

Union Calendar No. 473

103^D CONGRESS
2^D SESSION

H. R. 1231

[Report No. 103-856]

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.

OCTOBER 7, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 1993

Mr. MURPHY (for himself and Mr. FORD of Michigan) introduced the
following bill; which was referred to the Committee on Education and Labor

OCTOBER 7, 1994

Additional sponsors: Mr. SANDERS, Mr. OLVER, Mr. VISCLOSKY, Mr. BROWN
of California, Mr. RAHALL, Mr. MINETA, Mr. FISH, Mr. EVANS, Mr.
OWENS, Ms. VELÁZQUEZ, Mr. FILNER, Mr. BERMAN, Mr. BLACKWELL,
Mr. EDWARDS of California, Mr. FOGLIETTA, Mr. FRANK of Massachu-
setts, Mr. HOCHBRUECKNER, Mr. LANTOS, Mr. LIPINSKI, Mr. PASTOR,
Mr. SHARP, Mr. TORRES, Mrs. SCHROEDER, Mr. VENTO, Mr.
FINGERHUT, Mr. WYNN, Mr. SHAYS, Mr. ROEMER, Mr. ANDREWS of
New Jersey, Mr. BARCA of Wisconsin, Mr. HOAGLAND, Mr. NADLER, Mr.
HOLDEN, Mr. ANDREWS of Maine, Mr. MOAKLEY, Mr. GEJDENSON, Mr.
RIDGE, Mr. KLINK, Mr. STUPAK, Mr. KREIDLER, Mr. DURBIN, Mr. ACK-
ERMAN, Mr. GORDON, Mr. YOUNG of Alaska, Mr. BONIOR, Mr.
KOPETSKI, Mr. OBERSTAR, Mr. NEAL of Massachusetts, Mr. KILDEE,
Mr. HAMBURG, Mr. STOKES, Mrs. KENNELLY, Mr. MATSUI, Mr. MAR-
KEY, and Mr. COPPERSMITH

OCTOBER 7, 1994

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 4, 1993]

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-Bacon*
5 *Act) (40 U.S.C. 276a et seq.) is amended to read as follows:*

6 **“SECTION 1. SHORT TITLE.**

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

8 **“SEC. 2. CONTRACT REQUIREMENTS.**

9 *“(a) REQUIRED PROVISIONS.—*

10 *“(1) IN GENERAL.—A contract described in sub-*
11 *section (b) shall—*

12 *“(A) contain a provision stating that the*
13 *various classes of laborers and mechanics under*
14 *the contract shall be paid minimum wages based*
15 *upon wages determined by the Secretary under*
16 *subsection (b) to be prevailing for the cor-*
17 *responding classes of laborers and mechanics em-*
18 *ployed on projects of a character similar to the*
19 *contract work in the city, town, or other civil*
20 *subdivision of the State in which the work is to*

1 *be performed or in the District of Columbia if*
2 *the work is to be performed there; and*

3 “(B) contain a stipulation that the contrac-
4 tor or subcontractor under the contract shall pay
5 all laborers and mechanics under the contract—

6 “(i) unconditionally;

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

8 and

9 “(iii) without subsequent deduction or
10 rebate on any account;

11 *the full amounts accrued at time of payment ir-*
12 *respective of any contractual relationship which*
13 *may be alleged to exist between the contractor or*
14 *subcontractor and such laborers or mechanics.*

15 “(2) *LABORER OR MECHANIC.*—An individual
16 shall for purposes of this subsection be considered a
17 laborer or mechanic under a contract subject to this
18 subsection if the person who entered into the contract
19 paid, directly or through a subcontract, compensation
20 to the individual for services performed as a laborer
21 or mechanic to carry out the contract.

