



2009 ASSEMBLY BILL 977

April 22, 2010 – Introduced by Representatives KNODL, KERKMAN, VOS, BALLWEG, STRACHOTA and TAUCHEN, cosponsored by Senator A. LASEE. Referred to Committee on Transportation.

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

ASSEMBLY BILL 977

1 (16), 195.03 (17), 195.03 (18), 195.03 (19), 195.03 (25), 195.03 (28), 195.03 (29),
2 195.03 (30) (a), 195.03 (30) (b), 195.04 (1), 195.04 (2), 195.04 (3), 195.041,
3 195.042, 195.043 (1), 195.043 (2), 195.044 (1), 195.044 (2), 195.045, 195.046,
4 195.05 (title), 195.05 (1), 195.05 (2), 195.05 (4), 195.055, 195.06, 195.07 (1),
5 195.07 (2), 195.08 (2), 195.08 (7), 195.08 (9), 195.10, 195.15, 195.16, 195.20,
6 195.21, 195.26, 195.28 (1), 195.28 (1m), 195.28 (3), 195.28 (4), 195.285 (1),
7 195.285 (2), 195.285 (3), 195.286 (2), 195.286 (5), 195.286 (8), 195.29 (1), 195.29
8 (2), 195.29 (3), 195.29 (4), 195.29 (5), 195.29 (6), 195.29 (7), 195.30 (1), 195.31,
9 195.32, 195.34, 195.36, 195.37 (1), 195.37 (2), 195.37 (3), 195.37 (4) (a), 195.38,
10 195.45 (1), 195.45 (2), 195.45 (4), 195.50 (1), 195.60 (title), 195.60 (1), 195.60 (2),
11 195.60 (3), 195.60 (4), 195.60 (5), 195.60 (6), 201.01 (1), 226.025 (3), 227.01 (13)
12 (s), 227.43 (4) (b), 227.46 (2m), 227.46 (3) (intro.), 281.36 (1) (cr), 346.45 (3) (d),
13 350.137 (1), 350.138 (4) (c), 350.138 (9), 350.139 (5), 350.1395 (2) (b) 2., 350.1395
14 (2) (b) 3. (intro.), 350.1395 (4) (b), 552.23 (1) and 945.06; **to repeal and**
15 **recreate** 190.001; and **to create** 20.395 (2) (gg), 25.40 (1) (a) 12m., 192.001 (1r),
16 195.001 (1r), 195.001 (3), 195.29 (9), 195.325 and 227.43 (1) (bk) of the statutes;
17 **relating to:** eliminating the Office of the Commissioner of Railroads and
18 transferring the office's duties to the Department of Transportation, the
19 Department of Financial Institutions, and the Division of Hearings and
20 Appeals in the Department of Administration, funding of railroad and water
21 carrier regulation, and making an appropriation.

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

ASSEMBLY BILL 977

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.

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 DOT, and 100 percent of the payment is credited to a DOT appropriation account.

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

ASSEMBLY BILL 977

1 provided to the department of transportation as required under s. 189.02 (7) and
2 shall be processed and properly forwarded by the public service commission without
3 change except as requested and concurred in by the office of the commissioner of
4 railroads.

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

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

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

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

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

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

18 **20.395 (2) (gg) *Railroad and water carrier payments.*** From the general fund,
19 all moneys received from railroads and water carriers under s. 195.60, for activities
20 related to railroad and water carrier regulation under chs. 190 to 195.

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

22 **20.395 (2) (gq) *Railroad crossing improvement and protection maintenance***
23 ***and railroad regulation, state funds.*** The amounts in the schedule to pay the costs
24 for railroad crossing protection maintenance under s. 195.28 (3) and for activities
25 related to railroad regulation under chs. 190 to 195.

ASSEMBLY BILL 977

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

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

3 25.40 (1) (a) 12m. Moneys collected under s. 195.60.

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

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

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

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

21 26.20 (10) ~~APPEAL TO OFFICE OF THE COMMISSIONER OF RAILROADS~~ DIVISION OF
22 HEARINGS AND APPEALS. In case the department and any person operating any
23 locomotive, donkey, or threshing engine, or any engine, boiler, or locomotive cannot
24 agree as to the most practicable device or devices for preventing the escape of sparks,
25 cinders, or fire from smokestacks, ash pans or fire boxes, then the same shall be

ASSEMBLY BILL 977**SECTION 12**

1 determined by the ~~office of the commissioner of railroads~~ division of hearings and
2 appeals in the department of administration.

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

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

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

19 30.33 (2) MUNICIPALITY MAY ORGANIZE HARBOR RAILWAY CORPORATION. Any
20 municipality mentioned in sub. (1) may, with the consent of its board of harbor
21 commissioners, organize a railroad corporation for the purpose of constructing,
22 maintaining or operating a harbor belt line or may subscribe for stock in an existing
23 railroad corporation organized for such purpose. If the municipality decides to
24 organize a railroad corporation for such purpose, the governing body thereof may, by
25 resolution, authorize the chief executive officer or presiding officer of such

ASSEMBLY BILL 977

1 municipality to act, together with 4 citizens to be designated by the officer, as
2 incorporators of such company. Such incorporators shall proceed to incorporate the
3 railroad corporation in accordance with chs. 190 to 192, so far as applicable. Such
4 harbor railroad corporation is subject to the supervisory and regulatory powers of the
5 ~~office of the commissioner of railroads~~ department of transportation to the same
6 extent as other railroad corporations. The municipality may subscribe to the stock
7 of such harbor railroad corporation and may pay for such stock out of any funds it
8 may lawfully have available for that purpose, including the proceeds of harbor
9 improvement bonds.

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

11 66.0801 (2) Sections 66.0803 to 66.0825 do not deprive the ~~office of the~~
12 ~~commissioner of railroads,~~ department of transportation or public service
13 commission of any power under ss. 195.05 and 197.01 to 197.10 and ch. 196.

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

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

ASSEMBLY BILL 977**SECTION 16**

1 maintenance thereof, the department shall ~~lay the matter before the office of the~~
2 ~~commissioner of railroads, and the office of the commissioner of railroads shall~~
3 ~~review the proceedings and hold a hearing thereon in accordance with ss. 195.28 and~~
4 ~~195.29, and shall fix the portion of the cost of the construction and of the maintenance~~
5 ~~which is to be paid by the persons or corporations concerned, and the portion of the~~
6 ~~cost, if any, to be paid by the public, which portion shall be paid from the~~
7 ~~transportation fund. The office of the commissioner of railroads~~ department shall
8 determine the benefits, if any, which will inure to other highways, and apportion and
9 charge to the units of government responsible for the construction of such other
10 highways a fair portion of the cost. If an interested party objects to the department's
11 order under this section and requests a hearing, the department shall refer the order
12 to the division of hearings and appeals for review as provided in s. 195.325.

13 **SECTION 17.** 86.001 (2m) of the statutes is repealed.

14 **SECTION 18.** 86.12 (2) of the statutes is amended to read:

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

21 **SECTION 19.** 86.13 (3) of the statutes is amended to read:

22 86.13 (3) If any railroad company fails to grade, construct, pave, surface or
23 otherwise improve or maintain in good and safe condition for public travel as
24 required by this section any street or highway crossing after having been notified so
25 to do by the officer in charge thereof or of the highway improvement for 30 days after

ASSEMBLY BILL 977

1 such notification, the highway authorities may file a complaint with the office
2 department. The office department shall investigate and determine the matter in
3 controversy as provided in ch. 195. An order issued by the office department under
4 this subsection has the same effect as an order in a proceeding brought under ch. 195.

5 **SECTION 20.** 88.66 (2) of the statutes is amended to read:

6 88.66 (2) Every district whose drains cross the right-of-way of a railway
7 company is liable to such company for the reasonable cost of opening its right-of-way
8 and also for the cost of the culverts and bridges made necessary by such drain. The
9 drainage board shall include such costs in its cost of construction, as set forth in its
10 report of benefits and damages, and shall award them as damages to the railway
11 company. The bridge or culvert shall be designed by the district's engineer and the
12 design submitted to the railway company for approval. If a dispute arises as to the
13 adequacy of the design, either party may submit the dispute to the ~~office of the~~
14 ~~commissioner of railroads~~ division of hearings and appeals in the department of
15 administration by filing with the office division of hearings and appeals a statement
16 as to the facts involved and the nature of the dispute. The office division of hearings
17 and appeals shall ~~investigate and determine the matter in controversy in accordance~~
18 ~~with ch. 195, and any order it makes in such proceeding has the same effect as an~~
19 ~~order in any other proceeding properly brought under ch. 195.~~

20 **SECTION 21.** 88.87 (4) of the statutes is amended to read:

21 88.87 (4) If a railway company fails to comply with sub. (2), any person
22 aggrieved thereby may file a complaint with the ~~office of the commissioner of~~
23 ~~railroads~~ division of hearings and appeals in the department of administration
24 setting forth the facts. The office division of hearings and appeals shall investigate
25 and determine the matter in controversy ~~in accordance with ch. 195, and any order~~

ASSEMBLY BILL 977**SECTION 21**

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

3 **SECTION 22.** 88.88 (2) of the statutes is amended to read:

4 88.88 (2) If the railway company fails to comply with sub. (1), the 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.** 182.36 (3) of the statutes is amended to read:

12 182.36 (3) The corporation may enter into contracts with public utilities,
13 ~~including and~~ railroads, for the removal or change in location of the lines of such
14 public utilities and railroads where the same is deemed necessary by the corporation
15 in the construction of the project. Such contracts shall be for the payment of damages
16 caused the utilities and railroads by the relocation of their lines. In the event the
17 corporation and the utility or railroad are unable to reach an agreement, the public
18 service commission in the case of a utility or the department of transportation in the
19 case of a railroad shall direct the manner, location and time allowed for the change
20 in the utility or railroad line and the corporation shall be liable for the reasonable
21 costs of such change. In the event the public utility or railroad fails to comply with
22 the order of the public service commission or department of transportation it shall
23 be liable to the corporation for all damages occasioned by such failure.

24 **SECTION 24.** Chapter 189 of the statutes is repealed.

25 **SECTION 25.** 190.001 of the statutes is repealed and recreated to read:

ASSEMBLY BILL 977

1 **190.001 Definition.** In this chapter, “division of hearings and appeals” means
2 the division of hearings and appeals in the department of administration.

3 **SECTION 26.** 190.02 (6) of the statutes is amended to read:

4 190.02 (6) RAILROAD INTERSECTIONS. To cross, intersect, join or unite its railroad
5 with any other railroad, at any point, with the necessary turnouts, sidings and
6 switches and other conveniences in furtherance of the objects of its connections. And
7 if the 2 corporations cannot agree upon the amount of compensation to be made
8 therefor or the points and manner of such crossings and connections the same shall
9 be ascertained by the ~~office~~ division of hearings and appeals on application of either
10 corporation.

