

1-1 By: West (Senate Sponsor - Bivins) H.B. No. 3592
1-2 (In the Senate - Received from the House May 7, 2003;
1-3 May 9, 2003, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 20, 2003, reported adversely,
1-5 with favorable Committee Substitute by the following vote: Yeas 4,
1-6 Nays 0; May 20, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3592 By: Deuell

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the creation of the Downtown Midland Management
1-11 District; providing authority to impose taxes and issue bonds.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. CREATION OF DISTRICT. (a) The Downtown Midland
1-14 Management District is a special district created under Section 59,
1-15 Article XVI, Texas Constitution.

1-16 (b) The board by resolution may change the name of the
1-17 district.

1-18 SECTION 2. DEFINITIONS. In this Act:

1-19 (1) "Board" means the board of directors of the
1-20 district.

1-21 (2) "District" means the Downtown Midland Management
1-22 District.

1-23 SECTION 3. DECLARATION OF INTENT. (a) The creation of the
1-24 district is essential to accomplish the purposes of Sections 52 and
1-25 52-a, Article III, and Section 59, Article XVI, Texas Constitution,
1-26 and other public purposes stated in this Act.

1-27 (b) The creation of the district is necessary to promote,
1-28 develop, encourage, and maintain employment, commerce,
1-29 transportation, housing, tourism, recreation, the arts,
1-30 entertainment, economic development, safety, and the public
1-31 welfare in the area of the district.

1-32 (c) The creation of the district and this legislation may
1-33 not be interpreted to relieve Midland County or the City of Midland
1-34 from providing the level of services provided, as of the effective
1-35 date of this Act, to the area in the district. The district is
1-36 created to supplement and not to supplant the county or city
1-37 services provided in the area in the district.

1-38 (d) By creating the district and in authorizing the City of
1-39 Midland, Midland County, and other political subdivisions to
1-40 contract with the district, the legislature has established a
1-41 program to accomplish the public purposes set out in Section 52-a,
1-42 Article III, Texas Constitution.

1-43 SECTION 4. BOUNDARIES. The district includes all the
1-44 territory contained in the following described area in the City of
1-45 Midland:

1-46 BEGINNING at the intersection of the Westerly right-of-way line of
1-47 Pecos Street and the Northerly right-of-way line of Louisiana
1-48 Avenue;

1-49 THENCE proceeding in an Easterly direction from said POINT OF
1-50 BEGINNING along the Northerly right-of-way line of Louisiana Avenue
1-51 to the Westerly right-of-way line of Lorraine Street;

1-52 THENCE in a Northerly direction along the Westerly right-of-way
1-53 line of Lorraine Street to the Northerly right-of-way line of
1-54 Kansas Avenue;

1-55 THENCE in an Easterly direction along the Northerly right-of-way
1-56 line of Kansas Avenue to the Easterly right-of-way line of Main
1-57 Street;

1-58 THENCE in a Southerly direction along the Easterly right-of-way
1-59 line of Main Street to the Northerly right-of-way line of Louisiana
1-60 Avenue;

1-61 THENCE in an Easterly direction along the Northerly right-of-way
1-62 line of Louisiana Avenue to the Easterly right-of-way line of
1-63 Weatherford Street;

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

2-28 SECTION 5. FINDINGS RELATING TO BOUNDARIES. The boundaries
 2-29 and field notes of the district form a closure. If a mistake is made
 2-30 in the field notes or in copying the field notes in the legislative
 2-31 process, the mistake does not in any way affect the district's:

- 2-32 (1) organization, existence, or validity;
- 2-33 (2) right to issue any type of bond for a purpose for
 2-34 which the district is created or to pay the principal of and
 2-35 interest on a bond;
- 2-36 (3) right to impose or collect an assessment or tax; or
- 2-37 (4) legality or operation.

2-38 SECTION 6. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The
 2-39 district is created to serve a public use and benefit. All the land
 2-40 and other property included in the district will benefit from the
 2-41 improvements and services to be provided by the district under
 2-42 powers conferred by Sections 52 and 52-a, Article III, and Section
 2-43 59, Article XVI, Texas Constitution, and other powers granted under
 2-44 this chapter.

