

By: Wong

H.B. No. 3494

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montrose Community Improvement District; providing authority to levy an assessment, impose a tax, and issue bonds.

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

SECTION 1. MONTROSE COMMUNITY IMPROVEMENT DISTRICT.

Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3842 to read as follows:

CHAPTER 3842. MONTROSE COMMUNITY IMPROVEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3842.001. DEFINITIONS. In this chapter:

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

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

Sec. 3842.002. MONTROSE COMMUNITY IMPROVEMENT DISTRICT.

The Montrose Community Improvement District is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3842.003. PURPOSE; 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 chapter. By creating the district and in authorizing the City of Houston, Harris County, and other political subdivisions to

1 contract with the district, the legislature has established a  
2 program to accomplish the public purposes set out in Section 52-a,  
3 Article III, Texas Constitution.

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

9 (c) This chapter and the creation of the district may not be  
10 interpreted to relieve Harris County or the City of Houston from  
11 providing the level of services provided as of the effective date of  
12 the Act enacting this chapter, to the area in the district. The  
13 district is created to supplement and not to supplant the county or  
14 city services provided in the area in the district.

15 Sec. 3842.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)  
16 The district is created to serve a public use and benefit.

17 (b) All land and other property included in the district  
18 will benefit from the improvements and services to be provided by  
19 the district under powers conferred by Sections 52 and 52-a,  
20 Article III, and Section 59, Article XVI, Texas Constitution, and  
21 other powers granted under this chapter.

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

24 (1) further the public purposes of developing and  
25 diversifying the economy of the state;

26 (2) eliminate unemployment and underemployment; and

27 (3) develop or expand transportation and commerce.

1           (d) 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 of the public;

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

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

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

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

20           Sec. 3842.005. DISTRICT TERRITORY. (a) The district is  
21 composed of the territory described by Section 2 of the Act enacting  
22 this chapter, as that territory may have been modified under:

23                   (1) Subchapter J, Chapter 49, Water Code; or

24                   (2) other law.

25           (b) The boundaries and field notes of the district contained  
26 in Section 2 of the Act enacting this chapter form a closure. A  
27 mistake in the field notes or in copying the field notes in the

1 legislative process 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 the bond;

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

7 (4) legality or operation.

8 Sec. 3842.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

9 All or any part of the area of the district is eligible to be  
10 included in:

11 (1) a tax increment reinvestment zone created by the  
12 City of Houston under Chapter 311, Tax Code;

13 (2) a tax abatement reinvestment zone created by the  
14 City of Houston under Chapter 312, Tax Code; or

15 (3) an enterprise zone created by the City of Houston  
16 under Chapter 2303, Government Code.

17 Sec. 3842.007. APPLICABILITY OF MUNICIPAL MANAGEMENT  
18 DISTRICTS LAW. Except as otherwise provided by this chapter,  
19 Chapter 375, Local Government Code, applies to the district.

20 Sec. 3842.008. LIBERAL CONSTRUCTION OF CHAPTER. This  
21 chapter shall be liberally construed in conformity with the  
22 findings and purposes stated in this chapter.

23 [Sections 3842.009-3842.050 reserved for expansion]

24 SUBCHAPTER B. BOARD OF DIRECTORS

25 Sec. 3842.051. BOARD OF DIRECTORS; TERMS. (a) The district  
26 is governed by a board of 11 voting directors who serve staggered  
27 terms of four years, with five or six directors' terms expiring June

1 1 of each odd-numbered year.

2 (b) The board by resolution may change the number of voting  
3 directors on the board, but only if the board determines that the  
4 change is in the best interest of the district. The board may not  
5 consist of fewer than five or more than 15 voting directors.

6 Sec. 3842.052. APPOINTMENT OF DIRECTORS. The mayor and  
7 members of the governing body of the City of Houston shall appoint  
8 directors from persons recommended by the board. A person is  
9 appointed if a majority of the members of the governing body,  
10 including the mayor, vote to appoint that person.

11 Sec. 3842.053. NONVOTING DIRECTORS. (a) The following  
12 persons serve as nonvoting directors:

13 (1) the directors of the following departments of the  
14 City of Houston or a person designated by that director:

15 (A) parks and recreation;

16 (B) planning and development;

17 (C) public works; and

18 (D) civic center; and

19 (2) the City of Houston's chief of police.

