

By: West

H.B. No. 3592

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the creation of the Downtown Midland Management  
3 District; providing authority to impose taxes and issue bonds.

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

5 SECTION 1. CREATION OF DISTRICT. (a) The Downtown Midland  
6 Management District is a special district created under Section 59,  
7 Article XVI, Texas Constitution.

8 (b) The board by resolution may change the name of the  
9 district.

10 SECTION 2. DEFINITIONS. In this Act:

11 (1) "Board" means the board of directors of the  
12 district.

13 (2) "District" means the Downtown Midland Management  
14 District.

15 SECTION 3. DECLARATION OF INTENT. (a) The creation of the  
16 district is essential to accomplish the purposes of Sections 52 and  
17 52-a, Article III, and Section 59, Article XVI, Texas Constitution,  
18 and other public purposes stated in this Act.

19 (b) The creation of the district is necessary to promote,  
20 develop, encourage, and maintain employment, commerce,  
21 transportation, housing, tourism, recreation, the arts,  
22 entertainment, economic development, safety, and the public  
23 welfare in the area of the district.

24 (c) The creation of the district and this legislation may

1 not be interpreted to relieve Midland County or the City of Midland  
2 from providing the level of services provided, as of the effective  
3 date of this Act, to the area in the district. The district is  
4 created to supplement and not to supplant the county or city  
5 services provided in the area in the district.

6 (d) By creating the district and in authorizing the City of  
7 Midland, Midland County, and other political subdivisions to  
8 contract with the district, the legislature has established a  
9 program to accomplish the public purposes set out in Section 52-a,  
10 Article III, Texas Constitution.

11 SECTION 4. BOUNDARIES. The district includes all the  
12 territory contained in the following described area in the City of  
13 Midland:

14 BEGINNING at the intersection of the Westerly right-of-way line of  
15 Pecos Street and the Northerly right-of-way line of Louisiana  
16 Avenue;

17 THENCE proceeding in an Easterly direction from said POINT OF  
18 BEGINNING along the Northerly right-of-way line of Louisiana Avenue  
19 to the Westerly right-of-way line of Lorraine Street;

20 THENCE in a Northerly direction along the Westerly right-of-way  
21 line of Lorraine Street to the Northerly right-of-way line of  
22 Kansas Avenue;

23 THENCE in an Easterly direction along the Northerly right-of-way  
24 line of Kansas Avenue to the Easterly right-of-way line of Main  
25 Street;

26 THENCE in a Southerly direction along the Easterly right-of-way  
27 line of Main Street to the Northerly right-of-way line of Louisiana

1 Avenue;  
2 THENCE in an Easterly direction along the Northerly right-of-way  
3 line of Louisiana Avenue to the Easterly right-of-way line of  
4 Weatherford Street;  
5 THENCE in a Southerly direction along the Easterly right-of-way  
6 line of Weatherford Street to the Southerly right-of-way line of  
7 Wall Street;  
8 THENCE in a Westerly direction along the Southerly right-of-way  
9 line of Wall Street to the Easterly right-of-way line of Main  
10 Street;  
11 THENCE in a Southerly direction along the Easterly right-of-way  
12 line of Main Street to the Southerly right-of-way line of Front  
13 Avenue;  
14 THENCE in a Southwesterly direction along the Southerly  
15 right-of-way line of Front Avenue to the Westerly right-of-way line  
16 of Big Spring Street;  
17 THENCE in a Northerly direction along the Westerly right-of-way  
18 line of Big Spring Street to the Southerly right-of-way line of  
19 Missouri Avenue;  
20 THENCE in a Westerly direction along the Southerly right-of-way  
21 line of Missouri Avenue to the Westerly right-of-way line of  
22 Carrizo Street;  
23 THENCE in a Northerly direction along the Westerly right-of-way  
24 line of Carrizo Street to the Northerly right-of-way line of  
25 Michigan Avenue;  
26 THENCE in an Easterly direction along the Northerly right-of-way  
27 line of Michigan Avenue to the Westerly right-of-way line of Pecos

1 Street;

2 THENCE in a Northerly direction along the Westerly right-of-way  
3 line of Pecos Street to the Northerly right-of-way line of  
4 Louisiana Avenue, the POINT OF BEGINNING.

