

BILL ANALYSIS

Senate Research Center
76R14183 SMJ-D

C.S.H.B. 1355
By: Ramsay (Haywood)
Border Affairs - Special
4/30/1999
Committee Report (Substituted)

DIGEST

Currently, the boundary between Texas and Oklahoma along the Red River is defined by the U.S. Supreme Court as the gradient line on the south bank of the river. In 1995, Texas and Oklahoma created the Red River Boundary Commission to establish a permanent, identifiable boundary based on historical, practical, and economic considerations. This bill would enact the Red River Boundary Compact into state law, provided that both states enact the compact and the U.S. Congress has given its consent.

PURPOSE

As proposed, C.S.H.B. 1355 provides for the adoption of the Red River Boundary Compact.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 2A, Natural Resources Code, by adding Chapter 12, as follows:

CHAPTER 12. RED RIVER BOUNDARY COMPACT

Sec. 12.001. ADOPTION OF COMPACT. Provides that this state enacts the Red River Boundary Compact (compact) into law and enters into the compact with the State of Oklahoma if that state legally joins in the compact in substantially the form provided by Section 12.002.

Sec. 12.002. TEXT OF COMPACT. Provides that the compact reads as follows:

RED RIVER BOUNDARY COMPACT

ARTICLE I. PURPOSE

(a) Provides that the states of Texas and Oklahoma (party states) recognize that: actual and potential disputes, controversies, criminal proceedings, and litigation, arise out of the location of the boundary line between Texas and Oklahoma, currently demarcated as the southern bank of the Red River; the boundary changes due to the natural action of the river, therefore survey techniques used to identify the south bank identify the boundary only as it exists at the time of the survey; such a boundary provides only a minimal aid to agencies of the party states using the boundary line for law enforcement, administrative, and tax purposes; and the use of readily identifiable natural landmarks better serves the interests of the party states.

(b) Provides that the principal purpose of this compact is to establish an identifiable boundary along the Red River as of the effective date of this compact without interfering with or affecting private property rights or title to property. Provides that this compact serves certain compelling purposes regarding an interstate relationship, exercise of sovereignty, venues for civil and criminal proceedings, economic and political stability, and promotion of stability.

ARTICLE II. ESTABLISHMENT OF BOUNDARY

(a) Redefines "vegetation" and "vegetation line."

(b) Provides that the permanent political boundary line between the party states is the vegetation

line along the south bank of the Red River except for the Texoma area. Provides that for the purposes of this compact, the Texoma area extends from the east bank of Shawnee Creek at its mouth to the upper end of the normal pool elevation of Lake Texoma, and the upper end of the normal pool elevation of Lake Texoma is along the latitude of 33 degrees 54 minutes as it crosses the watercourse at the approximate location of longitude 96 degrees and 59 minutes.

(c) Sets forth the existing boundary lines for the Texoma area.

(d) Requires the Commissioner of the General Land Office of Texas and a designated member of the Oklahoma Red River Boundary Commission to locate the boundary line within the Texoma area described by Subsection (c) using certain surveys and maps, prepare a map of the boundary line, and file the map in the state libraries and archives of the party states and with the Oklahoma Secretary of State, within one year after the date the United States Congress consents to the compact.

(e) Requires the United States Army Corps of Engineers to permanently mark and begin maintaining the boundary line within the Texoma area as shown on the map created under Subsection (d)(3), within one year after the map is filed.

(f) Authorizes the party states to agree to share the cost of monumenting and maintaining the lines demarking the boundary within the Texoma area and the upper limit of the normal pool elevation, or to seek funding from other sources.

(g) Provides that the party states recognize the rules of accretion, erosion, and avulsion, which may change the vegetation line, which will change the boundary line.

ARTICLE III. SOVEREIGNTY

Provides that the party states agree that Oklahoma possesses sovereignty over all lands north of the boundary line and Texas possesses sovereignty over all lands south of the boundary line, on the effective date of this compact. Provides that this compact does not change or affect any sovereignty rights of federally recognized Indian tribes over lands on either side of the boundary line. Provides that tribal sovereignty rights continue to be established and defined by controlling federal law.

ARTICLE IV. PENDING LITIGATION

Provides that this compact does not affect the jurisdiction of any litigation concerning lands bordering the Red River pending in the courts of either party state or the United States as of the effective date of this compact. Provides that the party states intend that such litigation continue in the courts of the jurisdiction where pending until the litigation is determined.

ARTICLE V. PUBLIC RECORDS

(a) Provides that all public records concerning lands the sovereignty over which is changed are accepted as evidence of record title to such lands, to and including the effective date of this compact, by the courts of the party states or federal courts.

(b) Requires the recording officials of the counties of each party state to accept for filing certified copies of documents of title previously filed in the other state and documents of title using legal descriptions of the other state, for lands the sovereignty over which is changed by this compact. Provides that the acceptance of a document for filing has no bearing on its legal effect or sufficiency. Provides that the legal sufficiency of a document's ability to convey or otherwise affect title, are determined by the document itself and the real estate laws of the jurisdiction in which the land was located at the time the document was executed or took effect.

ARTICLE VI. TAXES

(a) Provides that the lands over which sovereignty has changed are only subject to taxation by the state gaining sovereignty, after the effective date of this compact, except as provided by Subsections (b) and (c).

