



State of Wisconsin
2009 - 2010 LEGISLATURE

soon
in 1/28

LRB-4043/1

ARG:cjs:rs

stays

AMA

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Editors: I don't think that s. 201.10 (3) needs to be amended b/c it refers to "procedure" and it is clear within the text of that section that the 90/10 provisions do apply re ch. 201 securities Issuance investigation and appraisal costs. ARG

SA ✓

Con Cat

1 AN ACT to repeal 15.06 (1) (ar), 15.795, 20.155 (2), 20.923 (4) (e) 11., 25.40 (1) (f)
2 1., 86.001 (2m), chapter 189, 192.001 (2), 192.327 (4), 192.327 (5), 195.001 (2),
3 195.60 (7) (intro.) and 195.60 (7) (b); to renumber and amend 195.60 (7) (a);
4 to amend 15.03, 15.79, 20.395 (2) (gq), 26.20 (3), 26.20 (10), 30.33 (1), 30.33 (2),
5 66.0801 (2), 84.05, 86.12 (2), 86.13 (3), 88.66 (2), 88.87 (4), 88.88 (2), 182.36 (3),
6 190.02 (6), 190.025 (2) (b), 190.03, 190.13, 190.16 (5), 191.001, 191.01 (2),
7 191.03, 191.05, 191.07, 191.09 (1), 191.09 (2), 191.10 (1), 191.10 (2), 191.10 (3),
8 191.11, 191.13 (2), 191.16, 191.17, 191.19 (1), 191.19 (3), 191.20, 191.21, 192.15
9 (14), 192.25 (3) (a), 192.27 (1), 192.29 (4), 192.31 (1) (b), 192.31 (2), 192.31 (4),
10 192.31 (5), 192.324, 192.327 (3), 192.327 (6), 192.327 (7), 192.33 (5), 192.34,
11 192.47, 192.52 (3), 192.52 (4), 192.52 (5), 192.53 (4) (a), 192.53 (4) (b), 192.53 (5)
12 (a) (intro.), 192.53 (6), 192.55 (5), 192.56 (1), 192.56 (2), 192.56 (3), 192.56 (5),
13 192.56 (6), 195.03 (title), 195.03 (1), 195.03 (2), 195.03 (7), 195.03 (8), 195.03 (9),
14 195.03 (10), 195.03 (11), 195.03 (12), 195.03 (13), 195.03 (14), 195.03 (15), 195.03
15 (16), 195.03 (17), 195.03 (18), 195.03 (19), 195.03 (25), 195.03 (28), 195.03 (29),

1 195.03 (30) (a), 195.03 (30) (b), 195.04 (1), 195.04 (2), 195.04 (3), 195.041,
 2 195.042, 195.043 (1), 195.043 (2), 195.044 (1), 195.044 (2), 195.045, 195.046,
 3 195.05 (title), 195.05 (1), 195.05 (2), 195.05 (4), 195.055, 195.06, 195.07 (1),
 4 195.07 (2), 195.08 (2), 195.08 (7), 195.08 (9), 195.10, 195.15, 195.16, 195.20,
 5 195.21, 195.26, 195.28 (1), 195.28 (1m), 195.28 (3), 195.28 (4), 195.285 (1),
 6 195.285 (2), 195.285 (3), 195.286 (2), 195.286 (5), 195.286 (8), 195.29 (1), 195.29
 7 (2), 195.29 (3), 195.29 (4), 195.29 (5), 195.29 (6), 195.29 (7), 195.30 (1), 195.31,
 8 195.32, 195.34, 195.36, 195.37 (1), 195.37 (2), 195.37 (3), 195.37 (4) (a), 195.38,
 9 195.45 (1), 195.45 (2), 195.45 (4), 195.50 (1), 195.60 (title), 195.60 (1), 195.60 (2),
 10 195.60 (3), 195.60 (4), 195.60 (5), 195.60 (6), 201.01 (1), 226.025 (3), 227.01 (13)
 11 (s), 227.43 (4) (b), 227.46 (2m), 227.46 (3) (intro.), 281.36 (1) (cr), 346.45 (3) (d),
 12 350.137 (1), 350.138 (4) (c), 350.138 (9), 350.139 (5), 350.1395 (2) (b) 2., 350.1395
 13 (2) (b) 3. (intro.), 350.1395 (4) (b), 552.23 (1) and 945.06; **to repeal and**
 14 **recreate** 190.001; and **to create** 20.395 (2) (gg), 25.40 (1) (a) 12m., 85.013 (3),
 15 192.001 (1r), 195.001 (1r), 195.001 (3), 195.29 (9), 195.325 and 227.43 (1) (bk)
 16 of the statutes; **relating to:** eliminating the Office of the Commissioner of
 17 Railroads and transferring the office's duties to the Department of
 18 Transportation, the Department of Financial Institutions, and the Division of
 19 Hearings and Appeals in the Department of Administration and making an
 20 appropriation.

funding of railroad and water carrier regulations

Analysis by the Legislative Reference Bureau

Under current law, the Office of the Commissioner of Railroads (office) regulates railroad and water carrier activities in Wisconsin. This bill eliminates the office, effective July 1, 2011, and generally transfers its functions to the Department of Transportation (DOT), with DOT orders reviewed by the Division of Hearings and Appeals (division) in the Department of Administration. In addition, any other function of the office having the character of contested case resolution is transferred

to the division. The bill also transfers certain functions of the office relating to railroad organization to the Department of Financial Institutions. The bill transfers 4.0 FTE positions to DOT.

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

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

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

2 **15.03 Attachment for limited purposes.** Any division, office, commission,
3 council or board attached under this section to a department or independent agency
4 or a specified division thereof shall be a distinct unit of that department, independent
5 agency or specified division. Any division, office, commission, council or board so
6 attached shall exercise its powers, duties and functions prescribed by law, including
7 rule making, licensing and regulation, and operational planning within the area of
8 program responsibility of the division, office, commission, council or board,
9 independently of the head of the department or independent agency, but budgeting,
10 program coordination and related management functions shall be performed under
11 the direction and supervision of the head of the department or independent agency,
12 ~~except that with respect to the office of the commissioner of railroads, all personnel~~
13 ~~and biennial budget requests by the office of the commissioner of railroads shall be~~
14 ~~provided to the department of transportation as required under s. 189.02 (7) and~~
15 ~~shall be processed and properly forwarded by the public service commission without~~
16 ~~change except as requested and concurred in by the office of the commissioner of~~
17 railroads.

