to railroads in interstate commerce only to the extent permitted by the federal constitution and federal laws. The bill clarifies that all state laws relating to railroads apply only to the extent they are not contrary to or inconsistent with any federal statute or regulation, or order of an applicable federal agency, or the federal constitution.

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

2 **15.79 Public service commission; creation.** There is created a public
3 service commission. No member of the commission may have a financial interest in
4 a railroad, water carrier, or public utility. If any member voluntarily becomes so
5 interested, the member's office shall become vacant. If the member involuntarily
6 becomes so interested, the member's office shall become vacant unless the member
7 divests himself or herself of the interest within a reasonable time. No commissioner
8 may serve on or under any committee of a political party. Each commissioner shall
9 hold office until a successor is appointed and qualified.

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

11 **15.795 (1) OFFICE OF THE COMMISSIONER OF RAILROADS.** There is created an office
12 of the commissioner of railroads which is attached to the public service commission
13 under s. 15.03, provided that s. 85.02 (1) does not apply to the office of the

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1 commissioner of railroads. The commissioner of railroads shall have expertise in
2 railroad issues and may not have a financial interest in a railroad, as defined in s.
3 195.02 (1), or a water carrier, as defined in s. 195.02 (5). The commissioner may not
4 serve on or under any committee of a political party. The commissioner shall hold
5 office until a successor is appointed and qualified.

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

7 20.155 (2) OFFICE OF THE COMMISSIONER OF RAILROADS. (g) *Railroad and water*
8 *carrier regulation and general program operations*. The amounts in the schedule for
9 railroad and water carrier regulation under chs. 189 to 192 and 195 and general
10 program operations of the office of the commissioner of railroads. Ninety percent of
11 all moneys received by the office under s. 195.60 or 201.10 (3) shall be credited to this
12 appropriation.

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

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

17 25.40 (1) (f) 1. Moneys received from the federal government, for the regulation
18 of railroads and water carriers, that are deposited in the general fund and credited
19 to the appropriation under s. 20.155 (2) (m).

20 **SECTION 5.** 26.20 (2), (3), (10) and (11) of the statutes are repealed.

21 **SECTION 6.** 85.01 (5) of the statutes is amended to read:

22 85.01 (5) “Railroad” means ~~a railroad as defined in s. 192.15 (2) (e)~~, a railroad
23 as defined in s. 195.02 (1) and any company, association, corporation or person
24 managing, maintaining, operating or in possession of a railroad in whole or in part

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1 within this state whether as owner, contractor, lessee, mortgagee, trustee, assignee
2 or receiver.

3 **SECTION 7.** 85.08 (4m) (e) 5. of the statutes is amended to read:

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

13 **SECTION 8.** 85.09 (3) (a) of the statutes is amended to read:

14 85.09 **(3)** (a) A certificate or approval of abandonment has been issued by the
15 ~~interstate-commerce-commission~~ federal surface transportation board or federal
16 court or any other federal or state agency having jurisdiction over the rail property.

17 **SECTION 9.** 182.018 (4) of the statutes is created to read:

18 182.018 **(4)** This section applies only to the extent that it is not contrary to or
19 inconsistent with 49 USC 10101 to 11908 and 20101 to 28302, 49 CFR 200 to 268,
20 700 to 850, and 1001 to 1332, or any other federal statute or regulation, or any order
21 of the federal railroad administration, surface transportation board, or other federal
22 agency or authority.

23 **SECTION 10.** 189.02 (2m) of the statutes is created to read:

24 189.02 **(2m)** The office shall have regulatory jurisdiction over railroad safety
25 practices related to railroad equipment, facilities, rolling stock, and operations in

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1 this state to the extent consistent with federal law. The office may participate in any
2 investigative activities necessary to enforce the federal safety regulations that apply
3 to railroad equipment, facilities, rolling stock, and operations in this state.

4 **SECTION 11.** 190.005 of the statutes is created to read:

5 **190.005 Scope of chapter.** Each provision of this chapter applies only to the
6 extent that it is not contrary to or inconsistent with 49 USC 10101 to 11908 and 20101
7 to 28302, 49 CFR 200 to 268, 700 to 850, and 1001 to 1332, or any other federal statute
8 or regulation, or any order of the federal railroad administration, surface
9 transportation board, or other federal agency or authority, or the constitution of the
10 United States.

11 **SECTION 12.** 190.02 (5) of the statutes is amended to read:

12 190.02 (5) **CROSS HIGHWAYS, STREETS, STREAMS; HIGHWAY BRIDGES.** To construct its
13 railroad across, over, under, along or upon any stream, watercourse, street, highway,
14 road or canal; ~~to carry any highway, street or road which it shall intersect over or~~
15 ~~under its tracks as may be most expedient for the public good; to change the course~~
16 ~~and direction of any highway, street or road when made necessary or desirable by the~~
17 ~~construction of the railroad and acquire land necessary therefor; provided, such~~
18 ~~highway or road be not so changed from its original course more than six rods, nor~~
19 ~~its distance thereby lengthened more than five rods; and provided, further, that~~
20 ~~every, subject to the provisions of ch. 195, if any bridge erected over any highway or~~
21 ~~street shall leave leaves a clear passageway at least twenty 20 feet wide or two 2~~
22 ~~passageways, each not less than fourteen 14 feet in width.~~

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

24 190.025 (2) (b) A railroad corporation that is subject to this subsection shall
25 have all powers conferred by law upon railroad corporations. The railroad

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1 corporation may issue, sell, pledge or otherwise dispose of its evidences of debt, at
2 such times, in such amounts, for such considerations and upon such terms and
3 conditions as the board of directors of the corporation shall determine, and as shall
4 be authorized by the office, or the ~~interstate-commerce-commission~~ federal surface
5 transportation board in the case of a railroad corporation organized for the purpose
6 of acquiring a railroad engaged in interstate commerce, or any existing railroad
7 corporation reorganized under the act and acquiring railroad property used in
8 interstate commerce. The evidences of debt may be convertible, at the option of the
9 holder, into stock, and shares of stock. The shares may have a nominal or par value
10 or, if the shares are shares of common stock, be without nominal or par value. The
11 shares may be of such classes, with such rights and voting powers as may be
12 expressed in the corporation's articles or any amendment thereto.

13 **SECTION 14.** 190.16 (1), (3) and (4) of the statutes are repealed.

14 **SECTION 15.** 190.16 (2) of the statutes is amended to read:

15 190.16 **(2)** MUNICIPAL CONSENT. ~~No such spur tracks shall be constructed across,~~
16 ~~or upon any street, road or alley, within any city, village or town, until application~~
17 ~~therefor shall have been made to and acted upon by such city, village or town. The~~
18 ~~city may prescribe any reasonable terms and conditions for the construction of any~~
19 ~~such spur track. Construction of spur tracks across or upon any street, road, or alley~~
20 ~~is subject to the provisions of ch. 195.~~

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

22 190.16 **(5)** REMOVAL, WHEN. ~~Except where a spur track was constructed prior~~
23 ~~to June 16, 1925, at the expense of the railroad company, no spur track shall be~~
24 ~~removed, dismantled or otherwise rendered unfit for service except upon order of~~
25 When a spur track has been abandoned, as defined in s. 85.09, the office made, after

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1 hearing held upon notice to all parties interested, and for good cause shown; provided
2 may order the removal of the track except that, if no objection has been filed with the
3 office within 20 days from the original publication of such notice, the office may
4 without hearing authorize such spur track removed, dismantled or otherwise
5 rendered unfit for service the removal of the track.

