

1-1 By: Ellis S.B. No. 1860
1-2 (In the Senate - Filed April 14, 2005; April 18, 2005, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; May 2, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 May 2, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1860 By: Deuell

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the creation of the Montrose Community Improvement
1-11 District; providing authority to levy an assessment, impose a tax,
1-12 and issue bonds.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. MONTROSE COMMUNITY IMPROVEMENT DISTRICT.

1-15 Subtitle C, Title 4, Special District Local Laws Code, is amended by
1-16 adding Chapter 3842 to read as follows:

1-17 CHAPTER 3842. MONTROSE COMMUNITY IMPROVEMENT DISTRICT

1-18 SUBCHAPTER A. GENERAL PROVISIONS

1-19 Sec. 3842.001. DEFINITIONS. In this chapter:

1-20 (1) "Board" means the board of directors of the
1-21 district.

1-22 (2) "District" means the Montrose Community
1-23 Improvement District.

1-24 Sec. 3842.002. MONTROSE COMMUNITY IMPROVEMENT DISTRICT.
1-25 The Montrose Community Improvement District is a special district
1-26 created under Section 59, Article XVI, Texas Constitution.

1-27 Sec. 3842.003. PURPOSE; DECLARATION OF INTENT. (a) The
1-28 creation of the district is essential to accomplish the purposes of
1-29 Sections 52 and 52-a, Article III, and Section 59, Article XVI,
1-30 Texas Constitution, and other public purposes stated in this
1-31 chapter. By creating the district and in authorizing the City of
1-32 Houston, Harris County, and other political subdivisions to
1-33 contract with the district, the legislature has established a
1-34 program to accomplish the public purposes set out in Section 52-a,
1-35 Article III, Texas Constitution.

1-36 (b) The creation of the district is necessary to promote,
1-37 develop, encourage, and maintain employment, commerce,
1-38 transportation, housing, tourism, recreation, the arts,
1-39 entertainment, economic development, safety, and the public
1-40 welfare in the district.

1-41 (c) This chapter and the creation of the district may not be
1-42 interpreted to relieve Harris County or the City of Houston from
1-43 providing the level of services provided as of the effective date of
1-44 the Act enacting this chapter to the area in the district. The
1-45 district is created to supplement and not to supplant the county or
1-46 city services provided in the area in the district.

1-47 Sec. 3842.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

1-48 (a) The district is created to serve a public use and benefit.

1-49 (b) All land and other property included in the district
1-50 will benefit from the improvements and services to be provided by
1-51 the district under powers conferred by Sections 52 and 52-a,
1-52 Article III, and Section 59, Article XVI, Texas Constitution, and
1-53 other powers granted under this chapter.

1-54 (c) The creation of the district is in the public interest
1-55 and is essential to:

1-56 (1) further the public purposes of developing and
1-57 diversifying the economy of the state;

1-58 (2) eliminate unemployment and underemployment; and

1-59 (3) develop or expand transportation and commerce.

1-60 (d) The district will:

1-61 (1) promote the health, safety, and general welfare of
1-62 residents, employers, employees, visitors, and consumers in the
1-63 district, and of the public;

2-1 (2) provide needed funding for the district to
2-2 preserve, maintain, and enhance the economic health and vitality of
2-3 the district territory as a community and business center; and

2-4 (3) promote the health, safety, welfare, and enjoyment
2-5 of the public by providing pedestrian ways and by landscaping and
2-6 developing certain areas in the district, which are necessary for
2-7 the restoration, preservation, and enhancement of scenic beauty.

2-8 (e) Pedestrian ways along or across a street, whether at
2-9 grade or above or below the surface, and street lighting, street
2-10 landscaping, parking, and street art objects are parts of and
2-11 necessary components of a street and are considered to be a street
2-12 or road improvement.

2-13 (f) The district will not act as the agent or
2-14 instrumentality of any private interest even though the district
2-15 will benefit many private interests as well as the public.

2-16 Sec. 3842.005. DISTRICT TERRITORY. (a) The district is
2-17 composed of the territory described by Section 2 of the Act enacting
2-18 this chapter, as that territory may have been modified under:

2-19 (1) Subchapter J, Chapter 49, Water Code; or

2-20 (2) other law.

2-21 (b) The boundaries and field notes of the district contained
2-22 in Section 2 of the Act enacting this chapter form a closure. A
2-23 mistake in the field notes or in copying the field notes in the
2-24 legislative process does not in any way affect the district's:

2-25 (1) organization, existence, or validity;

2-26 (2) right to issue any type of bond for a purpose for
2-27 which the district is created or to pay the principal of and
2-28 interest on the bond;

2-29 (3) right to impose or collect an assessment or tax; or

2-30 (4) legality or operation.

