

By: Ellis

S.B. No. 1860

A BILL TO BE ENTITLED

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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.

16 (a) 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
26 district is governed by a board of 13 voting directors who serve
27 staggered terms of four years, with six or seven directors' terms

1 expiring June 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 the

1 requirements for a quorum of the board, the following are not
2 counted:

3 (1) a board position vacant for any reason, including
4 death, resignation, or disqualification;

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

7 (3) a nonvoting director.

8 Sec. 3842.055. INITIAL VOTING DIRECTORS. (a) The initial
9 board consists of the following voting directors:

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

24 (b) Of the initial directors, the terms of directors
25 appointed for positions 1 through 7 expire June 1, 2007, and the
26 terms of directors appointed for positions 8 through 13 expire June
27 1, 2009.

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

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

3 [Sections 3842.056-3842.100 reserved for expansion]

4 SUBCHAPTER C. POWERS AND DUTIES

5 Sec. 3842.101. ADDITIONAL POWERS OF DISTRICT. The district
6 may exercise the powers given to a corporation under Section 4B,
7 Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas
8 Civil Statutes), including the power to own, operate, acquire,
9 construct, lease, improve, or maintain a project described by that
10 section.

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

15 (b) The nonprofit corporation:

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

19 (2) may implement any project and provide any service
20 authorized by this chapter.

21 (c) The board shall appoint the board of directors of the
22 nonprofit corporation. The board of directors of the nonprofit
23 corporation shall serve in the same manner as the board of directors
24 of a local government corporation created under Chapter 431,
25 Transportation Code, except that a board member is not required to
26 reside in the district.

27 Sec. 3842.103. AGREEMENTS; GRANTS. (a) The district may

1 make an agreement with or accept a gift, grant, or loan from any
2 person.

3 (b) The implementation of a project is a governmental
4 function or service for the purposes of Chapter 791, Government
5 Code.

6 Sec. 3842.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT.
7 To protect the public interest, the district may contract with a
8 qualified provider, including Harris County or the City of Houston,
9 to provide law enforcement services in the district for a fee.

10 Sec. 3842.105. APPROVAL BY CITY OF HOUSTON. (a) Except as
11 provided by Subsection (c), the district must obtain the approval
12 of the City of Houston's governing body for:

13 (1) the issuance of a bond for each improvement
14 project;

15 (2) the plans and specifications of the improvement
16 project financed by the bond; and

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

21 (b) The approval obtained for the issuance of bonds under
22 Subsection (a) must be a resolution by the City of Houston. The
23 approval obtained for plans and specifications must be a permit
24 issued by the City of Houston.

25 (c) If the district obtains the approval of the City of
26 Houston's governing body of a capital improvements budget for a
27 period not to exceed five years, the district may finance the

1 capital improvements and issue bonds specified in the budget
2 without further approval from the City of Houston.

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

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

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

9 Sec. 3842.107. ECONOMIC DEVELOPMENT PROGRAMS. (a) The
10 district may establish and provide for the administration of one or
11 more programs to promote state or local economic development and to
12 stimulate business and commercial activity in the district,
13 including programs to:

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

15 (2) provide district personnel and services.

16 (b) For purposes of this section, the district has all of
17 the powers of a municipality under Chapter 380, Local Government
18 Code.

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

21 [Sections 3842.109–3842.150 reserved for expansion]

22 SUBCHAPTER D. FINANCIAL PROVISIONS

23 Sec. 3842.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The
24 board by resolution shall establish the number of directors'
25 signatures and the procedure required for a disbursement or
26 transfer of the district's money.

27 Sec. 3842.152. MONEY USED FOR IMPROVEMENTS OR SERVICES.

1 The district may acquire, construct, finance, operate, or maintain
2 any improvement or service authorized under this chapter or Chapter
3 375, Local Government Code, using any money available to the
4 district.

5 Sec. 3842.153. PETITION REQUIRED FOR FINANCING SERVICES AND
6 IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a
7 service or improvement project with assessments under this chapter
8 unless a written petition requesting that service or improvement
9 has been filed with the board.