2-45 (b) The creation of the district is in the public interest
 2-46 and is essential to:

- 2-47 (1) further the public purposes of development and
 2-48 diversification of the economy of the state; and
- 2-49 (2) eliminate unemployment and underemployment and
 2-50 develop or expand transportation and commerce.

2-51 (c) The district will:

- 2-52 (1) promote the health, safety, and general welfare of
 2-53 residents, employers, employees, visitors, and consumers in the
 2-54 district, and the public;
- 2-55 (2) provide needed funding to preserve, maintain, and
 2-56 enhance the economic health and vitality of the district as a
 2-57 community and business center; and
- 2-58 (3) further promote the health, safety, welfare, and
 2-59 enjoyment of the public by providing pedestrian ways and by
 2-60 landscaping and developing certain areas in the district, which are
 2-61 necessary for the restoration, preservation, and enhancement of
 2-62 scenic beauty.

2-63 (d) Pedestrian ways along or across a street, whether at
 2-64 grade or above or below the surface, and street lighting, street
 2-65 landscaping, and street art objects are parts of and necessary
 2-66 components of a street and are considered to be a street or road
 2-67 improvement.

2-68 (e) The district will not act as the agent or
 2-69 instrumentality of any private interest even though the district

3-1 will benefit many private interests, as well as the public.

3-2 SECTION 7. APPLICATION OF OTHER LAW. (a) Except as
3-3 otherwise provided by this Act, Chapter 375, Local Government Code,
3-4 applies to the district.

3-5 (b) Chapter 311, Government Code (Code Construction Act),
3-6 applies to this Act.

3-7 SECTION 8. CONSTRUCTION OF ACT. This Act shall be liberally
3-8 construed in conformity with the findings and purposes stated in
3-9 this Act.

3-10 SECTION 9. BOARD OF DIRECTORS IN GENERAL. (a) The district
3-11 is governed by a board of nine voting directors appointed under
3-12 Section 10 of this Act and nonvoting directors as provided by
3-13 Section 11 of this Act.

3-14 (b) Voting directors serve staggered terms of four years,
3-15 with four directors' terms expiring June 1 of an odd-numbered year
3-16 and five directors' terms expiring June 1 of the following
3-17 odd-numbered year.

3-18 (c) The board may increase or decrease the number of
3-19 directors on the board by resolution if the board finds that it is
3-20 in the best interest of the district. The board may not consist of
3-21 fewer than seven or more than 13 directors.

3-22 SECTION 10. APPOINTMENT OF DIRECTORS. The board shall
3-23 nominate a slate of persons to serve on the succeeding board as
3-24 voting directors. The members of the governing body of the City of
3-25 Midland shall appoint as voting directors the slate of persons
3-26 nominated by the board.

3-27 SECTION 11. NONVOTING DIRECTORS. (a) The following
3-28 persons serve as nonvoting directors:

3-29 (1) the directors of the following departments of the
3-30 City of Midland or their designees:

- 3-31 (A) parks and recreation;
- 3-32 (B) planning and zoning; and
- 3-33 (C) public works; and

3-34 (2) the city manager of the City of Midland or the city
3-35 manager's designee.

3-36 (b) If an agency, department, or division described by
3-37 Subsection (a) of this section is consolidated, renamed, or
3-38 changed, the board may appoint a director of the consolidated,
3-39 renamed, or changed agency, department, or division as a nonvoting
3-40 director. If an agency, department, or division described by
3-41 Subsection (a) of this section is abolished, the board may appoint a
3-42 representative of another agency, department, or division that
3-43 performs duties comparable to those performed by the abolished
3-44 entity.

3-45 (c) Nonvoting directors are not counted for the purposes of
3-46 establishing a quorum of the board.

3-47 SECTION 12. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a)
3-48 Except as provided by this section:

3-49 (1) a director may participate in all board votes and
3-50 decisions; and

3-51 (2) Chapter 171, Local Government Code, governs
3-52 conflicts of interest for directors.