11 **SECTION 27.** 190.025 (2) (b) of the statutes is amended to read:

12 190.025 (2) (b) A railroad corporation that is subject to this subsection shall
13 have all powers conferred by law upon railroad corporations. The railroad
14 corporation may issue, sell, pledge or otherwise dispose of its evidences of debt, at
15 such times, in such amounts, for such considerations and upon such terms and
16 conditions as the board of directors of the corporation shall determine, and as shall
17 be authorized by the ~~office~~ department of financial institutions, or the federal surface
18 transportation board in the case of a railroad corporation organized for the purpose
19 of acquiring a railroad engaged in interstate commerce, or any existing railroad
20 corporation reorganized under the act and acquiring railroad property used in
21 interstate commerce. The evidences of debt may be convertible, at the option of the
22 holder, into stock, and shares of stock. The shares may have a nominal or par value
23 or, if the shares are shares of common stock, be without nominal or par value. The
24 shares may be of such classes, with such rights and voting powers as may be
25 expressed in the corporation’s articles or any amendment thereto.

ASSEMBLY BILL 977**SECTION 28**

1 **SECTION 28.** 190.03 of the statutes is amended to read:

2 **190.03 Office in state; books produced.** Any railroad corporation existing
3 under the laws of this state shall produce before the ~~office of the commissioner of~~
4 ~~railroads~~ department of financial institutions, the legislature, or any committee of
5 either house, or any court of record, its books of account and stock books, or so many
6 and such parts thereof as may be required by them, or in the discretion of the ~~office~~
7 ~~of the commissioner of railroads~~ department of financial institutions, legislature,
8 committee or court, transcripts from such books, or such parts thereof as may be
9 called for, duly authenticated; and each such railroad corporation shall designate
10 some office within this state as its principal office and inform the ~~office of the~~
11 ~~commissioner of railroads~~ department of financial institutions of such designation,
12 and shall keep there or at the office of its transfer agents or registrars a list of its
13 stockholders, giving the names and addresses of its stockholders, together with a
14 statement of the number and class of shares of its stock held by each of them, as
15 shown by its books. A failure or refusal to comply with any of the foregoing provisions
16 shall be cause of forfeiture of its franchises.

17 **SECTION 29.** 190.13 of the statutes is amended to read:

18 **190.13 Report to stockholders.** Every railroad corporation shall make an
19 annual report to its stockholders of its operations for the preceding calendar year, or
20 for its fiscal year, as the case may be, which report shall contain a balance sheet
21 showing its assets and liabilities, its capital stock, and funded debt, and an income
22 account showing its operating revenues, operating expenses, gross and net income,
23 as the result of its traffic or business operations, and such other information in
24 respect of its affairs as the board of directors shall deem advisable. A copy of each
25 such report shall be kept on file in its principal office in this state, shall be mailed

ASSEMBLY BILL 977

1 to each stockholder whose post-office address is known and shall be filed with the
2 office of the commissioner of railroads department of financial institutions.

3 **SECTION 30.** 190.16 (5) of the statutes is amended to read:

4 190.16 (5) REMOVAL, WHEN. When a spur track has been abandoned, as defined
5 in s. 85.09, the office department of transportation or the division of hearings and
6 appeals, after hearing held upon notice to all parties interested and for good cause
7 shown, may order the removal of the track except that, if no objection has been filed
8 with the office department of transportation or the division of hearings and appeals
9 within 20 days from the original notice, the office department of transportation or
10 the division of hearings and appeals may without hearing authorize the removal of
11 the track.

12 **SECTION 31.** 191.001 of the statutes is amended to read:

13 **191.001 Definition.** In this chapter, “office” “department” means the office of
14 ~~the commissioner of railroads~~ department of transportation.

15 **SECTION 32.** 191.01 (2) of the statutes is amended to read:

16 191.01 (2) CONSTRUCTION, CERTIFICATE FROM OFFICE DEPARTMENT PREREQUISITE.
17 No railroad corporation shall begin the construction of any proposed line of railroad
18 in this state until it shall have obtained from the office department a certificate that
19 public convenience and a necessity require the construction of the railroad, and the
20 certificate shall constitute the license from this state to the company to build its
21 proposed railroad.

22 **SECTION 33.** 191.03 of the statutes is amended to read:

23 **191.03 Articles; publication prerequisite to certificate.** No railroad
24 corporation shall make application for a certificate unless it has caused a copy of its
25 corporate articles to be published as a class 2 notice, under ch. 985, in each county

ASSEMBLY BILL 977**SECTION 33**

1 in which the railroad is proposed to be located within 6 months next prior to the time
2 of making such application, and files satisfactory proof thereof with the office
3 department.

4 **SECTION 34.** 191.05 of the statutes is amended to read:

5 **191.05 Maps and profiles with application; changes.** Complete maps and
6 profiles of the proposed railroad shall be filed with the application for a certificate
7 of convenience and necessity. The office department may permit errors, omissions
8 or defects in the application, maps and profiles to be supplied or corrected, and
9 permit changes in the proposed route to be made.

10 **SECTION 35.** 191.07 of the statutes is amended to read:

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

20 **SECTION 36.** 191.09 (1) of the statutes is amended to read:

21 **191.09 (1) BEFORE THE OFFICE DEPARTMENT.** The provisions of ch. 195 relating
22 to the subpoenaing of witnesses, the production of books, documents and papers, the
23 administration of oaths, punishment for disobedience of an order of the office of the
24 commissioner of railroads department, or of a subpoena, or for refusal of a witness
25 to be sworn or to testify, witness fees, taking depositions, the keeping of a record of

ASSEMBLY BILL 977

1 the proceedings, the taking of testimony, transcribing the evidence, or relating to the
2 procedure before the ~~office~~ department not inconsistent with this chapter shall apply
3 to all proceedings under this chapter.

4 **SECTION 37.** 191.09 (2) of the statutes is amended to read:

5 191.09 (2) COURT REVIEW OF ORDERS. Orders of the ~~office~~ department under this
6 chapter shall be subject to review in the manner provided in ch. 227.

7 **SECTION 38.** 191.10 (1) of the statutes is amended to read:

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

21 **SECTION 39.** 191.10 (2) of the statutes is amended to read:

22 191.10 (2) CERTIFICATE FOR PART OF LINE. Whenever it shall appear to the ~~office~~
23 department that public convenience and a necessity do not require the construction
24 of the railroad as proposed in the application, but do require the construction of a part

ASSEMBLY BILL 977**SECTION 39**

1 thereof, the ~~office~~ department may issue a certificate for the construction of such part
2 of the railroad as public convenience and necessity require.

3 **SECTION 40.** 191.10 (3) of the statutes is amended to read:

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

9 **SECTION 41.** 191.11 of the statutes is amended to read:

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

17 **SECTION 42.** 191.13 (2) of the statutes is amended to read:

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

ASSEMBLY BILL 977

1 temporary railroad; and may prior to the expiration of such time, upon order of the
2 office department, and after a hearing, upon notice to all parties interested and good
3 cause shown, discontinue, dismantle and remove the railroad.

4 **SECTION 43.** 191.16 of the statutes is amended to read:

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

15 **SECTION 44.** 191.17 of the statutes is amended to read:

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

ASSEMBLY BILL 977**SECTION 44**

1 authorizing the construction of the railroad in accordance therewith and with the
2 provisions of ch. 195.

3 **SECTION 45.** 191.19 (1) of the statutes is amended to read:

4 191.19 (1) Upon the completion of the construction of any railroad under the
5 approved specification, the company shall, before operating the same for public
6 service, report to the office department; and the office department shall inspect the
7 work. If the office department finds that the railroad has been constructed in
8 accordance with the approved specification and with the provisions of ch. 195 and is
9 otherwise suitable and properly constructed so as to secure public safety in the
10 operation thereof, the office department shall enter an order authorizing its
11 operation, which order shall be presumptive evidence of the sufficiency of such
12 construction.

13 **SECTION 46.** 191.19 (3) of the statutes is amended to read:

14 191.19 (3) If upon inspection the office department shall deem that public
15 safety requires the installation, operation and maintenance of some protective
16 appliance at any grade crossing of railroad tracks the office department may, before
17 granting the order, after notice and hearing under s. 195.28, require the installation,
18 operation and maintenance of suitable protective appliances, and shall apportion the
19 expense of constructing, maintaining and operating such protective appliances
20 among the owners of the tracks.

21 **SECTION 47.** 191.20 of the statutes is amended to read:

22 **191.20 Railroad routes; right to alter.** Every railroad company may, by the
23 vote of two-thirds of its directors, alter or change the route of its railroad, by making
24 and filing with the office ~~of the commissioner of railroads~~ department and the
25 department of financial institutions and also by recording in the office of the register

ASSEMBLY BILL 977

1 of deeds of the county or counties where the alteration or change is to be made, a
2 surveyed map and certificate of the alteration or change. The alteration or change
3 may not deviate from the original route for a greater distance than one mile at any
4 point. No city or village may be left off the railroad by the change of route. The
5 original end points of the railroad, or the route in any city or village, shall not be
6 changed without the approval of the ~~office of the commissioner of railroads~~
7 department of transportation after notice to the municipality.

8 **SECTION 48.** 191.21 of the statutes is amended to read:

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

13 **SECTION 49.** 192.001 (1r) of the statutes is created to read:

14 192.001 (1r) "Division of hearings and appeals" means the division of hearings
15 and appeals in the department of administration.

16 **SECTION 50.** 192.001 (2) of the statutes is repealed.

17 **SECTION 51.** 192.15 (14) of the statutes is amended to read:

18 192.15 (14) If in any particular case any exemption from any requirement of
19 this section is deemed necessary by a carrier, the ~~office~~ department shall consider the
20 application of the carrier for exemption and may grant the exemption when
21 accompanied by a full statement of the conditions existing and the reasons for the
22 exemption. Any exemption so granted shall be limited to the particular case specified
23 and shall be limited to a stated period of time.

24 **SECTION 52.** 192.25 (3) (a) of the statutes is amended to read:

ASSEMBLY BILL 977**SECTION 52**

1 192.25 (3) (a) The office department, by rule, may grant an exception to sub.
2 (2) if the office department determines that the exception will not endanger the life
3 or property of any person.

4 **SECTION 53.** 192.27 (1) of the statutes is amended to read:

5 192.27 (1) When the track of a railway corporation crosses the track of any
6 other railway corporation at grade, or when their tracks and right-of-way are
7 adjacent, except in counties having a population of at least 150,000, the corporations
8 shall, within 60 days after a written request of the office department or the council
9 or board of the city, town or village within which the tracks so cross or are adjacent,
10 make a track connection within such town, city or village to afford reasonable and
11 proper facilities for the interchange of traffic between their respective lines for
12 forwarding and delivering freight, and the expense thereof shall be borne equally by
13 those corporations, unless otherwise ordered by the office department.

