

By: Ellis

S.B. No. 1943

Substitute the following for S.B. No. 1943:

By: Talton

C.S.S.B. No. 1943

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of the Montrose Museum Community
3 Improvement District; providing the authority to impose taxes and
4 issue bonds.

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

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

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

11 SECTION 2. DEFINITIONS. In this Act:

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

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

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

20 (b) The creation of the district is necessary to promote,
21 develop, encourage, and maintain employment, commerce,
22 transportation, housing, tourism, recreation, the arts,
23 entertainment, economic development, safety, and the public
24 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 southeast corner of the intersection of West Dallas and
15 Montrose Boulevard heading in a northerly direction on Montrose to
16 the intersection of Montrose and Allen Parkway; thence,

17 Proceeding in an easterly direction on Allen Parkway to the
18 intersection of Allen Parkway and US Hwy 45; continuing in a
19 southerly direction on US Hwy 45 to the intersection of US Hwy 45
20 and Cleveland; thence,

21 Heading west along Cleveland to the intersection of Cleveland and
22 Arthur streets; thence,

23 Where the boundary line intersects with the approved boundary line
24 for the Midtown Management district; thence,

25 Proceeding from the intersection of Welch and Boston, the boundary
26 line parallels the Midtown Management district boundary line in a
27 southwesterly direction on Boston, as it proceeds in a

1 southeasterly direction on Tuam, and continues in a southerly
2 direction from Tuam to the intersection of Tuam and Bagby, and
3 continues in a southerly direction as Bagby turns into Spur 527;
4 thence,

5 The boundary line continues to parallel the Midtown Management
6 district boundary line as the boundary line as it proceeds from US
7 Hwy 59, in an easterly direction until it intersects with Main
8 Street, then proceeds in a southwesterly direction until the
9 Midtown Management district boundary line comes to the intersection
10 of Portland and Main; thence,

11 The Boundary for the Montrose Museum Community Improvement
12 District proceeds in a southwesterly direction along Main Street,
13 paralleling the boundary line for the Greater Southeast Management
14 district until the intersection of Main and Bissonnet Street;
15 thence

16 The boundary line proceeds in a Westerly direction along Bissonnet
17 Street, until Bissonnet intersects with Montrose Boulevard;
18 thence,

19 Proceeding north along the western right-of-way line for Montrose
20 Boulevard to the intersection of Montrose and West Dallas; thence,
21 Proceeding in a westerly direction along the southern right-of-way
22 line of West Dallas to the southeast intersection of Montrose and
23 West Dallas, the point and place of beginning.

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

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

1 field notes or in copying the field notes in the legislative process
2 does not in any way affect the district's:

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

9 SECTION 6. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The
10 district is created to serve a public use and benefit.

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

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

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

22 (d) The district will:

23 (1) promote the health, safety, and general welfare of
24 residents, employers, employees, visitors, and consumers in the
25 district, and of the public;

26 (2) provide needed funding to preserve, maintain, and
27 enhance the economic health and vitality of the district as a

1 community and business center; and

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

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

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

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

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

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

22 SECTION 9. NOTICE AND APPROVAL OF PROPERTY OWNERS. (a) Not
23 later than the 30th day before the date of the first board meeting,
24 written notice must be mailed by certified mail, return receipt
25 requested, to each property owner in the district who could be
26 subject to assessment by the district at the address of the property
27 owner as reflected on the most recent certified tax appraisal roll

1 for Harris County.

2 (b) The notice under Subsection (a) of this section must
3 include:

4 (1) a description and definition of the Montrose
5 Museum Community Improvement District;

6 (2) the purpose of the district;

7 (3) a statement that the district, by action of the
8 board, may charge an assessment for improvements to be made in the
9 district;

10 (4) the time, date, and location of the first board
11 meeting; and

12 (5) a method by which the property owner may respond
13 indicating approval or disapproval of the creation of the district.

14 (c) If the majority of the property owners responding before
15 the time of the first board meeting indicate disapproval of the
16 creation of the district, the board may not take any action, except
17 that the board may schedule another meeting and repeat the process
18 provided by this section.

19 SECTION 10. BOARD OF DIRECTORS IN GENERAL. (a) The
20 district is governed by a board of 13 directors appointed under
21 Section 12 of this Act.

22 (b) Directors serve staggered terms of four years, with
23 seven directors' terms expiring June 1 of an odd-numbered year and
24 six directors' terms expiring June 1 of the following odd-numbered
25 year.

26 SECTION 11. QUALIFICATIONS. (a) To be qualified to serve
27 as a director, a person must be at least 18 years old and:

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

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

5 (3) an agent, employee, or tenant nominated by a
6 person described in Subdivision (1) or (2) of this section.

