

Re Judiciary 5/6

FILED MAY 12 1977

SENATE FILE 402

By COMMITTEE ON JUDICIARY

Passed Senate, Date 5-13-77 (p.1515) Passed House, Date 5-19-77 (p.2420)

Vote: Ayes 44 Nays 0 Vote: Ayes 90 Nays 0

Approved 7/11/77

*Repassed Senate per S-3696
5-20-77 (p.1764)
44-0*

A BILL FOR

1 An Act to legalize and validate the proceedings for the
 2 organization and operation of the Missouri basin municipal
 3 electric cooperative association and declaring said co-
 4 operative association to be legally established and de-
 5 claring each and all of its acts to have been legally
 6 taken and declaring each and all of the actions taken by
 7 Missouri basin municipal electric cooperative association
 8 and by the city of Alton, city of Hartley, city of Hawarden,
 9 city of Kimballton, city of Manilla, city of Orange City,
 10 city of Paullina, city of Primghar, city of Remsen, city
 11 of Sanborn, city of Shelby, city of Sioux Center and city
 12 of Woodbine, all in Iowa, in entering into, ratifying and
 13 confirming an agreement between Missouri basin municipal
 14 electric cooperative association and its municipal members
 15 dated September 15, 1976, first amendment thereto dated
 16 March 22, 1977 and a certain transmission agreement between
 17 Missouri basin municipal electric cooperative association
 18 and northwest Iowa power cooperative dated November 30, 1976,
 19 to have been legally taken.

20 WHEREAS, proceedings have been taken for the organization of
 21 the Missouri basin municipal electric cooperative association
 22 under the provisions of chapter four hundred ninety-nine
 23 (499) of the Code for the purpose of generating, manufacturing,
 24 purchasing and accumulating electric energy for its members
 25 and transmitting, distributing, furnishing, selling and

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1 disposing of such electric energy to its members and constructing,
2 erecting, purchasing, leasing and in any manner acquiring, owning,
3 holding, maintaining, operating, selling, disposing of, exchanging
4 or mortgaging plants, buildings, works, machinery, supplies,
5 apparatus, equipment and transmission and distribution lines
6 or systems necessary, convenient or useful for carrying out
7 and accomplishing the foregoing purposes; and

8 WHEREAS, a certificate of incorporation of said Missouri
9 basin municipal electric cooperative association was issued
10 by the secretary of state of the state on November 20, 1973,
11 and the following municipal electric utilities are current
12 members in good standing of said association: city of Alton,
13 city of Hartley, city of Hawarden, city of Kimballton, city of
14 Manilla, city of Orange City, city of Paullina, city of Primghar,
15 city of Remsen, city of Sanborn, city of Shelby, city of Sioux
16 Center and city of Woodbine all in Iowa; and

17 WHEREAS, Missouri basin municipal electric cooperative
18 association, did on September 15, 1976, enter into an agree-
19 ment with its municipal members, which agreement relates to
20 and forms a part of a certain transmission agreement with
21 northwest Iowa power cooperative; and

22 WHEREAS, the first amendment to said agreement between
23 Missouri basin municipal electric cooperative association and
24 its municipal members, has been executed, ratified and con-
25 firmed by Missouri basin municipal electric cooperative associa-
26 tion and all of its municipal members; and

27 WHEREAS, Missouri basin municipal electric cooperative
28 association has, on behalf of its municipal members, entered
29 into a transmission agreement, dated November 30, 1976, with
30 northwest Iowa power cooperative, a cooperative association
31 organized and operating under chapter four hundred ninety-
32 nine (499) of the Code, for the purpose of obtaining electric
33 energy for sale and distribution to the municipal members
34 of said Missouri basin municipal electric cooperative associa-
35 tion, the same now being the cities of Alton, Hartley, Hawarden,

1 Kimballton, Manilla, Orange City, Paullina, Primghar, Remsen,
2 Sanborn, Shelby, Sioux Center and Woodbine all in Iowa; and