14 **SECTION 54.** 192.29 (4) of the statutes is amended to read:

15 192.29 (4) HIGHWAYS; BELL. No railroad train or locomotive shall run over any
16 public traveled grade highway crossing outside of the limits of municipalities unless
17 the engine bell shall be rung continuously from 1,320 feet before the crossing until
18 the crossing is reached. But the office department may order that the ringing of the
19 bell as required by this subsection shall be omitted at any crossing.

20 **SECTION 55.** 192.31 (1) (b) of the statutes is amended to read:

21 192.31 (1) (b) If the office department finds that the absence of a telltale would
22 create an unreasonable risk of harm to the public or a railroad employee on a railroad
23 not under the jurisdiction of the federal railroad administration, the office
24 department may enter an order requiring the installation of a telltale. A telltale

ASSEMBLY BILL 977

1 shall be ordered by the office department according to the hearing procedure
2 provided under sub. (4).

3 **SECTION 56.** 192.31 (2) of the statutes is amended to read:

4 192.31 (2) The office department may determine the materials for and the
5 construction and placing of such telltales.

6 **SECTION 57.** 192.31 (4) of the statutes is amended to read:

7 192.31 (4) Upon finding that any such structure will not imperil life or limb,
8 and that the public interest requires or permits such structure to be constructed or
9 reconstructed otherwise than as permitted by sub. (3), the office department may
10 exempt such structure from such provision. Such findings shall be made only upon
11 written application, setting forth fully the grounds therefor and shall be made only
12 after public hearing held upon notice to all interested parties except that, if no
13 objection is filed with the office department within 20 days of the notice, the office
14 department may require the installation of a telltale without hearing. The findings
15 and order requiring the installation of a telltale shall be in writing and contain
16 complete provisions and requirements as to the vertical clearance to be maintained
17 in such construction or reconstruction. Such structure shall be constructed or
18 reconstructed only in compliance with such order.

19 **SECTION 58.** 192.31 (5) of the statutes is amended to read:

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

25 **SECTION 59.** 192.324 of the statutes is amended to read:

ASSEMBLY BILL 977**SECTION 59**

1 **192.324 Railroad bridges to be safe for employees.** Whenever a complaint
2 is lodged with the office department by any person to the effect that a railroad bridge
3 because of its style of construction does not have walks or railings and for that reason
4 is dangerous to the life and limb of railroad employees and the safety of such
5 employees requires the alteration so as to provide for such walks and railings of such
6 bridge, the office department shall give notice to the party in interest, other than the
7 complainant, of the filing of the complaint and furnish such party with a copy thereof,
8 and order a hearing thereon, in the manner provided for hearings in s. 195.31. The
9 office department may proceed in a similar manner in the absence of a complaint
10 when, in the opinion of the office department, the safety of railroad employees
11 requires the alteration of a railroad bridge. After the hearing, the office department
12 shall determine what alteration, if any, of such bridge, shall be made. The expense
13 of such alteration shall be borne by the railroad company. If an interested party
14 objects to the department's order under this section and requests a hearing, the
15 department shall refer the order to the division of hearings and appeals for review
16 as provided in s. 195.325.

17 **SECTION 60.** 192.327 (3) of the statutes is amended to read:

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

21 **SECTION 61.** 192.327 (4) of the statutes is repealed.

22 **SECTION 62.** 192.327 (5) of the statutes is repealed.

23 **SECTION 63.** 192.327 (6) of the statutes is amended to read:

24 192.327 (6) The office department may, in enforcing the rules, inspect any
25 motor vehicle used to transport workers to and from their places of employment or

ASSEMBLY BILL 977

1 during the course of their employment. ~~Upon request of the office, the department~~
2 ~~shall direct its traffic officers to assist the office in those inspections.~~

3 **SECTION 64.** 192.327 (7) of the statutes is amended to read:

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

9 **SECTION 65.** 192.33 (5) of the statutes is amended to read:

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

13 **SECTION 66.** 192.34 of the statutes is amended to read:

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

24 **SECTION 67.** 192.47 of the statutes is amended to read:

ASSEMBLY BILL 977**SECTION 67**

1 **192.47 Railroad police; oath; powers.** Any railway company may, at its own
2 expense, appoint and employ railroad police officers at the stations or other places
3 on the line of its road within this state as it deems necessary for the protection of its
4 property and the preservation of order on its premises and in and about its cars,
5 depots, depot grounds, yards, buildings or other structures. Each police officer shall
6 take an oath to support the constitution of the United States and claiming to be a
7 citizen of the United States and shall file it with the office department. Each police
8 officer shall, when on duty, wear a shield furnished by the company bearing the
9 words “Railroad Police” and the name of the company. These police officers may
10 arrest, with or without warrant, any person who in their presence commits upon the
11 premises of the company or in or about its cars, depots, depot grounds, yards,
12 buildings or other structures any offense against the laws of this state or the
13 ordinances of any town, city or village, and shall also have the authority of sheriffs
14 in regard to the arrest or apprehension of these offenders in or about the premises
15 or appurtenances. In case of the arrest, by a railroad police officer, of any person
16 without warrant the officer shall immediately take the offender before a judge
17 having jurisdiction and make complaint against the offender. Every railway
18 company shall be responsible for the acts of its police officers.

19 **SECTION 68.** 192.52 (3) of the statutes is amended to read:

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

ASSEMBLY BILL 977

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

3 **SECTION 69.** 192.52 (4) of the statutes is amended to read:

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

9 **SECTION 70.** 192.52 (5) of the statutes is amended to read:

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

20 **SECTION 71.** 192.53 (4) (a) of the statutes is amended to read:

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

ASSEMBLY BILL 977**SECTION 72**

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

2 192.53 (4) (b) The office department shall make the findings described in par.
3 (a) only upon written application to it to exempt the construction or reconstruction
4 of a structure from the requirements of this section, setting forth fully the grounds
5 therefor, and only after public hearing held upon notice to all interested parties
6 except that, if no objection is filed with the office department within 20 days of the
7 notice, the office department may authorize the exemption without hearing. The
8 office's department's findings and order granting the exemption shall be in writing
9 and shall contain complete provisions and requirements as to the horizontal
10 clearance to be maintained in the construction or reconstruction. The structure shall
11 be constructed or reconstructed only in compliance with the office's department's
12 order.

13 **SECTION 73.** 192.53 (5) (a) (intro.) of the statutes is amended to read:

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

18 **SECTION 74.** 192.53 (6) of the statutes is amended to read:

19 192.53 (6) Any railroad or shipper to which this section applies, who violates
20 any provision of this section or who fails, neglects or refuses to obey any lawful order
21 made by the office department under this section, shall forfeit not less than \$100 nor
22 more than \$200.

23 **SECTION 75.** 192.55 (5) of the statutes is amended to read:

24 192.55 (5) Any corporation or person operating a railroad that shall fail to erect
25 the telltales required by s. 192.31 for the space of 60 days after notice from the office

ASSEMBLY BILL 977

1 department requiring such erection shall forfeit not less than \$50 nor more than
2 \$100, and each 20 days' delay thereafter in erecting such telltales shall be a separate
3 offense.

4 **SECTION 76.** 192.56 (1) of the statutes is amended to read:

5 192.56 (1) It is unlawful for any railroad company owning or operating any
6 railroad in whole or in part in this state, to abandon any station in any town, village
7 or city on its line of railroad, within this state, or to remove the depot therefrom, or
8 to withdraw agency service therefrom, without first obtaining from the ~~office~~ division
9 of hearings and appeals an order authorizing such action.

10 **SECTION 77.** 192.56 (2) of the statutes is amended to read:

11 192.56 (2) At a station where agency service is provided the application to the
12 ~~office~~ division of hearings and appeals for such authorizing order shall set forth the
13 facts showing the necessity for such action by the railroad company, and if the ~~office~~
14 division of hearings and appeals finds that the application is sufficient
15 presumptively to justify the order prayed for, it shall enter an order fixing the time
16 and place of hearing on the application, which time shall not be less than 20 days
17 after the posting provided for in sub. (3).

18 **SECTION 78.** 192.56 (3) of the statutes is amended to read:

19 192.56 (3) Notice of the time and place of the hearing and of the purpose thereof
20 shall be given, by the ~~office~~ division of hearings and appeals, by posting the notice
21 in 5 conspicuous places in the town or village.

22 **SECTION 79.** 192.56 (5) of the statutes is amended to read:

23 192.56 (5) The hearing shall be held as other hearings before the ~~office~~ division
24 of hearings and appeals are held as far as applicable. The ~~office~~ division of hearings

ASSEMBLY BILL 977

1 and appeals may dismiss the application or may grant it in whole or in part and under
2 such conditions as it may deem equitable.

3 **SECTION 80.** 192.56 (6) of the statutes is amended to read:

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

16 **SECTION 81.** 195.001 (1r) of the statutes is created to read:

17 195.001 (1r) "Division of hearings and appeals" means the division of hearings
18 and appeals in the department of administration.

19 **SECTION 82.** 195.001 (2) of the statutes is repealed.

20 **SECTION 83.** 195.001 (3) of the statutes is created to read:

21 195.001 (3) "Secretary" means the secretary of transportation.

22 **SECTION 84.** 195.03 (title) of the statutes is amended to read:

23 **195.03** (title) **Office Department; powers and duties, general**
24 **enumeration.**

25 **SECTION 85.** 195.03 (1) of the statutes is amended to read:

ASSEMBLY BILL 977

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

4 **SECTION 86.** 195.03 (2) of the statutes is amended to read:

5 195.03 (2) OFFICE DEPARTMENT INITIATIVE. In any matter within its jurisdiction
6 under ch. 192 or this chapter, the office department may initiate, investigate and
7 order a hearing at its discretion upon such notice as it considers proper.

8 **SECTION 87.** 195.03 (7) of the statutes is amended to read:

9 195.03 (7) STUDY RAILROAD AND WATER CARRIER BUSINESS, DEMAND INFORMATION.
10 The office department may inquire into the management of the business of all
11 railroads and water carriers, and shall keep itself informed as to the manner in which
12 the same is conducted, and may obtain from any railroad or water carrier all
13 necessary information to enable the office department to perform the duties and
14 carry out the objects for which it is responsible.

15 **SECTION 88.** 195.03 (8) of the statutes is amended to read:

16 195.03 (8) QUESTIONNAIRES, ANSWERS COMPULSORY. The office department shall
17 prepare forms for the purpose of obtaining the information which it may deem
18 necessary or useful to the proper exercise of its functions, which shall conform as
19 nearly as practicable to the forms prescribed by the federal railroad administration,
20 federal surface transportation board, or other applicable federal agency or authority,
21 and shall furnish the forms to railroads and water carriers, and every railroad and
22 water carrier receiving the forms shall cause the forms to be properly completed and
23 verified under oath by its proper officer and returned to the office department within
24 the time fixed by the office department.