3-53 (b) Section 171.004, Local Government Code, does not apply
3-54 to the district. A director who has a substantial interest in a
3-55 business or charitable entity that will receive a pecuniary benefit
3-56 from a board action shall file a one-time affidavit declaring the
3-57 interest. An additional affidavit is not required if the director's
3-58 interest changes. After the affidavit is filed with the board
3-59 secretary, the director may participate in a discussion or vote on
3-60 that action if:

3-61 (1) a majority of the directors have a similar
3-62 interest in the same entity; or

3-63 (2) all other similar business or charitable entities
3-64 in the district will receive a similar pecuniary benefit.

3-65 (c) A director who is also an officer or employee of a public
3-66 entity may not participate in the discussion of or vote on a matter
3-67 regarding a contract with that same public entity.

3-68 (d) For purposes of this section, a director has a
3-69 substantial interest in a charitable entity in the same manner that

4-1 a person would have a substantial interest in a business entity
4-2 under Section 171.002, Local Government Code.

4-3 SECTION 13. ADDITIONAL POWERS OF DISTRICT. The district
4-4 may exercise the powers given to:

4-5 (1) a corporation created under Section 4B,
4-6 Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas
4-7 Civil Statutes), including the power to own, operate, acquire,
4-8 construct, lease, improve, and maintain projects described by that
4-9 section; and

4-10 (2) a housing finance corporation created under
4-11 Chapter 394, Local Government Code, to provide housing or
4-12 residential development projects in the district.

4-13 SECTION 14. AGREEMENTS; GRANTS. (a) The district may make
4-14 an agreement with or accept a gift, grant, or loan from any person.

4-15 (b) The implementation of a project is a governmental
4-16 function or service for the purposes of Chapter 791, Government
4-17 Code.

4-18 SECTION 15. LAW ENFORCEMENT SERVICES. To protect the
4-19 public interest, the district may contract with Midland County or
4-20 the City of Midland to provide law enforcement services in the
4-21 district for a fee.

4-22 SECTION 16. NONPROFIT CORPORATION. (a) The board by
4-23 resolution may authorize the creation of a nonprofit corporation to
4-24 assist and act on behalf of the district in implementing a project
4-25 or providing a service authorized by this Act.

4-26 (b) The board shall appoint the board of directors of a
4-27 nonprofit corporation created under this section. The board of
4-28 directors of the nonprofit corporation shall serve in the same
4-29 manner as the board of directors of a local government corporation
4-30 created under Chapter 431, Transportation Code.

4-31 (c) A nonprofit corporation created under this section has
4-32 the powers of and is considered for purposes of this Act to be a
4-33 local government corporation created under Chapter 431,
4-34 Transportation Code.

4-35 (d) A nonprofit corporation created under this section may
4-36 implement any project and provide any service authorized by this
4-37 Act.

4-38 SECTION 17. REQUIREMENTS FOR FINANCING SERVICES AND
4-39 IMPROVEMENTS. The board may not finance a service or improvement
4-40 project with assessments under this Act unless a written petition
4-41 requesting that improvement or service has been filed with the
4-42 board. The petition must be signed by:

4-43 (1) the owners of a majority of the assessed value of
4-44 real property in the district subject to assessment as determined
4-45 by the most recent certified tax appraisal roll for Midland County;
4-46 or

4-47 (2) at least 25 persons who own real property in the
4-48 district, if more than 25 persons own real property in the district
4-49 as determined by the most recent certified tax appraisal roll for
4-50 Midland County.

4-51 SECTION 18. ELECTIONS. (a) The district shall hold an
4-52 election in the manner provided by Subchapter L, Chapter 375, Local
4-53 Government Code, to obtain voter approval before the district
4-54 imposes a maintenance tax or issues a bond payable from ad valorem
4-55 taxes.

4-56 (b) The board may include more than one purpose in a single
4-57 proposition at an election.

4-58 (c) Section 375.243, Local Government Code, does not apply
4-59 to the district.

4-60 SECTION 19. MAINTENANCE TAX. (a) If authorized at an
4-61 election held in accordance with Section 18 of this Act, the
4-62 district may impose an annual ad valorem tax on taxable property in
4-63 the district for the maintenance and operation of the district and
4-64 the improvements constructed or acquired by the district or for the
4-65 provision of services.

