

1           **SECTION 115.** 195.045 of the statutes is amended to read:

2           **195.045 Depositions.** The ~~office~~ department or any party may in any hearing  
3 cause the depositions of witnesses residing within or without the state to be taken  
4 in the manner prescribed by law for like depositions in civil actions in circuit courts.  
5 Any expense incurred or authorized by the ~~office~~ department in taking such  
6 depositions shall be charged to the appropriation for the ~~office~~ department.

7           **SECTION 116.** 195.046 of the statutes is amended to read:

8           **195.046 Record.** A full and complete record shall be kept of all proceedings  
9 before the ~~office or its hearing examiners~~ department.

10          **SECTION 117.** 195.05 (title) of the statutes is amended to read:

11          **195.05 (title) ~~Office; water~~ Water carrier rates, regulations, service,**  
12 **procedure.**

13          **SECTION 118.** 195.05 (1) of the statutes is amended to read:

14          **195.05 (1) ORDERS FOR RATES AND SERVICE.** Whenever the ~~office~~ department shall  
15 find that any existing water carrier rate, fare, charge, or classification, or any joint  
16 rate, or any regulation or practice affecting the transportation of persons or property,  
17 or any service in connection therewith is unreasonable or unjustly discriminatory or  
18 that any service is inadequate, it shall determine and by order fix a reasonable rate,  
19 fare, charge, classification, joint rate, regulation, practice or service to be imposed,  
20 observed and followed in the future, in lieu of that found to be unreasonable or  
21 unjustly discriminatory or inadequate.

22          **SECTION 119.** 195.05 (2) of the statutes is amended to read:

23          **195.05 (2) TIME TO COMPLY WITH ORDERS.** Where the order made relates to  
24 service, and the same cannot, in the judgment of the ~~office~~ department, be complied  
25 with within 20 days, the ~~office~~ department may prescribe such additional time as in

1 its judgment is reasonably necessary to comply with the order and may on  
2 application and for good cause shown further extend the time.

3 **SECTION 120.** 195.05 (4) of the statutes is amended to read:

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

8 **SECTION 121.** 195.055 of the statutes is amended to read:

9 **195.055 Judicial review.** All Subject to s. 195.325, all orders and  
10 determinations of the office department under this chapter are subject to judicial  
11 review under ch. 227.

12 **SECTION 122.** 195.06 of the statutes is amended to read:

13 **195.06 Office Department orders prima facie lawful.** All orders,  
14 determinations and decisions made by the office department shall be in force and  
15 effective 20 days after the same has been served as required by s. 227.48 unless the  
16 office department shall specify a different date upon which the same shall be  
17 effective, and shall be prima facie lawful, and all regulations, practices and service  
18 prescribed by the office department shall be in force and shall be prima facie lawful  
19 and reasonable, until finally found otherwise upon review thereof by the division of  
20 hearings and appeals under s. 195.325 and ch. 227 or upon judicial review thereof  
21 instituted pursuant to ch. 227.

22 **SECTION 123.** 195.07 (1) of the statutes is amended to read:

23 195.07 (1) POWERS. The office department shall inquire into the neglect or  
24 violation of the laws of this state by water carriers and railroads, or by the officers,

1 agents or employees thereof, or by persons operating water carriers and railroads,  
2 and shall report violations to the attorney general.

3 **SECTION 124.** 195.07 (2) of the statutes is amended to read:

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

9 **SECTION 125.** 195.08 (2) of the statutes is amended to read:

10 195.08 (2) SCHEDULES; PUBLICATION. Every water carrier shall print in plain  
11 type and file with the ~~office~~ department schedules which shall be open to public  
12 inspection showing all rates, fares and charges for the transportation of passengers  
13 and property and any service in connection therewith which it has established and  
14 which are in force at the time between all points in this state upon its line or any line  
15 controlled or operated by it. The schedules shall plainly state the places upon its line  
16 or any line controlled or operated by it in this state between which passengers and  
17 property will be carried, and there shall be filed therewith the classification of freight  
18 in force.

19 **SECTION 126.** 195.08 (7) of the statutes is amended to read:

20 195.08 (7) CHANGES IN SCHEDULE. No change shall be made in any schedule, or  
21 in any classification, unless the change shall be plainly indicated upon existing  
22 schedules, or by filing new schedules in lieu thereof, 30 days prior to the time the  
23 same are to take effect. Copies of all new schedules shall be filed as required in this  
24 section in every terminal and office of such water carrier at places to or from which

1 the rates in such schedules apply, 30 days prior to the time the same are to take effect,  
2 unless the office department shall prescribe a less time.

3 **SECTION 127.** 195.08 (9) of the statutes is amended to read:

4 195.08 (9) COMPLAINT AGAINST CHANGE IN SCHEDULES. Whenever a complaint is  
5 filed with the office department before any change in any water carrier schedule, or  
6 in any classification, rule, regulation or practice becomes effective to the effect that  
7 the change is unreasonable or unjustly discriminatory, the office department shall  
8 give notice to the water carrier that a complaint has been made, may investigate the  
9 complaint and shall set the complaint for hearing. The office department may, in its  
10 discretion, by order, stay the change pending the determination of the matters  
11 investigated at any time before the change shall take effect. If the change  
12 complained of is found unreasonable or unjustly discriminatory, the change shall not  
13 take effect and, if the change has become effective, the office department shall order  
14 the discontinuance thereof. The office department may fix and order substituted for  
15 any such change such rates, joint rates, fares, charges, classification, rule,  
16 regulation, practice or service as it shall have determined to be just and reasonable  
17 and which shall be charged, imposed or followed in the future, and shall make such  
18 order respecting such rule, regulation, practice or service as it shall determine to be  
19 reasonable and which shall be observed and followed in the future. Procedure and  
20 notice shall be as provided in s. 195.04 (2) to (4).