6 **SECTION 17.** 191.001 of the statutes is renumbered 191.001 (intro.) and
7 amended to read:

8 **191.001 Definition.** (intro.) In this chapter, “office”:

9 **(1) “Office”** means the office of the commissioner of railroads.

10 **SECTION 18.** 191.001 (2) of the statutes is created to read:

11 191.001 **(2)** “Rail carrier” has the meaning given in 49 USC 10102 (5).

12 **SECTION 19.** 191.001 (3) of the statutes is created to read:

13 191.001 **(3)** “Transportation” has the meaning given in 49 USC 10102 (9).

14 **SECTION 20.** 191.01 (1) of the statutes is amended to read:

15 191.01 **(1)** SCOPE OF THIS CHAPTER. This chapter applies to all railroads except
16 rail carriers providing transportation subject to the jurisdiction of the federal surface
17 transportation board under 49 USC 10501 and 10901 to 10907. Each provision of
18 this chapter applies only to the extent that it is not contrary to or inconsistent with
19 49 USC 10101 to 11908 and 20101 to 28302, 49 CFR 200 to 268, 700 to 850, and 1001
20 to 1332, or any other federal statute or regulation, or any order of the federal railroad
21 administration, surface transportation board, or other federal agency or authority,
22 or the constitution of the United States.

23 **SECTION 21.** 191.17 of the statutes is amended to read:

24 **191.17 Public safety; investigation; approval of plans.** Upon receiving
25 the specification required by s. 191.16, the office shall examine the same and shall

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1 hear the applicant in support thereof, shall suggest and require modifications of the
2 specification if the public safety so demands, eliminating so far as may be
3 practicable, consistent with reasonable cost, all grade crossings of public highways,
4 shall inspect the route of the proposed railroad if deemed desirable, and shall
5 otherwise investigate and determine that the proposed construction will be adequate
6 for securing public safety in the operation of the railroad, and thereupon the office
7 shall enter an order approving the specification and authorizing the construction of
8 the railroad in accordance therewith and with the provisions of ch. 195.

9 **SECTION 22.** 191.19 (1) of the statutes is amended to read:

10 191.19 (1) Upon the completion of the construction of any railroad under the
11 approved specification, the company shall, before operating the same for public
12 service, report to the office; and the office shall inspect the work. If the office finds
13 that the railroad has been constructed in accordance with the approved specification
14 and with the provisions of ch. 195 and is otherwise suitable and properly constructed
15 so as to secure public safety in the operation thereof, the office shall enter an order
16 authorizing its operation, which order shall be presumptive evidence of the
17 sufficiency of such construction.

18 **SECTION 23.** 191.19 (3) of the statutes is amended to read:

19 191.19 (3) If upon inspection the office shall deem that public safety requires
20 the installation, operation and maintenance of some protective appliance at any
21 grade crossing of railroad tracks the office may, before granting the order, after notice
22 and hearing under s. 195.28, require the installation, operation and maintenance of
23 suitable protective appliances, and shall apportion the expense of constructing,
24 maintaining and operating such protective appliances among the owners of the
25 tracks.

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1 **SECTION 24.** 192.005 of the statutes is created to read:

2 **192.005 Scope of chapter.** Each provision of this chapter applies only to the
3 extent that it is not contrary to or inconsistent with 49 USC 10101 to 11908 and 20101
4 to 28302, 49 CFR 200 to 268, 700 to 850, and 1001 to 1332, or any other federal statute
5 or regulation, or any order of the federal railroad administration, surface
6 transportation board, or other federal agency or authority, or the constitution of the
7 United States.

8 **SECTION 25.** 192.14 of the statutes is repealed.

9 **SECTION 26.** 192.145 of the statutes is created to read:

10 **192.145 Railroad equipment and rolling stock.** Every railroad shall
11 operate and maintain its equipment and rolling stock in a reasonably adequate and
12 safe manner consistent with federal law. The office may participate in federal
13 equipment inspection programs, including the certification of office staff for
14 equipment inspection under federal law.

15 **SECTION 27.** 192.15, 192.18, 192.255, 192.266, 192.267 and 192.268 of the
16 statutes are repealed.

17 **SECTION 28.** 192.29 (title) of the statutes is amended to read:

18 **192.29 (title) Train speed horns and crossing signs at street and**
19 **highway crossings.**

20 **SECTION 29.** 192.29 (1) and (2) of the statutes are repealed.

21 **SECTION 30.** 192.29 (3) (title) of the statutes is amended to read:

22 **192.29 (3) (title) ~~BELL TO RING~~ HORN TO SOUND, MUNICIPAL AUTHORITY.**

23 **SECTION 31.** 192.29 (3) (a) of the statutes is amended to read:

24 **192.29 (3) (a)** No railroad train or locomotive shall run over any public traveled
25 grade crossing within any city or village, except where gates are operated, or a

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1 flagman is stationed, unless the engine bell shall be rung continuously within 330
2 feet of the crossing and until the crossing is reached railroad train or locomotive horn
3 is sounded in compliance with the requirements under federal law.

4 **SECTION 32.** 192.29 (4) of the statutes is repealed.

5 **SECTION 33.** 192.29 (5) of the statutes is amended to read:

6 192.29 (5) ~~DANGER~~ RAILROAD-HIGHWAY CROSSING SIGNS. Wherever its track
7 crosses a public highway or street, every railroad corporation shall maintain on each
8 side of the track and near such crossing a large signboard with the following
9 inscription, painted in large letters: “Railroad Crossing,” in such manner as to be
10 visible to approaching traffic on the highway or street at least 100 feet distant a
11 highway-rail-grade crossing sign, commonly known as a crossbuck sign, that
12 conforms with the manual on uniform traffic control devices adopted by the
13 department under s. 84.02 (4) (e).

14 **SECTION 34.** 192.292 of the statutes is repealed.

15 **SECTION 35.** 192.295 of the statutes is amended to read:

16 **192.295 Willful neglect of railroad employees.** Any officer, agent,
17 conductor, engineer or employee of any railroad company operating within this state
18 who willfully neglects or omits to ring or cause to be rung the bell sound the horn on
19 the engine of any train of cars or on an engine alone or to blow the whistle, as required
20 by s. 192.29 (3) and (4), shall be imprisoned not more than 6 months or fined not
21 exceeding forfeit \$100.

22 **SECTION 36.** 192.31 (1) of the statutes is renumbered 192.31 (1) (a) and
23 amended to read:

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

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1 ~~top of rail; Telltales shall not be required except to the extent required under federal~~
2 ~~law and except that if as provides in par. (b).~~

3 ~~(b) If the office finds that the installation of a telltale at any particular place~~
4 ~~would be impracticable or would result in an increased hazard to either the public~~
5 ~~or an employee and that either or both such factors outweigh the safety benefit which~~
6 ~~would result from the installation of a telltale, absence of a telltale would create an~~
7 ~~unreasonable risk of harm to the public or a railroad employee on a railroad not~~
8 ~~under the jurisdiction of the federal surface transportation board or federal railroad~~
9 ~~administration, the office may enter an order providing an exemption from this~~
10 ~~section. The exemption requiring the installation of a telltale. A telltale shall be~~
11 ~~ordered by the office only after public hearing according to the hearing procedure~~
12 ~~provided under sub. (4).~~

13 **SECTION 37.** 192.31 (4) of the statutes is amended to read:

14 192.31 (4) Upon finding that any such structure will not imperil life or limb,
15 and that the public interest requires or permits such structure to be constructed or
16 reconstructed otherwise than as permitted by sub. (3), the office may exempt such
17 structure from such provision. Such findings shall be made only upon written
18 application, setting forth fully the grounds therefor and shall be made only after
19 public hearing held upon notice to all interested parties except that, if no objection
20 is filed with the office within 20 days of the notice, the office may require the
21 installation of a telltale without hearing. The findings and order ~~granting exemption~~
22 ~~requiring the installation of a telltale~~ shall be in writing and contain complete
23 provisions and requirements as to the vertical clearance to be maintained in such
24 construction or reconstruction. Such structure shall be constructed or reconstructed
25 only in compliance with such order.