5 SECTION 5. FINDINGS RELATING TO BOUNDARIES. The boundaries  
6 and field notes of the district form a closure. If a mistake is made  
7 in the field notes or in copying the field notes in the legislative  
8 process, the mistake does not in any way affect the district's:

9 (1) organization, existence, or validity;

10 (2) right to issue any type of bond for a purpose for  
11 which the district is created or to pay the principal of and  
12 interest on a bond;

13 (3) right to impose or collect an assessment or tax; or

14 (4) legality or operation.

15 SECTION 6. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The  
16 district is created to serve a public use and benefit. All the land  
17 and other property included in the district will benefit from the  
18 improvements and services to be provided by the district under  
19 powers conferred by Sections 52 and 52-a, Article III, and Section  
20 59, Article XVI, Texas Constitution, and other powers granted under  
21 this chapter.

22 (b) The creation of the district is in the public interest  
23 and is essential to:

24 (1) further the public purposes of development and  
25 diversification of the economy of the state; and

26 (2) eliminate unemployment and underemployment and  
27 develop or expand transportation and commerce.

1 (c) The district will:

2 (1) promote the health, safety, and general welfare of  
3 residents, employers, employees, visitors, and consumers in the  
4 district, and the public;

5 (2) provide needed funding to preserve, maintain, and  
6 enhance the economic health and vitality of the district as a  
7 community and business center; and

8 (3) further promote the health, safety, welfare, and  
9 enjoyment of the public by providing pedestrian ways and by  
10 landscaping and developing certain areas in the district, which are  
11 necessary for the restoration, preservation, and enhancement of  
12 scenic beauty.

13 (d) Pedestrian ways along or across a street, whether at  
14 grade or above or below the surface, and street lighting, street  
15 landscaping, and street art objects are parts of and necessary  
16 components of a street and are considered to be a street or road  
17 improvement.

18 (e) The district will not act as the agent or  
19 instrumentality of any private interest even though the district  
20 will benefit many private interests, as well as the public.

21 SECTION 7. APPLICATION OF OTHER LAW. (a) Except as  
22 otherwise provided by this Act, Chapter 375, Local Government Code,  
23 applies to the district.

24 (b) Chapter 311, Government Code (Code Construction Act),  
25 applies to this Act.

26 SECTION 8. CONSTRUCTION OF ACT. This Act shall be liberally  
27 construed in conformity with the findings and purposes stated in

1 this Act.

2 SECTION 9. BOARD OF DIRECTORS IN GENERAL. (a) The district  
3 is governed by a board of nine voting directors appointed under  
4 Section 10 of this Act and nonvoting directors as provided by  
5 Section 11 of this Act.

6 (b) Voting directors serve staggered terms of four years,  
7 with four directors' terms expiring June 1 of an odd-numbered year  
8 and five directors' terms expiring June 1 of the following  
9 odd-numbered year.

10 (c) The board may increase or decrease the number of  
11 directors on the board by resolution if the board finds that it is  
12 in the best interest of the district. The board may not consist of  
13 fewer than seven or more than 13 directors.

14 SECTION 10. APPOINTMENT OF DIRECTORS. The board shall  
15 nominate a slate of persons to serve on the succeeding board as  
16 voting directors. The members of the governing body of the City of  
17 Midland shall appoint as voting directors the slate of persons  
18 nominated by the board.

19 SECTION 11. NONVOTING DIRECTORS. (a) The following  
20 persons serve as nonvoting directors:

21 (1) the directors of the following departments of the  
22 City of Midland or their designees:

- 23 (A) parks and recreation;
- 24 (B) planning and zoning; and
- 25 (C) public works; and

26 (2) the city manager of the City of Midland or the city  
27 manager's designee.

