STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1587 By: Settle and Begley of the House

and

Haney and Hobson of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to a compact for establishment of a boundary between the States of Oklahoma and Texas; providing for entry into compact; making certain findings; stating principal purposes of party states; defining terms; providing for establishment of boundary; defining certain areas; providing for agreements regarding existing boundary; prescribing procedure for location of boundary within certain area; prescribing procedure for marking of permanent boundary within certain area; providing for cost of maintaining monuments; providing for recognition of certain principles of law governing changes in watercourses; providing for determination of sovereignty; stating effect of compact with respect to certain matters; providing for effect of certain public records; imposing duties upon officials with respect to recordation; prescribing procedures related to recordation; providing for tax treatment of certain lands; prescribing procedures for determination of jurisdiction for purposes of taxation of lands; providing for inapplicability of compact with respect to certain matters; providing for effective date of compact; providing for effect of compact upon certain rights enforceable by party states; providing for binding effect after occurrence of certain events; authorizing amendments and prescribing procedure related thereto; providing for resolution of differences between party states; imposing duty to report; providing for procedures for implementation of compact; prescribing procedures related to implementation and reporting; requiring certain approval by Governor; providing for inapplicability of compact; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6105 of Title 74, unless there is created a duplication in numbering, reads as follows:

RED RIVER BOUNDARY COMPACT

ADOPTION OF COMPACT

This state enacts the Red River Boundary Compact into law and enters into the compact with the State of Texas if that state legally joins in the compact in substantially the form provided by Section 2 of this act.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6106 of Title 74, unless there is created a duplication in numbering, reads as follows:

TEXT OF COMPACT

The Red River Boundary Compact reads as follows:

RED RIVER BOUNDARY COMPACT

ARTICLE I. PURPOSE

A. The States of Oklahoma and Texas recognize that:

1. There are actual and potential disputes, controversies, criminal proceedings, and litigation arising, or that may arise, out of the location of the boundary line between the states along the Red River;

2. The south bank of the Red River is the boundary between the states along the Red River;

3. The boundary between the states changes as a result of the natural action of the river and, because of those changes and the nature of the land, the south bank of the river is often not readily or easily identified;

4. While the south bank, at any given time, may be located through expensive and time-consuming survey techniques, such surveys can, at best, identify the south bank only as it exists at the time of the survey;

5. Locating the south bank through survey techniques is of minimal aid when agencies of the party states must locate the state boundary line for law enforcement, administrative and taxation purposes; and

6. The interests of the party states are better served by establishing the boundary between the states through use of a readily identifiable natural landmark than through use of an artificial survey line.

B. It is the principal purpose of the party states in entering into this compact to establish an identifiable boundary between the states of Oklahoma and Texas along the Red River as of the effective date of this compact without changing title of any person or entity, public or private, to land adjacent to the Red River. In addition, this compact serves the compelling purposes of:

1. Creation of a friendly and harmonious interstate relationship;

2. Avoidance of multiple exercise of sovereignty and jurisdiction, including matters of taxation, judicial and police powers, and exercise of administrative authority;

3. Avoidance of lack of exercise of sovereignty and jurisdiction over any lands along the boundary;

4. Avoidance of questions of venue in civil and criminal proceedings that may arise as a result of incidents along the boundary and avoidance or minimization of future disputes and litigation;

5. Promotion of economic and political stability; and

6. Placement of the boundary at a location that can be visually identified or located without the necessity of a current survey and that is close to the historical boundary location.

ARTICLE II. ESTABLISHMENT OF BOUNDARY

A. As used in this article:

1. “Vegetation” means trees, shrubs, grasses, and other plant species that substantially cover the ground. Whether the vegetation substantially covers the ground is determined by reference to the density of the coverage of the ground by trees, shrubs, grasses, and

other plant species in the area adjacent to the relevant portion of the riverbed; and

2. "Vegetation line" means the visually identifiable continuous line of vegetation that is adjacent to that portion of the riverbed kept practically bare of vegetation by the natural flow of the river and is continuous with the vegetation beyond the riverbed. Stray vegetation, patches of vegetation, or islands of vegetation within the riverbed that do not form such a line are not considered part of the vegetation line. Where the riverbed is entered by the inflow of another watercourse or is otherwise interrupted or disturbed by a man-made event, the line constituting the boundary is an artificial line formed by extending the vegetation line above and below the other watercourse or interrupted or disturbed area to connect and cross the watercourse or area.

