

By: Ellis

S.B. No. 1943

A BILL TO BE ENTITLED

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

AN ACT

relating to the creation of the Montrose Museum Community Improvement District; providing the authority to impose taxes and issue bonds.

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

SECTION 1. CREATION OF DISTRICT. (a) The Montrose Museum Community Improvement District is a special district created under Section 59, Article XVI, Texas Constitution.

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

SECTION 2. DEFINITIONS. In this Act:

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

(2) "District" means the Montrose Museum Community Improvement District.

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

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

1           (c) This Act and the creation of the district may not be  
2 interpreted to relieve Harris County or the City of Houston from  
3 providing the level of services provided, as of the effective date  
4 of this Act, to the area in the district. The district is created to  
5 supplement and not to supplant the county or city services provided  
6 in the area in the district.

7           SECTION 4. BOUNDARIES. The district includes all the  
8 territory contained in the following described area:

9 All Boundary Descriptions, unless otherwise specified, assume the  
10 Center point of the right of way line for all streets mentioned in  
11 the description below.

12 THE MONTROSE MUSEUM COMMUNITY IMPROVEMENT DISTRICT BOUNDARY LINE  
13 COMMENCES:

14 At the northeast corner of the intersection of Shepard Street and  
15 West Dallas, heading in an easterly direction along West Dallas to  
16 the intersection of West Dallas and Taft streets; thence,

17 Heading in a southerly direction on Taft to the intersection of Taft  
18 and Welch; thence, proceeding in an easterly direction on Welch to  
19 the intersection of Welch and Gennessee; continuing in a  
20 southeasterly direction on Welch to the intersection of Welch and  
21 Boston, where the boundary line intersects with the approved  
22 boundary line for the Midtown town management district; thence,

23 Proceeding from the intersection of Welch and Boston, the boundary  
24 line parallels the Midtown Management district boundary line in a  
25 southwesterly direction on Boston, as it proceeds in a  
26 southeasterly direction on Tuam, and continues in a southerly  
27 direction from Tuam to the intersection of Tuam and Bagby, and

1 continues in a southerly direction as Bagby turns into Spur 527;  
2 thence, the boundary line continues to parallel the Midtown  
3 Management district boundary line as the boundary line as it  
4 proceeds from US Hwy 59, in an easterly direction until it  
5 intersects with Main Street, then proceeds in a southwesterly  
6 direction until the Midtown management district boundary line comes  
7 to the intersection of Portland and Main; thence, the Boundary for  
8 the Montrose Museum Community Improvement District proceeds in a  
9 southwesterly direction along Main Street, paralleling the  
10 boundary line for the Greater Southeast management district until  
11 the intersection of Main and Bissonnet Street; thence the boundary  
12 line proceeds in a Westerly direction along Bissonnet Street, until  
13 Bissonnet intersects with Graustark street; thence, proceeding  
14 north on Graustark to the intersection of Graustark street and US  
15 Hwy 59; thence, proceeding in a southwesterly direction along the  
16 eastern ROW line of US Hwy 59 from the intersection of Graustark and  
17 US Hwy 59 to the intersection of South Shepard and US Hwy 59;  
18 thence, proceeding in a northerly direction on South Shepard from  
19 the intersection of South Shepard and US Hwy 59, to the intersection  
20 of Shepard and Brentwood, where the boundary line will bear right  
21 along the "s" curve of South Shepard to the intersection of Shepard  
22 and West Dallas Street, the point and place of beginning.

23 SAVE AND EXCEPT all tracts or parcels of land, rights-of-way,  
24 facilities and improvements owned by a utility.

25 SECTION 5. FINDINGS RELATING TO BOUNDARIES. The boundaries  
26 and field notes of the district form a closure. A mistake in the  
27 field notes or in copying the field notes in the legislative process

1 does not in any way affect the district's:

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

8 SECTION 6. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

9 (a) The district is created to serve a public use and benefit.

10 (b) All land and other property included in the district  
11 will benefit from the improvements and services to be provided by  
12 the district under powers conferred by Sections 52 and 52-a,  
13 Article III, and Section 59, Article XVI, Texas Constitution, and  
14 other powers granted under this Act.

15 (c) The creation of the district is in the public interest  
16 and is essential to:

- 17 (1) further the public purposes of development and  
18 diversification of the economy of the state;
- 19 (2) eliminate unemployment and underemployment; and
- 20 (3) develop or expand transportation and commerce.

21 (d) The district will:

- 22 (1) promote the health, safety, and general welfare of  
23 residents, employers, employees, visitors, and consumers in the  
24 district and of the public;
- 25 (2) provide needed funding to preserve, maintain, and  
26 enhance the economic health and vitality of the district as a  
27 community and business center; and

1           (3) promote the health, safety, welfare, and enjoyment  
2 of the public by providing pedestrian ways and by landscaping and  
3 developing certain areas in the district, which are necessary for  
4 the restoration, preservation, and enhancement of scenic beauty.

