AN ACT

To amend and reenact R.S. 48:250.2(A), and to enact R.S. 38:2225.2.5 and R.S. 48:232.1 and 250.2(D), relative to design-build contracts; to authorize any regional transit authority created by law to let a design-build contract for new ferries on the Mississippi River; to require that the Department of Transportation and Development give priority to any bridge project which replaces a tunnel; to authorize the Department of Transportation and Development to utilize the design-build method to contract for ferries on the Mississippi River and for a bridge project which replaces a tunnel; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 38:2225.2.5 is hereby enacted to read as follows:

§2225.2.5. Design-build contracts; authorized use by any regional transit authority for new ferries on the Mississippi River

A.(1) Notwithstanding any other provision of law to the contrary, and subject to the provisions of this Section, any regional transit authority created by law may let contracts for any new ferry on the Mississippi River in which the design and construction phases of the ferry project are combined into a single contract.

(2) For the purposes of this Section:

(a) "Authority" means a regional transit authority.

(b) "Design-builder" means the person or entity contractually obligated to deliver the design and construction of a new ferry on the Mississippi River.

B. Prior to letting any such contract, an authority shall adopt a resolution establishing the design-build program for any new ferry. The
resolution shall include, at a minimum, the following provisions:

(1) Requirements that a design-builder to whom a design-build contract
is awarded, or any person or entity to whom a design-builder may sublet, shall
be duly registered, licensed, or otherwise qualified to perform such design and
construction service as required by law, and registered to do business in
Louisiana.

(2) Requirements for the composition of a technical review committee to
grade and judge the statements of qualifications and technical proposals
submitted pursuant to the request for qualifications and the request for
technical proposals. At least one member of the technical review committee
shall be a maritime engineer, and the resolution shall so provide.

(3) Specific requirements for the design-build program and the design-
build contract, including but not limited to:

(a) Public announcement procedures for solicitation of interested design-
build competitors. The resolution shall provide that a notice of intent to select
a single legal entity for design-build services and to request letters of interest
and statements of qualifications from qualified firms or teams shall be
distributed by the authority through advertisement in the official journal of the
authority, by appearance on the authority's Internet home page, if any, and by
other means to ensure adequate response, including newspapers, trade journals,
and other forms of media which may be appropriate for specialty services. The
notice of intent shall be advertised a minimum of ten days prior to the deadline
for receipt of responses and shall contain a brief description of the project, the
required scope of services, and sufficient information for design-build entities
to determine their interest and to enable them to submit a letter of interest and
statement of qualifications. The authority may readvertise the notice of intent
using additional media or publications in an attempt to solicit additional
responses if the number of responses is inadequate.

(b) Scope of service requirements to be met by the design-builder
selected for the contract.
(c) Requirements for a request for qualifications and statements of qualifications to be submitted by competitors for the design-build contract.

(d) Criteria and rating procedures for choosing a short list from among the persons submitting statements of qualifications to whom requests for the submission of technical proposals will be made.

(e) Requirements for cost proposals to be submitted by competitors for the design-build contract.

(f) Requirements concerning how the technical review committee shall grade, judge, and rank the technical proposals and make recommendations to the governing authority of the regional transit authority.

(g) Requirements for the selection process for the award of the design-build contract.

C. The design-build program and any design-build contract entered into pursuant to the design-build program shall be subject to the following procedures and limitations:

(1) Statements of qualifications from at least two qualified design-build competitors must be received in response to a formal request for qualifications in order to proceed with a request for technical proposals.

(2) Technical proposals shall be requested from no fewer than two of the qualified design-build competitors who submit statements of qualifications for the design-build program.

(3) The authority may use a private design professional or its own staff to develop a description of the project and the required scope of services. The description of the project and the required scope of services shall include design criteria, analyses, reports, and cost estimates for the design-build project as prepared by a private design professional or the authority staff.

(4) The technical review committee shall grade, judge, and rank the technical proposals and make a recommendation to the authority’s governing authority for the awarding of the contract in accordance with requirements of this Section, the resolution, the request for qualifications, and the request for
technical proposals.

(5)(a) The final selection of the design-build competitor to whom the contract shall be awarded shall be made by the authority's governing authority.

(b) Such selection shall be made upon the basis of the best design for the purposes set forth in the request for qualifications and the best cost for that design, taking into account costs of construction and operation and maintenance of that design. Competitors from the short list from whom technical proposals have been requested may submit alternate designs and costs to ensure the greatest number of options from which the award may be made so as to promote best cost, as described in this Subparagraph, and the interests of the taxpayers.

