CHAPTER 190

RAILROADS; ORGANIZATION AND MANAGEMENT

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190.001 Definitions. In this chapter:

(1) "Office" means the office of the commissioner of railroads.

History: 1977 c. 29; 1981 c. 347; 1993 a. 16, 123.

190.005 Scope of chapter. Each provision of this chapter applies only to the extent that it is not contrary to or inconsistent with federal law or the constitution of the United States.

History: 2005 a. 179.

190.01 Who may organize; articles; fee. (1) Any number of persons, not less than 5, may form a corporation for the purpose of constructing, maintaining and operating a railroad for public use by making articles of organization in which shall be stated:

(a) The name of the corporation.

(b) The places from and to which such railroad is to be constructed or maintained and operated.

(c) The length of such railroad and the name of each county in this state through or into which it is made or intended to be made.

(d) The aggregate number of shares which the corporation shall have authority to issue; if said shares are to consist of one class only, the par value of each of said shares, or a statement that all of said shares are without par value; or, if said shares are to be divided into classes, the number of shares of each class, and a statement of the par value of the shares of each such class or that such shares are to be without par value.

(e) The names and residences of the directors of the corporation who shall manage its affairs for the first year and until others are chosen in their places, and who shall not be less than 5.

(1m) Each director shall subscribe his or her name, place of residence and the number of shares of stock the person agrees to take in the corporation to the articles of organization. An affidavit of at least 3 of the named directors shall be annexed to the articles certifying that the signatures are genuine and that it is intended in good faith to construct or maintain and operate the railroad mentioned in the articles of organization.

(2) The articles of incorporation and amendments thereto shall be filed with the department of financial institutions; in the case of articles, the department of financial institutions shall thereupon issue a certificate of incorporation and the corporation then has legal existence. The articles of incorporation or special charter of any railroad company may be amended by a majority vote of all the stock in the respects and for the purposes provided in s. 180.1001. The fees for filing articles and amendments thereto are as provided in s. 180.0122 (1) (a) and (m) except that the fees for filing an amendment which authorizes the issuance of redeemable preference shares for sale to the U.S. secretary of transportation under sections 505 and 506 of P.L. 94–210 is $15 for the amendment and an additional sum equal to $1 for each $100,000 or fraction thereof of par value redeemable preference shares authorized by the amendment.

(3) When a railroad corporation is organized to acquire or take over the property of another railroad corporation which is sold in judicial proceedings, or when any railroad corporation is reorganized under the federal bankruptcy act and such corporation under a plan of reorganization as confirmed by the act, shall have been authorized to put into effect and carry out said plan, or when any new railroad corporation shall be organized for the like purpose, the fees for filing a copy of the plan of reorganization or any amendments to the articles of incorporation of such existing railroad corporation increasing or changing the amount of its authorized capital stock, or for filing the articles of incorporation of such new railroad corporation so to be organized, shall be computed and paid only upon the excess of the aggregate authorized capital stock of such reorganized or such new corporation over the authorized aggregate capital stock of the old corporation upon which filing fees previously have been paid.

(4) A railroad that is incorporated in another state is not required to form a corporation in this state, but any railroad first transacting business in this state after January 1, 1994, is required to obtain a certificate of authority from the department of financial institutions in the manner required of foreign corporations before the railroad transacts business in this state.

History: 1977 c. 29, 63, 203; 1989 a. 303; 1993 a. 16, 482; 1995 a. 27; 1997 a. 35, 254.

190.015 Directors, election, eligibility, classes, term, powers. (1) The stock, property, affairs and business of every railroad corporation shall be managed by directors who shall be chosen by the stockholders from among their number, at the time and place provided by the articles of organization or the bylaws.

(2) The trustees shall hold office for the term provided by the articles or bylaws and until their respective successors are chosen. The directors may be divided into 3 classes, each of which shall be composed, as nearly as may be possible, of one–third of the directors. The term of office of the first class shall expire in one year, the 2nd in 2 years, and the 3rd in 3 years. At each annual election thereafter, a number of directors shall be elected for 3 years equal to the number whose term of office shall then expire. All other vacancies shall be filled in accordance with the bylaws.

(3) The directors shall choose one of their number president and such other officers as the corporate articles and bylaws require, for the term prescribed by the articles or bylaws. The directors may fill any vacancy in their board, happening after any regular annual election, until the next succeeding election.

