



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB1314

Introduced 2/18/2015, by Sen. Don Harmon

#### SYNOPSIS AS INTRODUCED:

70 ILCS 1935/5  
70 ILCS 1935/15  
70 ILCS 1935/20  
70 ILCS 1935/35  
70 ILCS 1935/50  
70 ILCS 1935/100

Amends the Elmwood Park Grade Separation Authority Act. Provides that the Northeast Illinois Regional Commuter Railroad Corporation (currently, the Canadian Pacific Railway Company) shall own and maintain the railway along the grade separation structure. Makes changes concerning the composition of the board. Eliminates provisions requiring the Canadian Pacific Railway to contribute toward certain costs. Defines a required term. Effective immediately.

LRB099 08663 AWJ 28828 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Elmwood Park Grade Separation Authority Act  
5 is amended by changing Sections 5, 15, 20, 35, 50, and 100 as  
6 follows:

7 (70 ILCS 1935/5)

8 Sec. 5. Definitions. As used in this Act:

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

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

13 "Railroad" or "Railroads" means the Northeast Illinois  
14 Regional Commuter Railroad Corporation, created under  
15 subsection (a) of Section 2.20 of the Regional Transportation  
16 Authority Act, ~~Canadian Pacific Railway~~ and other railroads  
17 operating or owning trackage or right-of-way within the area of  
18 the Authority.

19 "Village" means the Village of Elmwood Park.

20 (Source: P.A. 98-564, eff. 8-27-13.)

21 (70 ILCS 1935/15)

22 Sec. 15. Creation; duration; termination of the Authority.

1 There is created a body politic and corporate, a unit of local  
2 government, named the Elmwood Park Grade Separation Authority  
3 that embraces that portion of Leyden Township within the  
4 Village of Elmwood Park, Cook County, Illinois. The Authority  
5 shall continue in existence until the accomplishment of its  
6 objectives or until the Authority officials resolve that it is  
7 impossible or economically unfeasible to fulfill its  
8 objectives. Objectives of the Authority include the grade  
9 separation of railroad tracks from the right-of-way of Grand  
10 Avenue in the Village of Elmwood Park, the relocation of  
11 railroad tracks and roadway to facilitate the grade separation,  
12 and other necessary, related improvements to the right-of-way  
13 and at-grade crossing closure within the Village of Elmwood  
14 Park. The Authority shall be dissolved upon its voluntary  
15 termination ~~or 6 months after the first use of the railway on~~  
16 ~~the grade separation structure by a Railroad.~~ Upon termination  
17 or dissolution of the Authority after the construction of the  
18 grade separation project, the Department of Transportation  
19 shall own and maintain the grade separation structure and the  
20 Northeast Illinois Regional Commuter Railroad Corporation  
21 ~~Canadian Pacific Railway Company~~ shall own and maintain the  
22 railway along the grade separation structure.

23 (Source: P.A. 98-564, eff. 8-27-13.)

24 (70 ILCS 1935/20)

25 Sec. 20. Procedural capacity; seal; office. The Authority

1 may sue and be sued in its corporate name, but execution shall  
2 not in any case issue against any property of the Authority.  
3 The grade separation project Authority shall be subject to the  
4 jurisdiction of the Illinois Commerce Commission. It may adopt  
5 a common seal and change the seal at pleasure. The principal  
6 office of the Authority shall be in the Village of Elmwood  
7 Park, Illinois.

8 The Authority may enter into contracts for the performance  
9 of its objectives, including agreements with other State  
10 entities and departments, as well as provide for the letting of  
11 construction contracts, consultant service agreements,  
12 professional and trade services, and other agreements  
13 consistent with the purposes and objectives of the Authority  
14 established by this Act. The Authority may accept  
15 jurisdictional transfer of public right-of-way for purposes of  
16 eliminating at-grade street and railroad crossings.

17 (Source: P.A. 98-564, eff. 8-27-13.)

18 (70 ILCS 1935/35)

19 Sec. 35. Acceptance of grants, loans, and appropriations.  
20 The Authority has the power to apply for and accept grants,  
21 loans, advances, and appropriations from the federal  
22 government and from the State of Illinois, or any agency or  
23 instrumentality thereof, to be used for the purposes of the  
24 Authority, and to enter into any agreement in relation to such  
25 grants, loans, advances, and appropriations. The Authority may

1 also accept from the State, or any State agency, department, or  
2 commission, any county or other political subdivision, any  
3 municipal corporation, any Railroads, school authorities, or  
4 jointly therefrom, grants of funds or services for any of the  
5 purposes of this Act. The Authority shall be treated as a rail  
6 carrier, with only the grade separation project being subject  
7 to the Illinois Commerce Commission's jurisdiction, and  
8 eligible to receive money from the Grade Crossing Protection  
9 Fund, any fund of the State, or other source available for  
10 purposes of promoting safety and separation of at-grade  
11 railroad crossings or highway improvements.

