

Regular Session, 2013

SENATE CONCURRENT RESOLUTION NO. 102

BY SENATOR ADLEY

PUBLIC CONTRACTS. Establishes a task force to study and make recommendations relative to the authority for and use of the design-build method for contracts by public entities.

A CONCURRENT RESOLUTION

To establish a task force to study and make recommendations relative to the authority for and use of the design-build method for contracts by public entities and to require such task force to make recommendations for guidelines for utilization of the design-build method of contracting for publicly funded projects.

WHEREAS, use of the design-build method of contracting by state and local entities is prohibited unless specifically authorized by law; and

WHEREAS, the Department of Transportation and Development is authorized to utilize the design-build method of contracting as provided in R.S. 48:250.2 and 250.3; and

WHEREAS, a pilot design-build program for Louisiana's ports which terminates December 31, 2015, is authorized by Act No. 755 of the 2012 Regular Session of the Legislature which enacted R.S. 34:3523; and

WHEREAS, Hurricane Katrina made landfall in Louisiana near Buras on August 29, 2005; and

WHEREAS, Hurricane Rita made landfall in Louisiana just south of Sabine Pass on September 24, 2005; and

WHEREAS, Hurricane Katrina and Hurricane Rita caused unprecedented damage in Louisiana; and

1 WHEREAS, Act No. 373 of the 2007 Regular Session of the Legislature enacted R.S.
2 38:2225.2.1 to authorize use of the design-build method in the construction or repair of any
3 public building or structure, which had been destroyed or damaged by Hurricane Katrina,
4 Hurricane Rita, or both, for a two-year period, from July 10, 2007 to July 10, 2009, by the
5 division of administration, the Recovery School District, the city of New Orleans, and parish
6 governments in Calcasieu, Cameron, Jefferson, Orleans, Plaquemines, St. Bernard, St.
7 Tammany, and Vermillion Parishes, and the Port of New Orleans; and

8 WHEREAS, Act No. 184 of the 2009 Regular Session of the Legislature amended
9 R.S. 38:2225.2.1 to expand authority for use of design-build contracts to include any public
10 building or structure to be constructed or repaired to meet homeland security or criminal
11 justice needs pursuant to a hurricane recovery plan, and to include sheriffs and housing
12 authorities in Calcasieu, Cameron, Jefferson, Orleans, Plaquemines, St. Bernard, St.
13 Tammany, and Vermillion Parishes, and to extend the length of time from two years to three
14 years from July 10, 2007, for utilization of the design-build method for projects of certain
15 parishes or entities or until July 10, 2010; and

16 WHEREAS, Act No. 819 of the 2010 Regular Session of the Legislature amended
17 R.S. 38:2225.2.1 to extend the length of time from three years to four years from July 10,
18 2007, for utilization of the design-build method for projects of certain parishes or entities or
19 until July 10, 2011; and

20 WHEREAS, Act No. 170 of the 2011 Regular Session of the Legislature amended
21 R.S. 38:2225.2.1 to extend the length of time from four years to five years from July 10,
22 2007, for the utilization of the design-build method for projects of certain parishes or entities
23 or until July 10, 2012; and

24 WHEREAS, Act No. 354 of the 2012 Regular Session of the Legislature amended
25 R.S. 38:2225.2.1 to extend the length of time from five years to six years from July 10, 2007,
26 for the utilization of the design-build method and expanded its authorized use to include the
27 Orleans Parish School Board for projects of certain parishes or entities or until July 10, 2013;
28 and

29 WHEREAS, House Bill No. 559 by Representative Brossett of the 2013 Regular
30 Session of the Legislature proposes to amend R.S. 38:2225.2.1 to extend the time for use of

1 design-build contracting from six years to seven years from July 10, 2007, or until July 10,
2 2014, for the Recovery School District and the Orleans Parish School Board, and to extend
3 the time for use of design-build contracting from six years to eight years from July 10, 2007,
4 or until July 10, 2015, for the Sewerage and Water Board of New Orleans; and

5 WHEREAS, repeated extensions of time of design-build authority has raised
6 objections from representatives of engineer, architect, and contractor organizations.