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

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

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

16 (1) a director may participate in all board votes and
17 decisions; and

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

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

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

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

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

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

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

15 (1) another person's:

16 (A) telecommunications network;

17 (B) fiber-optic cable; or

18 (C) electronic transmission line; or

19 (2) any other type of transmission line or supporting
20 facility.

21 (b) The district may not require a person to use a district
22 conduit.

23 SECTION 15. ADDITIONAL POWERS OF DISTRICT. The district
24 may exercise the powers given to:

25 (1) a corporation created under Section 4B,
26 Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas
27 Civil Statutes); and

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

4 SECTION 16. AGREEMENTS; GRANTS. (a) The district may make
5 an agreement with or accept a gift, grant, or loan from any person.

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

9 SECTION 17. LAW ENFORCEMENT SERVICES. To protect the
10 public interest, the district may contract to provide law
11 enforcement services in the district for a fee.

12 SECTION 18. NONPROFIT CORPORATION. (a) The board by
13 resolution may authorize the creation of a nonprofit corporation to
14 assist and act on behalf of the district in implementing a project
15 or providing a service authorized by this Act.

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

21 (c) The nonprofit corporation:

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

25 (2) may implement any project and provide any service
26 authorized by this Act.

27 SECTION 19. REQUIREMENTS FOR FINANCING SERVICES AND

1 IMPROVEMENTS. The board may not finance a service or improvement
2 project with assessments under this Act unless a written petition
3 requesting that improvement or service has been filed with the
4 board. The petition must be signed by:

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

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

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

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

22 (1) are a first and prior lien against the property
23 assessed;

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

27 (3) are the personal liability of and charge against

1 the owners of the property even if the owners are not named in the
2 assessment proceedings.

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

7 SECTION 21. UTILITIES. The district may not impose an
8 impact fee or assessment on the property, including the equipment,
9 rights-of-way, facilities, or improvements, of an electric utility
10 or a power generation company as defined by Section 31.002,
11 Utilities Code, of a gas utility as defined by Section 101.003 or
12 121.001, Utilities Code, of a telecommunications provider as
13 defined by Section 51.002, Utilities Code, or of a cable operator as
14 defined by 47 U.S.C. Section 522 and its subsequent amendments.

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

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

27 (c) In exercising the district's borrowing power, the

1 district may issue a bond or other obligation in the form of a bond,
2 note, certificate of participation or other instrument evidencing a
3 proportionate interest in payments to be made by the district, or
4 other type of obligation.

5 SECTION 23. DISBURSEMENTS OR TRANSFERS OF MONEY. The board
6 by resolution shall establish the number of directors' signatures
7 and the procedure required for a disbursement or transfer of the
8 district's money.

9 SECTION 24. COMPETITIVE BIDDING LIMIT. Section 375.221,
10 Local Government Code, applies to the district only for a contract
11 that has a value of more than \$15,000.

12 SECTION 25. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH
13 OUTSTANDING DEBT. (a) The board may vote to dissolve a district
14 that has debt. If the vote is in favor of dissolution, the district
15 shall remain in existence solely for the limited purpose of
16 discharging its debts. The dissolution is effective when all debts
17 have been discharged.

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

20 SECTION 26. INITIAL DIRECTORS. (a) The initial board
21 consists of the following persons:

22	Pos. No.	Name of Director
23	1	Clay Moore
24	2	Kathy Hubbard
25	3	John Hansen
26	4	H. Ken Dedominicis
27	5	Claude Wynn

1	6	Brett Littel
2	7	Raju Adwaney
3	8	Tom Fricke
4	9	James Robert McDermaid
5	10	June Deadrick
6	11	William Paul Thomas
7	12	Karen Dominoe
8	13	Jeff Andrews

9 (b) Of the initial directors, the terms of directors
10 appointed for positions 1 through 7 expire June 1, 2005, and the
11 terms of directors appointed for positions 8 through 13 expire June
12 1, 2007.

13 (c) Section 12 of this Act does not apply to this section.

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

15 SECTION 27. LEGISLATIVE FINDINGS. The legislature finds
16 that:

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

25 (2) the Texas Commission on Environmental Quality has
26 filed its recommendations relating to this Act with the governor,
27 lieutenant governor, and speaker of the house of representatives

1 within the required time;

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

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

10 SECTION 28. EFFECTIVE DATE. This Act takes effect
11 immediately if it receives a vote of two-thirds of all the members
12 elected to each house, as provided by Section 39, Article III, Texas
13 Constitution. If this Act does not receive the vote necessary for
14 immediate effect, this Act takes effect September 1, 2003.