

By: Lozano

H.B. No. 4275

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the creation of the Ingleside Improvement District;  
3 providing authority to issue bonds; granting limited power of  
4 eminent domain; providing authority to impose assessments, fees, or  
5 taxes.

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

7 SECTION 1. Subtitle C, Title 4, Special District Local Laws  
8 Code, is amended by adding Chapter 3942 to read as follows:

9 CHAPTER 3942. INGLESIDE IMPROVEMENT DISTRICT

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 3942.001. DEFINITIONS. In this chapter:

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

13 (2) "City" means the City of Ingleside.

14 (3) "County" means San Patricio County.

15 (4) "Director" means a board member.

16 (5) "District" means the Ingleside Improvement  
17 District.

18 Sec. 3942.002. NATURE OF DISTRICT. The Ingleside  
19 Improvement District is a special district created under Section  
20 59, Article XVI, Texas Constitution.

21 Sec. 3942.003. PURPOSE; DECLARATION OF INTENT. (a) The  
22 creation of the district is essential to accomplish the purposes of  
23 Sections 52 and 52-a, Article III, and Section 59, Article XVI,  
24 Texas Constitution, and other public purposes stated in this

1 chapter. By creating the district and in authorizing the city, the  
2 county, and other political subdivisions to contract with the  
3 district, the legislature has established a program to accomplish  
4 the public purposes set out in Section 52-a, Article III, Texas  
5 Constitution.

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

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

17 Sec. 3942.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

18 (a) The district is created to serve a public use and benefit.

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

24 (c) The creation of the district is in the public interest  
25 and is essential to further the public purposes of:

26 (1) developing and diversifying the economy of the  
27 state;

1           (2) eliminating unemployment and underemployment; and  
2           (3) developing or expanding transportation and  
3 commerce.

4           (d) The district will:

5           (1) promote the health, safety, and general welfare of  
6 residents, employers, potential employees, employees, visitors,  
7 and consumers in the district, and of the public;

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

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

15           (4) provide road, rail, and recreational facilities  
16 for the district;

17           (5) provide for water facilities, wastewater  
18 facilities, drainage facilities, canals, waterways, bulkheads,  
19 docks, levees, and other similar improvements or facilities for the  
20 district; and

21           (6) construct, operate, maintain, and improve  
22 navigable waterways, including the dredging of waterways,  
23 reclamation of land, and disposal of dredge materials.

24           (e) Pedestrian ways along or across a street, whether at  
25 grade or above or below the surface, and street lighting, street  
26 landscaping, parking, and street art objects are parts of and  
27 necessary components of a street and are considered to be a street

1 or road improvement.

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

5 (g) Rail facilities and improvements are:

6 (1) necessary and convenient for the use and  
7 implementation of the district's navigation facilities and  
8 improvements;

9 (2) necessary components of navigation facilities and  
10 improvements;

11 (3) considered to be navigation facilities and  
12 improvements; and

13 (4) necessary and convenient for the development and  
14 expansion of transportation in this state.

15 (h) Levee facilities and improvements are:

16 (1) necessary and convenient for the use and  
17 implementation of the district's navigation facilities and  
18 improvements;

19 (2) necessary components of navigation facilities and  
20 improvements;

21 (3) considered to be navigation facilities and  
22 improvements; and

23 (4) necessary and convenient for the development and  
24 expansion of transportation in this state.

25 Sec. 3942.005. INITIAL DISTRICT TERRITORY. (a) The  
26 district is initially composed of the territory described by  
27 Section 2 of the Act enacting this chapter.

1       (b) The boundaries and field notes contained in Section 2 of  
2 the Act enacting this chapter form a closure. A mistake in the  
3 field notes or in copying the field notes in the legislative process  
4 does not affect the district's:

5           (1) organization, existence, or validity;

6           (2) right to issue any type of bonds for the purposes  
7 for which the district is created or to pay the principal of and  
8 interest on the bonds;

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

10          (4) legality or operation.