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

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

14 (2) at least 50 persons who own real property in the
15 district, if more than 50 persons own real property in the district
16 as determined by the most recent certified tax appraisal roll for
17 Harris County.

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

22 Sec. 3842.155. ASSESSMENTS; LIENS FOR ASSESSMENTS.

23 (a) The board by resolution may impose and collect an assessment
24 in all or part of the district for any purpose authorized by this
25 chapter.

26 (b) An assessment, a reassessment, or an assessment
27 resulting from an addition to or correction of the assessment roll

1 by the district, penalties and interest on an assessment or
2 reassessment, an expense of collection, and reasonable attorney's
3 fees incurred by the district:

4 (1) are a first and prior lien against the property
5 assessed;

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

9 (3) are the personal liability of and a charge against
10 the owners of the property even if the owners are not named in the
11 assessment proceedings.

12 (c) The lien is effective from the date of the board's
13 resolution imposing the assessment until the date the assessment is
14 paid. The board may enforce the lien in the same manner that the
15 board may enforce an ad valorem tax lien against real property.

16 (d) The board may make a correction to or deletion from the
17 assessment roll that does not increase the amount of assessment of
18 any parcel of land without providing notice and holding a hearing in
19 the manner required for additional assessments.

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

24 (1) finance the district;

25 (2) maintain and operate the district;

26 (3) construct or acquire improvements; or

27 (4) provide a service.

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

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

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

8 (2) a gas utility as defined by Section 101.003 or
9 121.001, Utilities Code;

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

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

14 Sec. 3842.158. BONDS AND OTHER OBLIGATIONS. (a) The
15 district may issue bonds or other obligations, by competitive bid
16 or negotiated sale, payable wholly or partly from 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 district may issue a bond or other obligation in the
21 form of a bond, note, certificate of participation or other
22 instrument evidencing a proportionate interest in payments to be
23 made by the district, or other type of obligation.

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

27 (1) the board shall impose a continuing direct annual

1 ad valorem tax, without limit as to rate or amount, for each year
2 that all or part of the bonds are outstanding; and

3 (2) the district annually shall impose the continuing
4 direct ad valorem tax on all taxable property in the district in an
5 amount sufficient to:

6 (A) pay the interest on the bonds or other
7 obligations as the interest becomes due;

8 (B) create a sinking fund for the payment of the
9 principal of the bonds or other obligations when due or the
10 redemption price at any earlier required redemption date; and

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

12 Sec. 3842.160. TAX AND BOND ELECTIONS. (a) The district
13 shall hold an election in the manner provided by Subchapter L,
14 Chapter 375, Local Government Code, to obtain voter approval before
15 the district imposes an ad valorem tax or issues bonds payable from
16 ad valorem taxes.

17 (b) Section 375.243, Local Government Code, does not apply
18 to the district.

19 Sec. 3842.161. CITIES NOT REQUIRED TO PAY DISTRICT
20 OBLIGATIONS. Except as provided by Section 375.263, Local
21 Government Code, the City of Houston is not required to pay a bond,
22 note, or other obligation of the district.

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

26 Sec. 3842.163. TAX AND ASSESSMENT ABATEMENTS. The district
27 may grant in the manner authorized by Chapter 312, Tax Code, an

1 abatement for a tax or assessment owed to the district.

2 [Sections 3842.164-3842.200 reserved for expansion]

3 SUBCHAPTER E. DISSOLUTION

4 Sec. 3842.201. DISSOLUTION OF DISTRICT WITH OUTSTANDING
5 DEBT. (a) The board may dissolve the district regardless of
6 whether the district has debt. Section 375.264, Local Government
7 Code, does not apply to the district.

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

12 Sec. 3842.202. DISSOLUTION; CONTINUATION BY RESOLUTION.

13 (a) Unless continued in existence by the adoption of a resolution
14 by the governing body of the municipality where the district is
15 located, the district is dissolved September 1, 2011.

