

86TH CONGRESS  
1ST SESSION

# H. R. 4362

---

## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 1959

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

---

## 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 March 23, 1941 (55 Stat. 53) (U.S.C., title 40,

6 sec. 276a to 276a-7, inclusive), and as may have been here-

7 tofore further amended from time to time, is hereby amended

8 to read as follows:

9 "SECTION 1. (a) The specifications for every contract

10 in excess of \$2,000 to which the United States or the District

11 of Columbia is a party for construction, alteration and/or re-

1 pair, including painting and decorating, of public buildings  
2 or 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 Hawaii, or of the District of Columbia shall  
5 contain a provision stating the minimum wages to be paid  
6 various classes of laborers and mechanics which shall be  
7 based upon the wages that will be determined by the Secre-  
8 tary of Labor to be prevailing for the corresponding classes  
9 of laborers and mechanics employed on projects of a char-  
10 acter similar to the contract work in the city, town, village,  
11 or other civil subdivision of the State, or the Territory of  
12 Hawaii in which the work is to be performed, or in the Dis-  
13 trict of Columbia if the work is to be performed there, and  
14 stating the minimum salaries to be paid all architects, tech-  
15 nical engineers, draftsmen and technicians which shall be  
16 based upon the salaries prevailing in the locality, as deter-  
17 mined or adopted (subsequent to a determination under ap-  
18 plicable State or local law) by the Secretary of Labor; and  
19 every contract based upon these specifications shall contain  
20 a stipulation that the contractor or his subcontractor shall pay  
21 all mechanics and laborers employed directly upon the site  
22 of the work, and all architects, technical engineers, draftsmen  
23 and technicians, employed in the performance of the contract,  
24 unconditionally and not less often than once a week, and  
25 without subsequent deduction or rebate on any account, the

1 full amounts accrued at time of payment, computed at wage  
2 or salary rates not less than those stated in the specifications  
3 and regardless of any contractual relationship which may be  
4 alleged to exist between the contractor or subcontractor and  
5 such laborers and mechanics or such architects, technical  
6 engineers, draftsmen and technicians; and that the scale of  
7 wages and salaries to be paid shall be posted by the con-  
8 tractor in a prominent and easily accessible place at the site  
9 of work; and that there may be withheld from the contractor  
10 so much of accrued payments as may be considered neces-  
11 sary by the contracting officer to pay to laborers and mechan-  
12 ics and to architects, technical engineers, draftsmen and tech-  
13 nicians employed by the contractor or any subcontractor on  
14 the work the difference between the amounts required to be  
15 paid laborers and mechanics and such architects, technical  
16 engineers, draftsmen, and technicians on the work and the  
17 amounts received by such laborers and mechanics and such  
18 architects, technical engineers, draftsmen and technicians and  
19 not refunded to the contractor, subcontractor, or their agents;  
20 and that the Secretary of Labor or his authorized representa-  
21 tives may enter and inspect such places and such records  
22 (and make such transcriptions thereof), question such em-  
23 ployees and investigate such facts, conditions, practices, or  
24 matters as they may deem necessary or appropriate to deter-  
25 mine whether any person has violated any contract stipula-

1 tion required by this Act or to enforce the provisions of this  
2 Act.

3 " (b) Requests for the determination of wage rates by  
4 the Secretary of Labor, for any change or modification or  
5 review thereof by the Secretary of Labor, shall be submit-  
6 ted by the Federal agency on forms prescribed by the Secre-  
7 tary of Labor. Requests for such determinations shall be  
8 initiated at least thirty calendar days before advertisement  
9 of the specifications or the beginning of the negotiations for  
10 the contract for which the determination is sought. If the  
11 proposed contract for which determination was sought has  
12 not been awarded, or, in the case of contracts subject to  
13 section 2 or 3 of this Act, construction has not begun, within  
14 ninety days from the date of the original wage determina-  
15 tion, such determination shall be deemed obsolete and the  
16 Federal agency shall request a new wage determination  
17 before the award of such contract or the beginning of such  
18 construction, as the case may be. At any time after an orig-  
19 inal determination the Secretary of Labor may issue supple-  
20 mental wage determinations for additional crafts not included  
21 in the original determination and any such supplemental  
22 determination shall be applicable to the contract or contracts  
23 for which the original determination was sought. For the  
24 purpose of correcting error or of rectifying obsolete determi-  
25 nations, the Secretary of Labor shall, on his own motion or

