

By: Ellis

S.B. No. 1943

A BILL TO BE ENTITLED

1 AN ACT

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 of
4 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. (a) The
9 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 district
22 is governed by a board of nine directors appointed under Section 11
23 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 four
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. (a)
17 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 director's
27 interest changes. After the affidavit is filed with the board

1 secretary, the director may participate in a discussion or vote on
2 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 of a person that provides to the public
15 cable television or advanced telecommunications services.

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

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

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

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

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

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

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

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

23	Pos. No.	Name of Director
24	1	Clay Moore
25	2	Andrea Booker-Smith
26	3	Gayle Ramsey
27	4	Irving Phillips

1	5	Tom MacLennan
2	6	Claude Wynn
3	7	Brett Littel
4	8	Raju Adwaney
5	9	Al Leal

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

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

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

12 SECTION 26. LEGISLATIVE FINDINGS. The legislature finds
13 that:

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

22 (2) the Texas Commission on Environmental Quality has
23 filed its recommendations relating to this Act with the governor,
24 lieutenant governor, and speaker of the house of representatives
25 within the required time;

26 (3) the general law relating to consent by political
27 subdivisions to the creation of districts with conservation,

1 reclamation, and road powers and the inclusion of land in those
2 districts has been complied with; and

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

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