History: 1997 a. 254.

190.016 Stockholders' meetings. (1) TIME AND PLACE. The time and place of annual meetings of the stockholders of every railroad corporation shall be fixed by its articles or bylaws.

If not so fixed, the annual meetings shall be on the anniversaries of the first corporate meeting.

(2) NOTICE. Meetings of railroad corporations shall be called and noticed as prescribed by the articles or bylaws, but if no provision therefor is made, meetings of any railroad corporation may be called by the board of directors or trustees at any time, and shall be called by the secretary when requested by the owners of one–fifth of the outstanding shares of voting stock on 10 days' notice; and such notice to stockholders may be served by publishing the same as a class 2 notice, under ch. 985, at or nearest to the location of the corporation, or by personal service or by mailing a copy thereof to each stockholder directed to the stockholder's last post–office address as it appears in the records of the corporation.

History: 1993 a. 482.

190.02 Powers of railroads. Every public railroad corporation shall have the powers conferred on corporations in ch. 180 and in addition thereto shall have power:

(1) SURVEY OF ROUTE. To cause such examination and surveys for its proposed railroad to be made as may be necessary to the selection of the most advantageous route, and for such purpose to enter upon the lands of any person, but subject to responsibility for all damage which shall be done thereto.

(2) DONATIONS TO RAILROADS. To take and hold grants of aid; but the real estate received by voluntary grant shall be held and used for the purpose of the grant only.

(3) ACQUIRE PROPERTY; LEASE AND ALIENATE. To acquire all property necessary for the construction, maintenance and operation of its railroad and the stations, depot grounds, yards, roundhouses, shops, warehouses, elevators, docks and other accommodations reasonably necessary to accomplish the objects of its incorporation; to lease or otherwise dispose of any part thereof or to sell the same when no longer necessary to its use.

(4) ACQUIRE LANDS FOR CUTS, FILLS, MATERIALS. For the purposes of cuttings and embankments and of obtaining gravel or other material, to take as much land as may be necessary for the proper construction, operation and security of the road, and to remove any trees that may be in danger of falling on the road, making compensation therefor as provided for lands taken for the use of the corporation.

(5) CROSS HIGHWAYS, STREETS, STREAMS; HIGHWAY BRIDGES. To construct its railroad across, over, under, along or upon any stream, watercourse, street, highway, road or canal, subject to the limitation that any bridge erected over any highway or street shall leave a clear passageway at least 20 feet wide or 2 passageways, each not less than 14 feet in width, and subject to any other limitation on such construction provided by law.

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

(7) MOTIVE POWER. To operate its railroad by any power; and to do all the business incident to railroad corporations.

(8) STRUCTURES. To erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and use of passengers, freight and business.

(9) BORROWING. To borrow money upon such terms as the corporation or board of directors shall authorize as necessary or expedient, and to execute trust deeds or mortgages on any railroads or parts thereof constructed or in process of construction, for amounts borrowed or owing by the corporation and thereby transfer or mortgage its property, rights, privileges, franchises, immunities, exemptions and appurtenances, used in connection with such railroads, then belonging to the corporation or which may thereafter belong to it, as security for any debt therein mentioned in such manner as the corporation or directors shall think proper.

(10) INSURANCE. To procure insurance in its own behalf on all the property upon its route for which it may be liable in damages for injury caused thereto by fires set or caused by the operation of its road.

(11) OPERATE BUSES AND AIR TRANSPORTATION. (a) To own and operate motor vehicles for the purpose of transporting persons and property upon the public highways, for hire, subject to ch. 194.

(b) To own and operate equipment for, and engage in, aerial transportation.

(c) To purchase and own the capital stock and securities of corporations organized for, or engaged in, the businesses specified in pars. (a) and (b).

History: 1977 c. 29 ss. 1294, 1654 (9) (e); 1981 c. 347 ss. 25, 80 (1); 1993 a. 16, 123; 1995 a. 27; 1997 a. 254; 1999 a. 32; 2005 a. 179.

Mineral estates reserved by railroad corporations from lands received from the public domain is discussed. 69 Atty. Gen. 204.

