

HOUSE BILL 28

Introduced by H.S. Hanson

12/27	Introduced
12/27	Referred to Labor & Employment Relations
12/28	Fiscal Note Requested
1/07	First Reading
1/09	Fiscal Note Received
1/10	Hearing
1/10	Fiscal Note Printed
1/23	Committee Report--Bill Passed as Amended
1/30	2nd Reading Passed As Amended
2/01	3rd Reading Passed
	Transmitted to Senate
2/01	Referred to Labor & Employment Relations
2/02	First Reading
2/12	Hearing
4/03	Committee Report--Bill Not Passed as Amended
4/03	Adverse Committee Report Adopted

1 HOUSE BILL NO. 28

2 INTRODUCED BY H. HANSON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE
5 REQUIREMENT THAT BID SPECIFICATIONS AND CONTRACTS FOR PUBLIC
6 WORKS PROJECTS CONTAIN THE PREVAILING WAGE RATE; AMENDING
7 SECTIONS 18-2-403 AND 18-2-423, MCA; REPEALING SECTION
8 18-2-422, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 18-2-403, MCA, is amended to read:

12 "18-2-403. Preference of Montana labor in public works
13 -- wages -- federal exception. (1) In any contract let for
14 state, county, municipal, school, or heavy highway
15 construction, services, repair, or maintenance work under
16 any law of this state, there ~~shall~~ must be inserted in the
17 bid specification and the contract a provision requiring the
18 contractor to give preference to the employment of bona fide
19 Montana residents in the performance of the work.

20 (2) All public works contracts under subsection (1),
21 except those for heavy highway construction, must contain a
22 provision requiring the contractor to pay the standard
23 prevailing rate of wages, including fringe benefits for
24 health and welfare and pension contributions and travel
25 allowance provisions, in effect and applicable to the

1 district in which the work is being performed.

2 (3) In every each contract for heavy highway
3 construction, there must be inserted a provision to require
4 the contractor to pay the heavy highway construction wage
5 rates established statewide for such the project.

6 (4) No A contract may not be let to any person, firm,
7 association, or corporation refusing to execute an agreement
8 with the above-mentioned provisions required by subsections
9 (1) through (3) in it, provided that in contracts involving
10 the expenditure of federal-aid funds, this part may not be
11 enforced in such a manner as to conflict with or be contrary
12 to the federal statutes prescribing a labor preference to
13 honorably discharged veterans of the armed forces and
14 prohibiting as unlawful any other preference or
15 discrimination among citizens of the United States.

16 ~~(5) -- Failure -- to -- include -- the -- provisions -- required -- by~~
17 ~~18-2-422 -- in -- a -- public -- works -- contract -- relieves -- the -- contractor~~
18 ~~from -- his -- obligation -- to -- pay -- the -- standard -- prevailing -- wage -- rate~~
19 ~~and -- places -- such -- obligation -- on -- the -- public -- contracting~~
20 ~~agency -- "~~

21 **Section 2.** Section 18-2-423, MCA, is amended to read:

22 "18-2-423. Submission of payroll records. If a
23 complaint is filed with the department alleging
24 noncompliance with ~~18-2-422~~ 18-2-403(1) through (3), the
25 department may require the project to submit to it certified

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1 copies of the payroll records for workers employed on that
2 project."

3 NEW SECTION. **Section 3.** Repealer. Section 18-2-422,
4 MCA, is repealed.

5 NEW SECTION. **Section 4.** Effective date. [This act] is
6 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0028, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to eliminate the requirement that bid specifications and contracts for public works projects contain the prevailing wage rate; amending sections 18-2-403 and 18-2-423, MCA; repealing section 18-2-422, MCA; and providing an immediate effective date.

ASSUMPTIONS:

1. HB0028 does not remove the provisions that contractors must pay the prevailing wage rate on public works projects.
2. Bid specifications involving federal funds would continue to include the schedules and stipulations pertaining to prevailing wage rate in accordance to federal rules and regulations.
3. The Architecture and Engineering Division of the Department of Administration reports HB0028 would reduce by \$10,432 per year the current cost of printing and mailing prevailing wage schedules and stipulations.
4. The executive budget recommendation for the Architecture and Engineering Division of the Department of Administration is used for current law operating expenses and funding.