20 (b) If a department described by Subsection (a) is  
21 consolidated, renamed, or changed, the board may appoint a director  
22 of the consolidated, renamed, or changed department as a nonvoting  
23 director. If a department described by Subsection (a) is  
24 abolished, the board may appoint a representative of another  
25 department that performs duties comparable to those performed by  
26 the abolished department.

27 Sec. 3842.054. QUORUM. For purposes of determining whether

1 a quorum of the board is present, the following are not counted:

2 (1) a vacant board position;

3 (2) a director who is abstaining from participation in  
4 a vote because of a conflict of interest; or

5 (3) a nonvoting director.

6 Sec. 3842.055. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT.

7 (a) Except as provided by this section:

8 (1) a director may participate in all board votes and  
9 decisions; and

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

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

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

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

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

27 (d) For purposes of this section, a director has a

1 substantial interest in a charitable entity in the same manner that  
2 a person would have a substantial interest in a business entity  
3 under Section 171.002, Local Government Code.

4 Sec. 3842.056. INITIAL VOTING DIRECTORS. (a) The initial  
5 board consists of the following voting directors:

	<u>Pos. No.</u>	<u>Name of Director</u>
6		
7	<u>1</u>	<u>John C. Rose</u>
8	<u>2</u>	<u>Laura Mullen</u>
9	<u>3</u>	<u>Brett Littell</u>
10	<u>4</u>	<u>George Barnstone</u>
11	<u>5</u>	<u>Byron Rusk</u>
12	<u>6</u>	<u>Steven Biegal</u>
13	<u>7</u>	<u>Mike Mark</u>
14	<u>8</u>	<u>Alan Ueckert</u>
15	<u>9</u>	<u>John Hansen</u>
16	<u>10</u>	<u>Claude Wynn</u>
17	<u>11</u>	<u>Kathy Griffin</u>

18 (b) Of the initial directors, the terms of directors  
19 appointed for positions 1 through 6 expire June 1, 2007, and the  
20 terms of directors appointed for positions 7 through 11 expire June  
21 1, 2009.

22 (c) Section 3842.052 does not apply to this section.

23 (d) This section expires September 1, 2009.

24 [Sections 3842.057-3842.100 reserved for expansion]

25 SUBCHAPTER C. POWERS AND DUTIES

26 Sec. 3842.101. ADDITIONAL POWERS OF DISTRICT. The district  
27 may exercise the powers given to a corporation under Section 4B,

1 Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas  
2 Civil Statutes), including the power to own, operate, acquire,  
3 construct, lease, improve, or maintain a project described by that  
4 section.

5 Sec. 3842.102. NONPROFIT CORPORATION. (a) The board by  
6 resolution may authorize the creation of a nonprofit corporation to  
7 assist and act for the district in implementing a project or  
8 providing a service authorized by this chapter.

9 (b) The nonprofit corporation:

10 (1) has each power of and is considered for purposes of  
11 this chapter to be a local government corporation created under  
12 Chapter 431, Transportation Code; and

13 (2) may implement any project and provide any service  
14 authorized by this chapter.

15 (c) The board shall appoint the board of directors of the  
16 nonprofit corporation. The board of directors of the nonprofit  
17 corporation shall serve in the same manner as the board of directors  
18 of a local government corporation created under Chapter 431,  
19 Transportation Code, except that a board member is not required to  
20 reside in the district.

21 Sec. 3842.103. AGREEMENTS; GRANTS. (a) The district may  
22 make an agreement with or accept a gift, grant, or loan from any  
23 person.

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

27 Sec. 3842.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT.



1 To protect the public interest, the district may contract with a  
2 qualified provider, including Harris County or the City of Houston,  
3 to provide law enforcement services in the district for a fee.

4 Sec. 3842.105. APPROVAL BY CITY OF HOUSTON. (a) Except as  
5 provided by Subsection (b), the district must obtain the approval  
6 of the City of Houston's governing body for:

7 (1) the issuance of a bond for each improvement  
8 project;

9 (2) the plans and specifications of the improvement  
10 project financed by the bond; and

11 (3) the plans and specifications of any district  
12 improvement project related to the use of land owned by the City of  
13 Houston, an easement granted by the City of Houston, or a  
14 right-of-way of a street, road, or highway.

15 (b) The approval obtained for the issuance of bonds under  
16 Subsection (a) must be a resolution by the City of Houston. The  
17 approval obtained for plans and specifications must be a permit  
18 issued by the City of Houston.

19 (c) If the district obtains the approval of the City of  
20 Houston's governing body of a capital improvements budget for a  
21 period not to exceed five years, the district may finance the  
22 capital improvements and issue bonds specified in the budget  
23 without further approval from the City of Houston.

