

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 916

To amend the Davis-Bacon Act and the Copeland Act to provide new job opportunities, effect significant cost savings by increasing efficiency and economy in Federal procurement, promote small and minority business participation in Federal contracting, increase competition for Federal construction contracts, reduce unnecessary paperwork and reporting requirements, clarify the definition of prevailing wage, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 6 (legislative day, APRIL 19), 1993

Mr. CRAIG (for himself, Mr. HATCH, Mr. PRESSLER, and Mr. KEMPTHORNE) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

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## A BILL

To amend the Davis-Bacon Act and the Copeland Act to provide new job opportunities, effect significant cost savings by increasing efficiency and economy in Federal procurement, promote small and minority business participation in Federal contracting, increase competition for Federal construction contracts, reduce unnecessary paperwork and reporting requirements, clarify the definition of prevailing wage, 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,*

1 **SECTION 1. SHORT TITLE; REFERENCE.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Davis-Bacon Reform Act”.

4 (b) REFERENCE.—Whenever in this Act (other than  
5 in section 12) an amendment is expressed in terms of an  
6 amendment to a section or other provision, the reference  
7 shall be considered to be made to a section or other provi-  
8 sion of the Act of March 3, 1931, entitled “An Act relating  
9 to the rate of wages for laborers and mechanics employed  
10 on public buildings of the United States and the District  
11 of Columbia by contractors and subcontractors, and for  
12 other purposes” (40 U.S.C. 276a et seq.) (commonly re-  
13 ferred to as the “Davis-Bacon Act”).

14 **SEC. 2. INCREASE IN THRESHOLD AMOUNT.**

15 Subsection (a) of section 1 (40 U.S.C. 276a(a)) is  
16 amended by striking out “\$2,000” and inserting in lieu  
17 thereof “\$500,000”.

18 **SEC. 3. APPROPRIATE CIVIL SUBDIVISION FOR COMPUTA-**  
19 **TION OF PREVAILING WAGE.**

20 Subsection (a) of section 1 (40 U.S.C. 276(a)) is  
21 amended by striking out “the city, town, village, or other  
22 civil subdivision of the State, in which the work is to be  
23 performed,” and inserting in lieu thereof “the particular  
24 urban or rural subdivision (of the State) in which the work  
25 is to be performed,”.

1 **SEC. 4. DETERMINATION OF PREVAILING WAGE.**

2 Subsection (a) of section 1 (40 U.S.C. 276(a)) is  
3 amended by adding at the end thereof the following new  
4 sentence: "In determining the prevailing wage for a class  
5 of laborers, mechanics, or helpers where more than a sin-  
6 gle wage is being paid to the corresponding class of labor-  
7 ers, mechanics, or helpers, the Secretary shall establish  
8 as the prevailing wage the entire range of wages being  
9 paid to such corresponding class of laborers, mechanics,  
10 or helpers employed on private industry projects of a char-  
11 acter similar to the contract work in the urban or rural  
12 subdivision of the State in which the work is to be per-  
13 formed, or in the District of Columbia if the work is to  
14 be performed there.'".

15 **SEC. 5. EXCLUSION OF FEDERAL PROJECTS FROM PRE-**  
16 **VAILING WAGE COMPUTATION.**

17 Subsection (b)(1) of section 1 (40 U.S.C. 276a(b)(1))  
18 is amended by inserting before the semicolon the following:  
19 " , excluding the basic hourly rates of pay of individuals  
20 whose wages are established pursuant to the requirements  
21 of this Act, unless it is determined that there is insuffi-  
22 cient wage data to determine the prevailing wages in the  
23 absence of data from such Federal or federally assisted  
24 projects'".

1 **SEC. 6. CLASSIFICATION OF HELPERS.**

2 Section 1 (40 U.S.C. 276a) is amended by adding  
3 at the end thereof the following new subsection:

4 “(c)(1) For the purposes of this Act, helpers of labor-  
5 ers or mechanics shall be considered as a separate class  
6 and prevailing wages for such helpers shall be determined  
7 on the basis of the corresponding class of helpers employed  
8 on private industry projects of a character similar to the  
9 contract work in the urban or rural subdivision of the  
10 State in which the work is to be performed, or in the Dis-  
11 trict of Columbia if the work is to be performed there.

