

By: Creighton

H.B. No. 3953

A BILL TO BE ENTITLED

1 AN ACT

2 relating to authorizing certain special districts in Montgomery  
3 County to enter into strategic partnership agreements.

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

5 SECTION 1. Subchapter C, Chapter 8302, Special District  
6 Local Laws Code, is amended by adding Section 8302.102 to read as  
7 follows:

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

14 (b) A strategic partnership agreement between the district  
15 and an annexing municipality may:

16 (1) authorize the conversion of the district to a  
17 limited district upon full-purpose annexation and may permit the  
18 limited district to continue to exist and provide services for a  
19 fixed term or an indefinite term, on conditions that are mutually  
20 agreeable to the district and the annexing municipality;

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

1 agreement;

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

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

8 (c) An agreement described in this section shall be valid,  
9 binding, and enforceable in accordance with its terms. To achieve  
10 this purpose:

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

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

19 (d) The total amount of money awarded in an adjudication  
20 described by Subsection (c)(2) is limited to direct damages,  
21 excluding consequential damages, exemplary damages, or damages for  
22 unabsorbed office overhead, plus reasonable and necessary  
23 attorney's fees that are equitable and just, plus interest as  
24 allowed by law, including interest as calculated under Chapter  
25 2251, Government Code. This section does not waive a defense or a  
26 limitation on damages available to a party to such an agreement  
27 other than a bar against suit based on sovereign immunity.

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

7       (f) In this section:

8           (1) "Sovereign immunity" includes immunities commonly  
9 referred to as "sovereign immunity" or "governmental immunity" and  
10 encompasses both immunity from suit and immunity from liability.

11           (2) "Adjudicating" or "adjudication" means the  
12 bringing of a civil suit and prosecution to final judgment in a  
13 county or state court and includes the bringing of an authorized  
14 arbitration proceeding and prosecution to final resolution in  
15 accordance with any mandatory procedures established in an  
16 agreement described in this section.

17       (g) This section provides authority for the district and an  
18 annexing city to enter into a strategic partnership agreement, and  
19 such authority is in addition to, and separate from, any authority  
20 provided by Section 43.0751, Local Government Code, and any other  
21 laws, rules, regulations, charter provisions, and ordinances.

22       SECTION 2. Subchapter C, Chapter 8303, Special District  
23 Local Laws Code, is amended by adding Section 8303.102 to read as  
24 follows:

25       Sec. 8303.102. STRATEGIC PARTNERSHIP; CONTINUATION OF  
26 DISTRICT AFTER ANNEXATION BY MUNICIPALITY. (a) The district may  
27 continue to exist as a limited district after full-purpose

1 annexation by a municipality if the district and the annexing  
2 municipality state the terms of the limited district's existence in  
3 a strategic partnership agreement.

4 (b) A strategic partnership agreement between the district  
5 and an annexing municipality may:

6 (1) authorize the conversion of the district to a  
7 limited district upon full-purpose annexation and may permit the  
8 limited district to continue to exist and provide services for a  
9 fixed term or an indefinite term, on conditions that are mutually  
10 agreeable to the district and the annexing municipality;

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

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

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

22 (c) An agreement described in this section shall be valid,  
23 binding, and enforceable in accordance with its terms. To achieve  
24 this purpose:

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

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

6           (d) The total amount of money awarded in an adjudication  
7 described by Subsection (c)(2) is limited to direct damages,  
8 excluding consequential damages, exemplary damages, or damages for  
9 unabsorbed office overhead, plus reasonable and necessary  
10 attorney's fees that are equitable and just, plus interest as  
11 allowed by law, including interest as calculated under Chapter  
12 2251, Government Code. This section does not waive a defense or a  
13 limitation on damages available to a party to such an agreement  
14 other than a bar against suit based on sovereign immunity.

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

21           (f) In this section:

22           (1) "Sovereign immunity" includes immunities commonly  
23 referred to as "sovereign immunity" or "governmental immunity" and  
24 encompasses both immunity from suit and immunity from liability.

25           (2) "Adjudicating" or "adjudication" means the  
26 bringing of a civil suit and prosecution to final judgment in a  
27 county or state court and includes the bringing of an authorized

1 arbitration proceeding and prosecution to final resolution in  
2 accordance with any mandatory procedures established in an  
3 agreement described in this section.

4 (g) This section provides authority for the district and an  
5 annexing city to enter into a strategic partnership agreement, and  
6 such authority is in addition to, and separate from, any authority  
7 provided by Section 43.0751, Local Government Code, and any other  
8 laws, rules, regulations, charter provisions, and ordinances.

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

12 SECTION 4. A strategic partnership agreement entered into  
13 by the Montgomery County Utility District No. 3 or the Montgomery  
14 County Utility District No. 4 before the effective date of this Act  
15 is validated in all respects as if the agreement were entered into  
16 as authorized by law.

17 SECTION 5. Section 4 of this Act does not apply to any  
18 matter that on the effective date of this Act:

19 (1) is involved in litigation if the litigation  
20 ultimately results in the matter being held invalid by a final  
21 judgment of a court of competent jurisdiction; or

22 (2) has been held invalid by a final judgment of a  
23 court of competent jurisdiction.

24 SECTION 6. This Act takes effect September 1, 2013.