3 WHEREAS, Missouri basin municipal electric cooperative
4 association and all municipal members have taken action
5 pursuant to chapters three hundred ninety (390) and twenty-
6 three (23) of the Code as amended, to ratify and confirm the
7 agreement between the Missouri basin municipal electric co-
8 operative association and its municipal members, first amend-
9 ment thereto, and the transmission agreement between Missouri
10 basin municipal electric cooperative association and northwest
11 Iowa power cooperative as a joint agreement, pursuant to
12 chapter three hundred ninety (390) of the Code, as amended; and

13 WHEREAS, the aforementioned documents together now purport
14 to form a joint agreement pursuant to chapter three hundred
15 ninety (390) of the Code, as amended; and

16 WHEREAS, doubts have arisen concerning the validity and
17 legal sufficiency of the proceedings taken for the organiza-
18 tion and operation of said Missouri basin municipal electric
19 cooperative association and the acts taken by the Missouri
20 basin municipal electric cooperative association, and its
21 municipal members in entering into, ratifying and confirming
22 said joint agreement and it is deemed advisable and necessary
23 to put such doubts and all others that might arise concerning
24 same forever at rest; NOW THEREFORE,

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. That all proceedings heretofore taken in
2 connection with the organization and providing for the
3 operation of the cooperative association now known and
4 identified as the "Missouri basin municipal electric
5 cooperative association" and all acts heretofore taken by
6 said Missouri basin municipal electric cooperative association
7 and its municipal members, including entering into said
8 agreement between Missouri basin municipal electric cooperative
9 association and its municipal members, first amendment thereto,
10 and said transmission agreement between Missouri basin
11 municipal electric cooperative association and northwest Iowa
12 power cooperative, be and the same are hereby legalized, vali-
13 dated and confirmed, and said documents together are hereby
14 declared to form a valid joint agreement pursuant to chapter
15 three hundred ninety (390) of the Code, as amended. Further
16 that the acts heretofore taken by said municipal members in
17 connection with said agreement between Missouri basin municipal
18 electric cooperative association and its municipal members,
19 first amendment thereto and said transmission agreement between
20 Missouri basin municipal electric cooperative association
21 and northwest Iowa power cooperative are hereby legalized,
22 validated and confirmed. Further, that said Missouri basin
23 municipal electric cooperative association is hereby declared
24 to constitute a legal cooperative association authorized to
25 operate in accordance with its articles of incorporation and
26 by-laws as they now exist and in accordance with provisions
27 of chapter four hundred ninety-nine (499) of the Code, except
28 only insofar as chapter four hundred ninety-nine (499) of
29 the Code may conflict with said articles of incorporation
30 and by-laws, in which event said articles of incorporation
31 and by-laws shall prevail.

32 Sec. 2. This Act, being deemed of immediate importance,
33 shall take effect and be in force from and after its publica-
34 tion in the Union Republic, a newspaper published in Albia,
35 Iowa, and in The Independent, a newspaper published in

1 Hawarden, Iowa.

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EXPLANATION

3 The bill legalizes the organization and operation of the
4 Missouri basin municipal electric cooperative association,
5 the agreement entered into with it by the cities of Alton,
6 Hartley, Hawarden, Kimballton, Manilla, Orange City, Paullina,
7 Primghar, Remsen, Sanborn, Shelby, Sioux Center, and Woodbine,
8 and the transmission agreement between the association and
9 the Northwest Iowa Power Cooperative.

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PROOF OF PUBLICATION

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Published copy of Senate File 402 and verified proof of publication of said bill in the following newspapers was filed with the Secretary of the Senate prior to the time said bill was placed on passage in the Senate:

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- The Sioux County Capital, Orange City, Iowa, on March 29, 1977.
- The Sioux Center News, Sioux Center, Iowa, on March 30, 1977.
- The Bell-Enterprise, Remsen, Iowa, on March 21, 1977.
- The Hartley Sentinel, Hartley, Iowa, on March 31, 1977.
- The Hawarden Independent, Hawarden, Iowa, on March 31, 1977.
- The Manilla Times, Manilla, Iowa, on March 31, 1977.
- The O'Brien County Bell, Primghar, Iowa, on March 31, 1977.
- The Paullina Times, Paullina, Iowa, on March 31, 1977.
- The Sanborn Pioneer, Sanborn, Iowa, on March 31, 1977.
- The Woodbine Twiner, Woodbine, Iowa, on March 31, 1977.
- The Harlan News-Advertiser, Harlan, Iowa, on April 4, 1977.
- The Elk Horn-Kimballton Review, Elk Horn, Iowa, on April 7, 1977.