FISCAL IMPACT:

Department of Administration:

	FY '92			FY '93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
EXPENDITURES:						
Operating Expenses	<u>196,496</u>	<u>186,014</u>	<u>(10,482)</u>	<u>207,618</u>	<u>197,136</u>	<u>(10,482)</u>
Total	196,496	186,014	(10,482)	207,618	197,136	(10,482)
FUNDING:						
State Special Revenue	<u>98,248</u>	<u>93,007</u>	<u>(5,241)</u>	<u>103,809</u>	<u>98,568</u>	<u>(5,241)</u>
Capital Projects Fund	<u>98,248</u>	<u>93,007</u>	<u>(5,241)</u>	<u>103,809</u>	<u>98,568</u>	<u>(5,241)</u>
Total	196,496	186,014	(10,482)	207,618	197,136	(10,482)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The law is currently applicable to local governments and school districts. The impact HB0028 would have on local governments would depend on the number of bid specifications prepared each year and the applicability of federal rules and regulations.


ROD SUNDESTED, BUDGET DIRECTOR 1-8-91
 Office of Budget and Program Planning DATE


H.S. "SONNY" HANSON, PRIMARY SPONSOR 1/9/91
 DATE

Fiscal Note for HB0028, as introduced

HB 28

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

HOUSE BILL NO. 28

INTRODUCED BY H. HANSON

A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~ELIMINATE~~ THE
REQUIREMENT REQUIRE THAT BID SPECIFICATIONS INCLUDE A
STATEMENT REQUIRING PAYMENT OF THE PREVAILING WAGE DEVELOPED
BY THE COMMISSIONER OF LABOR AND INDUSTRY AND THAT CONTRACTS
FOR PUBLIC WORKS PROJECTS CONTAIN THE PREVAILING WAGE RATE;
AMENDING SECTIONS 18-2-403, 18-2-422, AND 18-2-423, MCA;
~~REPEALING SECTION 18-2-422, MCA,~~ AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 18-2-403, MCA, is amended to read:

"18-2-403. Preference of Montana labor in public works
-- wages -- federal exception. (1) In any contract let for
state, county, municipal, school, or heavy highway
construction, services, repair, or maintenance work under
any law of this state, there ~~shall~~ must be inserted in the
bid specification and the contract a provision requiring the
contractor to give preference to the employment of bona fide
Montana residents in the performance of the work.

(2) All public works contracts under subsection (1),
except those for heavy highway construction, must contain a
provision requiring the contractor to pay the standard

prevailing rate of wages, including fringe benefits for
health and welfare and pension contributions and travel
allowance provisions, in effect and applicable to the
district in which the work is being performed.

(3) In every each contract for heavy highway
construction, there must be inserted a provision to require
the contractor to pay the heavy highway construction wage
rates established statewide for ~~such~~ the project.

(4) No A contract may not be let to any person, firm,
association, or corporation refusing to execute an agreement
with the above-mentioned provisions required by subsections
(1) through (3) in it, provided that in contracts involving
the expenditure of federal-aid funds, this part may not be
enforced in such a manner as to conflict with or be contrary
to the federal statutes prescribing a labor preference to
honorably discharged veterans of the armed forces and
prohibiting as unlawful any other preference or
discrimination among citizens of the United States.

~~(5) Failure to include the provisions required by
18-2-422 in a public works contract relieves the contractor
from his obligation to pay the standard prevailing wage rate
and places such obligation on the public contracting agency.~~

(5) FAILURE TO INCLUDE THE PROVISIONS REQUIRED BY
18-2-422 IN A PUBLIC WORKS CONTRACT RELIEVES THE CONTRACTOR
FROM HIS OBLIGATION TO PAY THE STANDARD PREVAILING WAGE RATE

SECOND READING



1 AND PLACES THE OBLIGATION ON THE PUBLIC CONTRACTING AGENCY."

2 SECTION 2. SECTION 18-2-422, MCA, IS AMENDED TO READ:

3 "18-2-422. Bid specification and--contract to contain
4 prevailing wage rate provision -- wage rates included in
5 contract. All bid specifications and--contracts for public
6 works projects must contain a provision-stating-for-each-job
7 classification statement requiring, for each job
8 classification, payment of the prevailing wage rate as
9 developed by the commissioner, including fringe benefits,
10 that the contractors and subcontractors must pay during
11 construction of the project. The prevailing wage rate must
12 be included as a contractual provision in all contracts let
13 for public works projects."

14 Section 3. Section 18-2-423, MCA, is amended to read:

15 "18-2-423. Submission of payroll records. If--a
16 complaint---is---filed---with---the---department---alleging
17 noncompliance-with-18-2-422 ~~18-2-403(1)~~ through (3),--the THE
18 department may SHALL require the project to submit to it
19 certified copies of the payroll records for workers employed
20 on that project."