21 **SECTION 128.** 195.10 of the statutes is amended to read:

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

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

7 **SECTION 129.** 195.15 of the statutes is amended to read:

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

14 **SECTION 130.** 195.16 of the statutes is amended to read:

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

21 **SECTION 131.** 195.20 of the statutes is amended to read:

22 **195.20 Joint use of railroad property.** Whenever, upon complaint and after  
23 hearing had, the office department finds that public convenience and necessity  
24 require the use by one or more railroads of the tracks, wires, poles, rights-of-way,  
25 switches, bridges or other property belonging to another railroad over or on any

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

7 **SECTION 132.** 195.21 of the statutes is amended to read:

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

23 **SECTION 133.** 195.26 of the statutes is amended to read:

24 **195.26 Safety devices; block system.** Every railroad and water carrier shall  
25 adopt reasonably adequate safety measures and install, operate and maintain

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

8 **SECTION 134.** 195.28 (1) of the statutes is amended to read:

9 195.28 (1) PETITION; HEARING; ORDER. Upon petition of ~~the department, city a~~  
10 city council, village board, town board, superintendent of highways or by 5 or more  
11 electors in any town, village or city, or of any railroad corporation or railroad  
12 historical society, to determine whether a public highway and railroad grade crossing  
13 protects and promotes public safety, ~~or upon its own motion,~~ the office department  
14 may investigate and issue an appropriate order without a public hearing. If the  
15 petitioner, railroad, railroad historical society or any interested party objects to the  
16 order and requests a hearing within 20 days after the date that the order is issued,  
17 the office department shall proceed under s. 195.04. ~~Notice of an investigation or~~  
18 ~~hearing shall be served upon the department, which shall be an interested party, and~~  
19 ~~any recommendation it may file with the office at or prior to a hearing, if there is one,~~  
20 ~~regarding crossing protection shall be considered as evidence in the proceeding.~~ The  
21 office department shall determine whether the existing warning devices at such  
22 crossing are adequate to protect and promote public safety. If the office department  
23 determines, either without or after a hearing, that protection is not adequate, it may  
24 order the railroad company or railroad historical society to keep a flagman at the  
25 crossing or to install automatic signals or other suitable safety device at specific

1 locations at such crossing. The ~~office~~ department may order the relocation of existing  
2 signals and devices to improve protection at a crossing. Any crossing protection  
3 installed or maintained as approved by the ~~office~~ department, whether by order or  
4 otherwise, shall be deemed adequate and appropriate protection for the crossing. If  
5 an interested party objects to the department's order and requests a hearing, the  
6 department shall refer the matter to the division of hearings and appeals for review  
7 as provided in s. 195.325.

8 **SECTION 135.** 195.28 (1m) of the statutes is amended to read:

9 195.28 **(1m)** ARTERIAL STOP SIGNS. In any proceeding under sub. (1), the ~~office~~  
10 department may by order require that the state or municipality install at any  
11 crossing involved in such proceeding an official stop sign.

12 **SECTION 136.** 195.28 (3) of the statutes is amended to read:

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



1           **SECTION 137.** 195.28 (4) of the statutes is amended to read:

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

5           **SECTION 138.** 195.285 (1) of the statutes is amended to read:

6           195.285 (1) Upon the petition of a railroad corporation, ~~the department,~~ or the  
7 governing body of any city, village, town or county asserting that the stopping of  
8 vehicles under s. 346.45 at a railroad crossing is hazardous to human life, or upon  
9 its own motion, ~~the office department~~ shall hold a hearing on the matter as provided  
10 under s. 195.04. ~~Notice of petition shall be served upon the department, which shall~~  
11 ~~be an interested party, and any recommendations it may file with the office regarding~~  
12 ~~the hazardous effect of vehicles stopping at such crossings shall be considered as~~  
13 ~~evidence in the proceedings. Upon the recommendation of the department and~~  
14 ~~concurrence by the office, the petition may be dismissed without holding a hearing.~~

15           If, upon the public hearing, the ~~office department~~ determines that it would be in the  
16 public interest to exempt vehicles specified in s. 346.45 from stopping at such grade  
17 crossing, it may order the public body having jurisdiction over the highway to erect  
18 signs, signals, markings or other devices exempting such vehicles from stopping at  
19 the crossing. If an interested party objects to the department's order and requests  
20 a hearing, the department shall refer the matter to the division of hearings and  
21 appeals for review as provided in s. 195.325.

22           **SECTION 139.** 195.285 (2) of the statutes is amended to read:

23           195.285 (2) Signs placed upon the order of the ~~office department~~ under this  
24 section shall exempt vehicles from stopping as required under s. 346.45, unless a  
25 train or engine is occupying or approaching the crossing.

1           **SECTION 140.** 195.285 (3) of the statutes is amended to read:

2           195.285 (3) The department shall establish standards for the type of signs,  
3 signals, markings or other devices for exempting vehicles from stopping as required  
4 under s. 346.45 and their location in relation to the highway and railroad track. The  
5 ~~office~~ department may upon petition or its own motion, with or without a hearing,  
6 order the removal of a sign exempting vehicles from stopping at a crossing.

7           **SECTION 141.** 195.286 (2) of the statutes is amended to read:

8           195.286 (2) SIGNS DESCRIBED. Such signs shall be round and of a size, color and  
9 message as specified by the department ~~and approved by the office~~. Any change in  
10 these signs shall not be retroactive.

