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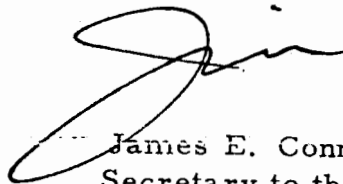
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THE WHITE HOUSE
WASHINGTON

August 28, 1975

MEMORANDUM FOR THE HONORABLE JOHN T. DUNLOP

Confirming telephone call last evening, the President reviewed your memorandum of August 22 on the subject of Proposed Construction Industry Legislation and approved your proceeding as outlined.



James E. Connor
Secretary to the Cabinet

b. c. c. Don Rumsfeld
Bill Seidman

THE WHITE HOUSE
WASHINGTON

Trudy:
has notified Duloy by
phone 7:45 - 8/27.
Jim says to handle
matter now.

G.

THE WHITE HOUSE
WASHINGTON

August 27, 1975

MR PRESIDENT -

The attached was
staffed to both Messrs. Cannon and
Marsh. They both concur in
Secretary Dunlop's recommendation.

Jim Connor

*Proceed
MKY
8/27/75*

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

August 22, 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Proposed Construction Industry Legislation

In connection with the discussion of "situated picketing" bills, it was agreed in July to develop a "second bill" dealing with collective bargaining procedures and structure in the construction industry to be introduced when Congress reconvenes in early September.

There is attached both a summary of the proposed legislation and a bill, "Construction Industry Collective Bargaining Act of 1975."

Mr. Georgine in behalf of the Building and Construction Trades Department, AFL-CIO, has approved this draft bill. Mr. Meany has indicated his approval of the general provisions both to Mr. Georgine and to me, and counsel for the AFL-CIO participated in the drafting. The contractor associations have concurred in the provisions; the language of the bill is still to be checked with them, but they can be expected to support the proposed legislation.

The unions and the contractors envisage, as I do, that the bill be introduced as a separate piece of legislation. Hearings would be held first, right after the recess, in the Senate Labor Committee and then, according to present plans, in the Thompson subcommittee in the House.

This memorandum requests your approval to submit the bill, subject to the OMB clearance process.

This memorandum is sent to you now, with Mr. Lynn's concurrence, since the ordinary clearance process may well reveal publicly the provisions of the bill, while seeking your general approval now will permit your comments or any proposed changes to be discussed with the unions and contractors before public disclosure. Moreover, hearing dates need to be arranged promptly.

The budget clearance process may produce technical or minor changes which can be readily accommodated.



August 21, 1975

Construction Industry
Collective Bargaining Act of 1975

The purpose of the bill is to revise the framework of collective bargaining in the construction industry. It provides an enhanced role in negotiations for national labor organizations and national contractor organizations working as a group, while at the same time preserving the flexibility and variations that appropriately exist among localities, crafts, and branches of the industry. The proposed legislation seeks to improve dispute settlement, with a minimum of government interference in the collective bargaining process. The proposed machinery does not constitute wage and price control, nor is it a form of compulsory arbitration. It applies solely to standard labor organizations and to contractors and their associations engaged in collective bargaining. It is not applicable to independent unions and to the nonunion sector of the construction industry.

The major provisions of the proposed legislation are as follows:

(1) The Construction Industry Collective Bargaining Committee is comprised of 10 management representatives, 10 labor representatives, and 3 neutral members, all appointed by the President. One of the neutral members shall be appointed Chairman. The Director of the Federal Mediation and Conciliation Service and the Secretary of Labor shall be ex officio members. The role of the parties is enhanced

by providing that the management and labor members shall be appointed after consultation with the national organizations, who will also propose a panel of neutral members.

(2) Local labor organizations affiliated with the standard labor organizations in the industry are required to give 60 days notice to their national unions before the expiration or reopening of agreements, and contractors or associations engaged in collective bargaining with them are similarly required to notify either the national organization with which they are affiliated, or the Committee directly. The standard national labor organizations and the national contractor associations engaged in collective bargaining are required to forward such notices to the Committee.

(3) The Committee may elect to take jurisdiction of the matter, in which case any strike or lockout is deferred for up to 30 days past the expiration or reopening date.

