

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, sometimes hereinafter referred to as the  
13 "project". The district shall function as the single entity responsible to act, to  
14 secure rights of way, and to furnish assurances for the construction, operation,  
15 and 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 said 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 said board and to fix the duties, powers, and  
11 compensation of all officers, agents, and employees under said 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, lease, or expropriation  
12          property 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, lease, or  
12 expropriation any lands in the district needed for the maintenance and  
13 improvement of the project. The board may also provide that payment for such  
14 lands be made out of the monies under its control not otherwise specifically  
15 appropriated.

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

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

27 §488. Contracts

28 Anything in this Part to the contrary notwithstanding, any construction  
29 undertaken, or materials purchased pursuant to the authority granted in this

1 Chapter shall be in accordance with the provisions of Part II of Chapter 10 of  
2 Title 38 of the Louisiana Revised Statutes of 1950.

3 §489. Fee; ad valorem tax; borrowing money

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

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

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

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

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

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

29 B. Should the vote of a majority of the qualified electors in each parish

1 within the district fail to pass and levy the tax, legislative authority for the  
2 Calcasieu-Cameron Navigation District shall terminate July first of the year  
3 following the date of the election.

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

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

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



1        year.

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

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

7 §490. Bonds

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

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

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

**bonds, without a further advertisement.**

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

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

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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 Sharon F. Lyles.

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#### DIGEST

SB 279 Engrossed

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, hereafter the "project".

Proposed law 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.

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 State 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 or his designee of the Cameron Parish Port, Harbor, and Terminal District.
- (2) The port director or his designee of the Lake Charles Harbor and Terminal District.
- (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 facility being located in Cameron Parish and one being 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 once 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 in accord 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 such 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 limits total tax collections to not to exceed twenty million dollars. 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 first 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.