22 “(b) *CONTRACTS COVERED.*—

23 “(1) *IN GENERAL.*—Unless exempted or otherwise
24 limited by Federal law, the requirements of subsection
25 (a) apply to—

1 “(A) any contract for the construction,
2 prosecution, completion, alteration, repair, ren-
3 ovation, or reconstruction of buildings or
4 works—

5 “(i) to which the United States or the
6 District of Columbia is a party,

7 “(ii) which is financed in whole or in
8 part by loans, grants, revolving funds or
9 loan guarantees from the United States, or

10 “(iii) which is to be performed on land
11 owned by the United States, and

12 “(B) which is in excess of—

13 “(i) \$100,000 for new construction (in-
14 cluding painting and decorating), or

15 “(ii) \$15,000 for alteration, repair,
16 renovation, rehabilitation, or reconstruction
17 (including painting and decorating),

18 of buildings or works.

19 “(2) *PREEMPTION.*—Neither the requirements of
20 subsection (a) or the provisions of any other Federal
21 law or regulation shall preempt the application of re-
22 quirements for the payment of wages or fringe bene-
23 fits, or both, adopted by State, local, and tribal
24 governments otherwise applicable to contracts covered
25 under paragraph (1)(A)(ii) or (1)(A)(iii), unless com-

1 *pliance with such requirements would make it impos-*
2 *sible to comply with the requirements of subsection*
3 *(a).*

4 *“(3) MULTIPLE CONTRACTS.—*

5 *“(A) IN GENERAL.—Any 2 or more*
6 *contracts for any construction project (including*
7 *any alteration, repair, renovation, rehabilita-*
8 *tion, reconstruction, painting or decorating*
9 *project) that—*

10 *“(i) individually do not exceed the ap-*
11 *plicable amount prescribed by paragraph*
12 *(1)(B);*

13 *“(ii) in the aggregate do exceed such*
14 *amount; and*

15 *“(iii) all relate to the same work or re-*
16 *lated work at the same project;*

17 *shall be treated as a single contract for purposes*
18 *of subsection (a).*

19 *“(B) ENFORCEMENT.—For the purpose of*
20 *enforcing the requirements of subsection (a) for*
21 *contracts which under subparagraph (A) are to*
22 *be treated as a single contract, any interested*
23 *person may bring an action against the Sec-*
24 *retary of the department, the head of the agency,*
25 *or contracting authority which entered into such*

1 *contracts. Such an action may be brought in any*
2 *United States district court for the district in*
3 *which the violation of subsection (a) is alleged to*
4 *have been committed or in the United States*
5 *District Court for the District of Columbia. Such*
6 *an action shall be commenced not later than 90*
7 *days after the day on which the last labor was*
8 *performed under the contract with respect to*
9 *which the action is brought.*

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

15 “(i) *compliance with subsection (a) in*
16 *the payment of wages under the contracts*
17 *subject to subsection (a); and*

18 “(ii) *the payment by the Secretary of*
19 *the department, the head of the agency, or*
20 *contracting authority which entered into*
21 *such contracts of prevailing wage rates in*
22 *accordance with that subsection from the*
23 *date construction began under the contracts*
24 *involved in such action until the date of the*
25 *judgment of the court, together with interest,*

1 *at a rate determined by the court, based on*
2 *the difference between the wages paid under*
3 *such contracts and the wages required to be*
4 *paid under such contracts by subsection (a).*

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

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

22 “(c) *APPRENTICES, TRAINEES, AND HELPERS.*—

23 “(1) *APPRENTICES.*—*An apprentice who is em-*
24 *ployed under a contract subject to subsection (a) may*

1 *be paid less than the rate required by such subsection*
2 *if the apprentice is—*

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

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

17 *“(2) TRAINEES.—A trainee who is employed*
18 *under a contract subject to subsection (a) may be*
19 *paid less than the rate required by such subsection if*
20 *the trainee is employed pursuant to and individually*
21 *registered in a program which has received prior ap-*
22 *proval which is evidenced by formal certification by*
23 *the Bureau of Apprenticeship and Training of the De-*
24 *partment of Labor.*

1 “(3) *WAGE RATES.*—Notwithstanding any other
2 *provision of law, no apprentice or trainee will be per-*
3 *mitted to work under a contract subject to subsection*
4 *(a) at less than the prevailing wage rate unless such*
5 *apprentice or trainee is registered in a program de-*
6 *scribed in paragraph (1) or (2).*

