

103^D CONGRESS
1ST SESSION

S. 627

To amend the Act of March 3, 1931 (known as the Davis-Bacon Act),
to revise the standard for coverage under that Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 22 (legislative day, MARCH 3), 1993

Mr. KENNEDY introduced the following bill; which was read twice and referred
to the Committee on Labor and Human Resources

A BILL

To amend the Act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standard for coverage under that 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 **SECTION 1. DAVIS-BACON ACT REVISION.**

4 The Act of March 3, 1931 (known as the Davis-
5 Bacon Act) (40 U.S.C. 276a et seq.) is amended to read
6 as follows:

7 **“SECTION 1. SHORT TITLE.**

8 “This Act may be cited as the ‘Davis-Bacon Act’.

9 **“SEC. 2. CONTRACT REQUIREMENTS.**

10 “(a) REQUIRED PROVISIONS.—

1 “(1) IN GENERAL.—A contract described in
2 subsection (b) shall—

3 “(A) contain a provision stating that the
4 various classes of laborers and mechanics under
5 the contract shall be paid minimum wages
6 based upon wages determined by the Secretary
7 under subsection (b) to be prevailing for the
8 corresponding classes of laborers and mechanics
9 employed on projects of a character similar to
10 the contract work in the city, town, or other
11 civil subdivision of the State in which the work
12 is to be performed or in the District of Colum-
13 bia if the work is to be performed there; and

14 “(B) contain a stipulation that the con-
15 tractor or subcontractor under the contract
16 shall pay all laborers and mechanics under the
17 contract—

18 “(i) unconditionally;

19 “(ii) not less often than once a week;

20 and

21 “(iii) without subsequent deduction or
22 rebate on any account;

23 the full amounts accrued at time of payment ir-
24 respective of any contractual relationship which
25 may be alleged to exist between the contractor

1 or subcontractor and such laborers or mechan-
2 ics.

3 “(2) LABORER OR MECHANIC.—An individual
4 shall for purposes of this subsection be considered a
5 laborer or mechanic under a contract subject to this
6 subsection if the person who entered into the con-
7 tract paid, directly or through a subcontract, com-
8 pensation to the individual for services performed as
9 a laborer or mechanic to carry out the contract.

10 “(b) CONTRACTS COVERED.—

11 “(1) IN GENERAL.—The requirements of sub-
12 section (a) apply to any contract—

13 “(A) to which the United States or the
14 District of Columbia is a party, or for the con-
15 struction, prosecution, completion, alteration,
16 repair, renovation, demolition or reconstruction
17 of buildings or works financed in whole or in
18 part by loans, grants, revolving funds or loan
19 guarantees from the United States, or con-
20 structed on land owned by the United States
21 unless exempted or otherwise limited by Federal
22 law; and

23 “(B) which is in excess of—

24 “(i) \$100,000 for new construction
25 (including painting and decorating); or

1 “(ii) \$15,000 for alteration, repair,
2 renovation, rehabilitation, demolition or re-
3 construction (including painting and deco-
4 rating);
5 of public buildings or public works of the Unit-
6 ed States or the District of Columbia or of
7 buildings or works financed in whole or in part
8 by loans, grants, revolving funds or loan guar-
9 antees from the United States, or constructed
10 on land owned by the United States unless ex-
11 empted or otherwise limited by Federal law.

12 “(2) PREEMPTION.—Neither the requirements
13 of subsection (a) or the provisions of any other Fed-
14 eral law or regulation shall preempt the application
15 of requirements for the payment of wages or fringe
16 benefits or both adopted by State, local and tribal
17 governments otherwise applicable to contracts for
18 the construction, prosecution, completion, alteration,
19 repair, renovation, demolition or reconstruction of
20 buildings and works financed in whole or in part by
21 loans, grants, revolving funds or loan guarantees
22 from the United States, or constructed on land
23 owned by the United States, unless compliance with
24 such requirements would make it impossible to com-
25 ply with the requirements of subsection (a).

