

2015 Regular Session

SENATE BILL NO. 162

BY SENATOR GARY SMITH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PUBLIC CONTRACTS. Authorizes construction management at risk pilot program.
(8/1/15)

1 AN ACT

2 To amend and reenact R.S. 38:2225.2.4(A)(3), (F)(5), and (G)(5), relative to public
3 contracts; to authorize a construction management at risk pilot program; to provide
4 for selection of a construction management at risk contractor; to provide for entry
5 into a construction management at risk contract by an owner; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 38:2225.2.4(A)(3), (F)(5), and (G)(5) are hereby amended and
9 reenacted to read as follows:

10 §2225.2.4. Construction management at risk; public entity

11 A. * * *

12 (3) CMAR shall not be used for any project that is estimated to cost less than
13 twenty-five million dollars: **except for any project in the CMAR pilot program.**
14 **A pilot program is hereby established that authorizes a public entity to use**
15 **CMAR for only one project which is estimated to cost three million dollars or**
16 **more, provided that the CMAR pilot program is limited to no more than ten**
17 **projects on a first-come, first-served basis. Prior to proceeding to use CMAR,**

1 a public entity shall submit a proposed CMAR pilot project by name, together
 2 with the reason to use CMAR, to the House and Senate transportation,
 3 highways, and public works committees for review and approval.

4 * * *

5 F. * * *

6 (5) ~~If the~~ The benefits of using the CMAR method reduce as the design
 7 process progresses,~~the~~. The owner shall select the CMAR contractor either before,
 8 but not later than, when ~~the~~ in the professional opinion of the owner's design
 9 professional, the design professional's design of the project is not more than thirty
 10 percent complete.

11 G. After award and execution of the contract with the CMAR contractor, the
 12 following actions shall proceed:

13 * * *

14 (5) Once a guaranteed maximum price is agreed upon, the owner may
 15 ~~authorize~~ contract with the CMAR contractor to undertake construction services.
 16 Additionally, the owner may determine and ~~authorize~~ contract with the CMAR
 17 contractor to undertake specific items of construction services prior to agreement
 18 upon a GMP for such items, provided such undertaking is for the benefit of the
 19 project and a GMP for the undertaking can be agreed upon between the owner and
 20 CMAR contractor. Such items may benefit the project, including but not limited to
 21 items that require a long lead time, may further the understanding of unknown site
 22 conditions, or other items.

23 * * *

The original instrument was prepared by Sharon F. Lyles. The following digest, which does not constitute a part of the legislative instrument, was prepared by McHenry Lee.

SB 162 Reengrossed DIGEST 2015 Regular Session Gary Smith

Present law authorizes an owner who is a public entity to use the construction management at risk (CMAR) project delivery method. The owner engages a design professional for predesign or design services, or both. The owner contracts separately with a CMAR contractor to engage in the preconstruction phase who may also provide construction

services to build the project. Use of CMAR is limited to projects estimated to cost \$25 million dollars or more.

Proposed law establishes a CMAR pilot program that is limited to ten projects, each estimated to cost three million dollars or more. Pilot projects must be submitted by name for review and approval by the House and Senate committees on transportation, highways, and public works. A public entity is allowed only one CMAR pilot project.

Present law requires the owner to select the CMAR contractor either before, but not later than, when design is not more than 30% complete if the benefits of the CMAR method reduce as the design process progresses.

Proposed law declares that the benefits of using the CMAR method reduce as project design progresses and provides that determination of the design completion percentage is based on the professional opinion of the owner's design professional.

Present law provides that, if the owner and CMAR contractor are able to negotiate, establish, and agree upon a guaranteed maximum price for rendering construction services for the project, the owner may authorize the CMAR contractor to undertake construction services. Further provides that an owner may determine and authorize a CMAR contractor to undertake specific items provided such undertaking is beneficial to the project, including but not limited to items that require a long lead time, further understanding of unknown site conditions, or other issues.

Proposed law changes "authorize" to "contract with".

Effective August 1, 2015.

(Amends R.S. 38:2225.2.4(A)(3), (F)(5), and (G)(5))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to reengrossed bill

1. Makes technical changes.