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

11 “(A) *the helper is employed in a classifica-*
12 *tion of helpers the use of which prevails in the*
13 *area in which the helper is employed;*

14 “(B) *the scope of the duties of the helper is*
15 *defined and is separate and distinct from the du-*
16 *ties of either a laborer or a mechanic; and*

17 “(C) *the helper is not used as an informal*
18 *apprentice or trainee.*

19 “(d) *POSTING.*—A contractor or subcontractor under
20 a contract described in subsection (b) shall post the scale
21 of wages required to be paid under such contract in a
22 prominent and easily accessible place at the site of the con-
23 tract work.

1 **“SEC. 3. WAGES.**

2 “(a) *DEFINITION.*—As used in this Act, the terms
3 ‘wages’, ‘scale of wages’, ‘wage rates’, and ‘minimum wages’
4 include—

5 “(1) the basic hourly rate of pay, and

6 “(2) the amount of—

7 “(A) the rate of contribution irrevocably
8 made by a contractor or subcontractor to a trust-
9 ee or to a third person pursuant to a fund, plan,
10 or program; and

11 “(B) the rate of costs to the contractor or
12 subcontractor which may be reasonably antici-
13 pated in providing benefits to laborers and me-
14 chanics pursuant to an enforceable commitment
15 to carry out a financially responsible plan or
16 program which was communicated in writing to
17 the laborers and mechanics affected,

18 for medical or hospital care, pensions on retirement
19 or death, compensation for injuries or illness resulting
20 from occupational activity, or insurance to provide
21 any of the foregoing, for unemployment benefits, life
22 insurance, disability and sickness insurance, or acci-
23 dental insurance, for vacation and holiday pay, for
24 defraying costs of apprenticeship, joint labor-manage-
25 ment committees or similar programs, or for other
26 bona fide fringe benefits, but only if the contractor or

1 *subcontractor is not required by other Federal, State,*
2 *or local law to provide any of such benefits.*

3 *“(b) PREVAILING WAGE.—*

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

21 *“(2) WAGE DETERMINATIONS.—For purposes of*
22 *a contract subject to section 2(a), the Secretary shall*
23 *issue wage determinations based upon the most recent*
24 *data that is submitted to the Secretary. No wage de-*
25 *termination that is based on data that is older than*

1 *3 years shall be considered 'prevailing' within the*
2 *meaning of this Act. In the event that the Secretary*
3 *has no such data, the prevailing wage for purposes of*
4 *such contract shall be the highest prevailing wage de-*
5 *termined by the Secretary to be prevailing in an area*
6 *in the State which is comparable to the area in which*
7 *the contract is to be performed.*

8 “(c) *WAGE PAYMENTS.*—

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

16 “(A) *the making of payments in cash;*

17 “(B) *the making of contributions of a type*
18 *referred to in subsection (a)(2);*

19 “(C) *the assumption of an enforceable com-*
20 *mitment to bear the costs of a plan or program*
21 *of a type referred to in subsection (a)(2); or*

22 “(D) *any combination thereof.*

23 “(2) *CONTRIBUTIONS AND COSTS.*—*Unless other-*
24 *wise provided in a bona fide collective bargaining*
25 *agreement, in discharging the obligation to make*

1 *wage payments to laborers and mechanics in accord-*
2 *ance with the prevailing wage determinations of the*
3 *Secretary, a contractor or subcontractor may only in-*
4 *clude contributions described in subsection (a)(2)(A)*
5 *and costs described in subsection (a)(2)(B) which do*
6 *not exceed the aggregate of contributions and costs de-*
7 *termined by the Secretary to be prevailing under sub-*
8 *section (b). Credit for contributions made to a fringe*
9 *benefit plan will be allowed only to the extent that*
10 *they are based on the effective annual rate of con-*
11 *tributions for all hours worked during the calendar*
12 *year by the laborers and mechanics covered by the*
13 *plan.*