(4) The Committee may decide to refer a matter to a national craft board or to the national machinery established by a branch of the industry, on which national unions and national contractor associations are represented, in an effort to assist the parties to reach agreement. The Committee may elect to meet with the parties itself.

(5) The Committee may also request the standard national labor

organizations and the national contractor associations whose members are directly involved to participate in the negotiations. In that event, any new or revised collective bargaining agreement shall be approved by the standard national construction labor organization with which the local labor organization, or other subordinate body, is affiliated in order for the agreement to be of any force or effect. In the event the standard national labor organization or national contractor association participates in such negotiation, it shall not suffer any criminal or civil liability arising out of such participation; nor shall the standard national labor organization be subject to any civil or criminal liability arising out of its approval, or failure to approve, a collective bargaining agreement.

(6) The statute specifies the standards which the Committee shall take into account in taking jurisdiction of a matter and requesting the participation of the standard national labor organizations and the national contractor associations. These standards broadly specify improvements in collective bargaining procedures and practices.

(7) The Committee is authorized to make broad studies of collective bargaining in the industry and to make general recommendations with regard to negotiating structures, improvement of productivity, stability of employment, differentials among branches of the industry, dispute settlement procedures, and other related matters.

(8) The proposed legislation runs for a term of 5 years. The Committee shall submit annual reports to the Congress and, 6 months in advance of the 5-year limit, the Committee shall make recommendations with regard to the extension of the legislation.

A B I L L

To establish a national framework for collective bargaining in the construction industry and for other related purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That this Act may be cited as the "Construction Industry Collective Bargaining Act of 1975."

Findings and Purposes

Sec.2. (a) The Congress finds and declares that the legal framework for collective bargaining in the construction industry is in need of revision; and that an enhanced role for national labor organizations and national contractor associations, working as a group, is needed to minimize instability, conflict and distortions, to assure that problems of collective bargaining structure, productivity and manpower development are constructively approached by the industry itself, and at the same time to permit the flexibility and variations that appropriately exist among localities, crafts and branches of the industry.

(b) It is therefore the purpose of this Act to establish a more viable and practical structure for collective bargaining in the construction industry by establishing procedures for negotiations with a minimum of governmental interference in the free collective bargaining process.

Construction Industry Collective
Bargaining Committee

Sec. 3.(a) There is hereby established in the Department of Labor a Construction Industry Collective Bargaining Committee (hereinafter referred to as the "Committee"). The Committee shall consist of ten members qualified by experience and affiliation to represent the viewpoint of employers engaged in collective bargaining in the construction industry, and ten members qualified by experience and affiliation to represent the viewpoint of the standard national labor organizations in the construction industry. In addition, the Committee shall have three public members qualified by training or experience to represent the public interest, one of whom shall be designated by the President to serve as Chairman. All orders of the Committee shall be issued by the Chairman or the Executive Director on behalf of the Committee. The Secretary of Labor and the Director of the Federal Mediation and Conciliation Service shall serve as ex officio members. The employer and labor members shall be appointed by the President after consultation with representative labor and management organizations in the industry engaged in collective bargaining. The public members shall be appointed from a panel proposed by the employer and labor ^{organizations} ~~members~~. Alternate members may be appointed in the same manner as regular members.

(b) The Secretary of Labor may appoint such staff as is appropriate to carry out the Committee's functions under this Act, and with the approval of the Committee, may appoint an Executive Director.

(c) The Committee may, from time to time, promulgate such rules and regulations as may be necessary or appropriate to carry out the purposes of this Act.

Notice Requirements

Sec. 4.(a) In addition to the requirements of any other law, including section 8(d) of The National Labor Relations Act, as amended, where there is in effect a collective bargaining agreement covering employees in the construction industry, between a local construction labor organization or other subordinate body, affiliated with a standard national construction labor organization, or between a standard national construction labor organization directly, and an employer or association of employers, neither party shall terminate or modify such agreement or the terms or conditions thereof without serving a written notice of the proposed termination or modification in the form and manner prescribed by the Committee, at least 60 days prior to the expiration date thereof, or in the event such collective bargaining agreement contains no expiration date, 60 days prior to the time it is proposed to make such termination or modification. The notice required by this subsection shall be served as follows:

(1) A local construction labor organization or other subordinate body, affiliated with a standard national construction labor organization shall serve such notice upon such national organization;

(2) An employer or local association of employers shall serve such notice upon all standard national construction contractor associations with which the employer or association is affiliated. An employer or local association of employers, which is not affiliated with any standard national construction contractor association shall serve such notice upon the Committee; and

(3) Standard national construction labor organizations and standard national construction contractor associations shall serve such notice upon the Committee with respect to termination or modification of agreements to which they are directly parties.

