

2020 Regular Session

HOUSE BILL NO. 845

BY REPRESENTATIVES DWIGHT, BOURRIAQUE, CARRIER, WILFORD CARTER,  
FARNUM, ROMERO, AND TARVER AND SENATORS ABRAHAM,  
HENSGENS, JOHNS, AND REESE

WATERWAYS: Provides relative to the Calcasieu Ship Channel public-private partnership

1 AN ACT

2 To enact Part II-A of Chapter 1 of Title 34 of the Louisiana Revised Statutes of 1950, to be  
3 comprised of R.S. 34:221 through 224, relative to the Calcasieu Ship Channel; to  
4 provide for the Calcasieu Ship Channel Public-Private Partnership; to establish a  
5 management board and advisory committee; to establish the membership and powers  
6 of the board and committee; to provide relative to monies contributed to the  
7 Calcasieu River Fund; to provide for definitions; to provide an effective date; and to  
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Part II-A of Chapter 1 of Title 34 of the Louisiana Revised Statutes of  
11 1950, to be comprised of R.S. 34:221 through 224, is hereby enacted to read as follows:

12 PART II-A. CALCASIEU SHIP CHANNEL PUBLIC-PRIVATE PARTNERSHIP

13 §221. Definitions

14 As used in this Part, the following terms shall have the meaning ascribed to  
15 them, unless the context clearly indicates otherwise:

16 (1) "Board" means the Calcasieu Ship Channel Funding Management Board.

17 (2) "Corps" means the U.S. Army Corps of Engineers.

18 (3) "DMMP" means the Dredged Material Management Plan dated  
19 November 22, 2010, as adopted by the U.S. Army Corps of Engineers.

1           (4) "Fund" means the Calcasieu River Fund which is a separate and distinct  
2           fund kept and maintained by the Port of Lake Charles.

3           (5) "Industry" means a fixed facility located on the Calcasieu Ship Channel  
4           with a terminal having at least one vessel call utilizing a state-commissioned pilot.

5           (6) "Non-federal sponsor" means the Lake Charles Harbor and Terminal  
6           District acting on behalf of the state of Louisiana, as authorized by R.S. 34:218.

7           (7) "Port" means the Lake Charles Harbor and Terminal District.

8           (8) "PPA" means the project partnership agreement between the non-federal  
9           sponsor and the U.S. Army Corps of Engineers dated April 20, 2015, which  
10          implemented the Dredged Material Management Plan.

11          (9) "Ship Channel" means the Calcasieu Ship Channel, which may also be  
12          referred to as the Calcasieu River and Pass Project.

13          (10) "Vessel" means any watercraft utilizing a state-commissioned pilot to  
14          navigate the Calcasieu Ship Channel, whether foreign or domestic.

15          §222. Calcasieu Ship Channel Funding Management Board

16           A. The Legislature hereby creates the Calcasieu Ship Channel Funding  
17           Management Board which shall be domiciled at the Lake Charles Harbor and  
18           Terminal District. The board shall be composed of the following three members:

19           (1) The executive director of the Lake Charles Harbor and Terminal District  
20           or his designee.

21           (2) The governor of the state of Louisiana or his designee.

22           (3) A representative from an entity with a facility located on the Ship  
23           Channel that contributes to the fund and appointed by the Louisiana Mid-Continent  
24           Oil and Gas Association.

25           B. The board shall elect from its members a chairman who shall call the  
26           meetings as necessary and set the agenda for each meeting. The chairman shall serve  
27           a term of one year and may serve consecutive terms.

28           C. The powers of the board shall be limited to determining how money from  
29           the fund is used to pay the non-federal sponsor's cost share of the DMMP or other

1 non-federal sponsor's costs under the PPA or as required by federal law or regulation,  
2 including, but not limited to, projects presented to the board for construction and any  
3 real estate acquisitions necessary to implement the objectives of the DMMP.

4 D. The board members shall serve without compensation.

5 §223. Funding

6 A. For the 2020-2021 Fiscal Year, any entity that operates a facility on the  
7 Calcasieu Ship Channel and receives vessels pursuant to this Part, except those  
8 entities leasing from the Port of Lake Charles' City Docks Facility, Bulk Terminal  
9 1, or Bulk Terminal 4, shall contribute to the Calcasieu River Fund. The amount  
10 contributed by each entity shall be calculated based on an estimation of the number  
11 of ships expected at the entity's facility for the year 2020 at a flat rate of one  
12 thousand five hundred dollars per vessel plus eighty-four dollars and fifty cents per  
13 mile for each mile the facility is located from mile marker 0, as shown on sheet  
14 twenty-seven of the Corps' hydrologic maps of the ship channel. The total amount  
15 of private investments provided pursuant to this Subsection shall not exceed three  
16 million dollars.

17 B. For the 2020-2021 Fiscal Year, The Lake Charles Harbor and Terminal  
18 District shall contribute three million dollars to the fund.