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

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

1 **15.79 Public service commission; creation.** There is created a public
 2 service commission. No member of the commission may have a financial interest in
 3 a ~~railroad, water carrier, or~~ public utility. If any member voluntarily becomes so
 4 interested, the member's office shall become vacant. If the member involuntarily
 5 becomes so interested, the member's office shall become vacant unless the member
 6 divests himself or herself of the interest within a reasonable time. No commissioner
 7 may serve on or under any committee of a political party. Each commissioner shall
 8 hold office until a successor is appointed and qualified.

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

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

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

12 20.395 (2) (gg) ^{and water carrier} ~~Railroad~~ payments. From the general fund, all moneys received
 13 from ^{and water carriers} railroads under s. 195.60 and credited to this appropriation account for
 14 activities related to ^{and water carrier} railroad regulation under chs. 190 to 195 ~~for such purposes~~.

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

16 20.395 (2) (gq) *Railroad crossing improvement and protection maintenance*
 17 *and railroad regulation, state funds.* The amounts in the schedule to pay the costs
 18 for railroad crossing protection maintenance under s. 195.28 (3) and for activities
 19 related to railroad regulation under chs. 190 to 195.

20 **SECTION 8.** 20.923 (4) (e) 11. of the statutes is repealed.

21 **SECTION 9.** 25.40 (1) (a) 12m. of the statutes is created to read:

22 25.40 (1) (a) 12m. Moneys collected under s. 195.60 that are deposited in the
 23 general fund, 90 percent of which are credited to the appropriation under s. 20.395
 24 (2) (gg).

25 **SECTION 10.** 25.40 (1) (f) 1. of the statutes is repealed.

1 **SECTION 11.** 26.20 (3) of the statutes is amended to read:

2 **26.20 (3) LOCOMOTIVE INSPECTOR; POWERS.** Any locomotive inspector designated
3 by the department shall have the power to reject from service immediately any
4 locomotive, donkey, traction, or portable engine which, in the opinion of the inspector,
5 is deficient in adequate design, construction, or maintenance of the fire protective
6 devices designated in sub. (2), and any such locomotive, donkey, traction, or portable
7 engine so rejected from service shall not be returned to service until such defects have
8 been remedied to the satisfaction of the locomotive inspector. In case of disagreement
9 between the inspector and the owner of the locomotive, donkey, traction, or portable
10 engine so rejected from service as to the efficiency or proper maintenance of said
11 protective devices, then the owner of the locomotive, donkey, traction, or portable
12 engine may appeal to the ~~office of the commissioner of railroads~~ division of hearings
13 and appeals in the department of administration for a decision of said matter, but
14 pending such decision the locomotive, donkey, traction, or portable engine shall not
15 be returned to service.

16 **SECTION 12.** 26.20 (10) of the statutes is amended to read:

17 **26.20 (10) APPEAL TO ~~OFFICE OF THE COMMISSIONER OF RAILROADS~~ DIVISION OF**
18 **HEARINGS AND APPEALS.** In case the department and any person operating any
19 locomotive, donkey, or threshing engine, or any engine, boiler, or locomotive cannot
20 agree as to the most practicable device or devices for preventing the escape of sparks,
21 cinders, or fire from smokestacks, ash pans or fire boxes, then the same shall be
22 determined by the ~~office of the commissioner of railroads~~ division of hearings and
23 appeals in the department of administration.

24 **SECTION 13.** 30.33 (1) of the statutes is amended to read:

1 30.33 (1) BOARD TO HAVE POWERS OF RAILROAD CORPORATION. Any municipality
2 operating a public harbor through a board of harbor commissioners may, through
3 such board, construct, maintain or operate railway facilities or a harbor belt line
4 connecting various harbor facilities with one another or with other railroads within
5 the municipality or its vicinity. The board of harbor commissioners is granted all of
6 the rights, powers and privileges conferred upon railroad corporations by ss. 190.02
7 and 190.025 (3), except such rights, powers and privileges as are conferred upon
8 railroad corporations by s. 190.02 (9). Such facilities or belt line may be constructed,
9 maintained or operated partly outside the corporate limits of the municipality. In
10 constructing, maintaining or operating such facilities or belt line, the board of harbor
11 commissioners has the powers and privileges of railroad corporations and shall be
12 subject to the same restrictions as railroad corporations and to the supervision of the
13 ~~office of the commissioner of railroads~~ department of transportation, except as to the
14 system of accounting and the payment of wages to employees.

15 **SECTION 14.** 30.33 (2) of the statutes is amended to read:

16 30.33 (2) MUNICIPALITY MAY ORGANIZE HARBOR RAILWAY CORPORATION. Any
17 municipality mentioned in sub. (1) may, with the consent of its board of harbor
18 commissioners, organize a railroad corporation for the purpose of constructing,
19 maintaining or operating a harbor belt line or may subscribe for stock in an existing
20 railroad corporation organized for such purpose. If the municipality decides to
21 organize a railroad corporation for such purpose, the governing body thereof may, by
22 resolution, authorize the chief executive officer or presiding officer of such
23 municipality to act, together with 4 citizens to be designated by the officer, as
24 incorporators of such company. Such incorporators shall proceed to incorporate the
25 railroad corporation in accordance with chs. 190 to 192, so far as applicable. Such

1 harbor railroad corporation is subject to the supervisory and regulatory powers of the
2 ~~office of the commissioner of railroads~~ department of transportation to the same
3 extent as other railroad corporations. The municipality may subscribe to the stock
4 of such harbor railroad corporation and may pay for such stock out of any funds it
5 may lawfully have available for that purpose, including the proceeds of harbor
6 improvement bonds.

7 **SECTION 15.** 66.0801 (2) of the statutes is amended to read:

8 66.0801 (2) Sections 66.0803 to 66.0825 do not deprive the ~~office of the~~
9 ~~commissioner of railroads~~, department of transportation or public service
10 commission of any power under ss. 195.05 and 197.01 to 197.10 and ch. 196.