14 “(d) OVERTIME.—In determining the overtime pay to
15 *which a laborer or mechanic is entitled under any Federal*
16 *law, the regular or basic hourly rate of pay (or other alter-*
17 *native rate upon which premium rate of overtime com-*
18 *pensation is computed) of the laborer or mechanic shall be*
19 *deemed to be the basic hourly rate of pay, except that where*
20 *the amount of payments, contributions, or costs incurred*
21 *with respect to the laborer or mechanic exceeds the prevail-*
22 *ing wage applicable under subsection (b), the basic hourly*
23 *rate of pay shall be arrived at by deducting from the*
24 *amount of payments, contributions, or costs actually in-*
25 *curred with respect to the laborer or mechanic, the amount*

1 *of contributions or costs of the type described in subsection*
2 *(a)(2) actually incurred with respect to the laborer or me-*
3 *chanic or the amount determined under subsection (a)(2)*
4 *but not actually paid, whichever amount is the greater.*

5 **“SEC. 4. ENFORCEMENT.**

6 “(a) *ACTION BY THE SECRETARY.—The Secretary, on*
7 *the initiative of the Secretary or at the request of a laborer,*
8 *mechanic, or interested person, shall investigate compliance*
9 *by a contractor with the requirements of section 2 and may*
10 *take such action under section 7(1) to secure compliance*
11 *with such requirements as may be appropriate.*

12 “(b) *COVERAGE REVIEW.—*

13 “(1) *PETITION FOR REVIEW OF COVERAGE.—If*
14 *the Secretary of a department, head of an agency, or*
15 *contracting authority determines that a contract en-*
16 *tered into by the Secretary, agency head, or contract-*
17 *ing authority which involves construction (including*
18 *alteration, repair, renovation, rehabilitation, recon-*
19 *struction, painting, or decorating) of a building or*
20 *works is not subject to section 2(a), any interested*
21 *person may petition the Administrator to review such*
22 *determination. The Administrator shall complete the*
23 *review requested and issue a decision within 60 days*
24 *of the date the petition is received. Such decision shall*
25 *be reviewable by the Secretary of Labor who shall*

1 *make a determination within 90 days. Such deter-*
2 *mination shall be binding upon the Secretary of a de-*
3 *partment, agency head or contracting authority.*

4 “(2) *JUDICIAL REVIEW.*—

5 “(A) *IN GENERAL.*—Any interested person
6 *adversely affected or aggrieved by—*

7 “(i) *the determination by the Secretary*
8 *of Labor made on a petition filed under*
9 *paragraph (1), or*

10 “(ii) *failure of the Secretary to take*
11 *action concerning a petition filed under*
12 *paragraph (1),*

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 determination*
20 *be modified or set aside. A copy of such petition*
21 *shall be forthwith transmitted by the clerk of the*
22 *court in which it is filed to the Secretary and to*
23 *other interested persons.*

24 “(B) *FILING OF RECORD.*—Upon transmit-
25 *tal of the petition, the Secretary shall file in the*

1 *court the record of the proceeding upon which the*
2 *decision to be reviewed was made and the ques-*
3 *tions determined in the proceeding as provided*
4 *in section 2112 of title 28, United States Code.*
5 *Upon such filing, the court—*

6 *“(i) shall have exclusive jurisdiction of*
7 *the proceeding and of the questions deter-*
8 *mined in the proceeding; and*

9 *“(ii) shall have the power—*

10 *“(I) to grant such temporary re-*
11 *lief or restraining order as it deems*
12 *just and proper;*

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

22 *“(III) to make and enter upon the*
23 *pleadings, testimony, and proceedings*
24 *set forth in the record a decree affirm-*
25 *ing, modifying, or setting aside, in*

1 *whole or in part, the determination*
2 *subject to review; and*

3 *“(IV) to enforce such determina-*
4 *tion to the extent that it is affirmed or*
5 *modified.*