4-66 (b) The board shall determine the tax rate.

4-67 SECTION 20. ASSESSMENTS. (a) The board by resolution may
4-68 impose and collect an assessment for any purpose authorized by this
4-69 Act.

5-1 (b) The board may not impose an assessment on a parcel of
5-2 real property that at the time of the assessment is appraised at
5-3 less than \$200,000, according to the most recent certified tax
5-4 appraisal roll for Midland County, without the written consent of
5-5 the owner of the parcel.

5-6 (c) Assessments, including assessments resulting from an
5-7 addition to or correction of the assessment roll by the district,
5-8 reassessments, penalties and interest on an assessment or
5-9 reassessment, expense of collection, and reasonable attorney's
5-10 fees incurred by the district:

5-11 (1) are a first and prior lien against the property
5-12 assessed;

5-13 (2) are superior to any other lien or claim other than
5-14 a lien or claim for county, school district, or municipal ad valorem
5-15 taxes; and

5-16 (3) are the personal liability of and charge against
5-17 the owners of the property even if the owners are not named in the
5-18 assessment proceedings.

5-19 (d) The lien is effective from the date of the resolution of
5-20 the board imposing the assessment until the date the assessment is
5-21 paid. The board may enforce the lien in the same manner that the
5-22 board may enforce an ad valorem tax lien against real property.

5-23 (e) The board may make corrections to or deletions from the
5-24 assessment roll without notice and hearing in the manner required
5-25 for additional assessments if the corrections or deletions do not
5-26 increase the amount of assessment of any parcel of land.

5-27 SECTION 21. UTILITIES. The district may not impose an
5-28 impact fee or assessment on the property, equipment, rights-of-way,
5-29 facilities, or improvements of an electric utility or a power
5-30 generation company as defined by Section 31.002, Utilities Code, or
5-31 a gas utility as defined by Section 101.003 or 121.001, Utilities
5-32 Code, of a telecommunications provider as defined by Section
5-33 51.002, Utilities Code, or a cable operator as defined by 47 U.S.C.
5-34 Section 522, and its subsequent amendments, or of a person that
5-35 provides to the public advanced telecommunications services.

5-36 SECTION 22. BONDS. (a) The district may issue bonds or
5-37 other obligations payable in whole or in part from ad valorem taxes,
5-38 assessments, impact fees, revenue, grants, or other money of the
5-39 district, or any combination of those sources of money, to pay for
5-40 any authorized purpose of the district.

5-41 (b) In exercising the district's borrowing power, the
5-42 district may issue a bond or other obligation in the form of a bond,
5-43 note, certificate of participation or other instrument evidencing a
5-44 proportionate interest in payments to be made by the district, or
5-45 other type of obligation.

5-46 SECTION 23. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT
5-47 OBLIGATIONS. Except as provided by Section 375.263, Local
5-48 Government Code, the City of Midland is not required to pay a bond,
5-49 note, or other obligation of the district.

5-50 SECTION 24. DISBURSEMENTS OR TRANSFERS OF MONEY. The board
5-51 by resolution shall establish the number of directors' signatures
5-52 and the procedure required for a disbursement or transfer of the
5-53 district's money.

5-54 SECTION 25. COMPETITIVE BIDDING LIMIT. Section 375.221,
5-55 Local Government Code, applies to the district only for a contract
5-56 that has a value greater than \$50,000.

5-57 SECTION 26. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH
5-58 OUTSTANDING DEBT. (a) The board may vote to dissolve a district
5-59 that has debt. If the vote is in favor of dissolution, the district
5-60 shall remain in existence solely for the limited purpose of
5-61 discharging its debts. The dissolution is effective when all debts
5-62 have been discharged.

5-63 (b) Section 375.264, Local Government Code, does not apply
5-64 to the district.