190.025 Powers of railroads; special cases. (1) RAILROAD PROPERTY ACQUIRED UNDER MORTGAGE OR TRUST DEED. In case of a sale of any interest in railroad property by virtue of any trust deed or mortgage under s. 190.02 (9), the purchasers and their associates, successors and assigns shall have, exercise and enjoy all rights, privileges, grants, franchises, immunities and advantages mentioned in the trust deed or mortgage which were possessed by the corporation that executed that instrument, so far as those rights, privileges, grants, franchises, immunities and advantages relate or appertain to that portion or line of road purchased at that sale, as fully and absolutely in all respects as the corporation that executed that instrument might have done if the sale had not taken place.

(2) RAILROADS ACQUIRED THROUGH JUDICIAL PROCEEDINGS AND REORGANIZED RAILROADS. (a) This subsection applies to any of the following:

1. A railroad corporation organized to and which shall acquire, directly or by mesne conveyances, the property of another railroad corporation sold in judicial proceedings.

2. A railroad corporation reorganized under the federal bankruptcy act which, under a plan of reorganization as confirmed by the act, shall have been authorized to put into effect and carry out the plan of reorganization, or a new railroad corporation which shall be organized for the like purpose.

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

(c) 1. A railroad corporation reorganized under the federal bankruptcy act may elect to file a certified copy of the plan of reorganization as confirmed by the federal bankruptcy act with the department of financial institutions. The filing of the plan shall accomplish and evidence the amendment of its charter or articles of incorporation without the necessity for any other or further action, corporate or otherwise. A reorganized railroad corporation shall, upon filing the plan of reorganization, have all powers necessary to put into effect and carry out the plan of reorganization

in all respects. The fees for filing the copy of the plan of reorganization shall be the same as prescribed in s. 190.01 (3).

2. Filing the plan of reorganization under subd. 1. shall not preclude the reorganized corporation from amending its charter or articles in the manner provided by law.

(3) GUARANTEE SECURITIES. (a) Any railroad corporation, organized and existing under the laws of this state or existing by consolidation of different railroad corporations under the laws of this state and any other state, that owns more than 50 percent of the capital stock of another corporation, the capital stock of which it is authorized to own, is authorized by action of its board of directors to guarantee the payment of the principal and interest of bonds or other obligations of the other corporation.

(b) Any railroad corporation, organized and existing under the laws of this state or existing by consolidation of different railroad corporations under the laws of this state and any other state, that owns with other railroad corporations more than 50 percent of the capital stock of another corporation, the capital stock of which it is authorized to own, is authorized by action of its board of directors to guarantee the payment of the principal and interest of bonds or other obligations of the other corporation, and to join with the other railroad corporations in guaranteeing the payment of principal and interest of bonds or other obligations of the other corporation.

History: 1997 a. 254 ss. 54, 55, 57 to 60; 2005 a. 179.

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

History: 1977 c. 29 s. 1654 (9) (e); 1981 c. 347 s. 80 (1); 1993 a. 16, 123.

190.04 Special charter rights. All railroad corporations shall have all peculiar rights and privileges granted to them respectively by their charters or any special law, not inconsistent with these statutes.

190.05 Railroads; powers in other states. Any domestic railroad corporation may exercise all its rights, franchises and privileges in any other state and may accept from any other state and use any additional or other powers or privileges applicable to the doings of said corporation in said state.

190.051 Branches and extensions. (1) (a) Any railroad corporation may extend its road from any point named in its charter or articles of organization, or may build branch roads from any point on its line or from any point on the line of any other road connected or to be connected with its road, the use of which other road between such points and the connection with its own road the railroad corporation has secured for a term of not less than 10 years.

(b) Before making an extension or building a branch road under par. (a), the railroad corporation shall, by resolution of its directors, to be entered in the record of its proceedings, designate the route of the proposed extension or branch, and file, for record, a copy of the record, certified by the president and secretary, with the department of financial institutions. Upon filing the record with the department of financial institutions, the railroad corporation shall have all of the rights and privileges to make the extension or build the branch and receive aid thereto that the railroad corporation would have had if it had been authorized in its charter or articles of organization.

(2) The requirements of this section shall not apply to permanent branches or extensions not exceeding 5 miles in length nor to temporary branches or extensions not exceeding 10 miles in length.

History: 1995 a. 27; 1997 a. 254; 1999 a. 32 s. 218.