STEVEN C. CROSS, Secretary of the Senate

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SENATE FILE 402

H-4242

- 1 Amend Senate File 402, as passed by the
- 2 Senate, as follows:
- 3 1. Page 1, by striking lines 27 through 31
- 4 and inserting in lieu thereof the following: "of
- 5 chapter four hundred ninety-nine (499) of the
- 6 Code."

H-4242 FILED *adopted 5/19* BY PELTON of Clinton
MAY 17, 1977 (*p. 2420*)

House Amendment to Senate File 402

S-3696

- 1 Amend Senate File 402, as passed by the Senate,
- 2 as follows:
- 3 1. Page 1, by striking lines 27 through 31 and
- 4 inserting in lieu thereof the following: "of
- 5 chapter four hundred ninety-nine (499) of the Code."

S-3696 FILED
MAY 19, 1977

RECEIVED FROM THE HOUSE

Senate concurred 5/20 (p. 1764)

SENATE FILE 402

AN ACT

TO LEGALIZE AND VALIDATE THE PROCEEDINGS FOR THE ORGANIZATION AND OPERATION OF THE MISSOURI BASIN MUNICIPAL ELECTRIC COOPERATIVE ASSOCIATION AND DECLARING SAID COOPERATIVE ASSOCIATION TO BE LEGALLY ESTABLISHED AND DECLARING EACH AND ALL OF ITS ACTS TO HAVE BEEN LEGALLY TAKEN AND DECLARING EACH AND ALL OF THE ACTIONS TAKEN BY MISSOURI BASIN MUNICIPAL ELECTRIC COOPERATIVE ASSOCIATION AND BY THE CITY OF ALTON, CITY OF HARTLEY, CITY OF HAWARDEN, CITY OF KIMBALLTON, CITY OF MANILLA, CITY OF ORANGE CITY, CITY OF PAULLINA, CITY OF PRIMGHAR, CITY OF REMSEN, CITY OF SANBORN, CITY OF SHELBY, CITY OF SIOUX CENTER AND CITY OF WOODBINE, ALL IN IOWA, IN ENTERING INTO, RATIFYING AND CONFIRMING AN AGREEMENT BETWEEN MISSOURI BASIN MUNICIPAL ELECTRIC COOPERATIVE ASSOCIATION AND ITS MUNICIPAL MEMBERS DATED SEPTEMBER 15, 1976, FIRST AMENDMENT THERETO DATED MARCH 22, 1977 AND A CERTAIN TRANSMISSION AGREEMENT BETWEEN MISSOURI BASIN MUNICIPAL ELECTRIC COOPERATIVE ASSOCIATION AND NORTHWEST IOWA POWER COOPERATIVE DATED NOVEMBER 30, 1976, TO HAVE BEEN LEGALLY TAKEN.

WHEREAS, proceedings have been taken for the organization of the Missouri basin municipal electric cooperative association under the provisions of chapter four hundred ninety-nine (499) of the Code for the purpose of generating, manufacturing, purchasing and accumulating electric energy for its members and transmitting, distributing, furnishing, selling and disposing of such electric energy to its members and constructing, erecting, purchasing, leasing and in any manner acquiring, owning, holding, maintaining, operating, selling, disposing of, exchanging or mortgaging plants, buildings, works, machinery, supplies, apparatus, equipment and transmission and distribution lines or systems necessary, convenient or useful for carrying out and accomplishing the foregoing purposes; and

