

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

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

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

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

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

14 "Village" means the Village of Elmwood Park.

15 Section 10. Legislative declaration. The General Assembly
16 declares that the welfare, health, prosperity, and moral and
17 general well being of the people of the State are, in large
18 measure, dependent upon the sound and orderly development of
19 municipal areas. The Village of Elmwood Park by reason of the
20 location there of Grand Avenue and its use for vehicular travel
21 in access to the entire west metropolitan Chicago area,
22 including municipalities in 2 counties, as well as commercial

1 and industrial growth patterns and accessibility to O'Hare
2 International Airport, manufacturing and freight related
3 services, has become and will increasingly be the hub of
4 transportation from all parts of the region and throughout the
5 west metropolitan area. Motor vehicle traffic, pedestrian
6 travel, and the safety of both motorists and pedestrians are
7 substantially aggravated by the location of a major railroad
8 right-of-way that divides the Village into north and south
9 halves. The presence of the railroad right-of-way has
10 effectively impeded the development of highway usage and
11 rights-of-way and is detrimental to the orderly expansion of
12 industry and commerce and to progress throughout the region.
13 Additionally, the railroad grade crossing located on Grand
14 Avenue within the Village of Elmwood Park has posed a
15 significant safety hazard to the public. The Illinois Commerce
16 Commission Collision History illustrates that there have been 8
17 fatalities and 29 injuries since 1956 at the railroad grade
18 crossing located on Grand Avenue within the Village. The
19 presence of the railroad right-of-way at grade crossing within
20 the Village is detrimental to the safety of the public, as well
21 as to the orderly expansion of industry and commerce and to
22 progress of the region. To alleviate this situation, it is
23 necessary to separate the grade crossing on Grand Avenue within
24 the Village, to relocate the railroad tracks and right-of-way,
25 and to acquire property for separation of the railroad or
26 highway and to create an agency to facilitate and accomplish

1 that grade separation.

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

1 Section 20. Procedural capacity; seal; office. The
2 Authority may sue and be sued in its corporate name, but
3 execution shall not in any case issue against any property of
4 the Authority. The Authority shall be subject to the
5 jurisdiction of the Illinois Commerce Commission. It may adopt
6 a common seal and change the seal at pleasure. The principal
7 office of the Authority shall be in the Village of Elmwood
8 Park, Illinois.

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

18 Section 25. Acquisition of property. The Authority shall
19 have the power to acquire by gift, purchase, legacy, or by the
20 exercise of eminent domain the fee simple title to real
21 property located within the boundaries of the Authority,
22 including temporary and permanent easements, as well as
23 reversionary interests in the streets, alleys, and other public
24 places and personal property, required for its purposes, and
25 title thereto shall be taken in the corporate name of the

1 Authority. Any such property that is already devoted to a
2 public use may nevertheless be acquired, provided that no
3 property belonging to the United States of America or the State
4 of Illinois may be acquired without the consent of such
5 governmental unit. No property devoted to a public use
6 belonging to a corporation subject to the jurisdiction of the
7 Illinois Commerce Commission may be acquired without a prior
8 finding by the Illinois Commerce Commission that the taking
9 would not result in the imposition of an undue burden on
10 intrastate commerce. Eminent domain proceedings shall be
11 conducted in all respects in the manner provided for the
12 exercise of the right of the eminent domain under the Eminent
13 Domain Act. No condemnation proceedings for the acquisition of
14 new property shall be instituted without the prior concurrence
15 of the affected Railroads in the route, width and title to be
16 acquired thereby. Consistent with the Land Acquisition and
17 Procedures Manual prepared by the Department of Transportation
18 and updated through October 23, 2012, when a railroad company
19 owns the fee title to its operating right-of-way and such
20 property is acquired by the Authority to construct a grade
21 separation facility, no compensation of any kind shall be made
22 to the railroad to construct a grade separation facility where
23 an existing highway crossing is eliminated; however,
24 consideration shall be given if the size of the acquisition is
25 different than the original right-of-way. All land and
26 appurtenances thereto, acquired or owned by the Authority, are

1 to be deemed acquired or owned for a public use or public
2 purpose.