190.06 Railroad consolidation; sale or lease of property. (1) Any railroad corporation existing under the laws of this state, or by consolidation under said laws and the laws of other states, may consolidate with any other railroad corporation, and possess all of the powers, franchises and immunities, and be subject to all the liabilities and restrictions of railroad corporations generally, and such, in addition, as the combining corporations peculiarly possessed or were subject to at the time of consolidation. Articles of consolidation shall be approved by each corporation, by a vote of a majority of the stock at an annual meeting or at a special meeting called for that purpose or by the consent in writing of the holders of a majority of the stock annexed to such articles; and such articles, with a copy of the records of such approval or such consent and accompanied by lists of the stockholders and the number of shares held by each, duly certified by their respective presidents and secretaries, shall be filed for record with the department of financial institutions before any such consolidation shall have validity or effect.

(2) Any such railroad corporation may upon like approval lease, or purchase the railroad, franchises and immunities, and all other property, and the stocks or bonds, or both, of any railroad corporation, or any portion thereof, when the road so purchased or leased will constitute a branch or feeder of, or be connected with or intersected by any line maintained or operated by such purchasing or leasing corporation, or which it is authorized to build, own, or maintain and operate. Any corporation taking such conveyance or lease shall have all the rights, privileges and immunities, and be subject to all the duties and restrictions of the lessor or grantor.

(3) Any domestic railroad corporation may purchase and may upon like approval purchase and hold the stock or bonds of any other railroad corporation described in this section, or may purchase and hold the stock or bonds of any railway company to which it has furnished the money for the construction of its railway; or for money so furnished, or for such other consideration, as may be agreed upon between the companies, by their respective boards of directors, and take a conveyance of the whole or any portion of the franchises of any other such corporation and of the railway, property and appurtenances thereof. Any stock or bonds which shall have been issued by any purchasing corporation in consideration of any property by it purchased as authorized by this section, shall be deemed fully paid, but securities hereunder shall be issued only upon compliance with the law which requires a permit or certificate of authority.

(4) All acts and purchases and conveyances made prior to April 24, 1897, by or to any domestic railway company which are authorized by this section, and all conditions and agreements upon which the stock and bonds of any such corporation have been and are to be issued including any and all terms and conditions as to price, voting power, dividends and trustees or otherwise, and as between different classes of stock or otherwise and all issues of stocks and bonds in accordance with such terms, conditions and agreements, are hereby in all things legalized, ratified and confirmed.

(5) But no railroad corporation shall consolidate with, or lease or purchase, or in any way become owner of or control any other corporation, or any stock, franchises, rights or property thereof which owns or controls a parallel and competing railroad to and

with the railroad owned or controlled and operated by such purchasing railroad corporation, to be determined by jury.

History: 1995 a. 27.

190.07 Railroad ferries on Lake Michigan. Any railroad corporation in this state may contract with the owner or operator of any railroad terminating on the eastern shore of Lake Michigan, within the state of Michigan, for the joint operation of their roads; and may build or buy, and operate vessels to facilitate transportation.

190.08 Streams, highways, restored. Every corporation constructing, owning or operating a railroad shall restore every watercourse, street, highway, road or canal across, along or upon which such railroad may be constructed to its former state or to such condition that its usefulness shall not be materially impaired and thereafter maintain the same in such condition against any effects in any manner produced by such railroad. And may acquire any lands required to change or restore any highway, street, canal or watercourse, and lands so taken shall become a part of such highway or street. This section shall not apply to sloughs or bayous closed by the government prior to April 14, 1893, to aid the navigation of rivers; but in case such sloughs or bayous are thereafter closed by any railroad company such company shall be liable in damages to any person owning lands thereon injured thereby. The statutes for acquiring land by right of eminent domain shall apply in assessing damages for such closing.

Under this section, a railroad was under no responsibility to pay for the construction of a new railroad bridge necessitated by the channel alteration of a river as part of an improvement project as the statute imposes only a duty to "restore" against effects "produced by such railroad," and the conditions necessitating the alteration were in no way produced by the railroad. Metropolitan Sewerage District of County of Milwaukee v. Chicago Milwaukee St. Paul & Pacific Railroad Co. 69 Wis. 2d 387, 230 N.W.2d 651 (1975).

Under this section and the common law, a railroad was liable for the cost of replacing a bridge that impeded a creek's flow and hindered its drainage function as under the statute the railroad had a duty to restore the stream "to such condition that its usefulness shall not be materially impaired," and under the common law its duty was to continually maintain the bridge so as not to materially interfere with the water's natural flow. Metropolitan Sewerage District of County of Milwaukee v. Chicago Milwaukee St. Paul & Pacific Railroad Co. 69 Wis. 2d 387, 230 N.W.2d 651 (1975).