WHEREAS, a certificate of incorporation of said Missouri

basin municipal electric cooperative association was issued by the secretary of state of the state on November 20, 1973, and the following municipal electric utilities are current members in good standing of said association: city of Alton, city of Hartley, city of Hawarden, city of Kimballton, city of Manilla, city of Orange City, city of Paullina, city of Primghar, city of Remsen, city of Sanborn, city of Shelby, city of Sioux Center and city of Woodbine all in Iowa; and

WHEREAS, Missouri basin municipal electric cooperative association, did on September 15, 1976, enter into an agreement with its municipal members, which agreement relates to and forms a part of a certain transmission agreement with northwest Iowa power cooperative; and

WHEREAS, the first amendment to said agreement between Missouri basin municipal electric cooperative association and its municipal members, has been executed, ratified and confirmed by Missouri basin municipal electric cooperative association and all of its municipal members; and

WHEREAS, Missouri basin municipal electric cooperative association has, on behalf of its municipal members, entered into a transmission agreement, dated November 30, 1976, with northwest Iowa power cooperative, a cooperative association organized and operating under chapter four hundred ninety-nine (499) of the Code, for the purpose of obtaining electric energy for sale and distribution to the municipal members of said Missouri basin municipal electric cooperative association, the same now being the cities of Alton, Hartley, Hawarden, Kimballton, Manilla, Orange City, Paullina, Primghar, Remsen, Sanborn, Shelby, Sioux Center and Woodbine all in Iowa; and

WHEREAS, Missouri basin municipal electric cooperative association and all municipal members have taken action pursuant to chapters three hundred ninety (390) and twenty-three (23) of the Code as amended, to ratify and confirm the agreement between the Missouri basin municipal electric cooperative association and its municipal members, first amendment thereto, and the transmission agreement between Missouri

basin municipal electric cooperative association and north-west Iowa power cooperative as a joint agreement, pursuant to chapter three hundred ninety (390) of the Code, as amended; and

WHEREAS, the aforementioned documents together now purport to form a joint agreement pursuant to chapter three hundred ninety (390) of the Code, as amended; and

WHEREAS, doubts have arisen concerning the validity and legal sufficiency of the proceedings taken for the organization and operation of said Missouri basin municipal electric cooperative association and the acts taken by the Missouri basin municipal electric cooperative association, and its municipal members in entering into, ratifying and confirming said joint agreement and it is deemed advisable and necessary to put such doubts and all others that might arise concerning same forever at rest; NOW THEREFORE,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. That all proceedings heretofore taken in connection with the organization and providing for the operation of the cooperative association now known and identified as the "Missouri basin municipal electric cooperative association" and all acts heretofore taken by said Missouri basin municipal electric cooperative association and its municipal members, including entering into said agreement between Missouri basin municipal electric cooperative association and its municipal members, first amendment thereto, and said transmission agreement between Missouri basin municipal electric cooperative association and northwest Iowa power cooperative, be and the same are hereby legalized, validated and confirmed, and said documents together are hereby declared to form a valid joint agreement pursuant to chapter three hundred ninety (390) of the Code, as amended. Further that the acts heretofore taken by said municipal members in connection with said agreement between Missouri basin municipal electric cooperative association and its municipal members,

first amendment thereto and said transmission agreement between Missouri basin municipal electric cooperative association and northwest Iowa power cooperative are hereby legalized, validated and confirmed. Further, that said Missouri basin municipal electric cooperative association is hereby declared to constitute a legal cooperative association authorized to operate in accordance with its articles of incorporation and by-laws as they now exist and in accordance with provisions of chapter four hundred ninety-nine (499) of the Code.

Sec. 2. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Union-Republican, a newspaper published in Albia, Iowa, and in The Independent, a newspaper published in Hawarden, Iowa.

ARTHUR A. NEU
President of the Senate

DALE M. COCHRAN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 402, Sixty-seventh General Assembly.

STEVEN C. CROSS
Secretary of the Senate

Approved 7/11, 1977

ROBERT D. RAY
Governor