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## DIGEST

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HB 596 Reengrossed

2017 Regular Session

Leger

**Abstract:** Authorizes the Coastal Protection and Restoration Authority (CPRA) to use outcome-based performance contracts.

Proposed law adds outcome-based performance contracts to the contracting authority of the executive director of the CPRA.

Proposed law authorizes the CPRA to use an outcome-based performance contract alternative project delivery method to contract for financing, designing, constructing, and monitoring integrated coastal protection projects.

Proposed law prohibits the use of outcome-based performance contracts for projects with terms exceeding 25 years.

Proposed law provides for a general definition of "outcome-based performance contract" as a contract with specific outcomes or goals and for payment upon completion of those agreed-upon outcomes or goals.

Proposed law provides for a definition of "outcome-based performance contractor" as any person or entity properly licensed, bonded, and insured who is responsible to the owner for the integrated coastal protection project to be delivered.

Proposed law provides for a definition of "owner" as the CPRA.

Proposed law provides for a definition of "licensed design professional" as a licensed engineer, architect, or landscape architect.

Proposed law provides for a definition of "resident business" as one authorized to do and doing business under the laws of this state that either maintains its principal place of business in the state or that employs a minimum of two employees who are residents of Louisiana.

Proposed law provides that all other terms in proposed law have the same meaning as those terms in present law.

Proposed law prohibits the CPRA from accepting unsolicited proposals for outcome-based performance contracts. Provides that nothing in the law prohibits a company from making suggestions for new projects or alterations to solicited proposals. Requires the award of any contract

to be made only after the issuance of a request for proposal and competitive bid.

Proposed law allows the CPRA to formulate rules and guidelines to implement proposed law.

Proposed law provides for financing terms and conditions of outcome-based performance contracts to be determined by the CPRA and the outcome-based performance contractor.

Proposed law also provides for any revenues or earnings from activities pursuant to proposed law to be deposited in the Coastal Protection and Restoration Fund.

Proposed law allows the CPRA to acquire land and easements in order to serve the purpose of proposed law.

Proposed law requires outcome-based performance contractors to employ duly licensed professionals. Proposed law states that the rules and regulations of the La. Professional Engineering and Land Surveying Board and the State Licensing Board for Contractors shall apply to proposed law.

Proposed law provides that the CPRA shall provide a request for statement of interest and qualification (RSIQ) and includes the requirements of what must be included in the RSIQ.

Proposed law requires that the CPRA establish a qualification review committee which must evaluate the responses to the RSIQ. Proposed law additionally requires the qualification review committee to create a list of the highest rated proposers and present the list to the executive director.

Proposed law requires that the executive director issue a request for proposal (RFP) to those making the list of highest rated proposers. Proposed law provides for what must be included in the RFP.

Proposed law provides that the executive director shall establish a proposal review committee to select the outcome-based performance contractor.

Proposed law states that the proposal review committee shall consist of seven individuals: three representatives of the owner, a design professional not involved with the project, a licensed contractor not involved with the project, and two at-large members selected by the owner.

Proposed law provides that the proposal review committee shall make recommendations to the executive director within 90 days of the deadline for responses to the RFP.

Proposed law provides that the authority and the selected outcome-based performance contractor shall execute a contract within 60 days of the award of the outcome-based performance contract. If no contract is executed within those 60 days, authorizes the authority to re-advertise the project.

Proposed law provides that the authority may decline to award a contract if it is in the best interest of the state.

Proposed law provides that there shall be no challenge by legal process to any selection of an outcome-based performance contractor except for fraud, bias, or arbitrary and capricious selection by the authority.

Proposed law states that proposed law shall supercede any conflicting provisions of present law.

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

(Amends R.S. 49:214.6.2(A); Adds R.S. 49:214.7)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Natural Resources and Environment to the original bill:

1. Authorize the authority to re-advertise the project if no contract has been executed within the allowed 60 days.

#### The House Floor Amendments to the engrossed bill:

1. Change the definition of "La. resident contractor" to a definition of "resident business".
2. Remove the \$150 million cap on eligible projects.
3. Provide that nothing in the law prohibits a company from making suggestions for new projects or alterations to solicited proposal, but require the award of any contract to be made only after the issuance of a request for proposal and competitive bid.
4. Make technical changes.