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1 **SECTION 38.** 192.321 of the statutes is amended to read:

2 **192.321 Getting on and off cars.** Any person under the age of 17 years who
3 shall get upon, attempt to get upon, cling to, jump or step from any railroad car or
4 train while the same is in motion shall be ~~punished by fine of~~ forfeit not more than
5 \$20 nor less than \$2, provided that this section shall not apply to the employees of
6 any ~~railway or express~~ railroad company.

7 **SECTION 39.** 192.324 of the statutes is repealed.

8 **SECTION 40.** 192.33 (1) of the statutes is amended to read:

9 192.33 (1) ~~Every~~ Subject to s. 190.09, every corporation operating any railroad
10 shall erect and maintain on both sides of its ~~road~~ railroad, depot grounds excepted,
11 sufficient fences with openings or gates or bars therein, and suitable and convenient
12 farm crossings for the use of the occupants of the lands adjoining and shall maintain
13 cattle guards at all highway crossings, outside of municipalities, and connect their
14 fences therewith. This section shall not apply to that part of the ~~road~~ railroad where
15 sidetracks or switch tracks are used in cities of the first 1st class.

16 **SECTION 41.** 192.42 and 192.52 of the statutes are repealed.

17 **SECTION 42.** 192.53 (4) (b) of the statutes is amended to read:

18 192.53 (4) (b) The office shall make the findings described in par. (a) only upon
19 written application to it to exempt the construction or reconstruction of a structure
20 from the requirements of this section, setting forth fully the grounds therefor, and
21 only after public hearing held upon notice to all interested parties except that, if no
22 objection is filed with the office within 20 days of the notice, the office may authorize
23 the exemption without hearing. The office's findings and order granting the
24 exemption shall be in writing and shall contain complete provisions and
25 requirements as to the horizontal clearance to be maintained in the construction or

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1 reconstruction. The structure shall be constructed or reconstructed only in
2 compliance with the office's order.

3 **SECTION 43.** 192.53 (6) of the statutes is amended to read:

4 192.53 (6) Any railroad or shipper to which this section applies, who violates
5 any provision of this section or who fails, neglects or refuses to obey any lawful order
6 made by the office under this section, shall be fined forfeit not more than \$100 or
7 imprisoned for not more than 60 days or both.

8 **SECTION 44.** 192.55 (6) of the statutes is amended to read:

9 192.55 (6) Any person violating s. 192.32 shall be punished by a fine of forfeit
10 not less than \$1 nor more than \$50, or by imprisonment not exceeding 30 days, or by
11 both such fine and imprisonment.

12 **SECTION 45.** 192.55 (7) of the statutes is repealed.

13 **SECTION 46.** Chapter 195 (title) of the statutes is amended to read:

14 **CHAPTER 195**

15 **RAILROAD AND WATER CARRIER REGULATION**

16 **SECTION 47.** 195.02 (3) of the statutes is amended to read:

17 195.02 (3) This chapter applies to the transportation of passengers and
18 property between points within this state, and to the receiving, switching,
19 delivering, storing and handling of such property, and to all water carrier charges
20 connected therewith, and applies to all common carriers engaged in the
21 transportation of passengers or property wholly by rail or partly by rail and partly
22 by water, and to all common carriers of property wholly by water which operate
23 between fixed end points, but shall not apply to transportation of property by water
24 under contract as a private carrier.

25 **SECTION 48.** 195.02 (4m) of the statutes is created to read:

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1 195.02 **(4m)** Each provision of this chapter applies only to the extent that it is
2 not contrary to or inconsistent with 49 USC 10101 to 11908 and 20101 to 28302, 49
3 CFR 200 to 268, 700 to 850, and 1001 to 1332, or any other federal statute or
4 regulation, or any order of the federal railroad administration, surface
5 transportation board, or other federal agency or authority, or the constitution of the
6 United States.

7 **SECTION 49.** 195.02 (5) of the statutes is amended to read:

8 195.02 **(5)** “Railroad” also “Water carrier” means and embraces a common
9 carriers carrier of property by water which operate that operates between fixed end
10 points, and all of the duties required of, and penalties imposed upon, any railroad or
11 any agent or officer thereof shall, insofar as the same are applicable, be required of,
12 and imposed upon, such common carriers of property by water but does not include
13 a water carrier under common control with a railroad when transporting for
14 continuous carriage or shipment.

15 **SECTION 50.** 195.03 (7) of the statutes is amended to read:

16 195.03 **(7)** STUDY RAILROAD AND WATER CARRIER BUSINESS, DEMAND INFORMATION.
17 The office may inquire into the management of the business of all railroads and water
18 carriers, and shall keep itself informed as to the manner in which the same is
19 conducted, and may obtain from any railroad or water carrier all necessary
20 information to enable the office to perform the duties and carry out the objects for
21 which it is responsible.

22 **SECTION 51.** 195.03 (8) of the statutes is amended to read:

23 195.03 **(8)** QUESTIONNAIRES, ANSWERS COMPULSORY. The office shall prepare
24 forms for the purpose of obtaining the information which it may deem necessary or
25 useful to the proper exercise of its functions, which shall conform as nearly as

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1 practicable to the forms prescribed by the ~~interstate-commerce-commission~~ federal
2 railroad administration, federal surface transportation board, or other applicable
3 federal agency or authority, and shall furnish the forms to railroads and water
4 carriers, and every railroad and water carrier receiving the forms shall cause the
5 forms to be properly completed and verified under oath by its proper officer and
6 returned to the office within the time fixed by the office.

7 **SECTION 52.** 195.03 (9) of the statutes is amended to read:

8 195.03 **(9)** EXAMINE BOOKS AND FILES OF RAILROADS AND WATER CARRIERS. The
9 commissioner of railroads or any person employed by the office for that purpose shall,
10 upon demand, have the right to inspect the books and papers of any railroad or water
11 carrier and to examine under oath any officer, agent or employee of such railroad or
12 water carrier in relation to its business and affairs; provided that any person other
13 that the commissioner of railroads who makes such demand shall produce his or her
14 authority under the hand and seal of the office.

15 **SECTION 53.** 195.03 (10) of the statutes is amended to read:

16 195.03 **(10)** PRODUCTION OF RECORDS AND FILES KEPT OUT OF STATE. The office may,
17 by an order or subpoena to be served in the manner that a circuit court summons is
18 served, require the production within this state, at such time and place as it may
19 designate, of any books, papers or accounts kept by any railroad or water carrier
20 without the state, or verified copies in lieu thereof, if the office shall so order.

21 **SECTION 54.** 195.03 (11) of the statutes is amended to read:

22 195.03 **(11)** UNIFORM SYSTEM OF ACCOUNTING. The office may prescribe a uniform
23 system of keeping and rendering accounts of all railroad and water carrier business
24 transacted in this state, and the time within which railroads and water carriers shall
25 adopt such system; provided that all forms of accounts which may be prescribed by

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1 the office shall conform to any applicable requirement under 49 USC 11141 to 11164
2 or 49 CFR 1201 and, as nearly as practicable, to similar forms prescribed by federal
3 authority.