11       Sec. 3942.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

12 All or any part of the area of the district is eligible to be  
13 included in:

14           (1) a tax increment reinvestment zone created under  
15 Chapter 311, Tax Code;

16           (2) a tax abatement reinvestment zone created under  
17 Chapter 312, Tax Code;

18           (3) an enterprise zone created under Chapter 2303,  
19 Government Code; or

20           (4) an industrial district created under Chapter 42,  
21 Local Government Code.

22       Sec. 3942.007. APPLICABILITY OF MUNICIPAL MANAGEMENT  
23 DISTRICTS LAW. Except as otherwise provided by this chapter,  
24 Chapter 375, Local Government Code, applies to the district.

25       Sec. 3942.008. CONSTRUCTION OF CHAPTER. This chapter shall  
26 be liberally construed in conformity with the findings and purposes  
27 stated in this chapter.

1                   SUBCHAPTER B. BOARD OF DIRECTORS

2           Sec. 3942.051. GOVERNING BODY; TERMS. (a) The district is  
3 governed by a board of five voting directors who serve staggered  
4 terms of four years, with two or three directors' terms expiring  
5 June 1 of each odd-numbered year.

6           (b) The board by resolution may change the number of voting  
7 directors on the board if the board determines that the change is in  
8 the best interest of the district. The board may not consist of  
9 fewer than 5 or more than 11 voting directors.

10          Sec. 3942.052. DIRECTOR QUALIFICATIONS. A person is  
11 eligible to serve as a director of the district only if the person  
12 meets the eligibility requirements to register as a voter in this  
13 state under Section 13.001, Election Code.

14          Sec. 3942.053. APPOINTMENT OF VOTING DIRECTORS. The mayor  
15 and members of the governing body of the city shall appoint voting  
16 directors from persons recommended by the board. A person is  
17 appointed if a majority of the members of the governing body,  
18 including the mayor, vote to appoint that person.

19          Sec. 3942.054. NONVOTING DIRECTORS. The board may appoint  
20 nonvoting directors to serve at the pleasure of the voting  
21 directors.

22          Sec. 3942.055. QUORUM. For purposes of determining the  
23 requirements for a quorum of the board, the following are not  
24 counted:

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

27                 (2) a director who is abstaining from participation in

1 a vote because of a conflict of interest; or

2 (3) a nonvoting director.

3 Sec. 3942.056. COMPENSATION. A director is entitled to  
4 receive fees of office and reimbursement for actual expenses as  
5 provided by Section 49.060, Water Code. Sections 375.069 and  
6 375.070, Local Government Code, do not apply to the board.

7 Sec. 3942.057. INITIAL VOTING DIRECTORS. (a) The initial  
8 board consists of the following voting directors:

9	<u>Pos. No.</u>	<u>Name of Director</u>
10	<u>1</u>	<u>Joseph Wetegrove</u>
11	<u>2</u>	<u>Richard Dupriest</u>
12	<u>3</u>	<u>Jane Helm</u>
13	<u>4</u>	<u>Steve Ray</u>
14	<u>5</u>	<u>Raymond Wetegrove</u>

15 (b) Of the initial directors, the terms of directors  
16 appointed for positions one through three expire June 1, 2021, and  
17 the terms of directors appointed for positions four and five expire  
18 June 1, 2019.

19 (c) Section 3942.053 does not apply to this section.

20 SUBCHAPTER C. POWERS AND DUTIES

21 Sec. 3942.101. GENERAL POWERS AND DUTIES. The district has  
22 the powers and duties necessary to accomplish the purposes for  
23 which the district is created.

24 Sec. 3942.102. IMPROVEMENT PROJECTS AND SERVICES. The  
25 district may provide, design, construct, acquire, improve,  
26 relocate, operate, maintain, or finance an improvement project or  
27 service using any money available to the district, or contract with

1 a governmental or private entity to provide, design, construct,  
2 acquire, improve, relocate, operate, maintain, or finance an  
3 improvement project or service authorized under this chapter or  
4 Chapter 375, Local Government Code.

5 Sec. 3942.103. DEVELOPMENT CORPORATION POWERS. The  
6 district, using money available to the district, may exercise the  
7 powers given to a development corporation under Chapter 505, Local  
8 Government Code, including the power to own, operate, acquire,  
9 construct, lease, improve, or maintain a project under that  
10 chapter.

