

1 House BILL NO. 175
2 INTRODUCED BY Magnus W. Baith
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
5 87-136, R.C.M. 1947, BY CHANGING THE WORD "COMMISSION" TO
6 "DIVISION" AND BY CHANGING THE WORDS "CHAIRMAN OF THE
7 COMMISSION" TO "ADMINISTRATOR" AND BY PROVIDING FOR
8 WITHHOLDING FINAL PAYMENT BY CONTRACTORS TO SUBCONTRACTORS
9 UNTIL THE SUBCONTRACTORS HAVE EITHER PAID CONTRIBUTIONS DUE
10 THE EMPLOYMENT SECURITY DIVISION, MONTANA STATE DEPARTMENT
11 OF LABOR AND INDUSTRY OR UNTIL A BOND IS FURNISHED TO AND
12 ACCEPTABLE BY THE ADMINISTRATOR OF THE DIVISION."
13

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

15 Section 1. Section 87-136, R.C.M. 1947, is amended to
16 read as follows:

17 "87-136. Collection--reciprocity with other states in
18 effecting collection of unpaid unemployment compensation
19 taxes. (1) ~~(a)~~ If, after due notice, any employer defaults
20 in any payment of contributions or interest thereon, the
21 amount due shall be collected by civil action in the name of
22 the commission division, and the employer adjudged in
23 default shall pay the costs of such action. Civil actions
24 brought under this section to collect contributions or
25 interest thereon from an employer shall be heard by the

1 court at the earliest possible date and shall be entitled to
2 preference upon the calendar of the court over all other
3 civil actions except petitions for judicial review under
4 this act and cases arising under the workmen's compensation
5 law of this state. Action for the collection of
6 contributions due shall be brought within five (5) years
7 after the due date of such contributions, otherwise to be
8 barred as provided in section 93-2604.

9 (2) ~~(a)~~ The courts of this state shall recognize and
10 enforce liabilities for unemployment contributions imposed
11 by other states which extend a like comity to this state.
12 The commission division is hereby empowered to sue in the
13 courts of any other jurisdiction which extends such comity,
14 to collect unemployment contributions and interest due this
15 state. The officials of other states which by statute or
16 otherwise extend a like comity to this state may sue in the
17 courts of this state, to collect for such contributions and
18 interest and penalties, if any, due such state; in any such
19 case the ~~chairman--of--the--commission--of--this--state~~
20 administrator may through his attorney or attorneys
21 institute and conduct such suit for such other state. Venue
22 of such proceedings shall be the same as for actions to
23 collect delinquent contributions, penalties and interest due
24 under this act. A certificate by the secretary of any such
25 state under the great seal of such state attesting the

1 authority of such official or officials to collect
2 unemployment compensation contributions, penalties and
3 interest shall be conclusive evidence of such authority.

4 (3) Any contractor, who is or becomes an employer
5 under the provisions of this act, who contracts with any
6 subcontractor, who also is or becomes an employer under the
7 provisions of this act, shall withhold sufficient money on
8 the contract to guarantee that all contributions, penalties,
9 and interest are paid upon completion of the contract, or
10 shall require of the subcontractor a good and sufficient
11 bond guaranteeing payment of all contributions, penalties
12 and interest due or to become due with respect to wages paid
13 for employment on the contract. Failure to comply with the
14 provisions of this section shall render the contractor
15 directly liable for all contributions, penalties and
16 interest due from the subcontractor and the administrator
17 has all of the remedies of collection against the contractor
18 under the provisions of this act as though the services in
19 question were performed directly for the contractor."

-End-

Approved by Committee
on Business and Industry

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12 ~~ACCEPTABLE BY THE ADMINISTRATOR OF THE DIVISION~~ AND
13 PROVIDING FOR CERTIFICATION OF COMPLIANCE TO BE ISSUED BY
14 THE DIVISION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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20 effecting collection of unpaid unemployment compensation
21 taxes. (1) ~~(a)~~ If, after due notice, any employer defaults
22 in any payment of contributions or interest thereon, the
23 amount due shall be collected by civil action in the name of
24 the commission division, and the employer adjudged in
25 default shall pay the costs of such action. Civil actions

1 brought under this section to collect contributions or
2 interest thereon from an employer shall be heard by the
3 court at the earliest possible date and shall be entitled to
4 preference upon the calendar of the court over all other
5 civil actions except petitions for judicial review under
6 this act and cases arising under the workmen's compensation
7 law of this state. Action for the collection of
8 contributions due shall be brought within five (5) years
9 after the due date of such contributions, otherwise to be
10 barred as provided in section 93-2604.

