



Rep. Camille Y. Lilly

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LRB098 09872 OMW 46773 a

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 Railroad Relocation Authority Act.

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

8 "Authority" means the Elmwood Park Railroad Relocation
9 Authority.

10 "Order" means any order entered by the Illinois Commerce
11 Commission regarding railroad operations within the area of the
12 Authority.

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

15 "Railroads" means any railroads operating or owning
16 trackage or right of way within the area of the Authority.

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 and its use for vehicular travel in access to the
7 entire west metropolitan Chicago area, including
8 municipalities in 2 counties, as well as commercial and
9 industrial growth patterns and accessibility to O'Hare
10 International Airport and massive freight related services,
11 has become and will increasingly be the hub of transportation
12 from all parts of the region and throughout the west
13 metropolitan area. Motor vehicle traffic, pedestrian travel,
14 and the safety of both motorists and pedestrians are
15 substantially aggravated by the location of major railroad
16 rights of way that divide the Village east from west and north
17 from south. Those railroad rights of way have effectively
18 impeded the development of highway usage and rights of way to
19 further and enhance growth throughout the region. For the
20 safety of the public it has been necessary to provide large
21 numbers of protected crossings at great expense to the
22 railroads, but often without complete safety to the public. The
23 presence of the railroad rights of way at grade crossings
24 within the Village is detrimental to the orderly expansion of
25 industry and commerce and to progress of the region. To

1 alleviate this situation it is necessary to relocate the
2 railroad tracks and right of way in Elmwood Park and to
3 separate the grades at crossings and to acquire property for
4 relocation or submergence of the railroad or highways and to
5 create an agency to facilitate and accomplish that relocation.

6 Section 15. Creation; duration. There is created a body
7 politic and corporate, a unit of local government, styled
8 Elmwood Park Railroad Relocation Authority embracing that
9 portion of Leyden Township within the Village of Elmwood Park,
10 Cook County, Illinois. The Authority shall continue in
11 existence until the accomplishment of its objective, the
12 relocation of the railroad tracks in Elmwood Park and the grade
13 separation of railroads from the right of way in Elmwood Park
14 and along with necessary, related improvement of right of way
15 and at-grade crossing closures within the Village of Elmwood
16 Park, or until the Authority officially resolves that it is
17 impossible or economically unfeasible to fulfill that
18 objective.

19 Section 20. Procedural capacity; seal; office. The
20 Authority may sue and be sued in its corporate name, but
21 execution shall not in any case issue against any property of
22 the Authority. The Authority shall be subject to the
23 jurisdiction of the Illinois Commerce Commission. It may adopt
24 a common seal and change the seal at pleasure. The principal

1 office of the Authority shall be in the Village of Elmwood
2 Park, Illinois.

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

12 Section 25. Acquisition of property. The Authority shall
13 have the power to acquire by gift, purchase, legacy, or by the
14 exercise of eminent domain the fee simple title to real
15 property located within the boundaries of the Authority,
16 including temporary and permanent easements, as well as
17 reversionary interests in the streets, alleys and other public
18 places and personal property, required for its purposes, and
19 title thereto shall be taken in the corporate name of the
20 Authority. Any such property which is already devoted to a
21 public use may nevertheless be acquired, provided that no
22 property belonging to the United States of America or the State
23 of Illinois may be acquired without the consent of such
24 governmental unit. No property devoted to a public use
25 belonging to a corporation subject to the jurisdiction of the

1 Illinois Commerce Commission may be acquired without a prior
2 finding by the Illinois Commerce Commission that the taking
3 would not result in the imposition of an undue burden on
4 intrastate commerce. Eminent domain proceedings shall be
5 conducted in all respects in the manner provided for the
6 exercise of the right of the eminent domain under the Eminent
7 Domain Act. No condemnation proceedings for the acquisition of
8 new property shall be instituted without the prior concurrence
9 of the effected Railroads in the route, width and title to be
10 acquired thereby. All land and appurtenances thereto, acquired
11 or owned by the Authority, are to be deemed acquired or owned
12 for a public use or public purpose.