5-65 SECTION 27. ANNEXATION. The district may:

5-66 (1) annex territory as provided by Subchapter C,
5-67 Chapter 375, Local Government Code; and

5-68 (2) annex territory located inside the boundaries of a
5-69 reinvestment zone created by the City of Midland under Chapter 311,

6-1 Tax Code, if the governing body of the City of Midland consents to
6-2 the annexation.

6-3 SECTION 28. TAX AND ASSESSMENT ABATEMENTS. The district
6-4 may grant in the manner authorized by Chapter 312, Tax Code, an
6-5 abatement for a tax or assessment owed to the district.

6-6 SECTION 29. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The
6-7 district may join and pay dues to an organization that:

6-8 (1) enjoys tax-exempt status under Section 501(c)(3),
6-9 501(c)(4), or 501(c)(6), Internal Revenue Code of 1986 (26 U.S.C.
6-10 Section 501), as amended; and

6-11 (2) performs services or provides activities
6-12 consistent with the furtherance of the purposes of the district.

6-13 SECTION 30. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.
6-14 All or any part of the area of the district is eligible to be
6-15 included in:

6-16 (1) a tax increment reinvestment zone created by the
6-17 municipality under Chapter 311, Tax Code;

6-18 (2) a tax abatement reinvestment zone created by the
6-19 municipality under Chapter 312, Tax Code; or

6-20 (3) an enterprise zone created by the municipality
6-21 under Chapter 2303, Government Code.

6-22 SECTION 31. ECONOMIC DEVELOPMENT PROGRAMS. (a) The
6-23 district may establish and provide for the administration of one or
6-24 more programs, including programs for making loans and grants of
6-25 public money and providing personnel and services of the district,
6-26 to promote state or local economic development and to stimulate
6-27 business and commercial activity in the district.

6-28 (b) For purposes of this section, the district has all of
6-29 the powers and authority of a municipality under Chapter 380, Local
6-30 Government Code.

6-31 SECTION 32. INITIAL DIRECTORS. (a) The initial board
6-32 consists of the following persons:

6-33	Pos. No.	Name of Director
6-34	1	W. L. "Scooter" Brown
6-35	2	Wes Perry
6-36	3	Ted Jones
6-37	4	Jon Morgan
6-38	5	Gerald Borron
6-39	6	Dub House
6-40	7	Lois Trombley
6-41	8	Mike Black
6-42	9	Christi Newton

6-43 (b) Of the initial directors, the terms of directors
6-44 appointed for positions 1 through 5 expire June 1, 2007, and the
6-45 terms of directors appointed for positions 6 through 9 expire June
6-46 1, 2005.

6-47 (c) Section 10 of this Act does not apply to this section.

6-48 (d) This section expires September 1, 2007.

6-49 SECTION 33. LEGISLATIVE FINDINGS. The legislature finds
6-50 that:

6-51 (1) proper and legal notice of the intention to
6-52 introduce this Act, setting forth the general substance of this
6-53 Act, has been published as provided by law, and the notice and a
6-54 copy of this Act have been furnished to all persons, agencies,
6-55 officials, or entities to which they are required to be furnished by
6-56 the constitution and laws of this state, including the governor,
6-57 who has submitted the notice and Act to the Texas Commission on
6-58 Environmental Quality;

6-59 (2) the Texas Commission on Environmental Quality has
6-60 filed its recommendations relating to this Act with the governor,
6-61 lieutenant governor, and speaker of the house of representatives
6-62 within the required time;

6-63 (3) the general law relating to consent by political
6-64 subdivisions to the creation of districts with conservation,
6-65 reclamation, and road powers and the inclusion of land in those
6-66 districts has been complied with; and

6-67 (4) all requirements of the constitution and laws of
6-68 this state and the rules and procedures of the legislature with
6-69 respect to the notice, introduction, and passage of this Act have

7-1 been fulfilled and accomplished.
7-2 SECTION 34. EFFECTIVE DATE. This Act takes effect
7-3 immediately if it receives a vote of two-thirds of all the members
7-4 elected to each house, as provided by Section 39, Article III, Texas
7-5 Constitution. If this Act does not receive the vote necessary for
7-6 immediate effect, this Act takes effect September 1, 2003.

7-7 * * * * *