

By: Nichols, Williams

S.B. No. 1913

A BILL TO BE ENTITLED

AN ACT

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

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

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

Sec. 8302.102. STRATEGIC PARTNERSHIP; CONTINUATION OF DISTRICT AFTER ANNEXATION BY MUNICIPALITY. (a) The district may 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) A strategic partnership agreement between the district and an annexing municipality may:

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

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.