6 *The decision of the court shall be final except*
7 *that it shall be subject to review by the Supreme*
8 *Court of the United States as provided in section*
9 *1254 of title 28, United States Code.*

10 “(c) *ADMINISTRATIVE COMPLAINT PROCEDURE.—*

11 “(1) *IN GENERAL.—Any laborer or mechanic*
12 *under—*

13 “(A) *a contract with the United States or*
14 *the District of Columbia, or*

15 “(B) *any other contract described in section*
16 *2(b)(1),*

17 *or any interested person may file an administrative*
18 *complaint with the Administrator to review the wage*
19 *payments to the laborer or mechanic under such con-*
20 *tract to determine if the wage payments have been*
21 *made in accordance with section 2(a).*

22 “(2) *ADMINISTRATOR.—*

23 “(A) *DETERMINATION.—The Administrator*
24 *shall determine if wage payments have been*
25 *made in accordance with section 2(a) within 120*

1 *days of the receipt of the administrative com-*
2 *plaint.*

3 “(B) *HEARING.*—*Either the complainant or*
4 *the employer involved in the administrative com-*
5 *plaint may, within 15 days of the date of issu-*
6 *ance of the determination of the Administrator,*
7 *request a hearing on the determination by an*
8 *administrative law judge. The determination of*
9 *the Administrator shall be deemed to be a final*
10 *agency action if no request for a hearing is made*
11 *within such 15 days.*

12 “(C) *REQUEST FOR REFERENCE.*—*If the*
13 *Administrator does not make a determination on*
14 *an administrative complaint within 120 days of*
15 *its receipt, the complainant may request that the*
16 *administrative complaint be referred to the Chief*
17 *Administrative Law Judge of the Department of*
18 *Labor for assignment to an Administrative Law*
19 *Judge of the Department of Labor to make the*
20 *determination requested by the administrative*
21 *complaint.*

22 “(3) *ADMINISTRATIVE LAW JUDGE.*—

23 “(A) *IN GENERAL.*—*The administrative law*
24 *judge—*

1 “(i) to whom a determination of the
2 Administrator has been referred under a re-
3 quest for a hearing under paragraph (2)(B);
4 or

5 “(ii) to whom an administrative com-
6 plaint has been referred under a request for
7 a hearing pursuant to paragraph (2)(C);
8 shall within 90 days of a request conduct a hear-
9 ing on the record in accordance with section 554
10 of title 5, United States Code, with respect to
11 such administrative complaint or determination.

12 “(B) HEARINGS.—In any proceeding before
13 an administrative law judge, the employer under
14 the contract reviewed shall have the burden of
15 demonstrating that the wage payments under the
16 contract were made in accordance with such sec-
17 tion. The administrative law judge shall have the
18 power to issue orders requiring the attendance
19 and testimony of witnesses and the production of
20 evidence under oath. Witnesses shall be paid the
21 same fees and mileage that are paid witnesses in
22 the courts of the United States. In the case of
23 contumacy, failure, or refusal of any person to
24 obey such order, any District Court of the United
25 States or of any Territory or possession, within

1 *the jurisdiction of which the inquiry is carried*
2 *on, or within the jurisdiction of which said per-*
3 *son who is guilty of contumacy, failure, or re-*
4 *usal is found, or resides or transacts business,*
5 *upon the application by the Administrator or the*
6 *complainant, shall have jurisdiction to issue to*
7 *such person an order requiring such person to*
8 *appear before him or representative designated*
9 *by him, to produce evidence if, as, and when so*
10 *ordered, and to give testimony relating to the*
11 *matter under investigation or in question; and*
12 *any failure to obey such order of the court may*
13 *be punished by said court as a contempt thereof.*
14 *The administrative law judge shall issue a deci-*
15 *sion as to whether wage payments have been*
16 *made in accordance with section 2(a) within 30*
17 *days after he receives the transcript of the hear-*
18 *ing proceedings.*

