

2018 Regular Session

SENATE BILL NO. 279

BY SENATOR MORRISH

SPECIAL DISTRICTS. Creates the Calcasieu-Cameron Navigation District and provides for its powers, duties, and functions. (8/1/18)

AN ACT

To enact Part IV of Chapter 3 of Title 34 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 34:481 through 490, relative to navigation districts; to create the Calcasieu-Cameron Navigation District; to provide for district boundaries, purpose, governance, and funding; to provide for a board of commissioners and powers of the board; to provide relative to the Calcasieu River and Pass Project; to provide for an ad valorem tax; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1. Part IV of Chapter 3 of Title 34 of the Louisiana Revised Statutes of 1950, comprised of R.S. 34:481 through 490, is hereby enacted to read as follows:

PART IV. CALCASIEU-CAMERON NAVIGATION DISTRICT

§481. Creation of the district; purpose

A. There is created a navigation and river improvement and maintenance district which shall be known as the "Calcasieu-Cameron Navigation District", composed of the territory embraced in the parishes of Calcasieu and Cameron, for the purpose of improving and maintaining the

1 Calcasieu River with respect to the navigation thereof within the state of
2 Louisiana, and for such other purposes as are provided for in this Part.

3 B. The district's territory shall exclude any facility that meets all of the
4 following three conditions:

5 (1) The facility is not located on the Calcasieu Ship Channel.

6 (2) The facility neither imports nor exports cargo through the Calcasieu
7 Ship Channel.

8 (3) The facility is located within a Foreign-Trade Zone.

9 C. The district shall serve within or outside of its territorial limits as
10 agent for the state of Louisiana which shall be the local sponsor and nonfederal
11 sponsor as defined by the United States Army Corps of Engineers for the
12 Calcasieu River and Pass Project, hereinafter referred to as the "project". The
13 district shall function as the single entity responsible to act, to secure
14 rights-of-way, and to furnish assurances for the construction, operation, and
15 maintenance of the Calcasieu River and Pass Project as designated by the
16 United States Army Corps of Engineers. Additionally, the district may provide
17 funds to the United States Army Corps of Engineer for the nonfederal sponsor's
18 local cost share as required for work on the project by the United States Army
19 Corps of Engineers. The nonfederal sponsor's local cost share may include but
20 is not limited to the following:

21 (1) Requirements presently in effect or which may be required in the
22 future by law, regulation, or assurance agreements.

23 (2) Requirements for new features or modifications to the project.

24 (3) Requirements to provide real estate, rights-of-way, and easements for
25 sites for disposal of dredged materials for the project.

26 D. The district shall enter into a cooperative endeavor agreement with
27 the Lake Charles Harbor and Terminal District not later than six months from
28 the date all district commissioners are appointed. The agreement shall contain
29 the following provisions:

1 (1) The Lake Charles Harbor and Terminal District shall continue to
2 operate as the nonfederal sponsor for the Calcasieu River and Pass Project as
3 defined in R.S. 34:218 until an ad valorem tax referenced in R.S. 34:489 is
4 authorized by a favorable vote of a majority of the qualified electors in each
5 parish within the district and such monies are received by the Calcasieu-
6 Cameron Navigation District.

7 (2) The Lake Charles Harbor and Terminal District shall maintain
8 ownership and control of sites used for dredged material currently owned by
9 the Lake Charles Harbor and Terminal District.

10 E. Notwithstanding any provision of this Part to the contrary, the district
11 shall not engage in port activities as defined in R.S. 34:218 within its territory.

12 §482. Domicile

13 The domicile of the district shall be in Calcasieu Parish, but offices may
14 be maintained in Cameron Parish. The secretary may reside in Calcasieu or
15 Cameron Parish. The books and records of the district shall be kept where the
16 secretary resides.

17 §483. Board of commissioners; appointment; term

18 A. The Calcasieu-Cameron Navigation District shall be administered and
19 governed by a board of commissioners, hereinafter referred to as the "board",
20 composed of five members, who shall be appointed, as follows:

21 (1) One commissioner shall be the port director or his designee of the
22 Cameron Parish Port, Harbor, and Terminal District.