(b) Authorizes taxes for the year of adoption of this compact for property the jurisdiction over which is changed to be imposed by the state in which the property was located on January 1 of the year of adoption of this compact. Authorizes the taxes for the year of adoption to be levied and collected by that state, and any liens or other rights accrued or accruing, are fully recognized, except that all liens or other rights arising out of the imposition of those taxes must be claimed or asserted within five years after this compact takes effect or they are barred.

(c) Provides that the party states recognize that the boundary line will change as a result of natural actions and agree that for years subsequent to the year of adoption, the state within which lands adjoining the boundary line are located on January 1 of each year has the right to levy and collect taxes for the entire ensuing year.

(d) Provides that all taxes currently assessed to lands that border or cross the boundary line are presumed to be correct as to acreage within the particular jurisdiction, absent written proof provided by the property owner to the appropriate taxing agencies. Requires all such proof to be presented to the appropriate taxing agencies before May 1 of the year following the year in which the compact takes effect. Provides that in subsequent years it is presumed that the acreage taxed in each jurisdiction for the previous year was correct unless evidence of change is furnished to or obtained by the various taxing agencies under rules and regulations adopted by those taxing agencies.

ARTICLE VII. PROPERTY AND WATER RIGHTS

Provides that this compact does not change: the title of any person or entity to any of the lands along the Red River; the rights of any person or entity that existed as a result of the person's or entity's title to lands adjacent to the Red River; or the boundaries of those lands.

ARTICLE VIII. EFFECTIVE DATE

Provides that this compact takes effect when enacted by the states of Texas and Oklahoma and consented to by the United States Congress.

ARTICLE IX. ENFORCEMENT

Provides that this compact does not limit or prevent either party state from instituting or maintaining any action or proceeding in any court having jurisdiction, for the protection of any right under this compact or the enforcement of any of its provisions. Provides that this compact is not binding on either party state without enactment by both states and consent from the United States Congress. Requires the governor of each state to provide a notice of enactment to the other governor and to the president of the United States (president). Requests the president to give notice to the governors of the party states of the consent of this compact by the United States Congress.

ARTICLE X. AMENDMENTS

Provides that the compact remains in full force and effect unless amended in the same manner as it was created.

Sec. 12.003. NEGOTIATIONS TO RESOLVE DIFFERENCES. Provides that the Commissioner of the General Land Office (commissioner) has the authority to negotiate with the appropriate Oklahoma representative to resolve differences regarding matters covered by the compact, until Oklahoma enters into the compact. Requires the commissioner to conduct the negotiations in cooperation with the Red River Commission (commission) created by H.C.R. No. 128, Acts of the 74th Legislature, Regular Session, 1995. Requires the commissioner to annually report to the governor on the status of the negotiations.

Sec. 12.004. IMPLEMENTATION OF COMPACT. Provides that the commissioner has the authority to negotiate with the appropriate Oklahoma representative to establish procedures for implementing the compact's provisions, if Oklahoma enters into the compact. Requires the commissioner to conduct the negotiations in cooperation with the commission. Requires a procedure for implementing a provision of the compact to be approved by the governor of this

state. Makes a conforming change.

Sec. 12.005. RELATION TO OTHER LAW. Provides that the compact does not affect the Red River Compact, the text of which is set out in Section 46.013, Water Code, or the riparian rights of adjacent landowners to access and use the waters of the Red River as provided by the Treaty of Amity, Settlement and Limits, Feb. 22, 1819, United States-Spain, 8 Stat. 252, T.S. No. 327.

SECTION 2. Emergency clause.
Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Article II, Section 12.002, Natural Resources Code, to redefine “vegetation” and “vegetation line.” Sets forth the existing boundary lines for the Texoma area. Requires the Commissioner of the General Land Office of Texas and a designated member of the Oklahoma Red River Boundary Commission to locate the boundary line within the Texoma area using certain surveys and maps, prepare a map of the boundary line, and file the map in the state libraries and archives of the party states and with the Oklahoma Secretary of State, within one year after the date the United States Congress consents to the compact. Requires the United States Army Corps of Engineers to permanently mark and begin maintaining the boundary line within the Texoma area, within one year after the map is filed. Deletes a provision regarding man-made disturbances to the vegetation line.

Amends Article III, Section 12.002, Natural Resources Code, to make a nonsubstantive change.

Amends Article V, Section 12.002, Natural Resources Code, to require the recording officials of the counties of each party state to accept for filing documents of title using legal descriptions of the other state, for lands the sovereignty over which is changed by this compact. Provides that the legal sufficiency of a document’s ability to convey or otherwise affect title, are determined by the document itself and the real estate laws of the jurisdiction in which the land was located at the time the document was executed or took effect.

Amends Article VII, Section 12.002, Natural Resources Code, to provide that this compact does not change the rights of any person or entity that existed as a result of the person’s or entity’s title to lands adjacent to the Red River. Deletes text regarding water rights.

Amends Section 12.005, Natural Resources Code, to provide that the compact does not affect the riparian rights of adjacent landowners to access and use the waters of the Red River as provided by the Treaty of Amity, Settlement and Limits, Feb. 22, 1819, United States-Spain, 8 Stat. 252, T.S. No. 327.