4 **SECTION 55.** 195.03 (12) of the statutes is amended to read:

5 195.03 **(12)** TIME FOR FILING WATER CARRIER RATE TARIFFS. The office shall fix the
6 time for filing railroad water carrier schedules relative to the transportation of
7 passengers and property and of any service in connection therewith.

8 **SECTION 56.** 195.03 (13) of the statutes is amended to read:

9 195.03 **(13)** SCHEDULE FORMS. The office may prescribe the forms for railroad
10 water carrier schedules.

11 **SECTION 57.** 195.03 (19) of the statutes is amended to read:

12 195.03 **(19)** RAILROAD WATER CARRIER STRUCTURES. The office may order the
13 repair or reconstruction of any inadequate or unsafe ~~railroad track or~~ water carrier
14 structure.

15 **SECTION 58.** 195.04 (1) of the statutes is amended to read:

16 195.04 **(1)** Upon complaint of any person, including any state agency or railroad
17 water carrier, that any railroad water carrier rate, fare, charge, or classification or
18 any regulation or practice whatever affecting the transportation of persons or
19 property, or any service in connection therewith, is in any respect unreasonable or
20 unjustly discriminatory or that any service is inadequate, the office may direct the
21 department to investigate the complaint and shall set the complaint for hearing. The
22 report of the department shall be presented to the office only at the hearing on the
23 complaint, if hearing is requested and held. No order may be entered by the office
24 without a public hearing.

25 **SECTION 59.** 195.04 (1m) of the statutes is created to read:

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1 195.04 **(1m)** Upon complaint of any person, including any state agency or
2 railroad, regarding any railroad practice or activity over which the office has
3 regulatory jurisdiction under this chapter or ch. 192, the office may direct the
4 department to investigate the complaint and shall set the complaint for hearing. The
5 report of the department shall be presented to the office only at the hearing on the
6 complaint, if hearing is requested and held. No order may be entered by the office
7 without a public hearing, except as otherwise provided in this chapter or ch. 192.

8 **SECTION 60.** 195.04 (2) of the statutes is amended to read:

9 195.04 **(2)** The office shall, prior to such any hearing, notify the water carrier
10 or railroad complained of that a complaint has been made, and 20 days after such
11 notice has been given the office may proceed to set a time and place for a hearing.

12 **SECTION 61.** 195.04 (3) of the statutes is amended to read:

13 195.04 **(3)** The office shall give the water carrier or railroad and the
14 complainant 20 days' notice of the hearing and the matters to be considered and
15 determined. Both the water carrier or railroad and the complainant shall be entitled
16 to be heard and shall have process to enforce the attendance of witnesses.

17 **SECTION 62.** 195.041 of the statutes is amended to read:

18 **195.041 Separate rate hearings; absence of direct damage.** The office
19 may, when complaint is made of more than one water carrier rate or charge, order
20 separate hearings thereon, and may consider and determine the several matters
21 complained of separately and at such times as it may prescribe. No complaint shall
22 at any time be dismissed because of the absence of direct damage to the complainant.

23 **SECTION 63.** 195.042 of the statutes is amended to read:

24 **195.042 Summary investigations.** Whenever the office believes that any
25 water carrier rate or charge may be unreasonable or unjustly discriminatory or that

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1 any service is inadequate or cannot be obtained or that an investigation of any matter
2 relating to any water carrier or, if a matter under its jurisdiction, to any railroad
3 should for any reason be made, it may investigate the matter or request the
4 department to investigate the same with or without notice.

5 **SECTION 64.** 195.043 of the statutes is amended to read:

6 **195.043 Procedure after summary investigation. (1)** If, after summary
7 investigation by the department or the office, the office becomes satisfied that
8 sufficient grounds exist to warrant a formal hearing being ordered as to the matters
9 investigated, it shall set a time and place for a hearing. The office shall publish notice
10 of any such investigation in its weekly calendar and the report of the department and
11 all matters considered by the office with respect thereto shall be available for public
12 inspection upon request.

13 **(2)** Notice of the time and place for such hearing shall be given to the water
14 carrier or railroad, and to such other interested persons as the office deems
15 necessary, as provided in s. 195.04, and thereafter proceedings shall be had and
16 conducted in reference to the matter investigated in like manner as though
17 complaint had been filed with the office relative to the matter investigated, and the
18 same order or orders may be made in reference thereto as if such investigation had
19 been made on complaint.

20 **SECTION 65.** 195.05 (title) of the statutes is amended to read:

21 **195.05 (title) Office; water carrier rates, regulations, service,**
22 **procedure.**

23 **SECTION 66.** 195.05 (1) of the statutes is amended to read:

24 195.05 **(1) ORDERS FOR RATES AND SERVICE.** Whenever the office shall find that
25 any existing water carrier rate, fare, charge, or classification, or any joint rate, or any

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1 regulation or practice affecting the transportation of persons or property, or any
2 service in connection therewith is unreasonable or unjustly discriminatory or that
3 any service is inadequate, it shall determine and by order fix a reasonable rate, fare,
4 charge, classification, joint rate, regulation, practice or service to be imposed,
5 observed and followed in the future, in lieu of that found to be unreasonable or
6 unjustly discriminatory or inadequate.

7 **SECTION 67.** 195.05 (3) of the statutes is amended to read:

8 195.05 (3) RATES NOT CHANGED BY ~~RAILROAD~~ WATER CARRIER. All railroads water
9 carriers to which the order applies shall make such changes in their schedule on file
10 as may be necessary to make the same conform to said order, and no change shall
11 thereafter be made by any ~~railroad~~ water carrier in any such rates, fares or charges,
12 or in any joint rates except as provided in s. 195.08.

13 **SECTION 68.** 195.05 (4) of the statutes is amended to read:

14 195.05 (4) MODIFICATION OF ORDERS. The office may by order at any time, upon
15 notice to the ~~railroad~~ water carrier and after opportunity to be heard, rescind, alter
16 or amend any order fixing any rate or rates, fares, charges or classification, or any
17 other order made by the office.

18 **SECTION 69.** 195.05 (5) and (6) of the statutes are repealed.

19 **SECTION 70.** 195.07 (1) of the statutes is amended to read:

20 195.07 (1) POWERS. The office shall inquire into the neglect or violation of the
21 laws of this state by water carriers and railroads, or by the officers, agents or
22 employees thereof, or by persons operating water carriers and railroads, and shall
23 report violations to the attorney general.

24 **SECTION 71.** 195.07 (2) of the statutes is amended to read:

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1 195.07 (2) ATTORNEY GENERAL AND DISTRICT ATTORNEY TO PROSECUTE. Upon
2 request of the office, the attorney general or the district attorney of the proper county
3 shall aid in any investigation, hearing or trial had under, and shall institute and
4 prosecute all necessary actions or proceedings for the enforcement of, laws relating
5 to water carriers and railroads.

6 **SECTION 72.** 195.08 (title) of the statutes is amended to read:

7 **195.08 (title) Railroad Water carrier rates, schedules, service.**

8 **SECTION 73.** 195.08 (1r) of the statutes is amended to read:

9 195.08 (1r) SERVICE RATES TO BE ADEQUATE AND JUST. Every railroad water
10 carrier shall furnish reasonably adequate service and facilities, and the charges
11 made for the transportation of passengers or property or for any service in connection
12 therewith, or for the receiving, ~~switching~~, delivering, storing or handling of property
13 shall be reasonable and just, and every unjust and unreasonable charge for such
14 service is prohibited and declared to be unlawful.

