



Rep. Camille Y. Lilly

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1 AMENDMENT TO SENATE BILL 1409

2 AMENDMENT NO. _____. Amend Senate Bill 1409, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the
6 Elmwood Park Grade Separation Authority Act.

7 Section 5. Definitions. As used in this Act:

8 "Authority" means the Elmwood Park Grade Separation
9 Authority.

10 "Person" includes an individual, partnership, firm, public
11 or private corporation, and government or unit of government.

12 "Railroad" or "Railroads" means the Canadian Pacific
13 Railway and other railroads operating or owning trackage or
14 right-of-way within the area of the Authority.

15 "Village" means the Village of Elmwood Park.

1 Section 10. Legislative declaration. The General Assembly
2 declares that the welfare, health, prosperity, and moral and
3 general well being of the people of the State are, in large
4 measure, dependent upon the sound and orderly development of
5 municipal areas. The Village of Elmwood Park by reason of the
6 location there of Grand Avenue and its use for vehicular travel
7 in access to the entire west metropolitan Chicago area,
8 including municipalities in 2 counties, as well as commercial
9 and industrial growth patterns and accessibility to O'Hare
10 International Airport, manufacturing and freight related
11 services, has become and will increasingly be the hub of
12 transportation from all parts of the region and throughout the
13 west metropolitan area. Motor vehicle traffic, pedestrian
14 travel, and the safety of both motorists and pedestrians are
15 substantially aggravated by the location of a major railroad
16 right-of-way that divides the Village into north and south
17 halves. The presence of the railroad right-of-way has
18 effectively impeded the development of highway usage and
19 rights-of-way and is detrimental to the orderly expansion of
20 industry and commerce and to progress throughout the region.
21 Additionally, the railroad grade crossing located on Grand
22 Avenue within the Village of Elmwood Park has posed a
23 significant safety hazard to the public. The Illinois Commerce
24 Commission Collision History illustrates that there have been 8
25 fatalities and 29 injuries since 1956 at the railroad grade
26 crossing located on Grand Avenue within the Village. The

1 presence of the railroad right-of-way at grade crossing within
2 the Village is detrimental to the safety of the public, as well
3 as to the orderly expansion of industry and commerce and to
4 progress of the region. To alleviate this situation, it is
5 necessary to separate the grade crossing on Grand Avenue within
6 the Village, to relocate the railroad tracks and right-of-way,
7 and to acquire property for separation of the railroad or
8 highway and to create an agency to facilitate and accomplish
9 that grade separation.

10 Section 15. Creation; duration; termination of the
11 Authority. There is created a body politic and corporate, a
12 unit of local government, named the Elmwood Park Grade
13 Separation Authority that embraces that portion of Leyden
14 Township within the Village of Elmwood Park, Cook County,
15 Illinois. The Authority shall continue in existence until the
16 accomplishment of its objectives or until the Authority
17 officials resolve that it is impossible or economically
18 unfeasible to fulfill its objectives. Objectives of the
19 Authority include the grade separation of railroad tracks from
20 the right-of-way of Grand Avenue in the Village of Elmwood
21 Park, the relocation of railroad tracks and roadway to
22 facilitate the grade separation, and other necessary, related
23 improvements to the right-of-way and at-grade crossing closure
24 within the Village of Elmwood Park. The Authority shall be
25 dissolved upon its voluntary termination or 6 months after the

1 first use of the railway on the grade separation structure by a
2 Railroad. Upon termination or dissolution of the Authority
3 after the construction of the grade separation project, the
4 Department of Transportation shall own and maintain the grade
5 separation structure and the Canadian Pacific Railway Company
6 shall own and maintain the railway along the grade separation
7 structure.

8 Section 20. Procedural capacity; seal; office. The
9 Authority may sue and be sued in its corporate name, but
10 execution shall not in any case issue against any property of
11 the Authority. The Authority shall be subject to the
12 jurisdiction of the Illinois Commerce Commission. It may adopt
13 a common seal and change the seal at pleasure. The principal
14 office of the Authority shall be in the Village of Elmwood
15 Park, Illinois.

16 The Authority may enter into contracts for the performance
17 of its objectives, including agreements with other State
18 entities and departments, as well as provide for the letting of
19 construction contracts, consultant service agreements,
20 professional and trade services, and other agreements
21 consistent with the purposes and objectives of the Authority
22 established by this Act. The Authority may accept
23 jurisdictional transfer of public right-of-way for purposes of
24 eliminating at-grade street and railroad crossings.