23 (2) One commissioner shall be the port director or his designee of the
24 Lake Charles Harbor and Terminal District.

25 (3) One commissioner shall be a state commissioned river port pilot
26 appointed by the Associated Branch Pilots for the Port of Lake Charles.

27 (4) Two commissioners shall be appointed by the governor and subject
28 to Senate confirmation, representing separate facilities that utilize the Calcasieu
29 Ship Channel for commerce involving deep draft seagoing vessels, one facility

1 being located in Cameron Parish and one being located in Calcasieu Parish.

2 B. Term. The terms of office for commissioners appointed pursuant to
3 Paragraphs (A)(3) and (4) of this Section shall be four years and the appointed
4 commissioners shall serve no more than three consecutive terms of office.

5 C. Any vacancy on the board of commissioners for any reason shall be
6 filled in the same manner as the original appointments and for the unexpired
7 term of office.

8 D. The commissioners shall serve without compensation and shall have
9 the power to organize and reorganize legal, executive, engineering, clerical, and
10 other departments and forces of the board and to fix the duties, powers, and
11 compensation of all officers, agents, and employees under the board.
12 Commissioners shall be entitled to receive all necessary expenses incurred in
13 attending meetings of the board or while attending to the business of the board.

14 §484. Officers and employees of board; meetings; quorum

15 A. The board shall elect from among its own members a president, vice
16 president, secretary, and treasurer, whose duties shall be those usual to such
17 offices. At the option of the board, the offices of secretary and treasurer may be
18 held by one person.

19 B. The board shall meet in regular session once each month and shall
20 also meet in special session as often as the president of the board convenes them,
21 or on written request of three members. The board shall prescribe rules to
22 govern its meetings.

23 C. Three members of the board shall constitute a quorum.

24 D. The board shall maintain suitable offices in the district, and may
25 contract with and employ attorneys, clerks, engineers, and other agents and
26 employees, and shall fix their compensation and terms of office or employment.

27 §485. Powers of board

28 A. The board shall have and enjoy all the rights, privileges, and
29 immunities conferred by law upon political corporations.

1 B. The board may own, construct, lease, or operate equipment and
2 machinery as may be necessary to maintain and improve the project.

3 C. The board may own, construct, and administer facilities necessary to
4 maintain and improve the project.

5 D. The board may dredge ship ways, channels, slips, basins and turning
6 basins, passing lanes and anchorages within the project.

7 E. The board may establish, operate, and maintain in cooperation with
8 the federal government, the state of Louisiana and its various agencies,
9 subdivisions and public bodies, navigable waterway systems and improvements
10 within the project.

11 F. The board may acquire by purchase, donation, or lease property
12 necessary for the maintenance and improvement of the project.

13 G. The board may maintain proper depth of water to accommodate and
14 induce the business and industrial interests of the project.

15 H. The board may make reasonable charges and collect the same for the
16 use of all structures, works, property, and facilities administered by the board,
17 and for any and all services rendered by the board.

18 §486. Examinations and investigations; control and regulation; annual reports

19 A. The board shall examine and investigate all questions relating to the
20 interest and welfare of the district. The board shall control and regulate the
21 same and make an annual report showing all receipts and disbursements of the
22 board, setting forth the general condition of the district and its buildings,
23 structures, facilities, and other properties, and making such recommendations
24 for the development and welfare of the district and its management as may
25 seem advisable. A copy of this report shall be promptly published in a
26 newspaper printed in the parishes of Calcasieu and Cameron.

27 B. The board shall keep a record of its proceedings which shall be
28 published at least once in a newspaper having a general circulation in the
29 district, not later than thirty days after each board meeting. At each meeting,

1 the board shall examine all its accounts and operations, determine in what
2 manner the work of the board shall be undertaken, and provide the means to
3 carry it out.

4 C. The secretary shall keep full and complete records of all receipts and
5 expenditures of the district. The secretary shall safely keep and preserve all
6 books, records, reports, contracts, vouchers, and correspondence relative to the
7 affairs of the district, and maintain a perpetual inventory of its property of all
8 descriptions.

