

1-1 By: Eissler (Senate Sponsor - Williams) H.B. No. 2726
1-2 (In the Senate - Received from the House April 23, 2009;
1-3 April 24, 2009, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 18, 2009, reported favorably by
1-5 the following vote: Yeas 5, Nays 0; May 18, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to regional participation agreements.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 43.0754(a)(2), Local Government Code, is
1-11 amended to read as follows:

1-12 (2) "Eligible municipality" means a municipality:

1-13 (A) that has a population of 1.5 million or more
1-14 and that includes in its extraterritorial jurisdiction at least 90
1-15 percent by area of the territory of a district; ~~[or]~~

1-16 (B) that includes in its extraterritorial
1-17 jurisdiction not more than 10 percent of the territory of a district
1-18 that has entered into a regional participation agreement under this
1-19 section with another eligible municipality described by Paragraph
1-20 (A); or

1-21 (C) with corporate boundaries contiguous to the
1-22 boundaries of a district that has entered into a regional
1-23 participation agreement under this section with another eligible
1-24 municipality described by Paragraph (A) [under this section].

1-25 SECTION 2. Section 43.0754, Local Government Code, is
1-26 amended by amending Subsections (c), (g), (h), (i), and (m) and
1-27 adding Subsection (q) to read as follows:

1-28 (c) A regional participation agreement may provide or allow
1-29 for:

1-30 (1) the establishment, administration, use,
1-31 investment, and application of a regional participation fund, which
1-32 shall be a special fund or escrow account to be used solely for
1-33 funding the costs and expenses of eligible programs or projects;

1-34 (2) payments to be made by a party into the regional
1-35 participation fund for application, currently or in the future,
1-36 toward eligible programs or projects;

1-37 (3) the methods and procedures by which eligible
1-38 programs or projects are prioritized, identified, and selected for
1-39 implementation and are planned, designed, bid, constructed,
1-40 administered, inspected, and completed;

1-41 (4) the methods and procedures for accounting for
1-42 amounts on deposit in, to the credit of, or expended from the
1-43 regional participation fund, as well as any related investment
1-44 income or amounts due and owing to or from any party to the fund;

1-45 (5) credits against payments otherwise due by any
1-46 party under the agreement resulting from taxes, charges, fees,
1-47 assessments, tolls, or other payments in support of or related to
1-48 the usage or costs of eligible programs or projects that are levied
1-49 or imposed upon, assessed against, or made applicable to a party or
1-50 its citizens, ratepayers, taxpayers, or constituents after the
1-51 effective date of the agreement;

1-52 (6) any type of annexation of any part of the territory
1-53 of a district to be deferred by an eligible municipality that is a
1-54 party for a mutually agreeable period;

1-55 (7) the release of ~~[all or part of the]~~ territory ~~[of a~~
1-56 ~~district]~~ from the extraterritorial jurisdiction of an eligible
1-57 municipality that is a party at a specified time or upon the
1-58 occurrence of specified events;

1-59 (8) the consent of an eligible municipality that is a
1-60 party to the incorporation of, or the adoption of an alternate form
1-61 of government by, all or part of the territory of a district at a
1-62 specified time or upon the occurrence of specified events;

1-63 (9) remedies for breach of the agreement;

1-64 (10) the modification, amendment, renewal, extension,

2-1 or termination of the agreement;

2-2 (11) other districts, eligible municipalities, or
2-3 persons to join the agreement as a party at any time;

2-4 (12) third-party beneficiaries to be specifically
2-5 designated and conferred rights or remedies under the agreement;

2-6 (13) the duration of the agreement, including an
2-7 unlimited term;

2-8 (14) the creation and administration of a nonprofit
2-9 corporation, joint powers agency, local government corporation, or
2-10 other agency for the purpose of administration and management of a
2-11 regional participation fund, program, or project under the
2-12 agreement; and

2-13 (15) any other provision or term to which the parties
2-14 agree.

2-15 (g) A regional participation agreement is not required to
2-16 describe the land contained within the boundaries of [~~a district~~
2-17 ~~that is~~] a party to the agreement, but any territory to be released
2-18 from the extraterritorial jurisdiction of an eligible municipality
2-19 that is a party under an agreement must be described in sufficient
2-20 detail to convey title to land and the description must be made a
2-21 part of the agreement.

2-22 (h) A regional participation agreement binds each party and
2-23 its legal successor, including a municipality or other form of
2-24 local government, to the agreement for the term specified in the
2-25 agreement and each owner and future owner of land that is subject to
2-26 the agreement during any annexation deferral period established in
2-27 the agreement. If a party, land, or landowner is excluded or
2-28 removed from an agreement, the removal or exclusion is effective on
2-29 the recordation of the amendment, supplement, modification, or
2-30 restatement of the agreement implementing the removal or exclusion.

2-31 (i) A regional participation agreement may not require a
2-32 party [~~district~~] to make payments from any funds that are
2-33 restricted, encumbered, or pledged for the payment of contractual
2-34 obligations or indebtedness of the party [~~district~~]. Otherwise,
2-35 any party may commit or pledge or may issue bonds payable from or
2-36 secured by a pledge of any available source of funds, including
2-37 unencumbered sales and use taxes, to make payments due or to become
2-38 due under an agreement.

2-39 (m) Notwithstanding any defect, ambiguity, discrepancy,
2-40 invalidity, or unenforceability of a regional participation
2-41 agreement that has been voluntarily entered into and fully executed
2-42 by the parties, or any contrary law, common law doctrine, or
2-43 municipal charter provision, and for the duration of any annexation
2-44 deferral period established in the agreement during which a
2-45 district continues to perform its obligations under the agreement:

2-46 (1) Section 42.023 and any other law or municipal
2-47 charter provision relating to the reduction of the extraterritorial
2-48 jurisdiction of an eligible municipality that is a party do not
2-49 apply, and Sections 42.041(b)-(e) do not apply to any land or owner
2-50 of land within a district that is a party;

2-51 (2) the governing body of an eligible municipality
2-52 that is a party may not initiate or continue an annexation
2-53 proceeding relating to that area but may include the area covered by
2-54 the agreement in a municipal annexation plan; and

2-55 (3) any area [~~of a district~~] that is [~~a party~~] to be
2-56 released from the extraterritorial jurisdiction of an eligible
2-57 municipality that is a party under an agreement, or that is to be
2-58 incorporated or included within an alternate form of government
2-59 with the consent of a municipality that is a party under an
2-60 agreement, shall, by operation of law and without further action by
2-61 a party or its governing body, be released from the
2-62 extraterritorial jurisdiction, or consent of the municipality to
2-63 the incorporation or adoption of an alternate form of government by
2-64 the district shall be deemed to have been given, as appropriate
2-65 under the agreement, at the time or upon the occurrence of the
2-66 events specified in the agreement.

2-67 (q) For purposes of Subchapter I, Chapter 271:

2-68 (1) a district or eligible municipality is a "local
2-69 governmental entity" within the meaning of Section 271.151(3); and

3-1 (2) a regional participation agreement is a "contract
3-2 subject to this subchapter" within the meaning of Section
3-3 271.151(2), without regard to whether the agreement is for
3-4 providing goods or services.

3-5 SECTION 3. Section 43.0754(q), Local Government Code, as
3-6 added by this Act, applies only to a cause of action that accrues on
3-7 or after the effective date of this Act. A cause of action that
3-8 accrues before the effective date of this Act is governed by the law
3-9 in effect immediately before that date, and that law is continued in
3-10 effect for that purpose.

3-11 SECTION 4. This Act takes effect September 1, 2009.

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