

Suspend the Rules and Pass the Bill, H.R. 3106

(The amendments strike all after the enacting clause and insert a new text and a new title)

114TH CONGRESS
1ST SESSION

H. R. 3106

To authorize Department major medical facility construction projects for fiscal year 2015, to amend title 38, United States Code, to make certain improvements in the administration of Department medical facility construction projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2015

Mr. MILLER of Florida introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To authorize Department major medical facility construction projects for fiscal year 2015, to amend title 38, United States Code, to make certain improvements in the administration of Department medical facility construction projects, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Construction Reform
5 Act of 2016”.

1 **SEC. 2. DEPARTMENT OF VETERANS AFFAIRS CONSTRUC-**
2 **TION REFORMS.**

3 (a) APPLICATION OF INDUSTRY STANDARDS; ASSIST-
4 ANCE.—Section 8103 of title 38, United States Code, is
5 amended by adding at the end the following new sub-
6 sections:

7 “(f) To the maximum extent practicable, the Sec-
8 retary shall use industry standards, standard designs, and
9 best practices in carrying out the construction of medical
10 facilities.

11 “(g)(1) The Secretary shall provide to a non-Depart-
12 ment Federal entity with which the Secretary has entered
13 into an agreement under subsection (e)—

14 “(A) design, planning, and construction assist-
15 ance before the entity issues a request for proposals
16 for the design or construction of the super construc-
17 tion project covered by the agreement;

18 “(B) any documents or information needed for
19 the entity to carry out the responsibilities of the en-
20 tity with respect to the super construction project;
21 and

22 “(C) upon the request of the entity, any other
23 assistance that the entity determines necessary to
24 carry out such responsibilities.

1 “(2) Any assistance provided under paragraph (1)
2 shall be provided to the non-Department Federal entity
3 on a non-reimbursable basis.

4 “(h)(1) With respect to a proposed change to a con-
5 tract entered into by a non-Department Federal entity
6 with which the Secretary has entered into an agreement
7 under subsection (e) that is estimated at a value of less
8 than \$250,000, the non-Department Federal entity shall
9 issue a final decision regarding such change not later than
10 30 days after the date on which the change is proposed.

11 “(2) With respect to a proposed change to such a con-
12 tract that is estimated at a value of \$250,000 or more—

13 “(A) the Secretary may provide to the entity
14 the recommendations of the Secretary regarding
15 such change;

16 “(B) during the 30-day period beginning on the
17 date on which the entity furnishes to the Secretary
18 information regarding such change, the Secretary
19 may issue the final decision regarding such change;
20 and

21 “(C) if the Secretary does not issue a final deci-
22 sion under subparagraph (B), during the 30-day pe-
23 riod following the period described in such para-
24 graph, the entity shall issue a final decision regard-
25 ing such a change no later than 90 days from when

1 the entity furnished information regarding such a
2 change to the Secretary.

3 “(i) The Secretary shall ensure that each employee
4 of the Department with responsibilities relating to the con-
5 struction or alteration of medical facilities, including such
6 construction or alteration carried out pursuant to con-
7 tracts or agreements, undergoes a program of ongoing
8 professional training and development. Such program
9 shall be designed to ensure that employees maintain ade-
10 quate expertise relating to industry standards and best
11 practices for the acquisition of design and construction
12 services. The Secretary may provide the program under
13 this subsection through a contract or agreement with a
14 non-Federal entity or with a non-Department Federal en-
15 tity.”.

16 (b) LIMITATION ON PLANNING AND DESIGN FOR
17 SUPER CONSTRUCTION PROJECTS.—

18 (1) IN GENERAL.—Section 8104(a) of title 38,
19 United States Code, is amended—

20 (A) by redesignating paragraph (3) as
21 paragraph (4);

22 (B) by inserting after paragraph (2) the
23 following new paragraph (3):

24 “(3) The Secretary may not obligate or expend funds
25 for advance planning or design for any super construction

1 project, until the date that is 60 days after the date on
2 which the Secretary submits to the Committee on Vet-
3 erans' Affairs and the Committee on Appropriations of the
4 Senate and the Committee on Veterans' Affairs and the
5 Committee on Appropriations of the House of Representa-
6 tives notice of such obligation or expenditure.”; and

7 (C) in paragraph (4), as redesignated by
8 paragraph (1) of this subsection, by adding at
9 the end the following new subparagraph:

10 “(C) The term ‘super construction project’
11 means a project for the construction, alteration, or
12 acquisition of a medical facility involving a total ex-
13 penditure of more than \$100,000,000, but such term
14 does not include an acquisition by exchange.”.