1 “(3) MULTIPLE CONTRACTS.—

2 “(A) IN GENERAL.—Any 2 or more con-
3 tracts for any construction project (including
4 any alteration, repair, renovation, rehabilitation,
5 reconstruction, demolition, painting or decorat-
6 ing project) that—

7 “(i) individually do not exceed the ap-
8 plicable amount prescribed by paragraph
9 (1)(B);

10 “(ii) in the aggregate do exceed such
11 amount; and

12 “(iii) all relate to the same work or
13 related work at the same project;

14 shall be treated as a single contract for pur-
15 poses of subsection (a).

16 “(B) ENFORCEMENT.—For the purpose of
17 enforcing the requirements of subsection (a) for
18 contracts which under subparagraph (A) are to
19 be treated as a single contract, any interested
20 person may bring an action against the Sec-
21 retary of the department, the head of the agen-
22 cy, or contracting authority which entered into
23 such contracts. Such an action may be brought
24 in any United States district court for the dis-
25 trict in which the violation of subsection (a) is

1 alleged to have been committed or in the United
2 States District Court for the District of Colum-
3 bia. Such an action shall be commenced not
4 later than 90 days after the day on which the
5 last labor was performed under the contract
6 with respect to which the action is brought.

7 “(C) RELIEF.—If in an action brought
8 under subparagraph (B) the court finds that
9 there has been a violation of subsection (a), the
10 court may order such relief as may be appro-
11 priate, including—

12 “(i) compliance with subsection (a) in
13 the payment of wages under the contracts
14 subject to subsection (a); and

15 “(ii) the payment by the Secretary of
16 the department, the head of the agency, or
17 contracting authority which entered into
18 such contracts of prevailing wage rates in
19 accordance with that subsection from the
20 date construction began under the con-
21 tracts involved in such action until the
22 date of the judgment of the court, together
23 with interest, at a rate determined by the
24 court, based on the difference between the
25 wages paid under such contracts and the

1 wages required to be paid under such con-
2 tracts by subsection (a).

3 “(D) ATTORNEY’S FEES.—If an interested
4 person prevails in an action brought under sub-
5 paragraph (B), the court in such action shall
6 assess the defendants in the action a reasonable
7 attorney’s fee and other litigation costs reason-
8 ably incurred by the interested person.

9 “(4) LEASES.—If the United States or the Dis-
10 trict of Columbia has entered into a contract to lease
11 a building or work or portion thereof and if perform-
12 ance of a contract for the construction, alteration,
13 repair, renovation, rehabilitation, demolition or re-
14 construction of the building or work or portion
15 thereof subject to the lease is required for fulfillment
16 of the contract to lease, the contract for the con-
17 struction, alteration, repair, renovation, rehabilita-
18 tion, or reconstruction of the facility shall be subject
19 to subsection (a) if the contract meets the require-
20 ments of paragraph (1)(B).

21 “(c) APPRENTICES, TRAINEES, AND HELPERS.—

22 “(1) APPRENTICES.—An apprentice who is em-
23 ployed under a contract subject to subsection (a)
24 may be paid less than the rate required by such sub-
25 section if the apprentice is—

1 “(A) employed pursuant to and individ-
2 ually registered in a bona fide apprenticeship
3 program registered with the Bureau of Appren-
4 ticeship and Training of the Department of
5 Labor or with a State Apprenticeship Agency
6 recognized by the Bureau; or

7 “(B) employed in the apprentice’s first 90
8 days of probationary employment as an appren-
9 tice in such an apprenticeship program and is
10 not individually registered in the program but
11 has been certified by the Bureau of Appren-
12 ticeship and Training or a State Apprenticeship
13 Agency (where appropriate) to be eligible for
14 probationary employment as an apprentice.

15 “(2) TRAINEES.—A trainee who is employed
16 under a contract subject to subsection (a) may be
17 paid less than the rate required by such subsection
18 if the trainee is employed pursuant to and individ-
19 ually registered in a program which has received
20 prior approval which is evidenced by formal certifi-
21 cation by the Bureau of Apprenticeship and Train-
22 ing of the Department of Labor.