9 §487. Acquisition of lands; public aid; construction of works of public
10 improvement

11 A. The board is authorized to acquire by purchase, donation, or lease
12 any lands in the district needed for the maintenance and improvement of the
13 project. The board may also provide that payment for such lands be made out
14 of the monies under its control not otherwise specifically appropriated.

15 B. The board is further authorized to receive by gift, grant, donation, or
16 otherwise, any sum of money, aid, or assistance from the United States, the state
17 of Louisiana, or any of its political subdivisions, for the purpose of carrying out
18 the objects and purposes of this Part.

19 C. The board is authorized to make and construct any of the works of
20 public improvements in the district and anything in connection therewith that
21 may be necessary or useful for the business of the board, to purchase machinery
22 or materials and equipment for performing such work, and to supervise the
23 making of the same or to make and construct such works through contracts
24 with others, and generally, to do all other acts necessary or proper to carry out
25 the powers vested in it with regard to such works of public improvement.

26 §488. Contracts

27 Anything in this Part to the contrary notwithstanding, any construction
28 undertaken, or materials purchased pursuant to the authority granted in this
29 Chapter shall be in accordance with the provisions of Part II of Chapter 10 of

Title 38 of the Louisiana Revised Statutes of 1950.

§489. Fee; ad valorem tax; borrowing money

A.(1) For the purposes of obtaining funds, the board may levy annually an ad valorem tax not to exceed five mills on the dollar on the property subject to taxation situated in the district, provided the levy of the tax shall have been authorized by a favorable vote of a majority of the qualified electors in each parish within the district in an election to be called within three years of the effective date of this Part and held for that purpose in accordance with existing laws. Funds derived under this Subsection may be used to defray the administrative and operating expenses of the board, make in-kind distributions to port operations doing business associated with the project for dredging, administration and operation of certain ports, to obtain funds for the maintenance and improvement of the project, and to fund the nonfederal sponsor's local cost share for work on the project by the United States Army Corps of Engineers. The board may pledge all or part of the revenues therefrom to the payment of bonds to be issued by the district, provided that the total ad valorem tax collections shall not exceed twenty million dollars annually.

(2) Provided sufficient monies are received from ad valorem tax collections, the board shall make payments annually to the following entities in the stated amounts:

(a) The Cameron Parish Port, Harbor, and Terminal District - five hundred thousand dollars.

(b) The Lake Charles Harbor and Terminal District - five hundred thousand dollars.

(c) The West Calcasieu Port - three hundred thousand dollars.

(d) The Vinton Harbor and Terminal District - two hundred thousand dollars.

B. Should the vote of a majority of the qualified electors in each parish within the district fail to pass and levy the tax, legislative authority for the

1 Calcasieu-Cameron Navigation District shall terminate July first of the year
2 following the date of the election.

3 C. The provisions of R.S. 34:409 and 34:422 shall not apply to the
4 Calcasieu-Cameron Navigation District of Louisiana; provided, however that
5 this Subsection shall not operate to the impairment of contracts.

6 D. The provisions of the constitution and all laws regulating the
7 collection of taxes and the creating of tax liens and mortgages, tax penalties, and
8 tax sales shall also apply to the collection of all taxes authorized by this Part.
9 The sheriffs and ex officio tax collectors of the parishes of Calcasieu and
10 Cameron shall make a monthly settlement with the treasurer of the board of
11 commissioners and receive from him a receipt for the amount of taxes paid
12 over, in the same manner as tax collectors are required to settle with the
13 division of administration. The tax collectors shall receive from the treasurer
14 the same quietus for a full settlement of taxes due and exigible in any given year
15 and account for the delinquents or deductions in the same manner as though
16 accounting to the division of administration for state taxes. The tax collector
17 shall retain from taxes collected by him for the district any commission thereon
18 allowed to him by law on special taxes and shall deposit the amount thereof with
19 the parish treasurer to the credit of the sheriff's salary fund. Upon failure of the
20 tax collector to comply with the provisions of this Part, the board of
21 commissioners shall proceed against him and the sureties on his official bond
22 for the collection of whatever money may be owing to the board of
23 commissioners for such taxes.

