

BILL ANALYSIS

Senate Research Center

S.B. 1012
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Intergovernmental Relations
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In December 2006, a tentative agreement was announced between the City of Houston and The Woodlands that would allow joint participation in certain regional improvement projects that would be of mutual benefit to both cities.

S.B. 1012 authorizes the City of Houston and The Woodlands to enter into and perform their respective obligations under a regional participation agreement and also authorizes the Town Center Improvement District of Montgomery County to enter into and perform obligations under a regional participation agreement with the City of Houston on behalf of The Woodlands.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 43, Local Government Code, by adding Section 43.0754, as follows:

Sec. 43.0754. REGIONAL PARTICIPATION AGREEMENTS. (a) Defines "district," "eligible municipality," "party," "planned community," and "regional participation agreement."

(b) Authorizes the governing body of an eligible municipality, the governing body of a district, and if applicable, a person to approve and authorize execution and performance of a regional participation agreement to further regional participation in the funding of eligible programs or projects, notwithstanding any contrary law or municipal charter provision. Requires a regional participation agreement to include as parties at least one eligible municipality and one district and authorizes it to include as parties other eligible municipalities, districts, or persons.

(c) Authorizes a regional participation agreement to provide or allow for certain actions, methods and procedures, and provisions.

(d) Authorizes a regional participation agreement to provide for the funding of any program or project, whether individual, intermittent, or continuing and whether located or conducted within or outside the boundaries of a party, for the planning, design, construction, acquisition, lease, rental, installment purchase, improvement, provision of furnishings or equipment, rehabilitation, repair, reconstruction, relocation, preservation, beautification, use, execution, administration, management, operation, or maintenance of any works, improvements, or facilities, or for providing any functions or services, whether provided to, for, by, or on behalf of a party, that provide a material benefit to each party in the accomplishment of the public purposes of each party, related to certain functions and responsibilities.

(e) Requires a regional participation agreement to meet certain criteria.

(f) Authorizes another district, municipality, or benefited person to join or become a party to a regional participation agreement in the manner authorized in the agreement.

(g) Provides that a regional participation agreement is not required to describe the land contained within the boundaries of a district that is a party to the agreement.

(h) Provides that a regional participation agreement binds each party to the agreement for the term specified in the agreement and each owner and future owner of land that is subject to the agreement during any annexation deferral period established in the agreement. Provides that if a party or land or a landowner is excluded or removed from an agreement, the removal or exclusion is effective on the recordation of the amendment, supplement, modification, or restatement of the agreement implementing such removal or exclusion.

(i) Prohibits a regional participation agreement from requiring a district to make payments from any funds that are restricted, encumbered, or pledged for the payment of contractual obligations or indebtedness of a district. Authorizes any party to commit or pledge to issue bonds payable from or secured by a pledge of any available source of funds, including unencumbered sales and use taxes, to make payments due or to become due under the agreement.

(j) Provides that a program or project to be funded and any bonds to be issued by a district to make payments under a regional participation agreement are not subject to review or approval by the Texas Commission on Environmental Quality, notwithstanding any other law.

(k) Provides that a regional participation agreement and any action taken under the agreement are not subject to any method of approval or appeal under the Water Code.

(l) Requires a regional participation agreement, including any related amendment, supplement, modification, or restatement, and a pledge of funds to make payments under an agreement to be final and incontestable in any court of this state after due authorization, execution, delivery, and recordation as provided by this section.

(m) Provides that notwithstanding any defect, ambiguity, discrepancy, invalidity, or unenforceability of a regional participation agreement that has been voluntarily entered into and fully executed by the parties thereto, or any contrary law, common law doctrine, or municipal charter provision, and for the duration of any annexation deferral period established in the agreement during which a district continues to perform its obligations under certain agreements:

(1) Provides that Section 42.023 and any other law or municipal charter provision relating to the reduction of the extraterritorial jurisdiction of a municipality that is a party to the agreement shall not apply, and Sections 42.041(b)-(e) do not apply to any land or owner of land within a district that is a party.

(2) Prohibits the governing body of a municipality from initiating or continuing an annexation proceeding relating to that area but authorizes the governing body to include the area covered by the agreement in a municipal annexation plan.

(3) Requires any area of a district that is a party to be released from the extraterritorial jurisdiction of an eligible municipality that is a party under an agreement, or that is to be incorporated or included within an alternate form of government with the consent of a municipality that is a party under an agreement, by operation of law and without further action by a party or its governing body, to be released from the extraterritorial

jurisdiction, or consent of the municipality to the incorporation or adoption of an alternate form of government by the district to be deemed to have been given, as appropriate under the agreement, at the time or upon the occurrence of the events specified in the agreement by operation of law and without further action by a party or its governing body.

(n) Provides that a district or an eligible municipality is not required to hold an election to authorize a regional participation agreement, notwithstanding the provisions of any municipal charter or other law. Prohibits payments or income from a regional participation fund from being deemed revenues to an eligible municipality for purposes of any law or municipal charter provisions relating to revenue or property tax caps or limits, as long as such funds remain restricted for use under an agreement.

(o) Provides that this section is cumulative of all other authority to make, enter into, and perform a regional participation agreements. Requires that this section prevail and control in case of any conflict or ambiguity between this section and any other law or municipal charter provision.

(p) Requires this section to be liberally construed so as to give effect to its legislative purposes and to sustain the validity of a regional participation agreement if the agreement was entered into under or in anticipation of enactment of this section.

SECTION 2. Sets forth certain legislative findings and determinations.

SECTION 3. Provides that the provisions of this Act are severable. Requires that if any word, phrase, clause, sentence, section, provision, or part of this Act is held invalid or unconstitutional, it does not affect the validity of the remaining portions, and declares it to be the legislative intent that this Act would have been passed as to the remaining portions regardless of the invalidity of any part.

SECTION 4. Provides that a regional participation agreement entered into in anticipation of this Act is not invalid because of the agreement's authorization, execution, or delivery before the effective date of this Act.

SECTION 5. Effective date: upon passage or September 1, 2007.