B. The permanent political boundary line between the states of Oklahoma and Texas along the Red River is the vegetation line along the south bank of the Red River except for the Texoma area, where the boundary does not change. For purposes of this compact:

1. The Texoma area extends from the east bank of Shawnee Creek (which flows into the Red River from the south approximately one-half (1/2) mile below the Denison Dam) at its mouth to the upper end of the normal pool elevation of Lake Texoma (which is six hundred seventeen (617) feet); and

2. 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 59 minutes.

C. The party states agree that the existing boundary within the Texoma area begins at the intersection of the vegetation line on the south bank of the Red River with the east bank of Shawnee Creek. From this point, the boundary extends west along the south bank of the Red River. From Shawnee Creek to Denison Dam, this boundary

line is within the current channel of the Red River. The boundary line from Shawnee Creek to the Denison Dam may be established using the Lake Texoma Fishing and Boating Map, No. A353, published by "FHS Maps"™, containing acknowledgments for the data source to the United States Geological Survey and the U.S. Army Corps of Engineers, hereinafter referred to as "Reference Map". From the east bank of Shawnee Creek to the base of the Denison Dam, the boundary between the State of Oklahoma and the State of Texas may be the line which is depicted by the Reference Map as an extension of a black dashed line comprised of the following repeating characters ("-..-") east from the body of Lake Texoma across the depiction of the Denison Dam, thence continuing eastward until the line connects to a point at the intersection of the east bank of Shawnee Creek and the south bank of the Red River. Within Lake Texoma, this boundary line follows the south bank of the Red River as the bank was located and marked by the United States Army Corps of Engineers.

D. Within one (1) year after the date the United States Congress consents to this compact, the Commissioner of the General Land Office of Texas and a designated member of the Oklahoma Red River Boundary Commission, as chosen by the Commission, shall:

1. Locate the boundary line within the Texoma area as described by subsection C of this article, using the survey that the United States Army Corps of Engineers prepared in connection with the construction of Lake Texoma and any other surveys, historical maps, or other information that may be available;

2. Prepare a map of the boundary line; and

3. Prepare a document styled "Lake Texoma Area Boundary Agreement", which shall incorporate by reference and have attached as an exhibit a map of the boundary in the Lake Texoma area. Upon agreement, signature and acknowledgment by both persons, the "Lake Texoma Area Boundary Agreement" shall have the legal effect of establishing the boundary within the Lake Texoma area. The "Lake

Texoma Area Boundary Agreement", when adopted pursuant to a resolution of the Contingency Review Board acting on behalf of the State of Oklahoma and when adopted pursuant to the applicable requirements of laws of the State of Texas, shall amend the provisions of the Red River Boundary Compact and constitute part of the terms of the Red River Boundary Compact. The governors of the respective party states shall file the "Lake Texoma Area Boundary Agreement" in the state library and archives of each party state and with the Oklahoma Secretary of State.

E. Within one (1) year after the date the "Lake Texoma Area Boundary Agreement" is filed under paragraph 3 of subsection D of this article, there shall be a permanently marked boundary line within the Texoma area as shown on the map constituting the exhibit to the "Lake Texoma Area Boundary Agreement". The boundary line shall be maintained with markers annually, or more frequently if necessary subject to any requirement or restriction of law or resulting from a judgment of a court of competent jurisdiction.

F. The party states may:

1. Agree to equally share the cost of monumenting and maintaining the lines demarking both the boundary within the Texoma area and the upper limit of the normal pool elevation in a manner designed to make the boundary readily identifiable to the using public; or

2. Seek funding from other sources for monumenting and maintaining the lines.

G. Should there be a change in the watercourse of the Red River, the party states recognize the rules of accretion, erosion, and avulsion. The states agree that accretion or erosion may cause a change in the boundary between the states if it causes a change in the vegetation line. With regard to avulsion, the states agree that a change in the course of the Red River caused by an immediately

perceivable natural event that changes the vegetation line will change the location of the boundary between the states.

ARTICLE III. SOVEREIGNTY

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

ARTICLE IV. PENDING LITIGATION

This compact does not affect the jurisdiction of any litigation concerning the title to any of the lands bordering the Red River pending in the courts of either of the party states or the United States as of the effective date of this compact. The states intend that such litigation, if any, continue in the trial and appellate courts of the jurisdiction where pending, until the litigation is finally determined.