11           **SECTION 142.** 195.286 (5) of the statutes is amended to read:

12           195.286 (5) OTHER SIGNS PROHIBITED. No other sign of the general size or  
13 appearance of the signs provided for in this section shall be placed or permitted upon  
14 any highway, nor any sign between such advance signs except signs or signals  
15 required by law or permitted by the ~~office~~ department for protection at railway  
16 crossings.

17           **SECTION 143.** 195.286 (8) of the statutes is amended to read:

18           195.286 (8) PROSECUTIONS. The district attorney shall prosecute any person  
19 violating this section, or begin and maintain any civil action necessary for its  
20 enforcement upon the demand of any county highway commissioner; or the  
21 department, ~~or the office~~.

22           **SECTION 144.** 195.29 (1) of the statutes is amended to read:

23           195.29 (1) PETITION, HEARING, ORDER. Upon petition by the common council or  
24 board of any city, village, town or county within or bordering upon which a highway  
25 or street crosses a railroad, or a highway or street is proposed to be laid out across

1 a railroad, or a public highway bridge across a railroad is required to connect existing  
2 streets or highways, or upon petition by any railroad whose track crosses or is about  
3 to cross, or is crossed or about to be crossed by a street or highway, or upon ~~petition~~  
4 ~~by the department~~ its own motion, in cases where provision has been made for the  
5 improvement of the highway adjacent to such crossing under any state aid or federal  
6 aid law, that public safety requires an alteration in such crossing, its approaches, the  
7 method of crossing, the location of the highway or crossing, or the closing of the  
8 crossing, and the substitution of another therefor at grade or not at grade, or the  
9 removal of obstructions to the view at such crossing, the relocation of the highway,  
10 or requires the determination of the manner of making such new crossing, or of  
11 making the proposed improvement or promoting the public safety or public  
12 convenience through any other reasonable method, and praying that the same may  
13 be ordered, the ~~office~~ department shall give notice to the parties in interest and  
14 proceed to investigate the same and to order a hearing thereon in the manner  
15 provided by s. 195.04. The ~~office~~ department shall determine what, if anything, shall  
16 be done to promote the public safety and the means by which it shall be accomplished,  
17 whether by the relocation of the highway, the alteration in such crossing, approaches,  
18 mode of crossing, location of highway crossing, closing of highway crossing, with or  
19 without the substitution of another therefor, the construction of a public highway  
20 bridge, the removal of obstructions to sight at crossing, or by the use of other  
21 reasonable methods, and by whom the same shall be made, and in case of new  
22 crossings the advisability of allowing such crossings to be established and manner  
23 of making them. If an interested party objects to the department's order and requests  
24 a hearing, the department shall refer the matter to the division of hearings and  
25 appeals for review as provided in s. 195.325.

1           **SECTION 145.** 195.29 (2) of the statutes is amended to read:

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

11           **SECTION 146.** 195.29 (3) of the statutes is amended to read:

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

24           **SECTION 147.** 195.29 (4) of the statutes is amended to read:

1           195.29 (4) GRADE SEPARATION IN MILWAUKEE COUNTY. The office department may  
2           upon petition of any town, city or village, or upon its own motion, when the interests  
3           of the public demand it and it is found practicable so to do, establish the grade of the  
4           tracks of any railroad, or of all the railroads throughout any county having a  
5           population of 500,000 or more, or any part thereof, and the grades of the streets or  
6           highways, or any of them, where they cross such railroad track or tracks, in  
7           anticipation of the future separation of grades of the railroad tracks from the grades  
8           of such streets or highways. The office department, before making any such order,  
9           shall mail notice to the railroad company or companies affected, the owners or  
10          occupants of any building abutting on that part of the railroad the grade of which is  
11          to be established, all 1st class cities in the county, and if the grades to be established  
12          are outside the 1st class city, the towns, cities or villages in which such grades are  
13          to be established, of the filing of such petition or that the office department  
14          contemplates establishing such grades, and fixing a time at which the 1st class cities  
15          and such other towns, cities or villages and the railroad company or companies  
16          affected thereby and any other person or corporation interested therein may be  
17          heard. The grades so established under this subsection shall be described by  
18          reference to a base or datum line to be established by the office department, from  
19          which all elevations and the height of all grades shall be measured, and the grades  
20          so established shall be such that when brought to the established grade the railroad  
21          tracks will cross the streets and highways above or below the same. Such order shall  
22          not necessarily require a present change in grade but the office department may at  
23          any time order the railroad track or tracks and the street and highways brought to  
24          the grade established or any street or highways closed by the order, in accordance

1 with sub. (1), and may, at the time of making the order, apportion the cost of  
2 separating the grades as provided in sub. (2).

3 **SECTION 148.** 195.29 (5) of the statutes is amended to read:

4 195.29 (5) ELIMINATION OF GRADE CROSSINGS, COSTS. Upon its own motion or upon  
5 petition of the ~~department, or of the~~ common council or board of any city, village,  
6 town, or county, alleging that one or more of them have undertaken or propose to  
7 undertake to relocate or improve an existing highway or to construct a new highway  
8 in such manner as to eliminate a highway grade crossing with any railroad or so as  
9 to permanently divert a material portion of the highway traffic from a highway grade  
10 crossing with any railroad, the ~~office~~ department shall issue notice of investigation  
11 and hearing, as provided in s. 195.04. If upon such hearing the ~~office~~ department  
12 finds that the public safety will be promoted by the highway relocation,  
13 improvement, or new construction, the ~~office~~ department shall order the old  
14 crossings closed and new crossings opened as are deemed necessary for public safety.  
15 The order shall require the railroad company or companies to pay to the interested  
16 municipality or municipalities such sum as the ~~office~~ department finds to be an  
17 equitable portion of the cost of the highway relocation, improvement, or new  
18 construction, if the work is performed by the municipalities; or to the secretary of  
19 administration if the work is performed by the state; or to the proper county  
20 treasurer if the work is performed by the county. The sum shall be added to the joint  
21 fund available for the improvement and may be expended in like manner as the other  
22 portions of the fund.