3 Section 30. Sale or exchange of property. The Authority
4 has the power to sell, transfer, exchange, vacate, or assign
5 property acquired for the purposes of this Act, as it deems
6 appropriate.

7 Section 35. Acceptance of grants, loans, and
8 appropriations. The Authority has the power to apply for and
9 accept grants, loans, advances, and appropriations from the
10 federal government and from the State of Illinois, or any
11 agency or instrumentality thereof, to be used for the purposes
12 of the Authority, and to enter into any agreement in relation
13 to such grants, loans, advances, and appropriations. The
14 Authority may also accept from the State, or any State agency,
15 department, or commission, any county or other political
16 subdivision, any municipal corporation, any Railroads, school
17 authorities, or jointly therefrom, grants of funds or services
18 for any of the purposes of this Act. The Authority shall be
19 treated as a rail carrier subject to the Illinois Commerce
20 Commission's jurisdiction and eligible to receive money from
21 the Grade Crossing Protection Fund, any fund of the State, or
22 other source available for purposes of promoting safety and
23 separation of at-grade railroad crossings or highway
24 improvements.

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

18 Section 40. Borrowing money and issuance of bonds. The
19 Authority may incur debt and borrow money from time to time
20 and, in evidence thereof, may issue and sell bonds in such
21 amount or amounts as the Authority may determine in order to
22 provide funds for carrying out the purposes of this Act and to
23 pay all costs and expenses incident thereto. The Authority may
24 refund and refinance, from time to time, bonds so issued and
25 sold, as often as may be deemed to be advantageous by the

1 Authority.

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

4 Section 50. Board; composition; qualification;
5 compensation and expenses. The Authority shall be governed by
6 a 9-member board consisting of members appointed by the
7 Governor with the advice and consent of the Senate. Five
8 members shall be voting members and 4 members shall be
9 non-voting members. The voting members shall consist of the
10 following:

11 (1) two former public officials who served within the
12 Township of Leyden or the Village of Elmwood Park and
13 recommended to the Governor by the Village President of the
14 Village of Elmwood Park;

15 (2) two prior employees of Canadian Pacific Railway
16 with management experience; and

17 (3) one resident of the Township of Leyden or the
18 Village of Elmwood Park.

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

20 (1) the Village President of the Village of Elmwood
21 Park;

22 (2) one current employee of Canadian Pacific Railway
23 with management experience;

24 (3) one current employee of Northeast Illinois

1 Regional Commuter Railroad Corporation with management
2 experience; and

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

5 The members of the board shall serve without compensation,
6 but may be reimbursed for actual expenses incurred by them in
7 the performance of their duties prescribed by the Authority.
8 However, any member of the board who serves as secretary or
9 treasurer may receive compensation for services as that
10 officer.

11 Section 55. Removal of members. The Governor may remove
12 from office any board member immediately in case of
13 incompetency, neglect of duty or malfeasance of office, or
14 otherwise upon 15 days' written notice to the other members.
15 Absence from any 3 consecutive regular meetings of the board
16 shall be deemed neglect of duty.

17 Section 60. Organization; chair and temporary secretary.
18 As soon as possible after the effective date of this amendatory
19 Act of the 98th General Assembly, the board shall organize for
20 the transaction of business, select a chair from its voting
21 members and a temporary secretary from its own number, and
22 adopt bylaws to govern its proceedings. The initial chair and
23 successors shall be elected by the board from time to time from
24 among members. The Authority may act through its board members

1 by entering into an agreement that a member act on the
2 Authority's behalf, in which instance the act or performance
3 directed shall be deemed to be exclusively of, for, and by the
4 Authority and not the individual act of the member or its
5 represented person.

