

CHAPTER \_\_\_\_\_

REVERSION

Sec. 57. Reversion by relocation of line. Such part of a railway right of way as is wholly abandoned for railway purposes by the relocation of the line of railway, shall revert to the persons who, at the time of the abandonment, are owners of the tract from which such abandoned right of way was taken.

Sec. 58. Reversion by failure to operate or construct. If a railway, or any part thereof, shall not be used or operated for a period of eight (8) years, or if, its construction having been commenced, work on the same has ceased and has not been in good faith resumed for eight (8) years, the right of way, including the roadbed, shall revert to the persons who, at the time of the reversion, are owners of the tract from which such right of way was taken.

Sec. 59. Reversion of quasi-public roads and right of ways. Roads established for the purpose of providing a public road to lands which theretofore had no such road, shall, when not used or operated for said purpose for eight (8) consecutive years, revert to those persons who, at the time of the reversion, are owners of the tract from which such road was taken.

Sec. 60. Reversion - lands for highway improvement. Lands condemned by a county, city, or town for the purpose of obtaining gravel or other suitable material for highway improvement, and not used for such purpose for five (5) consecutive years, shall revert to those persons who, at the time of the reversion are owners of the tract from which the condemned lands were taken.

Approved February 21, 1924.

CHAPTER 129

RAILROAD COMMISSIONERS

H. F. 198

AN ACT to amend, revise, and codify sections fifty hundred fourteen (5014) to fifty hundred sixteen (5016), inclusive, fifty hundred eighteen (5018), fifty hundred twenty-two (5022), fifty hundred twenty-four (5024) to fifty hundred twenty-six (5026), inclusive, fifty-one hundred eighty-six (5186), fifty-one hundred eighty-eight (5188) to fifty-one hundred ninety-two (5192), inclusive, fifty-two hundred four (5204) and fifty-two hundred six (5206) of the compiled code of Iowa, and section fifty hundred forty-four (5044) of the supplement to said code, relating to the board of railroad commissioners, their jurisdiction and duties.

Be It Enacted by the General Assembly of the State of Iowa

That sections fifty hundred fourteen (5014) to fifty hundred sixteen (5016), inclusive, and fifty-two hundred six (5206) of the compiled Code of Iowa, and section fifty hundred forty-four (5044) of the supplement to said Code are amended, revised, and codified to read as follows:

Section 1. Eligibility of commissioners and secretary. No person in the employ of any common carrier, or owning any bonds, stock, or property in any railroad company, or who is in any way or manner pecuniarily interested in any railroad corporation, shall be eligible to the office of railroad commissioner or secretary of the board, and the entering into the employ of any common carrier, or the acquiring of any stock or other interest in any common carrier by any officer under this chapter, after his election or appointment, shall disqualify him to hold the office and to perform the duties thereof.

Sec. 2. Election - organization. The board of railroad commissioners shall consist of three (3) persons having the qualifications of electors. On the second Tuesday of January of each year, the board shall organize by electing one (1) of its members as chairman, and appointing a secretary, who shall take the same oath as the commissioners; but this or a part of this may be done at a subsequent meeting. The board shall have power to employ such additional clerical help as it may find necessary.

Sec. 3. Location of office - whole time employed - expense. The board shall have an office at the seat of government and each member shall devote his whole time to the duties of the office, and the members and secretary and other employees shall receive their actual necessary traveling expenses while in the discharge of their official duties away from the general offices.

Sec. 4. Commissioners and assistants transported free. The commissioners, their secretary, experts, or other agents while in the performance of their official duties shall be transported free of charge by all railroad or other transportation companies operating in the state.

Sec. 5. General supervision and jurisdiction. The board shall have general supervision of all railroads in the state, express companies, car companies, sleeping car companies, freight and freight line companies, interurban railway companies, motor carriers and any common carrier engaged in the transportation of passengers or freight by railroads, except street railroads, and also all lines for the transmission, sale, and distribution of electrical current for light, heat, or power, except in cities and towns. It shall investigate any alleged neglect or violation of law by any such common carrier, its agents, officers, or employees.

Sec. 6. Duty of inspection - notice to repair. It shall from time to time carefully examine into and inspect the condition of each railroad, its tracks, bridges, and equipment, and the manner of its conduct, operation and management with regard to the public safety and convenience in the state. If found by it unsafe, it shall immediately notify the railroad company whose duty it is to put the same in repair, which shall be done by it within such time as the board shall fix. If any corporation fails to perform this duty the board may forbid and prevent it from running trains over the defective portion while unsafe.

Sec. 7. Connections and shelter where more than one track. Should any railroad or transportation company in this state fail to provide proper shelter for its patrons at stations where two (2) or more tracks are operated, or fail or refuse to connect by proper switches or tracks with the tracks or lines of other railroad or transportation companies, the board may require such railroad or transportation company to provide the same in such manner and upon such conditions as it may determine.