1 Section 25. Acquisition of property. The Authority shall
2 have the power to acquire by gift, purchase, legacy, or by the
3 exercise of eminent domain the fee simple title to real
4 property located within the boundaries of the Authority,
5 including temporary and permanent easements, as well as
6 reversionary interests in the streets, alleys, and other public
7 places and personal property, required for its purposes, and
8 title thereto shall be taken in the corporate name of the
9 Authority. Any such property that is already devoted to a
10 public use may nevertheless be acquired, provided that no
11 property belonging to the United States of America or the State
12 of Illinois may be acquired without the consent of such
13 governmental unit. No property devoted to a public use
14 belonging to a corporation subject to the jurisdiction of the
15 Illinois Commerce Commission may be acquired without a prior
16 finding by the Illinois Commerce Commission that the taking
17 would not result in the imposition of an undue burden on
18 intrastate commerce. Eminent domain proceedings shall be
19 conducted in all respects in the manner provided for the
20 exercise of the right of the eminent domain under the Eminent
21 Domain Act. No condemnation proceedings for the acquisition of
22 new property shall be instituted without the prior concurrence
23 of the affected Railroads in the route, width and title to be
24 acquired thereby. Consistent with the Land Acquisition and
25 Procedures Manual prepared by the Department of Transportation
26 and updated through October 23, 2012, when a railroad company

1 owns the fee title to its operating right-of-way and such
2 property is acquired by the Authority to construct a grade
3 separation facility, no compensation of any kind shall be made
4 to the railroad to construct a grade separation facility where
5 an existing highway crossing is eliminated; however,
6 consideration shall be given if the size of the acquisition is
7 different than the original right-of-way. All land and
8 appurtenances thereto, acquired or owned by the Authority, are
9 to be deemed acquired or owned for a public use or public
10 purpose.

11 Section 30. Sale or exchange of property. The Authority
12 has the power to sell, transfer, exchange, vacate, or assign
13 property acquired for the purposes of this Act, as it deems
14 appropriate.

15 Section 35. Acceptance of grants, loans, and
16 appropriations. The Authority has the power to apply for and
17 accept grants, loans, advances, and appropriations from the
18 federal government and from the State of Illinois, or any
19 agency or instrumentality thereof, to be used for the purposes
20 of the Authority, and to enter into any agreement in relation
21 to such grants, loans, advances, and appropriations. The
22 Authority may also accept from the State, or any State agency,
23 department, or commission, any county or other political
24 subdivision, any municipal corporation, any Railroads, school

1 authorities, or jointly therefrom, grants of funds or services
2 for any of the purposes of this Act. The Authority shall be
3 treated as a rail carrier subject to the Illinois Commerce
4 Commission's jurisdiction and eligible to receive money from
5 the Grade Crossing Protection Fund, any fund of the State, or
6 other source available for purposes of promoting safety and
7 separation of at-grade railroad crossings or highway
8 improvements.

9 The Illinois Commerce Commission Crossing Safety
10 Improvement Program FY 2014-2018 Plan shall be revised to
11 include this Authority's grade separation project as one of the
12 bridge projects contemplated for FY 2015 through FY 2018, and
13 funds from the Grade Crossing Protection Fund shall be
14 allocated in the FY 2015 through FY 2018 Plan for said grade
15 separation project. No Order of the Illinois Commerce
16 Commission shall be effective or binding on the Authority to
17 construct the grade separation project unless the federal
18 government, the State of Illinois, or any agency or
19 instrumentality thereof has granted or appropriated sufficient
20 funds for the construction of the grade separation project and
21 the Authority is in receipt of those funds. Notwithstanding,
22 the Illinois Commerce Commission shall not withhold approval of
23 the construction of the Authority's grade separation project or
24 the issuance of any Orders that authorize the construction of
25 the Authority's grade separation project.

1 Section 40. Borrowing money and issuance of bonds. The
2 Authority may incur debt and borrow money from time to time
3 and, in evidence thereof, may issue and sell bonds in such
4 amount or amounts as the Authority may determine in order to
5 provide funds for carrying out the purposes of this Act and to
6 pay all costs and expenses incident thereto. The Authority may
7 refund and refinance, from time to time, bonds so issued and
8 sold, as often as may be deemed to be advantageous by the
9 Authority.