1 upon petition of any interested person, modify or change  
2 any existing determination from time to time, as may be  
3 reasonably necessary to carry out the purposes of this Act,  
4 and such change or modification shall be applicable to the  
5 contract or contracts for which the original determination  
6 was sought:

7       “(1) if received by the agency at least five days  
8 before the opening of bids provided that the award is  
9 made within thirty days after the opening of bids or  
10 ninety days from the original wage determination which-  
11 ever is earlier; or

12       “(2) if such change or modification establishes a  
13 higher prevailing wage than the previous determination  
14 applicable to a contract of a Federal agency; or

15       “(3) if, in the case of a contract within the scope of  
16 section 3 of this Act, such change or modification is  
17 made prior to the beginning of construction or prior to  
18 the initial endorsement of the mortgage (if construction  
19 begins within thirty days thereafter), whichever is  
20 earlier.

21       “**In the event that any such redetermination is re-**  
22 **ceived by the Federal agency later than five days before**  
23 **the opening of bids or received after the award and such**  
24 **redetermination establishes a higher prevailing wage**  
25 **than the previous determination, applicable to a contract**

1 of a Federal agency, then the contractor and his sub-  
2 contractors shall be required to pay, and the contract  
3 shall stipulate the payment of not less than the wages  
4 specified in such redetermination from the beginning of  
5 the next pay period following the date such redetermina-  
6 tion is received by the Federal agency. An amount  
7 equal to the increased wages in any one month, result-  
8 ing from such redetermination, shall be paid to the con-  
9 tractor and any of his subcontractors by the contracting  
10 Federal agency upon a satisfactory showing as to the  
11 amount of such increase. Any decision or order of the  
12 Appeals Board under subsection (c) of this section,  
13 changing or modifying a determination upon review,  
14 shall be considered a change or modification by the  
15 Secretary of Labor for the purposes of this subsection.

16 “(c) Any person adversely affected or aggrieved by  
17 any determination or redetermination of the Secretary of  
18 Labor under the subsections (a) or (b) of this section may  
19 obtain a review of such determination or redetermination by  
20 filing a petition with the Appeals Board, established by sec-  
21 tion 5 of this Act, requesting that the determination or rede-  
22 termination of the Secretary of Labor be set aside in whole  
23 or in part. Thereupon the Appeals Board shall affirm,  
24 modify or set aside such determination or redetermination in  
25 whole or in part and, unless such determination is affirmed,

1 the Appeals Board shall issue a new or modified determina-  
2 tion which shall have the same effect and shall be subject to  
3 the same limitations as a determination by the Secretary of  
4 Labor under subsection (b) of this section. For the pur-  
5 pose of any action under this subsection, the Appeals Board  
6 shall be empowered to make such investigations, hold such  
7 hearings, take such testimony and make such findings as may  
8 be necessary. It is the intent of this subsection that the  
9 Appeals Board act as expeditiously as possible to review any  
10 wage determination whenever a petition is filed hereunder  
11 and shall use procedures best calculated to assure speed with  
12 justice for all interested parties. Any wage determination  
13 shall remain in full force and effect pending any review under  
14 this subsection unless modified or set aside by the Secretary  
15 of Labor in accordance with and subject to the provisions of  
16 subsection (b) of this section. The Appeals Board shall  
17 promptly notify the Secretary of Labor, the interested Fed-  
18 eral agency and all interested parties of any decision or of  
19 any new or modified determination or redetermination under  
20 this subsection.

