

By: Seaman

H.B. No. 1740

Substitute the following for H.B. No. 1740:

By: Miller

C.S.H.B. No. 1740

A BILL TO BE ENTITLED

AN ACT

1
2 relating to authorizing the City of Aransas Pass to acquire certain
3 state property.

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

5 SECTION 1. The City of Aransas Pass may acquire all right,
6 title, and interest of the State of Texas in and to the real
7 property described by Section 5 of this Act in exchange for
8 conveyance to the State of Texas, for the benefit of the Permanent
9 School Fund, of the real property described by Section 6 of this
10 Act; provided, however, that the State of Texas, for the benefit of
11 the Permanent School Fund, shall retain any and all oil, gas and
12 other minerals and mineral royalty rights in and to the property
13 described in Section 5 of this Act, and that the State of Texas
14 waives its right to use the surface of such property for the purpose
15 of exploration and development of the reserved oil, gas and other
16 minerals and mineral royalty rights, which shall be accomplished by
17 directional drilling or pooling; unless the City of Aransas Pass
18 and the commissioner of the General Land Office mutually agree not
19 later than August 31, 2009 to enter into a lease agreement affecting
20 the property described in Section 5 of this Act.

21 SECTION 2. Simultaneously with the conveyance of real
22 property described by Section 6 of this Act, together with
23 execution of a quitclaim deed of any interest of the City of Aransas
24 Pass in and to 9,644 acres, more or less, consisting of that portion

1 of Special Award No. 1, dated May 22, 1944, save and except the
2 tract of land described in Section 5 of this Act, to the General
3 Land Office for the use and benefit of the Permanent School Fund,
4 and, solely if necessary under the terms of this Act, delivery of
5 additional consideration by the City of Aransas Pass, the
6 commissioner of the General Land Office shall convey on behalf of
7 the state the state's right, title, and interest in and to the
8 property described by Section 5 of this Act, subject to the mineral
9 and royalty reservation set forth in Section 1 of this Act.

10 SECTION 3. The legislature finds that the real property
11 described by Section 5 of this Act has a fair market value equal to
12 the fair market value of the real property described by Section 6 of
13 this Act. The commissioner of the General Land Office shall request
14 the opinion of the Attorney General on the question of whether the
15 tracts described in Sections 5 and 6 may be conveyed in the manner
16 prescribed by Sections 1 and 2 of this Act in compliance with
17 applicable law and the Constitution of the State of Texas. Both the
18 City of Aransas Pass and the General Land Office shall have the
19 opportunity to bring factual and legal arguments relevant to such
20 question to the attention of the Attorney General.

21 SECTION 4. Solely in the event that the Attorney General is
22 of the opinion that the tracts described in Sections 5 and 6 of this
23 Act cannot, under applicable law and the Constitution of the State
24 of Texas, be conveyed in the manner described in Sections 1 and 2 of
25 this Act, the commissioner of the General Land Office and the City
26 of Aransas Pass shall follow the procedures outlined in this
27 Section. The tracts described in Sections 5 and 6 of this Act shall

1 be appraised by an appraiser acceptable to both the City of Aransas
2 Pass and the commissioner of the General Land Office, with the cost
3 of such appraisals paid by the General Land Office. In the event
4 that the City of Aransas Pass and the commissioner of the General
5 Land Office cannot agree on the market value of the tracts described
6 in Sections 5 and 6 of this Act, the City of Aransas Pass and the
7 commissioner of the General Land Office shall submit the question
8 of market value to a mutually acceptable mediator, with the cost of
9 the mediator paid by the General Land Office, who shall determine
10 the market value of the tracts described in Sections 5 and 6 of this
11 Act. The mediator's determination of market value shall be binding
12 on both the City of Aransas Pass and the General Land Office. In the
13 event that the market value of the tract described in Section 5 of
14 this Act is determined to exceed the market value of the tract
15 described in Section 6 of this Act, the City of Aransas Pass and the
16 commissioner of the General Land Office shall negotiate an
17 agreement whereby additional consideration, which may take the form
18 of cash, a lien or similar encumbrance in favor of the Permanent
19 School Fund, or some combination thereof, sufficient to equal the
20 difference in value between the tract described in Section 5 of this
21 Act and the tract described in Section 6 of this Act, as well as the
22 cost of any survey and appraisal performed and mediator retained in
23 accordance with the terms of this Act, shall be provided to the
24 commissioner of the General Land Office for the benefit of the
25 Permanent School Fund, with the cash component of such
26 consideration, including installment payments, if any, to be
27 deposited in the special fund account of the Permanent School Fund

1 created pursuant to Tex. Nat. Res. Code Section 51.401.

2 SECTION 5. The real property referred to in Sections 1 and 2
3 of this Act is the real property described as Tracts 3, 4, 7 and 8 of
4 the Bullitt-Hutchins, Inc. appraisal dated April 24, 2000 performed
5 for the General Land Office under GLO Contract No. 00-229R and on
6 file in the records of the General Land Office, comprising 115
7 acres, more or less, which property shall be surveyed at the cost of
8 the General Land Office prior to the appraisal described in Section
9 4 of this Act, if such survey and appraisal are required by the
10 terms of this Act.