Sec. 8. Orders for changes in operation and improvements. When, in the judgment of the board, any railway corporation fails in any respect to comply with the terms of its charter or articles of incorporation or the laws of the state; or when in its judgment any repairs are necessary upon its road; or any addition to its rolling stock, or addition to or change in its stations or station houses, or the equipment thereof, for the health and convenience of the public, or change in its rates of fare for transporting freight or passengers, or change in the mode of operating its road or conducting its business, is reasonable and expedient in order to promote the security, convenience, and accommodation of the public, the board may make an order prescribing such improvements and changes as it finds to be proper and shall serve a notice upon such corporation, in the manner provided for the service of an original notice in a civil action, which notice shall be signed by its secretary. A report of such proceedings shall be included in its annual report to the governor. Nothing in this or the two (2) preceding sections shall be so construed as relieving any railroad company from its responsibility or liability for damage to person or property.

That sections fifty hundred eighteen (5018) and fifty-one hundred eighty-eight (5188) of the compiled Code of Iowa are amended, revised, and codified to read as follows:

Sec. 9. Investigation and inquiry. The board shall investigate and inquire into the management of the business of all common carriers subject to this and the next two (2) chapters and keep itself well informed as to the manner and method in which the same is conducted. It shall have the right to obtain from them full and complete information necessary to enable the board to perform its duties. It shall have power to require the attendance and testimony of witnesses, the production of all books, papers, tariff schedules, contracts, agreements, and documents, relating to any matter under investigation, and to inspect the same and to examine under oath or otherwise any officer, director, agent, or employee of any common carrier; to issue subpoenas and to enforce obedience thereto.

Sec. 10. Aid from courts. The board may invoke the aid of any court of record in any county where the carrier extends, in requiring the attendance and testimony of witnesses and the production of books, papers, tariff schedules, agreements, and other documents. Any court or judge thereof having jurisdiction where any inquiry is carried on shall, in case of the refusal of any person to obey a subpoena or other process, issue an order requiring any of the officers, agents, or employees of any carrier or other person to appear before the board and produce all books and papers required by such order and testify in relation to any matter under investigation. A failure to obey any such order of the court shall be punished as a contempt.

Sec. 11. Penalty for hindering or obstructing board. Any person who shall wilfully obstruct it or its members in the performance of their duties, or who shall refuse to give any information within his possession that may be required by it within the line of its duty, shall be fined not exceeding one thousand dollars (\$1,000.00), in the discretion of the court.

That section fifty hundred twenty-two (5022) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Sec. 12. Jurisdiction of courts to enforce order. The district courts of this state shall have jurisdiction to enforce, by proper decrees, injunctions, and orders, the rulings, orders and regulations affecting public rights, made by the board as authorized by law for the direction and observance of railroads in this state. The proceedings therefor shall be by equitable action in the name of the state of Iowa, and shall be instituted by the commerce counsel, whenever advised by the board that any railway corporation, or person operating a line of

road in this state, is violating and refusing to comply with any rule, order, or regulation made by the board, and applicable to such railroad or person.

Sec. 13. Trial term - mandatory injunction - contempt - penalty. It shall be the duty of the court in which any such cause shall be pending to require the issue to be made up at the first term of the court to which such cause is brought, which shall be the trial term, and to give the same precedence over other civil business. If the court shall find that such rule, regulation, or order is reasonable and just, and that in refusing compliance therewith said railway company is neglecting and omitting the performance of any public duty or obligation, the court shall decree a mandatory and perpetual injunction, compelling obedience to and compliance with such rule, order, or regulation by said railroad company or person, its officers, agents, servants, and employees, and may grant such other relief as may be deemed just and proper. All violations of such decree shall render the company, persons, officers, agents, servants, and employees who are in any manner instrumental in such violation, guilty of contempt of court, and the court may punish such contempt by a fine not exceeding one thousand dollars (\$1,000.00) for each offense. Such decree shall continue and remain in effect and be enforced until the rule, order, or regulation shall be modified or vacated by the board.

Sec. 14. When order takes effect - violation - penalty. All rules, orders, and regulations affecting public rights, made by the board of railroad commissioners, as now or may hereafter be authorized for the direction and observance of railroads in this state, shall be in full force and effect from and after the date fixed by the board. If any railroad fails, neglects or refuses to comply with any rule, order, or regulation made by the board within the time specified, it shall, for each day of such failure, pay a penalty of fifty dollars (\$50.00).

Sec. 15. Time may be extended to test legality. The time for the taking effect of any rule, order, or regulation affecting public rights, made by the board, may, in its discretion, be extended, and said extension of time may be granted for the purpose of testing the legality thereof, upon application by any such aggrieved railroad, showing reasonable grounds therefor, and that said application is made in good faith and not for the purpose of delay.