24 E.(1) The board may borrow money from time to time for the purpose
25 of defraying the administrative, operation, and maintenance expenses of the
26 board, and may issue certificates of indebtedness secured by any fees authorized
27 under this Part, and by any taxes authorized under this Section, provided that
28 any loan for this purpose shall in no year exceed the estimated revenues for such
29 year.

1 **(2) With the approval of the State Bond Commission, the district,**
2 **through the board as its governing authority, is authorized to incur debt for its**
3 **lawful purposes and to issue negotiable bonds in its name representing the debt,**
4 **and to pledge and dedicate for the payment of the principal and interest of such**
5 **negotiable bonds the revenue derived from the ad valorem tax authorized by**
6 **this Section or other revenues received by the district or the board from other**
7 **sources, as may be provided by the board in the resolution authorizing the**
8 **issuance of such bonds and providing the security therefor; provided, however,**
9 **that such bonds shall not be issued requiring principal and interest payments**
10 **in any year in excess of eighty percent of the tax revenues which would have**
11 **been received by the district had the five mill tax been levied on the last**
12 **assessment roll filed and of record. Such bonds shall be issued by the board with**
13 **such dates, forms, terms, series, interest rates, maturities, denominations,**
14 **redemption provisions and security provisions as the board may determine in**
15 **compliance with this Section. Such bonds, when authorized to be issued, shall**
16 **constitute a general obligation of the district to the payment of which the full**
17 **faith and credit of the district shall be and is hereby pledged. In addition to the**
18 **pledge of the tax and other revenues to secure the payment of the bonds in**
19 **principal and interest, the board may further secure their payment by a**
20 **conventional mortgage upon any and all properties constructed or acquired, or**
21 **to be constructed and acquired by it from the proceeds of such bonds. In the**
22 **event any bonds are issued secured by a pledge and dedication of the tax**
23 **revenues, the tax shall be levied and collected as long as the bonds are**
24 **outstanding in an amount sufficient to pay such bonds in principal and interest**
25 **as they respectively mature. Any resolution authorizing the issuance of bonds**
26 **of the district may contain such covenants as the board may deem proper to**
27 **assure the enforcement, collection, and proper application of the tax or other**
28 **revenues pledged and dedicated to the payment and security of the bonds, and**
29 **other security provisions including the establishment of a bond reserve if**

1 deemed advisable by the board. Except as specifically provided in this Section,
2 the bonds shall be issued in compliance with the requirements of R.S. 34:490
3 and the relative provisions of the constitution, including the public sale of such
4 bonds and the thirty-day prescriptive period to contest the legality of such
5 bonds and the security therefor, all as more fully therein provided.

6 §490. Bonds

7 A. For the purpose of acquiring lands for the uses of the district and to
8 provide funds for the making and construction of the public works facilities and
9 improvements outlined in this Part, the board is authorized to issue revenue
10 bonds in the manner and subject to the terms and conditions of Subpart C of
11 Part I of Chapter 10 of Title 33 of the Louisiana Revised Statutes of 1950, as
12 well as Subpart B of Part I of Chapter 10 of Title 33 of the Louisiana Revised
13 Statutes of 1950. The board is also authorized to incur debt and issue tax
14 secured bonds for the above purposes in the manner and subject to the terms
15 and conditions of Subpart A of Part III of Chapter 4 of Title 39 of the Louisiana
16 Revised Statutes of 1950, as well as industrial inducement bonds.

