

LEGISLATIVE BILL 59

Approved by the Governor April 14, 1998

Introduced by Wehrbein, 2

AN ACT relating to boundary lines; to amend sections 22-164 and 22-174, Reissue Revised Statutes of Nebraska, and Laws 1971, LB 1034, section 1; to change the boundary line between Missouri and Nebraska as prescribed; to cede to and relinquish jurisdiction over certain lands to Missouri; to amend the Missouri-Nebraska Boundary Compact of 1971; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 22-164, Reissue Revised Statutes of Nebraska, is amended to read:

22-164. The county of Nemaha is bounded as follows: Commencing at the southwest corner of section thirty-four in township four, north, of range twelve, east; thence north by section lines to the northwest corner of section three in township six, north, of range twelve, east; thence east by the line dividing townships six and seven, north, to its first intersection with the state boundary; thence around the old channel of the Missouri River and including ~~what is the land~~ known as ~~McKissick's Island~~ McKissick's Island, by the eastern boundary of the state to the intersection thereof with the line dividing townships three and four, north; ~~and thence by said line west by the line~~ to the place of beginning.

Sec. 2. Section 22-174, Reissue Revised Statutes of Nebraska, is amended to read:

22-174. The county of Richardson is bounded as follows: Commencing at the southwest corner of township one, north, of range thirteen, east; thence east to the middle of the main channel of the Missouri River; thence up said channel until it intersects the line dividing townships three and four, north; thence west to the northwest corner of township three, north, of range thirteen, east; ~~and~~ thence south to the place of beginning.

Sec. 3. That Laws 1971, LB 1034, section 1, be amended to read:

Section 1. That on and after the approval and consent of the Congress of the United States of America to this act and a similar and reciprocal act enacted by the ~~legislature~~ General Assembly of the State of Missouri, as hereinafter provided, the boundary line between the States of Missouri and Nebraska shall be as follows:

MISSOURI-NEBRASKA BOUNDARY COMPACT

WHEREAS, the Missouri River has constituted the common territorial boundary between the State States of Missouri and ~~the State of~~ Nebraska, being the western boundary of Missouri and the eastern boundary of Nebraska, between the northern boundary of Missouri and the southern boundary of Nebraska; and

WHEREAS, by the forces of nature and the construction by the ~~U-S~~ United States Army Corps of Engineers the flow of the Missouri River has changed its course and the main channel of ~~said the~~ river has changed its position in many areas along ~~said the~~ common territorial boundary between ~~said States the states~~; and

WHEREAS, disputes between the State States of Missouri and ~~the State of~~ Nebraska, their political and governmental subdivisions, their citizens, and other persons have arisen and now exist with respect to the location of the true boundary between the States states; and

WHEREAS, there has for many years existed ~~as~~ between the State States of Missouri and ~~the State of~~ Nebraska, a question as to the true and correct boundary line between ~~said States the states~~; and

WHEREAS, in some areas land is taxed or may be taxed by both States states, and in other areas land may be untaxed by either State state; and

WHEREAS, ~~The the~~ Nebraska ~~Courts courts~~ have found some land ~~as to~~ be located in Nebraska and the Missouri ~~Courts courts~~ have found the same land ~~as to be~~ located in Missouri; and

WHEREAS, the Missouri River is now relatively stabilized by work done under the direction and supervision of the United States Army Corps of Engineers, and a boundary based upon the present main channel of the Missouri River would be, if the works are properly maintained, as near as can be anticipated at this time, fixed and permanent; and

WHEREAS, it is to the best interest of the States of Missouri and Nebraska, their political and governmental subdivisions, and their citizens, to determine a new and compromise boundary between the States states, avoid

litigation and multiple exercises of sovereignty and jurisdiction, encourage the optimum beneficial use of the river, its facilities, and its waters, and remove all causes of controversy between said States the states with respect to the boundary between the States states; and

WHEREAS, the States states, by entering into an Agreement agreement of a new boundary, are not recognizing and do not desire to recognize that new boundary as the true and correct former boundary between the states; and

WHEREAS, as between the States states, neither state state is recognizing any presumptions that the river has moved gradually into the present designed channel location because of the numerous natural cut-offs over the years and the construction and stabilization work by the United States Army Corps of Engineers, which included the dredging of canals and the construction of dikes and revetments, moving the river around and across islands, bar areas, and lands; and

WHEREAS, the States states recognize that the United States Army Corps of Engineers has dug numerous canals leaving lands formerly on one side of the river isolated on the other side and the States states recognize there may have been many natural cut-offs of the Missouri River prior to the stabilization work by the United States Army Corps of Engineers; and

WHEREAS, as to lands along or in proximity to the Missouri River, the States states desire not to disturb private titles or claims which may have been established by private individuals by recognizing or locating any specific areas as belonging to or being within one State state or the other, but the States states desire to leave any questions of private titles to the parties involved; and