21 "SEC. 2. Any agreement between a Federal agency and  
22 any State or political subdivision thereof or any public or  
23 private institution or any individual or nonprofit corporation  
24 for the purpose of carrying out a program of nonfarm con-  
25 struction in excess of \$25,000 in value, at least one-third of

1 which is or may be reasonably expected to be financed by  
2 Federal funds, loans, payments, grants, or contributions,  
3 shall contain a provision that not less than the wages and  
4 salaries prevailing in the locality, as predetermined in ac-  
5 cordance with section 1 of this Act, shall be paid to all  
6 laborers and mechanics, and to all architects, technical en-  
7 gineers, and draftsmen and technicians, employed in any  
8 such construction and that all contracts for such construction  
9 shall stipulate that the contractor and any subcontractors  
10 thereunder shall pay not less than such prevailing wages  
11 which shall be specified in such contracts. The Federal  
12 agency making available such funds, loans, payments, grants,  
13 or contributions shall require certification as to compliance  
14 with the provisions of this section prior to making any pay-  
15 ment under any such agreement.

16 "SEC. 3. No Federal agency shall guarantee or insure  
17 any mortgage, loan, or other similar payment for the pur-  
18 pose of financing any nonfarm construction program for  
19 buildings, works, or improvements, other than housing de-  
20 velopments of less than ten dwellings or designed for use of  
21 less than ten families, pursuant to an application for insur-  
22 ance or guarantees filed subsequent to the effective date of  
23 this section, unless the principal contractor files a certificate  
24 or certificates (at such times in the course of construction  
25 or otherwise, as the Federal agency may prescribe) certify-



1 ing that the laborers and mechanics and the architects, tech-  
2 nical engineers, draftsmen, and technicians employed in the  
3 construction of the buildings, structures improvements, dwell-  
4 ings, or housing projects involved have been paid not less  
5 than the wages and salaries prevailing in the locality in which  
6 the work was performed for the corresponding classes of  
7 laborers and mechanics, and architects, technical engineers,  
8 draftsmen, and technicians, employed on construction of a  
9 similar character, as predetermined in accordance with sec-  
10 tion 1 of this Act.

11 "SEC. 4. (a) Every contract within the scope of section  
12 1 of this Act shall contain the further provision or stipulation  
13 that, in the event it is found by the Secretary of Labor or  
14 the contracting officer that with respect to any laborer or  
15 mechanic employed by the contractor or any subcontractor  
16 directly on the site of the work covered by the contract, or  
17 with respect to any architect, technical engineer, draftsman  
18 or technician employed by the contractor or subcontractor  
19 on work covered by the contract, amounts paid or being paid  
20 are less than the amounts required by the contract to be paid  
21 as aforesaid, that the Government may, by written notice to  
22 the contractor, terminate his right to proceed with the work,  
23 or such part of the work as to which there has been a failure  
24 to pay said required wages and prosecute the work to com-

1 pletion by contract or otherwise, and that the contractor or  
2 his sureties shall be liable to the Government for any excess  
3 costs occasioned the Government thereby.

4       “(b) The Comptroller General of the United States is  
5 hereby authorized and directed to pay directly to laborers  
6 and mechanics and to architects, technical engineers, drafts-  
7 men and technicians from any accrued payments withheld  
8 under the terms of a contract of a Federal agency subject to  
9 the provisions of section 1 of this Act any wages found by  
10 the Secretary of Labor or the contracting officer to be due  
11 laborers and mechanics, or due to architects, technical engi-  
12 neers, draftsmen or technicians, pursuant to this Act. The  
13 Secretary of Labor or his authorized representative is author-  
14 ized and directed to distribute a list of all Federal agencies  
15 giving the names of all persons and firms whom he or his  
16 authorized representative has found to have disregarded their  
17 obligations to employees and subcontractors under any of the  
18 provisions of this Act. No contract subject to any of the  
19 provisions of this Act shall be awarded with respect to per-  
20 sons or firms appearing on this list or with respect to any  
21 firm, corporation, partnership or association in which such  
22 persons or firms have an interest until three years have  
23 elapsed from the date of publication of the list containing the  
24 names of such persons or firms.

