

Section 275, act July 1, 1916, ch. 209, 39 Stat. 273, related to payment for gas and electric fixtures for the equipment of public buildings.

Section 276, act June 6, 1900, ch. 791, 31 Stat. 591, authorized payment for engineering and electric-light plants in public buildings.

SAVINGS PROVISION

Sections repealed except as to their application to any project referred to in section 613 of this title, see section 17 of Pub. L. 86-249, set out as a note under section 341 of this title.

§ 276a. Rate of wages for laborers and mechanics

(a) The advertised specifications for every contract in excess of \$2,000, to which the United States or the District of Columbia is a party, for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works of the United States or the District of Columbia within the geographical limits of the States of the Union or the District of Columbia, and which requires or involves the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village, or other civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there; and every contract based upon these specifications shall contain a stipulation that the contractor or his subcontractor shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics, and that the scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the site of the work; and the further stipulation that there may be withheld from the contractor so much of accrued payments as may be considered necessary by the contracting officer to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by such laborers and mechanics and not refunded to the contractor, subcontractors, or their agents.

(b) As used in sections 276a to 276a-5 of this title the term "wages", "scale of wages", "wage rates", "minimum wages", and "prevailing wages" shall include—

- (1) the basic hourly rate of pay; and
- (2) the amount of—

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

(B) the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected,

for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other Federal, State, or local law to provide any of such benefits:

Provided, That the obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the Secretary of Labor, insofar as sections 276a to 276a-5 of this title and other Acts incorporating sections 276a to 276a-5 of this title by reference are concerned may be discharged by the making of payments in cash, by the making of contributions of a type referred to in paragraph (2)(A), or by the assumption of an enforceable commitment to bear the costs of a plan or program of a type referred to in paragraph (2)(B), or any combination thereof, where the aggregate of any such payments, contributions, and costs is not less than the rate of pay described in paragraph (1) plus the amount referred to in paragraph (2).

In determining the overtime pay to which the laborer or mechanic is entitled under any Federal law, his regular or basic hourly rate of pay (or other alternative rate upon which premium rate of overtime compensation is computed) shall be deemed to be the rate computed under paragraph (1), except that where the amount of payments, contributions, or costs incurred with respect to him exceeds the prevailing wage applicable to him under sections 276a to 276a-5 of this title, such regular or basic hourly rate of pay (or such other alternative rate) shall be arrived at by deducting from the amount of payments, contributions, or costs actually incurred with respect to him, the amount of contributions or costs of the types described in paragraph (2) actually incurred with respect to him, or the amount determined under paragraph (2) but not actually paid, whichever amount is the greater.

(Mar. 3, 1931, ch. 411, §1, 46 Stat. 1494; Aug. 30, 1935, ch. 825, 49 Stat. 1011; June 15, 1940, ch. 373, §1, 54 Stat. 399; Pub. L. 86-624, §26, July 12, 1960, 74 Stat. 418; Pub. L. 88-349, §1, July 2, 1964, 78 Stat. 238.)

AMENDMENTS

1964—Pub. L. 88-349 designated existing provisions as subsec. (a) and added subsec. (b).

1960—Pub. L. 86-624 struck out references to Territories of Alaska and Hawaii.

1940—Act June 15, 1940, extended benefits of this section to Territories of Alaska and Hawaii.

1935—Act Aug. 30, 1935, amended section generally.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 4 of Pub. L. 88-349 provided that: "The amendments made by this Act [amending this section, section 1715c of Title 12, Banks and Banking, and section 1114 of former Title 49, Transportation] shall take effect on the ninetieth day after the date of enactment of this Act [July 2, 1964], but shall not affect any contract in existence on such effective date or made thereafter pursuant to invitations for bids outstanding on such effective date and the rate of payments specified by section 1(b)(2) of the Act of March 3, 1931, as amended by this Act [subsec. (b)(2) of this section], shall, during a period of two hundred and seventy days after such effective date, become effective only in those cases and reasonable classes of cases as the Secretary of Labor, acting as rapidly as practicable to make such rates of payments fully effective, shall by rule of regulation provide."

EFFECTIVE DATE OF 1940 AMENDMENT

Section 2 of act June 15, 1940, provided: "The amendments made by this Act [amending this section] shall take effect on the thirtieth day after the date of enactment of this Act [June 15, 1940], but shall not affect any contract in existence on such effective date or made thereafter pursuant to invitations for bids outstanding on the date of enactment of this Act."