12 “(2) For purposes of this section, the term ‘helper’  
13 means a semi-skilled worker (rather than a skilled jour-  
14 neyman mechanic) who—

15 “(A) works under the direction of and assists a  
16 journeyman,

17 “(B) under the direction and supervision of the  
18 journeyman, performs a variety of duties to assist  
19 the journeyman, such as—

20 “(i) preparing, carrying, and furnishing  
21 materials, tools, equipment, and supplies and  
22 maintaining them in order,

23 “(ii) cleaning and preparing work areas,

24 “(iii) lifting, positioning, and holding mate-  
25 rials or tools, and

1           “(iv) other related semi-skilled tasks as di-  
2           rected by the journeyman, and

3           “(C) may use tools of the trade which are  
4           under the direction and supervision of the journey-  
5           man.”.

6 **SEC. 7. PROHIBITION ON CONTRACT-SPLITTING.**

7           Section 1 (40 U.S.C. 276a) (as amended by section  
8 6) is further amended by adding at the end thereof the  
9 following new subsections:

10          “(d) Any person entering into a contract under which  
11 wages are to be determined in accordance with this Act  
12 shall not divide any project into contracts of \$500,000 or  
13 less if the project would not have been so divided but for  
14 the purpose of avoiding the application of this Act.

15          “(e) Whenever the Secretary of Labor determines  
16 that a division for such purpose as described in subsection  
17 (d) has occurred, the Secretary may—

18               “(1) require that the contracts, grants, or other  
19 instruments providing Federal financing or assist-  
20 ance be amended so as to incorporate retroactively  
21 all the provisions which would have been required  
22 under this Act or other applicable prevailing wage  
23 statute, and

24               “(2) require the contracting or assisting agency,  
25 the recipient of Federal financing or assistance, or

1 any other entity which awarded the contract or in-  
 2 strument providing Federal financing or assistance  
 3 in violation of this section, to compensate the con-  
 4 tractor, the grantee, or other recipient of Federal as-  
 5 sistance, as appropriate, for payment to each af-  
 6 fected laborer, mechanic, and helper, of an amount  
 7 equal to the difference between the rate received and  
 8 the applicable prevailing wage rate, with interest on  
 9 wages due at the rate specified in section 6621(c) of  
 10 the Internal Revenue Code of 1986, from the date  
 11 the work was performed by such laborers, mechan-  
 12 ics, and helpers.

13 “(f) The Secretary shall make a determination that  
 14 a division for such purpose as described in subsection (d)  
 15 has occurred only where the Secretary has notified the  
 16 agency or entity in question not later than 180 days after  
 17 completion of construction on the project that an inves-  
 18 tigation will be conducted concerning an alleged violation  
 19 of this subsection.”.

20 **SEC. 8. TECHNICAL AMENDMENT APPLYING REFORM TO**  
 21 **RELATED ACTS.**

22 The Act (40 U.S.C. 276a et seq.) is amended by add-  
 23 ing at the end thereof the following new section:

24 “SEC. 8. No provision of any law requiring the pay-  
 25 ment of prevailing wage rates as determined by the Sec-

1 retary in accordance with this Act shall apply to contracts  
2 for construction, alteration, or repair valued at \$500,000  
3 or less, or in the case of rent supplement assistance or  
4 other assistance for which the instrument of Federal fi-  
5 nancing or assistance does not have an aggregate dollar  
6 amount, where the assisted project is in the amount of  
7 \$500,000 or less.”.

8 **SEC. 9. MATCHING FUNDS.**

9 The Act (40 U.S.C. 276a et seq.) (as amended by  
10 section 8) is further amended by adding at the end thereof  
11 the following new section:

12 “SEC. 9. In the case of a grant or other instrument  
13 by which the Federal Government provides to or shares  
14 with any State or subdivision thereof funding of a con-  
15 struction, alteration, repair, rehabilitation, reconstruction,  
16 or renovation project, any law requiring the payment of  
17 prevailing wage rates as determined by the Secretary in  
18 accordance with this Act shall apply to that project only  
19 if at least 25 percent of the costs of that project are paid  
20 by the Federal grant or instrument.”.

21 **SEC. 10. VOLUNTARY CONTRIBUTION OF SERVICES.**

22 (a) IN GENERAL.—The Act (40 U.S.C. 276a et seq.)  
23 (as amended by sections 8 and 9) is further amended by  
24 adding at the end thereof the following new section:

1       “SEC. 10. The provisions of section 1 of this Act re-  
2     lating to the wages required to be paid shall not apply  
3     to any individual—

4               “(1) who contributes services on a voluntary  
5     basis; and

6               “(2) who—

7                       “(A) does not receive compensation for  
8     such services; or

9                       “(B) is paid expenses, reasonable benefits,  
10    or a nominal fee for such services; and

11               “(3) whose contribution of such services is spe-  
12    cifically approved in advance by the contracting or  
13    assisting agency, the recipient of Federal financing  
14    or assistance, or other entity which awarded the con-  
15    tract or instrument providing Federal financing or  
16    assistance, which is the entity in the closest relation  
17    to the work to be performed; and

18               “(4) whose contribution of such services is not  
19    for the benefit or competitive advantage of any con-  
20    tractor otherwise performing or seeking to perform  
21    work on the same project.”.