1 (b) If an agency, department, or division described by  
2 Subsection (a) of this section is consolidated, renamed, or  
3 changed, the board may appoint a director of the consolidated,  
4 renamed, or changed agency, department, or division as a nonvoting  
5 director. If an agency, department, or division described by  
6 Subsection (a) of this section is abolished, the board may appoint a  
7 representative of another agency, department, or division that  
8 performs duties comparable to those performed by the abolished  
9 entity.

10 (c) Nonvoting directors are not counted for the purposes of  
11 establishing a quorum of the board.

12 SECTION 12. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a)  
13 Except as provided by this section:

14 (1) a director may participate in all board votes and  
15 decisions; and

16 (2) Chapter 171, Local Government Code, governs  
17 conflicts of interest for directors.

18 (b) Section 171.004, Local Government Code, does not apply  
19 to the district. A director who has a substantial interest in a  
20 business or charitable entity that will receive a pecuniary benefit  
21 from a board action shall file a one-time affidavit declaring the  
22 interest. An additional affidavit is not required if the director's  
23 interest changes. After the affidavit is filed with the board  
24 secretary, the director may participate in a discussion or vote on  
25 that action if:

26 (1) a majority of the directors have a similar  
27 interest in the same entity; or

1           (2) all other similar business or charitable entities  
2 in the district will receive a similar pecuniary benefit.

3           (c) A director who is also an officer or employee of a public  
4 entity may not participate in the discussion of or vote on a matter  
5 regarding a contract with that same public entity.

6           (d) For purposes of this section, a director has a  
7 substantial interest in a charitable entity in the same manner that  
8 a person would have a substantial interest in a business entity  
9 under Section 171.002, Local Government Code.

10           SECTION 13. ADDITIONAL POWERS OF DISTRICT. The district  
11 may exercise the powers given to:

12           (1) a corporation created under Section 4B,  
13 Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas  
14 Civil Statutes), including the power to own, operate, acquire,  
15 construct, lease, improve, and maintain projects described by that  
16 section; and

17           (2) a housing finance corporation created under  
18 Chapter 394, Local Government Code, to provide housing or  
19 residential development projects in the district.

20           SECTION 14. AGREEMENTS; GRANTS. (a) The district may make  
21 an agreement with or accept a gift, grant, or loan from any person.

22           (b) The implementation of a project is a governmental  
23 function or service for the purposes of Chapter 791, Government  
24 Code.

25           SECTION 15. LAW ENFORCEMENT SERVICES. To protect the  
26 public interest, the district may contract with Midland County or  
27 the City of Midland to provide law enforcement services in the



1 district for a fee.

2 SECTION 16. NONPROFIT CORPORATION. (a) The board by  
3 resolution may authorize the creation of a nonprofit corporation to  
4 assist and act on behalf of the district in implementing a project  
5 or providing a service authorized by this Act.

6 (b) The board shall appoint the board of directors of a  
7 nonprofit corporation created under this section. The board of  
8 directors of the nonprofit corporation shall serve in the same  
9 manner as the board of directors of a local government corporation  
10 created under Chapter 431, Transportation Code.

11 (c) A nonprofit corporation created under this section has  
12 the powers of and is considered for purposes of this Act to be a  
13 local government corporation created under Chapter 431,  
14 Transportation Code.

15 (d) A nonprofit corporation created under this section may  
16 implement any project and provide any service authorized by this  
17 Act.

18 SECTION 17. REQUIREMENTS FOR FINANCING SERVICES AND  
19 IMPROVEMENTS. The board may not finance a service or improvement  
20 project with assessments under this Act unless a written petition  
21 requesting that improvement or service has been filed with the  
22 board. The petition must be signed by:

23 (1) the owners of a majority of the assessed value of  
24 real property in the district subject to assessment as determined  
25 by the most recent certified tax appraisal roll for Midland County;  
26 or

27 (2) at least 25 persons who own real property in the

1 district, if more than 25 persons own real property in the district  
2 as determined by the most recent certified tax appraisal roll for  
3 Midland County.