2-31 Sec. 3842.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.
2-32 All or any part of the area of the district is eligible to be
2-33 included in:

2-34 (1) a tax increment reinvestment zone created by the
2-35 City of Houston under Chapter 311, Tax Code;

2-36 (2) a tax abatement reinvestment zone created by the
2-37 City of Houston under Chapter 312, Tax Code; or

2-38 (3) an enterprise zone created by the City of Houston
2-39 under Chapter 2303, Government Code.

2-40 Sec. 3842.007. APPLICABILITY OF MUNICIPAL MANAGEMENT
2-41 DISTRICTS LAW. Except as otherwise provided by this chapter,
2-42 Chapter 375, Local Government Code, applies to the district.

2-43 Sec. 3842.008. LIBERAL CONSTRUCTION OF CHAPTER. This
2-44 chapter shall be liberally construed in conformity with the
2-45 findings and purposes stated in this chapter.

2-46 [Sections 3842.009-3842.050 reserved for expansion]

2-47 SUBCHAPTER B. BOARD OF DIRECTORS

2-48 Sec. 3842.051. BOARD OF DIRECTORS; TERMS. (a) The
2-49 district is governed by a board of 13 voting directors who serve
2-50 staggered terms of four years, with six or seven directors' terms
2-51 expiring June 1 of each odd-numbered year.

2-52 (b) The board by resolution may change the number of voting
2-53 directors on the board, but only if the board determines that the
2-54 change is in the best interest of the district. The board may not
2-55 consist of fewer than five or more than 15 voting directors.

2-56 Sec. 3842.052. APPOINTMENT OF DIRECTORS. The mayor and
2-57 members of the governing body of the City of Houston shall appoint
2-58 directors from persons recommended by the board. A person is
2-59 appointed if a majority of the members of the governing body,
2-60 including the mayor, vote to appoint that person.

2-61 Sec. 3842.053. NONVOTING DIRECTORS. (a) The following
2-62 persons serve as nonvoting directors:

2-63 (1) the directors of the following departments of the
2-64 City of Houston or a person designated by that director:

2-65 (A) parks and recreation;

2-66 (B) planning and development;

2-67 (C) public works; and

2-68 (D) civic center; and

2-69 (2) the City of Houston's chief of police.

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

Sec. 3842.054. QUORUM. For purposes of determining the requirements for a quorum of the board, the following are not counted:

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

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

(3) a nonvoting director.

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

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

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

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

(d) This section expires September 1, 2009.

[Sections 3842.056-3842.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

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

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

(b) The nonprofit corporation:

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

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

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

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

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

Sec. 3842.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT. To protect the public interest, the district may contract with a

4-1 qualified provider, including Harris County or the City of Houston,
4-2 to provide law enforcement services in the district for a fee.

4-3 Sec. 3842.105. APPROVAL BY CITY OF HOUSTON. (a) Except as
4-4 provided by Subsection (c), the district must obtain the approval
4-5 of the City of Houston's governing body for:

4-6 (1) the issuance of a bond for each improvement
4-7 project;

4-8 (2) the plans and specifications of the improvement
4-9 project financed by the bond; and

4-10 (3) the plans and specifications of any district
4-11 improvement project related to the use of land owned by the City of
4-12 Houston, an easement granted by the City of Houston, or a
4-13 right-of-way of a street, road, or highway.

4-14 (b) The approval obtained for the issuance of bonds under
4-15 Subsection (a) must be a resolution by the City of Houston. The
4-16 approval obtained for plans and specifications must be a permit
4-17 issued by the City of Houston.

4-18 (c) If the district obtains the approval of the City of
4-19 Houston's governing body of a capital improvements budget for a
4-20 period not to exceed five years, the district may finance the
4-21 capital improvements and issue bonds specified in the budget
4-22 without further approval from the City of Houston.

4-23 Sec. 3842.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The
4-24 district may join and pay dues to an organization that:

4-25 (1) enjoys tax-exempt status under Section 501(c)(3),
4-26 (4), or (6), Internal Revenue Code of 1986; and

4-27 (2) performs a service or provides an activity
4-28 consistent with the furtherance of a district purpose.

4-29 Sec. 3842.107. ECONOMIC DEVELOPMENT PROGRAMS. (a) The
4-30 district may establish and provide for the administration of one or
4-31 more programs to promote state or local economic development and to
4-32 stimulate business and commercial activity in the district,
4-33 including programs to:

4-34 (1) make loans and grants of public money; and
4-35 (2) provide district personnel and services.