10 Section 45. Taxing powers. The Authority may not levy real
11 property taxes for any purpose whatsoever.

12 Section 50. Board; composition; qualification;
13 compensation and expenses. The Authority shall be governed by
14 a 9-member board consisting of members appointed by the
15 Governor with the advice and consent of the Senate. Five
16 members shall be voting members and 4 members shall be
17 non-voting members. The voting members shall consist of the
18 following:

19 (1) two former public officials who served within the
20 Township of Leyden or the Village of Elmwood Park and
21 recommended to the Governor by the Village President of the
22 Village of Elmwood Park;

23 (2) two prior employees of Canadian Pacific Railway
24 with management experience; and

1 (3) one resident of the Township of Leyden or the
2 Village of Elmwood Park.

3 The non-voting members shall consist of the following:

4 (1) the Village President of the Village of Elmwood
5 Park;

6 (2) one current employee of Canadian Pacific Railway
7 with management experience;

8 (3) one current employee of Northeast Illinois
9 Regional Commuter Railroad Corporation with management
10 experience; and

11 (4) one current employee of the Department of
12 Transportation with management experience.

13 The members of the board shall serve without compensation,
14 but may be reimbursed for actual expenses incurred by them in
15 the performance of their duties prescribed by the Authority.
16 However, any member of the board who serves as secretary or
17 treasurer may receive compensation for services as that
18 officer.

19 Section 55. Removal of members. The Governor may remove
20 from office any board member immediately in case of
21 incompetency, neglect of duty or malfeasance of office, or
22 otherwise upon 15 days written notice to the other members.
23 Absence from any 3 consecutive regular meetings of the board
24 shall be deemed neglect of duty.

1 Section 60. Organization; chair and temporary secretary.
2 As soon as possible after the effective date of this amendatory
3 Act of the 98th General Assembly, the board shall organize for
4 the transaction of business, select a chair from its voting
5 members and a temporary secretary from its own number, and
6 adopt bylaws to govern its proceedings. The initial chair and
7 successors shall be elected by the board from time to time from
8 among members. The Authority may act through its board members
9 by entering into an agreement that a member act on the
10 Authority's behalf, in which instance the act or performance
11 directed shall be deemed to be exclusively of, for, and by the
12 Authority and not the individual act of the member or its
13 represented person.

14 Section 65. Meetings; quorum; resolutions. Regular
15 meetings of the board shall be held at least quarterly, the
16 time and place of those meetings to be fixed by the board.
17 Special meetings may be called by the chair or by a majority of
18 the members of the board by giving notice in writing that
19 states the time, place, and purpose of the meeting. Notice of
20 special meetings shall be served by special delivery letter
21 deposited in the mail at least 48 hours before the meeting. A
22 majority of the members of the board shall constitute a quorum
23 for the transaction of business. All action of the Authority
24 shall be by resolution of the board and, except as otherwise
25 provided in this Act, the affirmative vote of at least a

1 majority shall be necessary for the adoption of any resolution.
2 The chair shall be entitled to vote on any and all matters
3 coming before the board.

4 Section 70. Secretary and treasurer; oaths; bond of
5 treasurer. The board may appoint a secretary and a treasurer,
6 who need not be members of the board, to hold office during the
7 pleasure of the Authority and fix their duties and
8 compensation. Before entering into the duties of their
9 respective offices, they shall take and subscribe to the
10 constitutional oath of office, and the treasurer shall execute
11 a bond with corporate sureties to be approved by the Authority.
12 The bond shall be payable to the Authority in whatever penal
13 sum may be directed by the board, conditioned upon the faithful
14 performance of the duties of the office and the payment of all
15 money received by the treasurer according to law and the orders
16 of the Authority. The Authority may, at any time, require a new
17 bond for the treasurer in such penal sum as may then be
18 determined by the board.

19 Section 75. Deposit and withdrawal of funds; signatures.
20 All funds deposited by the treasurer in any bank or savings and
21 loan association shall be placed in the name of the Authority
22 and shall be withdrawn or paid out only by check or draft upon
23 the bank or savings and loan association, signed by the
24 treasurer and countersigned by the chair of the board. Subject

1 to prior approval of the designations by a majority of the
2 board, the chair may designate any other member or any officer
3 of the Authority to affix the signature of the treasurer to any
4 Authority check or draft for payment of salaries or wages and
5 for payment of any other obligation of not more than \$2,500.