19 “(C) *REVIEW BY SECRETARY.*—*Within 30*
20 *days of the date of issuance of the decision by an*
21 *administrative law judge, the complainant or the*
22 *employer involved in the petition may request*
23 *the Secretary to review the decision of the ad-*
24 *ministrative law judge. The decision of the ad-*
25 *ministrative law judge shall be deemed to be a*

1 *final agency action if no request for review is*
2 *made within such 30-day period or, within 30*
3 *days of the date the decision is made, the Sec-*
4 *retary does not grant a request to review the de-*
5 *cision of the administrative law judge.*

6 “(D) GRANTING OF REQUEST TO REVIEW.—
7 *The Secretary may grant a request to review a*
8 *decision of an administrative law judge only if*
9 *the Secretary determines that the request pre-*
10 *sents a substantial question of law or fact. If the*
11 *Secretary grants a request for a review, the Sec-*
12 *retary, within 90 days after receiving the re-*
13 *quest, shall review the record and either adopt*
14 *the decision of the administrative law judge or*
15 *issue exceptions. The decision of the administra-*
16 *tive law judge, together with any exceptions,*
17 *shall be deemed to be a final agency action.*

18 “(4) WITHHOLDING OF SUMS.—*Upon determina-*
19 *tion by the Administrator pursuant to paragraph (2),*
20 *or the administrative law judge pursuant to para-*
21 *graph (3), based on a finding that petitioner is likely*
22 *to succeed on the merits of his or her claim, the Sec-*
23 *retary of Labor shall direct the Secretary of the de-*
24 *partment or the head of the agency, or contracting*
25 *authority which entered into the contract subject to*

1 *the requirements of section 2 to withhold from any*
2 *moneys payable on account of work performed by the*
3 *contractor or subcontractor under such contract, any*
4 *other contract described in section 2(b)(1), or any*
5 *other federally-funded or assisted contract the contrac-*
6 *tor or subcontractor may have with the same contrac-*
7 *tor, such sums as may be determined to be necessary*
8 *to satisfy any liabilities of such contractor or sub-*
9 *contractor for unpaid wages and liquidated damages*
10 *as provided in paragraph (5)(A).*

11 “(5) *DECISION.*—*The decision of the Adminis-*
12 *trator, an administrative law judge, or the Secretary*
13 *on a petition under this subsection for the review of*
14 *the wage payments under a contract may include—*

15 “(A) *the awarding of damages to the peti-*
16 *tioner in the amount of twice the amount of*
17 *wages not paid in accordance with section 2(a)*
18 *if it is found on review of the petition that the*
19 *petitioner was willfully not paid wages in ac-*
20 *cordance with such section; and*

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

24 “(6) *PAYMENTS.*—*The Secretary shall pay di-*
25 *rectly to laborers and mechanics from any accrued*

1 *payments withheld under the terms of the contract*
2 *any wages found by the Secretary of Labor under this*
3 *subsection to be due laborers and mechanics under*
4 *section 2(a). The Secretary shall distribute a list to*
5 *all departments of the Federal Government giving the*
6 *names of the person or corporation, or both, partner-*
7 *ship or association the Secretary of Labor has found*
8 *under this subsection to have disregarded their obliga-*
9 *tions to employees and subcontractors. No contract*
10 *shall be awarded to the persons, corporations, or part-*
11 *nerships or associations appearing on this list or to*
12 *any corporation, partnership, or association in which*
13 *such persons have an interest until 3 years (or 5*
14 *years in the case of a second debarment) have elapsed*
15 *from the date of publication of the list containing the*
16 *names of such persons or corporation, partnership, or*
17 *associations.*

18 “(7) *RIGHT OF ACTION.*—*If the accrued pay-*
19 *ments withheld under the terms of a contract subject*
20 *to section 2(a) are insufficient to reimburse all the la-*
21 *borers and mechanics with respect to whom there has*
22 *been a failure to pay the wages required by such sec-*
23 *tion, the Secretary shall bring an action against the*
24 *contractor and the contractor’s sureties for the pay-*
25 *ment of the wages required by such section, and in*

