

Expense
4 April 55

84TH CONGRESS
1ST SESSION

H. R. 639

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1955

Mr. CELLER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To authorize the establishment of an Inventions Awards Board within the Department of Defense, 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 That this Act may be cited as the "Inventions Awards Act
4 of 1955".

DECLARATION OF POLICY

5
6 SEC. 2. It is the purpose of this Act to foster invention
7 for national defense through the establishment within the De-
8 partment of Defense of an Inventions Awards Board which
9 shall be authorized to recommend to the Secretary the making
10 of such awards, to be known as National Defense Awards, as

1 it shall consider just for meritorious inventions contributing
2 to the national defense.

3 DEFINITIONS

4 SEC. 3. As used in this Act—

5 (a) The term "invention" means any art, machine,
6 manufacture, composition of matter, or any new and useful
7 improvement thereof which is useful, or susceptible of use,
8 for application in the national defense of the United States,
9 and which is not subject to the provisions of the Atomic
10 Energy Act of 1946, whether or not such invention is
11 patented, unpatented, or patentable.

12 (b) The term "inventor" means any person who has
13 made an invention.

14 (c) The term "person" shall include any natural person,
15 and his heirs.

16 (d) The term "the Department" shall mean the De-
17 partment of Defense, and the term "Secretary" shall mean
18 the Secretary of Defense.

19 (e) The term "defense agency" means the Department,
20 or any other department, agency, or independent establish-
21 ment in the executive branch of the Government (except the
22 Atomic Energy Commission), and any wholly owned Gov-
23 ernment corporation, designated by the President as a defense
24 agency for the purposes of this Act.

1 (f) The term "Board" means the Inventions Awards
2 Board established pursuant to section 5 of this Act.

3 (g) The term "award" means a National Defense
4 Award authorized by section 4 of this Act.

5 NATIONAL DEFENSE AWARDS

6 SEC. 4. Whenever any inventor has disclosed to any
7 defense agency any invention which contributes or has con-
8 tributed substantially to the national defense, and any such
9 agency in consequence of such disclosure has used such in-
10 vention, the Secretary, upon the recommendation of the
11 Board, may make a National Defense Award to such inven-
12 tor in such amount, and subject to such terms and conditions,
13 as the Board shall determine in conformity with the pro-
14 visions of this Act to be just compensation for such invention
15 or the use thereof.

16 INVENTIONS AWARDS BOARD

17 SEC. 5. (a) The Secretary is authorized to establish
18 within the Department an Inventions Awards Board which
19 shall be composed of not more than fifteen members ap-
20 pointed by the Secretary, for such term or terms as he may
21 specify, from persons in civil life who are eminent in one
22 or more of the following fields of activity: invention, science,
23 research, development, and patent law. The Board shall
24 meet at such times as the Secretary may specify to consider

1 applications made pursuant to section 6 of this Act for
 2 awards. Five members shall constitute a quorum of the
 3 Board.

4 (b) Each member shall receive compensation at the
 5 rate of \$75 for each day of his attendance at meetings of the
 6 Board; and shall be reimbursed for all travel expenses ac-
 7 tually incurred by him in the performance of his duties as
 8 a member of the Board.

9 (c) The Board shall perform the duties required of it
 10 by section 6 of this Act. The Secretary shall provide the
 11 Board with such personnel and facilities as he may determine
 12 to be required by the Board for the performance of its
 13 functions.

14 (d) The Board may promulgate such rules and regu-
 15 lations, not inconsistent with this Act, as may be required
 16 for the performance of its duties hereunder.

17 APPLICATIONS FOR AWARDS AND PROCEEDINGS THEREON

18 SEC. 6. (a) Any inventor may file with the Secretary
 19 an application for an award under section 4 of this Act. Such
 20 application may be filed upon information and belief, and
 21 shall contain a statement concerning—

22 (1) the nature of such invention;

23 (2) the ownership thereof;

24 (3) the time and manner of its disclosure to any

25 defense agency;

- 1 (4) the nature and extent of its use by any defense
2 agency;
- 3 (5) the utility of such invention to the United
4 States in the interest of national defense;
- 5 (6) the nature and extent of the compensation
6 received by such inventor from the United States under
7 any other provision of law for or on account of the de-
8 velopment or use of such invention;
- 9 (7) the nature and extent of the compensation for
10 which application is made pursuant to this Act; and
- 11 (8) such other facts as the Board shall deem
12 pertinent.
- 13 (b) Each application so filed shall be transmitted to
14 the Board which, subject to the provisions of this Act and
15 of the Administrative Procedure Act, shall hear and deter-
16 mine the questions presented by such application, and shall
17 make and transmit to the Secretary a report thereon in which
18 the Board shall set forth—
- 19 (1) its findings of fact and conclusions of law;
- 20 (2) its recommendation on the question whether
21 the applicant is entitled to an award under this Act;
22 and
- 23 (3) the terms and conditions upon which any such
24 award should be made.

