



Legislative Bulletin.....May 31, 2012

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Amendments to H.R. 5854 – FY 2013 Military Construction-Veterans Affairs Appropriations Act, Part I

H.R. 5854 — FY 2013 Military Construction-Veterans Affairs Appropriations Act (Culberson, R-TX)

Order of Business: H.R. 5854 is expected to be considered, beginning May 31, 2012, under an open rule providing for consideration of germane amendments under the five minute rule.

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Amendments Printed in the Congressional Record on May 30, 2012

1. **Blumenauer (D-OR):** The amendment reduces salaries and expenses for Medical and Prosthetic Research by \$35,000,000 and then increases the amount by \$35,000,000. According to the sponsor, the purpose of this amendment is to request that no less than \$35,000,000 of the prosthetic research account be spent towards post-traumatic stress disorder research. *Passed by voice vote.*
2. **Blumenauer (D-OR):** The amendment reduces funding for the Military Construction, Defense-Wide, by \$10,000,000 and then increases the amount by \$10,000,000. According to the sponsor, this amendment increases funding for the Department of Defense’s Energy Conservation Investment Program (ECIP). *Passed by voice vote.*
3. **Quayle (R-AZ):** The amendment prohibits funding in the legislation from being used to implement the National Labor Relations Board ruling posted in the Federal Register on August 30, 2011. This ruling requires employers to post notices informing their employees of their rights as employees under the National Relations Labor Act. The final rule establishes the size, form, and content of the notice, and sets forth provisions regarding the enforcement of the rule. The NRLB’s ruling can be [found here](#).
4. **Poe (R-TX):** The amendment prohibits funding (after 180 days) to be used for a director of a national cemetery who is not a veteran.

5. **Poe (R-TX):** The amendment prohibits funding to be used to censor or otherwise limit the speech of a veterans service organization participating in the funeral or memorial service of a veteran.
6. **Terry (R-NE):** The amendment prohibits funding to deny or delay a waiver request regarding a hospital construction project of the Department of Veterans Affairs that requires an exemption from building requirements that were not included in the original bid for such hospital.
7. **Terry (R-NE):** The amendment reduces funding for the Office of Inspector General by \$1, and then increases that amount by \$1. According to the sponsor, the amendment would require the Inspector General of the VA to conduct a study on the health effects on veterans due to the delay in construction of new hospitals, due to the addition of building requirements that were not included in original bid for such hospital. The amendment would require the Inspector General's office to use existing funds to conduct the study. *Passed by voice vote.*
8. **Franks (R-AZ):** The amendment prohibits funding to be used to implement, administer, or enforce the prevailing wage requirements in subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the Davis-Bacon Act). Many conservatives have long held serious concerns with the Davis-Bacon Act.

During the Great Depression, lawmakers passed the Davis-Bacon Act which required that a "prevailing wage" be paid to workers on federal construction projects. The theory behind the bill was the "high-wage doctrine," which stated that competition was bad because it brought down wages. Competitive bidding is an essential mechanism for protecting taxpayer dollars. However, Davis-Bacon effectively ensures that the labor portion of government construction projects is not subject to competitive bidding. Rather, the wage rates are set by government officials, which are typically union wage rates. Davis-Bacon is designed to prevent the federal government from saving money on wages in federal contracts. Time after time, studies [show](#) that Davis-Bacon requirements raise construction costs by at least 9%, and as much as 37%. CBO found that Davis-Bacon raises government construction costs by \$1 billion a year. The RSC Sunset Caucus highlighted H.R. 2900 (111th Congress) which would have repealed the Davis-Bacon Act. That alert was distributed on December 16, 2009, and can be [viewed here](#). The RSC Repeal Task Force highlighted H.R. 745, which would repeal the Davis-Bacon Act. That alert was distributed on May 11, 2011, and can be [found here](#).

Other Amendments Offered:

Grimm (R-NY): The amendment strikes section 517 of the underlying legislation. Section 517 prohibits federal agencies from **requiring** contractors to sign a collective bargaining agreement with unions as a condition of receiving a federal construction contract. These bargaining agreements are known as Project Labor Agreements (PLAs). According to CRS, Section 517 **does not** prohibit federal agencies from awarding contracts that include PLAs. Additionally, Section 517 also does not apply to construction contracts that were awarded before the date of the enactment.

The language of Section 517 is similar to H.Amdt 1106 to H.R. 4310, that was offered by Rep. Bartlett (R-MD). This amendment passed the House by a [roll call vote of 211-209](#).

In 2009, President Obama created Executive Order 13502 to require government contractors to collectively bargain with their workers before breaking ground on any major construction project. Once the contractors and the workers agreed on terms, these PLAs established basic terms and conditions of employment on the project.

According to the below opposing groups, a government-mandated PLA is a union collective bargaining agreement specific to a construction jobsite that typically requires construction projects to be awarded only to companies that agree to recognize unions as the representatives of their employees on that job; use the union hiring hall to obtain workers; follow archaic and inefficient work rules; and pay into union benefit and multiemployer pension plans that nonunion employees will never be able to access—forcing employers to pay “double benefits” into existing plans and union plans and placing firms opposed to these costly provisions at a significant competitive disadvantage. In addition, PLAs typically force qualified workers to pay union dues or join a union if they want to receive union benefits and work on a PLA project. As a result of these terms and conditions, government-mandated PLAs can unfairly discourage competition from nonunion contractors and their employees, who comprise 86 percent of the U.S. private construction workforce.

The following organizations have written in opposition to this amendment, and any other amendment that strikes section 517.

- American Council of Engineering Companies (ACEC)
- Associated Builders and Contractors (ABC) ***
- Associated General Contractors (AGC)
- Business Coalition for Fair Competition (BCFC)
- Construction Industry Round Table (CIRT)
- Independent Electrical Contractors (IEC)
- Merit Elevator Contractors Association of America (MECAA)
- National Association of Women in Construction (NAWIC)
- National Black Chamber of Commerce (NBCC)
- National Federation of Independent Business (NFIB)
- Small Business and Entrepreneurship Council (SBEC)
- U.S. Chamber of Commerce
- Women Construction Owners & Executives, USA (WCOE, USA)

*** - indicates groups key voting against the amendment