25 **SECTION 89.** 195.03 (9) of the statutes is amended to read:

ASSEMBLY BILL 977**SECTION 89**

1 195.03 (9) EXAMINE BOOKS AND FILES OF RAILROADS AND WATER CARRIERS. The
2 ~~commissioner of railroads~~ secretary or any person employed by the ~~office~~ department
3 for that purpose shall, upon demand, have the right to inspect the books and papers
4 of any railroad or water carrier and to examine under oath any officer, agent or
5 employee of such railroad or water carrier in relation to its business and affairs;
6 provided that any person other than ~~the commissioner of railroads~~ secretary
7 who makes such demand shall produce his or her authority under the hand and seal
8 of the ~~office~~ secretary.

9 **SECTION 90.** 195.03 (10) of the statutes is amended to read:

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

16 **SECTION 91.** 195.03 (11) of the statutes is amended to read:

17 195.03 (11) UNIFORM SYSTEM OF ACCOUNTING. The ~~office~~ department may
18 prescribe a uniform system of keeping and rendering accounts of all railroad and
19 water carrier business transacted in this state, and the time within which railroads
20 and water carriers shall adopt such system; provided that all forms of accounts which
21 may be prescribed by the ~~office~~ department shall conform to any applicable
22 requirement under 49 USC 11141 to 11164 or 49 CFR 1201 and, as nearly as
23 practicable, to similar forms prescribed by federal authority.

24 **SECTION 92.** 195.03 (12) of the statutes is amended to read:

ASSEMBLY BILL 977

1 195.03 (12) TIME FOR FILING WATER CARRIER RATE TARIFFS. The office department
2 shall fix the time for filing water carrier schedules relative to the transportation of
3 passengers and property and of any service in connection therewith.

4 **SECTION 93.** 195.03 (13) of the statutes is amended to read:

5 195.03 (13) SCHEDULE FORMS. The office department may prescribe the forms
6 for water carrier schedules.

7 **SECTION 94.** 195.03 (14) of the statutes is amended to read:

8 195.03 (14) PASSES TO SHIPPERS. The office department may prescribe
9 regulations for free transportation of attendants upon shipments of livestock.

10 **SECTION 95.** 195.03 (15) of the statutes is amended to read:

11 195.03 (15) ELEVATORS AND WAREHOUSES. The office department may prescribe
12 rules and regulations covering the charges and manner of conducting the business
13 of public elevators and warehouses upon railroad ground.

14 **SECTION 96.** 195.03 (16) of the statutes is amended to read:

15 195.03 (16) CAR SERVICE. The office department may make reasonable
16 regulations for furnishing cars to shippers, and for moving, loading and unloading
17 cars and for weighing cars and freight, and to test railroad weights and scales used
18 in weighing freight or cars.

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

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

24 **SECTION 98.** 195.03 (18) of the statutes is amended to read:

ASSEMBLY BILL 977**SECTION 98**

1 195.03 (18) SAFETY DEVICES. The ~~office~~ department may make reasonable rules,
2 regulations, specifications and standards for the installation, operation and
3 maintenance of all safety devices and measures.

4 **SECTION 99.** 195.03 (19) of the statutes is amended to read:

5 195.03 (19) RAILROAD AND WATER CARRIER STRUCTURES. The ~~office~~ department
6 may order the repair or reconstruction of any inadequate or unsafe railroad track or
7 water carrier structure.

8 **SECTION 100.** 195.03 (25) of the statutes is amended to read:

9 195.03 (25) DISTRIBUTION OF ORDERS. The ~~office~~ department shall upon
10 application furnish certified copies, under its seal, of any order made by it, which
11 shall be prima facie evidence of the facts stated therein.

12 **SECTION 101.** 195.03 (28) of the statutes is amended to read:

13 195.03 (28) ~~Title. LEGAL ACTIONS. The office may sue and be sued in that name,~~
14 ~~and~~ department may confer with or participate in any proceedings before any
15 regulatory agency of any other state or of the federal government.

16 **SECTION 102.** 195.03 (29) of the statutes is amended to read:

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

22 **SECTION 103.** 195.03 (30) (a) of the statutes is amended to read:

23 195.03 (30) (a) The ~~office~~ department shall give testimony at the hearing under
24 s. 350.138 (4) (b), or shall submit a written report for introduction into the hearing
25 record, on the factors stated in s. 350.138 (4) (d) 1., 2., 3., and 4.

ASSEMBLY BILL 977**SECTION 104**

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

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

6 **SECTION 105.** 195.04 (1) of the statutes is amended to read:

7 195.04 **(1)** Upon complaint of any person, including any state agency, water
8 carrier, or railroad, either relating to a railroad as provided under s. 192.324, 192.34,
9 195.20, 195.28 (1), 195.285 (1), 195.29 (1), (5), or (6), 195.31, or 195.32 or that any
10 water carrier rate, fare, charge, or classification or any regulation or practice
11 whatever affecting the transportation of persons or property, or any service in
12 connection therewith, is in any respect unreasonable or unjustly discriminatory or
13 that any service is inadequate, the ~~office~~ department may investigate the complaint
14 and shall set the complaint for hearing. No order may be entered by the ~~office~~
15 department without a public hearing, except as otherwise provided in this chapter.

16 **SECTION 106.** 195.04 (2) of the statutes is amended to read:

17 195.04 **(2)** The ~~office~~ department shall, prior to any hearing, notify the water
18 carrier or railroad complained of that a complaint has been made, and 20 days after
19 such notice has been given the ~~office~~ department may proceed to set a time and place
20 for a hearing.

21 **SECTION 107.** 195.04 (3) of the statutes is amended to read:

22 195.04 **(3)** The ~~office~~ department shall give the water carrier or railroad and
23 the complainant 20 days' notice of the hearing and the matters to be considered and
24 determined. Both the water carrier or railroad and the complainant shall be entitled
25 to be heard and shall have process to enforce the attendance of witnesses.

ASSEMBLY BILL 977**SECTION 108**

1 **SECTION 108.** 195.041 of the statutes is amended to read:

2 **195.041 Separate rate hearings; absence of direct damage.** The office
3 department may, when complaint is made of more than one water carrier rate or
4 charge, order separate hearings thereon, and may consider and determine the
5 several matters complained of separately and at such times as it may prescribe. No
6 complaint shall at any time be dismissed because of the absence of direct damage to
7 the complainant.

8 **SECTION 109.** 195.042 of the statutes is amended to read:

9 **195.042 Summary investigations.** Whenever the office department believes
10 that any water carrier rate or charge may be unreasonable or unjustly
11 discriminatory or that any service is inadequate or cannot be obtained or that an
12 investigation of any matter relating to any water carrier or, if a matter arising under
13 s. 192.324, 192.34, 195.20, 195.28 (1), 195.285 (1), 195.29 (1), (5), or (6), 195.31, or
14 195.32, to any railroad should for any reason be made, it may investigate the same
15 with or without notice.

16 **SECTION 110.** 195.043 (1) of the statutes is amended to read:

17 195.043 (1) If, after summary investigation, the office department becomes
18 satisfied that sufficient grounds exist to warrant a formal hearing being ordered as
19 to the matters investigated, it shall set a time and place for a hearing. The office
20 department shall publish notice of any such investigation in its weekly calendar and
21 any report and all matters considered by the office department with respect thereto
22 shall be available for public inspection upon request.

23 **SECTION 111.** 195.043 (2) of the statutes is amended to read:

24 195.043 (2) Notice of the time and place for such hearing shall be given to the
25 water carrier or railroad, and to such other interested persons as the office

ASSEMBLY BILL 977**SECTION 111**

1 department deems necessary, as provided in s. 195.04, and thereafter proceedings
2 shall be had and conducted in reference to the matter investigated in like manner
3 as though complaint had been filed with the ~~office~~ department relative to the matter
4 investigated, and the same order or orders may be made in reference thereto as if
5 such investigation had been made on complaint.

6 **SECTION 112.** 195.044 (1) of the statutes is amended to read:

7 195.044 (1) Each witness who appears before the ~~office~~ department or its agent,
8 by its order, shall receive for attendance the fees and mileage now provided for
9 witnesses in civil cases in courts of record, which shall be audited and paid by the
10 state in the same manner as other expenses are audited and paid, upon the
11 presentation of proper vouchers sworn to by such witnesses and approved by the
12 ~~office~~ department. Said fees and mileage shall be charged to the appropriation for
13 the ~~office~~ department.

14 **SECTION 113.** 195.044 (2) of the statutes is amended to read:

15 195.044 (2) No witness subpoenaed at the instance of parties other than the
16 ~~office~~ department is entitled to compensation from the state for attendance or travel
17 unless the ~~office~~ department certifies that the witness' testimony was material to the
18 matter investigated.

19 **SECTION 114.** 195.045 of the statutes is amended to read:

20 **195.045 Depositions.** The ~~office~~ department or any party may in any hearing
21 cause the depositions of witnesses residing within or without the state to be taken
22 in the manner prescribed by law for like depositions in civil actions in circuit courts.
23 Any expense incurred or authorized by the ~~office~~ department in taking such
24 depositions shall be charged to the appropriation for the ~~office~~ department.

25 **SECTION 115.** 195.046 of the statutes is amended to read:

ASSEMBLY BILL 977**SECTION 115**

1 **195.046 Record.** A full and complete record shall be kept of all proceedings
2 before the office or its hearing examiners department.

3 **SECTION 116.** 195.05 (title) of the statutes is amended to read:

4 **195.05 (title) ~~Office; water~~ Water carrier rates, regulations, service,**
5 **procedure.**

6 **SECTION 117.** 195.05 (1) of the statutes is amended to read:

7 **195.05 (1) ORDERS FOR RATES AND SERVICE.** Whenever the office department shall
8 find that any existing water carrier rate, fare, charge, or classification, or any joint
9 rate, or any regulation or practice affecting the transportation of persons or property,
10 or any service in connection therewith is unreasonable or unjustly discriminatory or
11 that any service is inadequate, it shall determine and by order fix a reasonable rate,
12 fare, charge, classification, joint rate, regulation, practice or service to be imposed,
13 observed and followed in the future, in lieu of that found to be unreasonable or
14 unjustly discriminatory or inadequate.

15 **SECTION 118.** 195.05 (2) of the statutes is amended to read:

16 **195.05 (2) TIME TO COMPLY WITH ORDERS.** Where the order made relates to
17 service, and the same cannot, in the judgment of the office department, be complied
18 with within 20 days, the office department may prescribe such additional time as in
19 its judgment is reasonably necessary to comply with the order and may on
20 application and for good cause shown further extend the time.

21 **SECTION 119.** 195.05 (4) of the statutes is amended to read:

22 **195.05 (4) MODIFICATION OF ORDERS.** The office department may by order at any
23 time, upon notice to the water carrier and after opportunity to be heard, rescind, alter
24 or amend any order fixing any rate or rates, fares, charges or classification, or any
25 other order made by the office department.