25       “(c) If the accrued payments withheld under the terms

1 of the contracts, as aforesaid, are insufficient to reimburse  
2 all the laborers and mechanics with respect to whom there  
3 has been a failure to pay the wages required pursuant to  
4 this Act, such laborers and mechanics shall in the case of a  
5 contract of a Federal agency, have the right of action and/or  
6 of intervention against the contractor and his sureties con-  
7 ferred by law upon persons furnishing labor or materials, and  
8 in such proceedings it shall be no defense that such laborers  
9 and mechanics accepted or agreed to accept less than the  
10 required rate of wages or voluntarily made refunds.

11 “(d) Wherever the Secretary of Labor or a contracting  
12 officer has found a violation of this Act and has proceeded  
13 to take action under any provision of this section, the con-  
14 tractor or any subcontractor affected or aggrieved by such  
15 findings may obtain a review of such findings by filing within  
16 ten days of notice of such finding a petition with the Appeals  
17 Board, established by section 5 of this Act, requesting that  
18 the finding be set aside in whole or in part. Thereupon the  
19 Appeals Board shall make such investigations, hold such  
20 hearings, take such testimony as may be necessary, and,  
21 on the basis thereof, shall affirm, modify or set aside such  
22 findings in whole or in part. The findings of the Secretary  
23 of Labor or of a contracting officer shall remain in full force  
24 and effect pending any review under this subsection, and the  
25 filing of a petition for review hereunder shall not operate

1 as a stay of any action under this section: *Provided, however,*  
2 That, the Appeals Board may, in its discretion, and is hereby  
3 empowered to direct the Comptroller General, the Secre-  
4 tary of Labor, the Federal agency or the contracting officer  
5 to refrain from any action under this section pending a re-  
6 view hereunder, if, in the opinion of the Appeals Board,  
7 there is reasonable cause to believe that substantial error has  
8 occurred and such directive is necessary to prevent undue  
9 hardship on the contractor or any of his subcontractors and  
10 if payments to laborers, mechanics, architects, technical  
11 engineers, draftsmen or technicians will not be jeopardized  
12 by any such directive. It is the intent of this subsection that  
13 the Appeals Board act as expeditiously as possible to review  
14 any finding whenever a petition is filed hereunder and shall  
15 use procedures best calculated to secure speed with justice for  
16 all interested parties. The Appeals Board shall promptly  
17 notify the Secretary of Labor, the interested Federal agency,  
18 the contracting officer and all interested parties of any de-  
19 cision or any new or modified finding under this section,  
20 and may, in its discretion, direct the Secretary of Labor, the  
21 Comptroller General, the Federal agency or the contracting  
22 officer to take such action provided for in this section as the  
23 findings of the Appeals Board may warrant. The Secretary  
24 of Labor, the Comptroller General, the Federal agency or  
25 the contracting officer shall comply with the terms of any

1 directive of the Secretary of Labor issued under this sub-  
2 section.

3 "SEC. 5. (a) Except as otherwise expressly provided,  
4 the Secretary of labor is hereby authorized and directed to  
5 administer the provisions of this Act, and shall utilize such  
6 Federal officers and employees and, with the consent of the  
7 State, such State and local officers and employees as he may  
8 find necessary to assist in the administration of his functions  
9 under this Act, and to prescribe rules and regulations with  
10 respect thereto. Subject to applicable civil service laws and  
11 any other laws applicable to the employment and compensa-  
12 tion of officers and employees of the United States, the  
13 Secretary of Labor and the Appeals Board shall appoint  
14 such officers and employees as they may from time to time  
15 find necessary for the administration of their respective  
16 functions under this Act.

17 "(b) For the purpose of any hearing or investigation  
18 provided for in this Act, the provisions of sections 9 and 10  
19 (relating to the attendance of witnesses and the production  
20 of books, papers, and documents) of the Federal Trade Com-  
21 mission Act of September 16, 1914, as amended (U.S.C.,  
22 title 15, secs. 49 and 50) are hereby made applicable to  
23 the jurisdiction, powers, and duties of the Secretary of Labor  
24 and the Appeals Board. The Secretary of Labor or his

1 authorized representatives shall have the power to make in-  
2 vestigations and findings and prosecute any inquiry necessary  
3 to his functions hereunder.