4-36 (b) For purposes of this section, the district has all of
4-37 the powers of a municipality under Chapter 380, Local Government
4-38 Code.

4-39 Sec. 3842.108. NO EMINENT DOMAIN. The district may not
4-40 exercise the power of eminent domain.

4-41 [Sections 3842.109-3842.150 reserved for expansion]

4-42 SUBCHAPTER D. FINANCIAL PROVISIONS

4-43 Sec. 3842.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The
4-44 board by resolution shall establish the number of directors'
4-45 signatures and the procedure required for a disbursement or
4-46 transfer of the district's money.

4-47 Sec. 3842.152. MONEY USED FOR IMPROVEMENTS OR SERVICES.
4-48 The district may acquire, construct, finance, operate, or maintain
4-49 any improvement or service authorized under this chapter or Chapter
4-50 375, Local Government Code, using any money available to the
4-51 district.

4-52 Sec. 3842.153. PETITION REQUIRED FOR FINANCING SERVICES AND
4-53 IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a
4-54 service or improvement project with assessments under this chapter
4-55 unless a written petition requesting that service or improvement
4-56 has been filed with the board.

4-57 (b) A petition filed under Subsection (a) must be signed by:

4-58 (1) the owners of a majority of the assessed value of
4-59 real property in the district subject to assessment according to
4-60 the most recent certified tax appraisal roll for Harris County; or

4-61 (2) at least 50 persons who own real property in the
4-62 district, if more than 50 persons own real property in the district
4-63 as determined by the most recent certified tax appraisal roll for
4-64 Harris County.

4-65 Sec. 3842.154. METHOD OF NOTICE FOR HEARING. The district
4-66 may mail the notice required by Section 375.115(c), Local
4-67 Government Code, by certified United States mail or an equivalent
4-68 service that can provide a record of mailing or other delivery.

4-69 Sec. 3842.155. ASSESSMENTS; LIENS FOR ASSESSMENTS.

5-1 (a) The board by resolution may impose and collect an assessment
5-2 in all or part of the district for any purpose authorized by this
5-3 chapter.

5-4 (b) An assessment, a reassessment, or an assessment
5-5 resulting from an addition to or correction of the assessment roll
5-6 by the district, penalties and interest on an assessment or
5-7 reassessment, an expense of collection, and reasonable attorney's
5-8 fees incurred by the district:

5-9 (1) are a first and prior lien against the property
5-10 assessed;

5-11 (2) are superior to any other lien or claim other than
5-12 a lien or claim for county, school district, or municipal ad valorem
5-13 taxes; and

5-14 (3) are the personal liability of and a charge against
5-15 the owners of the property even if the owners are not named in the
5-16 assessment proceedings.

5-17 (c) The lien is effective from the date of the board's
5-18 resolution imposing the assessment until the date the assessment is
5-19 paid. The board may enforce the lien in the same manner that the
5-20 board may enforce an ad valorem tax lien against real property.

5-21 (d) The board may make a correction to or deletion from the
5-22 assessment roll that does not increase the amount of assessment of
5-23 any parcel of land without providing notice and holding a hearing in
5-24 the manner required for additional assessments.

5-25 Sec. 3842.156. AD VALOREM TAX. (a) If authorized at an
5-26 election held in accordance with Section 3842.160, the district may
5-27 impose an annual ad valorem tax on taxable property in the district
5-28 for any district purpose, including to:

5-29 (1) finance the district;

5-30 (2) maintain and operate the district;

5-31 (3) construct or acquire improvements; or

5-32 (4) provide a service.

5-33 (b) The board shall determine the tax rate.

5-34 Sec. 3842.157. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND
5-35 ASSESSMENTS. The district may not impose an impact fee or
5-36 assessment on the property, including the equipment,
5-37 rights-of-way, facilities, or improvements, of:

5-38 (1) an electric utility or a power generation company
5-39 as defined by Section 31.002, Utilities Code;

5-40 (2) a gas utility as defined by Section 101.003 or
5-41 121.001, Utilities Code;

5-42 (3) a telecommunications provider as defined by
5-43 Section 51.002, Utilities Code; or

5-44 (4) a person who provides to the public cable
5-45 television or advanced telecommunications services.