15 **SECTION 74.** 195.08 (2) of the statutes is amended to read:

16 195.08 (2) SCHEDULES; PUBLICATION. Every railroad water carrier shall print in
17 plain type and file with the office schedules which shall be open to public inspection
18 showing all rates, fares and charges for the transportation of passengers and
19 property and any service in connection therewith which it has established and which
20 are in force at the time between all points in this state upon its line or any line
21 controlled or operated by it. The schedules shall plainly state the places upon its line
22 or any line controlled or operated by it in this state between which passengers and
23 property will be carried, and there shall be filed therewith the classification of freight
24 in force.

25 **SECTION 75.** 195.08 (3) of the statutes is amended to read:

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1 195.08 (3) SCHEDULES, RULES AND REGULATIONS. Every railroad water carrier
2 shall publish with and as a part of such schedules all rules and regulations that in
3 any manner affect the rates charged or to be charged for the transportation of
4 passengers or property, and its charges for delay in loading or unloading cars, ~~for~~
5 ~~track and car service or rental and for demurrage, switching, terminal or transfer~~
6 ~~service, property or for rendering any other service in connection with the~~
7 transportation of persons or property.

8 **SECTION 76.** 195.08 (4) of the statutes is amended to read:

9 195.08 (4) SCHEDULES, COPIES IN ~~DEPOTS~~ TERMINALS. Two copies of said schedules
10 for the use of the public shall be kept in every ~~depot, station~~ terminal and office of
11 such railroad water carrier in such form and place as to be easily accessible to the
12 public.

13 **SECTION 77.** 195.08 (5) of the statutes is repealed.

14 **SECTION 78.** 195.08 (7) of the statutes is amended to read:

15 195.08 (7) CHANGES IN SCHEDULE. No change shall be made in any schedule, or
16 in any classification, unless the change shall be plainly indicated upon existing
17 schedules, or by filing new schedules in lieu thereof, 30 days prior to the time the
18 same are to take effect. Copies of all new schedules shall be filed as ~~hereinbefore~~
19 ~~provided~~ required in this section in every ~~depot, station~~ terminal and office of such
20 railroad water carrier at places to or from which the rates in such schedules apply,
21 30 days prior to the time the same are to take effect, unless the office ~~of the~~
22 ~~commissioner of railroads~~ shall prescribe a less time.

23 **SECTION 79.** 195.08 (9) of the statutes is amended to read:

24 195.08 (9) COMPLAINT AGAINST CHANGE IN SCHEDULES. Whenever a complaint is
25 filed with the office before any change in any water carrier schedule, or in any

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1 classification, rule, regulation or practice becomes effective to the effect that the
2 change is unreasonable or unjustly discriminatory, the office shall give notice to the
3 ~~railroad~~ water carrier that a complaint has been made, may direct the department
4 to investigate the complaint and shall set the complaint for hearing. Any report of
5 the department shall be presented to the office only at the hearing on the complaint.
6 The office may, in its discretion, by order, stay the change pending the determination
7 of the matters investigated at any time before the change shall take effect. If the
8 change complained of is found unreasonable or unjustly discriminatory, the change
9 shall not take effect and, if the change has become effective, the office shall order the
10 discontinuance thereof. The office may fix and order substituted for any such change
11 such rates, joint rates, fares, charges, classification, rule, regulation, practice or
12 service as it shall have determined to be just and reasonable and which shall be
13 charged, imposed or followed in the future, and shall make such order respecting
14 such rule, regulation, practice or service as it shall determine to be reasonable and
15 which shall be observed and followed in the future. Procedure and notice shall be as
16 provided in s. 195.04 (2) to (4).

17 **SECTION 80.** 195.08 (10) of the statutes is repealed.

18 **SECTION 81.** 195.08 (11) of the statutes is amended to read:

19 195.08 **(11)** FREIGHT CLASSIFICATION. There shall be but one classification of
20 freight which shall be uniform on all ~~railroads~~ water carriers.

21 **SECTION 82.** 195.10 of the statutes is amended to read:

22 **195.10 Emergency rates.** The office shall have power, when deemed by it
23 necessary to prevent injury to the business or interests of the people or ~~railroads~~
24 water carriers of this state in consequence of ~~interstate rate wars, or in case of any~~
25 ~~other~~ emergency to be judged of by the office, to temporarily alter, amend, or, with

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1 the consent of the railroad water carrier company concerned, suspend any existing
2 passenger rates, freight rates, schedules and orders on any railroad ~~or part of~~
3 railroad water carrier in this state. Such rates so made by the office shall apply on
4 one or more of the railroads water carriers in this state or any portion thereof as may
5 be directed by the office, and shall take effect at such time and remain in force for
6 such length of time as may be prescribed by the office.

7 **SECTION 83.** 195.11 of the statutes is amended to read:

8 **195.11 Discriminations prohibited. (1)** If any railroad water carrier, or any
9 agent or officer thereof, shall directly or indirectly, or by any device whatsoever,
10 charge, demand, collect or receive a greater, less or different compensation for the
11 transportation of persons or property or of any service in connection therewith than
12 that prescribed in the tariffs then in force, or than it charges, demands, collects or
13 receives from any other person, firm or corporation for a like and contemporaneous
14 service, such railroad water carrier shall be deemed guilty of unjust discrimination,
15 which is hereby prohibited.

16 **(2)** It shall be unlawful for any railroad water carrier to demand, charge, collect
17 or receive from any shipper a less compensation for the transportation of property
18 or for any service rendered or to be rendered by said railroad water carrier, in
19 consideration of said shipper furnishing any part of the facilities incident thereto;
20 but any railroad water carrier may rent any facilities incident to transportation and
21 pay a reasonable rental therefor, but no payment shall be made by any carrier to an
22 industry for performing any part of the service incident to the origination or
23 determination of earload line haul shipments which the carriers have assumed to
24 perform under the provisions of the bill of lading.

25 **SECTION 84.** 195.12 of the statutes is amended to read:

ASSEMBLY BILL 588**SECTION 84**

1 **195.12 Preference by water carriers prohibited.** If any railroad water
2 carrier shall make or give any undue or unreasonable preference or advantage to any
3 person, firm or corporation, or shall subject any person, firm or corporation to any
4 undue or unreasonable prejudice or disadvantage in any respect whatsoever, such
5 railroad water carrier shall be deemed guilty of unjust discrimination, which is
6 hereby prohibited.

7 **SECTION 85.** 195.13 of the statutes is amended to read:

8 **195.13 Rebates and concessions, unlawful to accept.** It shall be unlawful
9 for any person, firm or corporation knowingly to accept or receive any rebate,
10 concession or discrimination in respect to water carrier transportation of property
11 wholly within this state, or for any service in connection therewith, whereby any
12 such property shall, by any device whatsoever, be transported at a less rate than that
13 named in the tariffs in force, or whereby any service or advantage is received other
14 than is therein specified. Any person, firm or corporation violating the provisions of
15 this section shall be fined forfeit not less than \$50 nor more than \$1,000 for each
16 offense.

17 **SECTION 86.** 195.14 of the statutes is amended to read:

18 **195.14 Free transportation; reduced rates, passes, limitations. (1)** This
19 chapter does not prohibit the carriage, storage or handling by water carriers of
20 freight free or at reduced rates for the United States, the state, or any municipality
21 thereof, or for charitable purposes, or to and from fairs and expositions for exhibition
22 thereat, or household goods the property of railway water carrier employees, or
23 commodities shipped by employees for their exclusive use or consumption; or the
24 issuance of mileage, commutation, party or excursion passengers' tickets; or the sale
25 of such tickets as were usually and customarily sold at reduced rates prior to June

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1 15, 1905; provided the same are issued and sold without discrimination to all persons
2 applying therefor under like circumstances and conditions.