13 Section 30. Eminent domain. Notwithstanding any other
14 provision of this Act, any power granted under this Act to
15 acquire property by condemnation or eminent domain is subject
16 to, and shall be exercised in accordance with, the Eminent
17 Domain Act.

18 Section 35. Sale or exchange of property. The Authority
19 shall have the power to sell, transfer, exchange, vacate or
20 assign property acquired for the purposes of this Act as it
21 shall deem appropriate.

22 Section 40. Acceptance of grants, loans, and
23 appropriations. The Authority shall have the power to apply for

1 and accept grants, loans, advances, and appropriations from the
2 Federal Government and from the State of Illinois or any agency
3 or instrumentality thereof to be used for the purposes of the
4 Authority, and to enter into any agreement in relation to such
5 grants, loans, advances and appropriations. The Authority may
6 also accept from the State, any State agency, department or
7 commission, any county or other political subdivision, any
8 municipal corporation, any Railroads, school authorities, or
9 jointly therefrom, grants of funds or services for any of the
10 purposes of this Act. The Authority shall be treated as a rail
11 carrier subject to the Illinois Commerce Commission's
12 jurisdiction and eligible to receive money from the Grade
13 Crossing Protection Fund or any fund of the State or other
14 source available for purposes of promoting safety and
15 separation of at-grade railroad crossings or highway
16 improvements.

17 Section 45. Borrowing money and issuance of bonds. The
18 Authority may incur debt and borrow money from time to time
19 and, in evidence thereof, may issue and sell bonds in such
20 amount or amounts as the Authority may determine, to provide
21 funds for carrying out the purposes of this Act, and to pay all
22 costs and expenses incident thereto, and to refund and
23 refinance, from time to time, bonds so issued and sold, as
24 often as may be deemed to be advantageous by the Authority.

1 Section 50. Taxing powers. The Authority shall not have the
2 power to levy real property taxes for any purpose whatsoever.

3 Section 55. Board; composition; qualification;
4 compensation and expenses. The Authority shall be governed by a
5 board consisting of 5 members. The members of the Authority
6 shall serve without compensation, but may be reimbursed for
7 actual expenses incurred by them in the performance of duties
8 prescribed by the Authority. However, any member of the
9 Authority who serves as Secretary or Treasurer may receive
10 compensation for services as that officer.

11 Section 60. Appointments; tenure; oaths; vacancies. The
12 members of the Authority shall be appointed by the Governor who
13 shall give notice of the member's selection to each other
14 member within 10 days after selection and before entering upon
15 the duties of office. Each representative member of the
16 Authority shall take and subscribe to the constitutional oath
17 of office and file it with the Secretary of State. If a vacancy
18 occurs by death, resignation or otherwise, the vacancy shall be
19 filled by the appropriate selecting party. All appointments of
20 members shall be for a 3 year term.

21 Section 65. Removal of members. The Governor may remove
22 from office any Authority member immediately in case of
23 incompetency, neglect of duty or malfeasance of office or

1 otherwise upon 15 days written notice to the other members.
2 Absence from any 3 consecutive regular meetings of the
3 Authority shall be deemed neglect of duty.

4 Section 70. Organization; chair and temporary Secretary.
5 As soon as possible after the appointment of the initial
6 members, the Authority shall organize for the transaction of
7 business, select a Chair and a temporary Secretary from its own
8 number, and adopt bylaws to govern its proceedings. The initial
9 Chair and successors shall be elected by the Authority from
10 time to time from among members. The Authority may act through
11 its members by entering into an agreement that a member act on
12 the Authority's behalf, in which instance the act or
13 performance directed shall be deemed to be exclusively of, for,
14 and by the Authority and not the individual act of the member
15 or its represented person.

16 Section 75. Meetings; quorum; resolutions. Regular
17 meetings of the Authority shall be held at least quarterly, the
18 time and place of those meetings to be fixed by the Authority.
19 Special meetings may be called by the Chair or by any 3 members
20 of the Authority by giving notice thereof in writing, stating
21 the time, place, and purpose of the meeting. The notice shall
22 be served by special delivery letter deposited in the mails at
23 least 48 hours before the meeting. A majority of the members of
24 the Authority shall constitute a quorum for the transaction of

1 business. All action of the Authority shall be by resolution
2 and, except as otherwise provided in this Act, the affirmative
3 vote of at least a majority shall be necessary for the adoption
4 of any resolution. The Chair shall be entitled to vote on any
5 and all matters coming before the Authority.