21 NEW SECTION. Section 4. Repealer. Section 18-2-422,
22 MCA, is repealed.

23 NEW SECTION. Section 5. Effective date. [This act] is
24 effective on passage and approval.

-End-

HOUSE BILL NO. 28
INTRODUCED BY H. HANSON

A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE--THE REQUIREMENT REQUIRE THAT BID SPECIFICATIONS INCLUDE A STATEMENT REQUIRING PAYMENT OF THE PREVAILING WAGE DEVELOPED BY THE COMMISSIONER OF LABOR AND INDUSTRY AND THAT CONTRACTS FOR PUBLIC WORKS PROJECTS CONTAIN THE PREVAILING WAGE RATE; AMENDING SECTIONS 18-2-403, 18-2-422, AND 18-2-423, MCA; REPEALING SECTION 18-2-422, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 18-2-403, MCA, is amended to read:

"18-2-403. Preference of Montana labor in public works -- wages -- federal exception. (1) In any contract let for state, county, municipal, school, or heavy highway construction, services, repair, or maintenance work under any law of this state, there shall must be inserted in the bid specification and the contract a provision requiring the contractor to give preference to the employment of bona fide Montana residents in the performance of the work.

(2) All public works contracts under subsection (1), except those for heavy highway construction, must contain a provision requiring the contractor to pay the standard

prevailing rate of wages, including fringe benefits for health and welfare and pension contributions and travel allowance provisions, in effect and applicable to the district in which the work is being performed.

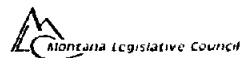
(3) In every each contract for heavy highway construction, there must be inserted a provision to require the contractor to pay the heavy highway construction wage rates established statewide for such the project.

(4) No A contract may not be let to any person, firm, association, or corporation refusing to execute an agreement with the above-mentioned provisions required by subsections (1) through (3) in it, provided that in contracts involving the expenditure of federal-aid funds, this part may not be enforced in such a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to honorably discharged veterans of the armed forces and prohibiting as unlawful any other preference or discrimination among citizens of the United States.

~~(5) Failure to include the provisions required by 18-2-422 in a public works contract relieves the contractor from his obligation to pay the standard prevailing wage rate and places such obligation on the public contracting agency.~~

(5) FAILURE TO INCLUDE THE PROVISIONS REQUIRED BY 18-2-422 IN A PUBLIC WORKS CONTRACT RELIEVES THE CONTRACTOR FROM HIS OBLIGATION TO PAY THE STANDARD PREVAILING WAGE RATE

THIRD READING



1 AND PLACES THE OBLIGATION ON THE PUBLIC CONTRACTING AGENCY."

2 **SECTION 2.** SECTION 18-2-422, MCA, IS AMENDED TO READ:

3 "18-2-422. Bid specification and--contract to contain
4 prevailing wage rate provision -- wage rates included in
5 contract. All bid specifications and--contr.cts for public
6 works projects must contain a provision-stating-for-each-job
7 classification statement requiring, for each job
8 classification, payment of the prevailing wage rate as
9 developed by the commissioner, including fringe benefits,
10 that the contractors and subcontractors must pay during
11 construction of the project. The prevailing wage rate must
12 be included as a contractual provision in all contracts let
13 for public works projects."

14 **Section 3.** Section 18-2-423, MCA, is amended to read:

15 "18-2-423. Submission of payroll records. THE PUBLIC
16 CONTRACTING AGENCY SHALL REQUIRE ALL THE CONTRACTORS ON THE
17 PROJECT TO SUBMIT TO IT CERTIFIED COPIES OF THE PAYROLL
18 RECORDS FOR WORKERS EMPLOYED ON THAT PROJECT. IF A COMPLAINT
19 IS FILED WITH THE DEPARTMENT ALLEGING NONCOMPLIANCE WITH
20 18-2-403(1) THROUGH (3) OR 18-2-422, THE if-a-complaint-is
21 filed--with--the--department--alleging--noncompliance--with
22 18-2-422 18-2-403(1)--through--(3)--the THE department may
23 SHALL require the project CONTRACTING AGENCY to submit to it
24 certified copies of the payroll records for workers employed
25 on that project."

1 NEW-SECTION--Section-4--Repealer--Section--18-2-422,

2 MCA--is-repealed.

3 NEW SECTION. Section 4. Effective date. [This act] is

4 effective on passage and approval.

-End-