(6)(a) An adjusted score approach shall be used by the authority in determining the winning proposal. An adjusted score shall be determined using the following components:

(i) The technical score determined by the technical review committee. Weighing factors may be assigned to each element depending on its relative magnitude or significance to the overall project. Each technical review committee member shall rate his assigned element of the proposal from each of the entities on the short list and shall submit such scores to the chairman of the technical review committee. The schedule and price bid shall not be made known to the technical review committee during the scoring process. The chairman of the technical review committee shall adjust the scores for any applicable weighing factors and shall determine the total technical score for each proposal.

(ii) Prior to determining the adjusted score, the chairman of the technical review committee shall notify each design-build proposer, in writing, of each proposer's final total technical score. A proposer may request, in writing, a review of its final total technical score by the authority's designated representative. If any proposer requests a review of its total technical score, the designated representative shall hold a hearing to review such within a
reasonable time after the request has been received by the designated representative. The designated representative shall give the requesting proposer reasonable notice of the time and place of such hearing. The requesting proposer may appear at the hearing and present facts and arguments in support of the request for review of its final total technical score.

(iii) The individual scoring of each member of the technical review committee shall be considered a public record and available for public view.

(iv) The designated representative shall present his findings from the hearing to the governing authority of the authority. The governing authority shall determine what action shall be taken regarding the proposer's request to review its final total technical score. Except as provided for in Subsection D of this Section, the governing authority's decision shall be final and not subject to appeal by any legal process.

(v) The time value, consisting of the product of the proposed contract time expressed in calendar days multiplied by the value-per-calendar-day expressed in dollars established by the authority and included in the "Scope of Services Package".

(vi) The price proposal.

(b) The chairman of the technical review committee shall recommend the proposal with the lowest adjusted score to the authority's governing authority. The adjusted score for each entity's design-build proposal shall be determined by the following formula: Adjusted Score = (Price Bid + Time Value) divided by Technical Score. If the Time Value is not used, the Adjusted Score shall be determined by the following formula: Adjusted Score = Price Bid divided by Technical Score.

D. There shall be no challenge by any legal process to the choice of the successful designer-builder unless filed and served on the presiding officer of the authority's governing authority within seven calendar days after the award of the design-build contract. Any such challenge shall be limited to fraud, bias for pecuniary or personal reasons not related to the interests of the taxpayers,
or arbitrary and capricious selection of the successful design-builder. Any such challenge shall be heard as a summary proceeding by the district court of proper venue for the authority not less than ten days after service of the petition, excluding legal holidays.

E. Once the design-builder has been chosen, a contract for a stipulated maximum total cost may be executed, as provided in the authority's award resolution. The final cost of the design-build contract may be increased or decreased to account for inflation if provided for in the contract, for changes in the scope of work, or for a combination thereof, or for other conditions of which the design-builder either did not have knowledge of, or could not have reasonably foreseen the possibility of, concerning the design and construction provided any change is related to the original project and scope of services.

F. The provisions of this Section shall supersede any conflicting provisions of any other law, including but not limited to the requirements of Chapter 10 of this Title.

Section 2. R.S. 48:250.2(A) is hereby amended and reenacted, and R.S. 48:232.1 and 250.2(D) are hereby enacted to read as follows:

§232.1. Apportionment of appropriated funds by the department; tunnel replacement priority

The Department of Transportation and Development may give priority and advance to construction as expeditiously as possible any bridge project where a bridge replaces a tunnel. The department may use any available source of funds to finance such projects, and may use any available source of funds, including the secretary's emergency fund, as matching funds to meet federal requirements in order to receive federal aid funds. Notwithstanding any other provision of law to the contrary, the department may contract for such projects using any contract method provided by law, including design-build or construction management at risk.

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§250.2. Design-build contracts; administration
A. Notwithstanding any law to the contrary or the requirements of this Part, if the secretary determines it is in the best interest of the taxpayers, the Department of Transportation and Development, with approval of the House and Senate transportation, highways, and public works committees, may formulate, develop, and implement a program to combine the design and construction phases of a transportation facility or facilities, including but not limited to highways, interchanges, or bridges, ferries on the Mississippi River, or tunnels into a single contract.

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D. The department shall consider a design-build contract to replace the tunnel on Louisiana Highway 23 and shall submit a written report of its recommendation to the House and Senate committees on transportation, highways, and public works not later than February 1, 2016.

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ____________