

85TH CONGRESS  
1ST SESSION

# H. R. 657

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1957

Mr. FOGARTY introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To amend the Davis-Bacon Act, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That the Act of March 3, 1931 (46 Stat. 1494), as amended  
4       August 30, 1935 (49 Stat. 1011), June 15, 1940 (54 Stat.  
5       399), and as amended Act of March 23, 1941 (55 Stat.  
6       53), . (U. S. Code, title 40, sections 276a to 276a-7 in-  
7       clusive) and as may have been heretofore amended from  
8       time to time, is hereby amended to read as follows:

9       “SECTION 1. The specifications for every contract in  
10       excess of \$2,000 for construction, alteration, repair, installa-  
11       tion, painting, decorating, completion, demolition, condition-

1 ing, reconditioning, or improvement of public buildings or  
2 public works of the United States or the District of Colum-  
3 bia within the geographical limits of the States of the Union,  
4 the Territory of Alaska, the Territory of Hawaii, or of the  
5 District of Columbia or other building, structure, improve-  
6 ments, or works financed in whole or in part from Federal  
7 funds or in accordance with or as a result of guaranties or  
8 insurance of a Federal agency or undertaken for the pur-  
9 pose of carrying out an agreement with a Federal agency  
10 or financed from funds obtained as a result of any agree-  
11 ment of a Federal agency to make loans, payments, grants,  
12 or contributions, and which requires or involves the employ-  
13 ment of mechanics and/or laborers shall contain a provision  
14 stating the minimum wages to be paid various classes of  
15 laborers and mechanics which shall be based upon the wages  
16 that will be determined by the Secretary of Labor to be pre-  
17 vailing for the corresponding classes of laborers and mechanics  
18 employed on projects of a character similar to the contract  
19 work in the city, town, village, or other civil subdivision of  
20 the State, or the Territory of Alaska, or the Territory of  
21 Hawaii, in which the work is to be performed, or in the  
22 District of Columbia if the work is to be performed there;  
23 and every contract based upon these specifications shall con-  
24 tain a stipulation that—

1           “(1) the contractor or his subcontractor shall pay  
2 all mechanics and laborers employed directly upon the  
3 site of the work, unconditionally and not less often than  
4 once a week, and without subsequent deduction or re-  
5 bate on any account, the full amounts accrued at time  
6 of payment, computed at rates not less than those stated  
7 in the specifications; and, with respect to hours of work  
8 in excess of specified hours in any one calendar day or on  
9 more than specified consecutive days or in excess of  
10 specified hours in any workweek or for hours worked on  
11 Saturday or Sunday or holidays or at specified periods  
12 during the day, such payments shall at least include  
13 amounts computed at a rate not less than one and one-  
14 half times the basic rate of pay for all hours worked in  
15 excess of eight hours in any one calendar day or on  
16 more than five consecutive days or in excess of forty  
17 hours in any workweek or for hours worked on Saturday  
18 or Sunday or holidays; and

19           “(2) with respect to all remuneration for employ-  
20 ment paid in any medium other than cash and with re-  
21 spect to the reimbursement for expenses or any pay-  
22 ments which are not ‘wages’ within the meaning of  
23 this Act, the contractor or his subcontractor shall con-  
24 form to the practices prevailing for the corresponding  
25 classes of laborers and mechanics employed on projects

1 similar to the contract work in the city, town, village, or  
2 other civil subdivision of the State, or the Territory of  
3 Alaska, or the Territory of Hawaii in which the work  
4 is to be performed, or in the District of Columbia if the  
5 work is to be performed there. Such stipulation shall  
6 also specify that such amounts shall be paid regardless  
7 of any contractual relationship which may be alleged to  
8 exist between the contractor or subcontractor and such  
9 laborers and mechanics, and that the scale of wages to  
10 be paid and practices to be followed shall be posted by  
11 the contractor in a prominent and easily accessible place  
12 at the site of the work; and the further stipulation that  
13 there may be withheld from the contractor so much of  
14 accrued payments as may be considered necessary by  
15 the contracting agent to pay with respect to laborers  
16 and mechanics employed by the contractor or any sub-  
17 contractor on the work the difference between the  
18 amounts required by the contract to be paid with respect  
19 to laborers and mechanics on the work and the amounts  
20 received and not refunded to the contractor, subcontrac-  
21 tor, or their agents; and a further stipulation that the  
22 Secretary of Labor or his authorized representatives  
23 may enter and inspect such places and such records (and  
24 make such transcriptions thereof), question such em-  
25 ployees and investigate such facts, conditions, practices

1 or matters as he may deem necessary or appropriate to  
2 determine whether any person has violated any stipula-  
3 tion of a contract required by this Act or which may aid  
4 in the enforcement of the provisions of this Act.