1 DETERMINATION OF ELIGIBILITY FOR AWARDS AND
2 QUANTUM THEREOF

3 SEC. 7. (a) In any proceeding under this Act, the ap-
4 plicant shall bear the burden of establishing by probative
5 proof the disclosure of the invention in question by the in-
6 ventor directly or indirectly to a defense agency and the
7 use of such invention by a defense agency in consequence
8 of such disclosure, except that—

9 (1) in the case of a patented invention, proof of
10 the issuance of a patent thereon shall constitute proof
11 of disclosure of such invention to a defense agency;

12 and

13 (2) in the case of an invention described in a
14 patent application which has been duly filed and has
15 been placed under secrecy pursuant to any provision of
16 law, proof of access to such application by any officer
17 or employee of any defense agency shall constitute proof
18 of disclosure of such invention to such agency.

19 (b) In any proceeding under this Act, the respondent
20 defense agency or agencies shall be entitled to assert any
21 legal or equitable defense which could be asserted by the
22 United States in any suit brought by the applicant against
23 the United States for judicial relief on account of the use

1 of the invention in question by the United States, except
2 that—

3 (1) the worth of such invention shall be measured
4 by its contribution to the needs of the national defense,
5 and not by the advance it makes in the field to which it
6 pertains;

7 (2) the validity of any patent issued to the in-
8 ventor for such invention shall be presumed in the ab-
9 sence of competent proof of the invalidity of such patent;

10 and

11 (3) proof that the disclosure made by the inventor
12 to any defense agency was sufficiently specific to permit
13 the making or practicing of such invention shall con-
14 stitute proof of the actual reduction of such invention
15 to practice.

16 (c) Payment by the United States of the cost, in whole
17 or in part, of developing an invention shall not bar the mak-
18 ing of an award under this Act to the inventor thereof; but
19 in determining the amount of any such award consideration
20 shall be given to—

21 (1) the extent to which such development was
22 made at the expense of the inventor, and the extent
23 to which such development was made at the expense of
24 the United States;

25

1 (2) the extent to which the inventor has bene-
2 fited and will benefit through the commercial exploita-
3 tion of such invention in consequence of development
4 made at the expense of the United States; and

5 (3) the extent to which the inventor has been de-
6 nied the benefits of commercial exploitation of such
7 invention in consequence of any secrecy restrictions
8 imposed by the United States.

9 (d) If, in any proceeding under this Act, it shall
10 appear to the Board that more than one inventor is entitled
11 to compensation with respect to the same invention, the
12 Board shall ascertain and determine the interests of each
13 such inventor, and shall recommend the division of the
14 award, in such proportions as it shall deem equitable, among
15 all persons whom it shall find to be entitled to share therein.

16 PAYMENT OF AWARDS (a)

17 SEC. 8. (a) Any award made pursuant to this Act may
18 be paid in a single payment or by such periodic payments
19 as the Board may recommend.

20 (b) Awards so made shall be paid from funds appro-
21 priated to the defense agency principally interested in the
22 invention for which such award is made, as determined by
23 the Board, and may be paid from any funds appropriated to
24 such agency which are available for the procurement of
25 equipment or supplies incorporating such invention or result-

1 ing from the practice of such invention. If the head of the
2 defense agency concerned certifies that funds are not avail-
3 able to such agency for the payment of any such award, the
4 Secretary shall include in his budget estimate for the De-
5 partment for the next fiscal year an appropriate item for the
6 payment of such award.

7 (c) No award made under this Act shall be paid until
8 each person entitled to share therein has executed a release,
9 in such form as the Secretary shall approve, by which such
10 person surrenders, for himself and all others holding rights
11 from him, all further claims against the United States for
12 compensation with respect to the invention for which such
13 award is made.

14 (d) No award shall be paid under this Act to any
15 inventor or with respect to any invention in any amount
16 exceeding \$75,000 until such award has been transmitted to
17 and approved by the Congress. The approval of the Con-
18 gress to any such award shall be deemed to have been
19 granted upon the expiration of the first period of one hundred
20 and twenty calendar days of continuous session of the Con-
21 gress following the date on which such award is transmitted
22 to it for approval; but only if prior to the expiration of such
23 period there has not been passed a concurrent resolution
24 disapproving such award or approving such award in a
25 reduced amount or subject to different conditions. If within

1 such period any such resolution is passed authorizing payment
 2 of such award in a reduced amount or subject to different
 3 conditions, payment of such award may be made in con-
 4 formity with the terms of such resolution.

5 PROCEEDINGS UNDER OTHER STATUTES

6 SEC. 9. (a) Nothing contained in this Act shall—

7 (1) prevent any department or agency of the
 8 United States from making any payment to any inventor
 9 pursuant to any other provision of law; or
 10 (2) bar any inventor from prosecuting any suit in
 11 the Court of Claims pursuant to section 1498 of title 28
 12 of the United States Code with respect to any invention,
 13 or from recovering judgment in any such suit.

14 (b) No inventor shall be entitled to receive any award
 15 pursuant to this Act with respect to any invention—

16 (1) for which he has received any compensation
 17 (other than salary received for services rendered as
 18 an officer or employee of the Government) under any
 19 other provision of law; or

20 (2) with respect to which he has instituted any
 21 suit in the Court of Claims for compensation pursuant to
 22 section 1498 of title 28 of the United States Code.

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