23 **SECTION 149.** 195.29 (6) of the statutes is amended to read:

24 195.29 (6) VIEW AT CROSSINGS; TREES AND BRUSH NEAR CROSSINGS; FORFEITURE.  
25 Every railroad shall keep its right-of-way clear of brush or trees for a distance of not

1 less than 330 feet in each direction from the center of its intersection at grade with  
2 any public highway, and for such further distance as is necessary to provide an  
3 adequate view of approaching trains, from the highway. Every municipality shall  
4 keep the public highways within its jurisdiction clear of brush and shall adequately  
5 trim all trees within 330 feet of the center of any railroad highway grade crossing.  
6 Every person or corporation owning or occupying any land adjacent to any railroad  
7 highway grade crossing shall keep all brush cut and adequately trim all trees on the  
8 land within the triangles bounded on 2 sides by the railway and the highway, and on  
9 the 3rd side by a line connecting points on the center lines of the railway and the  
10 highway, 330 feet from the intersection of the center lines. The office department,  
11 upon its own motion, or upon any complaint to the effect that any work required by  
12 this subsection has not been performed, after due notice and hearing, may order the  
13 corporation, municipality or person at fault to perform the work; provided, however,  
14 that if the physical conditions at any crossing are such that the performance of the  
15 required work will not materially improve the view for highway traffic, or, if  
16 unreasonable loss would be caused thereby, the office department may excuse the  
17 party in interest from performing the same. The office department may also order  
18 the cutting of brush and the trimming of trees at private farm crossings as may be  
19 necessary and reasonable. If any person shall violate any provision of this section,  
20 or shall fail, neglect or refuse to obey any order made by the office department under  
21 this section, or any judgment, order, or decree made by the division of hearings and  
22 appeals or any court upon such an order, for every such violation, failure or refusal  
23 such person shall forfeit not less than \$25 nor more than \$150.

24 **SECTION 150.** 195.29 (7) of the statutes is amended to read:

1           195.29 (7) STRUCTURE REQUIREMENTS. Whenever the office department shall  
2 order the construction or reconstruction of a crossing not at grade, it may direct that  
3 the structure required shall be of such character and constructed of such materials  
4 as it shall deem appropriate to the situation and necessary for the public interest.

5           **SECTION 151.** 195.29 (9) of the statutes is created to read:

6           195.29 (9) REVIEW OF DEPARTMENT ORDERS. If a petitioner, railroad or any  
7 interested party objects to an order under this section, the department shall refer the  
8 order to the division of hearings and appeals for review as provided in s. 195.325.

9           **SECTION 152.** 195.30 (1) of the statutes is amended to read:

10           195.30 (1) Upon its own motion or upon a petition by the common council of any  
11 city, or the board of any village, town or county within which a railroad crosses  
12 another railroad at grade, or by any such railroad, that public safety requires an  
13 alteration in the crossing or the installation of protective appliances, the office  
14 department shall give notice to the parties in interest, and proceed to investigate the  
15 same and may order a hearing on the matter. The office department shall determine  
16 what alteration in such crossing, if any, shall be made, and by whom made and  
17 maintained, or what protective appliances shall be installed, operated and  
18 maintained at the crossing and by whom installed, operated and maintained. The  
19 office department shall fix the proportion of the cost and expense of such change in  
20 grade and maintenance of the crossing or of the installation, operation and  
21 maintenance of the safety appliance which shall be paid by the railroad companies,  
22 respectively. If an interested party objects to the department's order and requests  
23 a hearing, the department shall refer the matter to the division of hearings and  
24 appeals for review as provided in s. 195.325.

25           **SECTION 153.** 195.31 of the statutes is amended to read:



1           **195.31 Bridges made safe.** Whenever a complaint is lodged with the office  
2     department by the common council of any city, the village board of any village, a  
3     member of a town board, or a supervisor of highways, or by 5 or more electors and  
4     taxpayers in any town, or 5 or more electors of the county in which such bridge is  
5     located, and who are users of such bridge or railway, to the effect that a bridge erected  
6     over a stream intersecting a public highway or highways upon which a railway is  
7     constructed and operated, is unsafe and dangerous to travelers over such highway  
8     or highways or bridge or railroad, and that public safety requires the alteration, the  
9     repair or reconstruction of such bridge, or the substitution of another bridge therefor,  
10    it shall be the duty of the office department to give notice to the party or parties in  
11    interest, other than the petitioners, of the filing of such complaint, and to furnish a  
12    copy of the complaint to the party or parties in interest other than the petitioners,  
13    and to order a hearing thereon, in the manner provided for hearings in ss. 195.04 to  
14    195.043. The office department may proceed in a similar manner in the absence of  
15    a petition when, in the opinion of the office department, public safety requires the  
16    alteration, repair or reconstruction of a bridge or the substitution of another bridge  
17    for the bridge in question. After the hearing, the office department shall determine  
18    what alteration or repair or reconstruction of such bridge, and the approaches  
19    thereto, shall be made, or if it shall determine that public safety requires the  
20    substitution of a new bridge, it shall determine the character, manner of construction  
21    and location of such bridge and the approaches thereto. The office department shall  
22    fix the proportion of the cost and expense of such alteration, repair, reconstruction  
23    or substitution of a new bridge, including the damage to any person whose land is  
24    taken, and the special damage which the owner of any land adjoining the approaches  
25    to said bridge shall sustain by reason of the alteration, repair, reconstruction or

1 substitution of a new bridge, to be paid by the railroad company and the city, village  
2 or town in interest. If an interested party objects to the department's order under this  
3 section and requests a hearing, the department shall refer the matter to the division  
4 of hearings and appeals for review as provided in s. 195.325.