6 Section 65. Meetings; quorum; resolutions. Regular
7 meetings of the board shall be held at least quarterly, the
8 time and place of those meetings to be fixed by the board.
9 Special meetings may be called by the chair or by a majority of
10 the members of the board by giving notice in writing that
11 states the time, place, and purpose of the meeting. Notice of
12 special meetings shall be served by special delivery letter
13 deposited in the mail at least 48 hours before the meeting. A
14 majority of the members of the board shall constitute a quorum
15 for the transaction of business. All action of the Authority
16 shall be by resolution of the board and, except as otherwise
17 provided in this Act, the affirmative vote of at least a
18 majority shall be necessary for the adoption of any resolution.
19 The chair shall be entitled to vote on any and all matters
20 coming before the board.

21 Section 70. Secretary and treasurer; oaths; bond of
22 treasurer. The board may appoint a secretary and a treasurer,
23 who need not be members of the board, to hold office during the
24 pleasure of the Authority and fix their duties and

1 compensation. Before entering into the duties of their
2 respective offices, they shall take and subscribe to the
3 constitutional oath of office, and the treasurer shall execute
4 a bond with corporate sureties to be approved by the Authority.
5 The bond shall be payable to the Authority in whatever penal
6 sum may be directed by the board, conditioned upon the faithful
7 performance of the duties of the office and the payment of all
8 money received by the treasurer according to law and the orders
9 of the Authority. The Authority may, at any time, require a new
10 bond for the treasurer in such penal sum as may then be
11 determined by the board.

12 Section 75. Deposit and withdrawal of funds; signatures.
13 All funds deposited by the treasurer in any bank or savings and
14 loan association shall be placed in the name of the Authority
15 and shall be withdrawn or paid out only by check or draft upon
16 the bank or savings and loan association, signed by the
17 treasurer and countersigned by the chair of the board. Subject
18 to prior approval of the designations by a majority of the
19 board, the chair may designate any other member or any officer
20 of the Authority to affix the signature of the treasurer to any
21 Authority check or draft for payment of salaries or wages and
22 for payment of any other obligation of not more than \$2,500.

23 No bank or savings and loan association shall receive
24 public funds as permitted by this Section unless it has
25 complied with the requirements established under Section 6 of

1 the Public Funds Investment Act.

2 Section 80. Delivery of check after executing officer
3 ceases to hold office. If any officer whose signature appears
4 upon any check or draft issued pursuant to this Act ceases to
5 hold office before the delivery of the check or draft to the
6 payee, the officer's signature nevertheless shall be valid and
7 sufficient for all purposes with the same effect as if the
8 officer had remained in office until delivery of the check or
9 draft.

10 Section 85. Rules. The Authority may make and the board
11 may adopt all rules and regulations proper or necessary and to
12 carry into effect the powers granted to it. The rules and
13 regulations shall be consistent with the guidelines,
14 objectives, and project scope as set out by the Illinois
15 Commerce Commission.

16 Section 90. Fiscal year. The Authority shall designate its
17 fiscal year.

18 Section 95. Reports and financial statements. Within 60
19 days after the end of its fiscal year, the Authority shall
20 cause to be prepared by a certified public accountant a
21 complete and detailed report and financial statement of the
22 operations and assets and liabilities as relate to the Elmwood

1 Park Grade Separation Authority railroad grade separation
2 project. A reasonably sufficient number of copies of the report
3 shall be prepared for distribution to persons interested, upon
4 request, and a copy of the report shall be filed with the
5 Illinois Commerce Commission and with the county clerk of Cook
6 County.

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

18 Any construction improvements to signaling or any other
19 aspect of the grade separation project dictated by the Railroad
20 or the Northeast Illinois Regional Commuter Railroad
21 Corporation shall be paid for respectively by the Railroad or
22 the Northeast Illinois Regional Commuter Railroad Corporation.
23 The Railroad or the Northeast Illinois Regional Commuter
24 Railroad Corporation, or both, shall specifically pay any and
25 all costs associated with any upgrades to the railway.

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

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

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

1 (735 ILCS 30/15-5-47 new)

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

5 The Elmwood Park Grade Separation Authority Act; Elmwood Park
6 Grade Separation Authority; for general purposes.

7 Section 999. Effective date. This Act takes effect upon
8 becoming law.