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January 25, 2017

Representative Taylor Barras
Speaker of the House of Representatives
P.O. Box 94062
Baton Rouge, Louisiana 70804

Senator John A. Alario, Jr.
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

RE: HCR 129 OF 2016

Dear Mr. Speaker and Mr. President:

The Louisiana State Law Institute respectfully submits herewith its interim report to the legislature relative to preferences for Louisiana contractors on contracts for integrated coastal protection projects.

Sincerely,

A handwritten signature in black ink, appearing to read "William E. Crawford".

William E. Crawford
Director

WEC/puc

Enclosure

cc: Representative Jerome "Zee" Zeringue

email cc: David R. Poynter Legislative Research Library
drplibrary@legis.la.us
Secretary of State, Mr. Tom Schedler
admin@sos.louisiana.gov

**LOUISIANA STATE LAW INSTITUTE
CONSTITUTIONAL LAWS COMMITTEE**

**INTERIM REPORT TO THE LEGISLATURE
IN RESPONSE TO HCR 129 OF THE 2016 REGULAR SESSION**

**Relative to preferences for Louisiana contractors on contracts for integrated
coastal protection projects**

Prepared for the
Louisiana Legislature on

January 25, 2017

Baton Rouge, Louisiana

**LOUISIANA STATE LAW INSTITUTE
CONSTITUTIONAL LAWS COMMITTEE**

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To: Representative Taylor F. Barras
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**INTERIM REPORT TO THE LEGISLATURE
IN RESPONSE TO HCR 129 OF THE 2016 REGULAR SESSION**

House Concurrent Resolution No. 129 of the 2016 Regular Session (attached) urges and requests the Louisiana State Law Institute “to study the issue of preferences in favor of Louisiana contractors for contracts related to integrated coastal protection projects.” The Resolution also requests the Law Institute to consider and determine issues such as whether preference shall be given to Louisiana resident contractors over nonresident contractors, whether competitive bidding impacts that determination, the advantages and disadvantages of granting such a preference, and what effect a strict preference law will have on resident contractors working outside the state of Louisiana.

In fulfillment of this request, Law Institute staff has conducted and continues to conduct background research on the potential issues raised by legislation giving preference to Louisiana contractors when the state seeks public contracts for coastal restoration work. This research is under review by the Law Institute’s Constitutional Laws Committee and will be compiled into a report for consideration by the Council. Part I of the report will analyze the potential constitutional issues raised by state preference laws, and Part II will discuss the effects such legislation would have on Louisiana contractors seeking coastal restoration work in other states, in light of a full survey of other states’ reciprocal preference laws. Evaluation of positive and negative economic impacts on Louisiana and Louisiana contractors resulting from adoption of such preference legislation will be beyond the resources of the Committee and the scope of the report. The Committee does not currently expect to opine on whether such preference legislation should be adopted as a matter of state policy.

Respectfully submitted,

Charles S. Weems, III, Reporter
Constitutional Laws Committee
Louisiana State Law Institute

2016 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 129

BY REPRESENTATIVE ZERINGUE

A CONCURRENT RESOLUTION

To urge and request the Louisiana State Law Institute to study the issue of preferences in favor of Louisiana contractors for contracts related to integrated coastal protection projects and to report the findings, in writing, to the Senate and House committees on transportation, highways and public works and the member of the House of Representatives representing House District Number 52.

WHEREAS, the Louisiana State Law Institute is partially purposed to conduct special research for the Legislature and its individual members, at their request, on matters of legislative interest; and

WHEREAS, generally, Louisiana's resident preference statutes, R.S. 39:1604.2, and R.S. 38:2225, require preference be given to a contractor domiciled in the state of Louisiana over a contractor domiciled in a state that provides for a preference, percentage or otherwise, in favor of its state's contractors over Louisiana contractors for the same type of work; and

WHEREAS, R.S. 49:214.2 defines integrated coastal protection as plans, projects, policies, and programs intended to provide hurricane protection or coastal conservation or restoration, and shall include but not be limited to coastal restoration; coastal protection; infrastructure; storm damage reduction; flood control; water resources development; erosion control measures; marsh management; diversions; saltwater intrusion prevention; wetlands and central wetlands conservation, enhancement, and restoration; barrier island and shoreline stabilization and preservation; coastal passes stabilization and restoration; mitigation; storm surge reduction; or beneficial use projects; and

WHEREAS, Louisiana is leading the country for efforts in coastal restoration and technology and advancement and also in terms of the economy and ability to create jobs and salaries; and

WHEREAS, nonresident contractors have completed work in the state of Louisiana which resulted in expenditures, cost overruns, and change orders due to a lack of familiarity with Louisiana's habitat and environment; and

WHEREAS, the state of Louisiana invests over five hundred million dollars per year in coastal restoration and protection of the Louisiana coast and as such, the state should be receiving the maximum benefit for its investment; and

WHEREAS, resident contractors who possess indigenous environmental knowledge which could yield cost savings to the state should be afforded an increased opportunity to have a share in the investment and take advantage of the opportunity presented to the state.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to study the issue of preference given to Louisiana contractors on contracts for integrated coastal protection projects.

BE IT FURTHER RESOLVED, in studying the issue of preference in certain integrated coastal protection projects, the Louisiana State Law Institute shall consider and determine the following:

(1) Whether, in letting contracts for public work for integrated coastal protection projects by any public entity, except contracts financed in whole or in part by contributions or loans from any agency of the United States government, preference shall be given to Louisiana resident contractors over nonresident contractors?

(2) Whether, when competitive bidding is not required, a contract for integrated coastal protection projects shall be awarded to a Louisiana resident contractor, if there is one available with the expertise required for the specific job?

(3) Whether, when competitive bidding is required by law, a contract for integrated coastal protection projects shall be awarded to the Louisiana resident contractor making the lowest responsible bid, if the bid is not more than ten percent higher than the lowest responsible nonresident bid and the resident contractor agrees to revise his bid to be no more than the lowest responsible nonresident bid?

(4) What effect a strict preference law will have on resident contractors working outside of the state of Louisiana?

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall complete a study, which shall also consider any advantages or disadvantages of granting a preference

to Louisiana resident contractors on contracts for integrated coastal protection projects, and address the competitive bidding process on contracts for integrated coastal protection projects.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall complete a written report addressing the issues with granting a preference to Louisiana contractors on contracts for integrated coastal protection projects considering competitive bidding.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall submit the report to the Senate and House committees on transportation, highways and public works and to the member of the House of Representatives representing House District Number 52 on or before February 1, 2017.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the president of the Louisiana State Law Institute.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE