

118TH CONGRESS  
1ST SESSION

# H. R. 3827

To ensure that contractor employees on Army Corps projects are paid prevailing wages as required by law, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 2023

Mr. SMITH of New Jersey (for himself and Mr. NORCROSS) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To ensure that contractor employees on Army Corps projects are paid prevailing wages as required by law, 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. SHORT TITLE.**

4 This Act may be cited as the “Protect Our Workers  
5 Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1           (1) The Davis-Bacon Act of 1931 (40 U.S.C.  
2           3141 et seq.) requires that contractors and sub-  
3           contractors on certain government projects pay con-  
4           struction workers locally prevailing wages as deter-  
5           mined by the Department of Labor.

6           (2) Locally prevailing wages vary by job classi-  
7           fication and consist of a basic hourly rate of pay and  
8           benefits.

9           (3) Generally, the Davis-Bacon Act applies to  
10          projects that meet the following three criteria:

11                 (A) There is a contract for construction in  
12                 excess of \$2,000.

13                 (B) The United States or the District of  
14                 Columbia is a party to the contract.

15                 (C) The contract is for construction, alter-  
16                 ation, or repair of a public building or public  
17                 work.

18          (4) Under the Davis-Bacon Act, the Govern-  
19          ment may terminate a contract if locally prevailing  
20          wages have not been paid to employees working on  
21          the project.

22          (5) For 90 years, the Davis-Bacon Act has  
23          helped ensure quality craftsmanship on Federal  
24          projects, protected the standard of living of skilled  
25          and trained blue-collar construction workers, im-

1 proved workplace safety by discouraging “fly-by-  
2 night” contractors from bidding, incentivized work-  
3 force training, and stimulated the economy.

4 (6) The Wage and Hour Division of the De-  
5 partment of Labor administers the Davis-Bacon Act  
6 by, among other things, determining prevailing wage  
7 rates and prescribing regulations and standards to  
8 be observed by contracting agencies.

9 (7) Contracting agencies, such as the Corps of  
10 Engineers, however, have the primary day-to-day re-  
11 sponsibility for enforcement of the Davis-Bacon Act  
12 and its labor standards requirements pursuant to  
13 subparts 22.406 and 22.407 of the Federal Acquisi-  
14 tion Regulation and part 5 of title 29, Code of Fed-  
15 eral Regulations and Reorganization Plan No. 14 of  
16 1950 (5 U.S.C. app.).

17 (8) Some irresponsible contractors and sub-  
18 contractors often avoid their prevailing wage obliga-  
19 tions by, among other things, engaging in craft  
20 misclassification.

21 (9) Craft misclassification refers to the practice  
22 in which contractors misclassify high-skilled workers  
23 as general laborers or other classifications in order  
24 to avoid paying the higher prevailing wage rate ap-  
25 plicable to the high-skilled work actually performed.

1           (10) As part of the National Defense Author-  
2           ization Act for Fiscal Year 2020 (Public Law 116–  
3           92), Congress directed the Comptroller General of  
4           the United States to conduct a study on the con-  
5           tracting practices of the Army Corps of Engineers.

6           (11) The Government Accountability Office  
7           (GAO) published their report on this study on  
8           March 10, 2021, with recommendations to the Army  
9           Corps of Engineers to ensures contractor employees  
10          are paid prevailing wages as required by the Davis-  
11          Bacon Act.

12          (12) In their report, GAO found that from Fis-  
13          cal Years 2015 to 2019, there were five times as  
14          many subcontractors, compared to prime contrac-  
15          tors, found to be in violation of the Davis-Bacon  
16          Act. None were recommended to the Department of  
17          Labor for debarment from receiving future con-  
18          tracts.

19          (13) GAO found that the Army Corps of Engi-  
20          neers Headquarters guidance to their 38 districts  
21          lacks sufficient information to ensure consistent  
22          monitoring of contractors’ compliance with the  
23          Davis-Bacon Act from one Army Corps district to  
24          the next.

1 **SEC. 3. ENSURING THAT CONTRACTOR EMPLOYEES ON**  
2 **ARMY CORPS PROJECTS ARE PAID PRE-**  
3 **VAILING WAGES AS REQUIRED BY LAW.**

4 The Assistant Secretary of the Army for Civil Works  
5 shall provide to each Army Corps district clarifying, uni-  
6 form guidance with respect to prevailing wage require-  
7 ments for contractors and subcontractors of the Army  
8 Corps that—

9 (1) conforms with the Department of Labor’s  
10 regulations, policies, and guidance with respect to  
11 the proper implementation and enforcement of sub-  
12 chapter IV of chapter 31 of title 40, United States  
13 Code (commonly known as the “Davis-Bacon Act”) and  
14 other related Acts, including the proper classi-  
15 fication of all crafts by Federal construction contrac-  
16 tors and subcontractors;

17 (2) directs Army Corps districts to investigate  
18 worker complaints and third-party complaints within  
19 30 days of the date of filing; and

20 (3) instructs Army Corps districts that certified  
21 payroll reports submitted by contractors and sub-  
22 contractors and the information contained therein  
23 shall be publicly available and are not exempt from  
24 disclosure under section 552(b) of title 5, United  
25 States Code.

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