11 **SECTION 16.** 84.05 of the statutes is amended to read:

12 **84.05 Railroad crossing improvements.** On a highway which the
13 department has authority to construct and which crosses a railroad, if the
14 department determines that the construction or reconstruction of a grade separation
15 or the rearrangement or elimination of a grade crossing or other rearrangement of
16 the highway or tracks is necessary in the interest of public safety or for convenience
17 of public travel, the department shall make a plan of the construction proposed and
18 an estimate of the cost thereof, including the cost of needed right-of-way; and shall
19 endeavor to make an arrangement with all persons concerned as to all matters
20 involved in the plan, including the portion of the cost of the contemplated work which
21 the persons shall defray. If the department is unable to contract with the persons
22 concerned as to the distribution and payment of the cost of the work or the
23 maintenance thereof, the department shall ~~lay the matter before the office of the~~
24 ~~commissioner of railroads~~, and ~~the office of the commissioner of railroads shall~~
25 ~~review the proceedings and hold a hearing thereon in accordance with ss. 195.28 and~~

1 195.29, and shall fix the portion of the cost of the construction and of the maintenance
2 which is to be paid by the persons or corporations concerned, and the portion of the
3 cost, if any, to be paid by the public, which portion shall be paid from the
4 transportation fund. The ~~office of the commissioner of railroads~~ department shall
5 determine the benefits, if any, which will inure to other highways, and apportion and
6 charge to the units of government responsible for the construction of such other
7 highways a fair portion of the cost. If an interested party objects to the department's
8 order under this section and requests a hearing, the department shall refer the order
9 to the division of hearings and appeals for review as provided in s. 195.325.

10 **SECTION 17.** 85.013 (3) of the statutes is created to read:

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

20 **SECTION 18.** 86.001 (2m) of the statutes is repealed.

21 **SECTION 19.** 86.12 (2) of the statutes is amended to read:

22 86.12 (2) If a railroad company fails to comply with the resolution in sub. (1)
23 within 30 days after service of the resolution, the county board, common council,
24 village board or town board may file a complaint with the ~~office~~ department alleging
25 the failure. The ~~office~~ department shall investigate and determine the matter in

1 controversy as provided in ch. 195. An order issued by the ~~office~~ department under
2 this subsection has the same effect as an order in a proceeding brought under ch. 195.

3 **SECTION 20.** 86.13 (3) of the statutes is amended to read:

4 86.13 (3) If any railroad company fails to grade, construct, pave, surface or
5 otherwise improve or maintain in good and safe condition for public travel as
6 required by this section any street or highway crossing after having been notified so
7 to do by the officer in charge thereof or of the highway improvement for 30 days after
8 such notification, the highway authorities may file a complaint with the ~~office~~
9 department. The ~~office~~ department shall investigate and determine the matter in
10 controversy as provided in ch. 195. An order issued by the ~~office~~ department under
11 this subsection has the same effect as an order in a proceeding brought under ch. 195.

12 **SECTION 21.** 88.66 (2) of the statutes is amended to read:

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

1 ~~with ch. 195, and any order it makes in such proceeding has the same effect as an~~
2 ~~order in any other proceeding properly brought under ch. 195.~~

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

4 88.87 (4) If a railway company fails to comply with sub. (2), any person
5 aggrieved thereby may file a complaint with the ~~office of the commissioner of~~
6 ~~railroads~~ division of hearings and appeals in the department of administration
7 setting forth the facts. The ~~office~~ division of hearings and appeals shall investigate
8 and determine the matter in controversy ~~in accordance with ch. 195, and any order~~
9 ~~it makes in such proceeding has the same effect as an order in any other proceeding~~
10 ~~properly brought under ch. 195.~~

11 **SECTION 23.** 88.88 (2) of the statutes is amended to read:

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

19 **SECTION 24.** 182.36 (3) of the statutes is amended to read:

20 182.36 (3) The corporation may enter into contracts with public utilities,
21 ~~including and~~ and railroads, for the removal or change in location of the lines of such
22 public utilities and railroads where the same is deemed necessary by the corporation
23 in the construction of the project. Such contracts shall be for the payment of damages
24 caused the utilities and railroads by the relocation of their lines. In the event the
25 corporation and the utility or railroad are unable to reach an agreement, the public

1 service commission in the case of a utility or the department of transportation in the
2 case of a railroad shall direct the manner, location and time allowed for the change
3 in the utility or railroad line and the corporation shall be liable for the reasonable
4 costs of such change. In the event the public utility or railroad fails to comply with
5 the order of the public service commission or department of transportation it shall
6 be liable to the corporation for all damages occasioned by such failure.

7 **SECTION 25.** Chapter 189 of the statutes is repealed.

8 **SECTION 26.** 190.001 of the statutes is repealed and recreated to read:

9 **190.001 Definition.** In this chapter, "division of hearings and appeals" means
10 the division of hearings and appeals in the department of administration.

11 **SECTION 27.** 190.02 (6) of the statutes is amended to read:

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

19 **SECTION 28.** 190.025 (2) (b) of the statutes is amended to read:

20 190.025 (2) (b) A railroad corporation that is subject to this subsection shall
21 have all powers conferred by law upon railroad corporations. The railroad
22 corporation may issue, sell, pledge or otherwise dispose of its evidences of debt, at
23 such times, in such amounts, for such considerations and upon such terms and
24 conditions as the board of directors of the corporation shall determine, and as shall
25 be authorized by the ~~office~~ department of financial institutions, or the federal surface

1 transportation board in the case of a railroad corporation organized for the purpose
2 of acquiring a railroad engaged in interstate commerce, or any existing railroad
3 corporation reorganized under the act and acquiring railroad property used in
4 interstate commerce. The evidences of debt may be convertible, at the option of the
5 holder, into stock, and shares of stock. The shares may have a nominal or par value
6 or, if the shares are shares of common stock, be without nominal or par value. The
7 shares may be of such classes, with such rights and voting powers as may be
8 expressed in the corporation's articles or any amendment thereto.

9 SECTION 29. 190.03 of the statutes is amended to read:

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

25 SECTION 30. 190.13 of the statutes is amended to read:

1 **190.13 Report to stockholders.** Every railroad corporation shall make an
2 annual report to its stockholders of its operations for the preceding calendar year, or
3 for its fiscal year, as the case may be, which report shall contain a balance sheet
4 showing its assets and liabilities, its capital stock, and funded debt, and an income
5 account showing its operating revenues, operating expenses, gross and net income,
6 as the result of its traffic or business operations, and such other information in
7 respect of its affairs as the board of directors shall deem advisable. A copy of each
8 such report shall be kept on file in its principal office in this state, shall be mailed
9 to each stockholder whose post-office address is known and shall be filed with the
10 ~~office of the commissioner of railroads~~ department of financial institutions.