24 Sec. 3842.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The  
25 district may join and pay dues to an organization that:

26 (1) enjoys tax-exempt status under Section 501(c)(3),  
27 (4), or (6), Internal Revenue Code of 1986; and

1           (2) performs a service or provides an activity  
2 consistent with the furtherance of a district purpose.

3           Sec. 3842.107. ECONOMIC DEVELOPMENT PROGRAMS. (a) The  
4 district may establish and provide for the administration of one or  
5 more programs to promote state or local economic development and to  
6 stimulate business and commercial activity in the district,  
7 including programs to:

8                   (1) make loans and grants of public money; and

9                   (2) provide district personnel and services.

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

13           Sec. 3842.108. NO EMINENT DOMAIN. The district may not  
14 exercise the power of eminent domain.

15           [Sections 3842.109–3842.150 reserved for expansion]

16                   SUBCHAPTER D. FINANCIAL PROVISIONS

17           Sec. 3842.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The  
18 board by resolution shall establish the number of directors'  
19 signatures and the procedure required for a disbursement or  
20 transfer of the district's money.

21           Sec. 3842.152. MONEY USED FOR IMPROVEMENTS OR SERVICES.  
22 The district may acquire, construct, finance, operate, or maintain  
23 any improvement or service authorized under this chapter or Chapter  
24 375, Local Government Code, using any money available to the  
25 district.

26           Sec. 3842.153. PETITION REQUIRED FOR FINANCING SERVICES AND  
27 IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a

1 service or improvement project with assessments under this chapter  
2 unless a written petition requesting that service or improvement  
3 has been filed with the board.

4 (b) A petition filed under Subsection (a) must be signed by:

5 (1) the owners of a majority of the assessed value of  
6 real property in the district subject to assessment according to  
7 the most recent certified tax appraisal roll for Harris County; or

8 (2) at least 50 persons who own real property in the  
9 district, if more than 50 persons own real property in the district  
10 as determined by the most recent certified tax appraisal roll for  
11 Harris County.

12 Sec. 3842.154. METHOD OF NOTICE FOR HEARING. The district  
13 may mail the notice required by Section 375.115(c), Local  
14 Government Code, by certified United States mail or an equivalent  
15 service that can provide a record of mailing or other delivery.

16 Sec. 3842.155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)  
17 The board by resolution may impose and collect an assessment for any  
18 purpose authorized by this chapter.

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 a 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 board's  
6 resolution 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 (d) The board may make a correction to or deletion from the  
10 assessment roll that does not increase the amount of assessment of  
11 any parcel of land without providing notice and holding a hearing in  
12 the manner required for additional assessments.

13 Sec. 3842.156. AD VALOREM TAX. (a) If authorized at an  
14 election held in accordance with Section 3842.160, the district may  
15 impose an annual ad valorem tax on taxable property in the district  
16 for any district purpose, including to:

- 17 (1) finance the district;  
18 (2) maintain and operate the district;  
19 (3) construct or acquire improvements; or  
20 (4) provide a service.

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

22 Sec. 3842.157. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND  
23 ASSESSMENTS. The district may not impose an impact fee or  
24 assessment on the property, including the equipment,  
25 rights-of-way, facilities, or improvements, of:

- 26 (1) an electric utility or a power generation company  
27 as defined by Section 31.002, Utilities Code;

1           (2) a gas utility as defined by Section 101.003 or  
2 121.001, Utilities Code;

3           (3) a telecommunications provider as defined by  
4 Section 51.002, Utilities Code; or

5           (4) a person who provides to the public cable  
6 television or advanced telecommunications services.

7           Sec. 3842.158. BONDS AND OTHER OBLIGATIONS. (a) The  
8 district may issue bonds or other obligations payable wholly or  
9 partly from taxes, assessments, impact fees, revenue, grants, or  
10 other money of the district, or any combination of those sources of  
11 money, to pay for any authorized purpose of the district.

12           (b) The district may issue a bond or other obligation in the  
13 form of a bond, note, certificate of participation or other  
14 instrument evidencing a proportionate interest in payments to be  
15 made by the district, or other type of obligation.