3 (2) (a) Railroads Water carriers may give transportation free or at reduced
4 rates to any minister of the gospel, officers or agent of incorporated colleges, inmates
5 of soldiers' homes, regular agents of charitable societies when traveling upon the
6 business of the society only, destitute and homeless persons, railroad water carrier
7 officers, attorneys, physicians, directors, employees or members of their families, or
8 to former railroad water carrier employees or members of their families where the
9 employees have become disabled in the railway water carrier service, or are unable
10 from physical disqualification to continue in the service, or to members of families
11 of deceased railroad water carrier employees.

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

22 (3) Upon any shipment of livestock or other property of such nature as to
23 require the care of an attendant, the railroad water carrier may furnish to the
24 shipper or persons designated by the shipper, free transportation for such attendant,

ASSEMBLY BILL 588**SECTION 86**

1 including return passage to the point at which the shipment originated; provided,
2 there shall be no discrimination in reference thereto.

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

5 **SECTION 87.** 195.15 of the statutes is amended to read:

6 **195.15 Transportation contracts, filed.** Every ~~railroad~~ water carrier shall,
7 when required and within the time fixed by the office, deliver to the office for its use
8 copies of all contracts which relate to the transportation of persons or property, or any
9 service in connection therewith, made or entered into by it with any other ~~railroad~~
10 water carrier or any shipper or other person doing business with it.

11 **SECTION 88.** 195.16 of the statutes is amended to read:

12 **195.16 Pass lists.** Every ~~railroad~~ water carrier shall keep and for 2 years
13 preserve a record of every ~~railroad~~ ticket, pass or mileage book issued to a resident
14 of this state free or for a money consideration less than that charged the general
15 public. Such record shall consist of the name of the recipient, the amount received,
16 and the reason for issuance, and shall be open to inspection by the office upon
17 reasonable notice during such period of 2 years.

18 **SECTION 89.** 195.17 of the statutes is repealed.

19 **SECTION 90.** 195.19 (title) of the statutes is amended to read:

20 **195.19 (title) Depots; relocation Relocation of facilities.**

21 **SECTION 91.** 195.19 (1) of the statutes is repealed.

22 **SECTION 92.** 195.19 (2) of the statutes is amended to read:

23 **195.19 (2) ~~FREIGHT~~ WATER CARRIER FREIGHT.** All ~~railroads~~ water carriers shall
24 keep and maintain adequate and suitable ~~freight depots, buildings, switches and~~

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1 sidetracks and facilities for the receiving, handling and delivering of freight
2 transported or to be transported by such railroads water carriers.

3 **SECTION 93.** 195.19 (3) of the statutes is repealed.

4 **SECTION 94.** 195.21 of the statutes is amended to read:

5 **195.21 Warehouses.** Any person proposing to erect or maintain a public
6 elevator or public warehouse for the purchase, sale, storage, receiving or shipping of
7 grain, or other personal property, to be received from or transported upon any
8 railroad water carrier, shall be furnished by such railroad water carrier at a
9 reasonable rental, a site upon its ~~right-of-way or depot grounds, within the yard~~
10 ~~limits of any station property or terminal of such railroad;~~ and any private elevator
11 or warehouse situated upon such grounds may be converted into a public elevator or
12 warehouse at the option of the owner, upon notice in writing to the railroad water
13 carrier and thereby be permitted to remain thereon under the same conditions as
14 provided herein for a public elevator or warehouse; and the office shall, upon
15 application by such owner, if the public interest so requires, by order, direct the
16 railroad water carrier to furnish such site and the office shall make reasonable
17 regulations therefor and in case of disagreement, the office shall determine the
18 rental therefor. Elevators and warehouses erected or maintained under the
19 foregoing provisions of this section shall be subject to such rules and regulations as
20 to charges and the manner of conducting business as the office shall prescribe.

21 **SECTION 95.** 195.22 and 195.24 of the statutes are repealed.

22 **SECTION 96.** 195.26 of the statutes is amended to read:

23 **195.26 Safety devices; block system.** Every railroad and water carrier shall
24 adopt reasonably adequate safety measures and install, operate and maintain
25 reasonably adequate safety devices for the protection of life and property to the

ASSEMBLY BILL 588**SECTION 96**

1 extent consistent with federal law. If after investigation the office shall determine
2 that public safety requires it, the office may, if permitted under federal law, order the
3 a railroad to install, operate and maintain a block system or order a railroad or water
4 carrier to install, operate, and maintain any other safety device or measure as may
5 be necessary to render the operation of such the railroad or water carrier reasonably
6 safe.

7 **SECTION 97.** 195.27 of the statutes is amended to read:

8 **195.27 Safe tracks and bridges.** Every railroad shall construct and
9 maintain its tracks, bridges and line structures in a reasonably adequate and safe
10 manner. ~~The office may direct the department to investigate complaints in the~~
11 ~~manner provided by s. 195.04. If, upon hearing, the office determines that the track~~
12 ~~or structures of any railroad are inadequate or unsafe for the operation of its railroad,~~
13 ~~the office shall order the railroad to reconstruct or repair the inadequate or unsafe~~
14 ~~track or structures~~ consistent with federal law. The office may participate in federal
15 track inspection programs, including the certification of office staff for track
16 inspection under federal law.

17 **SECTION 98.** 195.28 (5) of the statutes is created to read:

18 **195.28 (5) FEDERAL SIGNAL INSPECTION PROGRAMS.** The office may participate in
19 federal signal inspection programs, including the certification of office staff for signal
20 inspection under federal law.

21 **SECTION 99.** 195.286 (6) (title) of the statutes is amended to read:

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

23 **SECTION 100.** 195.286 (7) of the statutes is amended to read:

ASSEMBLY BILL 588**SECTION 100**

1 195.286 (7) PENALTIES GENERALLY. Any person or corporation upon conviction
2 for the violation of any of the provisions of this section, except sub. (6), shall be fined
3 forfeit not less than \$10 nor more than \$50 for each violation.

4 **SECTION 101.** 195.305, 195.31 and 195.33 of the statutes are repealed.

5 **SECTION 102.** 195.34 of the statutes is amended to read:

6 **195.34 Reports of accidents, investigation.** Every railroad water carrier
7 shall report to the office all collisions, ~~derailments or other~~ accidents resulting in
8 injury to persons, ~~equipment or roadway~~ arising from its operation. The office may
9 issue rules concerning the reporting of accidents by water carriers and may also, if
10 public interests require, cause an investigation of any accident. Every railroad shall
11 submit to the office a copy of any monthly accident or injury report provided by the
12 railroad to the applicable federal authority for all collisions, derailments or other
13 accidents resulting in injury to persons, equipment, or roadway arising from its
14 operation. The office may issue rules concerning the submission of copies of federal
15 reports under this section and may also, to the extent permitted by federal law,
16 participate in any accident investigation.

17 **SECTION 103.** 195.35 (1) of the statutes is amended to read:

18 195.35 (1) If any director, officer, employee or agent of a railroad or water
19 carrier, in the course of the discharge of his or her duties, willfully, wantonly or
20 recklessly causes to be done or permits to be done any matter, act or thing in this
21 chapter prohibited or declared to be unlawful, or willfully, wantonly or recklessly
22 fails to do any act, matter or thing required to be done by this chapter, the railroad
23 or water carrier shall be liable to the person injured thereby in treble the amount of
24 damages sustained in consequence of the violation. No recovery as in this section

ASSEMBLY BILL 588**SECTION 103**

1 provided shall affect a recovery by the state of the penalty prescribed for such
2 violation.