5 **SECTION 154.** 195.32 of the statutes is amended to read:

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

21 **SECTION 155.** 195.325 of the statutes is created to read:

22 **195.325 Review of certain orders of the department.** If an order of the  
23 department under s. 84.05, 192.324, 195.28, 195.285, 195.29, 195.30, 195.31, 195.32,  
24 195.37, or 195.38 is referred to the division of hearings and appeals for review, the

1 division of hearings and appeals shall review the order applying the same standards  
2 applicable to the department and in accordance with s. 85.013 (3).

3 **SECTION 156.** 195.34 of the statutes is amended to read:

4 **195.34 Reports of accidents, investigation.** Every water carrier shall  
5 report to the ~~office~~ department all accidents resulting in injury to persons arising  
6 from its operation. The ~~office~~ department may issue rules concerning the reporting  
7 of accidents by water carriers and may also, if public interests require, cause an  
8 investigation of any accident. Every railroad shall submit to the ~~office~~ department  
9 a copy of any accident or injury report provided by the railroad to the applicable  
10 federal authority for all collisions, derailments or other accidents resulting in injury  
11 to persons, equipment, or roadway arising from its operation. The ~~office~~ department  
12 may issue rules concerning the submission of copies of federal reports under this  
13 section and may also, to the extent permitted by federal law, participate in any  
14 accident investigation.

15 **SECTION 157.** 195.36 of the statutes is amended to read:

16 **195.36 General penalty upon railroads and water carriers.** If any  
17 railroad or water carrier shall violate any provision of this chapter, or shall do any  
18 act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it, for  
19 which a penalty has not been provided, or shall fail, neglect or refuse to obey any  
20 lawful requirement or order made by the ~~office~~ department, or any judgment or  
21 decree made by any court upon its application, for every such violation, failure or  
22 refusal in respect to any matter prescribed by this chapter such railroad or water  
23 carrier shall forfeit not less than \$100 nor more than \$10,000. The act, omission or  
24 failure of any officer, agent or other person employed by any railroad or water carrier,

1 acting within the scope of his or her employment, shall be deemed to be the act,  
2 omission or failure of such railroad or water carrier.

3 **SECTION 158.** 195.37 (1) of the statutes is amended to read:

4 195.37 (1) COMPLAINTS, INVESTIGATIONS, HEARINGS, FINDINGS, REFUND. The office  
5 department may investigate the complaint of any person aggrieved that the charge  
6 exacted by a water carrier for the transportation of property between points in this  
7 state, or for any service in connection with transportation of property, or that the  
8 charge exacted by a water carrier for the storage of such property, or that any charge  
9 exacted by a water carrier is erroneous, illegal, unusual or exorbitant and shall set  
10 the complaint for hearing as provided in s. 195.04 (2) to (4). If the office department  
11 finds that the rate or charge exacted by a water carrier is erroneous, illegal, unusual  
12 or exorbitant, it shall find what would have been a reasonable rate or charge for such  
13 service. If the rate or charge so found is less than the charge exacted, the carrier shall  
14 refund the excess. If an interested party objects to the department's order under this  
15 section, the department shall refer the order to the division of hearings and appeals  
16 for review as provided in s. 195.325.

17 **SECTION 159.** 195.37 (2) of the statutes is amended to read:

18 195.37 (2) ACTIONS; FINDINGS AS EVIDENCE, DEFENSES. In an action to recover the  
19 amount of such excess charge, the findings of the office department shall be prima  
20 facie evidence of the truth of the facts found by it, and no carrier shall be permitted  
21 to avail itself of the defense that the shipment involved was in fact made on the  
22 published tariff rate in force at the time such shipment was made, but no carrier  
23 making a refund upon the order of the office department or the judgment of a court  
24 shall be liable for any penalty or subject to any prosecution on account of making such  
25 refund.

1           **SECTION 160.** 195.37 (3) of the statutes is amended to read:

2           195.37 (3) **LIMITATION FOR FILING CLAIM.** All complaints provided for in sub. (1),  
3           except those for straight overcharges, shall be filed with the ~~office~~ department within  
4           2 years after delivery of the shipment of property at destination, subject to sub. (6).

5           **SECTION 161.** 195.37 (4) (a) of the statutes is amended to read:

6           195.37 (4) (a) In this subsection, "straight overcharge" means a charge in  
7           excess of those applicable under the lawful tariffs on file with the ~~office~~ department.

8           **SECTION 162.** 195.38 of the statutes is amended to read:

9           **195.38 Water carrier freight bills; examination; refunds.** Within 3 years  
10          after the delivery of any shipment of property at destination by a water carrier, any  
11          person, firm or corporation may submit to the ~~office~~ department, by mail or in person,  
12          any water carrier expense bill or receipt showing charges paid for transportation of  
13          such property by freight for the purpose of having the expense bill or receipt  
14          examined with respect to the correctness of weights, rates and charges indicated  
15          thereon. Upon receipt of any such expense bill or receipt, the ~~office~~ department may  
16          make such examination as is necessary, and if it is found that any such weights, rates  
17          or charges are incorrect, the ~~office~~ department shall order the water carrier in error  
18          to refund to the person, firm or corporation which submitted such expense bills or  
19          receipts, any over or excessive charges paid by such person, firm or corporation. If  
20          an interested party objects to the department's order under this section, the  
21          department shall refer the order to the division of hearings and appeals for review  
22          as provided in s. 195.325.