The parties shall continue in full force and effect, without resorting to strike or lockout, all the terms and conditions of the existing collective bargaining agreement for a period of 60 days after the notice required by this subsection is given or until the expiration of such collective bargaining agreement, whichever occurs later.

(b) Standard national construction labor organizations and standard national construction contractor

associations shall furnish to the Committee copies of all notices served upon them as provided by subsection (a).

(c) The Committee may prescribe the form and manner and other requirements relating to the submission of the notices required by this section.

Role of the Committee and National Labor and
Employer Organizations in Labor Disputes

Sec. 5. (a) In the event that the Committee has received notice pursuant to section 4, it may take jurisdiction of the matter by transmitting written notice to the signatory labor organization(s) and employer association(s) directly party to the collective bargaining agreement within 90 days following the giving of notice under section 4(a). The Committee shall decide whether to assert such jurisdiction in accordance with the standards set forth in section 6. When the Committee has asserted jurisdiction under this section, it may in order to facilitate a peaceful voluntary resolution of the matter and the avoidance of future disputes: (1) refer such matter to voluntary national craft or branch boards or other appropriate organizations established in accordance with section 7; (2) meet with interested parties and take other appropriate action to assist the parties; or (3) take the action provided for in both paragraphs (1) and (2) of this subsection. When the Committee has asserted jurisdiction within the 90-day period specified in this subsection over a dispute relating to the negotiation

of the terms or conditions of any collective bargaining agreement involving construction work between: (1) any standard national construction labor organization, or any local construction labor organization or other subordinate body affiliated with any standard national construction labor organization, and (2) any employer or association of employers, notwithstanding any other law, no such party may, at any time prior to the expiration of the 90-day period specified in this subsection, engage in any strike or lock-out, or the continuing thereof, unless the Committee sooner releases its jurisdiction.

(b) When the Committee receives any notice required by section 4, it is authorized to request in writing at any time during the 90-day period specified in subsection (a) of this section participation in the negotiations by the standard national construction labor organizations with which the local construction labor organizations or other subordinate bodies are affiliated and the standard national construction contractor associations with which the employers or local employer associations are affiliated.

(c) In any matter as to which the Committee exercises jurisdiction under subsection (a) of this section and makes a request authorized by subsection (b) of this section, no new collective bargaining agreement or revision

of any existing collective bargaining agreement between a local construction labor organization or other subordinate body, affiliated with the standard national construction labor organization, and an employer or employer association shall be of any force or effect unless such new agreement or revision is approved in writing by the standard national construction labor organization with which the local labor organization or other subordinate body is affiliated. Prior to such approval the parties shall make no change in the terms or conditions of employment.

(d) No standard national construction labor organization or standard national construction contractor association shall have any criminal or civil liability arising out of a request by the Committee to participate in collective bargaining negotiations, participation in collective bargaining negotiations or the approval or refusal to approve a collective bargaining agreement. Nor shall any of the foregoing constitute a basis for the imposition of civil or criminal liability on a standard national construction labor organization or standard national construction contractor association.

(e) Nothing in this Act shall be deemed to authorize the Committee to modify any existing or proposed collective bargaining agreement.

Standards for Committee Action

Sec. 6. The Committee shall take action under section 5 only if, in its discretion, it believes such action would:

(a) facilitate collective bargaining in the construction industry, improvements in the structure of such bargaining, agreements covering more appropriate geographical areas; or agreements more accurately reflecting the condition of various branches of the industry;

(b) promote stability of employment;

(c) encourage collective bargaining agreements embodying appropriate expiration dates;

(d) promote practices consistent with traditional apprenticeship, training and skill level differentials among the various crafts or branches;

(e) promote voluntary procedures for dispute settlement; or

(f) otherwise be consistent with the purposes of this Act.