ASSEMBLY BILL 977

1 **SECTION 120.** 195.055 of the statutes is amended to read:

2 **195.055 Judicial review.** All Subject to s. 195.325, all orders and
3 determinations of the office department under this chapter are subject to judicial
4 review under ch. 227.

5 **SECTION 121.** 195.06 of the statutes is amended to read:

6 **195.06 Office Department orders prima facie lawful.** All orders,
7 determinations and decisions made by the office department shall be in force and
8 effective 20 days after the same has been served as required by s. 227.48 unless the
9 office department shall specify a different date upon which the same shall be
10 effective, and shall be prima facie lawful, and all regulations, practices and service
11 prescribed by the office department shall be in force and shall be prima facie lawful
12 and reasonable, until finally found otherwise upon review thereof by the division of
13 hearings and appeals under s. 195.325 and ch. 227 or upon judicial review thereof
14 instituted pursuant to ch. 227.

15 **SECTION 122.** 195.07 (1) of the statutes is amended to read:

16 **195.07 (1) POWERS.** The office department shall inquire into the neglect or
17 violation of the laws of this state by water carriers and railroads, or by the officers,
18 agents or employees thereof, or by persons operating water carriers and railroads,
19 and shall report violations to the attorney general.

20 **SECTION 123.** 195.07 (2) of the statutes is amended to read:

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

ASSEMBLY BILL 977**SECTION 124**

1 **SECTION 124.** 195.08 (2) of the statutes is amended to read:

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

11 **SECTION 125.** 195.08 (7) of the statutes is amended to read:

12 195.08 (7) CHANGES IN SCHEDULE. No change shall be made in any schedule, or
13 in any classification, unless the change shall be plainly indicated upon existing
14 schedules, or by filing new schedules in lieu thereof, 30 days prior to the time the
15 same are to take effect. Copies of all new schedules shall be filed as required in this
16 section in every terminal and office of such water carrier at places to or from which
17 the rates in such schedules apply, 30 days prior to the time the same are to take effect,
18 unless the office department shall prescribe a less time.

19 **SECTION 126.** 195.08 (9) of the statutes is amended to read:

20 195.08 (9) COMPLAINT AGAINST CHANGE IN SCHEDULES. Whenever a complaint is
21 filed with the office department before any change in any water carrier schedule, or
22 in any classification, rule, regulation or practice becomes effective to the effect that
23 the change is unreasonable or unjustly discriminatory, the office department shall
24 give notice to the water carrier that a complaint has been made, may investigate the
25 complaint and shall set the complaint for hearing. The office department may, in its

ASSEMBLY BILL 977

1 discretion, by order, stay the change pending the determination of the matters
2 investigated at any time before the change shall take effect. If the change
3 complained of is found unreasonable or unjustly discriminatory, the change shall not
4 take effect and, if the change has become effective, the office department shall order
5 the discontinuance thereof. The office department may fix and order substituted for
6 any such change such rates, joint rates, fares, charges, classification, rule,
7 regulation, practice or service as it shall have determined to be just and reasonable
8 and which shall be charged, imposed or followed in the future, and shall make such
9 order respecting such rule, regulation, practice or service as it shall determine to be
10 reasonable and which shall be observed and followed in the future. Procedure and
11 notice shall be as provided in s. 195.04 (2) to (4).

12 **SECTION 127.** 195.10 of the statutes is amended to read:

13 **195.10 Emergency rates.** The office department shall have power, when
14 deemed by it necessary to prevent injury to the business or interests of the people or
15 water carriers of this state in consequence of any emergency to be judged of by the
16 office department, to temporarily alter, amend, or, with the consent of the water
17 carrier company concerned, suspend any existing passenger rates, freight rates,
18 schedules and orders on any water carrier in this state. Such rates so made by the
19 office department shall apply on one or more of the water carriers in this state or any
20 portion thereof as may be directed by the office department, and shall take effect at
21 such time and remain in force for such length of time as may be prescribed by the
22 office department.

23 **SECTION 128.** 195.15 of the statutes is amended to read:

24 **195.15 Transportation contracts, filed.** Every water carrier shall, when
25 required and within the time fixed by the office department, deliver to the office

ASSEMBLY BILL 977**SECTION 128**

1 department for its use copies of all contracts which relate to the transportation of
2 persons or property, or any service in connection therewith, made or entered into by
3 it with any other water carrier or any shipper or other person doing business with
4 it.

5 **SECTION 129.** 195.16 of the statutes is amended to read:

6 **195.16 Pass lists.** Every water carrier shall keep and for 2 years preserve a
7 record of every ticket, pass or mileage book issued to a resident of this state free or
8 for a money consideration less than that charged the general public. Such record
9 shall consist of the name of the recipient, the amount received, and the reason for
10 issuance, and shall be open to inspection by the office department upon reasonable
11 notice during such period of 2 years.

12 **SECTION 130.** 195.20 of the statutes is amended to read:

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

23 **SECTION 131.** 195.21 of the statutes is amended to read:

24 **195.21 Warehouses.** Any person proposing to erect or maintain a public
25 elevator or public warehouse for the purchase, sale, storage, receiving or shipping of

ASSEMBLY BILL 977**SECTION 131**

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

14 **SECTION 132.** 195.26 of the statutes is amended to read:

15 **195.26 Safety devices; block system.** Every railroad and water carrier shall
16 adopt reasonably adequate safety measures and install, operate and maintain
17 reasonably adequate safety devices for the protection of life and property to the
18 extent consistent with federal law. If after investigation the office department shall
19 determine that public safety requires it, the office department may, if permitted
20 under federal law, order a railroad to install, operate and maintain a block system
21 or order a railroad or water carrier to install, operate, and maintain any other safety
22 device or measure as may be necessary to render the operation of the railroad or
23 water carrier reasonably safe.

24 **SECTION 133.** 195.28 (1) of the statutes is amended to read:

ASSEMBLY BILL 977**SECTION 133**

1 195.28 (1) PETITION; HEARING; ORDER. Upon petition of ~~the department, city a~~
2 city council, village board, town board, superintendent of highways or by 5 or more
3 electors in any town, village or city, or of any railroad corporation or railroad
4 historical society, to determine whether a public highway and railroad grade crossing
5 protects and promotes public safety, or upon its own motion, the office department
6 may investigate and issue an appropriate order without a public hearing. If the
7 petitioner, railroad, railroad historical society or any interested party objects to the
8 order and requests a hearing within 20 days after the date that the order is issued,
9 the office department shall proceed under s. 195.04. Notice of an investigation or
10 hearing shall be served upon the department, which shall be an interested party, and
11 any recommendation it may file with the office at or prior to a hearing, if there is one,
12 regarding crossing protection shall be considered as evidence in the proceeding. The
13 office department shall determine whether the existing warning devices at such
14 crossing are adequate to protect and promote public safety. If the office department
15 determines, either without or after a hearing, that protection is not adequate, it may
16 order the railroad company or railroad historical society to keep a flagman at the
17 crossing or to install automatic signals or other suitable safety device at specific
18 locations at such crossing. The office department may order the relocation of existing
19 signals and devices to improve protection at a crossing. Any crossing protection
20 installed or maintained as approved by the office department, whether by order or
21 otherwise, shall be deemed adequate and appropriate protection for the crossing. If
22 an interested party objects to the department's order and requests a hearing, the
23 department shall refer the matter to the division of hearings and appeals for review
24 as provided in s. 195.325.

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

ASSEMBLY BILL 977

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

4 **SECTION 135.** 195.28 (3) of the statutes is amended to read:

5 195.28 (3) MAINTENANCE COSTS. Except as otherwise provided in this
6 subsection, the cost of maintaining crossing protection devices ordered under sub. (1)
7 shall be the responsibility of the railroad or railroad historical society. Any railroad
8 company or railroad historical society that incurs expenses for maintenance of
9 signals or other safety devices may file a claim for reimbursement with the
10 department regardless of the date of installation of the signals or devices. At the
11 close of each fiscal year the department shall reimburse claimants under this
12 subsection for ~~50%~~ 50 percent of the costs, as determined by the office department,
13 incurred for maintenance of railroad crossing protection devices from the
14 appropriations under s. 20.395 (2) (gj) and (gq). If the amount in the appropriations
15 under s. 20.395 (2) (gj) and (gq) is not adequate to fund maintenance reimbursement
16 under this subsection, the amount shall be prorated in the manner determined by
17 the office department.

18 **SECTION 136.** 195.28 (4) of the statutes is amended to read:

19 195.28 (4) PREVIOUS OFFICE ORDERS. Subsection (3) applies to maintenance costs
20 for all crossing protection devices regardless of any prior order of the office
21 apportioning maintenance costs.

22 **SECTION 137.** 195.285 (1) of the statutes is amended to read:

23 195.285 (1) Upon the petition of a railroad corporation, ~~the department~~, or the
24 governing body of any city, village, town or county asserting that the stopping of
25 vehicles under s. 346.45 at a railroad crossing is hazardous to human life, or upon

ASSEMBLY BILL 977**SECTION 137**

1 ~~its own motion, the office department shall hold a hearing on the matter as provided~~
2 ~~under s. 195.04. Notice of petition shall be served upon the department, which shall~~
3 ~~be an interested party, and any recommendations it may file with the office regarding~~
4 ~~the hazardous effect of vehicles stopping at such crossings shall be considered as~~
5 ~~evidence in the proceedings. Upon the recommendation of the department and~~
6 ~~concurrence by the office, the petition may be dismissed without holding a hearing.~~

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

14 **SECTION 138.** 195.285 (2) of the statutes is amended to read:

15 195.285 (2) Signs placed upon the order of the office department under this
16 section shall exempt vehicles from stopping as required under s. 346.45, unless a
17 train or engine is occupying or approaching the crossing.

18 **SECTION 139.** 195.285 (3) of the statutes is amended to read:

19 195.285 (3) The department shall establish standards for the type of signs,
20 signals, markings or other devices for exempting vehicles from stopping as required
21 under s. 346.45 and their location in relation to the highway and railroad track. The
22 office department may upon petition or its own motion, with or without a hearing,
23 order the removal of a sign exempting vehicles from stopping at a crossing.

24 **SECTION 140.** 195.286 (2) of the statutes is amended to read:

ASSEMBLY BILL 977**SECTION 140**

1 195.286 (2) SIGNS DESCRIBED. Such signs shall be round and of a size, color and
2 message as specified by the department and approved by the office. Any change in
3 these signs shall not be retroactive.