4       “(c) The Secretary of Labor shall have authority to  
5 make, amend, and rescind such rules, regulations, and in-  
6 terpretations as may be necessary to carry out the provisions  
7 of this Act and, in addition, for the purpose of assuring  
8 coordination of administration and consistency of enforce-  
9 ment of the labor standards provisions of this Act, and of  
10 each of the following Acts, the Secretary of Labor shall  
11 prescribe appropriate standards, regulations, and procedures,  
12 which shall be observed by Federal agencies, and, with  
13 respect to each of the following Acts, cause to be made  
14 through representatives of the Secretary of Labor or other-  
15 wise such investigations with respect to compliance with  
16 and enforcement of such labor standards as the Secretary  
17 of Labor deems desirable, namely: (a) the Act of June  
18 13, 1934 (48 Stat. 948, ch. 482), as amended (the Cope-  
19 land Anti-Kickback Act); (b) the Act of August 1, 1892  
20 (27 Stat. 340, ch. 352), as heretofore amended and as  
21 further amended by this Act and the Act of June 19, 1912  
22 (37 Stat. 137, ch. 174), as heretofore amended and as fur-  
23 ther amended by this Act (the eight-hour laws); (c) the  
24 Act of September 1, 1937 (50 Stat. 888, ch. 896), as here-  
25 tofore amended and as further amended by this Act (the

1 United States Housing Act of 1937) ; (d) the Act of Au-  
2 gust 13, 1946 (60 Stat. 1040; 42 U.S.C. 291 and the  
3 following), as heretofore amended and as further amended  
4 by this Act (the Hospital Survey and Construction Act) ;  
5 (e) the Act of May 13, 1946 (60 Stat. 170, ch. 251), as  
6 heretofore amended and as further amended by this Act (the  
7 Federal Airport Act) ; (f) the Act of July 15, 1949 (ch.  
8 338, Public Law 171, Eighty-first Congress, first session;  
9 63 Stat. 430), as heretofore amended and as further amended  
10 by this Act (the Housing Act of 1949) ; (g) the Act of  
11 September 23, 1950 (64 Stat. 967 and the following; 20  
12 U.S.C. 251 and the following), as heretofore amended and  
13 as further amended by this Act (the School Survey and  
14 Construction Act) ; (h) the Act of September 1, 1951  
15 (title 111, sec. 310, Public Law 139, Eighty-second Con-  
16 gress, first session (65 Stat. 296; 42 U.S.C. 1591 and the fol-  
17 lowing) ), as heretofore amended and as further amended  
18 by this Act (Defense Housing and Community Facilities and  
19 Services Act of 1951) ; (i) Act of June 29, 1956 (70 Stat.  
20 374; 23 U.S.C. 151 and the following), as heretofore  
21 amended and as further amended by this Act (the Federal  
22 Aid Highway Act of 1956).

23 “(d) For the purpose of carrying out such duties as are  
24 imposed by this Act, there is hereby created, as an independ-  
25 ent agency within the Department of Labor, an Appeals Board

1 for the Construction Industry, herein elsewhere referred to as  
2 the Appeals Board, composed of three members, appointed  
3 by the President, by and with the advice and consent of  
4 the Senate. Each member shall hold office for a term of  
5 five years, except that any member appointed to fill a vacancy  
6 occurring prior to the expiration of the term for which his  
7 predecessor was appointed shall be appointed for the re-  
8 mainder of the term and the terms of office of the members  
9 first taking office after the enactment date shall expire, as  
10 designated by the President, one at the end of two years,  
11 one at the end of three years, and one at the end of four  
12 years after the effective date of the amendments hereby  
13 enacted. One member shall be appointed from recommenda-  
14 tions made by employees in the building and construction  
15 industry, and one member shall be appointed from recommen-  
16 dations made by employers in such industry. One member,  
17 who shall be Chairman, and shall be appointed initially to  
18 the term of two years, shall be designated without recom-  
19 mendation from employees or employers in the industry and  
20 shall not in any way, directly or indirectly be interested in  
21 any employer or organization of employees in the industry.  
22 A majority of those in office shall constitute a quorum of the  
23 Appeals Board for the transaction of business. Each member  
24 shall devote full time to the duties of office and shall be com-  
25 pensated at the rate of \$17,500 per year. The Appeals