SHORT TITLE

Act Mar. 3, 1931, as amended, which enacted sections 276a to 276a-5 of this title, is popularly known as the "Davis-Bacon Act".

CONTRACTING AUTHORITY OF GOVERNMENT AGENCIES IN CONNECTION WITH NATIONAL DEFENSE FUNCTIONS

Provisions of sections 276a to 276a-5 of this title as applicable to Government agencies exercising certain contracting authority in connection with national defense functions, see section 13 of Ex. Ord. No. 10789, set out as a note under section 1431 of Title 50, War and National Defense.

ENFORCEMENT OF LABOR STANDARDS

Labor standards under provisions of this section to be prescribed and enforced by Secretary of Labor, see Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, set out in the Appendix to Title 5, Government Organization and Employees.

FEDERAL RULES OF CIVIL PROCEDURE

Intervention, see rule 24, Title 28, Appendix, Judiciary and Judicial Procedure.

Effect of rule 24 on this section, see note by Advisory Committee under that rule.

ACT REFERRED TO IN OTHER SECTIONS

The Davis-Bacon Act [40 U.S.C. 276a to 276a-5] is referred to in sections 276a-7, 276d-1, 276d-2, 808 of this title; title 10 section 2304; title 12 sections 1701q, 1715c; title 15 section 3152; title 16 section 284c; title 20 sections 954, 956, 1232b, 4305, 4332; title 23 section 113; title 25 sections 450e, 458, 458aaa-8, 1633, 4114, 4225; title 29 sections 251 to 256, 258, 259, 262; title 31 section 6703; title 33 section 1372; title 38 sections 8135, 8162; title 39 section 410; title 40 App. section 402; title 41 section 42; title 42 sections 291e, 300j-9, 300s-1, 300t-12, 1437j, 1440, 1486, 1592i, 2297g-3, 2992a, 3107, 3212, 3936, 4728, 5046, 5196, 5310, 5919, 6042, 6063, 6371j, 6708, 6728, 6881, 6979, 7614, 8013, 9604, 9839, 12836; title 49 sections 5333, 24312, 47112; title 50 App. sections 2095, 2096.

§ 276a-1. Termination of work on failure to pay agreed wages; completion of work by Government

Every contract within the scope of sections 276a to 276a-5 of this title shall contain the fur-

ther provision that in the event it is found by the contracting officer that any laborer or mechanic employed by the contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid as aforesaid, the Government may, by written notice to the contractor, terminate his right to proceed with the work or such part of the work as to which there has been a failure to pay said required wages and to prosecute the work to completion by contract or otherwise, and the contractor and his sureties shall be liable to the Government for any excess costs occasioned the Government thereby.

(Mar. 3, 1931, ch. 411, § 2, as added Aug. 30, 1935, ch. 825, 49 Stat. 1012.)

ENFORCEMENT OF LABOR STANDARDS

Labor standards under provisions of this section to be prescribed and enforced by Secretary of Labor, see Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, set out in the Appendix to Title 5, Government Organization and Employees.

§ 276a-2. Payment of wages by Comptroller General from withheld payments; listing contractors violating contracts

(a) The Comptroller General of the United States is authorized and directed to pay directly to laborers and mechanics from any accrued payments withheld under the terms of the contract any wages found to be due laborers and mechanics pursuant to sections 276a to 276a-5 of this title; and the Comptroller General of the United States is further authorized and is directed to distribute a list to all departments of the Government giving the names of persons or firms whom he has found to have disregarded their obligations to employees and subcontractors. No contract shall be awarded to the persons or firms appearing on this list or to any firm, corporation, partnership, or association in which such persons or firms have an interest until three years have elapsed from the date of publication of the list containing the names of such persons or firms.

(b) If the accrued payments withheld under the terms of the contract, as aforesaid, are insufficient to reimburse all the laborers and mechanics with respect to whom there has been a failure to pay the wages required pursuant to sections 276a to 276a-5 of this title, such laborers and mechanics shall have the right of action and/or of intervention against the contractor and his sureties conferred by law upon persons furnishing labor or materials, and in such proceedings it shall be no defense that such laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

(Mar. 3, 1931, ch. 411, § 3, as added Aug. 30, 1935, ch. 825, 49 Stat. 1012.)

ENFORCEMENT OF LABOR STANDARDS

Labor standards under provisions of this section to be prescribed and enforced by Secretary of Labor, see Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, set out in the Appendix to Title 5, Government Organization and Employees.