23 “(3) WAGE RATES.—Notwithstanding any other
24 provision of law, no apprentice or trainee will be per-
25 mitted to work under a contract subject to sub-

1 section (a) at less than the prevailing wage rate un-
2 less such apprentice or trainee is registered in a pro-
3 gram described in paragraph (1) or (2).

4 “(4) HELPERS.—A helper who is employed
5 under a contract subject to subsection (a) may be
6 paid less than the rate required by such subsection
7 if—

8 “(A) the helper is employed in a classifica-
9 tion of helpers the use of which prevails in the
10 area in which the helper is employed;

11 “(B) the scope of the duties of the helper
12 is defined and is separate and distinct from the
13 duties of either a laborer or a mechanic; and

14 “(C) the helper is not used as informal ap-
15 prentice or trainee.

16 “(d) POSTING.—A contractor or subcontractor under
17 a contract described in subsection (b) shall post the scale
18 of wages required to be paid under such contract in a
19 prominent and easily accessible place at the site of the
20 contract work.

21 **“SEC. 3. WAGES.**

22 “(a) DEFINITION.—As used in this Act, the terms
23 ‘wages’, ‘scale of wages’, ‘wage rates’, and ‘minimum
24 wages’ include—

25 “(1) the basic hourly rate of pay; and

1 “(2) the amount of—

2 “(A) the rate of contribution irrevocably
3 made by a contractor or subcontractor to a
4 trustee or to a third person pursuant to a fund,
5 plan, or program; and

6 “(B) the rate of costs to the contractor or
7 subcontractor which may be reasonably antici-
8 pated in providing benefits to laborers and me-
9 chanics pursuant to an enforceable commitment
10 to carry out a financially responsible plan or
11 program which was communicated in writing to
12 the laborers and mechanics affected;

13 for medical or hospital care, pensions on retirement
14 or death, compensation for injuries or illness result-
15 ing from occupational activity, or insurance to pro-
16 vide any of the foregoing, for unemployment bene-
17 fits, life insurance, disability and sickness insurance,
18 or accidental insurance, for vacation and holiday
19 pay, for defraying costs of apprenticeship, joint
20 labor-management committees or similar programs,
21 or for other bona fide fringe benefits, but only if the
22 contractor or subcontractor is not required by other
23 Federal, State, or local law to provide any of such
24 benefits.

25 “(b) PREVAILING WAGE.—

1 “(1) DEFINITION.—For purposes of paragraph
2 (2), the term ‘prevailing wage’ when used to describe
3 the wages required to be paid a laborer or mechanic
4 under a contract subject to section 2(a) means the
5 wages determined by the Secretary to be prevailing
6 for the corresponding classes of laborers and me-
7 chanics employed on projects of a character similar
8 to the contract work in the city, town, or other civil
9 subdivision of the State in which the work is to be
10 performed or in the District of Columbia if the work
11 is to be performed there. In making such a deter-
12 mination for projects of a particular character in an
13 area, the Secretary shall consider the wages paid for
14 all projects regardless of the source of funding of the
15 same character in the area under contracts which
16 have been entered into for amounts not less than the
17 amounts prescribed by clause (i) or (ii) of section
18 2(b)(1)(B).

19 “(2) WAGE DETERMINATIONS.—For purposes
20 of a contract subject to section 2(a), the Secretary
21 shall issue wage determinations based upon the most
22 recent data submitted to the Secretary. No wage de-
23 termination that is based on data that is older than
24 3 years shall be considered “prevailing” within the
25 meaning of this Act. In the event that the Secretary

1 has no such data, the prevailing wage for purposes
2 of such contract shall be the highest prevailing wage
3 determined by the Secretary to be prevailing in an
4 area in the State which is comparable to the area in
5 which the contract is to be performed.

6 “(c) WAGE PAYMENTS.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graph (2), the obligation of a contractor or sub-
9 contractor to make wage payments in accordance
10 with the prevailing wage determinations of the Sec-
11 retary, insofar as this Act and other Acts incor-
12 porating this Act by reference are concerned, may be
13 discharged by—

14 “(A) the making of payments in cash;

15 “(B) the making of contributions of a type
16 referred to in subsection (a)(2);

17 “(C) the assumption of an enforceable
18 commitment to bear the costs of a plan or pro-
19 gram of a type referred to in subsection (a)(2);

20 or

21 “(D) any combination thereof.