1 Board shall make its own rules of practice and procedure  
2 not inconsistent with the provisions of this Act.

3 "SEC. 5. (a) The fact that any contract authorized by  
4 this or any other Act is entered into without regard to section  
5 3709, as amended, of the Revised Statutes of the United  
6 States, or upon a cost-plus-a-fixed-fee basis or otherwise with-  
7 out advertising for proposals, shall not be construed to render  
8 inapplicable the provisions of this Act, if otherwise applicable  
9 to such contract.

10 " (b) As used in this Act—

11 " (1) The terms 'wages' and 'wage rates' shall include—

12 " (i) the basic hourly rate of pay;

13 " (ii) the rate of payments by an employer to a  
14 fund established by employers or representatives of em-  
15 ployees, or both, for the purpose of providing, either  
16 from principal or income, or both, medical or hospital  
17 care, pensions or annuities on retirement or after death  
18 of employees, compensation for injuries, illness, acci-  
19 dents, sickness, or disability, or insurance to provide any  
20 of the foregoing, unemployment benefits, vacations with  
21 pay, savings accounts, or other similar payments for the  
22 benefit of employees, their families and dependents, or  
23 providing apprenticeship or other training programs for  
24 employees: *Provided*, That, in the event a contractor,  
25 or any of his subcontractors, has not agreed to pay

1 contributions to such a fund, in accordance with prevail-  
2 ing practice as determined by the Secretary of Labor,  
3 then the provisions of this Act will be satisfied by pay-  
4 ing directly to such laborers and mechanics or to such  
5 architects, technical engineers, draftsmen or technicians,  
6 an amount equal to such contribution as would be re-  
7 quired with respect to each such employee were such  
8 agreement in effect.

9 “(iii) The rate of extra pay for overtime work or  
10 for work on Saturdays, Sundays, or holidays, or for work  
11 on particular shifts or work of a hazardous nature:  
12 *Provided*, That upon the effective date of this Act,  
13 regardless of prevailing practice, the rate of pay for  
14 overtime or extra work shall be not less than one and  
15 one-half times the basic hourly rate of pay for all hours  
16 worked in excess of eight hours in any one calendar day  
17 or on more than five consecutive days, or in excess of  
18 forty hours in any workweek.

19 “(2) The term ‘Federal agency’ means the United  
20 States, the District of Columbia, all executive departments,  
21 independent establishments, administrative agencies, and  
22 instrumentalities of the United States, and of the District  
23 of Columbia, including corporations, all or substantially  
24 all of the stock of which is beneficially owned by the United  
25 States, or by the District of Columbia or by any of the

1 foregoing departments, establishments, agencies, and instru-  
2 mentalities.

3 “(3) the term ‘nonfarm construction’ excludes any  
4 construction performed on a farm or incident to or in con-  
5 junction with farming operations.

6 “(4) the provisions of this Act, as hereby amended,  
7 shall take effect ninety days after the date of enactment,  
8 except that, the rate of payments specified by section 5 (b)  
9 (1) paragraphs (ii) and (iii) (other than the minimum  
10 overtime payments required by the proviso of paragraph  
11 (iii) ) shall, during a period of two hundred and seventy  
12 days after the effective date, become effective only in those  
13 cases and reasonable classes of cases as the Secretary of  
14 Labor, acting as rapidly as practicable to make such rates  
15 of payments universally effective, shall by rule or regulation  
16 provide.

17 “SEC. 7. There is hereby authorized to be appropriated  
18 such sums as may be necessary to carry out the provisions  
19 of this Act.”