23          **SECTION 163.** 195.45 (1) of the statutes is amended to read:

24          195.45 (1) No person shall operate as a common carrier of passengers or  
25          property by water except in accordance with the terms and conditions of a certificate

1 of public convenience and necessity issued by the office department. The office  
2 department shall issue any certificate upon a finding that the service proposed to be  
3 performed is in the public interest and required by public convenience and necessity.

4 **SECTION 164.** 195.45 (2) of the statutes is amended to read:

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

8 **SECTION 165.** 195.45 (4) of the statutes is amended to read:

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

11 **SECTION 166.** 195.50 (1) of the statutes is amended to read:

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

25 **SECTION 167.** 195.60 (title) of the statutes is amended to read:

1           **195.60 (title) Payment of office department expenses by railroads and**  
2 **water carriers.**

3           **SECTION 168.** 195.60 (1) of the statutes is amended to read:

4           195.60 (1) Whenever the office department in a proceeding upon its own  
5 motion, on complaint, or upon an application to it deems it necessary in order to carry  
6 out the duties imposed upon it by law to investigate the books, accounts, practices  
7 and activities of, or make appraisals of the property of any railroad or water carrier  
8 or to render any engineering or accounting services to any railroad or water carrier,  
9 the railroad or water carrier shall pay the expenses attributable to such  
10 investigation, appraisal or service. The office department shall ascertain such  
11 expenses, and shall render a bill therefor, by mail, to the railroad or water carrier,  
12 either at the conclusion of the investigation, appraisal or services, or during its  
13 progress. The bill shall constitute notice of assessment and demand of payment  
14 thereof. The railroad or water carrier shall, within 30 days after the mailing thereof,  
15 pay to the office department the amount of the special expense for which it is billed.

16 ~~Ninety percent of the~~ <sup>strike →</sup> The payment shall be deposited in the general fund and credited  
17 to the appropriation account under s. ~~20.155 (2) (g)~~ 20.395 (2) (gg). The total amount,  
18 in any one calendar year, for which any railroad or water carrier becomes liable, by  
19 reason of costs incurred by the office department within such calendar year, shall not  
20 exceed four-fifths of one percent of its gross operating revenues derived from  
21 intrastate operations in the last preceding calendar year. Where, under this  
22 subsection, costs are incurred within any calendar year, which are in excess of  
23 four-fifths of one percent of such gross operating revenues, the excess costs shall not  
24 be chargeable as part of the remainder under sub. (2) but shall be paid out of the  
25 general appropriation to the office department. Nothing in this subsection shall

1 prevent the office department from rendering bills in one calendar year for costs  
 2 incurred within a previous year. For the purpose of calculating the costs of  
 3 investigations, appraisals and other services under this subsection, ~~90 percent~~ <sup>strike</sup> of the <sup>all</sup>  
 4 costs determined shall be costs of the office department <sup>plain comma</sup> and 10 percent of the costs  
 5 ~~determined shall be costs of ~~the~~ state government operations~~ <sup>move</sup> <sup>strike</sup>

6 SECTION 169. 195.60 (2) of the statutes is amended to read:

7 195.60 (2) The office department shall annually, within 90 days after the close  
 8 of each fiscal year, ascertain the total of its expenditures during such year which are  
 9 reasonably attributable to the performance of its duties relating to railroads and  
 10 water carriers. For purposes of such calculation, ~~90 percent~~ <sup>strike</sup> of the expenditures so <sup>all</sup>  
 11 determined shall be expenditures of the office department <sup>plain comma</sup> and 10 percent of the  
 12 ~~expenditures so determined shall be expenditures for ~~the~~ state government~~ <sup>move</sup> <sup>strike</sup>  
 13 ~~operations~~ <sup>strike</sup>. The office department shall deduct therefrom all amounts chargeable to

14 railroads and water carriers under sub. (1) and s. 201.10 (3). A sum equal to the  
 15 remainder plus 10 percent of the remainder shall be assessed by the office  
 16 department to the several railroads and water carriers in proportion to their  
 17 respective gross operating revenues during the last calendar year, derived from  
 18 intrastate operations. Such assessment shall be paid within 30 days after the bill  
 19 has been mailed to the several railroads and water carriers, which bill shall  
 20 constitute notice of assessment and demand of payment thereof. The total amount  
 21 which may be assessed to the railroads and water carriers under authority of this  
 22 subsection shall not exceed 1.85 percent of the total gross operating revenues of such  
 23 railroads and water carriers, during such calendar year, derived from intrastate  
 24 operations. ~~Ninety percent~~ <sup>strike</sup> of the <sup>The</sup> payment shall be deposited in the general fund and

25 credited to the appropriation account under s. ~~20.155 (2) (g)~~ 20.395 (2) (gg). The



1 railroads and water carriers shall furnish such financial information as the office  
2 department requires for purposes of this section.

3 **SECTION 170.** 195.60 (3) of the statutes is amended to read:

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

19 **SECTION 171.** 195.60 (4) of the statutes is amended to read:

20 195.60 (4) (a) Within 30 days after the date of the mailing of any bill as provided  
21 by subs. (1) and (2), the railroad or water carrier against which such bill has been  
22 rendered may file with the office division of hearings and appeals objections setting  
23 out in detail the grounds upon which the objector regards the bill to be excessive,  
24 erroneous, unlawful or invalid. The office division of hearings and appeals, after  
25 notice to the objector and the department, shall hold a hearing upon such objections,

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

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

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

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

1           **SECTION 172.** 195.60 (5) of the statutes is amended to read:

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

14           **SECTION 173.** 195.60 (6) of the statutes is amended to read:

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

22           **SECTION 174.** 195.60 (7) (intro.) of the statutes is repealed.