7 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana establishes the
8 Design-Build Task Force to study all issues and disputes related to the use of the design-
9 build method to contract for projects with public funds and the continued extension of
10 design-build contracting authority, to determine the benefits and costs of the design-build
11 method of contracting, to compile a listing of pros and cons when the design-build method
12 of contracting is utilized for publicly funded projects, to address such issues, to resolve
13 disputes, to develop an approach to determine best practices for use of the design-build
14 method of contracting, to determine guidelines or criteria for utilization of the design-build
15 method of contracting by the state and its political subdivisions for public projects which
16 spend public funds, to determine an approval procedure applicable to the use of design-build
17 contracts for publicly funded projects, and to report all such matters to the House and Senate
18 Committees on Transportation, Highways, and Public Works, including recommendations
19 for legislation relative to future use of the design-build method for contracting of public
20 projects with public funds.

21 BE IT FURTHER RESOLVED that the Design-Build Task Force shall comprise the
22 following members:

23 (1) The president of the Senate or his designee.

24 (2) The speaker of the House of Representatives or his designee.

25 (3) The chair of the Senate Committee on Transportation, Highways, and Public
26 Works or his designee.

27 (4) The chair of the House Committee on Transportation, Highways, and Public
28 Works or his designee.

29 (5) The secretary of the Department of Transportation and Development or his
30 designee.

1 (6) The director of the office of facility planning and control of the division of
2 administration or his designee.

3 (7) A representative of the American Council of Engineering Companies of
4 Louisiana.

5 (8) A representative of the Louisiana Architects Association.

6 (9) A representative of the Louisiana Associated General Contractors.

7 (10) A representative of the Associated Builders and Contractors.

8 (11) A representative of the Ports Association of Louisiana.

9 BE IT FURTHER RESOLVED that the members of this task force shall serve
10 without compensation, except per diem or expenses reimbursement to which they may be
11 individually entitled as members of the organizations they represent.

12 BE IT FURTHER RESOLVED that the speaker of the House of Representatives or
13 his designee shall act as chairman of the task force and the president of the Senate or his
14 designee shall act as vice chairman.

15 BE IT FURTHER RESOLVED that a majority of the total membership shall
16 constitute a quorum of the task force and any official action by the task force shall require
17 an affirmative vote of a majority of the quorum present and voting.

18 BE IT FURTHER RESOLVED that the names of the members chosen or designated
19 as provided herein shall be submitted to the chairman of the task force not later than August
20 1, 2013, and that the chairman shall thereafter call the first meeting of the task force not later
21 than September 15, 2013.

22 BE IT FURTHER RESOLVED that the task force shall meet as necessary and shall
23 submit its report of findings and recommendations to the chairmen of the House and Senate
24 Committees on Transportation, Highways, and Public Works, not later than January 15,
25 2014.

26 BE IT FURTHER RESOLVED that the task force shall terminate not later than
27 March 31, 2014.

28 BE IT FURTHER RESOLVED that a copy of this Resolution shall be transmitted
29 to the secretary of the Department of Transportation and Development, to the director of the
30 office of facility planning and control of the division of administration, the American

1 Council of Engineering Companies of Louisiana, the Louisiana Architects Association, the
2 Louisiana Associated General Contractors, the Associated Builders and Contractors, and the
3 Ports Association of Louisiana.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Sharon F. Lyles.

DIGEST

Adley

SCR No. 102

Establishes the Design-Build Task Force to study all issues and disputes related to use of the design-build contracting authority by the state and political subdivisions for public projects with public funds, to address such issues, to resolve disputes, to develop an approach to determine the best use of design-build contracts, to determine when and how design-build contracts should be used, to determine an approval procedure for the use of design-build contracts, and to report all such matters to the House and Senate Committees on Transportation, Highways, and Public Works not later than January 15, 2014, and to terminate not later than March 31, 2014.

Comprises the task force of:

- (1) The president of the Senate or his designee.
- (2) The speaker of the House or his designee.
- (3) The chairman of the Senate Committee on Transportation, Highways, and Public Works or his designee.
- (4) The chairman of the House Committee on Transportation, Highways, and Public Works or his designee.
- (5) The secretary of the Department of Transportation and Development or his designee.
- (6) The director of facility planning and control of the division of administration or his designee.
- (7) A representative of the American Council of Engineering Companies of Louisiana.
- (8) A representative of the Louisiana Architects Association.
- (9) A representative of the Louisiana Associated General Contractors.
- (10) A representative of the Associated Builders and Contractors.
- (11) A representative of the Ports Association of Louisiana.

Specifies that the members of the task force serve without compensation, except for such reimbursement or per diem they are individually entitled to as members of the organization they represent. Names the speaker of the House of Representatives or his designee as the chairman and the president of the Senate or his designee as the vice chairman. Provides that the names of the members shall be submitted to the chairman of the task force by August 1, 2013, and that the chairman shall call the first meeting of the task force not later than September 15, 2013.