

BILL ANALYSIS

Senate Research Center

S.B. 1012
By: Williams
Intergovernmental Relations
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In December 2006, a tentative agreement was announced between the City of Houston and The Woodlands that would allow joint participation in certain regional improvement projects that would be of mutual benefit to both cities.

As proposed, S.B. 1012 authorizes the City of Houston and The Woodlands to enter into and perform their respective obligations under a regional participation agreement and also authorizes the Town Center Improvement District of Montgomery County to enter into and perform obligations under a regional participation agreement with the City of Houston on behalf of The Woodlands.

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 D, Chapter 43, Local Government Code, by adding Section 43.0754, as follows:

Sec. 43.0754. REGIONAL PARTICIPATION AGREEMENTS. (a) Defines "district," "municipality," "party," "planned community," and "regional participation agreement."

(b) Authorizes the governing body or bodies of one or more municipalities and the governing body or bodies of one or more districts and other benefited persons to approve and authorize execution and performance of a regional participation agreement to further regional participation in the funding of eligible programs or projects between the municipality or municipalities and the district or districts and other benefited persons, notwithstanding any contrary law or municipal charter provision.

(c) Authorizes a regional participation agreement to provide or allow for certain actions, methods and procedures, and provisions.

(d) Authorizes a regional participation agreement to provide for the funding of any program or project, whether individual, intermittent, or continuing and whether located or conducted within or outside the boundaries of a party, for the planning, design, construction, acquisition, lease, rental, installment purchase, improvement, provision of furnishings or equipment, rehabilitation, repair, reconstruction, relocation, preservation, beautification, use, execution, administration, management, operation, or maintenance of any works, improvements, or facilities, or any functions or services, whether provided to, for, by, or on behalf of a party, that provide a material benefit to each party in the accomplishment of the public purposes of each party, related to certain criteria.

(e) Requires a regional participation agreement to meet certain criteria.

(f) Authorizes another district, municipality, or benefited person to join or become a party to a regional participation agreement in the manner authorized in the agreement.

(g) Provides that a regional participation agreement need not describe the land contained within the boundaries of a district that is a party to the agreement.

(h) Provides that a regional participation agreement binds each party to the agreement and each owner and future owner of land that is subject to the agreement. Provides that if a party or land or a landowner is excluded or removed from an agreement, the removal or exclusion is effective on the recordation of the amendment, supplement, modification, or restatement of the agreement implementing such removal or exclusion.

(i) Prohibits a regional participation agreement from requiring a district to make payments from any funds that are restricted, encumbered, or pledged for the payment of contractual obligations or indebtedness of a district. Authorizes any party to commit or pledge any available source of funds, including unencumbered sales and use taxes, to make payments due or to become due under the agreement.

(j) Provides that a regional participation agreement and any action taken under the agreement are not subject to any method of approval or appeal under the Water Code.

(k) Provides that notwithstanding any defect, ambiguity, discrepancy, invalidity, or unenforceability of a regional participation agreement that has been voluntarily entered into and fully executed by the parties thereto, or any contrary law, common law doctrine, or municipal charter provision, and for the duration of any annexation deferral period established in the agreement during which a district continues to perform its obligations under certain agreements:

(1) Provides that Section 42.023 and any other law or municipal charter provision relating to the reduction of the extraterritorial jurisdiction of a municipality that is a party to the agreement shall not apply, and Sections 42.041(b)-(e) do not apply to any land or owner of land within a district that is a party to the agreement.

(2) Prohibits the governing body of a municipality may not include the area covered by the agreement in a municipal annexation plan and may not initiate or continue an annexation proceeding relating to that area.

(3) Requires any area of a district to be released from the extraterritorial jurisdiction of a municipality pursuant to the agreement shall, by operation of law, and without further action by a party or its governing body, be released at the time or upon the occurrence of the events specified in the agreement.

(l) Requires this section to be liberally construed so as to give effect to its legislative purposes and to sustain the validity of a regional participation agreement if the agreement was entered into under or in anticipation of enactment of this section.

SECTION 2. Sets forth certain legislative findings and determinations.

SECTION 3. Provides that the provisions of this Act are severable. Requires that if any word, phrase, clause, sentence, section, provision, or part of this Act is held invalid or unconstitutional, it does not affect the validity of the remaining portions, and declares it to be the legislative intent that this Act would have been passed as to the remaining portions regardless of the invalidity of any part.

SECTION 4. Provides that a regional participation agreement entered into in anticipation of this Act is not invalid because of the agreement's authorization, execution, or delivery before the effective date of this Act.

SECTION 5. Effective date: upon passage or September 1, 2007.