23           **SECTION 175.** 195.60 (7) (a) of the statutes is renumbered 195.60 (7) and  
24 amended to read:

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

4           **SECTION 176.** 195.60 (7) (b) of the statutes is repealed.

5           **SECTION 177.** 201.01 (1) of the statutes is amended to read:

6           201.01 (1) “Commission” means the ~~office of the commissioner of railroads~~  
7 department of transportation in the case of water carriers and the public service  
8 commission in the case of other public service corporations.

9           **SECTION 178.** 226.025 (3) of the statutes is amended to read:

10           226.025 (3) The appointment of the department of financial institutions or the  
11 designation of a resident agent as attorney for the service of summons, notice,  
12 pleadings or process under s. 180.1507 shall be applicable only to actions or  
13 proceedings against the foreign corporations described in this section (unless such  
14 corporations have been admitted to this state for purposes other than those  
15 mentioned in this section) where the cause of action or proceeding arises out of  
16 transactions between such foreign corporations and public utilities operating in this  
17 state with which such foreign corporations are affiliated; and to actions or  
18 proceedings by or before the public service commission ~~or office of the commissioner~~  
19 ~~of railroads~~ involving the transactions described in sub. (1), or involving the relation  
20 between such foreign corporations and public utilities operating in this state with  
21 which they are affiliated.

22           **SECTION 179.** 227.01 (13) (s) of the statutes is amended to read:

23           227.01 (13) (s) Prescribes or relates to a uniform system of accounts for any  
24 person, including a municipality, that is regulated by the ~~office of the commissioner~~  
25 ~~of railroads or the public service commission.~~

1           **SECTION 180.** 227.43 (1) (bk) of the statutes is created to read:

2           227.43 (1) (bk) Assign a hearing examiner to preside over any hearing or review  
3 under ss. 26.20 (3) and (10), 84.05, 88.66 (2), 88.87 (4), 88.88 (2), 190.02 (6), 190.16  
4 (5), 192.324, 192.34, 192.52, 192.56, 195.28 (1), 195.285 (1), 195.29 (1), 195.30 (1),  
5 195.31, 195.32, 195.325, 195.37 (1), 195.38, and 195.60.

6           **SECTION 181.** 227.43 (4) (b) of the statutes is amended to read:

7           227.43 (4) (b) The department of transportation shall pay all costs of the  
8 services of a hearing examiner assigned under sub. (1) (bg) or (bk) or assigned to the  
9 department under sub. (1) (br), according to the fees set under sub. (3) (b).

10          **SECTION 182.** 227.46 (2m) of the statutes is amended to read:

11          227.46 (2m) In any hearing or review assigned to a hearing examiner under  
12 s. 227.43 (1) (bg) or (bk), the hearing examiner presiding at the hearing shall prepare  
13 a proposed decision, including findings of fact, conclusions of law, order and opinion,  
14 in a form that may be adopted as the final decision in the case. The proposed decision  
15 shall be a part of the record and shall be served by the division of hearings and  
16 appeals in the department of administration on all parties. Each party adversely  
17 affected by the proposed decision shall be given an opportunity to file objections to  
18 the proposed decision within 15 days, briefly stating the reasons and authorities for  
19 each objection, and to argue with respect to them before the administrator of the  
20 division of hearings and appeals. The administrator of the division of hearings and  
21 appeals may direct whether such argument shall be written or oral. If the decision  
22 of the administrator of the division of hearings and appeals varies in any respect from  
23 the decision of the hearing examiner, the decision of the administrator of the division  
24 of hearings and appeals shall include an explanation of the basis for each variance.  
25 The decision of the administrator of the division of hearings and appeals is a final

1 decision of the agency subject to judicial review under s. 227.52. The department of  
2 transportation may petition for judicial review.

3 **SECTION 183.** 227.46 (3) (intro.) of the statutes is amended to read:

4 227.46 (3) (intro.) With respect to contested cases except a hearing or review  
5 assigned to a hearing examiner under s. 227.43 (1) (bg) or (bk), an agency may by rule  
6 or in a particular case may by order:

7 **SECTION 184.** 281.36 (1) (cr) of the statutes is amended to read:

8 281.36 (1) (cr) "State transportation agency" means the department of  
9 transportation ~~or the office of the commissioner of railroads.~~

10 **SECTION 185.** 346.45 (3) (d) of the statutes is amended to read:

11 346.45 (3) (d) A railroad grade crossing which is marked with a sign in  
12 accordance with s. 195.285 (3). Such signs shall be erected by the maintaining  
13 authority only upon order of the ~~office of the commissioner of railroads as set forth~~  
14 in s. department or the division of hearings and appeals in accordance with ss.  
15 195.285 and 195.325.

16 **SECTION 186.** 350.137 (1) of the statutes is amended to read:

17 350.137 (1) The department, after having consulted with each rail authority,  
18 as defined in s. 350.138 (1) (b), in this state, that has furnished the department with  
19 the information required under s. 350.138 (2m), an established snowmobile  
20 association that represents snowmobile clubs, as defined in s. 350.138 (1) (e), in this  
21 state, and the ~~office of the commissioner of railroads~~ department of transportation,  
22 shall promulgate rules to establish uniform maintenance standards and uniform  
23 design and construction standards for snowmobile rail crossings under ss. 350.138  
24 and 350.139.