4 SECTION 18. ELECTIONS. (a) The district shall hold an  
5 election in the manner provided by Subchapter L, Chapter 375, Local  
6 Government Code, to obtain voter approval before the district  
7 imposes a maintenance tax or issues a bond payable from ad valorem  
8 taxes.

9 (b) The board may include more than one purpose in a single  
10 proposition at an election.

11 (c) Section 375.243, Local Government Code, does not apply  
12 to the district.

13 SECTION 19. MAINTENANCE TAX. (a) If authorized at an  
14 election held in accordance with Section 18 of this Act, the  
15 district may impose an annual ad valorem tax on taxable property in  
16 the district for the maintenance and operation of the district and  
17 the improvements constructed or acquired by the district or for the  
18 provision of services.

19 (b) The board shall determine the tax rate.

20 SECTION 20. ASSESSMENTS. (a) The board by resolution may  
21 impose and collect an assessment for any purpose authorized by this  
22 Act.

23 (b) The board may not impose an assessment on a parcel of  
24 real property that at the time of the assessment is appraised at  
25 less than \$200,000, according to the most recent certified tax  
26 appraisal roll for Midland County, without the written consent of  
27 the owner of the parcel.

1           (c) Assessments, including assessments resulting from an  
2 addition to or correction of the assessment roll by the district,  
3 reassessments, penalties and interest on an assessment or  
4 reassessment, expense of collection, and reasonable attorney's  
5 fees incurred by the district:

6                   (1) are a first and prior lien against the property  
7 assessed;

8                   (2) are superior to any other lien or claim other than  
9 a lien or claim for county, school district, or municipal ad valorem  
10 taxes; and

11                   (3) are the personal liability of and charge against  
12 the owners of the property even if the owners are not named in the  
13 assessment proceedings.

14           (d) The lien is effective from the date of the resolution of  
15 the board imposing the assessment until the date the assessment is  
16 paid. The board may enforce the lien in the same manner that the  
17 board may enforce an ad valorem tax lien against real property.

18           (e) The board may make corrections to or deletions from the  
19 assessment roll without notice and hearing in the manner required  
20 for additional assessments if the corrections or deletions do not  
21 increase the amount of assessment of any parcel of land.

22           SECTION 21. UTILITIES. The district may not impose an  
23 impact fee or assessment on the property, equipment, rights-of-way,  
24 facilities, or improvements of an electric utility or a power  
25 generation company as defined by Section 31.002, Utilities Code, or  
26 a gas utility as defined by Section 101.003 or 121.001, Utilities  
27 Code, or of a person that provides to the public cable television or

1 advanced telecommunications services.

2 SECTION 22. BONDS. (a) The district may issue bonds or  
3 other obligations payable in whole or in part from ad valorem taxes,  
4 assessments, impact fees, revenue, grants, or other money of the  
5 district, or any combination of those sources of money, to pay for  
6 any authorized purpose of the district.

7 (b) In exercising the district's borrowing power, the  
8 district may issue a bond or other obligation in the form of a bond,  
9 note, certificate of participation or other instrument evidencing a  
10 proportionate interest in payments to be made by the district, or  
11 other type of obligation.

12 SECTION 23. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT  
13 OBLIGATIONS. Except as provided by Section 375.263, Local  
14 Government Code, the City of Midland is not required to pay a bond,  
15 note, or other obligation of the district.

16 SECTION 24. DISBURSEMENTS OR TRANSFERS OF MONEY. The board  
17 by resolution shall establish the number of directors' signatures  
18 and the procedure required for a disbursement or transfer of the  
19 district's money.

20 SECTION 25. COMPETITIVE BIDDING LIMIT. Section 375.221,  
21 Local Government Code, applies to the district only for a contract  
22 that has a value greater than \$50,000.

23 SECTION 26. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH  
24 OUTSTANDING DEBT. (a) The board may vote to dissolve a district  
25 that has debt. If the vote is in favor of dissolution, the district  
26 shall remain in existence solely for the limited purpose of  
27 discharging its debts. The dissolution is effective when all debts

1 have been discharged.