17 B. In addition to the above power to issue bonds and without reference
18 to any other provisions of the constitution or statutes of the state, the district is
19 authorized, with the approval of the State Bond Commission, to issue negotiable
20 bonds for any of the purposes described above and to pledge for the payment
21 of the principal and interest of such negotiable bonds the income and revenues
22 derived or to be derived from the properties and facilities maintained and
23 operated by it, or received by the district from other sources. In addition to the
24 pledge of income and revenues to secure the bonds, the district may further
25 secure their payment by a conventional mortgage upon any or all of the
26 properties constructed or acquired, or to be constructed and acquired by it. The
27 district is further authorized to receive by gift, grant, donation or otherwise any
28 sum of money, aid, or assistance from the United States, the state of Louisiana,
29 or any of its political subdivisions, and unless otherwise provided by the terms

1 of such gift, grant, or donation, in its discretion, to pledge all or any part of such
2 monies for the further securing of the payment of the principal and interest of
3 its bonds. Such bonds shall be authorized by a resolution of the governing
4 authority of the district and shall be of such series, bear such date or dates,
5 mature at such time or times not exceeding forty years from their respective
6 dates, bear interest at such rate or rates not exceeding five per centum per
7 annum, payable semi-annually, be in such denominations, be in such form,
8 either coupon or fully registered without coupons, carry such registration and
9 exchangeability privilege, be payable in such medium of payment and at such
10 place or places, be subject to such terms of redemption not exceeding one
11 hundred five percent of the principal amount thereof, and be entitled to such
12 priority on the revenues of the district as such resolution or resolutions may
13 provide. The bonds shall be signed by such officers as the district shall
14 determine, and coupon bonds shall have attached thereto interest coupons
15 bearing the facsimile signatures of such officer or officers of the district as it
16 shall designate. Any such bonds may be issued and delivered, notwithstanding
17 that one or more of the officers signing such bonds or the officer or officers
18 whose facsimile signature or signatures may be upon the coupons shall have
19 ceased to be such officer or officers at the time such bonds shall actually have
20 been delivered. The bonds shall be sold for not less than par and accrued
21 interest, to the highest bidder at a public sale after an advertisement by the
22 district at least once a week for not less than thirty days in a newspaper of
23 general circulation within the district and in a financial newspaper or journal
24 published in New Orleans, New York, or Chicago, reserving to the district the
25 right to reject any and all bids and to readvertise for bids. If after the
26 advertisement as provided in this Section, no bids are received, or if such bids
27 as are received are considered in the discretion of the board to be
28 unsatisfactory, then in that event the board may publicly negotiate for the sale
29 of such bonds, without a further advertisement.

1 C. No proceedings in respect to the issuance of any such bonds shall be
 2 necessary except such as are contemplated by this Section, and no further or
 3 other legislation shall be required to effectuate the same.

4 D. For a period of thirty days from the date of publication of the
 5 resolution authorizing the issuance of bonds hereunder, any persons in interest
 6 shall have the right to contest the legality of the resolution and the legality of the
 7 bond issue for any cause, after which time no one shall have any cause or right
 8 of action to contest the legality of said resolution or of the bonds authorized
 9 thereby for any cause whatever. If no suit, action or proceeding is begun
 10 contesting the validity of the bond issue within the thirty days herein
 11 prescribed, the authority to issue the bonds and to levy the necessary tax for the
 12 payment thereof, the legality thereof and of all the provisions of the resolution
 13 authorizing the issuance of the bonds shall be conclusively presumed, and no
 14 court shall have authority to inquire into such matters.

The original instrument was prepared by Thomas L. Tyler. The following digest, which does not constitute a part of the legislative instrument, was prepared by Laura Gail Sullivan.

DIGEST

SB 279 Reengrossed

2018 Regular Session

Morrish

Proposed law creates the Calcasieu-Cameron Navigation District in Calcasieu and Cameron parishes to improve and maintain the Calcasieu River and to serve as agent for the state of Louisiana which is the local sponsor and nonfederal sponsor for the Calcasieu River and Pass Project (the project).

Proposed law excludes from the district's territory any facility that meets the following conditions:

- (1) The facility is not located on the Calcasieu Ship Channel.
- (2) The facility neither imports nor exports cargo through the Calcasieu Ship Channel.
- (3) The facility is located within a Foreign-Trade Zone.

Proposed law requires the district to function as the single entity responsible for acting to secure rights-of-way, and to furnish assurances for the construction, operation, and maintenance of the project as designated by the United States Army Corps of Engineers. Provides for the district to provide the nonfederal sponsor's local cost share, including requirements presently in effect or in the future required by law, regulation, or assurance agreements, requirements for new features or project modifications, and requirements to provide real estate, rights-of-way, and easements for sites to dispose of dredged materials.

