

EXTENSION OF THE RENEGOTIATION ACT OF 1951

JUNE 18, 1959.—Ordered to be printed

Mr. BYRD of Virginia, from the Committee on Finance, submitted the following

R E P O R T

[To accompany H.R. 7086]

The Committee on Finance, to whom was referred the bill (H.R. 7086) to extend the Renegotiation Act of 1951, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

I. GENERAL STATEMENT

H.R. 7086 as passed by the House of Representatives would extend the Renegotiation Act of 1951 for 4 years and would make other amendments to existing law.

Your committee has provided a substitute for the House bill by striking out all the provisions after the enacting clause and by substituting three new sections.

Your committee's bill would reduce the period of extension from 4 years to 2 years and 6 months. In addition, your committee's bill provides for a comprehensive study of procurement policies and practices and for a subsequent broad-scale study of the Renegotiation Act of 1951 and of the policies and practices of the Renegotiation Board. Your committee's bill also provides for an increase in the compensation of the General Counsel of the Renegotiation Board.

Your committee's action with respect to H.R. 7086 has been taken with particular regard to the fact that renegotiation of Government contracts requires the exercise of an unusually high degree of administrative discretion and judgment on the part of men rather than the application of fixed and determinable rules of law. Recognizing this, your committee believes that the statute granting this unusual authority should not become a permanent part of our law but should be extended only on a temporary basis so that the Congress may have the opportunity periodically to review the exercise of that discretion in the light of its impact on the interests of the Government and

contractors alike. In view of these considerations, your committee feels that a comprehensive study of procurement policies and practices and of the Renegotiation Act of 1951 and the policies and practices of the Renegotiation Board is a matter of particular importance.

II. DISCUSSION OF THE BILL

A. Extension of the act (sec. 1)

The Renegotiation Act of 1951 is now scheduled to expire as of June 30, 1959. Section 1 of the bill as amended by your committee would extend the act for a period of 2 years and 6 months—that is, until December 31, 1961. Your committee has extended the act for a period ending with the date of the close of a calendar year rather than any other date in a year since it has been advised by the Board that the substantial majority of contractors are on a calendar year basis and that considerable complexities would arise in the event of termination of the act on a date other than the close of a calendar year.

B. General Counsel of the Renegotiation Board (sec. 2)

Your committee, in section 2 of its bill, has provided that the General Counsel of the Renegotiation Board shall receive compensation at the rate of \$19,000 per annum. This action has been taken in order to bring the compensation of the General Counsel of the Renegotiation Board in line with that of the general counsel of each of the major departments subject to the Renegotiation Act who deal with similar subject matter as the General Counsel of the Renegotiation Board and who handle legal problems of similar complexity and importance.

C. Studies of procurement and renegotiation (sec. 3)

Section 3 of your committee's bill provides for a comprehensive study of procurement policies and practices and for a subsequent study of the Renegotiation Act and of the policies and practices of the Renegotiation Board. Your committee has provided that the study of renegotiation be preceded by a study of procurement since it has found from its experience with the subject of renegotiation that a comprehensive appraisal of renegotiation can be made only by considering the operation, use, and effectiveness of various procurement policies, practices, and methods.

The study of procurement policies and practices is provided for in section 3(a) of your committee's bill. This section directs the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives (or any duly authorized subcommittees thereof) to make full and complete studies of the procurement policies and practices of the Department of Defense, the Department of the Air Force, the Department of the Army, and the Department of the Navy. This section specifies that the studies shall include an examination of the experience of such departments in the use of various methods of procurement and types of contractual instruments, with particular regard to the effectiveness thereof in achieving reasonable costs, prices, and profits. The section further directs that the results of such studies, together with such recommendations as may be deemed necessary or desirable, be reported by the named committees to their respective Houses not later than September 30, 1960. It is also provided that the material and data collected in the course of such studies be made available to the Joint

Committee on Internal Revenue Taxation to assist it in making the required study of renegotiation. It is anticipated that these procurement studies will produce information relating to the various methods of procurement now in use (such as the negotiated contract method and the formal-advertised-competitive-bid method) to the various available types of contractual instruments and clauses and to the cost, price, and profit experience under such techniques as they have been applied to particular companies and industries, which will be particularly valuable in the subsequent study of renegotiation.

The study of renegotiation is provided for in section 3(b) of your committee's bill. This section directs the Joint Committee on Internal Revenue Taxation to make a full and complete study of the act itself and of the policies and practices of the Renegotiation Board. This section further directs that the results of such study, together with such recommendations as may be deemed necessary or desirable, be reported by the joint committee to both the House and the Senate not later than March 31, 1961.

III. CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italics*, existing law in which no change is proposed is shown in roman):

RENEGOTIATION ACT OF 1951, AS AMENDED

TITLE I—RENEGOTIATION OF CONTRACTS

* * * * *

SEC. 102. CONTRACTS SUBJECT TO RENEGOTIATION.

* * * * *

(c) TERMINATION.—

(1) IN GENERAL.—The provisions of this title shall apply only with respect to receipts and accruals, under contracts with the Departments and related subcontracts, which are determined under regulations prescribed by the Board to be reasonably attributable to performance prior to the close of the termination date. Notwithstanding the method of accounting employed by the contractor or subcontractor in keeping his records, receipts or accruals determined to be so attributable, even if received or accrued after the termination date, shall be considered as having been received or accrued not later than the termination date. For the purposes of this title, the term "termination date" means [June 30, 1959] *December 31, 1961.*

* * * * *

SEC. 107. RENEGOTIATION BOARD.

* * * * *

(c) PERSONNEL.—*There shall be a General Counsel of the Renegotiation Board who shall be appointed by the Board without regard to the civil-service laws and regulations, and who shall receive compensation at the rate of \$19,000 per annum.* The Board is authorized, subject to the Classification Act of 1949 and the civil-service laws and regulations, to employ and fix the compensation of such officers and employees as it deems necessary to assist it in carrying out its duties under this title. The Board may, with the consent of the head of the agency of the Government concerned, utilize the services of any officers or employees of the United States, and reimburse such agency for the services so utilized. Officers or employees whose services are so utilized shall not receive additional compensation for such services, but shall be allowed and paid necessary travel expenses and a per diem in lieu of subsistence in accordance with the Standardized Government Travel Regulations while away from their homes or official station on duties of the Board.

* * * * *

