

BILL ANALYSIS

Senate Research Center
81R21578 ATP-F

C.S.S.B. 2053
By: Williams
Intergovernmental Relations
4/16/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Woodlands Township desires to include certain new areas within the boundaries of the existing regional participation agreements with the City of Houston and add the City of Oak Ridge North to the municipalities, but is unable to do so under the current agreement. The Woodlands Township also desires to ensure title to real property and create a limited waiver of sovereign immunity in order to make the regional participation agreement readily enforceable.

Current law prevents the expansion of the area without a change in law, does not require that territory be excluded from the extraterritorial jurisdiction of a municipality, and provides a limited waiver of sovereign immunity.

The bill only applies to the Woodlands Township and slightly modifies the agreement that was made during the 80th Legislature, Regular Session, 2007, between the Woodlands Township and the City of Houston.

C.S.S.B. 2053 amends current law relating to regional participation 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 Section 43.0754(a)(2), Local Government Code, to redefine "eligible municipality."

SECTION 2. Amends Section 43.0754, Local Government Code, by amending Subsections (c), (g), (h), (i), and (m) and adding Subsection (q), as follows:

(c) Authorizes a regional participation agreement to provide or allow for the release of territory, rather than all or part of the territory of a district, from the extraterritorial jurisdiction of an eligible municipality that is a party at a specified time or upon the occurrence of specified events.

(g) Provides that a regional participation agreement is not required to describe the land contained within the boundaries of a party to the agreement, rather than a district that is a party to the agreement, but any territory to be released from the extraterritorial jurisdiction of an eligible municipality that is a party under an agreement is required to be described in sufficient detail to convey title to land and the description is required to be made a part of the agreement.

(h) Provides that a regional participation agreement binds each party and its legal successor, including a municipality or other form of local government, to the agreement for the term specified in the agreement and each owner and future owner of land that is subject to the agreement during any annexation deferral period established in the agreement.

(i) Prohibits a regional participation agreement from requiring a party, rather than a district, to make payments from any funds that are restricted, encumbered, or pledged for

the payment of contractual obligations or indebtedness of the party, rather than the district.

(m) 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, 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 the agreement; Section 42.023 (Reduction of Extraterritorial Jurisdiction) and any other law or municipal charter provision relating to the reduction of the extraterritorial jurisdiction of an eligible municipality that is a party do not apply, and Section 42.041(b) (relating to qualified voters petitioning the governing body to annex the area), (c) (relating to the consent to the incorporation of the proposed municipality), (d) (relating to the incorporation being initiated within six months after the date of the consent), and (e) (relating to this section applying only to the proposed municipality's area located in the extraterritorial jurisdiction of the existing municipality) do not apply to any land or owner of land within a district that is a party; the governing body of an eligible municipality that is a party is prohibited from initiating or continuing an annexation proceeding relating to that area but may include the area covered by the agreement in a municipal annexation plan; any area that is to be released, rather than any area of a district that is a party to be released, from the extraterritorial jurisdiction of an eligible municipality that is a party under an agreement, or that is to be incorporated or included within an alternate form of government with the consent of a municipality that is a party under an agreement, is required, by operation of law and without further action by a party or its governing body, be released from the extraterritorial jurisdiction, or consent of the municipality to the incorporation or adoption of an alternate form of government by the district shall be deemed to have been given, as appropriate under the agreement, at the time or upon the occurrence of the events specified in the agreement.

(q) Provides that for purposes of Subchapter I (Adjudication of Claims Arising Under Written contracts with Local Government Entities), Chapter 271 (Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments), a district or eligible municipality is a "local governmental entity" within the meaning of Section 271.151(3) (defines local governmental entity), and a regional participation agreement is a "contract subject to this subchapter" within the meaning of Section 271.151(2) (defines "contract subject to this subchapter"), without regard to whether the agreement is for providing goods or services.

SECTION 3. Makes application of Section 43.0754(q), Local Government Code, as added by this Act, prospective.

SECTION 4. Effective date: September 1, 2009.