4 **SECTION 141.** 195.286 (5) of the statutes is amended to read:

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

10 **SECTION 142.** 195.286 (8) of the statutes is amended to read:

11 195.286 (8) PROSECUTIONS. The district attorney shall prosecute any person
12 violating this section, or begin and maintain any civil action necessary for its
13 enforcement upon the demand of any county highway commissioner, or the
14 department, ~~or the office.~~

15 **SECTION 143.** 195.29 (1) of the statutes is amended to read:

16 195.29 (1) PETITION, HEARING, ORDER. Upon petition by the common council or
17 board of any city, village, town or county within or bordering upon which a highway
18 or street crosses a railroad, or a highway or street is proposed to be laid out across
19 a railroad, or a public highway bridge across a railroad is required to connect existing
20 streets or highways, or upon petition by any railroad whose track crosses or is about
21 to cross, or is crossed or about to be crossed by a street or highway, or upon petition
22 ~~by the department~~ its own motion, in cases where provision has been made for the
23 improvement of the highway adjacent to such crossing under any state aid or federal
24 aid law, that public safety requires an alteration in such crossing, its approaches, the
25 method of crossing, the location of the highway or crossing, or the closing of the

ASSEMBLY BILL 977**SECTION 143**

1 crossing, and the substitution of another therefor at grade or not at grade, or the
2 removal of obstructions to the view at such crossing, the relocation of the highway,
3 or requires the determination of the manner of making such new crossing, or of
4 making the proposed improvement or promoting the public safety or public
5 convenience through any other reasonable method, and praying that the same may
6 be ordered, the ~~office~~ department shall give notice to the parties in interest and
7 proceed to investigate the same and to order a hearing thereon in the manner
8 provided by s. 195.04. The ~~office~~ department shall determine what, if anything, shall
9 be done to promote the public safety and the means by which it shall be accomplished,
10 whether by the relocation of the highway, the alteration in such crossing, approaches,
11 mode of crossing, location of highway crossing, closing of highway crossing, with or
12 without the substitution of another therefor, the construction of a public highway
13 bridge, the removal of obstructions to sight at crossing, or by the use of other
14 reasonable methods, and by whom the same shall be made, and in case of new
15 crossings the advisability of allowing such crossings to be established and manner
16 of making them. If an interested party objects to the department's order and requests
17 a hearing, the department shall refer the matter to the division of hearings and
18 appeals for review as provided in s. 195.325.

19 **SECTION 144.** 195.29 (2) of the statutes is amended to read:

20 195.29 (2) APPORTIONMENT OF EXPENSE. The ~~office~~ department shall fix the
21 proportion of the cost and expense of alterations, removals and new crossings, or any
22 other work ordered, including the damages to any person whose land is taken, and
23 the special damages which the owner of any land adjoining the public street or
24 highway shall sustain by reason of a change in the grade of such street or highway,
25 or by reason of the removal of obstructions to view at such crossings, to be paid or

ASSEMBLY BILL 977

1 borne by the railroad companies and the municipalities in interest. In fixing such
2 proportion, the office department may order such cost and expense so apportioned
3 to be paid by the parties against which the apportionment shall be made.

4 **SECTION 145.** 195.29 (3) of the statutes is amended to read:

5 195.29 (3) RESTORATION OF SPUR TRACKS. Whenever the office department shall
6 have ordered a separation of the grade of a railway from the grade of a street or
7 highway, it may, if safe and practicable and if a necessity exists therefor, order the
8 alteration, restoration and connection of any track serving an industry. Demand for
9 such restoration shall be in writing and filed with the office department within 90
10 days after the date of the order for the separation of grades, and any such track for
11 which no such demand shall have been made shall be deemed abandoned. If the
12 office department shall order the alteration, restoration and connection of any such
13 track, it shall by its order apportion the cost thereof between the owner of the
14 industry served and the railway company, in such proportion as to the office
15 department may seem just and equitable; and the office department shall in its order
16 prescribe the terms and conditions for securing the payment of such cost.

17 **SECTION 146.** 195.29 (4) of the statutes is amended to read:

18 195.29 (4) GRADE SEPARATION IN MILWAUKEE COUNTY. The office department may
19 upon petition of any town, city or village, or upon its own motion, when the interests
20 of the public demand it and it is found practicable so to do, establish the grade of the
21 tracks of any railroad, or of all the railroads throughout any county having a
22 population of 500,000 or more, or any part thereof, and the grades of the streets or
23 highways, or any of them, where they cross such railroad track or tracks, in
24 anticipation of the future separation of grades of the railroad tracks from the grades
25 of such streets or highways. The office department, before making any such order,

ASSEMBLY BILL 977**SECTION 146**

1 shall mail notice to the railroad company or companies affected, the owners or
2 occupants of any building abutting on that part of the railroad the grade of which is
3 to be established, all 1st class cities in the county, and if the grades to be established
4 are outside the 1st class city, the towns, cities or villages in which such grades are
5 to be established, of the filing of such petition or that the office department
6 contemplates establishing such grades, and fixing a time at which the 1st class cities
7 and such other towns, cities or villages and the railroad company or companies
8 affected thereby and any other person or corporation interested therein may be
9 heard. The grades so established under this subsection shall be described by
10 reference to a base or datum line to be established by the office department, from
11 which all elevations and the height of all grades shall be measured, and the grades
12 so established shall be such that when brought to the established grade the railroad
13 tracks will cross the streets and highways above or below the same. Such order shall
14 not necessarily require a present change in grade but the office department may at
15 any time order the railroad track or tracks and the street and highways brought to
16 the grade established or any street or highways closed by the order, in accordance
17 with sub. (1), and may, at the time of making the order, apportion the cost of
18 separating the grades as provided in sub. (2).

19 **SECTION 147.** 195.29 (5) of the statutes is amended to read:

20 195.29 (5) ELIMINATION OF GRADE CROSSINGS, COSTS. Upon its own motion or upon
21 petition of the ~~department, or of the~~ common council or board of any city, village,
22 town, or county, alleging that one or more of them have undertaken or propose to
23 undertake to relocate or improve an existing highway or to construct a new highway
24 in such manner as to eliminate a highway grade crossing with any railroad or so as
25 to permanently divert a material portion of the highway traffic from a highway grade

ASSEMBLY BILL 977

1 crossing with any railroad, the office department shall issue notice of investigation
2 and hearing, as provided in s. 195.04. If upon such hearing the office department
3 finds that the public safety will be promoted by the highway relocation,
4 improvement, or new construction, the office department shall order the old
5 crossings closed and new crossings opened as are deemed necessary for public safety.
6 The order shall require the railroad company or companies to pay to the interested
7 municipality or municipalities such sum as the office department finds to be an
8 equitable portion of the cost of the highway relocation, improvement, or new
9 construction, if the work is performed by the municipalities; or to the secretary of
10 administration if the work is performed by the state; or to the proper county
11 treasurer if the work is performed by the county. The sum shall be added to the joint
12 fund available for the improvement and may be expended in like manner as the other
13 portions of the fund.

14 **SECTION 148.** 195.29 (6) of the statutes is amended to read:

15 195.29 (6) VIEW AT CROSSINGS; TREES AND BRUSH NEAR CROSSINGS; FORFEITURE.
16 Every railroad shall keep its right-of-way clear of brush or trees for a distance of not
17 less than 330 feet in each direction from the center of its intersection at grade with
18 any public highway, and for such further distance as is necessary to provide an
19 adequate view of approaching trains, from the highway. Every municipality shall
20 keep the public highways within its jurisdiction clear of brush and shall adequately
21 trim all trees within 330 feet of the center of any railroad highway grade crossing.
22 Every person or corporation owning or occupying any land adjacent to any railroad
23 highway grade crossing shall keep all brush cut and adequately trim all trees on the
24 land within the triangles bounded on 2 sides by the railway and the highway, and on
25 the 3rd side by a line connecting points on the center lines of the railway and the

ASSEMBLY BILL 977**SECTION 148**

1 highway, 330 feet from the intersection of the center lines. The ~~office~~ department,
2 upon its own motion, or upon any complaint to the effect that any work required by
3 this subsection has not been performed, after due notice and hearing, may order the
4 corporation, municipality or person at fault to perform the work; provided, however,
5 that if the physical conditions at any crossing are such that the performance of the
6 required work will not materially improve the view for highway traffic, or, if
7 unreasonable loss would be caused thereby, the ~~office~~ department may excuse the
8 party in interest from performing the same. The ~~office~~ department may also order
9 the cutting of brush and the trimming of trees at private farm crossings as may be
10 necessary and reasonable. If any person shall violate any provision of this section,
11 or shall fail, neglect or refuse to obey any order made by the ~~office~~ department under
12 this section, or any judgment, order, or decree made by the division of hearings and
13 appeals or any court upon such an order, for every such violation, failure or refusal
14 such person shall forfeit not less than \$25 nor more than \$150.

15 **SECTION 149.** 195.29 (7) of the statutes is amended to read:

16 195.29 (7) STRUCTURE REQUIREMENTS. Whenever the ~~office~~ department shall
17 order the construction or reconstruction of a crossing not at grade, it may direct that
18 the structure required shall be of such character and constructed of such materials
19 as it shall deem appropriate to the situation and necessary for the public interest.

20 **SECTION 150.** 195.29 (9) of the statutes is created to read:

21 195.29 (9) REVIEW OF DEPARTMENT ORDERS. If a petitioner, railroad or any
22 interested party objects to an order under this section, the department shall refer the
23 order to the division of hearings and appeals for review as provided in s. 195.325.

24 **SECTION 151.** 195.30 (1) of the statutes is amended to read:

ASSEMBLY BILL 977

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

16 **SECTION 152.** 195.31 of the statutes is amended to read:

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

ASSEMBLY BILL 977**SECTION 152**

1 it shall be the duty of the office department to give notice to the party or parties in
2 interest, other than the petitioners, of the filing of such complaint, and to furnish a
3 copy of the complaint to the party or parties in interest other than the petitioners,
4 and to order a hearing thereon, in the manner provided for hearings in ss. 195.04 to
5 195.043. The office department may proceed in a similar manner in the absence of
6 a petition when, in the opinion of the office department, public safety requires the
7 alteration, repair or reconstruction of a bridge or the substitution of another bridge
8 for the bridge in question. After the hearing, the office department shall determine
9 what alteration or repair or reconstruction of such bridge, and the approaches
10 thereto, shall be made, or if it shall determine that public safety requires the
11 substitution of a new bridge, it shall determine the character, manner of construction
12 and location of such bridge and the approaches thereto. The office department shall
13 fix the proportion of the cost and expense of such alteration, repair, reconstruction
14 or substitution of a new bridge, including the damage to any person whose land is
15 taken, and the special damage which the owner of any land adjoining the approaches
16 to said bridge shall sustain by reason of the alteration, repair, reconstruction or
17 substitution of a new bridge, to be paid by the railroad company and the city, village
18 or town in interest. If an interested party objects to the department's order under this
19 section and requests a hearing, the department shall refer the matter to the division
20 of hearings and appeals for review as provided in s. 195.325.