11 (2) ~~(b)~~ The courts of this state shall recognize and
12 enforce liabilities for unemployment contributions imposed
13 by other states which extend a like comity to this state.
14 The commission division is hereby empowered to sue in the
15 courts of any other jurisdiction which extends such comity,
16 to collect unemployment contributions and interest due this
17 state. The officials of other states which by statute or
18 otherwise extend a like comity to this state may sue in the
19 courts of this state, to collect for such contributions and
20 interest and penalties, if any, due such state; in any such
21 case the ~~chairman--of--the--commission--of--this--state~~
22 administrator may through his attorney or attorneys
23 institute and conduct such suit for such other state. Venue
24 of such proceedings shall be the same as for actions to
25 collect delinquent contributions, penalties and interest due

1 under this act. A certificate by the secretary of any such
 2 state under the great seal of such state attesting the
 3 authority of such official or officials to collect
 4 unemployment compensation contributions, penalties and
 5 interest shall be conclusive evidence of such authority.

6 (3) Any contractor, who is or becomes an employer
 7 under the provisions of this act, who contracts with any
 8 subcontractor, who also is or becomes an employer under the
 9 provisions of this act, shall withhold sufficient money on
 10 the contract to guarantee that all contributions, penalties,
 11 and interest are paid upon completion of the contract,--or
 12 shall--require--of--the--subcontractor--a--good--and--sufficient
 13 bond--guaranteeing--payment--of--all--contributions,--penalties
 14 and--interest--due--or--to--become--due--with--respect--to--wages--paid
 15 for--employment--on--the--contract. IT SHALL BE THE DUTY OF ANY
 16 SUBCONTRACTOR WHO IS OR BECOMES AN EMPLOYER UNDER THE
 17 PROVISIONS OF THIS ACT, TO FURNISH THE CONTRACTOR WITH A
 18 CERTIFICATION ISSUED BY THE EMPLOYMENT SECURITY DIVISION
 19 STATING THAT SAID SUBCONTRACTOR IS CURRENT AND IN FULL
 20 COMPLIANCE WITH THE PROVISIONS OF THIS ACT. Failure to
 21 comply with the provisions of this section shall render the
 22 contractor directly liable for all contributions, penalties
 23 and interest due from the subcontractor and the
 24 administrator has all of the remedies of collection against
 25 the contractor under the provisions of this act as though

1 the services in question were performed directly for the
 2 contractor."

3 SECTION 2. THIS ACT IS EFFECTIVE ON ITS PASSAGE AND
 4 APPROVAL.

-End-

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19 courts of this state, to collect for such contributions and
20 interest and penalties, if any, due such state; in any such
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6 (3) Any contractor, who is or becomes an employer
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 12 shall--require--of--the--subcontractor--a--good--and--sufficient
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 16 SUBCONTRACTOR WHO IS OR BECOMES AN EMPLOYER UNDER THE
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 22 contractor directly liable for all contributions, penalties
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1 the services in question were performed directly for the
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-End-

March 4, 1975

SENATE COMMITTEE ON BUSINESS AND INDUSTRY

AMENDMENTS TO HOUSE BILL NO. 175

That House Bill No. 175, third reading, be amended as follows:

1. Amend title, line 14.
Following: "DIVISION"
Strike: "; and providing an immediate effective date"
2. Amend page 3, section 1, line 18.
Following: "DIVISION"
Insert: ", prior to final payment for the particular job,"
3. Amend page 3, section 1, line 23.
Following: "subcontractor"
Insert: "on the particular job"
4. Amend page 4, section 2, line 2.
Following: line 2
Strike: Section 2 in its entirety

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16 SUBCONTRACTOR WHO IS OR BECOMES AN EMPLOYER UNDER THE
17 PROVISIONS OF THIS ACT, TO FURNISH THE CONTRACTOR WITH A
18 CERTIFICATION ISSUED BY THE EMPLOYMENT SECURITY DIVISION,
19 PRIOR TO FINAL PAYMENT FOR THE PARTICULAR JOB, STATING THAT
20 SAID SUBCONTRACTOR IS CURRENT AND IN FULL COMPLIANCE WITH
21 THE PROVISIONS OF THIS ACT. Failure to comply with the
22 provisions of this section shall render the contractor
23 directly liable for all contributions, penalties and
24 interest due from the subcontractor ON THE PARTICULAR JOB
25 and the administrator has all of the remedies of collection

1 against the contractor under the provisions of this act as
2 though the services in question were performed directly for
3 the contractor."

4 ~~SECTION 2,--THIS--ACT--IS--EFFECTIVE--04--176--PASSAGE--AND~~
5 APPROVAL.

-End-