22 “(2) CONTRIBUTIONS AND COSTS.—In dis-
23 charging the obligation to make wage payments to
24 laborers and mechanics in accordance with the pre-
25 vailing wage determinations of the Secretary, a con-

1 tractor or subcontractor may only include contribu-
2 tions described in subsection (a)(2)(A) and costs de-
3 scribed in subsection (a)(2)(B) which do not exceed
4 the aggregate of contributions and costs determined
5 by the Secretary to be prevailing under subsection
6 (b).

7 “(d) OVERTIME.—In determining the overtime pay to
8 which a laborer or mechanic is entitled under any Federal
9 law, the regular or basic hourly rate of pay (or other alter-
10 native rate upon which premium rate of overtime com-
11 pensation is computed) of the laborer or mechanic shall
12 be deemed to be the basic hourly rate of pay, except that
13 where the amount of payments, contributions, or costs in-
14 curred with respect to the laborer or mechanic exceeds the
15 prevailing wage applicable under subsection (b), the basic
16 hourly rate of pay shall be arrived at by deducting from
17 the amount of payments, contributions, or costs actually
18 incurred with respect to the laborer or mechanic, the
19 amount of contributions or costs of the type described in
20 subsection (a)(2) actually incurred with respect to the la-
21 borer or mechanic or the amount determined under sub-
22 section (a)(2) but not actually paid, whichever amount is
23 the greater.

1 **“SEC. 4. ENFORCEMENT.**

2 “(a) ACTION BY THE SECRETARY.—The Secretary,
3 on the initiative of the Secretary or at the request of a
4 laborer or mechanic, or interested person, shall investigate
5 compliance by a contractor with the requirements of sec-
6 tion 2 and may take such action under section 8(1) to
7 secure compliance with such requirements as may be ap-
8 propriate.

9 “(b) COVERAGE REVIEW.—

10 “(1) PETITION FOR REVIEW OF COVERAGE.—If
11 the Secretary of a department, head of an agency,
12 or contracting authority determines that a contract
13 entered into by the Secretary, agency head, or con-
14 tracting authority which involves construction (in-
15 cluding alteration, repair, renovation, rehabilitation,
16 reconstruction, demolition, painting, or decorating)
17 of a building or works is not subject to section 2(a),
18 any interested person may petition the Adminis-
19 trator to review such determination. The Adminis-
20 trator shall complete the review requested and issue
21 a decision within 60 days of the date the petition is
22 received. Such decision shall be reviewable by the
23 Secretary of Labor who shall make a determination
24 within 90 days. Such determination shall be binding
25 upon the Secretary of a department, agency head or
26 contracting authority.

1 “(2) JUDICIAL REVIEW.—

2 “(A) IN GENERAL.—Any interested person
3 adversely affected or aggrieved by—

4 “(i) the determination by the Sec-
5 retary of Labor made on a petition filed
6 under paragraph (1); or

7 “(ii) if the Secretary denies a petition
8 filed under paragraph (1), the determina-
9 tion of a Secretary of a department or
10 head of an agency under paragraph (1)
11 with respect to which the petition was
12 filed;

13 may obtain review of such determination in any
14 United States court of appeals for the circuit in
15 which such person is located or in the United
16 States Court of Appeals for the District of Co-
17 lumbia Circuit by filing in such court, within 60
18 days following issuance of such determination, a
19 written petition praying that such determina-
20 tion be modified or set aside. A copy of such pe-
21 tition shall be forthwith transmitted by the
22 clerk of the court in which it is filed to the Sec-
23 retary or agency head which made the deter-
24 mination and to other interested persons.