22       (b) TECHNICAL AMENDMENT.—Subsection (b) of  
23    section 3 (40 U.S.C. 276a-2) is amended by inserting  
24    “(except as provided for in section 10 of this Act)” after  
25    “agreed to accept less than the required rate of wages”.



1 **SEC. 11. TECHNICAL AMENDMENTS.**

2 (a) SHORT TITLE.—The Act (40 U.S.C. 276a et seq.)  
3 is amended—

4 (1) by redesignating sections 1 through 6 as  
5 sections 2 through 7, respectively; and

6 (2) by inserting before section 2, as so redesign-  
7 nated, the following new section:

8 “SECTION 1. This Act may be cited as the ‘Davis-  
9 Bacon Act’.”.

10 (b) PAYMENT OF WAGES BY COMPTROLLER GEN-  
11 ERAL.—Subsection (a) of section 4, as so redesignated,  
12 (40 U.S.C. 276a–2) is amended by striking out the first  
13 sentence and inserting in lieu thereof the following new  
14 sentences: “In accordance with regulations issued by the  
15 Secretary pursuant to Reorganization Plan Numbered 14  
16 of 1950 (64 Stat. 1267), any wages found to be due to  
17 laborers, mechanics, and helpers pursuant to this Act shall  
18 be paid directly to such laborers, mechanics, and helpers  
19 from any accrued payments withheld under the terms of  
20 the contract. Any sums due laborers, mechanics, or help-  
21 ers under section 1, not paid because of inability to do  
22 so within 3 years, shall revert to or be deposited into the  
23 Treasury of the United States. The Administrator of Gen-  
24 eral Services shall distribute a list to all departments of  
25 the Government giving the names of persons or firms that

1 the Secretary has found to have disregarded their obliga-  
2 tions to employees and subcontractors.”.

3 **SEC. 12. COPELAND ACT PAPERWORK REDUCTION AMEND-**  
4 **MENT.**

5 (a) STATEMENTS.—Section 2 of the Act of June 13,  
6 1934, entitled “An Act to effectuate the purpose of certain  
7 statutes concerning rates of pay for labor, by making it  
8 unlawful to prevent anyone from receiving the compensa-  
9 tion contracted for thereunder, and for other purposes”  
10 (40 U.S.C. 276c) (commonly referred to as the “Copeland  
11 Act”) is amended by striking out “shall furnish weekly  
12 a statement with respect to the wages paid each employee  
13 during the preceding week” and inserting in lieu thereof  
14 “shall furnish, at the beginning, midpoint, and conclusion  
15 of the period covered by the contract, a statement with  
16 respect to the weekly wages paid each employee during  
17 such period, except that such statement shall be furnished  
18 no less often than every 3 months”.

19 (b) APPLICATION.—Section 2 of such Act (40 U.S.C.  
20 276c) is further amended by adding at the end thereof  
21 the following new sentence: “This section shall not apply  
22 to any contract or project that is exempted by its size from  
23 the application of the Davis-Bacon Act.”.

1 **SEC. 13. REPORTS REQUIRED.**

2       Beginning 1 year after the effective date of the  
3 amendments made by this Act, and at intervals of 1 year  
4 thereafter, the Secretary of Labor and the Comptroller  
5 General of the United States shall each prepare and sub-  
6 mit to the appropriate committees of Congress a report  
7 describing the results of a review of the implementation,  
8 enforcement, administration, impact on local wages, and  
9 impact on local and national economies of the Act of  
10 March 3, 1931 (the Davis-Bacon Act), the Act of June  
11 13, 1934 (the Copeland Act), and the amendments made  
12 by this Act during the preceding 12-month period, includ-  
13 ing recommendations for such further legislation as may  
14 be appropriate.

15 **SEC. 14. EFFECTIVE DATE.**

16       The amendments made by this Act shall take effect  
17 on the date that is 60 days after the date of enactment  
18 of this Act but shall not affect any contract in existence  
19 on that date or made pursuant to invitations for bids out-  
20 standing on that date.

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