WHEREAS, the terms of this Compact shall be binding upon the States states, their political and governmental subdivisions, and the officers and agents thereof; and

WHEREAS, there is pending in the Supreme Court of the United States litigation between the States of Missouri and Nebraska, the object of which is to determine the boundary at various locations along the Missouri River, and whereas the States recognize there are or may be other areas isolated on the opposite side of the river from the State making claim to such areas, and the States wish to avoid the expense of litigation and of determining all of such areas which may be in dispute; and

WHEREAS, the parties recognize that the present main navigable channel of the Missouri River as it exists within the designed channel as stabilized by the United States Army Corps of Engineers is or may be different from a line parallel and equidistant from the present banks of the Missouri River; and

WHEREAS, the States of Missouri and Nebraska have agreed upon the terms and provisions of a Compact to establish the boundary between said States the states.

To these ends, the State States of Missouri and the State of Nebraska have resolved to conclude a Compact with consent of the Congress of the United States, and have agreed upon the following Articles articles to-wit:

ARTICLE I. Findings and Purposes

(a) The party States states find that there are actual and potential disputes, controversies, criminal proceedings, and litigation arising or which may arise out of the location of the boundary line between the States of Missouri and Nebraska, and that the Missouri River constituting the boundary between the States states has changed its course from time to time, and that the United States Army Corps of Engineers has established a designed channel of said the river for navigation and other purposes, which designed channel is described and shown in the maps referred to in Article II.

(b) It is the principal purpose of the party States states in executing this Compact to establish an identifiable compromise boundary between the State States of Missouri and the State of Nebraska for the entire distance thereof as of the effective date of this Compact without interfering with or otherwise affecting private rights or titles to property, and the party States states declare that further compelling purposes of this Compact are: (1) to create a friendly and harmonious interstate relationship; (2) to avoid multiple exercise of sovereignty and jurisdiction including matters of taxation, judicial and police powers, and the exercise of administrative authority; (3) to encourage settlement and disposition of pending litigation and criminal proceedings and to avoid or minimize future disputes and litigation; (4) to promote economic and political stability; (5) to encourage the optimum mutual beneficial use of the Missouri River, its waters, and its facilities; (6) to establish a forum for the settlement of future disputes; (7) to place the boundary in a new or reestablished location which can be identified or located; and (8) to express the intent and policy of the States

states that the common boundary be established within the confines of the Missouri River, and both States states shall continue to have access to and use of the waters of the river.

ARTICLE II. Establishment of Boundary

(a) The permanent compromise boundary line between the States of Missouri and Nebraska shall be fixed at the center line of the designed channel of the Missouri River, except for that land known as McKissick's Island determined by the United States Supreme Court to be within the State of Nebraska in the case of Missouri v. Nebraska, 196 U.S. 23 and 197 U.S. 577, as described on maps identified as "Appendix "A" Missouri-Nebraska Boundary Compact" numbered 1 to 24, inclusive jointly prepared and certified by the state surveyors of Missouri and Nebraska and identified as the Missouri-Nebraska Boundary Compact Maps, which maps are incorporated herein and made a part hereof by reference and which maps are on file with the Secretaries of State of Missouri and Nebraska. This center line of the designed channel of the Missouri River is also described herein in this Compact by metes and bounds in said Appendix "A" incorporated herein in this Compact and made a part hereof of this Compact by reference.

(b) This center line of the designed channel of the Missouri River as described on said the maps identified as the Missouri-Nebraska Boundary Compact Maps marked Appendix "A" shall hereinafter be referred to as the "compromise boundary."

ARTICLE III. Relinquishment of Sovereignty

The State of Missouri hereby relinquishes to the State of Nebraska all sovereignty over all lands lying on the Nebraska side of said such compromise boundary and the State of Nebraska hereby relinquishes to the State of Missouri all sovereignty over all lands lying on the Missouri side of said such compromise boundary except all of for that land known as McKissick's Island determined by the Supreme Court of the United States to be within the State of Nebraska in the case of Missouri v. Nebraska, 196 U.S. 23, and 197 U.S. 577, and being more particularly described in Appendix "A" map numbers 20 to 22 inclusive, attached hereto and incorporated herein and made a part hereof by reference the Missouri-Nebraska Boundary Compact Maps.

ARTICLE IV. Pending Litigation

Nothing in this Compact shall be deemed or construed to affect any litigation pending in the Courts courts of either of the States of Missouri or Nebraska as of the effective date of this Compact concerning the title to any of the lands, sovereignty over which is relinquished by the State of Missouri to the State of Nebraska or by the State of Nebraska to the State of Missouri, and any matter concerning the title to lands, sovereignty over which is relinquished by either State state to the other, may be continued in the Courts courts of the State state where pending until the final determination thereof.