1 *such an action it shall be no defense that such labor-*
2 *ers and mechanics accepted or agreed to accept less*
3 *than the required rate of wages or voluntarily made*
4 *refunds.*

5 *“(8) TIME.—An action seeking judicial review of*
6 *a final agency action under this subsection shall be*
7 *brought within 30 days of the date of such action.*

8 *“(d) CIVIL ACTIONS.—*

9 *“(1) IN GENERAL.—Any employer who violates*
10 *section 2(a) shall be liable to each laborer or mechanic*
11 *affected in the amount of the laborer or mechanic’s*
12 *unpaid wages and, if the violation was willful, in an*
13 *additional equal amount as liquidated damages.*

14 *“(2) ACTIONS.—An action to recover the liability*
15 *prescribed by paragraph (1) may be maintained*
16 *against any employer in any Federal or State court*
17 *of competent jurisdiction by any interested party or*
18 *by any one or more laborers or mechanics for and in*
19 *behalf of the laborer or mechanic or laborers or me-*
20 *chanics and other laborers or mechanics similarly sit-*
21 *uated. No laborer or mechanic may be a party plain-*
22 *tiff to any such action unless the laborer or mechanic*
23 *gives the laborer or mechanic’s consent in writing to*
24 *become such a party and such consent is filed in the*
25 *court in which such action is brought. No civil action*

1 *may be brought or maintained under this paragraph*
2 *by a laborer or mechanic with respect to the laborer*
3 *or mechanic's wages if a petition is or has been filed*
4 *by that laborer or mechanic under subsection (c) with*
5 *respect to the laborer or mechanic's wages.*

6 *“(3) ATTORNEY’S FEE.—The court in an action*
7 *brought under paragraph (2) shall, in addition to*
8 *any judgment awarded to the plaintiff or plaintiffs,*
9 *allow a reasonable attorney’s fee to be paid by the de-*
10 *fendant and the cost of the action.*

11 **“SEC. 5. TERMINATIONS.**

12 *“Every contract subject to section 2(a), shall contain*
13 *a provision that in the event it is found by the contracting*
14 *officer or the Administrator that any laborer or mechanic*
15 *covered by the contract has been or is being paid a rate*
16 *of wages less than the rate of wages required by section 2(a)*
17 *to be paid under the contract or subcontract, the Govern-*
18 *ment may, by written notice to the contractor, terminate*
19 *the right of such contractor to proceed with the work or such*
20 *part of the work as to which there has been a failure to*
21 *pay the required wages and to prosecute the work to comple-*
22 *tion by contract or otherwise. The contractor and its sure-*
23 *ties shall be liable to the Government for any excess costs*
24 *incurred by the Government because of the termination of*
25 *the contract.*

1 **“SEC. 6. CONSTRUCTION.**

2 *“This Act shall not be construed to supersede or impair*
3 *any authority otherwise granted by Federal law to provide*
4 *for the establishment of specific wage rates.*

5 **“SEC. 7. ADMINISTRATION OF ACT.**

6 *“The Secretary of Labor shall—*

7 *“(1) take such action as may be appropriate to*
8 *ensure compliance with the requirements of this Act*
9 *and to enforce its requirements; and*

10 *“(2) promulgate appropriate standards and pro-*
11 *cedures to be observed by contracting officers with re-*
12 *spect to contracts to which this Act applies.*

13 *An action by the Secretary under section 4 or this section*
14 *or by a court under section 4 to enforce the requirements*
15 *of this Act with respect to a contract shall require the appli-*
16 *cation of this Act to the contract from the date of the con-*
17 *tract or the beginning of the work.*

18 **“SEC. 8. DEFINITIONS.**

19 *“As used in this Act:*

20 *“(1) ADMINISTRATOR.—The term ‘Adminis-*
21 *trator’ means the Administrator of the Wage and*
22 *Hour Division of the Department of Labor.*

23 *“(2) CONSTRUCTION, ETC.—The terms ‘construc-*
24 *tion’, ‘prosecution’, ‘completion’, ‘repair’, ‘alteration’,*
25 *‘renovation’, and ‘reconstruction’ mean all types of*
26 *work performed by laborers and mechanics which re-*

