Public Law 95-28
95th Congress

An Act

May 13, 1977
[H.R. 11]

To increase the authorization for the Local Public Works Capital Development and Investment Act of 1976.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Local Public Works Capital Development and Investment Act of 1976, authorization increase.

TITLE I

SECTION 101. This title may be cited as the "Public Works Employment Act of 1977".

Public Works Employment Act of 1977.

SEC. 102. (a) Paragraph (2) of section 102 of the Local Public Works Capital Development and Investment Act of 1976 is amended by striking out "and American Samoa." and inserting in lieu thereof the following: "American Samoa, and the Trust Territory of the Pacific Islands.".

42 USC 6701 note.

(b) Section 102 of such Act is amended by adding at the end thereof the following:

42 USC 6701. Public works project.

"(4) 'public works project' includes a project for the transportation and provision of water to a drought-stricken area.".

Grants and contracts, requirements.

SEC. 103. Section 106 of the Local Public Works Capital Development and Investment Act of 1976 is amended by adding at the end thereof the following new subsections:

42 USC 6705. Competitive bidding.

"(e)(1) No part of the construction (including demolition and other site preparation activities), renovation, repair, or other improvement of any public works project for which a grant is made under this Act after the date of enactment of this subsection shall be performed directly by any department, agency, or instrumentality of any State or local government. Construction of each such project shall be performed by contract awarded by competitive bidding, unless the Secretary shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest. Contracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility. No requirement or obligation shall be imposed as a condition precedent to the award of a contract to such bidder for a project, or to the Secretary's concurrence in the award of a contract to such bidder, unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specifications.

Illegal aliens.

"(2) No grant shall be made under this Act for any local public works project unless the State or local government applying for such grant submits with its application a certification acceptable to the Secretary that no contract will be awarded in connection with such project to any bidder who will employ on such project any alien in the United States in violation of the Immigration and Nationality Act or any other law, convention, or treaty of the United States relating to the immigration, exclusion, deportation, or explusion of aliens.

8 USC 1101 note.

U.S.-made products.

"(f)(1)(A) Notwithstanding any other provision of law, no grant shall be made under this Act for any local public works project unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manu-

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factured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States, will be used in such project.

"(B) Subparagraph (A) of this paragraph shall not apply in any case where the Secretary determines it to be inconsistent with the public interest, or the cost to be unreasonable, or if articles, materials, or supplies of the class or kind to be used or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

Grant allocation requirements.

"(2) Except to the extent that the Secretary determines otherwise, no grant shall be made under this Act for any local public works project unless the applicant gives satisfactory assurance to the Secretary that at least 10 per centum of the amount of each grant shall be expended for minority business enterprises. For purposes of this paragraph, the term 'minority business enterprise' means a business at least 50 per centum of which is owned by minority group members or, in case of a publicly owned business, at least 51 per centum of the stock of which is owned by minority group members. For the purposes of the preceding sentence, minority group members are citizens of the United States who are Negroes, Spanish-speaking, Orientals, Indians, Eskimos, and Aleuts.

"Minority business enterprise."

Minority group members.

Accessibility standards for handicapped and elderly.

"(g) No grant shall be made under this Act for any project for which the applicant does not give assurances satisfactory to the Secretary that the project will be designed and constructed in accordance with the standards for accessibility for public buildings and facilities to the handicapped and elderly under the Act entitled 'An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped', approved August 12, 1968 (42 U.S.C. 4151 et seq.). The Architectural and Transportation Barriers Compliance Board established by the Rehabilitation Act of 1973 (P.L. 93-112) is authorized to insure that any construction and renovation done pursuant to any grant made under this Act complies with the accessibility standards for public bunldings and facilities issued under the Act of August 12, 1968.".

29 USC 701 note.

Employment of disabled veterans, regulations. 42 USC 6706.

SEC. 104. Section 107 of the Local Public Works Capital Development and Investment Act of 1976 is amended by inserting after the third sentence thereof the following new sentence: "The Secretary, in consultation with the Secretary of Labor, and consistent with existing applicable collective bargaining agreements and practices, shall promulgate regulations to assure special consideration to the employment in projects under this Act of qualified disabled veterans (as defined in section 2011(1) of title 38, United States Code) and qualified Vietnam-era veterans (as defined in section 2011(2)(A) of such title 38).".

Funds, allocation. 42 USC 6707.

SEC. 105. Subsection (a) of section 108 of the Local Public Works Capital Development and Investment Act of 1976 is amended to read as follows:

"(a) The Secretary shall allocate funds appropriated after the date of enactment of the Public Works Employment Act of 1977 under section 111 of this Act as follows:

Post, p. 119.

"(1) 2½ per centum of such funds shall be set aside and shall be expended only for grants for public works projects under this Act to Indian tribes and Alaska Native villages. None of the

remainder of such funds shall be expended for such grants to such tribes and villages.