6 No bank or savings and loan association shall receive
7 public funds as permitted by this Section unless it has
8 complied with the requirements established under Section 6 of
9 the Public Funds Investment Act.

10 Section 80. Delivery of check after executing officer
11 ceases to hold office. If any officer whose signature appears
12 upon any check or draft issued pursuant to this Act ceases to
13 hold office before the delivery of the check or draft to the
14 payee, the officer's signature nevertheless shall be valid and
15 sufficient for all purposes with the same effect as if the
16 officer had remained in office until delivery of the check or
17 draft.

18 Section 85. Rules. The Authority may make and the board
19 may adopt all rules and regulations proper or necessary and to
20 carry into effect the powers granted to it. The rules and
21 regulations shall be consistent with the guidelines,
22 objectives, and project scope as set out by the Illinois
23 Commerce Commission.

1 Section 90. Fiscal year. The Authority shall designate its
2 fiscal year.

3 Section 95. Reports and financial statements. Within 60
4 days after the end of its fiscal year, the Authority shall
5 cause to be prepared by a certified public accountant a
6 complete and detailed report and financial statement of the
7 operations and assets and liabilities as relate to the Elmwood
8 Park Grade Separation Authority railroad grade separation
9 project. A reasonably sufficient number of copies of the report
10 shall be prepared for distribution to persons interested, upon
11 request, and a copy of the report shall be filed with the
12 Illinois Commerce Commission and with the county clerk of Cook
13 County.

14 Section 100. Construction. Nothing in this Act shall be
15 construed to confer upon the Authority the right, power, or
16 duty to order or enforce the abandonment of any present
17 property of the railroads or the use in substitution therefor
18 of any property acquired for the railroads in the absence of a
19 contract duly executed by the railroads and the Authority
20 setting forth the terms and conditions upon which relocation of
21 the right-of-way and physical facilities of the railroads is to
22 be accomplished. No such contract shall be or become
23 enforceable until the provisions of the contract have been
24 approved or authorized by the Illinois Commerce Commission.

1 Any construction improvements to signaling or any other
2 aspect of the grade separation project dictated by the Railroad
3 or the Northeast Illinois Regional Commuter Railroad
4 Corporation shall be paid for respectively by the Railroad or
5 the Northeast Illinois Regional Commuter Railroad Corporation.
6 The Railroad or the Northeast Illinois Regional Commuter
7 Railroad Corporation, or both, shall specifically pay any and
8 all costs associated with any upgrades to the railway.

9 Section 105. Existing contracts, obligations, and
10 liabilities. No contract, obligation, or liability whatever of
11 the railroads to pay any money into the State treasury, nor any
12 lien of the State upon or right to tax property of the
13 railroads, shall be released, suspended, modified, altered,
14 remitted, or in any manner diminished or impaired by the
15 contract with the Authority, and any such charter provisions
16 applicable to the property on which the railroads are now
17 located shall be deemed in full force and effect with respect
18 to any property on which the railroads are relocated in
19 substitution therefor pursuant to the provisions of this Act or
20 any such contract with the Authority pursuant thereto.
21 Notwithstanding, upon order of the Illinois Commerce
22 Commission, the Authority shall succeed to and assume the
23 performance and actions of the represented persons under the
24 terms of the order and amending orders previously entered
25 relative to the Elmwood Park Grade Separation Authority project

1 undertaken by the Authority and consistent with the objectives
2 of the Authority.

3 Section 110. Severability. The provisions of this Act are
4 severable under Section 1.31 of the Statute on Statutes.

5 Section 120. The Eminent Domain Act is amended by adding
6 Section 15-5-47 as follows:

7 (735 ILCS 30/15-5-47 new)

8 Sec. 15-5-47. Eminent domain powers in new Acts. The
9 following provisions of law may include express grants of the
10 power to acquire property by condemnation or eminent domain:

11 The Elmwood Park Grade Separation Authority Act; Elmwood Park
12 Grade Separation Authority; for general purposes.

13 Section 999. Effective date. This Act takes effect upon
14 becoming law."