19 C. For the 2020-2021 Fiscal Year, the legislature shall appropriate and shall  
20 contribute three million dollars to the fund.

21 D.(1) Funding for each subsequent year shall be provided as follows:

22 (a) Industry shall contribute two million five hundred thousand dollars as  
23 provided in the cooperative endeavor agreement. Industry shall determine the  
24 number of working vessels anticipated to arrive at its facility for the following year  
25 and submit that number to the Port of Lake Charles by November first of each year.  
26 Within forty-five days, the Port of Lake Charles shall invoice each entity for their  
27 individual contribution considering the following:

28 (i) A minimum per vessel transit charge of one thousand five hundred  
29 dollars.

1 \ (ii) A variable mileage charge based on distance from the facility to mile  
2 marker zero as approved by the board.

3 (iii) An adjustment using a true-up mechanism by the board using an actual  
4 vessel transit count compared to the anticipated vessel transit count from the  
5 previous year.

6 (b) If the variable mileage charge per vessel transit has been adjusted to zero  
7 and the per vessel transit charge of one thousand five hundred dollars would exceed  
8 two million five hundred thousand dollars, the per vessel transit charge shall be  
9 lowered to an amount that equates to two million five hundred thousand dollars.

10 (2) The port shall contribute two million five hundred thousand dollars to the  
11 fund.

12 (3) The legislature shall appropriate and shall contribute five million dollars  
13 as provided in the cooperative endeavor agreement entered into between the port, the  
14 state of the Louisiana, and the entities operating on the ship channel as represented  
15 by Louisiana Mid-Continent Oil and Gas Association.

16 E. In any month in which the net of committed expenditures in the fund  
17 exceeds twenty million dollars, the board shall adopt a resolution to suspend all  
18 payments to the fund from the contributing entities. Reinstatement of all payments  
19 shall occur by resolution at such time as the balance in the fund falls below twenty  
20 million dollars.

21 F. The board shall promulgate rules and regulations as are necessary to  
22 implement the provisions of this Subsection.

23 §224. The Calcasieu Ship Channel Advisory Committee

24 A. The advisory committee shall consist of a group of stakeholders that will  
25 offer advice and counsel, and meet with the Calcasieu Ship Channel Funding  
26 Management Board quarterly to review funding plans and activities. The members  
27 of the advisory committee shall not have decision making authority.

28 B. The members shall serve concurrently with the governor and without  
29 compensation.

30 C. The advisory committee shall be composed of seven members as follows:

- 1                   (1) One member shall be a representative of the Corps.
- 2                   (2) One member shall be the port director of the Cameron Parish Port,  
3                   Harbor and Terminal District or his designee.
- 4                   (3) One member shall be the executive director of the Lake Charles Harbor  
5                   and Terminal District or his designee.
- 6                   (4) One member shall be a state-commissioned river port pilot appointed by  
7                   the Associated Branch Pilots of the Port of Lake Charles.
- 8                   (5) Three members shall be appointed by the governor and shall represent  
9                   separate facilities that utilize the Calcasieu Ship Channel for commerce involving  
10                  deep draft seagoing vessels. One member shall represent a facility on the Ship  
11                  Channel in Cameron Parish and two members shall represent a facility on the Ship  
12                  Channel in Calcasieu Parish. The appointments by the governor shall be subject to  
13                  Senate confirmation.
- 14                  Section 2. This Act shall become effective upon signature by the governor or, if not  
15 signed by the governor, upon expiration of the time for bills to become law without signature  
16 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
17 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
18 effective on the day following such approval.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 845 Original

2020 Regular Session

Dwight

**Abstract:** Provides relative to the Calcasieu Ship Channel public-private partnership.

Proposed law defines "board" as the Calcasieu Ship Channel Funding Management Board.

Proposed law defines "Corps" as the U.S. Army Corps of Engineers.

Proposed law defines "DMMP" as the Dredged Material Management Plan dated Nov. 22, 2010, as adopted by the U.S. Army Corps of Engineers.

Proposed law defines "fund" as the Calcasieu River Fund which is a separate and distinct fund kept and maintained by the Port of Lake Charles.

Proposed law defines "industry" as a fixed facility located on the Calcasieu Ship Channel with a terminal having at least one vessel call utilizing a state-commissioned pilot.

Proposed law defines "non-federal sponsor" as the Lake Charles Harbor and Terminal District acting on behalf of the state of Louisiana, as authorized by present law.

Proposed law defines "port" as the Lake Charles Harbor and Terminal District.

Proposed law defines "PPA" as the project partnership agreement between the Non-federal sponsor and the U.S. Army Corps of Engineers dated April 20, 2015 which implemented the Dredged Material Management Plan.

Proposed law defines "ship channel" as the Calcasieu Ship Channel, which may also be referred to as the Calcasieu River and Pass Project.