11 SECTION 6. The real property described in Sections 1 and 2
12 of this Act is the following described land and sea bottom below
13 high tide:

14 Beginning in the North line of a survey in the name of Wm.
15 Docker, assignee of Lewis Von Zacharias as called for by Letters
16 Patent issued February 7th, 1842, Abstract No. 272, said point
17 being in the Southeast line of State F. M. Road No. 2725;

18 THENCE, with the North line of said Wm. Docker Survey,
19 Abstract No. 272, N. 88 deg. 27 min. 53 sec. East 1013.81 feet set a
20 2 inch iron pipe and a cedar post for the Northeast corner of said
21 Wm. Docker Survey and a corner of this tract;

22 THENCE, S. 21 deg. 12 min. 53 sec. West 166.67 feet along the
23 Southeast line of said Docker Survey to the Northwest corner of a
24 survey made in the name of Samuel Kenney, Abstract No. 182 as called
25 for in Letters Patent dated Dec. 4th, 1907;

26 THENCE, N. 88 deg. 27 min. 53 sec. East along the North line
27 of said Samuel Kenney Survey at 2247.22 feet the Northeast corner of

1 said Kenney Survey, and an internal corner of the Edmond St. John
2 Survey, Abstract No. 250, as called for by Letters Patent dated July
3 17th, 1880, and continuing along same course a total distance of
4 3533.19 feet to the East line of said Edmond St. John Survey in the
5 shoreline of Red Fish Bay for the Northeast corner of this tract;

6 THENCE, S. 35 deg. 27 min. 53 sec. West along the shoreline
7 1089.37 feet;

8 THENCE, S. 01 deg. 32 min. 07 sec. West along the shoreline
9 305.55 feet;

10 THENCE, S. 30 deg. 27 min. 53 sec. West along the shoreline
11 26.41 feet to the Southeast corner of this tract;

12 THENCE, S. 88 deg. 27 min. 53 sec. West 2905.53 feet to the
13 most Southerly Southwest corner of this tract;

14 THENCE, N. 01 deg. 32 min. 07 sec. East 1097.95 feet to a
15 corner in the Southeast line of said Wm. Docker Abstract No. 272;

16 THENCE, N. 46 deg. 02 min. 07 sec. West 215.5 feet to a
17 corner;

18 THENCE, S. 88 deg. 27 min. 53 sec. West 829.05 feet to a
19 corner, the most Westerly Southwest corner of this tract in the
20 Southeast boundary line of State F. M. Road No. 2725;

21 THENCE, N. 34 deg. 28 min. 19 sec. East along said road
22 boundary line 123.62 feet to the POINT OF BEGINNING, containing
23 89.5288 acres, more or less, and being partly out of the Wm. Docker
24 Survey Abstract No. 272, partly out of the Edmond St. John Survey
25 Abstract No. 250 and partly out of the Samuel Kenney Survey Abstract
26 No. 182;

27 SAVE AND EXCEPT THEREFROM the area contained in a narrow

1 strip out of the Northeast corner of the Wm. Docker Survey, Abstract
2 No. 272, which is more fully described in one certain Warranty Deed
3 dated January 15, 1969, executed by INGLESIDE LAND COMPANY, to
4 NATIONAL STEEL CORPORATION, recorded in Volume 382, Page 452, Deed
5 Records, San Patricio County, Texas, reference here being made to
6 Exhibit A, Tract 10, and being page 9 of said deed, for all
7 purposes.

8 EXCEPTIONS:

9 (1) Right-of-way Easement executed by SAN PATRICIO COUNTY
10 NAVIGATION DISTRICT No. 1, to CENTRAL POWER AND LIGHT COMPANY,
11 dated June 17, 1982, recorded in Volume 650, Page 493, Deed Records,
12 San Patricio County, Texas.

13 (2) Any visible and apparent roadways or easements over or
14 across the subject property, the existence of which does not appear
15 of record.

16 (3) Spoils Disposal Easement granted by INGLESIDE LAND
17 COMPANY, to Nueces County Navigation District No. 1, by instrument
18 dated April 22, 1952, recorded in Volume 177, Page 07, Deed Records,
19 San Patricio County, Texas.

20 (4) Those certain erosions thereof by the water of Red Fish
21 Bay and/or Red Fish Cove.

22 (5) Easement executed by INGLESIDE LAND COMPANY, to UNITED
23 STATES OF AMERICA, for the Gulf Intracoastal Waterway, dated
24 September 11, 1958.

25 (6) Any and all easements and sites for storage tanks,
26 separators, flow lines and roadways in the development and
27 operation of outstanding Mineral Lease recorded in Volume 173, Page

1 468, Deed Records, San Patricio County, Texas.

2 (7) Pipeline Right-of-way dated December 11, 1950, executed
3 by INGLESIDE LAND COMPANY, to HUMBLE PIPE LINE COMPANY, recorded in
4 Volume 168, Page 192, Deed Records, San Patricio County, Texas.

5 (8) Pipeline Right-of-way dated June 8, 1965, executed by
6 INGLESIDE LAND COMPANY, to SHELL OIL COMPANY, recorded in Volume
7 318, Page 144, Deed Records, San Patricio County, Texas.

8 (9) Reservation of all of the oil, gas and other minerals by
9 virtue of the wording "Surface Estate Only" in Deed dated January
10 15, 1969, executed by INGLESIDE LAND COMPANY, to NATIONAL STEEL
11 CORPORATION, recorded in Volume 382, Page 452 et seq., Deed
12 Records, San Patricio County, Texas. Title to said interest not
13 investigated subsequent to said date.

14 SECTION 7. This Act shall only apply to lands granted
15 pursuant to special awards issued by the commissioner of the
16 General Land Office prior to January 1, 1945.

17 SECTION 8. If the appraisals, surveys, conveyances and
18 transactions contemplated by this Act do not occur prior to August
19 31, 2009, this Act shall expire and be void.

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