1 *lates to a particular building or work financed in*
2 *whole or in part by loans, grants, revolving funds or*
3 *loan guarantees from the United States, or located on*
4 *land owned by the United States unless exempted or*
5 *otherwise limited by Federal law, including without*
6 *limitation, altering, remodeling, painting and deco-*
7 *rating, the transporting of materials and supplies to*
8 *or from the building or work by the employees of the*
9 *construction contractor or its subcontractors, includ-*
10 *ing independent hauling contractors, and the manu-*
11 *facturing or furnishing of materials, articles, supplies*
12 *or equipment for the project from facilities dedicated*
13 *exclusively, or nearly so, to the prosecution of the*
14 *building or work financed in whole or in part by*
15 *loans, grants, revolving funds or loan guarantees from*
16 *the United States, or located on land owned by the*
17 *United States unless exempted or otherwise limited by*
18 *Federal law.*

19 *“(3) INTERESTED PERSON.—The term ‘interested*
20 *person’ means any contractor likely to seek or to work*
21 *under a contract to which section 2(a) applies, any*
22 *association representing such a contractor, any la-*
23 *borer or mechanic likely to be employed or to seek em-*
24 *ployment under such a contract, or any labor*

1 *organization which represents such a laborer or me-*
2 *chanic.*

3 “(4) *PROJECT*.—The term ‘project’ means all
4 *construction necessary to complete a new facility,*
5 *building or work, or to complete an alteration, repair,*
6 *renovation, rehabilitation, or reconstruction (includ-*
7 *ing painting and decorating) of a facility, building or*
8 *work, regardless of the number of contracts involved*
9 *so long as all contracts are related in purpose and*
10 *time.*

11 “(5) *SECRETARY*.—The term ‘Secretary’ means
12 *the Secretary of Labor.’.*”

13 **SEC. 2. PAYROLL INFORMATION.**

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

16 (1) *in the first sentence, by striking out every-*
17 *thing after “shall” the second time it appears and in-*
18 *serting in lieu thereof the following: “maintain pay-*
19 *roll and other basic records relating to the payroll for*
20 *the work on such buildings or public works, preserve*
21 *such records for a period of 3 years after the comple-*
22 *tion of such work, and furnish with respect to em-*
23 *ployees employed in such work and not later than the*
24 *10th day of each month a statement which sets forth*
25 *the following information for each employee for each*

1 *payroll period ending during the preceding calendar*
2 *month: The name, address, social security number,*
3 *employment classification, number of hours worked*
4 *daily and during the payroll period, hourly rates of*
5 *wages paid (including rates of contributions or costs*
6 *anticipated for bona fide fringe benefits), all deduc-*
7 *tions made, and actual wages paid.”; and*

8 (2) *by adding after the first sentence the follow-*
9 *ing: “If a contractor or subcontractor fails timely to*
10 *submit the certified payroll reports as required herein,*
11 *the Secretary of the department or the head of the*
12 *agency which entered into or authorized the funding*
13 *of the contract subject to the requirements of this sec-*
14 *tion shall suspend all payments to the contractor or*
15 *subcontractor. Any interested person may obtain a*
16 *copy of any statement provided under this section*
17 *from any department, agency or contracting author-*
18 *ity which is required by law, regulation, or the terms*
19 *of a contract or grant, to maintain a record of such*
20 *statement notwithstanding section 552(b) of title 5,*
21 *United States Code.”.*

22 (b) *ELECTRONIC REPORTING.—The Secretary of Labor*
23 *shall undertake a study to determine the feasibility of em-*
24 *ployers using electronic methods to comply with the report-*
25 *ing requirements under section 2 of the Act of June 13,*

1 1934. The Secretary shall report to the Congress not later
2 than one year after the date of the enactment of this Act
3 on actions taken by the Secretary and employers to facili-
4 tate electronic reporting of payroll information.

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