

2026 Regular Session

SENATE RESOLUTION NO. 169

BY SENATOR WHEAT

TRANSPORTATION/DEV DEPT. Directs the Department of Transportation and Development to establish a two-year minimum pilot program for the use of dispute review boards on certain highway and transportation construction projects.

1 A RESOLUTION

2 To direct the Department of Transportation and Development to establish and study a  
3 two-year pilot program for the use of dispute review boards on certain highway and  
4 transportation construction projects beginning in the state fiscal year commencing  
5 July 1, 2026, and to report to the Senate Committee on Transportation, Highways  
6 and Public Works concerning implementation and results of the pilot program.

7 WHEREAS, disputes arising during highway and transportation construction projects  
8 can delay work, increase costs, strain project relationships, and lead to claims or litigation  
9 after project completion; and

10 WHEREAS, resolving disputes while work is ongoing can preserve project  
11 momentum, improve documentation, and allow disagreements to be addressed while the  
12 relevant facts, records, personnel, and field conditions remain current; and

13 WHEREAS, a dispute review board is an independent panel composed of at least  
14 three members established at the beginning of a construction project to assist the owner and  
15 contractor in avoiding disputes and resolving disputes early through informed, neutral,  
16 project-specific recommendations; and

17 WHEREAS, dispute review boards are particularly useful on large, complex, or  
18 high-risk transportation projects involving disputes concerning contract interpretation, extra

1 work, differing site conditions, quantities, payment, delay, acceleration, disruption, and other  
2 matters arising out of contract performance; and

3 WHEREAS, a dispute review board process is advisory and nonbinding, preserves  
4 the rights and defenses of the Department of Transportation and Development and its  
5 contractors, and does not alter, amend, or expand the terms of the construction contract; and

6 WHEREAS, the Department of Transportation and Development should evaluate  
7 best practices used by other state transportation agencies and follow the example of fifteen  
8 state departments of transportation around the country that have used dispute review board  
9 processes or similar dispute avoidance and resolution procedures on transportation  
10 construction projects; and

11 WHEREAS, a two-year pilot program, commencing in the state fiscal year on July  
12 1, 2026, allows the department to test dispute review board procedures, evaluate costs and  
13 benefits, and collect meaningful data concerning dispute avoidance, claims reduction, project  
14 delivery, and litigation prevention; and

15 WHEREAS, the pilot program may include at least five projects per fiscal year to  
16 ensure the department has sufficient experience and data to evaluate the process across  
17 different project types, regions, contract values, and levels of complexity.

18 THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana  
19 does hereby direct the Department of Transportation and Development to study, establish  
20 and implement a dispute review board pilot program for two years, for appropriate highway  
21 and transportation construction projects, beginning during the state fiscal year commencing  
22 July 1, 2026, continuing for not less than two fiscal years, with no less than five projects per  
23 fiscal year.

24 BE IT FURTHER RESOLVED that the department select pilot projects based on  
25 criteria established by the department, including contract value, complexity, risk, project  
26 duration, delivery method, or other factors relevant to the likelihood of construction disputes.

27 BE IT FURTHER RESOLVED that the department include dispute review board  
28 requirements in the advertisement, special provisions, proposal, or contract documents for  
29 each selected pilot project, including a "pay item" or other contract mechanism identifying  
30 when a dispute review board will be used.

1 BE IT FURTHER RESOLVED that each dispute review board consist of members  
2 selected from a roster of qualified and independent candidates maintained by the department  
3 in consultation with representatives of the transportation construction industry and other  
4 appropriate stakeholders including:

5 (1) One member selected by the department.

6 (2) One member selected by the contractor.

7 (3) One member selected by the first two members who will serve as chairman.

8 (4) Other members, if mutually agreed upon, may be added and removed as  
9 necessary.

10 BE IT FURTHER RESOLVED that dispute review board members shall have  
11 relevant experience in heavy, highway, bridge, or transportation construction, construction  
12 management, contract administration, claims analysis, engineering, scheduling, or dispute  
13 resolution; be free from disqualifying conflicts of interest; and be bound by a standard  
14 agreement governing ethics, duties, confidentiality, disclosure obligations, compensation,  
15 and procedures.

16 BE IT FURTHER RESOLVED that the dispute review board may review disputes  
17 concerning contract interpretation, payment, extra work, differing site conditions, quantity  
18 disputes, delays, acceleration, disruption, and other matters arising out of contract  
19 performance, but should not have authority to change or amend a contract, decide tort or  
20 third-party claims, determine matters beyond the legal authority of the department, or  
21 determine the validity of statutes, regulations, or public policy.

22 BE IT FURTHER RESOLVED that the department is directed to provide procedures  
23 for early orientation meetings, regular project meetings or site visits, referral of unresolved  
24 disputes, submission of position papers and supporting documents, informal hearings,  
25 written recommendations, and written acceptance or rejection of recommendations by the  
26 parties.

27 BE IT FURTHER RESOLVED that the department is directed to consider whether  
28 dispute review board review should be made a contractual condition precedent to formal  
29 claims, arbitration, or litigation for disputes within the board's scope, unless waived in  
30 writing by both the department and the contractor for a specific dispute.

1 BE IT FURTHER RESOLVED that participation in a dispute review board process  
2 will not automatically extend legal or contractual deadlines, waive claim preservation  
3 requirements, or waive any rights or defenses unless expressly provided by contract or law.

4 BE IT FURTHER RESOLVED that the department is directed to designate a dispute  
5 review board program administrator to maintain the roster, standardize agreements and  
6 procedures, coordinate training, collect data, and evaluate program performance.

7 BE IT FURTHER RESOLVED that the department is directed to submit a written  
8 interim report not later than March 1, 2027, concerning the department's progress, selected  
9 pilot projects, project selection criteria, candidate qualification criteria, standard contract  
10 provisions, anticipated costs, and implementation schedule and submit a final report not later  
11 than June 30, 2028, concerning the results of the pilot program, including the number and  
12 type of projects included, the number and type of disputes referred to dispute review boards,  
13 program costs, timeliness of recommendations, acceptance or rejection of recommendations,  
14 any observed reduction in claims or litigation, and the department's recommendation as to  
15 whether the program should be continued, modified, expanded, or made permanent to the  
16 president of the Senate, the Senate Committee on Transportation, Highways and Public  
17 Works, and the David R. Poynter Legislative Research Library as required by R.S. 24:771  
18 and 772.

19 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the  
20 secretary of the Department of Transportation and Development.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Senate Legislative Services.  
The keyword, summary, 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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Directs the Department of Transportation and Development to establish and study a two-year pilot program for the use of dispute review boards on certain highway and transportation construction projects beginning in the state fiscal year July 1, 2026.