5           (e) Pedestrian ways along or across a street, whether at  
6 grade or above or below the surface, and street lighting, street  
7 landscaping, and street art objects are parts of and necessary  
8 components of a street and are considered to be a street or road  
9 improvement.

10          (f) The district will not act as the agent or  
11 instrumentality of any private interest even though the district  
12 will benefit many private interests as well as the public.

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

16          (b) Chapter 311, Government Code (Code Construction Act),  
17 applies to this Act.

18          SECTION 8. CONSTRUCTION OF ACT. This Act shall be liberally  
19 construed in conformity with the findings and purposes stated in  
20 this Act.

21          SECTION 9. BOARD OF DIRECTORS IN GENERAL.   (a) The  
22 district is governed by a board of 13 directors appointed under  
23 Section 11 of this Act.

24          (b) Directors serve staggered terms of four years, with five  
25 directors' terms expiring June 1 of an odd-numbered year and eight  
26 directors' terms expiring June 1 of the following odd-numbered  
27 year.

1           SECTION 10. QUALIFICATIONS. (a) To be qualified to serve  
2 as a director, a person must be at least 18 years old and:

3                 (1) an owner of property subject to assessment by the  
4 district;

5                 (2) an owner of a beneficial interest in a trust that  
6 owns property subject to assessment by the district; or

7                 (3) an agent, employee, or tenant nominated by a  
8 person described in Subdivision (1) or (2).

9           (b) Section 375.063, Local Government Code, does not apply  
10 to the district.

11           SECTION 11. APPOINTMENT OF DIRECTORS. The mayor and  
12 members of the governing body of the City of Houston shall appoint  
13 directors from persons recommended by the board. A person is  
14 appointed if a majority of the members of the governing body,  
15 including the mayor, vote to appoint that person.

16           SECTION 12. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT.

17 (a) Except as provided by this section:

18                 (1) a director may participate in all board votes and  
19 decisions; and

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

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

1 board secretary, the director may participate in a discussion or  
2 vote on that action if:

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

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

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

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

14 SECTION 13. ELECTRONIC TRANSMISSIONS. (a) The district  
15 may acquire, operate, or charge fees for the use of the district  
16 conduits for:

- 17 (1) another person's:
  - 18 (A) telecommunications network;
  - 19 (B) fiber-optic cable; or
  - 20 (C) electronic transmission line; or
- 21 (2) any other type of transmission line or supporting  
22 facility.

23 (b) The district may not require a person to use a district  
24 conduit.

25 SECTION 14. ADDITIONAL POWERS OF DISTRICT. The district  
26 may exercise the powers given to:

- 27 (1) a corporation created under Section 4B,

1 Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas  
2 Civil Statutes); and

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

6 SECTION 15. AGREEMENTS; GRANTS. (a) The district may make  
7 an agreement with or accept a gift, grant, or loan from any person.

8 (b) The implementation of a project is a governmental  
9 function or service for the purposes of Chapter 791, Government  
10 Code.

11 SECTION 16. LAW ENFORCEMENT SERVICES. To protect the  
12 public interest, the district may contract to provide law  
13 enforcement services in the district for a fee.

14 SECTION 17. NONPROFIT CORPORATION. (a) The board by  
15 resolution may authorize the creation of a nonprofit corporation to  
16 assist and act on behalf of the district in implementing a project  
17 or providing a service authorized by this Act.

18 (b) The board shall appoint the board of directors of a  
19 nonprofit corporation. The board of directors of the nonprofit  
20 corporation shall serve in the same manner as the board of directors  
21 of a local government corporation created under Chapter 431,  
22 Transportation Code.

23 (c) The nonprofit corporation:

24 (1) has the powers of and is considered for purposes of  
25 this Act to be a local government corporation created under Chapter  
26 431, Transportation Code; and

27 (2) may implement any project and provide any service



1 authorized by this Act.

2 SECTION 18. REQUIREMENTS FOR FINANCING SERVICES AND  
3 IMPROVEMENTS. The board may not finance a service or improvement  
4 project with assessments under this Act unless a written petition  
5 requesting that improvement or service has been filed with the  
6 board. The petition must be signed by:

7 (1) the owners of a majority of the assessed value of  
8 real property in the district that will be subject to the assessment  
9 as determined by the most recent certified tax appraisal roll for  
10 Harris County; or

11 (2) at least 50 owners of real property in the district  
12 that will be subject to the assessment, if more than 50 persons own  
13 real property subject to the assessment in the district as  
14 determined by the most recent certified tax appraisal roll for  
15 Harris County.

16 SECTION 19. ASSESSMENTS. (a) The board by resolution may  
17 impose and collect an assessment for any purpose authorized by this  
18 Act.