Proposed law defines "vessel" as any watercraft utilizing a state-commissioned pilot to navigate the Calcasieu Ship Channel, whether foreign or domestic.

Proposed law creates the Calcasieu Ship Channel Funding Management Board composed of three members including the executive director of the Lake Charles Harbor and Terminal District or his designee, the governor of the state of Louisiana or his designee, and a representative from an entity with a facility located on the Ship Channel that contributes to the fund and appointed by the La. Mid-Continent Oil and Gas Assoc.

Proposed law requires the board to elect a chairman to serve a term of one year and authorizes the chairman to serve consecutive terms.

Proposed law limits the powers of the board to include determining how money from the fund is used to pay the non-federal sponsor's cost share of the DMMP or non-federal sponsor's costs under the PPA or as required by federal law or regulation including, but not limited to, projects presented to the board for construction and any real estate acquisitions as are necessary to implement the objectives of the DMMP.

Proposed law specifies that the board members must serve without compensation.

Proposed law requires, for the 2020-2021 Fiscal Year, that certain entities operating a facility on the Calcasieu Ship Channel and receiving vessels contribute to the Calcasieu River Fund. Proposed law provides that the calculation for each entity's contribution must be based on the estimated number of ships expected at the facility for the year 2020 at a flat rate of \$1,500 per vessel plus \$84.50 per mile for each mile the facility is located from mile marker zero as shown on sheet 27 of the U.S. Army Corps of Engineers hydrologic maps of the Calcasieu Ship Channel. Proposed law specifies that the total amount of private investment must not exceed \$3,000,000. Proposed law requires that the Lake Charles Harbor and Terminal District contribute \$3,000,000 to the fund and the legislature contribute \$3,000,000 to the fund.

Proposed law provides that funding for each subsequent year must be contributed as follows:

- (1) Industry must contribute \$2,500,000 as provided in the cooperative endeavor agreement. Industry must determine the number of working vessels anticipated to arrive at its facility for the following year and submit that number to the Port of Lake Charles by Nov. 1st of each year. Within 45 days, the Port of Lake Charles must invoice each entity for their individual contribution considering a minimum per vessel transit charge of \$1,500 dollars, a variable mileage charge based on distance from the facility to mile marker zero as approved by the board, and an adjustment using a true-up mechanism by the board using actual vessel transit count compared to the anticipated vessel transit count from the previous year.
- (2) The Port of Lake Charles must contribute an amount equal to \$2,500,000.

- (3) The legislature must contribute \$5,000,000 as provided in the cooperative endeavor agreement entered into between the Port of Lake Charles, the state of La., and the entities operating on the Ship Channel as represented by La. Mid-Continent Oil and Gas Assoc.

Proposed law provides that if the variable mileage charge per vessel transit has been adjusted to zero and the per vessel transit charge of \$1,500 would exceed \$2,500,000, the per vessel transit charge shall be lowered to an amount that equates to \$2,500,000.

Proposed law requires that industry determine the number of working vessels anticipated to arrive at its facility for the following year and submit that number to the Port of Lake Charles by Nov. 1st of every year. Proposed law requires that the Port of Lake Charles invoice each entity for their individual contribution based on the formula provided in proposed law with payment due on Jan. 1st of every year.

Proposed law authorizes the board to provide for an adjustment to the contribution of an entity after the entity has submitted written proof that a significant difference exists between the anticipated vessel count and the actual vessel count.

Proposed law specifies that in any month in which the net of committed expenditures in the fund exceeds \$20,000,000, the board must suspend all payments to the fund from the contributing entities. Reinstatement of payments must occur by resolution after the balance falls below \$20,000,000.

Proposed law authorizes the board to promulgate rules and regulations as are necessary to implement the provisions of proposed law.

Proposed law creates the Calcasieu Ship Channel Advisory Committee, which consists of a group of stakeholders that will offer advice and counsel, and meet with the management board quarterly to review funding plans and activities. Proposed law specifies that the committee has no decision making authority.

Proposed law specifies that the members of the advisory committee will serve without compensation and concurrently with the governor.

Proposed law provides that the advisory board must be composed of seven members as follows:

- (1) One member must be a representative of the U.S. Army Corps of Engineers.
- (2) One member must be the port director of the Cameron Parish Port, Harbor and Terminal District or his designee.
- (3) One member must be the executive director of the Lake Charles Harbor and Terminal District or his designee.
- (4) One member must be a state-commissioned river port pilot appointed by the Associated Branch Pilots of the Port of Lake Charles.
- (5) Three members must be appointed by the governor and represent separate facilities that utilize the Calcasieu Ship Channel for commerce involving deep draft seagoing vessels. One member must represent a facility on the Ship Channel in Cameron Parish and two members must represent a facility on the Ship Channel in Calcasieu Parish.

Proposed law specifies that the appointments by the governor are subject to Senate confirmation.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 34:221-224)