25 **SECTION 187.** 350.138 (4) (c) of the statutes is amended to read:

1           350.138 (4) (c) The department shall give notice of any hearing scheduled  
2 under par. (b) to the applicant, to the applicable rail authority, and to the ~~office of the~~  
3 ~~commissioner of railroads~~ department of transportation. The hearing shall be a  
4 contested case hearing under ch. 227. The ~~department's~~ department of natural  
5 resources' order issuing or denying a permit is a final order subject to judicial review  
6 under ch. 227.

7           **SECTION 188.** 350.138 (9) of the statutes is amended to read:

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

13           **SECTION 189.** 350.139 (5) of the statutes is amended to read:

14           350.139 (5) INSPECTION AUTHORIZED. The department or the ~~office of the~~  
15 ~~commissioner of railroads~~ department of transportation may inspect an established  
16 snowmobile rail crossing to determine whether the snowmobile organization  
17 maintaining the crossing is in compliance with the requirements imposed under sub.  
18 (4).

19           **SECTION 190.** 350.1395 (2) (b) 2. of the statutes is amended to read:

20           350.1395 (2) (b) 2. The department shall hold a hearing on a petition filed under  
21 subd. 1. after giving notice of the hearing to the rail authority, the snowmobile  
22 organization, and the ~~office of the commissioner of railroads~~ department of  
23 transportation. The hearing shall be a contested case hearing under ch. 227. The  
24 ~~department's~~ department of natural resources' order shall be a final order subject to  
25 judicial review under ch. 227.

1           **SECTION 191.** 350.1395 (2) (b) 3. (intro.) of the statutes is amended to read:

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

7           **SECTION 192.** 350.1395 (4) (b) of the statutes is amended to read:

8           350.1395 (4) (b) The department may not promulgate a rule under this  
9 subsection without first consulting with each rail authority in this state that has  
10 furnished the department with the information required under s. 350.138 (2m), an  
11 established snowmobile association that represents snowmobile clubs, as defined in  
12 s. 350.138 (1) (e), in this state, and the ~~office of the commissioner of railroads~~  
13 department of transportation.

14           **SECTION 193.** 552.23 (1) of the statutes is amended to read:

15           552.23 (1) If the target company is an insurance company subject to regulation  
16 by the commissioner of insurance, a banking corporation, savings bank, or savings  
17 and loan association subject to regulation by the division of banking, or a company  
18 subject to regulation by the public service commission, or the department of  
19 transportation, ~~or the office of the commissioner of railroads~~, the division of  
20 securities shall promptly furnish a copy of the registration statement filed under this  
21 chapter to the regulatory agency having supervision of the target company. Any  
22 hearing under this chapter involving any such target company shall be held jointly  
23 with the regulatory agency having supervision, and any determination following the  
24 hearing shall be made jointly with that regulatory agency.

25           **SECTION 194.** 945.06 of the statutes is amended to read:



1           **945.06 Public utilities to cease service.** When any public utility, common  
2 carrier, contract carrier, or railroad, subject to the jurisdiction of the public service  
3 commission, ~~office of the commissioner of railroads~~ or department of transportation  
4 of this state, is notified in writing by a federal, state or local law enforcement agency,  
5 acting within its jurisdiction, that any facility furnished by it is being used or will be  
6 used for the purpose of transmitting or receiving gambling information in violation  
7 of the laws of this state it shall discontinue or refuse the leasing, furnishing or  
8 maintaining of such facility, after reasonable notice to the subscriber, but no  
9 damages, penalty or forfeiture, civil or criminal, shall be found against any such  
10 public utility, common carrier, contract carrier or railroad, for any act done in  
11 compliance with any notice received from a law enforcement agency under this  
12 section. Nothing in this section shall be deemed to prejudice the right of any person  
13 affected thereby to secure an appropriate determination as otherwise provided by  
14 law in any court or tribunal or agency, that such facility should not be discontinued  
15 or removed, or should be restored.

16           **SECTION 195. Nonstatutory provisions.**

17           (1) ABOLISHING THE OFFICE OF COMMISSIONER OF RAILROADS; TRANSITIONAL  
18 PROVISIONS.

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

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

21           2. "Division" means the division of hearings and appeals in the department of  
22 administration.

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

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

1           (c) *Staff.*

2           1. On the effective date of this subdivision, the position of the commissioner of  
3 railroads is abolished.

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

7           a. One program assistant position.

8           b. Three regulation compliance investigator positions.

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

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

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

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

25           (f) *Rules and orders.*



2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-4043/lins  
ARG:.....

1

**INSERT ANAL:**

Under current law, the office prepares assessments against railroads and water carriers for the expenses of specific investigations, appraisals, and services and, more generally, prepares annual assessments for expenditures attributable to railroad and water carrier regulation. Ninety percent of these expenses and expenditures are considered those of the office and ten percent are considered general costs of state government. Upon payment of these assessments, 90 percent of the payment is credited to the office's appropriation account. Under this bill, 100 percent of these expenses and expenditures are considered those of the office (now DOT under the bill) and 100 percent of the payment is credited to the office's (now DOT's) appropriation account.

(a)

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**Basford, Sarah**

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**From:** Dernbach, BJ

**Sent:** Tuesday, April 20, 2010 10:36 AM

**To:** LRB.Legal

**Subject:** Draft Review: LRB 09-4043/1 Topic: Eliminate office of commissioner of railroads

Please Jacket LRB 09-4043/1 for the ASSEMBLY.

04/20/2010