ARTICLE V. PUBLIC RECORDS

A. All public records in either party state concerning any lands the sovereignty over which is changed by this compact are accepted as evidence of record title to such lands, to and including the effective date of this compact, by the courts of the other state and the federal courts.

B. As to lands the sovereignty over which is changed by this compact, the recording officials of the counties of each party state shall accept for filing certified copies of documents of title previously filed in the other state and documents of title using legal descriptions derived from the land descriptions of the other

state. The acceptance of a document for filing has no bearing on its legal effect or sufficiency. The legal sufficiency of a document's form, execution, and acknowledgments and the 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. Except as provided by subsections B and C of this article, the lands the sovereignty over which is changed by this compact are, after the effective date of this compact, subject to taxation only by the state gaining sovereignty over the lands by this compact.

B. Taxes for the year of adoption of this compact for property the jurisdiction over which is changed by this compact may be lawfully imposed only by the state in which the property was located on January 1 of the year of adoption of this compact. The taxes for the year of adoption may be levied and collected by that state or its authorized governmental subdivisions or agencies, and any liens or other rights accrued or accruing, including the right of collection, 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 (5) years after this compact takes effect or they are barred.

C. The party states recognize that the boundary between the states will change from time to time as a result of the natural actions of accretion, erosion, and avulsion and agree that for years subsequent to the year of adoption of this compact, 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. All taxes currently assessed by governmental entities in each party state as to lands that border or cross the boundary line

established by this compact are presumed to be correct as to acreage within the particular jurisdiction, absent competent proof to the contrary presented in writing by the property owner or owners to the appropriate taxing agencies. All such proof must be presented to the appropriate taxing agencies before May 1 of the year following the year in which this compact takes effect. 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

This compact does not change:

1. The title of any person or entity, public or private, to any of the lands adjacent to the Red River;

2. The rights, including riparian rights, if any, of any person or entity, public or private, that exist as a result of the person's or entity's title to lands adjacent to the Red River; or

3. The boundaries of those lands.

ARTICLE VIII. EFFECTIVE DATE

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

ARTICLE IX. ENFORCEMENT

A. This compact does not limit or prevent either party state from instituting or maintaining any action or proceeding, legal or equitable, in any court having jurisdiction, for the protection of any right under this compact or the enforcement of any of its provisions.

B. This compact is not binding or obligatory on either party state unless and until it has been enacted by both states and consented to by the United States Congress. Notice of enactment of this compact by each state shall be given by the Governor of that state to the Governor of the other state and to the President of the

United States. The president is requested to give notice to the governors of the party states of the consent to this compact by the United States Congress.

ARTICLE X. AMENDMENTS

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

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6107 of Title 74, unless there is created a duplication in numbering, reads as follows:

NEGOTIATIONS TO RESOLVE DIFFERENCES

A. If the State of Texas enters into the Red River Boundary Compact in substantially the form provided in Section 2 of this act, the designee of the Oklahoma Red River Boundary Commission has the authority to negotiate with the appropriate Texas representative to resolve any differences between the States of Oklahoma and Texas regarding matters covered by the compact. The designee shall conduct the negotiations in cooperation with the Oklahoma Red River Boundary Commission.

B. The designee shall report annually to the Governor of this state, or more frequently if necessary, on the status of the negotiations.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6108 of Title 74, unless there is created a duplication in numbering, reads as follows:

IMPLEMENTATION OF COMPACT

A. If the State of Texas enters into the Red River Boundary Compact in substantially the form provided by Section 2 of this act, the designee of the Oklahoma Red River Boundary Commission has the authority to negotiate with the appropriate Texas representative to establish procedures for implementing the compact's provisions. The designee shall conduct the negotiations in cooperation with the Oklahoma Red River Boundary Commission.

B. The designee shall report annually to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate, or more frequently if necessary, on the status of the negotiations.

C. A procedure for implementing a provision of the compact must be approved by the Governor of this state.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6109 of Title 74, unless there is created a duplication in numbering, reads as follows:

RELATION TO OTHER LAW AND LITIGATION

The Red River Boundary Compact does not affect:

1. The Red River Compact, the text of which is set out in Section 1431 of Title 82 of the Oklahoma Statutes;

2. The riparian rights, if any, of adjacent landowners to access and use the waters of the Red River; or

3. Litigation pending in either state involving title to land or boundaries of rivers or water bodies of that state.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

47-1-7242 MAH 6/11/15