15 (2) APPLICABILITY.—The amendments made
16 by paragraph (1) shall take effect on the date of the
17 enactment of this Act and shall apply with respect
18 to a construction project that is initiated on or after
19 that date.

20 (c) CONGRESSIONAL APPROVAL OF CERTAIN
21 PROJECTS.—

22 (1) PROJECTS THAT EXCEED SPECIFIED
23 AMOUNT.—Subsection (c) of section 8104 of title 38,
24 United States Code, is amended to read as follows:

1 “(c)(1) The Secretary may not obligate funds for a
2 major medical facility project or a super construction
3 project approved by a law described in subsection (a)(2)
4 in an amount that would cause the total amount obligated
5 for that project to exceed the amount specified in the law
6 for that project (or would add to total obligations exceed-
7 ing such specified amount) by more than 10 percent unless
8 the Committee on Veterans’ Affairs and the Committee
9 on Appropriations of the Senate and the Committee on
10 Veterans’ Affairs and the Committee on Appropriations
11 of the House of Representatives each approve in writing
12 the obligation of those funds.

13 “(2) The Secretary shall—

14 “(A) enter into a contract with an appropriate
15 non-department Federal entity with the ability to
16 conduct forensic audits on medical facility projects
17 for the conduct of an external forensic audit of the
18 expenditures relating to any major medical facility
19 or super construction project for which the total ex-
20 penditures exceed the amount specified in the law
21 for the project by more than 25 percent; and

22 “(B) enter into a contract with an appropriate
23 non-department Federal entity with the ability to
24 conduct forensic audits on medical facility projects

1 for the conduct of an external audit of the medical
2 center construction project in Aurora, Colorado.”.

3 (2) USE OF EXTRA AMOUNTS.—Subsection (d)
4 of such section is amended—

5 (A) in paragraph (2)(B), in the matter
6 preceding clause (i), by striking “Whenever”
7 and inserting “Before”; and

8 (B) by adding at the end the following new
9 paragraph:

10 “(3) The Secretary may not obligate any funds de-
11 scribed in paragraph (1) or amounts described in para-
12 graph (2) before the date that is 30 days after the notifi-
13 cation submitted under paragraph (1) or paragraph
14 (2)(B), as the case may be, unless the Committee on Vet-
15 erans’ Affairs and the Committee on Appropriations of the
16 Senate and the Committee on Veterans’ Affairs and the
17 Committee on Appropriations of the House of Representa-
18 tives each approve in writing the obligation of those funds
19 or amounts.”.

20 (3) NOTIFICATION REQUIREMENTS.—

21 (A) COMMITTEES REQUIRED.—Subsection
22 (d)(1) of such section is amended by striking
23 “each committee” and inserting “the Com-
24 mittee on Veterans’ Affairs and the Committee
25 on Appropriations of the Senate and the Com-

1 mittee on Veterans' Affairs and the Committee
2 on Appropriations of the House of Representa-
3 tives”.

4 (B) USE OF AMOUNTS FROM BID SAV-
5 INGS.—Subsection (d)(2)(B) of such section is
6 amended by adding at the end the following
7 new clause:

8 “(iv) With respect to the major construction
9 project that is the source of the bid savings—

10 “(I) the amounts already obligated or
11 available in the project reserve for such project;

12 “(II) the percentage of such project that
13 has been completed; and

14 “(III) the amount of such bid savings that
15 is already obligated or otherwise being used for
16 a purpose other than such project.”.

17 (d) QUARTERLY REPORT ON SUPER CONSTRUCTION
18 PROJECTS.—

19 (1) IN GENERAL.—At the end of subchapter I
20 of chapter 81 of title 38, United States Code, add
21 the following new section:

22 **“§ 8120. Quarterly report on super construction**
23 **projects**

24 “(a) QUARTERLY REPORTS REQUIRED.—Not later
25 than 30 days after the last day of each fiscal quarter the

1 Secretary shall submit to the Committees on Veterans' Af-
2 fairs of the Senate and House of Representatives on the
3 super construction projects carried out by the Secretary
4 during such quarter. Each such report shall include, for
5 each such project—

6 “(1) the budgetary and scheduling status of the
7 project, as of the last day of the quarter covered by
8 the report; and

9 “(2) the actual cost and schedule variances of
10 the project, as of such day, compared to the planned
11 cost and schedules for the project.

