

By: Williams

S.B. No. 2053

A BILL TO BE ENTITLED

AN ACT

relating to regional participation agreements.

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

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

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

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

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

(5) credits against payments otherwise due by any

1 party under the agreement resulting from taxes, charges, fees,
2 assessments, tolls, or other payments in support of or related to
3 the usage or costs of eligible programs or projects that are levied
4 or imposed upon, assessed against, or made applicable to a party or
5 its citizens, ratepayers, taxpayers, or constituents after the
6 effective date of the agreement;

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

10 (7) the release of [~~all or part of~~] the territory [~~of a~~
11 ~~district~~] from the extraterritorial jurisdiction of an eligible
12 municipality that is a party at a specified time or upon the
13 occurrence of specified events;

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

18 (9) remedies for breach of the agreement;

19 (10) the modification, amendment, renewal, extension,
20 or termination of the agreement;

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

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

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

27 (14) the creation and administration of a nonprofit

1 corporation, joint powers agency, local government corporation, or
2 other agency for the purpose of administration and management of a
3 regional participation fund, program, or project under the
4 agreement; and

5 (15) any other provision or term to which the parties
6 agree.

7 (g) A regional participation agreement is not required to
8 describe the land contained within the boundaries of [~~a district~~
9 ~~that is~~] a party to the agreement.

10 (h) A regional participation agreement binds each party and
11 its legal successor, including a municipality or other form of
12 local government, to the agreement for the term specified in the
13 agreement and each owner and future owner of land that is subject to
14 the agreement during any annexation deferral period established in
15 the agreement. If a party, land, or landowner is excluded or
16 removed from an agreement, the removal or exclusion is effective on
17 the recordation of the amendment, supplement, modification, or
18 restatement of the agreement implementing the removal or exclusion.

19 (i) A regional participation agreement may not require a
20 party [~~district~~] to make payments from any funds that are
21 restricted, encumbered, or pledged for the payment of contractual
22 obligations or indebtedness of the party [~~district~~]. Otherwise,
23 any party may commit or pledge or may issue bonds payable from or
24 secured by a pledge of any available source of funds, including
25 unencumbered sales and use taxes, to make payments due or to become
26 due under an agreement.

27 (m) Notwithstanding any defect, ambiguity, discrepancy,

1 invalidity, or unenforceability of a regional participation
2 agreement that has been voluntarily entered into and fully executed
3 by the parties, or any contrary law, common law doctrine, or
4 municipal charter provision, and for the duration of any annexation
5 deferral period established in the agreement during which a
6 district continues to perform its obligations under the agreement:

7 (1) Section 42.023 and any other law or municipal
8 charter provision relating to the reduction of the extraterritorial
9 jurisdiction of an eligible municipality that is a party do not
10 apply, and Sections 42.041(b)-(e) do not apply to any land or owner
11 of land within a district that is a party;

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

16 (3) any area [~~of a district~~] that is [~~a party~~] to be
17 released from the extraterritorial jurisdiction of an eligible
18 municipality that is a party under an agreement, or that is to be
19 incorporated or included within an alternate form of government
20 with the consent of a municipality that is a party under an
21 agreement, shall, by operation of law and without further action by
22 a party or its governing body, be released from the
23 extraterritorial jurisdiction, or consent of the municipality to
24 the incorporation or adoption of an alternate form of government by
25 the district shall be deemed to have been given, as appropriate
26 under the agreement, at the time or upon the occurrence of the
27 events specified in the agreement.

1 (q) Governmental immunity from suit of a party to a regional
2 participation agreement is waived for the limited purpose of a
3 cause of action brought by a party based on or arising out of a
4 regional participation agreement.

5 SECTION 2. Section 43.0754(q), Local Government Code, as
6 added by this Act, applies only to a cause of action that accrues on
7 or after the effective date of this Act. A cause of action that
8 accrues before the effective date of this Act is governed by the law
9 in effect immediately before that date, and that law is continued in
10 effect for that purpose.

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