1 “(B) FILING OF RECORD.—Upon transmit-
2 tal of the petition, the Secretary, agency head,
3 or contracting authority which made the deter-
4 mination shall file in the court the record of the
5 proceeding upon which the decision to be re-
6 viewed was made and the questions determined
7 in the proceeding as provided in section 2112 of
8 title 28, United States Code. Upon such filing,
9 the court—

10 “(i) shall have exclusive jurisdiction of
11 the proceeding and of the questions deter-
12 mined in the proceeding; and

13 “(ii) shall have the power—

14 “(I) to grant such temporary re-
15 lief or restraining order as it deems
16 just and proper;

17 “(II) to decide all relevant ques-
18 tions of law, interpret constitutional
19 and statutory provisions, and deter-
20 mine the meaning or applicability of
21 the terms of the determination subject
22 to review and in so doing, the court
23 shall apply the standards of review set
24 forth in section 706 of title 5, United
25 States Code;

1 “(III) to make and enter upon
2 the pleadings, testimony, and proceed-
3 ings set forth in the record a decree
4 affirming, modifying, or setting aside,
5 in whole or in part, the determination
6 subject to review; and

7 “(IV) to enforce such determina-
8 tion to the extent that it is affirmed
9 or modified.

10 The decision of the court shall be final except
11 that it shall be subject to review by the Su-
12 preme Court of the United States as provided
13 in section 1254 of title 28, United States Code.

14 “(c) ADMINISTRATIVE COMPLAINT PROCEDURE.—

15 “(1) IN GENERAL.—Any laborer or mechanic
16 under a contract with the United States or the Dis-
17 trict of Columbia or another contract described in
18 section 2(b)(1) or any interested person may file an
19 administrative complaint with the Administrator to
20 review the wage payments to the laborer or me-
21 chanic under such contract to determine if the wage
22 payments have been made in accordance with section
23 2(a).

24 “(2) ADMINISTRATOR.—

1 “(A) DETERMINATION.—The Adminis-
2 trator shall determine if wage payments have
3 been made in accordance with section 2(a) with-
4 in 120 days of the receipt of the administrative
5 complaint.

6 “(B) HEARING.—Either the complainant
7 or the employer involved in the administrative
8 complaint may, within 15 days of the date of is-
9 surance of the determination of the Adminis-
10 trator, request a hearing on the determination
11 before an administrative law judge. The deter-
12 mination of the Administrator shall be deemed
13 to be a final agency action if no request for a
14 hearing is made within such 15 days.

15 “(C) REQUEST FOR REFERENCE.—If the
16 Administrator does not make a determination
17 on an administrative complaint within 120 days
18 of its receipt, the complainant may request that
19 the administrative complaint be referred to the
20 Chief Administrative Law Judge of the Depart-
21 ment of Labor for assignment to an Adminis-
22 trative Law Judge of the Department of Labor
23 to make the determination requested by the ad-
24 ministrative complaint.

25 “(3) ADMINISTRATIVE LAW JUDGE.—

1 “(A) IN GENERAL.—The administrative
2 law judge—

3 “(i) to whom a determination of the
4 Administrator has been referred under a
5 request for a hearing under paragraph
6 (2)(B); or

7 “(ii) to whom an administrative com-
8 plaint has been referred under a request
9 for a hearing pursuant to paragraph
10 (2)(C);

11 shall within 90 days of a request conduct a
12 hearing on the record in accordance with sec-
13 tion 554 of title 5, United States Code, with re-
14 spect to such administrative complaint or deter-
15 mination.

16 “(B) HEARINGS.—In any proceeding be-
17 fore an administrative law judge, the employer
18 under the contract reviewed shall have the bur-
19 den of demonstrating that the wage payments
20 under the contract were made in accordance
21 with such section. The administrative law judge
22 shall have the power to issue orders requiring
23 the attendance and testimony of witnesses and
24 the production of evidence under oath. Wit-
25 nesses shall be paid the same fees and mileage