3 **SECTION 104.** 195.36 of the statutes is amended to read:

4 **195.36 General penalty upon railroads and water carriers.** If any
5 railroad or water carrier shall violate any provision of this chapter, or shall do any
6 act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it, for
7 which a penalty has not been provided, or shall fail, neglect or refuse to obey any
8 lawful requirement or order made by the office, or any judgment or decree made by
9 any court upon its application, for every such violation, failure or refusal in respect
10 to any matter prescribed by this chapter such railroad or water carrier shall forfeit
11 not less than \$100 nor more than \$10,000. The act, omission or failure of any officer,
12 agent or other person employed by any railroad or water carrier, acting within the
13 scope of his or her employment, shall be deemed to be the act, omission or failure of
14 such railroad or water carrier.

15 **SECTION 105.** 195.37 (title) of the statutes is amended to read:

16 **195.37 (title) ~~Freight~~ Water carrier freight charges; collection, refund.**

17 **SECTION 106.** 195.37 (1) of the statutes is amended to read:

18 195.37 (1) COMPLAINTS, INVESTIGATIONS, HEARINGS, FINDINGS, REFUND. The office
19 may investigate or direct the department to investigate the complaint of any person
20 aggrieved that the charge exacted by a water carrier for the transportation of
21 property between points in this state, or for any service in connection with
22 transportation of property, or that the charge exacted by a water carrier for the
23 storage of such property, or that any ~~ear service or demurrage~~ charge exacted by a
24 water carrier is erroneous, illegal, unusual or exorbitant and shall set the complaint
25 for hearing as provided in s. 195.04 (2) to (4). If the office finds that the rate or charge

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1 exacted by a water carrier is erroneous, illegal, unusual or exorbitant, it shall find
2 what would have been a reasonable rate or charge for such service. If the rate or
3 charge so found is less than the charge exacted, the carrier shall refund the excess.

4 **SECTION 107.** 195.38 of the statutes is amended to read:

5 **195.38 Freight Water carrier freight bills; examination; refunds.**

6 Within 3 years after the delivery of any shipment of property at destination by a
7 water carrier, any person, firm or corporation may submit to the office, by mail or in
8 person, any ~~railroad~~ water carrier expense bill or receipt showing charges paid for
9 transportation of such property by freight for the purpose of having the expense bill
10 or receipt examined with respect to the correctness of weights, rates and charges
11 indicated thereon. Upon receipt of any such expense bill or receipt, the office may
12 request the department to make such examination as is necessary, and if it is found
13 that any such weights, rates or charges are incorrect, the office shall order the
14 ~~railroad company~~ water carrier in error to refund to the person, firm or corporation
15 which submitted such expense bills or receipts, any over or excessive charges paid
16 by such person, firm or corporation.

17 **SECTION 108.** 195.39 of the statutes is renumbered 196.012 and amended to
18 read:

19 **196.012 Interstate commerce.** ~~Chapters 190 to 196 apply~~ This chapter
20 applies to interstate commerce only so far as the constitution and laws of the United
21 States permit.

22 **SECTION 109.** 195.50 of the statutes is amended to read:

23 **195.50 Information, papers and accounting. (1)** Any officer, agent or
24 employee of any railroad or water carrier who fails to fill out and return any forms
25 required by this chapter, or fails to answer any question therein, or knowingly gives

ASSEMBLY BILL 588**SECTION 109**

1 a false answer to any such question, or evades the answer to any such question where
2 the fact inquired of is within his or her knowledge, or who, upon proper demand, fails
3 to exhibit to the office or department or any person authorized to examine the same,
4 any book, paper, account, record or memoranda of such railroad or water carrier
5 which is in the possession or under control of the officer, agent or employee, or who
6 fails to properly use and keep the system of accounting prescribed by the office, or
7 who refuses to do any act or thing in connection with such system of accounting when
8 so directed by the office or its authorized representatives, shall forfeit not less than
9 \$100 nor more than \$1,000 for each offense.

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

14 **SECTION 110.** 195.60 (title) of the statutes is amended to read:

15 **195.60 (title) Payment of office expenses by railroads and water**
16 **carriers.**

17 **SECTION 111.** 195.60 (1) of the statutes is amended to read:

18 195.60 (1) Whenever the office in a proceeding upon its own motion, on
19 complaint, or upon an application to it deems it necessary in order to carry out the
20 duties imposed upon it by law to investigate the books, accounts, practices and
21 activities of, or make appraisals of the property of any railroad or water carrier or
22 to render any engineering or accounting services to any railroad or water carrier, the
23 railroad or water carrier shall pay the expenses attributable to such investigation,
24 appraisal or service. The office shall ascertain such expenses, including all expenses
25 incurred by the department at the request or direction of the office and shall render

ASSEMBLY BILL 588**SECTION 111**

1 a bill therefor, by mail, to the railroad or water carrier, either at the conclusion of the
2 investigation, appraisal or services, or during its progress. The bill shall constitute
3 notice of assessment and demand of payment thereof. The railroad or water carrier
4 shall, within 30 days after the mailing thereof, pay to the office the amount of the
5 special expense for which it is billed. Ninety percent of the payment shall be credited
6 to the appropriation account under s. 20.155 (2) (g). The total amount, in any one
7 calendar year, for which any railroad or water carrier becomes liable, by reason of
8 costs incurred by the office within such calendar year, shall not exceed four-fifths of
9 one percent of its gross operating revenues derived from intrastate operations in the
10 last preceding calendar year. Where, under this subsection, costs are incurred
11 within any calendar year, which are in excess of four-fifths of one percent of such
12 gross operating revenues, the excess costs shall not be chargeable as part of the
13 remainder under sub. (2) but shall be paid out of the general appropriation to the
14 office. Nothing in this subsection shall prevent the office from rendering bills in one
15 calendar year for costs incurred within a previous year. For the purpose of
16 calculating the costs of investigations, appraisals and other services under this
17 subsection, ~~90%~~ 90 percent of the costs determined shall be costs of the office and ~~10%~~
18 10 percent of the costs determined shall be costs of state government operations.

19 **SECTION 112.** 195.60 (2) of the statutes is amended to read:

20 195.60 (2) The office shall annually, within 90 days after the close of each fiscal
21 year, ascertain the total of its expenditures during such year which are reasonably
22 attributable to the performance of its duties relating to railroads and water carriers.
23 For purposes of such calculation, ~~90%~~ 90 percent of the expenditures so determined
24 shall be expenditures of the office and ~~10%~~ 10 percent of the expenditures so
25 determined shall be expenditures for state government operations. The office shall

ASSEMBLY BILL 588**SECTION 112**

1 deduct therefrom all amounts chargeable to railroads and water carriers under sub.
2 (1) and s. 201.10 (3). A sum equal to the remainder plus 10% 10 percent of the
3 remainder shall be assessed by the office to the several railroads and water carriers
4 in proportion to their respective gross operating revenues during the last calendar
5 year, derived from intrastate operations. Such assessment shall be paid within 30
6 days after the bill has been mailed to the several railroads and water carriers, which
7 bill shall constitute notice of assessment and demand of payment thereof. The total
8 amount which may be assessed to the railroads and water carriers under authority
9 of this subsection shall not exceed ~~1.85%~~ 1.85 percent of the total gross operating
10 revenues of such railroads and water carriers, during such calendar year, derived
11 from intrastate operations. Ninety percent of the payment shall be credited to the
12 appropriation account under s. 20.155 (2) (g). The railroads and water carriers shall
13 furnish such financial information as the office requires for purposes of this section.