16 (b) If the district is dissolved under this section, the
17 district shall remain in existence until all debts are paid and the
18 remaining assets are transferred to the municipality where the
19 district is located. The dissolution is effective when all assets
20 have been transferred and all debts have been discharged.

21 (c) The governing body of the municipality where the
22 district is located may adopt a resolution continuing the district
23 only if the governing body finds that:

24 (1) the district continues to serve a public use and
25 benefit; and

26 (2) land and other property included in the district
27 will continue to benefit from the improvements and services

1 provided by the district.

2 (d) The governing body of the municipality shall specify in
3 the resolution continuing the district a date on which the district
4 will be dissolved. The governing body may not specify a date that
5 occurs later than the sixth anniversary of the date of the
6 resolution. The district is dissolved on the date specified in the
7 resolution unless the governing body adopts a subsequent resolution
8 extending the existence of the district under the procedures
9 described by this section.

10 (e) Not later than the 30th day after the date a resolution
11 is adopted under this section, the governing body of the
12 municipality shall file a copy of the resolution continuing the
13 district with the Texas Commission on Environmental Quality.

14 SECTION 2. BOUNDARIES. As of the effective date of this
15 Act, the Montrose Community Improvement District includes all
16 territory contained in the following described area in Harris
17 County, Texas:

18 Commencing, at the intersection of the center point of the right of
19 way of Shepherd Street and the center point of the right of way of
20 West Dallas Street, proceeding East along the center line of the
21 right of way of West Dallas Street to the intersection of the center
22 line of the right of way of West Dallas Street and the center line of
23 Montrose Boulevard;

24 Thence, South along the center line of Montrose Boulevard to the
25 center line of the right of way of Sul Ross Avenue;

26 Thence, West along the center line of the right of way of Sul Ross
27 Avenue to the center line of the right of way of Mulberry Street;

1 Thence, South along the center line of the right of way of Mulberry
2 Street to center line of the right of way of Branard Street;
3 Thence, East along the center line of the right of way of Branard
4 Street to the center line of the right of way of Yupon Street;
5 Thence, South along the center line of the right of way of Yupon
6 Street to the center line of the right of way of Colquitt Avenue;
7 Thence, East along the center line of the right of way of Colquitt
8 Avenue to the center line of the right of way of Graustark Street;
9 Thence, South along the center line of the right of way of Graustark
10 Street to the North boundary of the right of way of US Highway 59;
11 Thence, East along the North boundary of the right of way of US
12 Highway 59 to the center line of the right of way of Main Street;
13 Thence, Southwest along the center line of the right of way of Main
14 Street to the center line of the right of way of Arbor Place Street
15 where Arbor Place Street intersects the West boundary of Main
16 Street;
17 Thence, West along the center line of the right of way of Arbor
18 Place Street to the center line of the right of way of Travis
19 Street;
20 Thence, Southwest along the center line of the right of way of
21 Travis Street to the center line of the right of way of Portland
22 Street;
23 Thence, East along the center line of the right of way of Portland
24 Street to the center line of the right of way of Main Street;
25 Thence, Southwest along the center line of the right of way of Main
26 Street to the center line of the right of way of Bissonnet Street;
27 Thence, West along the center line of the right of way of Bissonnet

1 Street to the center line of the right of way of Graustark Street;
2 Thence, North along the center line of the right of way of Graustark
3 Street to the center line of the right of way of US Highway 59;
4 Thence, West along the center line of the right of way of US Highway
5 59 to the center line of the right of way of South Shepard Street;
6 Thence, North along the center line of the right of way of South
7 Shepard to the POINT OF BEGINNING.

8 SAVE AND EXCEPT, any property currently contained within the
9 boundaries of the Midtown Management District, the Greater
10 Southeast Management District, or any other existing municipal
11 management district.

12 SECTION 3. 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 4. DATE OF PETITION. A petition filed under Section
8 3842.153, Special District Local Laws Code, as added by this Act,
9 may be dated before the effective date of this Act.

10 SECTION 5. 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, 2005.