1 that are paid witnesses in the courts of the
2 United States. In the case of contumacy, fail-
3 ure, or refusal of any person to obey such
4 order, any District Court of the United States
5 or of any Territory or possession, within the ju-
6 risdiction of which the inquiry is carried on, or
7 within the jurisdiction of which said person who
8 is guilty of contumacy, failure, or refusal is
9 found, or resides or transacts business, upon
10 the application by the Administrator or the
11 complainant, shall have jurisdiction to issue to
12 such person an order requiring such person to
13 appear before him or representative designated
14 by him, to produce evidence if, as, and when so
15 ordered, and to give testimony relating to the
16 matter under investigation or in question; and
17 any failure to obey such order of the court may
18 be punished by said court as a contempt there-
19 of. The administrative law judge shall issue a
20 decision as to whether wage payments have
21 been made in accordance with section 2(a) with-
22 in 30 days after he receives the transcript of
23 the hearing proceedings.

24 “(C) REVIEW BY SECRETARY.—Within 30
25 days of the date of issuance of the decision by

1 an administrative law judge, the complainant or
2 the employer involved in the petition may re-
3 quest the Secretary to review the decision of the
4 administrative law judge. The decision of the
5 administrative law judge shall be deemed to be
6 a final agency action if no request for review is
7 made within such 30-day period or, within 30
8 days of the date the decision is made, the Sec-
9 retary does not grant a request to review the
10 decision of the administrative law judge.

11 “(D) GRANTING OF REQUEST TO RE-
12 VIEW.—The Secretary may grant a request to
13 review a decision of an administrative law judge
14 only if the Secretary determines that the re-
15 quest presents a substantial question of law or
16 fact. If the Secretary grants a request for a re-
17 view, the Secretary, within 90 days after receiv-
18 ing the request, shall review the record and ei-
19 ther adopt the decision of the administrative
20 law judge or issue exceptions. The decision of
21 the administrative law judge, together with any
22 exceptions, shall be deemed to be a final agency
23 action.

24 “(4) WITHHOLDING OF SUMS.—Upon a deter-
25 mination by the Administrator pursuant to para-

1 graph (2), or the administrative law judge pursuant
2 to paragraph (3), based on a finding that petitioner
3 is likely to succeed on the merits of his or her claim,
4 the Secretary of Labor shall direct the Secretary of
5 the department or the head of the agency, or con-
6 tracting authority which entered into the contract
7 subject to the requirements of section 2 to withhold
8 from any moneys payable on account of work per-
9 formed by the contractor or subcontractor under
10 such contract, any other contract described in sec-
11 tion 2(b)(1), or any other federally-funded or as-
12 sisted contract the contractor may have with the
13 same prime contractor, such sums as may be deter-
14 mined to be necessary to satisfy any liabilities of
15 such contractor or subcontractor for unpaid wages
16 and liquidated damages as provided in paragraph
17 (5)(A).

18 “(5) DECISION.—The decision of the Adminis-
19 trator, an administrative law judge, or the Secretary
20 on a petition under this subsection for the review of
21 the wage payments under a contract may include—

22 “(A) the awarding of damages to the peti-
23 tioner in the amount of twice the amount of
24 wages not paid in accordance with section 2(a)
25 if it is found on review of the petition that the

1 petitioner was willfully not paid wages in ac-
2 cordance with such section; and

3 “(B) in addition to any award to the peti-
4 tioner, a reasonable attorney’s fee to be paid by
5 the employer and the cost of the action.

6 “(6) PAYMENTS.—The Secretary shall pay di-
7 rectly to laborers and mechanics from any accrued
8 payments withheld under the terms of the contract
9 any wages found by the Secretary of Labor under
10 this subsection to be due laborers and mechanics
11 under section 2(a). The Secretary shall distribute a
12 list to all departments of the Federal Government
13 giving the names of the person and/or corporation,
14 partnership or association the Secretary of Labor
15 has found under this subsection to have disregarded
16 their obligations to employees and subcontractors.
17 No contract shall be awarded to the persons and/or
18 corporations, partnerships or associations appearing
19 on this list or to any corporation, partnership, or as-
20 sociation in which such persons have an interest
21 until 3 years (or 5 years in the case of a second de-
22 barment) have elapsed from the date of publication
23 of the list containing the names of such persons and/
24 or corporation, partnership, or associations.