11 **SECTION 31.** 190.16 (5) of the statutes is amended to read:

12 190.16 (5) REMOVAL, WHEN. When a spur track has been abandoned, as defined
13 in s. 85.09, the ~~office~~ department of transportation or the division of hearings and
14 appeals, after hearing held upon notice to all parties interested and for good cause
15 shown, may order the removal of the track except that, if no objection has been filed
16 with the ~~office~~ department of transportation or the division of hearings and appeals
17 within 20 days from the original notice, the ~~office~~ department of transportation or
18 the division of hearings and appeals may without hearing authorize the removal of
19 the track.

20 **SECTION 32.** 191.001 of the statutes is amended to read:

21 **191.001 Definition.** In this chapter, “~~office~~” “department” means the ~~office of~~
22 ~~the commissioner of railroads~~ department of transportation.

23 **SECTION 33.** 191.01 (2) of the statutes is amended to read:

24 191.01 (2) CONSTRUCTION, CERTIFICATE FROM ~~OFFICE~~ DEPARTMENT PREREQUISITE.
25 No railroad corporation shall begin the construction of any proposed line of railroad

1 in this state until it shall have obtained from the office department a certificate that
2 public convenience and a necessity require the construction of the railroad, and the
3 certificate shall constitute the license from this state to the company to build its
4 proposed railroad.

5 **SECTION 34.** 191.03 of the statutes is amended to read:

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

12 **SECTION 35.** 191.05 of the statutes is amended to read:

13 **191.05 Maps and profiles with application; changes.** Complete maps and
14 profiles of the proposed railroad shall be filed with the application for a certificate
15 of convenience and necessity. The office department may permit errors, omissions
16 or defects in the application, maps and profiles to be supplied or corrected, and
17 permit changes in the proposed route to be made.

18 **SECTION 36.** 191.07 of the statutes is amended to read:

19 **191.07 Hearing of applicants; notice.** Upon receiving such application the
20 office department shall set a time and place for a hearing, which time shall not be
21 less than 3 weeks nor more than 8 weeks from the date of filing the application, and
22 the place shall be at the city of Madison, or at some place along the line of the
23 proposed railroad, if the office department deems the latter more convenient, and
24 shall give to the applicant notice thereof, which notice shall be published by the
25 applicant, as a class 2 notice, under ch. 985, in each county in which the railroad,

1 extension or branch is proposed to be located, and proof of such publication shall be
2 filed with the ~~office~~ department.

3 **SECTION 37.** 191.09 (1) of the statutes is amended to read:

4 191.09 (1) ~~BEFORE THE OFFICE~~ DEPARTMENT. The provisions of ch. 195 relating
5 to the subpoenaing of witnesses, the production of books, documents and papers, the
6 administration of oaths, punishment for disobedience of an order of the ~~office of the~~
7 ~~commissioner of railroads~~ department, or of a subpoena, or for refusal of a witness
8 to be sworn or to testify, witness fees, taking depositions, the keeping of a record of
9 the proceedings, the taking of testimony, transcribing the evidence, or relating to the
10 procedure before the ~~office~~ department not inconsistent with this chapter shall apply
11 to all proceedings under this chapter.

12 **SECTION 38.** 191.09 (2) of the statutes is amended to read:

13 191.09 (2) COURT REVIEW OF ORDERS. Orders of the ~~office~~ department under this
14 chapter shall be subject to review in the manner provided in ch. 227.

15 **SECTION 39.** 191.10 (1) of the statutes is amended to read:

16 191.10 (1) ISSUANCE, FILING, RECORDING, CONDEMNATION. If the ~~office of the~~
17 ~~commissioner of railroads~~ department finds that the proposed railroad would be a
18 public convenience and that a necessity requires its construction, the ~~office of the~~
19 ~~commissioner of railroads~~ department shall enter an order to that effect and issue
20 to the applicant a certificate that public convenience and a necessity require the
21 construction of the railroad as proposed. The certificate shall be filed in the office of
22 the department of financial institutions and the department of financial institutions
23 shall approve the map showing the route of the railroad. The applicant shall record
24 the map certified by the ~~office of the commissioner of railroads~~ department in the
25 office of the register of deeds in each county in which the railroad shall be located.

1 The filing of the certificate with the department of financial institutions and the
2 recording of the map, as above provided, are conditions precedent to the right of the
3 applicant to institute condemnation proceedings.

4 **SECTION 40.** 191.10 (2) of the statutes is amended to read:

5 191.10 (2) CERTIFICATE FOR PART OF LINE. Whenever it shall appear to the ~~office~~
6 department that public convenience and a necessity do not require the construction
7 of the railroad as proposed in the application, but do require the construction of a part
8 thereof, the ~~office~~ department may issue a certificate for the construction of such part
9 of the railroad as public convenience and necessity require.

10 **SECTION 41.** 191.10 (3) of the statutes is amended to read:

11 191.10 (3) REFUSAL OF CERTIFICATE; RENEWAL OF APPLICATION. If the ~~office shall~~
12 department determines that the proposed railroad is not a necessity or is
13 not required by public convenience, the ~~office~~ department shall by order refuse to
14 grant a certificate, stating the reasons for the refusal. The application may be
15 renewed after 2 years from the date of the refusal, but not sooner.

16 **SECTION 42.** 191.11 of the statutes is amended to read:

17 **191.11 Revocation of certificate.** If any railroad company after obtaining
18 a certificate that public convenience and a necessity require the construction of the
19 whole or part of its railroad fails to begin construction within one year from the date
20 of the certificate, or having begun such construction, fails to prosecute the same, the
21 ~~office~~ department may inquire into the reasons for such failure and may revoke the
22 certificate, if the ~~office~~ department finds, after notice and hearing, that such failure
23 is unreasonable.