Other Functions of the Committee

Sec. 7.(a) The Committee may promote and assist in the formation of voluntary national craft or branch boards, or other appropriate organizations, composed of representatives of one or more standard national construction labor organizations and one or more standard national construction contractor

associations for the purpose of attempting to seek resolution of local labor disputes and review collective bargaining policies and developments in the particular craft or branch of the construction industry involved. Such boards, or other appropriate organizations, may engage in such other activities relating to collective bargaining as their memberships shall mutually determine to be appropriate.

(b) The Committee may, from time to time, make such recommendations as it deems appropriate, including those intended to assist in the negotiation of collective bargaining agreements in the construction industry; to facilitate area bargaining structures; to improve productivity, manpower development and training; to promote stability of employment and appropriate differentials among branches of the industry; to improve dispute settlement procedures; and to provide for wages and benefits. The Committee may make other suggestions, as it deems appropriate, relating to collective bargaining in the construction industry.

Miscellaneous Provisions

Sec. 8.(a) This Act shall apply only to activities affecting commerce as defined in sections 2(6) and (7) of the National Labor Relations Act, as amended.

(b) Nothing in this Act shall be construed to require an individual employee to render labor or services

without his consent, nor shall anything in this Act be construed to make the quitting of his labor by an individual employee an illegal act; nor shall any court issue any process to compel the performance by an individual employee of such labor or services, without his consent; nor shall the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees be deemed a strike under this Act.

(c) The failure or refusal to fulfill any obligation imposed by this Act on any labor organization, employer or employer association shall be remediable only by a civil action for equitable relief brought by the Committee in a District Court of the United States, according to the procedures set forth in subsection (d) of this section. The decision of the Committee to take jurisdiction over a matter, to refuse to take jurisdiction over a matter, and the actions taken by the Committee in the exercise of jurisdiction shall not be reviewable in any court.

(d) The Committee may direct that the appropriate District Court of the United States having jurisdiction of the parties be petitioned to enforce any provision of this Act. In any action, under this Act, the factual determinations of the Committee shall be conclusive unless found by the court to be arbitrary or capricious. No court shall

issue any order under section 5(a) prohibiting any strike, lockout, or the continuing thereof, for any period beyond the 90-day period specified in section 5(a).

(e) Legal services for the Committee shall be performed by attorneys appointed by the Secretary of Labor, and such attorneys may, subject to the direction and control of the Attorney General, represent the Committee in any court proceedings under this Act, except for proceedings in the Supreme Court of the United States.

(f) In granting appropriate relief under this Act the jurisdiction of United States courts sitting in equity shall not be limited by the Act entitled "An Act to amend the Judicial Code to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932, (29 U.S.C. 101 et seq.).

(g) The Committee may investigate and gather data with respect to matters which may aid in carrying out the provisions of this Act.

Coordination

Sec. 9.(a) The several agencies and departments of the Government shall cooperate fully in providing appropriate information to the Committee to carry out the purposes of this Act.

(b) The Committee and the Federal Mediation and Conciliation Service shall regularly consult and coordinate their activities to promote the purposes of this Act.

Definitions

Sec. 10. The terms "labor dispute", "employer", "employee", "labor organization", "person", "construction", "lockout", and "strike" shall have the same meaning as when used by the Labor-Management Relations Act, 1947, as amended.

Separability

Sec. 11. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Authorization of Appropriations

Sec. 12. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Effective Date, Expiration Date and Reports

Sec. 13.(a) This Act shall take effect on the date of its enactment, and shall expire on February 28, 1981.

(b) No later than 1 year following the date of enactment of this Act, and at 1-year intervals thereafter, the Committee shall transmit to the President and to the Congress a full report of its activities under this Act during the preceding year.

(c) No later than September 1, 1980, the Committee shall transmit to the President and to the Congress a full report on the operation of this Act, together with any recommendations, including recommendations as to whether this Act, or any of its provisions, should be extended beyond the expiration date specified in subsection (a) of this section, and any other recommendations for legislation to further promote the purposes of this Act.