Proposed law provides for the Lake Charles Harbor and Terminal District to continue as the non-federal sponsor for the project as provided in R.S. 34:218 until such time as an ad valorem tax is passed by a majority of the qualified electors in each parish within the district and receipt of tax monies by the district.

Proposed law prohibits the district from engaging in port activities as defined in R.S. 34:218 within its territory.

Proposed law provides that Calcasieu Parish is the district's domicile, but allows district offices to be maintained in Cameron Parish. Provides that the district's secretary may reside in Calcasieu or Cameron Parish and that the district's books and records shall be kept where the secretary resides.

Proposed law provides for the district to be governed by a five-member board of commissioners appointed as follows:

- (1) The port director of the Cameron Parish Port, Harbor, and Terminal District, or his designee.
- (2) The port director of the Lake Charles Harbor and Terminal District, or his designee.
- (3) A state-commissioned river port pilot appointed by the Associated Branch Pilots for the Port of Lake Charles.
- (4) Two commissioners appointed by the governor and subject to Senate confirmation, representing separate facilities that utilize the Calcasieu Ship Channel for commerce involving deep draft seagoing vessels, one representing a facility located in Cameron Parish and one representing a facility located in Calcasieu Parish.

Proposed law provides for appointed commissioners to serve four-year terms and not more than three consecutive terms and to serve without compensation except for payment of necessary expenses incurred to attend board meetings or to attend to board business.

Proposed law provides for board members to elect a president, vice president, secretary, and treasurer but allows one member to hold the offices of secretary and treasurer.

Proposed law provides for a regular board meeting each month and for special meetings upon the president's call or the written request of three members. Provides that a quorum is three members.

Proposed law provides for the powers of the board necessary to maintain and improve the project, including the collection of reasonable charges to use structures, works, and facilities administered by the board and services rendered by the board.

Proposed law requires board contracts for construction or purchase of materials to be in accordance with the Public Bid Law.

Proposed law authorizes the board to levy annually an ad valorem tax not to exceed five mills on the dollar on property subject to taxation in the district, provided that the levy is authorized by a favorable vote of a majority of the qualified electors in each parish within the district at an election called within three years of the effective date of proposed law and held for that purpose according to existing law.

Proposed law authorizes the board to pledge all or part of its revenues to payment of bonds but specifies that total annual tax collections shall not exceed \$20 million. Additionally, authorizes the board, provided sufficient monies are received from the ad valorem tax, to make annual payments as follows:

- (1) \$500,000 to the Cameron Parish Port, Harbor, and Terminal District.
- (2) \$500,000 to the Lake Charles Harbor and Terminal District.
- (3) \$300,000 to the West Calcasieu Port.
- (4) \$200,000 to the Vinton Harbor and Terminal District.

Proposed law provides for sunset of the district on July 1st of the year following an unfavorable vote to pass and levy an ad valorem tax.

Proposed law authorizes the board to incur debt and to issue tax-secured bonds with approval of the State Bond Commission in accordance with existing law not to exceed forty years in duration and to bear interest not to exceed five percent per annum, payable semi-annually, subject to terms of redemption not to exceed one hundred five percent of bond principal.

Effective August 1, 2018.

(Adds R.S. 34:481-490)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Transportation,
Highways, and Public Works to the original bill

1. Excludes from the district's territory any facility that meets all of the following three conditions:
 - (1) The facility is not located on the Calcasieu Ship Channel.
 - (2) The facility neither imports nor exports cargo through the Calcasieu Ship Channel.
 - (3) The facility is located within a Foreign Trade Zone.
2. Requires a favorable vote of a majority of the qualified electors in Cameron and Calcasieu parishes to levy an ad valorem tax.
3. Authorizes property acquisition by purchase, donation, lease, or expropriation.
4. Changes the limit of ad valorem tax collections from \$30 million to \$20 million.
5. Makes technical corrections.

Senate Floor Amendments to engrossed bill

1. Remove the authority of the board to acquire property by expropriation.