24 **SECTION 43.** 191.13 (2) of the statutes is amended to read:

1 191.13 (2) No railroad corporation shall exercise such power until it has
2 obtained from the ~~office~~ department a certificate that public convenience and
3 necessity require the construction of the temporary railroad, and the certificate shall
4 constitute the license to the company to build its proposed temporary railroad. The
5 certificate shall specify the length of time the railroad may be maintained and
6 operated, and may be renewed from time to time upon application by the railroad
7 company. At the expiration of the time specified in the certificate, or any renewal
8 thereof, the railroad company shall discontinue, dismantle and remove the
9 temporary railroad; and may prior to the expiration of such time, upon order of the
10 ~~office~~ department, and after a hearing, upon notice to all parties interested and good
11 cause shown, discontinue, dismantle and remove the railroad.

12 **SECTION 44.** 191.16 of the statutes is amended to read:

13 **191.16 Construction items submitted to ~~office~~ department.** Upon
14 receiving the certificate of public convenience and necessity, the applicant shall
15 before commencing construction submit to the ~~office~~ department a condensed
16 specification of the character of construction that the applicant proposes to install,
17 showing the kind, quality and weight of the rail proposed to be used, the mode of
18 construction, character, quality, and strength of all bridges, culverts and viaducts,
19 the abutments and approaches proposed to be built, the grade of and proposed
20 method of draining the roadbed, and the kind of power to be used and the plant and
21 appliances to be employed in power production, and such other facts relating to the
22 construction of the proposed railroad as the ~~office~~ department requires.

23 **SECTION 45.** 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~~ department shall examine the same

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

10 **SECTION 46.** 191.19 (1) of the statutes is amended to read:

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

20 **SECTION 47.** 191.19 (3) of the statutes is amended to read:

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

1 expense of constructing, maintaining and operating such protective appliances
2 among the owners of the tracks.

3 **SECTION 48.** 191.20 of the statutes is amended to read:

4 **191.20 Railroad routes; right to alter.** Every railroad company may, by the
5 vote of two-thirds of its directors, alter or change the route of its railroad, by making
6 and filing with the ~~office of the commissioner of railroads~~ department and the
7 department of financial institutions and also by recording in the office of the register
8 of deeds of the county or counties where the alteration or change is to be made, a
9 surveyed map and certificate of the alteration or change. The alteration or change
10 may not deviate from the original route for a greater distance than one mile at any
11 point. No city or village may be left off the railroad by the change of route. The
12 original end points of the railroad, or the route in any city or village, shall not be
13 changed without the approval of the ~~office of the commissioner of railroads~~
14 department of transportation after notice to the municipality.

15 **SECTION 49.** 191.21 of the statutes is amended to read:

16 **191.21 Notices in counties without newspapers.** If no newspaper is
17 published in any county in which a railroad is proposed to be located, the publications
18 required by this chapter may be made in such manner and at such places as the ~~office~~
19 department shall designate.

20 **SECTION 50.** 192.001 (1r) of the statutes is created to read:

21 192.001 (1r) "Division of hearings and appeals" means the division of hearings
22 and appeals in the department of administration.

23 **SECTION 51.** 192.001 (2) of the statutes is repealed.

24 **SECTION 52.** 192.15 (14) of the statutes is amended to read:

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

7 **SECTION 53.** 192.25 (3) (a) of the statutes is amended to read:

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

11 **SECTION 54.** 192.27 (1) of the statutes is amended to read:

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

21 **SECTION 55.** 192.29 (4) of the statutes is amended to read:

22 192.29 (4) HIGHWAYS; BELL. No railroad train or locomotive shall run over any
23 public traveled grade highway crossing outside of the limits of municipalities unless
24 the engine bell shall be rung continuously from 1,320 feet before the crossing until

1 the crossing is reached. But the ~~office~~ department may order that the ringing of the
2 bell as required by this subsection shall be omitted at any crossing.

3 **SECTION 56.** 192.31 (1) (b) of the statutes is amended to read:

4 192.31 (1) (b) If the ~~office~~ department finds that the absence of a telltale would
5 create an unreasonable risk of harm to the public or a railroad employee on a railroad
6 not under the jurisdiction of the federal railroad administration, the ~~office~~
7 department may enter an order requiring the installation of a telltale. A telltale
8 shall be ordered by the ~~office~~ department according to the hearing procedure
9 provided under sub. (4).

10 **SECTION 57.** 192.31 (2) of the statutes is amended to read:

11 192.31 (2) The ~~office~~ department may determine the materials for and the
12 construction and placing of such telltales.

13 **SECTION 58.** 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~~ department may
17 exempt such structure from such provision. Such findings shall be made only upon
18 written application, setting forth fully the grounds therefor and shall be made only
19 after public hearing held upon notice to all interested parties except that, if no
20 objection is filed with the ~~office~~ department within 20 days of the notice, the ~~office~~
21 department may require the installation of a telltale without hearing. The findings
22 and order requiring the installation of a telltale shall be in writing and contain
23 complete provisions and requirements as to the vertical clearance to be maintained
24 in such construction or reconstruction. Such structure shall be constructed or
25 reconstructed only in compliance with such order.

1 **SECTION 59.** 192.31 (5) of the statutes is amended to read:

2 192.31 (5) Prior to July 1, in each year every corporation operating a railroad
3 within the state shall file with the ~~office~~ department a verified statement showing
4 the location of every such bridge or other structure over any of its tracks at a height
5 of less than 23 feet above the top of rail, together with a statement showing whether
6 or not the provisions of this section have been fully complied with.

7 **SECTION 60.** 192.324 of the statutes is amended to read:

8 **192.324 Railroad bridges to be safe for employees.** Whenever a complaint
9 is lodged with the ~~office~~ department by any person to the effect that a railroad bridge
10 because of its style of construction does not have walks or railings and for that reason
11 is dangerous to the life and limb of railroad employees and the safety of such
12 employees requires the alteration so as to provide for such walks and railings of such
13 bridge, the ~~office~~ department shall give notice to the party in interest, other than the
14 complainant, of the filing of the complaint and furnish such party with a copy thereof,
15 and order a hearing thereon, in the manner provided for hearings in s. 195.31. The
16 ~~office~~ department may proceed in a similar manner in the absence of a complaint
17 when, in the opinion of the ~~office~~ department, the safety of railroad employees
18 requires the alteration of a railroad bridge. After the hearing, the ~~office~~ department
19 shall determine what alteration, if any, of such bridge, shall be made. The expense
20 of such alteration shall be borne by the railroad company. If an interested party
21 objects to the department's order under this section and requests a hearing, the
22 department shall refer the order to the division of hearings and appeals for review
23 as provided in s. 195.325.