"(2) After the set aside required by paragraph (1) of this subsection, $70,000,000 shall be set aside and expended only for grants for any public works project the application for a grant for which was made under this Act after the date of enactment of this Act and before December 24, 1976, and which application was not received, was not considered, or was rejected solely because of an error by an officer or employee of the United States. Any allocation made to an applicant pursuant to regulation shall be reduced by the amount of any grant made to such applicant under this paragraph.

"(3) After the set asides required by paragraphs (1) and (2) of this subsection, 65 per centum of such funds shall be allocated among the States on the basis of the ratio that the number of unemployed persons in each State bears to the total number of unemployed persons in all the States and 35 per centum of such funds shall be allocated among those States with an average unemployment rate for the preceding twelve-month period in excess of 6.5 per centum on the basis of the relative severity of unemployment in each such State, except that (A) no State shall be allocated less than three-quarters of one per centum or more than 12½ per centum of such funds for local public works projects within such State, except that in the case of Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, not less than one-half of one per centum in the aggregate shall be granted for such projects in all four of these jurisdictions, and (B) no State whose unemployment data was converted for the first time in 1976 to the benchmark data of the current population survey annual average compiled by the Bureau of Labor Statistics shall receive a percentage of such funds less than the percentage of funds allocated to such State under this Act from funds appropriated to carry out this Act prior to the date of enactment of the Public Works Employment Act of 1977.".

42 USC 6707.

SEC. 106. Subsection (b) of section 108 of the Local Public Works Capital Development and Investment Act of 1976 is amended by—

(1) inserting "(1)" immediately after "(b)"; and

(2) adding at the end thereof the following new paragraphs:

"(2) In making grants for projects for construction, renovation, repair, or other improvement of buildings, the Secretary shall also give consideration as between such building projects to those projects which will result in conserving energy, including, but not limited to, projects to redesign and retrofit existing public facilities for energy conservation purposes, and projects using alternative energy systems.

"(3) In making grants under this Act, the Secretary shall also give priority and preference to any public works project requested by a State or by a special purpose unit of local government which is endorsed by a general purpose local government within such State.

"(4) A project requested by a school district shall be accorded the full priority and preference to public works projects of local governments provided in section 108(b) of this Act.".

SEC. 107. (a) The first sentence of subsection (c) of section 108 of the Local Public Works Capital Development and Investment Act of 1976 is amended by striking out "three most recent consecutive months" each place it appears and inserting in lieu thereof at each such place "twelve most recent consecutive months".

Waiver.

(b) Subsection (c) of section 108 of such Act is amended by adding

at the end thereof the following new sentence: "The Secretary may waive the application of the first sentence of this subsection to any State which receives a minimum allocation pursuant to paragraph (3) of subsection (a) of this section."

(c) Subsection (d) of section 108 of such Act is amended to read as follows: 42 USC 6707.

"(d) Whenever a State or local government submits applications for grants under this Act for two or more projects, such State or local government shall submit as part of such applications its priority for each such project.".

(d) Subsection (e) of section 108 of such Act is amended by striking out "of direct benefit to," and all that follows down through and including the period at the end of the sentence and inserting in lieu thereof: "to be constructed in such community or neighborhood.".

(e) Subsection (f) of section 108 of such Act is hereby repealed. Repeal.

(f) Section 108 of such Act is amended by adding at the end thereof the following new subsections:

"(h)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall not consider or approve or make a grant for any project for which any application was not submitted for a grant under this Act on or before December 23, 1976.

"(2) The Secretary may receive applications for grants for projects under this Act—

"(A) from the Trust Territory of the Pacific Islands;

"(B) from Indian tribes and Alaska Native villages;

"(C) from any applicant to use any allocation which may be made pursuant to regulation, to the extent necessary to expend such allocation, if a sufficient number of applications were not submitted on or before December 23, 1976, to use such allocation.

"(i) The Secretary may allow any applicant which has received a grant for a project under this Act to substitute one or more projects for such project if in the judgment of the Secretary (1) the Federal cost in the aggregate of such substituted project or projects does not exceed such grant, (2) such substituted project or projects comply with section 106(d) of this Act, and (3) such substituted project or projects will in fact aid in alleviating drought or other emergency or disaster-related conditions or damage. Section 106(a) of this Act shall not apply to projects substituted under this subsection. *Ante*, p. 118.

"(j) Notwithstanding subsection (h)(1) of this section, grants may be made from appropriations made under section 111 of this Act after September 30, 1977, to States or local governments for projects for the construction, renovation, repair, or other improvements of health care or rehabilitation facilities owned and operated by private nonprofit entities.". *Post*, p. 120.

SEC. 108. The first sentence of section 109 of the Local Public Works Capital Development and Investment Act of 1976 is amended by striking out "by contractors or subcontractors". 42 USC 6708.

SEC. 109. Section 111 of the Local Public Works Capital Development and Investment Act of 1976 is amended by striking out "$2,000,000,000 for the period ending September 30, 1977," and inserting in lieu thereof "$6,000,000,000 for the period ending December 31, 1978,". 42 USC 6710.

SEC. 110. (a) The Secretary of Commerce is authorized and directed to study public works investment in the United States and the implications for the future of recent trends in such investment. Public works investment, study.