Sec. 16. Proceedings to vacate order - penalty revoked. Any railroad aggrieved at any rule, order, or regulation made by the board may institute proceedings in any court of proper jurisdiction to have the same vacated. If found by the court, after due trial, not to be reasonable, equitable, or just, and if upon an appeal from any rule, order, or regulation of the board the complaining railroad is successful in having such rule, order or regulation vacated, the aforesaid penalty shall be set aside.

Sec. 17. Remitting penalty on application. When any common carrier shall fail upon appeal to secure a vacation of the order appealed from, it may apply to the court in which the appeal is finally adjudicated for an order remitting the penalty which has accrued during the pendency of the appeal. Upon a satisfactory showing that the appeal was prosecuted in good faith and not for the purpose of delay and that there were reasonable grounds to believe that the order appealed from was unreasonable or unjust or that the power of the board to make the same was doubtful, such court may remit the penalty that has accrued during the pendency of the appeal.

That sections fifty hundred twenty-four (5024) to fifty hundred twenty-six (5026), inclusive, fifty-one hundred eighty-six (5186), fifty-one hundred eighty-nine (5189) to fifty-one hundred ninety-two (5192), inclusive, and fifty-two hundred four (5204) of the compiled Code of Iowa are amended, revised, and codified to read as follows:

Sec. 18. Investigation of interstate freight rates. The board shall exercise constant diligence to ascertain the rates, charges, rules, and practices of common carriers operating in this state, in relation to the transportation of freight in interstate business. When it shall ascertain from any source or have reasonable grounds to believe that the rates charged on such interstate business or the rules or practices in relation thereto discriminate unjustly against any of the citizens, industries, interests, or localities of the state, or place any of them at an unreasonable disadvantage as compared with those of other states, or are in violation of the laws of the United States regulating commerce, or in conflict with the rulings, orders, or regulations of the interstate commerce commission, the board shall take the necessary steps to prevent the continuance of such rates, rules, or practices.

Sec. 19. Application to interstate commerce commission - prosecution. When any common carrier has put in force any rates, rules, or practices in relation to interstate freight business, in violation of the laws of the United States regulating commerce, or of the orders, rules, and regulations of the interstate commerce commission, or shall unjustly discriminate against any of the citizens, industries, interests or localities of the state, the board shall present the material facts involved in such violations or discrimination to the interstate commerce commission and seek relief therefrom, and, if deemed necessary or expedient, the board shall prosecute any charge growing out of such violation or discrimination, at the expense of the state, before the interstate commerce commission.

Sec. 19-a. Choice of remedies. Any person claiming damages from a common carrier on account of any violation of the provisions of this chapter, may either make complaint to the board of railroad commissioners, or may bring action on his own behalf for the recovery of such damages; but he shall not have the right to pursue both of said remedies at the same time.

Sec. 20. Complaints as to violations and damages. Any person, firm, corporation, association, mercantile, agricultural, or manufacturing society, body politic, or municipal organization, may file with the board a petition setting forth any particular in which any common carrier has violated the law to which it is subject and the amount of damages sustained by reason thereof. The board shall furnish to the carrier against which complaint is filed, a copy thereof, and a reasonable time shall be fixed within which such carrier shall answer the petition or satisfy the demand therein made. If such carrier fails to satisfy the complaint within the time fixed or there shall appear to be reasonable grounds for investigating the matters set forth in said petition, the board shall hear and determine the questions involved and make such orders as it shall find to be proper. No petition so filed shall be dismissed on the grounds that the petitioner has not suffered any direct damage. When the board ascertains or has reason to believe that any carrier is violating any of the laws to which it is subject, it may institute an investigation and cause a hearing to be made before it in relation to such matters in all respects as fully as if a petition had been filed.

Sec. 21. Investigation - report. When a hearing has been had before the board after notice, it shall make a report in writing setting forth the findings of fact and its conclusions together with recommendations or orders as to what reparation, if any, the offending carrier shall make to any party who has suffered damage. Such finding of fact shall thereafter in all legal proceedings be prima facie evidence of every fact found. All reports of hearings and investigations made by the board shall be entered of record and a copy furnished to the carrier against which the complaint was filed, to the party complaining, and to any other person having a direct interest in the matter.

Sec. 22. Orders - compliance - release. When the board finds as the result of any investigation that a common carrier has violated or is violating any of the provisions of law to which it is subject, or that any complainant or other person has sustained damages by reason of such violation, the board shall notify such carrier to cease such violation at once and shall fix a time within which it shall pay the amount of damage which has been found due to any person as a result of such violation. Upon a satisfactory showing to the board that the carrier has complied with the notice in the time and manner required, it shall thereupon be relieved from further liability or penalty for that particular violation of law, and the board shall enter of record such release.