11 Sec. 3942.104. 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 to be a local  
17 government corporation created under Subchapter D, Chapter 431,  
18 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 Subchapter D,  
25 Chapter 431, Transportation Code, except that a board member is not  
26 required to reside in the district.

27 Sec. 3942.105. AGREEMENTS; GRANTS. (a) As provided by

1 Chapter 375, Local Government Code, the district may make an  
2 agreement with or accept a gift or grant from any person. The  
3 district shall promptly notify the city of any gift or grant  
4 accepted by the district.

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

8 Sec. 3942.106. LAW ENFORCEMENT SERVICES. To protect the  
9 public interest, the district may contract with a qualified party,  
10 including the county or the city, to provide law enforcement  
11 services in the district for a fee.

12 Sec. 3942.107. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The  
13 district may join and pay dues to a charitable or nonprofit  
14 organization that performs a service or provides an activity  
15 consistent with the furtherance of a district purpose.

16 Sec. 3942.108. ECONOMIC DEVELOPMENT. (a) The district may  
17 engage in activities that accomplish the economic development  
18 purposes of the district.

19 (b) The district may establish and provide for the  
20 administration of one or more programs to promote state or local  
21 economic development and to stimulate business and commercial  
22 activity in the district, including programs to:

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

24 (2) provide district personnel and services.

25 (c) The district may create economic development programs  
26 and exercise the economic development powers that:

27 (1) Chapter 380, Local Government Code, provides to a

1 municipality; and

2 (2) Subchapter A, Chapter 1509, Government Code,  
3 provides to a municipality.

4 Sec. 3942.109. PARKING FACILITIES. (a) The district may  
5 acquire, lease as lessor or lessee, construct, develop, own,  
6 operate, and maintain parking facilities or a system of parking  
7 facilities, including lots, garages, parking terminals, or other  
8 structures or accommodations for parking motor vehicles off the  
9 streets and related appurtenances.

10 (b) The district's parking facilities serve the public  
11 purposes of the district and are owned, used, and held for a public  
12 purpose even if leased or operated by a private entity for a term of  
13 years.

14 (c) The district's parking facilities are parts of and  
15 necessary components of a street and are considered to be a street  
16 or road improvement.

17 (d) The development and operation of the district's parking  
18 facilities may be considered an economic development program.

19 Sec. 3942.110. ANNEXATION OF LAND. The district may annex  
20 land as provided by Subchapter J, Chapter 49, Water Code.

21 Sec. 3942.111. NAVIGATION DISTRICT POWERS. (a) The  
22 district has the powers provided by the general law of this state  
23 applicable to navigation districts created under Section 59,  
24 Article XVI, Texas Constitution, including Chapters 60 and 62,  
25 Water Code.

26 (b) The district may purchase, construct, acquire, own,  
27 operate, maintain, improve, or extend, inside and outside the

1 district, a canal, waterway, bulkhead, dock, or other improvement  
2 or facility necessary or convenient to accomplish the navigation  
3 purposes of the district.

4 Sec. 3942.112. RAIL FACILITIES. The district may  
5 construct, acquire, improve, maintain, and operate rail facilities  
6 and improvements in aid of those facilities.

7 Sec. 3942.113. AUTHORITY FOR ROAD PROJECTS. Under Section  
8 52, Article III, Texas Constitution, the district may design,  
9 acquire, construct, finance, issue bonds for, improve, operate,  
10 maintain, and convey to this state, a county, or a municipality for  
11 operation and maintenance macadamized, graveled, or paved roads or  
12 improvements, including storm drainage, in aid of those roads.

13 Sec. 3942.114. CONVEYANCE AND APPROVAL OF ROAD PROJECT.

14 (a) The district may convey a road project authorized by Section  
15 3942.113 to:

16 (1) the municipality or county that will operate and  
17 maintain the road if the municipality or county has approved the  
18 plans and specifications of the road project; or

19 (2) the state if the state will operate and maintain  
20 the road and the Texas Transportation Commission has approved the  
21 plans and specifications of the road project.

22 (b) Except as provided by Subsection (c), the district shall  
23 operate and maintain a road project authorized by Section 3942.113  
24 that the district implements and does not convey to a municipality,  
25 a county, or this state under Subsection (a).