12 “(b) SUPER CONSTRUCTION PROJECT DEFINED.—In
13 this section, the term ‘super construction project’ has the
14 meaning given such term in section 8104(a)(4)(C) of this
15 title.”.

16 (2) CLERICAL AMENDMENT.—The table of sec-
17 tions at the beginning of the chapter is amended by
18 adding at the end of the items relating to such sub-
19 chapter the following new item:

“8120. Quarterly report on super construction projects.”.

20 (e) ACCELERATED MASTER PLANNING FOR EACH
21 MEDICAL FACILITY OF THE DEPARTMENT OF VETERANS
22 AFFAIRS.—

23 (1) EXISTING FACILITIES.—Not later than De-
24 cember 31, 2016, the Secretary of Veterans Affairs
25 shall complete a master plan described in paragraph

1 (3) for each medical facility of the Department of
2 Veterans Affairs.

3 (2) NEW FACILITIES.—For each medical facility
4 of the Department for which construction is com-
5 pleted after the date of the enactment of this Act,
6 the Secretary shall complete a master plan described
7 in paragraph (3) for the facility by not later than
8 the earlier of the following dates:

9 (A) The date on which activation is com-
10 pleted.

11 (B) The date of the formal dedication of
12 the facility.

13 (3) MASTER PLAN DESCRIBED.—A master plan
14 described in this paragraph is, with respect to a
15 medical facility of the Department, a plan to inform
16 investment decisions and funding requests over a 10-
17 year period for construction projects at such medical
18 facility—

19 (A) to meet the health care needs of a
20 changing veteran population through a com-
21 bination of health care from the Department
22 and other community resources; and

23 (B) to maximize the best use of the land
24 and structures comprising such medical facility.

1 **SEC. 3. ASSISTANT INSPECTOR GENERAL FOR CONSTRUCTION.**
2

3 (a) IN GENERAL.—Chapter 3 of title 38, United
4 States Code, is amended by inserting after section 312 the
5 following new section:

6 **“§ 312A. Assistant Inspector General for Construction**

7 “(a) IN GENERAL.—There is in the Office of Inspec-
8 tor General an Assistant Inspector General for Construc-
9 tion. The Assistant Inspector General for Construction is
10 responsible for conducting, supervising, and coordinating
11 audits, evaluations, and investigations of the planning, de-
12 sign, contracting, execution, and construction of facilities
13 and infrastructure of the Department, including major
14 and minor construction projects and leases.

15 “(b) QUALIFICATIONS.—Each individual appointed
16 as Assistant Inspector General for Construction shall be
17 an individual who has expertise in construction and facili-
18 ties management.

19 “(c) REPORTS.—(1) Not later than 60 days after the
20 appointment of an individual as the Assistant Inspector
21 General for Construction, and every calendar quarter
22 thereafter, the Assistant Inspector General for Construc-
23 tion shall submit to the Committees on Veterans’ Affairs
24 of the Senate and House of Representatives a report sum-
25 marizing the activities of the Assistant Inspector General

1 for Construction during the 120-day period ending on the
2 date of such report.

3 “(2) In addition to the report required in paragraph
4 (1), and the requirements contained in section 5 of the
5 Inspector General Act of 1978 (5 U.S.C. App.), the Assist-
6 ant Inspector General for Construction shall promptly pro-
7 vide to the Committees on Veterans’ Affairs of the Senate
8 and House of Representatives the findings of any inves-
9 tigation undertaken by the Assistant Inspector General for
10 Construction, and shall notify the Committees promptly
11 if the Assistant Inspector General for Construction identi-
12 fies any serious or flagrant problem or deficiency relating
13 to the administration or operation of any construction pro-
14 gram of the Department, if, during the course of any in-
15 vestigation, the Assistant Inspector General for Construc-
16 tion determines that Congress should take immediate ac-
17 tion.

18 “(3) Nothing in this subsection shall be construed to
19 authorize the public disclosure of information that is—

20 “(A) specifically prohibited from disclosure by
21 any other provision of law;

22 “(B) specifically required by Executive Order to
23 be protected from disclosure in the interest of na-
24 tional defense or national security or in the conduct
25 of foreign affairs; or

1 “(C) a part of an ongoing criminal investiga-
2 tion.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 at the beginning of such chapter is amended by inserting
5 after the item relating to section 312 the following new
6 item:

“312A. Assistant Inspector General for Construction.”.

Amend the title so as to read: “A bill to amend title
38, United States Code, .to make certain improvements
in the administration of Department medical facility con-
struction projects.”.