In the absence of sufficient proof that the old bridge was inadequate to carry increased water flow, the railroad was not liable for the cost of a new bridge. Metropolitan Sewerage District of Milwaukee v. Chicago & North Western Railway Co. 78 Wis. 2d 119, 254 N.W.2d 190 (1977).

This section did not apply to abandoned railroad property acquired by the DNR for development into hiking and biking trails. 77 Atty. Gen. 106.

190.085 Clearance of wrecks or derailments; restoration of damaged property. Every corporation constructing, owning or operating a railroad shall clear any railroad wreck or derailment from the right–of–way and adjoining property and restore or repair the right–of–way and adjoining property damaged by the wreck or derailment within 180 days after its occurrence. Any such corporation which violates this section shall forfeit to the state $100 for each violation and each day that the violation continues constitutes a separate offense.

History: 1979 c. 186.

190.09 Railroad cattle pass, abandonment. No railroad corporation shall close or obstruct any cattle pass or opening that has been used as a passageway for livestock across its right–of–way for a period of 5 years without having first secured the consent in writing of the abutting landowners.

History: 1993 a. 213, 490; 1997 a. 254.

190.10 Railroad fixtures, after–acquired property, lien on. All rolling stock, locomotives, cars, automotive and motor vehicles, machinery, tools, equipment, fuel, supplies, materials, and other personal property of any railroad corporation used and employed in connection with the maintenance or operation of its railroad, for all purposes of this section and s. 190.11, are hereby defined and declared to be appurtenant to such railroad as real property; and all such property and all additional rights–of–way, depot grounds and other real property acquired subsequently to the execution of any trust deed or mortgage which shall have been described or provided for therein shall be subject to the lien thereof to the same extent as the real property therein described which the corporation owned at the time of its execution.

History: 1993 a. 490.

190.11 Railroad conveyances, how executed and filed. **(1)** Every conveyance or lease, deed of trust, mortgage or satisfaction thereof made by any railroad corporation shall be executed and acknowledged in the manner in which conveyances of real estate by corporations are required to be to entitle the same to be recorded, and shall be filed with and maintained by the office of the commissioner of railroads, which shall endorse thereon "filed" and the date of filing.

(2) A record of filing under sub. (1) shall from the time of reception of the instrument have the same effect as to any property in this state described therein as the record of any similar instrument in the office of a register of deeds has as to property in his or her county, and shall be notice of the rights and interest of the grantee, lessee or mortgagee by such instrument to the same extent as if it were recorded in all of the counties in which any property therein described may be situated.

(3) The office of the commissioner of railroads shall collect a fee of $1 per page filed under sub. (1). All fees received under this subsection shall be credited to the appropriation account under s. 20.155 (2) (g).

(4) The office of the commissioner of railroads shall collect a fee at the rate under s. 77.22 and, on or before the 15th day of the month after the fee is collected, shall remit that fee to the department of administration for deposit in the general fund. Sections 77.21, 77.22 and 77.25 to 77.27 apply to the fee under this subsection.

History: 1981 c. 20; 1985 a. 29; 1991 a. 39; 1993 a. 412; 1995 a. 27; 2015 a. 55.

190.12 Stock; sale to employees and subsidiaries. **(1)** Any railroad company existing in whole or part under the laws of this state may, with the consent of the stockholders as hereinafter stated, issue and sell, under such restrictions and terms, and for such consideration as the stockholders shall authorize, any part or all of its unissued stock, or additional stock authorized pursuant to this section, to employees of the corporation or any subsidiary corporation, without first offering such stock for subscription to its stockholders. Such consent and authorization may be given at any annual or special meeting of the stockholders by a majority vote of all its stock, upon the same notice to stockholders as is provided in s. 190.016. If any stockholder not voting in favor of said issue and sale of stock to employees so desires, the stockholder may, at such meeting, or within 20 days thereafter, object thereto by written notice filed with the secretary of the corporation and demand payment for the stock held by the stockholder at the time of such meeting, in which case such stockholders or the corporation may at any time within 60 days after such meeting file a petition in either the circuit court of Dane County or the circuit court of the county in which the principal office of the corporation within this state is located, asking for the condemnation of the shares of such dissenting stockholder and a finding and determination of the fair value thereof at the date of such stockholders' meeting.