16           Sec. 3842.159. TAXES FOR BONDS AND OTHER OBLIGATIONS. At  
17 the time bonds or other obligations payable wholly or partly from ad  
18 valorem taxes are issued:

19           (1) the board shall impose a continuing direct annual  
20 ad valorem tax, without limit as to rate or amount, for each year  
21 that all or part of the bonds are outstanding; and

22           (2) the district annually shall impose the continuing  
23 direct ad valorem tax on all taxable property in the district in an  
24 amount sufficient to:

25           (A) pay the interest on the bonds or other  
26 obligations as the interest becomes due;

27           (B) create a sinking fund for the payment of the

1 principal of the bonds or other obligations when due or the  
2 redemption price at any earlier required redemption date; and

3 (C) pay the expenses of imposing the taxes.

4 Sec. 3842.160. TAX AND BOND ELECTIONS. (a) The district  
5 shall hold an election in the manner provided by Subchapter L,  
6 Chapter 375, Local Government Code, to obtain voter approval before  
7 the district imposes an ad valorem tax or issues bonds payable from  
8 ad valorem 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 Sec. 3842.161. CITIES NOT REQUIRED TO PAY DISTRICT  
14 OBLIGATIONS. Except as provided by Section 375.263, Local  
15 Government Code, the City of Houston is not required to pay a bond,  
16 note, or other obligation of the district.

17 Sec. 3842.162. COMPETITIVE BIDDING. Section 375.221, Local  
18 Government Code, applies to the district only for a contract that  
19 has a value greater than \$25,000.

20 Sec. 3842.163. TAX AND ASSESSMENT ABATEMENTS. The district  
21 may grant in the manner authorized by Chapter 312, Tax Code, an  
22 abatement for a tax or assessment owed to the district.

23 [Sections 3842.164-3842.200 reserved for expansion]

24 SUBCHAPTER E. DISSOLUTION

25 Sec. 3842.201. DISSOLUTION OF DISTRICT WITH OUTSTANDING  
26 DEBT. (a) The board may dissolve the district regardless of  
27 whether the district has debt. Section 375.264, Local Government

1 Code, does not apply to the district.

2 (b) If the district has debt when it is dissolved, the  
3 district shall remain in existence solely for the purpose of  
4 discharging its debts. The dissolution is effective when all debts  
5 have been discharged.

6 SECTION 2. BOUNDARIES. As of the effective date of this  
7 Act, the Montrose Community Improvement District includes all  
8 territory contained in the following described area in Harris  
9 County, Texas:

10 Commencing, at the intersection of the center point of the right of  
11 way of Shepherd Street and the center point of the right of way of  
12 West Dallas Street, proceeding East along the center line of the  
13 right of way of West Dallas Street to the intersection of the center  
14 line of the right of way of West Dallas Street and the center line of  
15 Montrose Boulevard;

16 Thence, South along the center line of Montrose Boulevard to the  
17 center line of the right of way of US Highway 59;

18 Thence, East along the center line of the right of way of US Highway  
19 59 to the center line of the right of way of Main Street;

20 Thence, Southwest along the center line of the right of way of Main  
21 Street to the center line of the right of way of Bissonnet Street;

22 Thence, West along the center line of the right of way of Bissonnet  
23 Street to the center line of the right of way of Graustark Street;

24 Thence, North along the center line of the right of way of  
25 Graustark Street to the center line of the right of way of US  
26 Highway 59;

27 Thence, West along the center line of the right of way of US Highway

1 59 to the center line of the right of way of South Shepard Street;  
2 Thence, North along the center line of the right of way of South  
3 Shepard to the POINT OF BEGINNING.

4 SAVE AND EXCEPT, any property contained within the boundaries of  
5 the Midtown Management District, the Greater Southeast Management  
6 District, or any other existing municipal management district.

7 SECTION 3. LEGISLATIVE FINDINGS. The legislature finds  
8 that:

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

17 (2) the Texas Commission on Environmental Quality has  
18 filed its recommendations relating to this Act with the governor,  
19 lieutenant governor, and speaker of the house of representatives  
20 within the required time;

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

25 (4) all requirements of the constitution and laws of  
26 this state and the rules and procedures of the legislature with  
27 respect to the notice, introduction, and passage of this Act have



1 been fulfilled and accomplished.

2 SECTION 4. DATE OF PETITION. A petition filed under Section  
3 3842.153, Special District Local Laws Code, as added by this Act,  
4 may be dated before the effective date of this Act.

5 SECTION 5. EFFECTIVE DATE. This Act takes effect  
6 immediately if it receives a vote of two-thirds of all the members  
7 elected to each house, as provided by Section 39, Article III, Texas  
8 Constitution. If this Act does not receive the vote necessary for  
9 immediate effect, this Act takes effect September 1, 2005.