5 "SEC. 2. Every contract within the scope of this Act  
6 shall contain the further provision or stipulation that, in the  
7 event it is found by the Secretary of Labor or his authorized  
8 representative that with respect to any laborer or mechanic  
9 employed by the contractor or any subcontractor directly  
10 on the site of the work covered by the contract, amounts  
11 paid or being paid are less than the amounts required by  
12 the contract to be paid as aforesaid, or that any other  
13 breach or violation of the stipulations required by this Act  
14 has occurred, the contracting agent may, by written notice  
15 to the contractor, terminate his right to proceed with the  
16 work, or such part of the work as to which there has been  
17 a breach or violation of the stipulations required by this Act  
18 and prosecute the work to completion by contract or other-  
19 wise, and that the contractor and his sureties shall be liable  
20 to the contracting agent for any excess costs occasioned the  
21 contracting agent thereby.

22 "SEC. 3. (a) The Comptroller General of the United  
23 States is hereby authorized and directed to pay directly  
24 to laborers and mechanics from any accrued payments with-

1 held under the terms of a contract of a Federal agency any  
2 amounts found to be due laborers and mechanics pursuant  
3 to this Act and, as a condition of any financing, guarantee,  
4 insuranace, loan, payment, grant, or contribution, each Fed-  
5 eral agency shall ensure that the contracting agent other  
6 than a Federal agency shall similarly make or cause to be  
7 made such payments from amounts similarly withheld; and  
8 the Secretary of Labor is authorized and directed to distrib-  
9 ute a list to all Federal agencies giving the names of all  
10 persons or firms whom he or his authorized representative  
11 has found to have disregarded their obligations to laborers  
12 or mechanics or subcontractors as assumed or imposed pur-  
13 suant to this Act or whom he has found to have breached  
14 or violated the contract stipulations required by the provi-  
15 sions of this Act. No contract shall be awarded by any  
16 Federal agency or entered into pursuant to financing, guar-  
17 antees, insurance, loans, grants, payments or contributions by  
18 any Federal agency, with respect to persons or firms appear-  
19 ing on this list or with respect to any firm, corporation, part-  
20 nership, or association in which such persons or firms have  
21 an interest until three years have elapsed from the date of  
22 publication of the list containing the names of such persons  
23 or firms.

24 “ (b) If the accrued payments withheld under the terms  
25 of the contract, as aforesaid, are insufficient to reimburse all

1 the laborers and mechanics with respect to whom there has  
2 been a failure to pay the amounts required pursuant to this  
3 Act, such laborers and mechanics shall, in the case of a con-  
4 tract of a Federal agency, have the right of an action and/or  
5 of intervention against the contractor and his sureties con-  
6 ferred by law upon persons furnishing labor or materials,  
7 and in such proceedings it shall be no defense that such  
8 laborers and mechanics accepted or agreed to accept less  
9 than the required rate of wages or payments or voluntarily  
10 made refunds. Each Federal agency shall as a condition  
11 of any financing, guarantee, insurance, loan, payment, grant,  
12 or contribution insure that the contracting agent, other than  
13 a Federal agency, has adequately provided for a similar right  
14 of action against the contractor and for satisfactory sureties  
15 with respect to labor and materials.

16 "SEC. 4. (a) The Secretary of Labor is hereby author-  
17 ized and directed to administer the provisions of this Act  
18 and to utilize such Federal officers and employees and, with  
19 the consent of the State, such State and local officers and  
20 employees as he may find necessary to assist in the admin-  
21 istration of this Act and to prescribe rules and regulations  
22 with respect thereto. Subject to applicable civil-service  
23 laws and any other laws applicable to the employment and  
24 compensation of officers and employees of the United States,  
25 the Secretary of Labor shall appoint such officers and em-

1 ployees as he may from time to time find necessary for the  
2 administration of this Act. The Secretary of Labor or his  
3 authorized representatives shall have power to make investi-  
4 gations and findings and prosecute any inquiry necessary  
5 to his functions. The Secretary of Labor shall have such  
6 authority from time to time to make, amend and rescind such  
7 rules and regulations as may be necessary to carry out the  
8 provisions of this Act or to aid in the enforcement thereof.