24 **SECTION 61.** 192.327 (3) of the statutes is amended to read:

1 192.327 (3) The ~~office~~ department shall make and enforce reasonable rules
2 relating to motor vehicles used to transport workers to and from their places of
3 employment or during the course of their employment.

4 **SECTION 62.** 192.327 (4) of the statutes is repealed.

5 **SECTION 63.** 192.327 (5) of the statutes is repealed.

6 **SECTION 64.** 192.327 (6) of the statutes is amended to read:

7 192.327 (6) The ~~office~~ department may, in enforcing the rules, inspect any
8 motor vehicle used to transport workers to and from their places of employment or
9 during the course of their employment. ~~Upon request of the office, the department~~
10 ~~shall direct its traffic officers to assist the office in those inspections.~~

11 **SECTION 65.** 192.327 (7) of the statutes is amended to read:

12 192.327 (7) Whenever the ~~office~~ department finds that a motor vehicle used to
13 transport workers to and from their places of employment or during the course of
14 their employment violates any provision of the rules, the ~~office~~ department shall
15 make, enter and serve upon the owner of the motor vehicle such order as may be
16 necessary to protect the safety of workers transported in the motor vehicle.

17 **SECTION 66.** 192.33 (5) of the statutes is amended to read:

18 192.33 (5) The maintenance of cattle guards may be omitted by the railroad
19 company with the written consent of the ~~office~~ department specifying the particular
20 crossings.

21 **SECTION 67.** 192.34 of the statutes is amended to read:

22 **192.34 Fences; complaint of insufficient; hearing; order.** Upon
23 complaint ~~to the division of hearings and appeals~~ by the owner or occupant of any
24 land contiguous to the right-of-way of any railroad that the railroad company
25 operating the line has failed to construct or keep in good repair fences along its

1 right-of-way opposite to the complainant's land as required under s. 192.33, the
2 office division of hearings and appeals shall proceed on the complaint in the manner
3 provided in ~~s. 195.04~~ under ch. 227. If it shall appear that the complaint is well
4 founded, the office division of hearings and appeals may order and direct the railroad
5 company to repair the complained of fences so that the fences will be sufficient or to
6 construct legal fences.

7 **SECTION 68.** 192.47 of the statutes is amended to read:

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

1 **SECTION 69.** 192.52 (3) of the statutes is amended to read:

2 192.52 (3) No railroad company operating in this state shall remove its shops
3 from the place where the same are now located to any other point within or without
4 this state or permanently close any shops in this state without first having secured
5 ~~the consent and permission of the office~~ an order for such removal from the division
6 of hearings and appeals, after due notice and public hearing, and in all other respects
7 as provided for hearings in ch. 195 227. The ~~office~~ division of hearings and appeals
8 shall render its decision within 30 days after such hearing.

9 **SECTION 70.** 192.52 (4) of the statutes is amended to read:

10 192.52 (4) No railroad company operating in this state shall remove or transfer
11 its terminals or permanently close any terminals in this state without ~~the permission~~
12 ~~or consent of the office~~ an order for such removal, transfer or closing from the division
13 of hearings and appeals after due hearing had on the matter, in compliance with ch.
14 195 227.

15 **SECTION 71.** 192.52 (5) of the statutes is amended to read:

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

1 **SECTION 72.** 192.53 (4) (a) of the statutes is amended to read:

2 192.53 (4) (a) Upon finding that any structure that is subject to the provisions
3 of this section will not imperil life or limb, and that the public interest requires or
4 permits the structure to be constructed or reconstructed otherwise than as permitted
5 by the provisions of this section, the office department may exempt the structure
6 from the provisions of this section.

7 **SECTION 73.** 192.53 (4) (b) of the statutes is amended to read:

8 192.53 (4) (b) The office department shall make the findings described in par.
9 (a) only upon written application to it to exempt the construction or reconstruction
10 of a structure from the requirements of this section, setting forth fully the grounds
11 therefor, and only after public hearing held upon notice to all interested parties
12 except that, if no objection is filed with the office department within 20 days of the
13 notice, the office department may authorize the exemption without hearing. The
14 office's department's findings and order granting the exemption shall be in writing
15 and shall contain complete provisions and requirements as to the horizontal
16 clearance to be maintained in the construction or reconstruction. The structure shall
17 be constructed or reconstructed only in compliance with the office's department's
18 order.

19 **SECTION 74.** 192.53 (5) (a) (intro.) of the statutes is amended to read:

20 192.53 (5) (a) (intro.) Except as otherwise provided in this section and subject
21 to the power of the office department to make exceptions to this section in a manner
22 similar to the power given it in sub. (4), no railroad or shipper may do any of the
23 following:

24 **SECTION 75.** 192.53 (6) of the statutes is amended to read:

1 192.53 (6) Any railroad or shipper to which this section applies, who violates
2 any provision of this section or who fails, neglects or refuses to obey any lawful order
3 made by the office department under this section, shall forfeit not less than \$100 nor
4 more than \$200.

5 **SECTION 76.** 192.55 (5) of the statutes is amended to read:

6 192.55 (5) Any corporation or person operating a railroad that shall fail to erect
7 the telltales required by s. 192.31 for the space of 60 days after notice from the office
8 department requiring such erection shall forfeit not less than \$50 nor more than
9 \$100, and each 20 days' delay thereafter in erecting such telltales shall be a separate
10 offense.

11 **SECTION 77.** 192.56 (1) of the statutes is amended to read:

12 192.56 (1) It is unlawful for any railroad company owning or operating any
13 railroad in whole or in part in this state, to abandon any station in any town, village
14 or city on its line of railroad, within this state, or to remove the depot therefrom, or
15 to withdraw agency service therefrom, without first obtaining from the office division
16 of hearings and appeals an order authorizing such action.

17 **SECTION 78.** 192.56 (2) of the statutes is amended to read:

18 192.56 (2) At a station where agency service is provided the application to the
19 office division of hearings and appeals for such authorizing order shall set forth the
20 facts showing the necessity for such action by the railroad company, and if the office
21 division of hearings and appeals finds that the application is sufficient
22 presumptively to justify the order prayed for, it shall enter an order fixing the time
23 and place of hearing on the application, which time shall not be less than 20 days
24 after the posting provided for in sub. (3).

25 **SECTION 79.** 192.56 (3) of the statutes is amended to read:

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1 192.56 (3) Notice of the time and place of the hearing and of the purpose thereof
2 shall be given, by the ~~office~~ division of hearings and appeals, by posting the notice
3 in 5 conspicuous places in the town or village.

4 **SECTION 80.** 192.56 (5) of the statutes is amended to read:

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

9 **SECTION 81.** 192.56 (6) of the statutes is amended to read:

10 192.56 (6) At a station where no agency service is provided, the application to
11 the ~~office~~ division of hearings and appeals for such authorizing order shall set forth
12 the facts showing the necessity for such action by the railroad company. Notice of
13 proposed removal or abandonment shall be given by the ~~office~~ division of hearings
14 and appeals by posting notice in 5 conspicuous places in the town or village
15 concerned; and if within 20 days after the posting of notice no objections in writing
16 are filed with the ~~office~~ division of hearings and appeals by persons directly affected,
17 an order authorizing the abandonment of the station may be issued by the ~~office~~
18 division of hearings and appeals. If such objections to the granting of the order are
19 filed with the ~~office~~ division of hearings and appeals, the ~~office~~ division of hearings
20 and appeals shall proceed to hold a hearing in the matter as provided in subs. (4) and
21 (5).

22 **SECTION 82.** 195.001 (1r) of the statutes is created to read:

23 195.001 (1r) "Division of hearings and appeals" means the division of hearings
24 and appeals in the department of administration.

25 **SECTION 83.** 195.001 (2) of the statutes is repealed.

1 **SECTION 84.** 195.001 (3) of the statutes is created to read:

2 195.001 (3) "Secretary" means the secretary of transportation.

3 **SECTION 85.** 195.03 (title) of the statutes is amended to read:

4 **195.03** (title) **Office Department; powers and duties, general**
5 **enumeration.**

6 **SECTION 86.** 195.03 (1) of the statutes is amended to read:

7 195.03 (1) PRACTICE RULES. The ~~office~~ department may take testimony and
8 administer oaths and may promulgate rules to govern its proceedings and to regulate
9 the mode and manner of all hearings. All hearings shall be open to the public.

10 **SECTION 87.** 195.03 (2) of the statutes is amended to read:

11 195.03 (2) ~~OFFICE~~ DEPARTMENT INITIATIVE. In any matter within its jurisdiction
12 under ch. 192 or this chapter, the ~~office~~ department may initiate, investigate and
13 order a hearing at its discretion upon such notice as it considers proper.

14 **SECTION 88.** 195.03 (7) of the statutes is amended to read:

15 195.03 (7) STUDY RAILROAD AND WATER CARRIER BUSINESS, DEMAND INFORMATION.
16 The ~~office~~ department may inquire into the management of the business of all
17 railroads and water carriers, and shall keep itself informed as to the manner in which
18 the same is conducted, and may obtain from any railroad or water carrier all
19 necessary information to enable the ~~office~~ department to perform the duties and
20 carry out the objects for which it is responsible.

21 **SECTION 89.** 195.03 (8) of the statutes is amended to read:

22 195.03 (8) QUESTIONNAIRES, ANSWERS COMPULSORY. The ~~office~~ department shall
23 prepare forms for the purpose of obtaining the information which it may deem
24 necessary or useful to the proper exercise of its functions, which shall conform as
25 nearly as practicable to the forms prescribed by the federal railroad administration,

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

6 **SECTION 90.** 195.03 (9) of the statutes is amended to read:

7 195.03 (9) EXAMINE BOOKS AND FILES OF RAILROADS AND WATER CARRIERS. The
8 ~~commissioner of railroads~~ secretary or any person employed by the ~~office~~ department
9 for that purpose shall, upon demand, have the right to inspect the books and papers
10 of any railroad or water carrier and to examine under oath any officer, agent or
11 employee of such railroad or water carrier in relation to its business and affairs;
12 provided that any person other ~~that~~ than the ~~commissioner of railroads~~ secretary
13 who makes such demand shall produce his or her authority under the hand and seal
14 of the ~~office~~ secretary.

15 **SECTION 91.** 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~~
17 department may, by an order or subpoena to be served in the manner that a circuit
18 court summons is served, require the production within this state, at such time and
19 place as it may designate, of any books, papers or accounts kept by any railroad or
20 water carrier without the state, or verified copies in lieu thereof, if the ~~office~~
21 department shall so order.

22 **SECTION 92.** 195.03 (11) of the statutes is amended to read:

23 195.03 (11) UNIFORM SYSTEM OF ACCOUNTING. The ~~office~~ department may
24 prescribe a uniform system of keeping and rendering accounts of all railroad and
25 water carrier business transacted in this state, and the time within which railroads

1 and water carriers shall adopt such system; provided that all forms of accounts which
2 may be prescribed by the ~~office~~ department shall conform to any applicable
3 requirement under 49 USC 11141 to 11164 or 49 CFR 1201 and, as nearly as
4 practicable, to similar forms prescribed by federal authority.

5 **SECTION 93.** 195.03 (12) of the statutes is amended to read:

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

9 **SECTION 94.** 195.03 (13) of the statutes is amended to read:

10 195.03 (13) SCHEDULE FORMS. The ~~office~~ department may prescribe the forms
11 for water carrier schedules.

12 **SECTION 95.** 195.03 (14) of the statutes is amended to read:

13 195.03 (14) PASSES TO SHIPPERS. The ~~office~~ department may prescribe
14 regulations for free transportation of attendants upon shipments of livestock.

15 **SECTION 96.** 195.03 (15) of the statutes is amended to read:

16 195.03 (15) ELEVATORS AND WAREHOUSES. The ~~office~~ department may prescribe
17 rules and regulations covering the charges and manner of conducting the business
18 of public elevators and warehouses upon railroad ground.

19 **SECTION 97.** 195.03 (16) of the statutes is amended to read:

20 195.03 (16) CAR SERVICE. The ~~office~~ department may make reasonable
21 regulations for furnishing cars to shippers, and for moving, loading and unloading
22 cars and for weighing cars and freight, and to test railroad weights and scales used
23 in weighing freight or cars.

24 **SECTION 98.** 195.03 (17) of the statutes is amended to read:

1 195.03 (17) PRIVATE TRACKS. The ~~office~~ department shall have control of private
2 railroad tracks insofar as the same are used by common carriers for the
3 transportation of freight, in all respects the same as though such tracks were part
4 of a public railroad.