21 **SECTION 153.** 195.32 of the statutes is amended to read:

22 **195.32 Safety gates on drawbridges.** Whenever a complaint is filed with
23 the office department to the effect that any drawbridge is not equipped with gates
24 or other safety devices, the office department may notify the proper party or parties
25 in interest of the complaint, and may proceed to investigate the complaint and to hold

ASSEMBLY BILL 977

1 a hearing on the matter in the manner provided for hearings in ss. 195.04 to 195.043.
2 If after the investigation the office department determines that public safety
3 requires the erection and maintenance of gates or other safety devices at the points
4 mentioned in the complaint, it may order the county, city, village, town, corporation
5 or person whose duty it is to maintain such bridge to erect and maintain at such
6 points such gates or other safety devices as the office department prescribes. The
7 office department may conduct the investigations, hold the hearings and make the
8 orders provided for in this section upon its own motion in the same manner and with
9 the same effect as though a complaint were filed. If an interested party objects to the
10 department's order under this section, the department shall refer the order to the
11 division of hearings and appeals for review as provided in s. 195.325.

12 **SECTION 154.** 195.325 of the statutes is created to read:

13 **195.325 Review of certain orders of the department.** If an order of the
14 department under s. 84.05, 192.324, 195.28, 195.285, 195.29, 195.30, 195.31, 195.32,
15 195.37, or 195.38 is referred to the division of hearings and appeals for review, the
16 division of hearings and appeals shall review the order applying the same standards
17 applicable to the department.

18 **SECTION 155.** 195.34 of the statutes is amended to read:

19 **195.34 Reports of accidents, investigation.** Every water carrier shall
20 report to the office department all accidents resulting in injury to persons arising
21 from its operation. The office department may issue rules concerning the reporting
22 of accidents by water carriers and may also, if public interests require, cause an
23 investigation of any accident. Every railroad shall submit to the office department
24 a copy of any accident or injury report provided by the railroad to the applicable
25 federal authority for all collisions, derailments or other accidents resulting in injury

ASSEMBLY BILL 977**SECTION 155**

1 to persons, equipment, or roadway arising from its operation. The ~~office~~ department
2 may issue rules concerning the submission of copies of federal reports under this
3 section and may also, to the extent permitted by federal law, participate in any
4 accident investigation.

5 **SECTION 156.** 195.36 of the statutes is amended to read:

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

17 **SECTION 157.** 195.37 (1) of the statutes is amended to read:

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

ASSEMBLY BILL 977**SECTION 157**

1 or exorbitant, it shall find what would have been a reasonable rate or charge for such
2 service. If the rate or charge so found is less than the charge exacted, the carrier shall
3 refund the excess. If an interested party objects to the department's order under this
4 section, the department shall refer the order to the division of hearings and appeals
5 for review as provided in s. 195.325.

6 **SECTION 158.** 195.37 (2) of the statutes is amended to read:

7 195.37 (2) ACTIONS; FINDINGS AS EVIDENCE, DEFENSES. In an action to recover the
8 amount of such excess charge, the findings of the office department shall be prima
9 facie evidence of the truth of the facts found by it, and no carrier shall be permitted
10 to avail itself of the defense that the shipment involved was in fact made on the
11 published tariff rate in force at the time such shipment was made, but no carrier
12 making a refund upon the order of the office department or the judgment of a court
13 shall be liable for any penalty or subject to any prosecution on account of making such
14 refund.

15 **SECTION 159.** 195.37 (3) of the statutes is amended to read:

16 195.37 (3) LIMITATION FOR FILING CLAIM. All complaints provided for in sub. (1),
17 except those for straight overcharges, shall be filed with the office department within
18 2 years after delivery of the shipment of property at destination, subject to sub. (6).

19 **SECTION 160.** 195.37 (4) (a) of the statutes is amended to read:

20 195.37 (4) (a) In this subsection, "straight overcharge" means a charge in
21 excess of those applicable under the lawful tariffs on file with the office department.

22 **SECTION 161.** 195.38 of the statutes is amended to read:

23 **195.38 Water carrier freight bills; examination; refunds.** Within 3 years
24 after the delivery of any shipment of property at destination by a water carrier, any
25 person, firm or corporation may submit to the office department, by mail or in person,

ASSEMBLY BILL 977**SECTION 161**

1 any water carrier expense bill or receipt showing charges paid for transportation of
2 such property by freight for the purpose of having the expense bill or receipt
3 examined with respect to the correctness of weights, rates and charges indicated
4 thereon. Upon receipt of any such expense bill or receipt, the ~~office~~ department may
5 make such examination as is necessary, and if it is found that any such weights, rates
6 or charges are incorrect, the ~~office~~ department shall order the water carrier in error
7 to refund to the person, firm or corporation which submitted such expense bills or
8 receipts, any over or excessive charges paid by such person, firm or corporation. If
9 an interested party objects to the department's order under this section, the
10 department shall refer the order to the division of hearings and appeals for review
11 as provided in s. 195.325.

12 **SECTION 162.** 195.45 (1) of the statutes is amended to read:

13 195.45 (1) No person shall operate as a common carrier of passengers or
14 property by water except in accordance with the terms and conditions of a certificate
15 of public convenience and necessity issued by the ~~office~~ department. The ~~office~~
16 department shall issue any certificate upon a finding that the service proposed to be
17 performed is in the public interest and required by public convenience and necessity.

18 **SECTION 163.** 195.45 (2) of the statutes is amended to read:

19 195.45 (2) Application for the certificate shall be made on forms furnished by
20 the ~~office~~ department and shall contain such information as the ~~office~~ department
21 requires.

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

23 195.45 (4) The ~~office~~ department may promulgate rules for the operation of this
24 section.

25 **SECTION 165.** 195.50 (1) of the statutes is amended to read:

ASSEMBLY BILL 977**SECTION 165**

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

14 **SECTION 166.** 195.60 (title) of the statutes is amended to read:

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

17 **SECTION 167.** 195.60 (1) of the statutes is amended to read:

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

ASSEMBLY BILL 977**SECTION 167**

1 either at the conclusion of the investigation, appraisal or services, or during its
2 progress. The bill shall constitute notice of assessment and demand of payment
3 thereof. The railroad or water carrier shall, within 30 days after the mailing thereof,
4 pay to the ~~office~~ department the amount of the special expense for which it is billed.
5 ~~Ninety percent of the~~ The payment shall be deposited in the general fund and
6 credited to the appropriation account under s. ~~20.155 (2) (g)~~ 20.395 (2) (gg). The total
7 amount, in any one calendar year, for which any railroad or water carrier becomes
8 liable, by reason of costs incurred by the ~~office~~ department within such calendar year,
9 shall not exceed four-fifths of one percent of its gross operating revenues derived
10 from intrastate operations in the last preceding calendar year. Where, under this
11 subsection, costs are incurred within any calendar year, which are in excess of
12 four-fifths of one percent of such gross operating revenues, the excess costs shall not
13 be chargeable as part of the remainder under sub. (2) but shall be paid out of the
14 general appropriation to the ~~office~~ department. Nothing in this subsection shall
15 prevent the ~~office~~ department from rendering bills in one calendar year for costs
16 incurred within a previous year. For the purpose of calculating the costs of
17 investigations, appraisals and other services under this subsection, ~~90 percent~~ all of
18 the costs determined shall be costs of the ~~office~~ and 10 percent of the costs determined
19 ~~shall be costs of state government operations~~ department.

20 **SECTION 168.** 195.60 (2) of the statutes is amended to read:

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

ASSEMBLY BILL 977**SECTION 168**

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

17 **SECTION 169.** 195.60 (3) of the statutes is amended to read:

18 195.60 (3) If any railroad or water carrier against which a bill has been
19 rendered under sub. (1) or (2) within 30 days after the rendering of such bill neglects
20 or refuses to pay the same or fails to file objections to the bill with the office division
21 of hearings and appeals, the office department shall transmit to the secretary of
22 administration a certified copy of the bill, together with notice of neglect or refusal
23 to pay the bill, and on the same day the office department shall mail to the railroad
24 or water carrier against which the bill has been rendered a copy of the notice which
25 it has transmitted to the secretary of administration. Within 10 days after the

ASSEMBLY BILL 977**SECTION 169**

1 receipt of such notice and certified copy of such bill, the secretary of administration
2 shall levy the amount stated on such bill to be due, with interest, by distress and sale
3 of any goods and chattels, including stocks, securities, bank accounts, evidences of
4 debt, and accounts receivable belonging to such delinquent railroad or water carrier.
5 Such levy by distress and sale shall be governed by the provisions of s. 74.10, 1985
6 stats., except that it shall be made by the secretary of administration and that said
7 goods and chattels anywhere within the state may be levied upon.

8 **SECTION 170.** 195.60 (4) of the statutes is amended to read:

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

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

ASSEMBLY BILL 977

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

5 (d) If any bill against which objections have been filed is not paid within 10 days
6 after notice of a finding that such objections have been overruled and disallowed by
7 the ~~office~~ division of hearings and appeals has been mailed to the objector, the ~~office~~
8 department shall give notice of such delinquency to the secretary of administration
9 and to the objector, in the manner provided in sub. (3). The secretary of
10 administration shall then proceed to collect the amount of the bill as provided in sub.
11 (3). If an amended bill is not paid within 10 days after a copy thereof is mailed to the
12 objector by registered mail, the ~~office~~ department shall notify the secretary of
13 administration and the objector as in the case of delinquency in the payment of an
14 original bill. The secretary of administration shall then proceed to collect the amount
15 of the bill as provided in the case of an original bill.

16 **SECTION 171.** 195.60 (5) of the statutes is amended to read:

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

ASSEMBLY BILL 977**SECTION 171**

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

4 **SECTION 172.** 195.60 (6) of the statutes is amended to read:

5 195.60 (6) No action for recovery of any amount paid under this section shall
6 be maintained in any court unless objections have been filed with the ~~office~~ division
7 of hearings and appeals as provided in this section. In any action for recovery of any
8 payments made under this section the claimant shall be entitled to raise every
9 relevant issue of law, but the ~~office's~~ findings of fact of the division of hearings and
10 appeals made pursuant to this section shall be prima facie evidence of the facts
11 therein stated.

12 **SECTION 173.** 195.60 (7) (intro.) of the statutes is repealed.

13 **SECTION 174.** 195.60 (7) (a) of the statutes is renumbered 195.60 (7) and
14 amended to read:

15 195.60 (7) Determinations of fact expressed in bills rendered under this
16 section; ~~and shall be considered to be findings of fact of the department, within the~~
17 meaning of this section.

18 **SECTION 175.** 195.60 (7) (b) of the statutes is repealed.

19 **SECTION 176.** 201.01 (1) of the statutes is amended to read:

20 201.01 (1) "Commission" means the ~~office of the commissioner of railroads~~
21 department of transportation in the case of water carriers and the public service
22 commission in the case of other public service corporations.