9 “(b) Every Federal agency shall require compliance  
10 with this Act as a condition of any agreement to finance  
11 in whole or in part any contract specified in section 1 of  
12 this Act, or as a condition of an agreement to guarantee  
13 or to insure or to make loans, payments, grants, or contri-  
14 butions enabling any such contract.

15 “SEC. 5. Except as otherwise specifically provided, this  
16 Act shall not be construed to supersede or impair any  
17 authority otherwise granted by Federal law to provide for  
18 the establishment of specific wage rates.

19 “SEC. 6. (a) The fact that any contract authorized by  
20 this or any other Act is entered into without regard to  
21 section 3709 as amended of the Revised Statutes of the  
22 United States, or upon a cost-plus-a-fixed-fee basis or other-  
23 wise without advertising for proposals, shall not be con-  
24 strued to render inapplicable the provisions of this Act if  
25 otherwise applicable to such contract.



1       “(b) As used in this Act—

2       “(1) The terms ‘wage’ and ‘wages’ means all remuner-  
3 ation for employment but shall not include remuneration  
4 paid in any medium other than cash;

5       “(2) The terms ‘Federal’ and ‘Federal agency’ means  
6 the United States and the Territories of Hawaii and Alaska  
7 the District of Columbia, all executive departments, inde-  
8 pendent establishments, administrative agencies, and instru-  
9 mentalities of the United States, such Territories and of the  
10 District of Columbia, including corporations, all or substan-  
11 tially all of the stock of which is beneficially owned by the  
12 United States, or such Territories, or by the District of  
13 Columbia or any of the foregoing departments, establish-  
14 ments, agencies, and instrumentalities.

15       “(3) The term ‘contracting agent’ includes any Fed-  
16 eral agency and means any person, firm, corporation, part-  
17 nership, association, or public authority entering into a con-  
18 tract subject to this Act with a contractor, as such term  
19 is used in this Act.

20       “SEC. 7. In the event of a national emergency the Presi-  
21 dent is authorized to suspend the provisions of this Act.

22       “SEC. 8. There is hereby authorized to be appropriated  
23 such sums as may be necessary to carry out the provisions  
24 of this Act.”

25       SEC. 2. (a) This Act shall take effect ninety days after

1 its date of enactment. Nothing in this Act shall in any way  
2 affect the validity or continuing applicability of the Act of  
3 March 3, 1931 (46 Stat. 1494), as heretofore amended  
4 (the Davis-Bacon Act), or of the Acts of August 1, 1892,  
5 June 19, 1912, March 3, 1913, March 4, 1917, September 9,  
6 1940 (27 Stat. 340; 37 Stat. 137, 138; 37 Stat. 726, 727;  
7 39 Stat. 1192; 54 Stat. 884) (the eight-hour law), or  
8 of any statutes heretofore applying or extending such laws  
9 or Acts to additional laborers and mechanics or otherwise  
10 providing for the determination by the Secretary of Labor,  
11 of prevailing wages for additional laborers and mechanics  
12 as any such Acts, laws, or statutes relate to any contract  
13 existing on the effective date of this Act or to any contract  
14 entered into pursuant to invitations for bids outstanding on  
15 the date of enactment of this Act, but any such Acts, laws,  
16 or statutes shall, notwithstanding the enactment of this Act,  
17 continue in full force and effect with respect to such contracts.

18 (b) Except as otherwise provided in subsection (a) of  
19 this section, any provision of law applying or extending the  
20 Act of March 3, 1931 (46 Stat. 1494), as heretofore  
21 amended (the Davis-Bacon Act), to laborers and mechanics  
22 to whom apply the provisions of this Act, or otherwise pro-  
23 viding for the determination by the Secretary of Labor of  
24 prevailing wages for such laborers and mechanics, are hereby  
25 repealed.

1       (c) Except as otherwise provided in subsection (a) of  
2 this section, the Acts of August 1, 1892, June 19, 1912,  
3 March 3, 1913, March 4, 1917, September 9, 1940 (27  
4 Stat. 340; 37 Stat. 137, 138; 37 Stat. 726, 727; 39 Stat.  
5 1192; 54 Stat. 884) (the eight-hour law), shall not  
6 apply with respect to laborers or mechanics to whom apply  
7 the provisions of the Act of March 3, 1931 (46 Stat. 1494),  
8 as amended by this Act.

9       (d) Nothing in this Act shall be construed to repeal  
10 Reorganization Plan Numbered 14 of 1950 (Public Law  
11 109, Eighty-first Congress), or to diminish the authority of  
12 the Secretary of Labor thereunder.

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