20 SEC. 2. (a) Effective upon the effective date of the  
21 amendments enacted by section 1 of this Act:

22 (1) The provisions of the eight-hour laws (27 Stat.  
23 340 as amended, 37 Stat. 726, 37 Stat. 137, as amended;  
24 54 Stat. 884; 39 Stat. 1192; 40 U.S.C. 321 and the

1 following) shall not apply to any laborer or mechanic to  
2 whom the provisions of this Act apply.

3 (2) Insofar as the labor standards provisions of the  
4 Federal Airport Act (Act of May 13, 1946, 60 Stat. 178;  
5 Public Law 377, ch. 251, sec. 15; 49 U.S.C. 1114) relate  
6 to the predetermination and payment of minimum rates,  
7 such provisions are continued in full force and effect but  
8 any predetermination thereunder shall be made in accord-  
9 ance with section 1 of the Act of March 3, 1931 (46 Stat.  
10 1494) as amended (the Davis-Bacon Act), as further  
11 amended by section 1 of this Act.

12 (3) The provisions of section 212 of the National  
13 Housing Act (Act of June 3, 1939, ch. 175, sec. 14, 53  
14 Stat. 807; 12 U.S.C. 1715 (c)), as amended, are con-  
15 tinued in full force and effect but any predetermination  
16 thereunder shall be made in accordance with section 1 of  
17 the Act of March 3, 1931, as amended (the Davis-Bacon  
18 Act), as further amended by section 1 of this Act.

19 (4) Insofar as the labor standards provisions of the  
20 United States Housing Act of 1939, as amended (Act of  
21 September 1, 1937, 50 Stat. 888, as amended, ch. 896, 42  
22 U.S.C. 1416) relate to the predetermination and payment  
23 of prevailing wages to laborers and mechanics and archi-  
24 tects, technical engineers, draftsmen, and technicians em-  
25 ployed under contracts for construction, such provisions are

1 continued in full force and effect but any predetermination  
2 thereunder shall be made in accordance with section 1 of  
3 the Act of March 3, 1931 (46 Stat. 1494), as amended  
4 (the Davis-Bacon Act), as further amended by section 1  
5 of this Act.

6 (5) Insofar as the labor standards provisions of the  
7 Housing Act of 1949, as amended (Act of July 15, 1949,  
8 Public Law 171, ch. 338, sec. 109, Eighty-first Con-  
9 gress, first session, 63 Stat. 413 at 430, as amended, 42  
10 U.S.C. 1401 and the following at sec. 1416), relate to the  
11 predetermination and payment of prevailing wages to labor-  
12 ers and mechanics and architects, technical engineers, drafts-  
13 men, and technicians employed under contracts for con-  
14 struction, such provisions are continued in full force and  
15 effect but any predetermination thereunder shall be made  
16 in accordance with section 1 of the Act of March 3, 1931  
17 (46 Stat. 1494), as amended (the Davis-Bacon Act), as  
18 further amended by section 1 of this Act.

19 (6) Insofar as the labor standards provisions of the  
20 Defense Housing and Community Facilities and Services  
21 Act of 1951 (Act of September 1, 1951, title III, sec. 310,  
22 Public Law 139, Eighty-second Congress, first session, 65  
23 Stat. 293, as amended by 66 Stat. 602; 42 U.S.C. 1591  
24 and the following), relate to the predetermination and pay-  
25 ment of prevailing wages to laborers and mechanics employed

1 under contracts for construction, such provisions are con-  
2 tinued in full force and effect but any predetermination there-  
3 under shall be in accordance with section 1 of the Act of  
4 March 3, 1931 (46 Stat. 1494), as amended (the Davis-  
5 Bacon Act), as further amended by section 1 of this Act.

6 (7) Insofar as the labor standards provisions of the Hos-  
7 pital Survey and Construction Act (60 Stat. 1040; 42  
8 U.S.C. 291 and the following) relate to the predetermination  
9 and payment of prevailing wages to laborers and mechanics  
10 employed under contracts for construction, such provisions  
11 are continued in full force and effect but any predetermina-  
12 tion thereunder shall be made in accordance with section 1  
13 of the Act of March 3, 1931 (46 Stat. 1494), as amended  
14 (the Davis-Bacon Act), as further amended by section 1  
15 of this Act.