6 Section 80. Secretary and Treasurer; oaths; bond of
7 Treasurer. The Authority may appoint a Secretary and a
8 Treasurer, who need not be members of the Authority, to hold
9 office during the pleasure of the Authority, and fix their
10 duties and compensation. Before entering upon the duties of
11 their respective offices, they shall take and subscribe to the
12 constitutional oath of office, and the Treasurer shall execute
13 a bond with corporate sureties to be approved by the Authority.
14 The bond shall be payable to the Authority in whatever penal
15 sum may be directed by the Authority conditioned upon the
16 faithful performance of the duties of the office and the
17 payment of all money received by the Treasurer according to law
18 and the orders of the Authority. The Authority may, at any
19 time, require a new bond for the Treasurer in such penal sum as
20 may then be determined by the Authority.

21 Section 85. Deposit and withdrawal of funds; signatures.
22 All funds deposited by the Treasurer in any bank or savings and
23 loan association shall be placed in the name of the Authority
24 and shall be withdrawn or paid out only by check or draft upon

1 the bank or savings and loan association, signed by the
2 Treasurer and countersigned by the Chair of the Authority.
3 Subject to prior approval of the designations by a majority of
4 the Authority, the Chair may designate any other member or any
5 officer of the Authority to affix the signature of the
6 Treasurer to any Authority check or draft for payment of
7 salaries or wages and for payment of any other obligation of
8 not more than \$2,500.

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

13 Section 90. Delivery of check after executing officer
14 ceases to hold office. If any officer whose signature appears
15 upon any check or draft issued pursuant to this Act ceases to
16 hold office before the delivery of the check or draft to the
17 payee, the officer's signature nevertheless shall be valid and
18 sufficient for all purposes with the same effect as if the
19 officer had remained in office until delivery of the check or
20 draft.

21 Section 95. Rules. The Authority may make all rules and
22 regulations proper or necessary and to carry into effect the
23 powers granted to it. The rules and regulations shall be
24 consistent with the guidelines, objectives, and project scope

1 as set out by the Illinois Commerce Commission.

2 Section 100. Fiscal year. The Authority shall designate its
3 fiscal year.

4 Section 105. Reports and financial statements. Within 60
5 days after the end of its fiscal year, the Authority shall
6 cause to be prepared by a certified public accountant a
7 complete and detailed report and financial statement of the
8 operations and assets and liabilities as relate to the Elmwood
9 Park railroad grade separation project. A reasonably
10 sufficient number of copies of the report shall be prepared for
11 distribution to persons interested, upon request, and a copy of
12 the report shall be filed with the Illinois Commerce Commission
13 and with the county clerk of Cook County.

14 Section 110. 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

1 approved or authorized by the Illinois Commerce Commission.

2 Section 115. Existing contracts, obligations, and
3 liabilities. No contract, obligation, or liability whatever of
4 the railroads to pay any money into the State treasury, nor any
5 lien of the State upon or right to tax property of the
6 railroads, shall be released, suspended, modified, altered,
7 remitted, or in any manner diminished or impaired by the
8 contract with the Authority, and any such charter provisions
9 applicable to the property on which the railroads are now
10 located shall be deemed in full force and effect with respect
11 to any property on which the railroads are relocated in
12 substitution therefor pursuant to the provisions of this Act or
13 any such contract with the Authority pursuant thereto.
14 Notwithstanding, upon order of the Illinois Commerce
15 Commission, the Authority shall succeed to and assume the
16 performance and actions of the represented persons under the
17 terms of the order and amending orders previously entered
18 relative to the Elmwood Park railroad grade separation project
19 and consistent with the objectives of the Authority.

20 Section 120. Severability. The provisions of this Act are
21 severable under Section 1.31 of the Statute on Statutes.

22 Section 200. 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 Railroad Relocation Authority Act; Elmwood
6 Park Railroad Relocation Authority; for general purposes.

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