(2) The taking of shares of such dissenting stockholders in order to promote employee ownership in railroad enterprises is hereby declared to be a taking for a public use and the necessity therefor shall in all cases be determined by the railroad company. The circuit courts of the several counties in this state are hereby vested with jurisdiction to hear and determine condemnation proceedings instituted by such petition and to determine the fair value of such shares of stock, and to render judgment against the corporation for the said value thereof. Any and all such dissenting stockholders may join, or may be joined, in all such proceedings and the fair value of such shares of stock shall be equal to their market value, which in the case of stocks listed upon any stock exchange shall be the average price for which like shares of stock were sold upon such exchange during the week in which was held the stockholders' meeting aforesaid. Upon payment by the corpo-

ration to the said stockholder, or to the clerk of said court, of the value of such shares of stock so determined, such stockholder shall cease to have any interest in such shares or in the property of the corporation, and the stockholder's shares of stock shall be transferred to, and may be held and disposed of by the corporation as treasury stock. The corporation shall be liable for and shall pay to any such objecting stockholder the value of the objecting stockholder's shares of stock so determined. In case of failure or refusal of such stockholder to surrender for transfer the certificates representing such shares of stock, the filing with the secretary of said railroad company of a certified copy of the circuit court's order determining the value thereof together with a receipt from the clerk of said court showing full payment therefor by the railroad company, shall constitute full authority for the said company to issue new certificates in lieu of those in the hands of such dissenting stockholder, and such outstanding certificates shall thereupon be null and void.

(3) Any such corporation may, at any such annual or special meeting of its stockholders held pursuant to the notice aforesaid, increase its capital stock in such amount as may be determined by like vote of its stockholders at such meeting to provide additional stock for issue and sale to such employees.

(4) In the event such corporation by like vote of its stockholders at a subsequent meeting held pursuant to notice as specified in sub. (1), shall, before the trial of any such condemnation proceeding, rescind the previous action respecting such issue and sale of stock to employees and determine not to sell such stock without first offering it to existing stockholders, then such condemnation proceeding shall be, upon application of either party, dismissed, and all court costs be paid by the railroad company.

History: 1993 a. 482.

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

History: 1977 c. 29 s. 1654 (9) (e); 1981 c. 347 s. 80 (1); 1993 a. 16, 123; 1995 a. 27, 216.

190.14 Inspection of books. The official custodian of the books, records and papers or other property of every railroad corporation shall keep the same in his or her possession and at all times during business hours have the same ready to be exhibited to any officer, director or any committee appointed by the stockholders, representing one–tenth of all the subscribed stock, on request, and furnish them or either of them transcripts from the records or proceedings of the board of directors, under the custodian's official hand and seal, on the payment to the custodian of the same fee as that required by law to be paid to the register of deeds for transcripts. The official custodian shall on vacating the office of official custodian make over all such books, records, papers and property of the railroad corporation in the custodian's possession to the custodian's successor in office, and where no successor has been elected to the board of directors, or to the person appointed therefor by the stockholders.

History: 1993 a. 482.

190.15 Right–of–way through public lands. The commissioners of public lands may sell and convey to any railroad corporation, for the compensation and upon the terms that the commissioners may fix, a strip of land 100 feet wide, or more, if needed, through lands owned by the state that the commissioners have power to sell, and across which a railroad has been or shall be located or constructed. The railroad corporation shall, as soon as the route of its road is definitely fixed, deposit in the office of the commissioners of public lands a plat exhibiting all of the affected public lands and the location of the route through the affected public lands. The railroad corporation shall have no right to take or use any of the affected public lands prior to depositing the plat. Every deed or patent for any lands conveyed to a railroad corporation under this section shall contain an express reservation unto the state of the title of the lands conveyed except as to the use of the lands by the railroad corporation or its successors or assigns for railroad purposes.

History: 1993 a. 490; 1997 a. 254.

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

(5) REMOVAL, WHEN. When a spur track has been abandoned, as defined in s. 85.09, the office, after hearing held upon notice to all parties interested and for good cause shown may order the removal of the track except that, if no objection has been filed with the office within 20 days from the original notice, the office may without hearing authorize the removal of the track.

History: 1973 c. 157; 1977 c. 203; 1981 c. 347 s. 80 (1); 1993 a. 16, 123, 246, 482, 490; 2005 a. 179.