26 (c) The district may agree in writing with a municipality, a  
27 county, or this state to assign operation and maintenance duties to

1 the district, the municipality, the county, or this state in a  
2 manner other than the manner described in Subsections (a) and (b).

3 Sec. 3942.115. CONSENT OF CITY REQUIRED. The district may  
4 not take any of the following actions until the city has consented  
5 by ordinance or resolution to the creation of the district and to  
6 the inclusion of land in the district:

7 (1) hold an election under Subchapter L, Chapter 375,  
8 Local Government Code;

9 (2) impose an ad valorem tax;

10 (3) impose an assessment;

11 (4) issue bonds; or

12 (5) enter into an agreement to reimburse the costs of  
13 facilities.

14 Sec. 3942.116. LIMITATION ON USE OF EMINENT DOMAIN. The  
15 district may not exercise the power of eminent domain outside the  
16 district to acquire a site or easement for:

17 (1) a road project authorized by Section 3942.113; or

18 (2) a recreational facility as defined by Section  
19 49.462, Water Code.

20 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

21 Sec. 3942.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The  
22 board by resolution shall establish the number of directors'  
23 signatures and the procedure required for a disbursement or  
24 transfer of district money.

25 Sec. 3942.152. MONEY USED FOR IMPROVEMENTS OR SERVICES.

26 The district may acquire, construct, finance, operate, or maintain  
27 any improvement or service authorized under this chapter or Chapter

1 375, Local Government Code, using any money available to the  
2 district.

3 Sec. 3942.153. PETITION REQUIRED FOR FINANCING SERVICES AND  
4 IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a  
5 service or improvement project with assessments under this chapter  
6 unless a written petition requesting that service or improvement  
7 has been filed with the board.

8 (b) A petition filed under Subsection (a) must be signed by  
9 the owners of a majority of the assessed value of real property in  
10 the district subject to assessment according to the most recent  
11 certified tax appraisal roll for the county.

12 Sec. 3942.154. ASSESSMENTS; LIENS FOR ASSESSMENTS.

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

16 (b) An assessment, a reassessment, or an assessment  
17 resulting from an addition to or correction of the assessment roll  
18 by the district, penalties and interest on an assessment or  
19 reassessment, an expense of collection, and reasonable attorney's  
20 fees incurred by the district:

21 (1) are a first and prior lien against the property  
22 assessed;

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

26 (3) are the personal liability of and a charge against  
27 the owners of the property even if the owners are not named in the

1 assessment proceedings.

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

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

10 SUBCHAPTER E. TAXES AND BONDS

11 Sec. 3942.201. ELECTIONS REGARDING TAXES AND BONDS.

12 (a) The district may issue, without an election, bonds, notes, and  
13 other obligations secured by:

14 (1) revenue other than ad valorem taxes; or

15 (2) contract payments described by Section 3942.203.

16 (b) The district must hold an election in the manner  
17 provided by Subchapter L, Chapter 375, Local Government Code, to  
18 obtain voter approval before the district may impose an ad valorem  
19 tax or issue bonds payable from ad valorem taxes.

20 (c) Section 375.243, Local Government Code, does not apply  
21 to the district.

22 (d) All or any part of any facilities or improvements that  
23 may be acquired by a district by the issuance of its bonds may be  
24 submitted as a single proposition or as several propositions to be  
25 voted on at the election.

26 Sec. 3942.202. OPERATION AND MAINTENANCE TAX. (a) If  
27 authorized by a majority of the district voters voting at an

1 election held in accordance with Section 3942.201, the district may  
2 impose an operation and maintenance tax on taxable property in the  
3 district in accordance with Section 49.107, Water Code, for any  
4 district purpose, including to:

5 (1) maintain and operate the district;

6 (2) construct or acquire improvements; or

7 (3) provide a service.

8 (b) The board shall determine the tax rate. The rate may not  
9 exceed the rate approved at the election.

10 (c) Section 49.107(h), Water Code, does not apply to the  
11 district.