16 (8) Insofar as the labor standards provisions of the  
17 School Survey and Construction Act (64 Stat. 967) and  
18 the following; 20 U.S.C. 251 and the following) relate to  
19 the predetermination and payment of prevailing wages to  
20 laborers and mechanics employed under contracts for con-  
21 struction, such provisions are continued in full force and  
22 effect but any predetermination thereunder shall be made  
23 in accordance with section 1 of the Act of March 3, 1931  
24 (46 Stat. 1491), as amended (the Davis-Bacon Act), as  
25 further amended by section 1 of this Act.

1       (9) Insofar as the labor standards provisions of the  
2 Federal Aid Highway Act of 1956 (Act of June 29, 1956,  
3 70 Stat. 374; 23 U.S.C. 151 and the following) relate to  
4 the predetermination and payment of prevailing wages to  
5 laborers and mechanics under contracts for construction,  
6 such provisions are hereby repealed.

7       (10) Reorganization Plan Numbered 14 of 1950 is  
8 hereby repealed; provided that regulations part V, issued  
9 under such plan, shall, to the extent consistent with the  
10 amendments enacted by section 1 of this Act, remain in  
11 full force and effect unless set aside, modified or repealed  
12 by the Secretary of Labor under such amendments.

13       (b) The provisions of the Act of March 3, 1931 (46  
14 Stat. 1494), as amended (the Davis-Bacon Act), in effect  
15 prior to the effective date of the amendments hereby  
16 enacted and Reorganization Plan Numbered 14 of 1950  
17 and the labor standards provisions, repealed by subsection  
18 (a) of this section, shall remain in full force and effect,  
19 as they relate to any contract existing on the effective date  
20 of such amendments or to any contract entered into pur-  
21 suant to invitations for bids outstanding on the effective  
22 date of such amendments and such amendments shall not  
23 apply to any such contracts.

86<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 4362**

---

---

**A BILL**

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

---

---

By Mr. FOGARTY

FEBRUARY 11, 1959

Referred to the Committee on Education and Labor



JEF bill, HR 4362, was reintroduced on February 11, 1959.

It proposes to change the Davis-Bacon Act in four ways to bring it into line with current developments in the building trades.

1. It would extend present coverage by adding all non-farm construction in excess of \$25,000 providing at least 1/3 the cost was being financed by the federal government in some manner.
2. It would cover not only direct federal construction but also all projects insured or guaranteed by the federal government. Only exceptions would be farm construction and housing projects of less than 10 units.
2. Require the Secy. of Labor to predetermine not only the hourly rate of each laborer and mechanic but also other remuneration found to be prevailing practice in the area. This other remuneration would be confined to:
  - Health and Welfare funds
  - Retirement funds
  - Vacation funds
  - Apprenticeship fundsThe provisions in your previous bill requiring the inclusion of travel time, vacation pay, subsistence allowance, etc. are not in the new bill.
3. Require the Secy. of Labor to predetermine the prevailing overtime rate on a daily and weekly basis. Sets a minimum requirement that that not less than time and one-half be paid for hours over 8 in a day, 40 in a week, over 5 consecutive days and on Saturdays, Sundays and holidays.
4. Centralizes enforcement in the Secy. of Labor and establishes a Construction Appeals Board for appeal from decision of the Secy. of Labor.

Secy of Labor would have authority to make uniform enforcement procedures for all federal agencies.  
He would have direct power to investigate violations including the use of subpoenas.  
He would have authority to apply penalties for violations including the Black list.

The Appeals Board would review appeals from the Secy's wage determinations and the findings of violations. It would give the unions a chance to correct his errors.  
Appointment to the Board by the President with one representative the public, one the contractors and one from labor.

The difference between your previous bills and this: this one eliminates coverage on individual housing such as VA and FHA. Would not cover unless at least 10 units.  
It also cuts out certain cash payments like travel and subsistence from the predetermined rates. It adds the Construction Appeals Board.