Sec. 23. Violation of order - petition - notice. When any common carrier shall violate or fail to obey any lawful order or requirement of the board, the board shall apply in a summary way by petition in the name of the state, against such common carrier, to the district court of any county through which such carrier owns or operated a line of railroad or in which the failure or violation of such order occurred, alleging such violation or failure to obey; the court shall hear and determine the matter set forth in said petition on reasonable notice to the common carrier, to be fixed by the court and to be served in the same manner as original notices for the commencement of action.

Sec. 24. Interested party may begin proceedings. Any person, firm, or corporation interested in the matter of enforcing any order or requirement of the board, may file a petition against such carrier, alleging the failure to comply with such order or requirement and praying summary relief to the same extent and in the same manner as the board may do under the preceding section, and the proceedings after the filing of such petition shall be the same as in said section provided.

Sec. 25. Duty of commerce counsel and county attorney. When any proceeding has been instituted under the two (2) preceding sections, the commerce counsel shall prosecute the same, and the county attorney of the county in which such proceeding is pending, shall render such assistance as the commerce counsel may require of him.

Sec. 26. Hearing in equity - injunction. All such causes shall be in equity, and the order or report of the board in question shall be prima facie evidence of the matters contained therein. If the court shall find that the order or requirement in question is lawful and has been violated, it shall issue an injunction or other proper process, mandatory or otherwise, to compel obedience to such order or requirement.

Sec. 27. Violation of injunction or other process - penalties. For a violation of any injunction or other process issued in such proceeding, any common carrier or any officer, agent, or employee thereof shall be fined for contempt in a sum not exceeding one thousand dollars (\$1,000.00). In addition to any other penalty the court may fix a sum not exceeding one thousand dollars (\$1,000.00) which each defaulting carrier, officer, or agent shall pay after a fixed date for each day such injunction or other process is disobeyed and render judgment for penalty which shall accrue from disobedience after the time fixed. One-half (1/2) of such sums collected shall be paid into the treasury of the county where the judgment is rendered and one-half (1/2) into the state treasury.

Sec. 28. Appeal not to stay process. An appeal to the supreme court shall not stay or supersede the order of the court or the execution of any writ or process thereon. When appeal is taken by the board, it shall not be required to give an appeal bond or security for costs.

Sec. 29. Suits by commissioners. When the board has reason to believe that any common carrier has been guilty of extortion or unjust discrimination, it shall immediately cause actions to be commenced and prosecuted against such carrier. Such action may be brought in any county through or into which any line of railway owned or operated by such carrier may extend. No actions thus commenced shall be dismissed unless the board and the commerce counsel consent thereto. The court in which any such action is pending may, in its discretion, give preference as to the time of trial of such action over other business, except criminal cases.

Sec. 30. Uniform gauge - inspection - order. As often as it deems it expedient, the board shall examine all the railroads in the state that are less than four (4) feet eight and one-half (8 1/2) inches gauge, and if, in the judgment of the board, it is necessary and reasonable to change the gauge of any such railroad to four (4) feet eight and one-half (8 1/2) inches, it shall make an order in writing, fixing a reasonable time within which such gauge shall be changed, taking into consideration the life of the rolling stock of such narrow gauged road and all other facts and conditions bearing on the length of time required to make such change.

Sec. 31. Rights and remedies not exclusive. Nothing in this chapter shall abridge any rights or remedies existing at common law or by statute, but shall be in addition to such remedies.

Approved February 26, 1924.

## CHAPTER 130

### COMMERCE COUNSEL

#### S. F. 189

AN ACT to amend, revise, and codify chapter two (2) of title sixteen (16) of the compiled code of Iowa, and of the supplement to said code, relating to commerce counsel.

Be It Enacted By the General Assembly of the State of Iowa:

That chapter two (2) of title sixteen (16) of the compiled Code of Iowa, and of the supplement to said Code are amended, revised, and codified to read as follows:

## CHAPTER 2

### COMMERCE COUNSEL, HIS JURISDICTION AND DUTIES

Section 1. Appointment - term. Within sixty (60) days after the general assembly convenes in nineteen hundred twenty-seven (1927) and every four (4) years thereafter, the board of railroad commissioners shall appoint a competent attorney to the office of commerce counsel, subject to the approval of two thirds of the members of the senate. His term of office shall be for four (4) years and till his successor is appointed, and shall begin on the first day of July of the year he is appointed.

Sec. 2. Vacancy. A vacancy in said office occurring while the general assembly is in session, shall be filled for the unexpired term in the same manner as original appointments. If the general assembly is not in session, a vacancy shall be filled by an appointment made by the board, which appointment shall expire thirty (30) days from the time the next general assembly convenes.