1 “(7) RIGHT OF ACTION.—If the accrued pay-
2 ments withheld under the terms of a contract sub-
3 ject to section 2(a) are insufficient to reimburse all
4 the laborers and mechanics with respect to whom
5 there has been a failure to pay the wages required
6 by such section, the Secretary shall bring an action
7 against the contractor and the contractor’s sureties
8 for the payment of the wages required by such sec-
9 tion, and in such an action it shall be no defense
10 that such laborers and mechanics accepted or agreed
11 to accept less than the required rate of wages or vol-
12 untarily made refunds.

13 “(8) TIME.—An action seeking judicial review
14 of a final agency action under this subsection shall
15 be brought within 30 days of the date of such ac-
16 tion.

17 “(d) CIVIL ACTIONS.—

18 “(1) IN GENERAL.—Any employer who violates
19 section 2(a) shall be liable to each laborer or me-
20 chanic affected in the amount of the laborer or me-
21 chanic’s unpaid wages and, if the violation was will-
22 ful, in an additional equal amount as liquidated
23 damages.

24 “(2) ACTIONS.—An action to recover the liabil-
25 ity prescribed by paragraph (1) may be maintained

1 against any employer in any Federal or State court
2 of competent jurisdiction by any interested party or
3 by any one or more laborers or mechanics for and
4 in behalf of the laborer or mechanic or laborers or
5 mechanics and other laborers or mechanics similarly
6 situated. No laborer or mechanic may be a party
7 plaintiff to any such action unless the laborer or me-
8 chanic gives the laborer or mechanic's consent in
9 writing to become such a party and such consent is
10 filed in the court in which such action is brought.
11 No civil action may be brought or maintained under
12 this paragraph by a laborer or mechanic with respect
13 to the laborer or mechanic's wages if a petition is or
14 has been filed by that laborer or mechanic under
15 subsection (c) with respect to the laborer or mechan-
16 ic's wages.

17 “(3) ATTORNEY’S FEE.—The court in an action
18 brought under paragraph (2) shall, in addition to
19 any judgment awarded to the plaintiff or plaintiffs,
20 allow a reasonable attorney’s fee to be paid by the
21 defendant and the cost of the action.

22 **“SEC. 5. TERMINATIONS.**

23 “Every contract subject to section 2(a), shall contain
24 a provision that in the event it is found by the contracting
25 officer or the Administrator that any laborer or mechanic

1 covered by the contract has been or is being paid a rate
2 of wages less than the rate of wages required by section
3 2(a) to be paid under the contract or subcontract, the Gov-
4 ernment may, by written notice to the contractor, termi-
5 nate the right of such contractor to proceed with the work
6 or such part of the work as to which there has been a
7 failure to pay the required wages and to prosecute the
8 work to completion by contract or otherwise. The contrac-
9 tor and its sureties shall be liable to the Government for
10 any excess costs incurred by the Government because of
11 the termination of the contract.

12 **“SEC. 6. CONSTRUCTION.**

13 “This Act shall not be construed to supersede or im-
14 pair any authority otherwise granted by Federal law to
15 provide for the establishment of specific wage rates.

16 **“SEC. 7. NATIONAL EMERGENCY.**

17 “In the event of a national emergency, the President
18 may suspend the provisions of this Act.

19 **“SEC. 8. ADMINISTRATION OF ACT.**

20 “The Secretary of Labor shall—

21 “(1) take such action as may be appropriate to
22 ensure compliance with the requirements of this Act
23 and to enforce its requirements; and

1 “(2) promulgate appropriate standards and pro-
2 cedures to be observed by contracting officers with
3 respect to contracts to which this Act applies.

4 An action by the Secretary under section 4 or this section
5 or by a court under section 4 to enforce the requirements
6 of this Act with respect to a contract shall require the
7 application of this Act to the contract from the date of
8 the contract or the beginning of the work.

9 **“SEC. 9. DEFINITIONS.**

10 “As used in this Act:

11 “(1) ADMINISTRATOR.—The term ‘Adminis-
12 trator’ means the Administrator of the Wage and
13 Hour Division of the Department of Labor.