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

1 ~~the issuance of any Orders that authorize the construction of~~  
2 ~~the Authority's grade separation project.~~

3 Notwithstanding any provision of law to the contrary, the  
4 Illinois Commerce Commission's jurisdiction under this Act  
5 includes the authority to use funds from the Grade Crossing  
6 Protection Fund to reimburse the Elmwood Park Grade Separation  
7 Authority, in an amount not to exceed \$12,000,000, for the  
8 construction of a grade separation to replace the existing  
9 Grand Avenue highway-rail grade crossing of tracks owned by the  
10 Northeast Illinois Regional Commuter Railroad Corporation,  
11 without regard to whether all or part of the crossing is within  
12 the jurisdiction of the Department of Transportation, the  
13 Regional Transportation Authority or any subdivision or unit  
14 thereof, or any other State agency or unit of local government.

15 The Elmwood Park Grade Separation Authority shall conduct a  
16 preliminary engineering study for the construction of a grade  
17 separation to replace the existing Grand Avenue highway-rail  
18 grade crossing, which shall result in the preparation of  
19 preliminary engineering plans and an estimate of cost. The  
20 Elmwood Park Grade Separation Authority shall also prepare a  
21 funding plan for the grade separation project. The Elmwood Park  
22 Grade Separation Authority shall submit a copy of the  
23 preliminary engineering study, estimate of cost, and funding  
24 plan for the construction of a grade separation to replace the  
25 existing Grand Avenue highway-rail grade crossing to the  
26 Illinois Commerce Commission for its review.

1       Following receipt of the preliminary engineering study,  
2       estimate of cost, and funding plan for the Grand Avenue grade  
3       separation project, the Illinois Commerce Commission shall  
4       consider that project as one of the bridge projects included in  
5       the Illinois Commerce Commission's Crossing Safety Improvement  
6       Program during the earliest 5-year programming cycle, and funds  
7       from the Grade Crossing Protection Fund shall be programmed for  
8       that grade separation project.

9       No funds from the Grade Crossing Protection Fund programmed  
10      for the Grand Avenue grade separation project shall be provided  
11      unless authorized by the Illinois Commerce Commission. Funds  
12      from the Grade Crossing Protection Fund programmed for the  
13      Grand Avenue grade separation project may not exceed  
14      \$12,000,000, and shall only be provided to the Elmwood Park  
15      Grade Separation Authority as reimbursement for expenses  
16      already incurred.

17      (Source: P.A. 98-564, eff. 8-27-13.)

18           (70 ILCS 1935/50)

19           Sec. 50. Board; composition; qualification; compensation  
20      and expenses. The Authority shall be governed by a 7 member  
21      ~~9 member~~ board consisting of members appointed by the Governor  
22      with the advice and consent of the Senate. Five members shall  
23      be voting members and 2 ~~4~~ members shall be non-voting members.  
24      The voting members shall consist of the following:

25           (1) two former public officials who served within the

1 Township of Leyden or the Village of Elmwood Park and are  
2 recommended to the Governor by the Village President of the  
3 Village of Elmwood Park;

4 (2) one current employee ~~two prior employees~~ of the  
5 Northeast Illinois Regional Commuter Railroad Corporation  
6 ~~Canadian Pacific Railway~~ with management experience; ~~and~~

7 (3) one current employee of Canadian Pacific Railway;  
8 and

9 (4) ~~(3)~~ one resident of the Township of Leyden or the  
10 Village of Elmwood Park.

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

12 (1) the Village President of the Village of Elmwood  
13 Park; and

14 ~~(2) one current employee of Canadian Pacific Railway~~  
15 ~~with management experience;~~

16 ~~(3) one current employee of Northeast Illinois~~  
17 ~~Regional Commuter Railroad Corporation with management~~  
18 ~~experience; and~~

19 (2) ~~(4)~~ one current employee of the Department of  
20 Transportation with management experience.

21 The members of the board shall serve without compensation,  
22 but may be reimbursed for actual expenses incurred by them in  
23 the performance of their duties prescribed by the Authority.  
24 However, any member of the board who serves as secretary or  
25 treasurer may receive compensation for services as that  
26 officer.



1 (Source: P.A. 98-564, eff. 8-27-13; 98-756, eff. 7-16-14.)

2 (70 ILCS 1935/100)

3 Sec. 100. Construction. Nothing in this Act shall be  
4 construed to confer upon the Authority the right, power, or  
5 duty to order or enforce the abandonment of any present  
6 property of the railroads or the use in substitution therefor  
7 of any property acquired for the railroads in the absence of a  
8 contract duly executed by the railroads and the Authority  
9 setting forth the terms and conditions upon which relocation of  
10 the right-of-way and physical facilities of the railroads is to  
11 be accomplished. No such contract shall be or become  
12 enforceable until the provisions of the contract have been  
13 approved or authorized by the Illinois Commerce Commission.

14 Any construction improvements to signaling or any other  
15 aspect of the grade separation project dictated by the ~~Railroad~~  
16 ~~or the~~ Northeast Illinois Regional Commuter Railroad  
17 Corporation shall be paid for ~~respectively~~ by the ~~Railroad or~~  
18 ~~the~~ Northeast Illinois Regional Commuter Railroad Corporation.

19 The ~~Railroad or the~~ Northeast Illinois Regional Commuter  
20 Railroad Corporation, ~~or both,~~ shall specifically pay any and  
21 all costs associated with any upgrades to the railway.

22 (Source: P.A. 98-564, eff. 8-27-13.)

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law.