2 (b) Section 375.264, Local Government Code, does not apply  
3 to the district.

4 SECTION 27. ANNEXATION. The district may:

5 (1) annex territory as provided by Subchapter C,  
6 Chapter 375, Local Government Code; and

7 (2) annex territory located inside the boundaries of a  
8 reinvestment zone created by the City of Midland under Chapter 311,  
9 Tax Code, if the governing body of the City of Midland consents to  
10 the annexation.

11 SECTION 28. TAX AND ASSESSMENT ABATEMENTS. The district  
12 may grant in the manner authorized by Chapter 312, Tax Code, an  
13 abatement for a tax or assessment owed to the district.

14 SECTION 29. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The  
15 district may join and pay dues to an organization that:

16 (1) enjoys tax-exempt status under Section 501(c)(3),  
17 501(c)(4), or 501(c)(6), Internal Revenue Code of 1986 (26 U.S.C.  
18 Section 501), as amended; and

19 (2) performs services or provides activities  
20 consistent with the furtherance of the purposes of the district.

21 SECTION 30. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.  
22 All or any part of the area of the district is eligible to be  
23 included in:

24 (1) a tax increment reinvestment zone created by the  
25 municipality under Chapter 311, Tax Code;

26 (2) a tax abatement reinvestment zone created by the  
27 municipality under Chapter 312, Tax Code; or

1           (3) an enterprise zone created by the municipality  
2 under Chapter 2303, Government Code.

3           SECTION 31. ECONOMIC DEVELOPMENT PROGRAMS.     (a)     The  
4 district may establish and provide for the administration of one or  
5 more programs, including programs for making loans and grants of  
6 public money and providing personnel and services of the district,  
7 to promote state or local economic development and to stimulate  
8 business and commercial activity in the district.

9           (b) For purposes of this section, the district has all of  
10 the powers and authority of a municipality under Chapter 380, Local  
11 Government Code.

12          SECTION 32. INITIAL DIRECTORS.     (a)     The initial board  
13 consists of the following persons:

14           Pos. No. Name of Director

15           1 W. L. "Scooter" Brown

16           2 Wes Perry

17           3 Ted Jones

18           4 Jon Morgan

19           5 Gerald Borron

20           6 Dub House

21           7 Lois Trombley

22           8 Mike Black

23           9 Christi Newton

24          (b) Of the initial directors, the terms of directors  
25 appointed for positions 1 through 5 expire June 1, 2007, and the  
26 terms of directors appointed for positions 6 through 9 expire June  
27 1, 2005.

1 (c) Section 10 of this Act does not apply to this section.

2 (d) This section expires September 1, 2007.

3 SECTION 33. LEGISLATIVE FINDINGS. The legislature finds  
4 that:

5 (1) proper and legal notice of the intention to  
6 introduce this Act, setting forth the general substance of this  
7 Act, has been published as provided by law, and the notice and a  
8 copy of this Act have been furnished to all persons, agencies,  
9 officials, or entities to which they are required to be furnished by  
10 the constitution and laws of this state, including the governor,  
11 who has submitted the notice and Act to the Texas Commission on  
12 Environmental Quality;

13 (2) the Texas Commission on Environmental Quality has  
14 filed its recommendations relating to this Act with the governor,  
15 lieutenant governor, and speaker of the house of representatives  
16 within the required time;

17 (3) the general law relating to consent by political  
18 subdivisions to the creation of districts with conservation,  
19 reclamation, and road powers and the inclusion of land in those  
20 districts has been complied with; and

21 (4) all requirements of the constitution and laws of  
22 this state and the rules and procedures of the legislature with  
23 respect to the notice, introduction, and passage of this Act have  
24 been fulfilled and accomplished.

25 SECTION 34. EFFECTIVE DATE. This Act takes effect  
26 immediately if it receives a vote of two-thirds of all the members  
27 elected to each house, as provided by Section 39, Article III, Texas

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1 Constitution. If this Act does not receive the vote necessary for  
2 immediate effect, this Act takes effect September 1, 2003.