14 “(2) CONSTRUCTION, ETC.—The terms ‘con-
15 struction’, ‘prosecution’, ‘completion’, ‘repair’, ‘alter-
16 ation’, ‘renovation’, ‘demolition’ and ‘reconstruction’
17 mean all types of work performed by laborers and
18 mechanics which relates to a particular building or
19 work financed in whole or in part by loans, grants,
20 revolving funds or loan guarantees from the United
21 States, or located on land owned by the United
22 States unless exempted or otherwise limited by Fed-
23 eral law, including without limitation, altering, re-
24 modeling, painting and decorating, the transporting
25 of materials and supplies to or from the building or

1 work by the employees of the construction contractor
2 or its subcontractors, including independent hauling
3 contractors, and the manufacturing or furnishing of
4 materials, articles, supplies or equipment for the
5 project from facilities dedicated exclusively, or nearly
6 so, to the prosecution of the building or work fi-
7 nanced in whole or in part by loans, grants, revolv-
8 ing funds or loan guarantees from the United
9 States, or located on land owned by the United
10 States unless exempted or otherwise limited by fed-
11 eral law.

12 “(3) INTERESTED PERSON.—The term ‘inter-
13 ested person’ means any contractor likely to seek or
14 to work under a contract to which section 2(a) ap-
15 plies, any association representing such a contractor,
16 any laborer or mechanic likely to be employed or to
17 seek employment under such a contract, or any labor
18 organization which represents such a laborer or me-
19 chanic.

20 “(4) PROJECT.—The term ‘project’ means all
21 construction necessary to complete a new facility,
22 building or work, or to complete an alteration, re-
23 pair, renovation, rehabilitation, demolition or recon-
24 struction (including painting and decorating) of a fa-
25 cility, building or work, regardless of the number of

1 contracts involved so long as all contracts are related
2 in purpose and time.

3 “(5) SECRETARY.—The term ‘Secretary’ means
4 the Secretary of Labor.”.

5 **SEC. 2. PAYROLL INFORMATION.**

6 (a) AMENDMENTS TO COPELAND ACT.—Section 2 of
7 the Act of June 13, 1934 (40 U.S.C. 276c) is amended—

8 (1) in the first sentence, by striking out every-
9 thing after “shall” the second time it appears and
10 inserting in lieu thereof the following: “maintain
11 payroll and other basic records relating to the pay-
12 roll for the work on such buildings or public works,
13 preserve such records for a period of 3 years after
14 the completion of such work, and furnish with re-
15 spect to employees employed in such work and not
16 later than the 10th day of each month a statement
17 which sets forth the following information for each
18 employee for each payroll period ending during the
19 preceding calendar month: The name, address, social
20 security number, employment classification, number
21 of hours worked daily and during the payroll period,
22 hourly rates of wages paid (including rates of con-
23 tributions or costs anticipated for bona fide fringe
24 benefits), all deductions made, and actual wages
25 paid.”; and

1 (2) by adding after the first sentence the follow-
2 ing: “If a contractor or subcontractor fails timely to
3 submit the certified payroll reports as required here-
4 in, the Secretary of the department or the head of
5 the agency which entered into or authorized the
6 funding of the contract subject to the requirements
7 of this section shall suspend all payments to the con-
8 tractor or subcontractor. Any interested person may
9 obtain a copy of any statement provided under this
10 section from any department, agency or contracting
11 authority which is required by law, regulation, or the
12 terms of a contract or grant, to maintain a record
13 of such statement notwithstanding section 552(b) of
14 title 5, United States Code.”.

15 (b) ELECTRONIC REPORTING.—The Secretary of
16 Labor shall undertake a study to determine the feasibility
17 of employers using electronic methods to comply with the
18 reporting requirements under section 2 of the Act of June
19 13, 1934. The Secretary shall report to the Congress not
20 later than one year after the date of the enactment of this
21 Act on actions taken by the Secretary and employers to
22 facilitate electronic reporting of payroll information.

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S 627 IS—3