14 **SECTION 113.** 195.60 (3) of the statutes is amended to read:

15 195.60 (3) If any railroad or water carrier against which a bill has been
16 rendered under sub. (1) or (2) within 30 days after the rendering of such bill neglects
17 or refuses to pay the same or fails to file objections to the bill with the office, the office
18 shall transmit to the secretary of administration a certified copy of the bill, together
19 with notice of neglect or refusal to pay the bill, and on the same day the office shall
20 mail to the railroad or water carrier against which the bill has been rendered a copy
21 of the notice which it has transmitted to the secretary of administration. Within 10
22 days after the receipt of such notice and certified copy of such bill, the secretary of
23 administration shall levy the amount stated on such bill to be due, with interest, by
24 distress and sale of any goods and chattels, including stocks, securities, bank
25 accounts, evidences of debt, and accounts receivable belonging to such delinquent

ASSEMBLY BILL 588**SECTION 113**

1 railroad or water carrier. Such levy by distress and sale shall be governed by the
2 provisions of s. 74.10, 1985 stats., except that it shall be made by the secretary of
3 administration and that said goods and chattels anywhere within the state may be
4 levied upon.

5 **SECTION 114.** 195.60 (4) (a) of the statutes is amended to read:

6 195.60 (4) (a) Within 30 days after the date of the mailing of any bill as provided
7 by subs. (1) and (2), the railroad or water carrier against which such bill has been
8 rendered may file with the office objections setting out in detail the grounds upon
9 which the objector regards the bill to be excessive, erroneous, unlawful or invalid.
10 The office, after notice to the objector, shall hold a hearing upon such objections, not
11 less than 5 nor more than 10 days after such notice. If after such hearing the office
12 finds any part of the bill to be excessive, erroneous, unlawful or invalid it shall record
13 its findings upon its minutes and transmit to the objector an amended bill, in
14 accordance with such findings. The amended bill shall have in all ways the same
15 force and effect under this section as an original bill rendered under subs. (1) and (2).

16 **SECTION 115.** 195.60 (5) of the statutes is amended to read:

17 195.60 (5) No suit or proceeding shall be maintained in any court for the
18 purpose of restraining or in any way delaying the collection or payment of any bill
19 rendered under subs. (1) and (2). Every railroad or water carrier against which a bill
20 is rendered shall pay the amount thereof, and after such payment may in the manner
21 herein provided, at any time within 2 years from the date the payment was made,
22 sue the state in an action at law to recover the amount paid with legal interest
23 thereon from the date of payment, upon the ground that the assessment was
24 excessive, erroneous, unlawful, or invalid in whole or in part. If it is finally
25 determined in such action that any part of the bill for which payment was made was

ASSEMBLY BILL 588**SECTION 115**

1 excessive, erroneous, unlawful, or invalid, the secretary of administration shall
2 make a refund to the claimant as directed by the court, which shall be charged to the
3 appropriations to the office.

4 **SECTION 116.** 197.10 (4) of the statutes is amended to read:

5 197.10 (4) Insofar as the use, operation, service, management, control, sale,
6 lease, purchase, extension, improvement, rates, value or earnings of the properties
7 of the public utility or provisions looking toward the ultimate acquisition of the same
8 are made subject to the terms of any contract provided for in sub. (1), and so long as
9 said contract remains in force, the following sections of the statutes shall be
10 inapplicable to the same: ss. ~~195.05, 195.10,~~ 196.02 (1) and (2), 196.05, 196.09,
11 196.10, 196.11, 196.15, 196.16, 196.19 (6), 196.20, 196.21, 196.22, 196.26, 196.28,
12 196.30, 196.37, 196.39, 196.40, 196.58, 196.70, 197.01 (2) to (4), 197.02, 197.03,
13 197.04, 197.05, 197.06, 197.08 and 197.09; provided that nothing in any contract
14 made hereunder shall operate to prevent an appeal to the public service commission
15 by any person, other than a party to said contract, upon any complaint alleging that
16 any rate, fare, charge or classification, or any joint rate, or any regulation, act or
17 practice relating to the production, transmission, delivery or furnishing of gas, heat,
18 light or power, or any service in connection therewith, is unjustly discriminatory, or
19 that any such service is inadequate or cannot be obtained. Upon said appeal the
20 commission shall, as provided by law, determine and by order fix a rate, fare, charge,
21 classification, joint rate or regulation, act or practice or service to be imposed,
22 observed or followed in the future in lieu of that found to be unjustly discriminatory
23 or inadequate.

24 **SECTION 117.** 201.01 (1) of the statutes is amended to read:

ASSEMBLY BILL 588**SECTION 117**

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

4 **SECTION 118.** 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 water carrier as
8 defined in s. 195.02, but shall not include a public utility corporation receiving an
9 annual gross revenue of less than \$1,000 for the calendar year next preceding the
10 issuance of any securities by it. “Public service corporation” includes a holding
11 company, as defined under s. 196.795 (1) (h), which is a public utility, as defined
12 under s. 196.01 (5). “Public service corporation” does not include a
13 telecommunications utility, as defined in s. 196.01 (10). “Public service corporation”
14 does not include any other holding company unless the holding company was formed
15 after November 28, 1985, and unless the commission has determined, under s.
16 196.795 (7) (a), that each nonutility affiliate, as defined under s. 196.795 (1) (j), does
17 not and cannot reasonably be expected to do at least one of the items specified in s.
18 196.795 (7) (a). “Public service corporation” does not include a company, as defined
19 in s. 196.795 (1) (f), which owns, operates, manages or controls a telecommunications
20 utility, as defined in s. 196.01 (10), unless such company also owns, operates,
21 manages or controls a public utility which is not a telecommunications utility.
22 “Public service corporation” does not include a transmission company, as defined in
23 s. 196.485 (1) (ge).

24 **SECTION 119.** 201.13 of the statutes is amended to read:

ASSEMBLY BILL 588**SECTION 119**

1 **201.13 Stock.** Subject to the regulatory jurisdiction of the commission under
2 this chapter and to all other applicable provisions of law relating to railroad water
3 carrier or other special types of corporations, all classes and series of stock of a public
4 service corporation shall be governed by the provisions of ch. 180.

5 **SECTION 120.** 706.05 (2m) (b) 2. of the statutes is amended to read:

6 706.05 **(2m)** (b) 2. Descriptions of property that is subject to liens granted on
7 property thereafter acquired by a rural electric cooperative, or a telephone
8 cooperative, organized under ch. 185, by a pipeline company under s. 76.02 (5), by
9 a public utility under s. 196.01 (5) or by a railroad under s. 195.02 (1) or a water
10 carrier under s. 195.02 (5).

11 **SECTION 121.** 706.09 (3) (a) of the statutes is amended to read:

12 706.09 **(3)** (a) *Public service corporations, railroads, electric cooperatives,*
13 *trustees, governmental units.* While owned, occupied or used by any public service
14 corporation, any railroad corporation as defined in s. 195.02 (1), any water carrier
15 as defined in s. 195.02 (5), any electric cooperative organized and operating on a
16 nonprofit basis under ch. 185, or any trustee or receiver of any such corporation or
17 electric cooperative, or any mortgagee or trust deed trustee or receiver thereof; nor
18 any such interest while held by the United States, the state or any political
19 subdivision or municipal corporation thereof; or

20 **SECTION 122. Initial applicability.**

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

23

(END)