(b) The study authorized by this section shall include, but not be limited to, the following: 42 USC 6701 note.

(1) The historical scope and nature of public works investment, including—

(A) shifts in the types of public facilities constructed over the last thirty years and the implications of such shifts;

(B) the patterns of regional distribution of investment;

(C) the role of the Federal Government, States, and local communities in funding public facilities;

(D) the impact upon unemployment in minority groups.

(2) The proportion of the gross national product devoted to public works investment over the last thirty years.

(3) Methods by which the aggregate need for public works can be determined.

(4) How public works are financed and how financing arrangements affect the pattern and type of investment.

(5) The level of maintenance or renovation of existing public facilities needed, compared to that provided.

Report to Congress.

(c) The Secretary of Commerce shall submit to Congress a report with respect to its findings and recommendations no later than eighteen months after the date of enactment of this section. A preliminary report putting forth the study design shall be submitted to Congress within four months after the date of enactment of this section.

42 USC 6710 note.

SEC. 111. The Secretary of Agriculture and the Secretary of the Interior shall immediately initiate the construction of those Federal public works projects (A) which are the responsibility of their respective departments, (B) which have been authorized, and (C) which can be commenced within 60 days of the date of enactment of this section and completed no later than the 180th day after commencement of construction. No funds authorized by section 111 of the Local Public Works Capital Development and Investment Act of 1976 (Public Law 94-369) may be used to carry out this section.

Funds, prohibition.
42 USC 6710.

TITLE II—FEDERAL PUBLIC WORKS PROJECTS CONTINUATION

SEC. 201. The Congress hereby finds and declares that:

(A) the construction projects listed in Public Law 94-355, the Public Works for Water and Power Development and Energy Research Appropriations Act, 1977, and in Public Law 94-351, the Agriculture and Related Agencies Programs Appropriations Act, 1977, represent the foundation of our national public works activity. Such projects are essential to the reduction of unemployment;

90 Stat. 889.
90 Stat. 851.

(B) such projects provide long-term benefits to communities, to States, and to the entire Nation in terms of water management, flood control, navigation, recreation, and enhanced economic activity; and

(C) such projects have been authorized by the Congress after protracted hearings and consideration extended over many years. Appropriations have been made and are being made pursuant thereto. It is the judgment of Congress that such projects should not be discontinued except by following the legislative process provided by the Constitution of the United States and the provisions of Public Law 93-344, the Congressional Budget and Impoundment Control Act of 1974.

31 USC 1301 note.
Budget deferrals and rescissions, exception.

SEC. 202. Notwithstanding the deferral and rescission provisions of Public Law 93-344, all appropriations provided in Public Laws 94-355 and 94-351 for construction projects or for investigation, plan-

ning, or design related to construction projects shall be made available for obligation by the President and expended for the purposes for which the appropriations are made, with the exception of those appropriations or expenditures relating to the Meramec Park Lake project in Missouri.

SEC. 203. With the exception noted relating to the Meramec Park Lake project in Missouri, section 202 of this Act shall be equivalent to and have the legal effect of a resolution disapproving any deferral of budget authority previously provided for construction projects in Public Law 93-355 or in any prior law appropriating funds for the United States Army Corps of Engineers or the Department of the Interior Bureau of Reclamation, or for construction projects in Public Law 94-351 or any prior law appropriating funds for construction projects in the Department of Agriculture as provided for in section 1013(b) of Public Law 93-344, the Congressional Budget and Impoundment Control Act of 1974. With the exception noted relating to the Meramec Park Lake project in Missouri, section 202 is also equivalent to a congressional statement of intent not to uphold any rescission of budget authority with regard to funds appropriated for construction projects in Public Law 94-355 or Public Law 94-351 or for construction projects in any prior law appropriating funds for the United States Army Corps of Engineers, the Department of the Interior Bureau of Reclamation, or the Department of Agriculture, as provided for in section 1012(b) of Public Law 93-344.

90 Stat. 889.

90 Stat. 851.

31 USC 1403.

Ante, p. 120.

31 USC 1402.

SEC. 204. It is hereby reiterated that the interest rates or rates of discount to be used to assess the return on the Federal Government's investment in projects of the United States Army Corps of Engineers or the Department of the Interior Bureau of Reclamation, shall be those interest rates or rates of discount established by Public Law 93-251, the Water Resources Development Act of 1974, or by any prior law authorizing projects of the United States Army Corps of Engineers or the Department of the Interior Bureau of Reclamation.

Interest rates and rates of discount.

42 USC 1962d-17 note.

88 Stat. 12.

Approved May 13, 1977.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-20 (Comm. on Public Works and Transportation) and No. 95-230 (Comm. of Conference).

SENATE REPORTS: No. 95-38 accompanying S. 427 (Comm. on Environment and Public Works) and No. 95-110 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 123 (1977):

Feb. 24, considered and passed House.

Mar. 10, considered and passed Senate, amended, in lieu of S. 427.

Apr. 5, House concurred in Senate amendment with an amendment.

Apr. 28, 29, Senate agreed to conference report.

May 3, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 13, No. 20:

May 13, Presidential statement.