

BILL ANALYSIS

Senate Research Center

S.B. 1913
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Intergovernmental Relations
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The neighborhood of April Sound, located in Montgomery County, has recently entered into a strategic partnership agreement (SPA) with the City of Conroe to define each entity's duties and responsibilities after full purpose annexation. April Sound is comprised of two municipal utility districts (MUD 3 and 4). The signed SPA between Conroe and MUDs 3 and 4 allow the MUD to remain limited purpose districts for an indefinite period of time until they choose otherwise. Both MUDs 3 and 4 have petitioned the legislature for changes to the MUDs' enabling legislation in order to codify provision of their signed agreement with the City of Conroe.

S.B. 1913 amends the enabling legislation for Montgomery County MUD 3 and 4 and allows them to remain a limited purpose district, for a period of time of their own choosing, after full purpose annexation. S.B. 1913 also states that all contract provisions in the signed SPA are enforceable. Both entities agree to waive their right to sovereign immunity as it relates to contract enforcement.

S.B. 1913 amends current law relating to authorizing certain special districts in Montgomery County to enter into strategic partnership agreements.

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 C, Chapter 8302, Special District Local Laws Code, by adding Section 8302.102, as follows:

Sec. 8302.102. STRATEGIC PARTNERSHIP; CONTINUATION OF DISTRICT AFTER ANNEXATION BY MUNICIPALITY. (a) Authorizes the district to continue to exist as a limited district after full-purpose annexation by a municipality if the district and the annexing municipality state the terms of the limited district's existence in a strategic partnership agreement.

(b) Authorizes a strategic partnership agreement between the district and an annexing municipality to:

- (1) authorize the conversion of the district to a limited district upon full-purpose annexation and to permit the limited district to continue to exist and provide services for a fixed term or an indefinite term, on conditions that are mutually agreeable to the district and the annexing municipality;
- (2) contain a pledge of user fee revenues, tax proceeds from taxes levied within constitutional limits, miscellaneous revenues, and other funds under the control of a party, to cover that party's pecuniary obligations under the agreement;

(3) continue in effect for a fixed term or an indefinite term, as may be agreed upon by the district and the annexing municipality; and

(4) contain other provisions relating to annexation or services, including enforcement provisions, as may be agreed upon by the district and the annexing municipality.

(c) Requires that an agreement described in this section be valid, binding, and enforceable in accordance with its terms. Provides that, to achieve this purpose:

(1) this section controls over any other laws, rules, regulations, charter provisions, or ordinances, including any contrary provision of Section 43.0751 (Strategic Partnerships for Continuation of Certain Districts), Local Government Code; and

(2) if the district and an annexing municipality enter into such an agreement, sovereign immunity is waived for each party for the purpose of adjudicating claims based on the agreement, including claims for money damages, declaratory judgment, and other remedies, subject to the terms and conditions of this section.

(d) Provides that the total amount of money awarded in an adjudication described by Subsection (c)(2) is limited to direct damages, excluding consequential damages, exemplary damages, or damages for unabsorbed office overhead, plus reasonable and necessary attorney's fees that are equitable and just, plus interest as allowed by law, including interest as calculated under Chapter 2251 (Payment for Goods and Services), Government Code. Provides that this section does not waive a defense or a limitation on damages available to a party to such an agreement other than a bar against suit based on sovereign immunity.

(e) Provides that an agreement described in this section is not a joint enterprise for liability purposes. Provides that this section does not waive sovereign immunity to suit for a cause of action for a negligent or intentional tort or for a cause of action brought by any person or entity that is not a party to an agreement described in this section.

(f) Defines, in this section, "sovereign immunity" and "adjudicating" or "adjudication."

(g) Provides that this section provides authority for the district and an annexing municipality to enter into a strategic partnership agreement, and such authority is in addition to, and separate from, any authority provided by Section 43.0751, Local Government Code, and any other laws, rules, regulations, charter provisions, and ordinances.

SECTION 2. Amends Subchapter C, Chapter 8303, Special District Local Laws Code, by adding Section 8303.102, as follows:

Sec. 8303.102. STRATEGIC PARTNERSHIP; CONTINUATION OF DISTRICT AFTER ANNEXATION BY MUNICIPALITY. (a) Authorizes the district to continue to exist as a limited district after full-purpose annexation by a municipality if the district and the annexing municipality state the terms of the limited district's existence in a strategic partnership agreement.

(b) Authorizes a strategic partnership agreement between the district and an annexing municipality to:

(1) authorize the conversion of the district to a limited district upon full-purpose annexation and permit the limited district to continue to exist and

provide services for a fixed term or an indefinite term, on conditions that are mutually agreeable to the district and the annexing municipality;

(2) contain a pledge of user fee revenues, tax proceeds from taxes levied within constitutional limits, miscellaneous revenues, and other funds under the control of a party, to cover that party's pecuniary obligations under the agreement;

(3) continue in effect for a fixed term or an indefinite term, as may be agreed upon by the district and the annexing municipality; and

(4) contain other provisions relating to annexation or services, including enforcement provisions, as may be agreed upon by the district and the annexing municipality.

(c) Requires that an agreement described in this section be valid, binding, and enforceable in accordance with its terms. Provides that, to achieve this purpose:

(1) this section controls over any other laws, rules, regulations, charter provisions, or ordinances, including any contrary provision of Section 43.0751, Local Government Code; and

(2) if the district and an annexing municipality enter into such an agreement, sovereign immunity is waived for each party for the purpose of adjudicating claims based on the agreement, including claims for money damages, declaratory judgment, and other remedies, subject to the terms and conditions of this section.

(d) Provides that the total amount of money awarded in an adjudication described by Subsection (c)(2) is limited to direct damages, excluding consequential damages, exemplary damages, or damages for unabsorbed office overhead, plus reasonable and necessary attorney's fees that are equitable and just, plus interest as allowed by law, including interest as calculated under Chapter 2251, Government Code. Provides that this section does not waive a defense or a limitation on damages available to a party to such an agreement other than a bar against suit based on sovereign immunity.

(e) Provides that an agreement described in this section is not a joint enterprise for liability purposes. Provides that this section does not waive sovereign immunity to suit for a cause of action for a negligent or intentional tort or for a cause of action brought by any person or entity that is not a party to an agreement described in this section.

(f) Defines, in this section, "sovereign immunity" and "adjudicating" or "adjudication."

(g) Provides that this section provides authority for the district and an annexing municipality to enter into a strategic partnership agreement, and such authority is in addition to, and separate from, any authority provided by Section 43.0751, Local Government Code, and any other laws, rules, regulations, charter provisions, and ordinances.

SECTION 3. Provides that the change in law made by this Act applies to a strategic partnership agreement entered into before, on, or after the effective date of this Act.

SECTION 4. Provides that a strategic partnership agreement entered into by the Montgomery County Utility District No. 3 or the Montgomery County Utility District No. 4 before the effective date of this Act is validated in all respects as if the agreement were entered into as authorized by law.

SECTION 5. Provides that Section 4 of this Act does not apply to any matter that on the effective date of this Act is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction or has been held invalid by a final judgment of a court of competent jurisdiction.

SECTION 6. Effective date: September 1, 2013.