ARTICLE V. Public Records

(a) The public record of real estate titles, mortgages, and other liens in the State of Missouri to any lands, the sovereignty over which is relinquished by the State of Missouri to the State of Nebraska, shall be accepted as evidence of record title to such lands, to and including the effective date of such relinquishment by the State of Missouri, by the Courts courts of the State of Nebraska.

(b) The public record of real estate titles, mortgages, and other liens in the State of Nebraska to any lands, the sovereignty over which is relinquished by the State of Nebraska to the State of Missouri, shall be accepted as evidence of record title to such lands, to and including the effective date of such relinquishment by the State of Nebraska, by the Courts courts of the State of Missouri.

(c) As to lands, the sovereignty over which is relinquished, the recording officials of the counties of each State state shall accept for filing documents of title using legal descriptions derived from the land descriptions of the other State state. The acceptance of such documents for filing shall have no bearing upon the legal effect or sufficiency thereof.

ARTICLE VI. Taxes

(a) Taxes for the current year lawfully imposed by either the States of Missouri or Nebraska may be levied and collected by such State state or its authorized governmental subdivisions and agencies on land, jurisdiction over which is relinquished by the taxing State state to the other, and any liens or other rights accrued or accruing, including the right of collection, shall be fully recognized and the county treasurers of the counties or other taxing authorities affected shall act as agents in carrying out the provisions of this article. All Article, provided, that all liens or other rights arising out of the imposition of taxes, accrued or accruing, as aforesaid, shall be claimed or asserted within five years after this Compact becomes effective and

if not so claimed or asserted shall be forever barred.

(b) The lands, sovereignty over which is relinquished by the State of Missouri to the State of Nebraska, shall not thereafter be subject to the imposition of taxes in the State of Missouri from and after the current year. The lands, sovereignty over which is relinquished by the State of Nebraska to the State of Missouri, shall not thereafter be subject to the imposition of taxes in the State of Nebraska from and after the current year.

ARTICLE VII. Private Rights

(a) This Compact shall not deprive any riparian owner of such riparian owner's rights based upon riparian law and the establishment of the compromise boundary between the States states shall not in any way be deemed to change or affect the boundary line of riparian owners along the Missouri River as between such owners. The establishment of the compromise boundary shall not operate to limit such riparian owner's rights to accretions across such compromise boundary.

(b) No private individual or entity claiming title to lands along the Missouri River, over which sovereignty is relinquished by this Compact, shall be prejudiced by the relinquishment of such sovereignty and any claims or possessory rights necessary to establish adverse possession shall not be terminated or limited by the fact that the jurisdiction over such lands may have been transferred by the this Compact. Neither State will state shall assert any claim of title to abandoned beds of the Missouri River, lands along the Missouri River, or the bed of the Missouri River based upon any doctrine of State state ownership of the beds or abandoned beds of navigable waters, as against any land owners or claimants claiming interest in real estate arising out of titles, muniments of title, or exercises of jurisdiction of or from the other State state, which titles or muniments of title commenced prior to the effective date of this Compact.

ARTICLE VIII. Readjustment of Boundary by Negotiation

If at any time after the effective date of this Compact the Missouri River shall move or be moved by natural means or otherwise so that the flow thereof at any point along the course forming the boundary between the States states occurs entirely within one of the States states, each State state at the request of the other, agrees to enter into and conduct negotiations in good faith for the purpose of readjusting the boundary at the place or places where such movement occurred consistent with the intent, policy, and purpose hereof that the boundary will be placed within the Missouri River.

ARTICLE IX. Effective Date

(a) This Compact shall become effective when ratified by the General Assembly of the State of Missouri and the Legislature of the State of Nebraska and approved by the Congress of the United States.

(b) As of the effective date of this Compact, the State States of Missouri and the State of Nebraska shall relinquish sovereignty over the lands described herein and shall assume and accept sovereignty over such lands ceded to them as herein provided.

(c) In the event this Compact is not approved by the General Assembly of the State of Missouri and the Legislature of the State of Nebraska on or before April 1, 1977 October 1, 1998, and approved by the Congress of the United States within three years from the date hereof, this Compact shall be inoperative and for all purposes shall be void.

ARTICLE X. Enforcement

Nothing in this Compact shall be construed to limit or prevent either State state from instituting or maintaining any action or proceeding, legal or equitable, in any Court court having jurisdiction, for the protection of any right under this Compact or the enforcement of any of its provisions.

ARTICLE XI. Amendments

This Compact shall remain in full force and effect unless amended in the same manner as that by which it was created.

Sec. 4. Original sections 22-164 and 22-174, Reissue Revised Statutes of Nebraska, and Laws 1971, LB 1034, section 1, are repealed.