19 (b) An assessment, a reassessment, or an assessment  
20 resulting from an addition to or correction of the assessment roll  
21 by the district, penalties and interest on an assessment or  
22 reassessment, an expense of collection, and reasonable attorney's  
23 fees incurred by the district:

24 (1) are a first and prior lien against the property  
25 assessed;

26 (2) are superior to any other lien or claim other than  
27 a lien or claim for county, school district, or municipal ad valorem

1 taxes; and

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

5 (c) The lien is effective from the date of the resolution of  
6 the board imposing the assessment until the date the assessment is  
7 paid. The board may enforce the lien in the same manner that the  
8 board may enforce an ad valorem tax lien against real property.

9 SECTION 20. UTILITIES. The district may not impose an  
10 impact fee or assessment on the property, including the equipment,  
11 rights-of-way, facilities, or improvements, of an electric utility  
12 or a power generation company as defined by Section 31.002,  
13 Utilities Code, or a gas utility as defined by Section 101.003 or  
14 121.001, Utilities Code, or a telecommunications provider as  
15 defined by Section 51.002, Utilities Code, or a cable operator as  
16 defined by 47 U.S.C. Section 522 and its subsequent amendments.

17 SECTION 21. BONDS. (a) The district may issue bonds or  
18 other obligations payable in whole or in part from ad valorem taxes,  
19 assessments, impact fees, revenue, grants, or other money of the  
20 district, or any combination of those sources of money, to pay for  
21 any authorized purpose of the district.

22 (b) The board may not issue bonds for a service or  
23 improvement project under this Act unless a written petition  
24 requesting that improvement or service has been filed with the  
25 board. The petition must be signed by the owners of a majority of  
26 the assessed value of real property in the district that will be  
27 subject to the assessment as determined by the most recent

1 certified tax appraisal roll for Harris County.

2 (c) In exercising the district's borrowing power, the  
3 district may issue a bond or other obligation in the form of a bond,  
4 note, certificate of participation or other instrument evidencing a  
5 proportionate interest in payments to be made by the district, or  
6 other type of obligation.

7 SECTION 22. DISBURSEMENTS OR TRANSFERS OF MONEY. The board  
8 by resolution shall establish the number of directors' signatures  
9 and the procedure required for a disbursement or transfer of the  
10 district's money.

11 SECTION 23. COMPETITIVE BIDDING LIMIT. Section 375.221,  
12 Local Government Code, applies to the district only for a contract  
13 that has a value of more than \$25,000.

14 SECTION 24. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH  
15 OUTSTANDING DEBT. (a) The board may vote to dissolve a district  
16 that has debt. If the vote is in favor of dissolution, the district  
17 shall remain in existence solely for the limited purpose of  
18 discharging its debts. The dissolution is effective when all debts  
19 have been discharged.

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

22 SECTION 25. INITIAL DIRECTORS. (a) The initial board  
23 consists of the following persons:

24	Pos. No.	Name of Director
25	1	Clay Moore
26	2	Andrea Booker-Smith
27	3	Gayle Ramsey

1	4	Irving Phillips
2	5	Tom MacLennan
3	6	Claude Wynn
4	7	Brett Littel
5	8	Raju Adwaney
6	9	Al Leal
7	10	June Deadrick
8	11	William Paul Thomas
9	12	Karen Domino
10	13	Jeff Andrews

11 (b) Of the initial directors, the terms of directors  
12 appointed for positions 1 through 5 expire June 1, 2005, and the  
13 terms of directors appointed for positions 6 through 13 expire June  
14 1, 2007.

15 (c) Section 11 of this Act does not apply to this section.

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

17 SECTION 26. LEGISLATIVE FINDINGS. The legislature finds  
18 that:

19 (1) proper and legal notice of the intention to  
20 introduce this Act, setting forth the general substance of this  
21 Act, has been published as provided by law, and the notice and a  
22 copy of this Act have been furnished to all persons, agencies,  
23 officials, or entities to which they are required to be furnished by  
24 the constitution and laws of this state, including the governor,  
25 who has submitted the notice and Act to the Texas Commission on  
26 Environmental Quality;

27 (2) the Texas Commission on Environmental Quality has

1 filed its recommendations relating to this Act with the governor,  
2 lieutenant governor, and speaker of the house of representatives  
3 within the required time;

4 (3) the general law relating to consent by political  
5 subdivisions to the creation of districts with conservation,  
6 reclamation, and road powers and the inclusion of land in those  
7 districts has been complied with; and

8 (4) all requirements of the constitution and laws of  
9 this state and the rules and procedures of the legislature with  
10 respect to the notice, introduction, and passage of this Act have  
11 been fulfilled and accomplished.

12 SECTION 27. EFFECTIVE DATE. This Act takes effect  
13 immediately if it receives a vote of two-thirds of all the members  
14 elected to each house, as provided by Section 39, Article III, Texas  
15 Constitution. If this Act does not receive the vote necessary for  
16 immediate effect, this Act takes effect September 1, 2003.