23 **SECTION 177.** 226.025 (3) of the statutes is amended to read:

24 226.025 (3) The appointment of the department of financial institutions or the
25 designation of a resident agent as attorney for the service of summons, notice,

ASSEMBLY BILL 977

1 pleadings or process under s. 180.1507 shall be applicable only to actions or
2 proceedings against the foreign corporations described in this section (unless such
3 corporations have been admitted to this state for purposes other than those
4 mentioned in this section) where the cause of action or proceeding arises out of
5 transactions between such foreign corporations and public utilities operating in this
6 state with which such foreign corporations are affiliated; and to actions or
7 proceedings by or before the public service commission ~~or office of the commissioner~~
8 ~~of railroads~~ involving the transactions described in sub. (1), or involving the relation
9 between such foreign corporations and public utilities operating in this state with
10 which they are affiliated.

11 **SECTION 178.** 227.01 (13) (s) of the statutes is amended to read:

12 227.01 (13) (s) Prescribes or relates to a uniform system of accounts for any
13 person, including a municipality, that is regulated by the ~~office of the commissioner~~
14 ~~of railroads or the public service commission.~~

15 **SECTION 179.** 227.43 (1) (bk) of the statutes is created to read:

16 227.43 (1) (bk) Assign a hearing examiner to preside over any hearing or review
17 under ss. 26.20 (3) and (10), 84.05, 88.66 (2), 88.87 (4), 88.88 (2), 190.02 (6), 190.16
18 (5), 192.324, 192.34, 192.52, 192.56, 195.28 (1), 195.285 (1), 195.29 (1), 195.30 (1),
19 195.31, 195.32, 195.325, 195.37 (1), 195.38, and 195.60.

20 **SECTION 180.** 227.43 (4) (b) of the statutes is amended to read:

21 227.43 (4) (b) The department of transportation shall pay all costs of the
22 services of a hearing examiner assigned under sub. (1) (bg) or (bk) or assigned to the
23 department under sub. (1) (br), according to the fees set under sub. (3) (b).

24 **SECTION 181.** 227.46 (2m) of the statutes is amended to read:

ASSEMBLY BILL 977**SECTION 181**

1 227.46 (2m) In any hearing or review assigned to a hearing examiner under
2 s. 227.43 (1) (bg) or (bk), the hearing examiner presiding at the hearing shall prepare
3 a proposed decision, including findings of fact, conclusions of law, order and opinion,
4 in a form that may be adopted as the final decision in the case. The proposed decision
5 shall be a part of the record and shall be served by the division of hearings and
6 appeals in the department of administration on all parties. Each party adversely
7 affected by the proposed decision shall be given an opportunity to file objections to
8 the proposed decision within 15 days, briefly stating the reasons and authorities for
9 each objection, and to argue with respect to them before the administrator of the
10 division of hearings and appeals. The administrator of the division of hearings and
11 appeals may direct whether such argument shall be written or oral. If the decision
12 of the administrator of the division of hearings and appeals varies in any respect from
13 the decision of the hearing examiner, the decision of the administrator of the division
14 of hearings and appeals shall include an explanation of the basis for each variance.
15 The decision of the administrator of the division of hearings and appeals is a final
16 decision of the agency subject to judicial review under s. 227.52. The department of
17 transportation may petition for judicial review.

18 **SECTION 182.** 227.46 (3) (intro.) of the statutes is amended to read:

19 227.46 (3) (intro.) With respect to contested cases except a hearing or review
20 assigned to a hearing examiner under s. 227.43 (1) (bg) or (bk), an agency may by rule
21 or in a particular case may by order:

22 **SECTION 183.** 281.36 (1) (cr) of the statutes is amended to read:

23 281.36 (1) (cr) “State transportation agency” means the department of
24 transportation ~~or the office of the commissioner of railroads.~~

25 **SECTION 184.** 346.45 (3) (d) of the statutes is amended to read:

ASSEMBLY BILL 977**SECTION 184**

1 346.45 (3) (d) A railroad grade crossing which is marked with a sign in
2 accordance with s. 195.285 (3). Such signs shall be erected by the maintaining
3 authority only upon order of the ~~office of the commissioner of railroads as set forth~~
4 ~~in s. department or the division of hearings and appeals in accordance with ss.~~
5 195.285 and 195.325.

6 **SECTION 185.** 350.137 (1) of the statutes is amended to read:

7 350.137 (1) The department, after having consulted with each rail authority,
8 as defined in s. 350.138 (1) (b), in this state, that has furnished the department with
9 the information required under s. 350.138 (2m), an established snowmobile
10 association that represents snowmobile clubs, as defined in s. 350.138 (1) (e), in this
11 state, and the ~~office of the commissioner of railroads~~ department of transportation,
12 shall promulgate rules to establish uniform maintenance standards and uniform
13 design and construction standards for snowmobile rail crossings under ss. 350.138
14 and 350.139.

15 **SECTION 186.** 350.138 (4) (c) of the statutes is amended to read:

16 350.138 (4) (c) The department shall give notice of any hearing scheduled
17 under par. (b) to the applicant, to the applicable rail authority, and to the ~~office of the~~
18 ~~commissioner of railroads~~ department of transportation. The hearing shall be a
19 contested case hearing under ch. 227. The ~~department's~~ department of natural
20 resources' order issuing or denying a permit is a final order subject to judicial review
21 under ch. 227.

22 **SECTION 187.** 350.138 (9) of the statutes is amended to read:

23 350.138 (9) INSPECTION AUTHORIZED. The department or the ~~office of the~~
24 ~~commissioner of railroads~~ department of transportation may inspect the site of a
25 proposed snowmobile rail crossing or the site of a snowmobile rail crossing for which

ASSEMBLY BILL 977**SECTION 187**

1 a permit has been issued to determine whether there are grounds to refuse to issue
2 a permit under sub. (4) or to revoke a permit under sub. (8).

3 **SECTION 188.** 350.139 (5) of the statutes is amended to read:

4 350.139 (5) INSPECTION AUTHORIZED. The department or the ~~office of the~~
5 ~~commissioner of railroads~~ department of transportation may inspect an established
6 snowmobile rail crossing to determine whether the snowmobile organization
7 maintaining the crossing is in compliance with the requirements imposed under sub.
8 (4).

9 **SECTION 189.** 350.1395 (2) (b) 2. of the statutes is amended to read:

10 350.1395 (2) (b) 2. The department shall hold a hearing on a petition filed under
11 subd. 1. after giving notice of the hearing to the rail authority, the snowmobile
12 organization, and the ~~office of the commissioner of railroads~~ department of
13 transportation. The hearing shall be a contested case hearing under ch. 227. The
14 ~~department's~~ department of natural resources' order shall be a final order subject to
15 judicial review under ch. 227.

16 **SECTION 190.** 350.1395 (2) (b) 3. (intro.) of the statutes is amended to read:

17 350.1395 (2) (b) 3. (intro.) The department shall grant a rail authority's petition
18 under subd. 2. to close or remove a snowmobile rail crossing if, after a hearing under
19 subd. 2., and after giving substantial weight to the ~~office of the commissioner of~~
20 ~~railroads'~~ department of transportation's testimony or report given under s. 195.03
21 (30) (b), the department of natural resources finds that any of the following applies:

22 **SECTION 191.** 350.1395 (4) (b) of the statutes is amended to read:

23 350.1395 (4) (b) The department may not promulgate a rule under this
24 subsection without first consulting with each rail authority in this state that has
25 furnished the department with the information required under s. 350.138 (2m), an

ASSEMBLY BILL 977

1 established snowmobile association that represents snowmobile clubs, as defined in
2 s. 350.138 (1) (e), in this state, and the ~~office of the commissioner of railroads~~
3 department of transportation.

4 **SECTION 192.** 552.23 (1) of the statutes is amended to read:

5 552.23 (1) If the target company is an insurance company subject to regulation
6 by the commissioner of insurance, a banking corporation, savings bank, or savings
7 and loan association subject to regulation by the division of banking, or a company
8 subject to regulation by the public service commission, or the department of
9 transportation, ~~or the office of the commissioner of railroads~~, the division of
10 securities shall promptly furnish a copy of the registration statement filed under this
11 chapter to the regulatory agency having supervision of the target company. Any
12 hearing under this chapter involving any such target company shall be held jointly
13 with the regulatory agency having supervision, and any determination following the
14 hearing shall be made jointly with that regulatory agency.

15 **SECTION 193.** 945.06 of the statutes is amended to read:

16 **945.06 Public utilities to cease service.** When any public utility, common
17 carrier, contract carrier, or railroad, subject to the jurisdiction of the public service
18 commission, ~~office of the commissioner of railroads~~ or department of transportation
19 of this state, is notified in writing by a federal, state or local law enforcement agency,
20 acting within its jurisdiction, that any facility furnished by it is being used or will be
21 used for the purpose of transmitting or receiving gambling information in violation
22 of the laws of this state it shall discontinue or refuse the leasing, furnishing or
23 maintaining of such facility, after reasonable notice to the subscriber, but no
24 damages, penalty or forfeiture, civil or criminal, shall be found against any such
25 public utility, common carrier, contract carrier or railroad, for any act done in

ASSEMBLY BILL 977**SECTION 193**

1 compliance with any notice received from a law enforcement agency under this
2 section. Nothing in this section shall be deemed to prejudice the right of any person
3 affected thereby to secure an appropriate determination as otherwise provided by
4 law in any court or tribunal or agency, that such facility should not be discontinued
5 or removed, or should be restored.

6 **SECTION 194. Nonstatutory provisions.**

7 (1) ABOLISHING THE OFFICE OF COMMISSIONER OF RAILROADS; TRANSITIONAL
8 PROVISIONS.

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

10 1. “Department” means the department of transportation.

11 2. “Division” means the division of hearings and appeals in the department of
12 administration.

13 3. “Office” means the office of the commissioner of railroads.

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

16 (c) *Staff.*

17 1. On the effective date of this subdivision, the position of the commissioner of
18 railroads is abolished.

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

22 a. One program assistant position.

23 b. Three regulation compliance investigator positions.

24 3. Employees transferred under subdivision 2. to the department have all of the
25 rights and the same status under subchapter V of chapter 111 and chapter 230 of the

ASSEMBLY BILL 977

1 statutes in the department that they enjoyed in the office immediately before the
2 transfer. Notwithstanding section 230.28 (4) of the statutes, no employee so
3 transferred who has attained permanent status in class is required to serve a
4 probationary period.

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

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

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

15 (f) *Rules and orders.*

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

19 2. All orders issued by the office that are in effect on the effective date of this
20 subdivision remain in effect until their specified expiration date or until modified or
21 rescinded by the department.

22 (g) *Pending matters.* Any matter pending with the office on the effective date
23 of this paragraph is transferred to the department and all materials submitted to or
24 actions taken by the office with respect to the pending matter are considered as
25 having been submitted to or taken by the department.