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

6 195.03 (18) SAFETY DEVICES. The ~~office~~ department may make reasonable rules,
7 regulations, specifications and standards for the installation, operation and
8 maintenance of all safety devices and measures.

9 **SECTION 100.** 195.03 (19) of the statutes is amended to read:

10 195.03 (19) RAILROAD AND WATER CARRIER STRUCTURES. The ~~office~~ department
11 may order the repair or reconstruction of any inadequate or unsafe railroad track or
12 water carrier structure.

13 **SECTION 101.** 195.03 (25) of the statutes is amended to read:

14 195.03 (25) DISTRIBUTION OF ORDERS. The ~~office~~ department shall upon
15 application furnish certified copies, under its seal, of any order made by it, which
16 shall be prima facie evidence of the facts stated therein.

17 **SECTION 102.** 195.03 (28) of the statutes is amended to read:

18 195.03 (28) ~~Title. LEGAL ACTIONS.~~ The ~~office may sue and be sued in that name,~~
19 ~~and~~ department may confer with or participate in any proceedings before any
20 regulatory agency of any other state or of the federal government.

21 **SECTION 103.** 195.03 (29) of the statutes is amended to read:

22 195.03 (29) TRAIN PRIVILEGES. The employees authorized by the ~~office~~
23 department to perform railroad inspection duties may, in the performance of such
24 duties, ride in and upon any engine, car or train of any class, of any railroad, upon

1 payment of the lawful passenger fare, but such railroad shall not thereby be deemed
2 to become a common carrier of passengers other than on passenger cars.

3 **SECTION 104.** 195.03 (30) (a) of the statutes is amended to read:

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

7 **SECTION 105.** 195.03 (30) (b) of the statutes is amended to read:

8 195.03 (30) (b) The office department shall give the department of natural
9 resources the office's department's opinion on whether the snowmobile crossing
10 should be closed or removed in testimony at the hearing under s. 350.1395 (2) (b) 2.
11 or in a written report for introduction into the hearing record.

12 **SECTION 106.** 195.04 (1) of the statutes is amended to read:

13 195.04 (1) Upon complaint of any person, including any state agency, water
14 carrier, or railroad, either relating to a railroad as provided under s. 192.324, 192.34,
15 195.20, 195.28 (1), 195.285 (1), 195.29 (1), (5), or (6), 195.31, or 195.32 or that any
16 water carrier rate, fare, charge, or classification or any regulation or practice
17 whatever affecting the transportation of persons or property, or any service in
18 connection therewith, is in any respect unreasonable or unjustly discriminatory or
19 that any service is inadequate, the office department may investigate the complaint
20 and shall set the complaint for hearing. No order may be entered by the office
21 department without a public hearing, except as otherwise provided in this chapter.

22 **SECTION 107.** 195.04 (2) of the statutes is amended to read:

23 195.04 (2) The office department shall, prior to any hearing, notify the water
24 carrier or railroad complained of that a complaint has been made, and 20 days after

1 such notice has been given the office department may proceed to set a time and place
2 for a hearing.

3 **SECTION 108.** 195.04 (3) of the statutes is amended to read:

4 195.04 (3) The office department shall give the water carrier or railroad and
5 the complainant 20 days' notice of the hearing and the matters to be considered and
6 determined. Both the water carrier or railroad and the complainant shall be entitled
7 to be heard and shall have process to enforce the attendance of witnesses.

8 **SECTION 109.** 195.041 of the statutes is amended to read:

9 **195.041 Separate rate hearings; absence of direct damage.** The office
10 department may, when complaint is made of more than one water carrier rate or
11 charge, order separate hearings thereon, and may consider and determine the
12 several matters complained of separately and at such times as it may prescribe. No
13 complaint shall at any time be dismissed because of the absence of direct damage to
14 the complainant.

15 **SECTION 110.** 195.042 of the statutes is amended to read:

16 **195.042 Summary investigations.** Whenever the office department believes
17 that any water carrier rate or charge may be unreasonable or unjustly
18 discriminatory or that any service is inadequate or cannot be obtained or that an
19 investigation of any matter relating to any water carrier or, if a matter arising under
20 s. 192.324, 192.34, 195.20, 195.28 (1), 195.285 (1), 195.29 (1), (5), or (6), 195.31, or
21 195.32, to any railroad should for any reason be made, it may investigate the same
22 with or without notice.

23 **SECTION 111.** 195.043 (1) of the statutes is amended to read:

24 195.043 (1) If, after summary investigation, the office department becomes
25 satisfied that sufficient grounds exist to warrant a formal hearing being ordered as

1 to the matters investigated, it shall set a time and place for a hearing. The ~~office~~
2 department shall publish notice of any such investigation in its weekly calendar and
3 any report and all matters considered by the ~~office~~ department with respect thereto
4 shall be available for public inspection upon request.

5 **SECTION 112.** 195.043 (2) of the statutes is amended to read:

6 195.043 (2) Notice of the time and place for such hearing shall be given to the
7 water carrier or railroad, and to such other interested persons as the ~~office~~
8 department deems necessary, as provided in s. 195.04, and thereafter proceedings
9 shall be had and conducted in reference to the matter investigated in like manner
10 as though complaint had been filed with the ~~office~~ department relative to the matter
11 investigated, and the same order or orders may be made in reference thereto as if
12 such investigation had been made on complaint.

13 **SECTION 113.** 195.044 (1) of the statutes is amended to read:

14 195.044 (1) Each witness who appears before the ~~office~~ department or its agent,
15 by its order, shall receive for attendance the fees and mileage now provided for
16 witnesses in civil cases in courts of record, which shall be audited and paid by the
17 state in the same manner as other expenses are audited and paid, upon the
18 presentation of proper vouchers sworn to by such witnesses and approved by the
19 ~~office~~ department. Said fees and mileage shall be charged to the appropriation for
20 the ~~office~~ department.

21 **SECTION 114.** 195.044 (2) of the statutes is amended to read:

22 195.044 (2) No witness subpoenaed at the instance of parties other than the
23 ~~office~~ department is entitled to compensation from the state for attendance or travel
24 unless the ~~office~~ department certifies that the witness' testimony was material to the
25 matter investigated.