12 Sec. 3942.203. CONTRACT TAXES. (a) In accordance with  
13 Section 49.108, Water Code, the district may impose a tax other than  
14 an operation and maintenance tax and use the revenue derived from  
15 the tax to make payments under a contract after the provisions of  
16 the contract have been approved by a majority of the district voters  
17 voting at an election held for that purpose.

18 (b) A contract approved by the district voters may contain a  
19 provision stating that the contract may be modified or amended by  
20 the board without further voter approval.

21 Sec. 3942.204. AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS  
22 AND OTHER OBLIGATIONS. (a) The district may borrow money on terms  
23 determined by the board. Section 375.205, Local Government Code,  
24 does not apply to a loan, line of credit, or other borrowing from a  
25 bank or financial institution secured by revenue other than ad  
26 valorem taxes.

27 (b) The district may issue bonds, notes, or other

1 obligations payable wholly or partly from ad valorem taxes,  
2 assessments, impact fees, revenue, contract payments, grants, or  
3 other district money, or any combination of those sources of money,  
4 to pay for any authorized district purpose.

5 (c) The limitation on the outstanding principal amount of  
6 bonds, notes, and other obligations provided by Section 49.4645,  
7 Water Code, does not apply to the district.

8 Sec. 3942.205. TAXES FOR BONDS. At the time the district  
9 issues bonds payable wholly or partly from ad valorem taxes, the  
10 board shall provide for the annual imposition of a continuing  
11 direct annual ad valorem tax, without limit as to rate or amount,  
12 for each year that all or part of the bonds are outstanding as  
13 required and in the manner provided by Sections 54.601 and 54.602,  
14 Water Code.

15 Sec. 3942.206. CITY NOT REQUIRED TO PAY DISTRICT  
16 OBLIGATIONS. Except as provided by Section 375.263, Local  
17 Government Code, the city is not required to pay a bond, note, or  
18 other obligation of the district.

19 SECTION 2. The Ingleside Improvement District initially  
20 includes all territory contained in the following area:

21 Being 625 acres, more or less, out of the Wm McDonough Survey,  
22 Abstract 184, the R.S. Williamson Survey, Abstract 283, the Edmond  
23 St. John Survey, Abstract 250, the Louis Von Zacharias Survey,  
24 Abstract 272, and the John Robinson Survey, Abstract 226, all  
25 tracts located in the City of Ingleside, San Patricio County,  
26 Texas.

27 SECTION 3. (a) The legal notice of the intention to

1 introduce this Act, setting forth the general substance of this  
2 Act, has been published as provided by law, and the notice and a  
3 copy of this Act have been furnished to all persons, agencies,  
4 officials, or entities to which they are required to be furnished  
5 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
6 Government Code.

7 (b) The governor, one of the required recipients, has  
8 submitted the notice and Act to the Texas Commission on  
9 Environmental Quality.

10 (c) The Texas Commission on Environmental Quality has filed  
11 its recommendations relating to this Act with the governor,  
12 lieutenant governor, and speaker of the house of representatives  
13 within the required time.

14 (d) All requirements of the constitution and laws of this  
15 state and the rules and procedures of the legislature with respect  
16 to the notice, introduction, and passage of this Act have been  
17 fulfilled and accomplished.

18 SECTION 4. (a) Section 3942.116, Special District Local  
19 Laws Code, as added by Section 1 of this Act, takes effect only if  
20 this Act receives a two-thirds vote of all the members elected to  
21 each house.

22 (b) If this Act does not receive a two-thirds vote of all the  
23 members elected to each house, Subchapter C, Chapter 3942, Special  
24 District Local Laws Code, as added by Section 1 of this Act, is  
25 amended by adding Section 3942.116 to read as follows:

26 Sec. 3942.116. NO EMINENT DOMAIN POWER. The district may  
27 not exercise the power of eminent domain.

1           (c) This section is not intended to be an expression of a  
2 legislative interpretation of the requirements of Section 17(c),  
3 Article I, Texas Constitution.

4           SECTION 5. This Act takes effect immediately if it receives  
5 a vote of two-thirds of all the members elected to each house, as  
6 provided by Section 39, Article III, Texas Constitution. If this  
7 Act does not receive the vote necessary for immediate effect, this  
8 Act takes effect September 1, 2017.