5-46 Sec. 3842.158. BONDS AND OTHER OBLIGATIONS. (a) The
5-47 district may issue bonds or other obligations, by competitive bid
5-48 or negotiated sale, payable wholly or partly from taxes,
5-49 assessments, impact fees, revenue, grants, or other money of the
5-50 district, or any combination of those sources of money, to pay for
5-51 any authorized purpose of the district.

5-52 (b) The district may issue a bond or other obligation in the
5-53 form of a bond, note, certificate of participation or other
5-54 instrument evidencing a proportionate interest in payments to be
5-55 made by the district, or other type of obligation.

5-56 Sec. 3842.159. TAXES FOR BONDS AND OTHER OBLIGATIONS. At
5-57 the time bonds or other obligations payable wholly or partly from ad
5-58 valorem taxes are issued:

5-59 (1) the board shall impose a continuing direct annual
5-60 ad valorem tax, without limit as to rate or amount, for each year
5-61 that all or part of the bonds are outstanding; and

5-62 (2) the district annually shall impose the continuing
5-63 direct ad valorem tax on all taxable property in the district in an
5-64 amount sufficient to:

5-65 (A) pay the interest on the bonds or other
5-66 obligations as the interest becomes due;

5-67 (B) create a sinking fund for the payment of the
5-68 principal of the bonds or other obligations when due or the
5-69 redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

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

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

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

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

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

[Sections 3842.164-3842.200 reserved for expansion]

SUBCHAPTER E. DISSOLUTION

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

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

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

Commencing, at the intersection of the center point of the right of way of Shepherd Street and the center point of the right of way of West Dallas Street, proceeding East along the center line of the right of way of West Dallas Street to the intersection of the center line of the right of way of West Dallas Street and the center line of Montrose Boulevard;

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

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

Thence, South along the center line of the right of way of Mulberry Street to center line of the right of way of Branard Street;

Thence, East along the center line of the right of way of Branard Street to the center line of the right of way of Yupon Street;

Thence, South along the center line of the right of way of Yupon Street to the center line of the right of way of Colquitt Avenue;

Thence, East along the center line of the right of way of Colquitt Avenue to the center line of the right of way of Graustark Street;

Thence, South along the center line of the right of way of Graustark Street to the North boundary of the right of way of US Highway 59;

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

Thence, Southwest along the center line of the right of way of Main Street to the center line of the right of way of Arbor Place Street where Arbor Place Street intersects the West boundary of Main Street;

Thence, West along the center line of the right of way of Arbor Place Street to the center line of the right of way of Travis Street;

Thence, Southwest along the center line of the right of way of Travis Street to the center line of the right of way of Portland Street;

Thence, East along the center line of the right of way of Portland Street to the center line of the right of way of Main Street;

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

Thence, West along the center line of the right of way of Bissonnet

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

7-8 SAVE AND EXCEPT, any property currently contained within the
7-9 boundaries of the Midtown Management District, the Greater
7-10 Southeast Management District, or any other existing municipal
7-11 management district.

7-12 SECTION 3. LEGISLATIVE FINDINGS. The legislature finds
7-13 that:

7-14 (1) proper and legal notice of the intention to
7-15 introduce this Act, setting forth the general substance of this
7-16 Act, has been published as provided by law, and the notice and a
7-17 copy of this Act have been furnished to all persons, agencies,
7-18 officials, or entities to which they are required to be furnished by
7-19 the constitution and laws of this state, including the governor,
7-20 who has submitted the notice and Act to the Texas Commission on
7-21 Environmental Quality;

7-22 (2) the Texas Commission on Environmental Quality has
7-23 filed its recommendations relating to this Act with the governor,
7-24 lieutenant governor, and speaker of the house of representatives
7-25 within the required time;

7-26 (3) the general law relating to consent by political
7-27 subdivisions to the creation of districts with conservation,
7-28 reclamation, and road powers and the inclusion of land in those
7-29 districts has been complied with; and

7-30 (4) all requirements of the constitution and laws of
7-31 this state and the rules and procedures of the legislature with
7-32 respect to the notice, introduction, and passage of this Act have
7-33 been fulfilled and accomplished.

7-34 SECTION 4. DATE OF PETITION. A petition filed under Section
7-35 3842.153, Special District Local Laws Code, as added by this Act,
7-36 may be dated before the effective date of this Act.

7-37 SECTION 5. EFFECTIVE DATE. This Act takes effect
7-38 immediately if it receives a vote of two-thirds of all the members
7-39 elected to each house, as provided by Section 39, Article III, Texas
7-40 Constitution. If this Act does not receive the vote necessary for
7-41 immediate effect, this Act takes effect September 1, 2005.

7-42 * * * * *