

AN ACT

relating to regional participation agreements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 43.0754(a)(2), Local Government Code, is amended to read as follows:

(2) "Eligible municipality" means a municipality:

(A) that has a population of 1.5 million or more and that includes in its extraterritorial jurisdiction at least 90 percent by area of the territory of a district; ~~[or]~~

(B) that includes in its extraterritorial jurisdiction not more than 10 percent of the territory of a district that has entered into a regional participation agreement under this section with another eligible municipality described by Paragraph (A); or

(C) with corporate boundaries contiguous to the boundaries of a district that has entered into a regional participation agreement under this section with another eligible municipality described by Paragraph (A) [under this section].

SECTION 2. Section 43.0754, Local Government Code, is amended by amending Subsections (c), (g), (h), (i), and (m) and adding Subsection (q) to read as follows:

(c) A regional participation agreement may provide or allow for:

(1) the establishment, administration, use,

1 investment, and application of a regional participation fund, which
2 shall be a special fund or escrow account to be used solely for
3 funding the costs and expenses of eligible programs or projects;

4 (2) payments to be made by a party into the regional
5 participation fund for application, currently or in the future,
6 toward eligible programs or projects;

7 (3) the methods and procedures by which eligible
8 programs or projects are prioritized, identified, and selected for
9 implementation and are planned, designed, bid, constructed,
10 administered, inspected, and completed;

11 (4) the methods and procedures for accounting for
12 amounts on deposit in, to the credit of, or expended from the
13 regional participation fund, as well as any related investment
14 income or amounts due and owing to or from any party to the fund;

15 (5) credits against payments otherwise due by any
16 party under the agreement resulting from taxes, charges, fees,
17 assessments, tolls, or other payments in support of or related to
18 the usage or costs of eligible programs or projects that are levied
19 or imposed upon, assessed against, or made applicable to a party or
20 its citizens, ratepayers, taxpayers, or constituents after the
21 effective date of the agreement;

22 (6) any type of annexation of any part of the territory
23 of a district to be deferred by an eligible municipality that is a
24 party for a mutually agreeable period;

25 (7) the release of [~~all or part of the~~] territory [~~of a~~
26 ~~district~~] from the extraterritorial jurisdiction of an eligible
27 municipality that is a party at a specified time or upon the

1 occurrence of specified events;

2 (8) the consent of an eligible municipality that is a
3 party to the incorporation of, or the adoption of an alternate form
4 of government by, all or part of the territory of a district at a
5 specified time or upon the occurrence of specified events;

6 (9) remedies for breach of the agreement;

7 (10) the modification, amendment, renewal, extension,
8 or termination of the agreement;

9 (11) other districts, eligible municipalities, or
10 persons to join the agreement as a party at any time;

11 (12) third-party beneficiaries to be specifically
12 designated and conferred rights or remedies under the agreement;

13 (13) the duration of the agreement, including an
14 unlimited term;

15 (14) the creation and administration of a nonprofit
16 corporation, joint powers agency, local government corporation, or
17 other agency for the purpose of administration and management of a
18 regional participation fund, program, or project under the
19 agreement; and

20 (15) any other provision or term to which the parties
21 agree.

22 (g) A regional participation agreement is not required to
23 describe the land contained within the boundaries of [~~a district~~
24 ~~that is~~] a party to the agreement, but any territory to be released
25 from the extraterritorial jurisdiction of an eligible municipality
26 that is a party under an agreement must be described in sufficient
27 detail to convey title to land and the description must be made a

1 part of the agreement.

2 (h) A regional participation agreement binds each party and
3 its legal successor, including a municipality or other form of
4 local government, to the agreement for the term specified in the
5 agreement and each owner and future owner of land that is subject to
6 the agreement during any annexation deferral period established in
7 the agreement. If a party, land, or landowner is excluded or
8 removed from an agreement, the removal or exclusion is effective on
9 the recordation of the amendment, supplement, modification, or
10 restatement of the agreement implementing the removal or exclusion.

11 (i) A regional participation agreement may not require a
12 party [~~district~~] to make payments from any funds that are
13 restricted, encumbered, or pledged for the payment of contractual
14 obligations or indebtedness of the party [~~district~~]. Otherwise,
15 any party may commit or pledge or may issue bonds payable from or
16 secured by a pledge of any available source of funds, including
17 unencumbered sales and use taxes, to make payments due or to become
18 due under an agreement.

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

26 (1) Section 42.023 and any other law or municipal
27 charter provision relating to the reduction of the extraterritorial

jurisdiction of an eligible municipality that is a party do 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) the governing body of an eligible municipality that is a party may not initiate or continue an annexation proceeding relating to that area but may include the area covered by the agreement in a municipal annexation plan; and

(3) 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, shall, by operation of law and without further action by a party or its governing body, 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 shall 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.

(q) For purposes of Subchapter I, Chapter 271:

(1) a district or eligible municipality is a "local governmental entity" within the meaning of Section 271.151(3); and

(2) a regional participation agreement is a "contract subject to this subchapter" within the meaning of Section 271.151(2), without regard to whether the agreement is for providing goods or services.

SECTION 3. Section 43.0754(q), Local Government Code, as

1 added by this Act, applies only to a cause of action that accrues on
2 or after the effective date of this Act. A cause of action that
3 accrues before the effective date of this Act is governed by the law
4 in effect immediately before that date, and that law is continued in
5 effect for that purpose.

6 SECTION 4. This Act takes effect September 1, 2009.

H.B. No. 2726

President of the Senate

Speaker of the House

I certify that H.B. No. 2726 was passed by the House on April 22, 2009, by the following vote: Yeas 149, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2726 was passed by the Senate on May 20, 2009, by the following vote: Yeas 29, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor