

1 House BILL NO. 428
2 INTRODUCED BY Line MUIAR Luebeck

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4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
5 41-701, R.C.M. 1947; PROVIDING FOR PROCEDURES FOR COMPLIANCE
6 WITH SECTION 41-701; AND PROVIDING PROCEDURES TO INSURE
7 PAYMENT OF STANDARD PREVAILING RATES OF WAGES UNDER PUBLIC
8 WORKS CONTRACTS AND PENALTIES FOR NONPAYMENT."

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

11 Section 1. Section 41-701, R.C.M. 1947, is amended to
12 read as follows:

13 "41-701. Preference of Montana labor in public
14 works--wage scale--not to conflict with federal statutes. In
15 all contracts hereafter let for state, county, municipal,
16 school, heavy highway or municipal construction, services,
17 repair and maintenance work or private construction
18 undertaken in any way with public funds under any of the
19 laws of this state there shall be inserted in each of said
20 contracts a provision by which the contractor must give
21 preference to the employment of bona fide Montana residents
22 in the performance of said work, and that the said
23 contractor must further pay the standard prevailing rate of
24 wages including fringe benefits for health and welfare and
25 pension contributions, and travel allowance provisions in

1 effect and applicable to the county or locality in which the
2 work is being performed. "Standard prevailing rate of wages
3 including fringe benefits for health and welfare and pension
4 contributions, and travel allowance provisions, applicable
5 to the county or locality in which the work is being
6 performed," means those wages including fringe benefits for
7 health and welfare and pension contributions, and travel
8 allowance provisions which are paid in the county or
9 locality by other contractors for work of a similar
10 character performed in that county or locality by each
11 craft, classification or type of workman needed to complete
12 a contract under this act. When work of a similar character
13 is not being performed in the county or locality, the
14 standard prevailing rate of wages including fringe benefits
15 for health and welfare and pension contributions, and travel
16 allowance provisions shall be those rates established by
17 collective bargaining agreements in effect in the county or
18 locality for each craft, classification or type of workman
19 needed to complete the contract. No contract shall be let to
20 any person, firm, association or corporation refusing to
21 execute an agreement with the above-mentioned provisions in
22 it; provided that, in contracts involving the expenditure of
23 federal aid funds this act shall not be enforced in such a
24 manner as to conflict with or be contrary to the federal
25 statutes prescribing a labor preference to honorably

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1 discharged soldiers, sailors and marines, and prohibiting as
 2 unlawful any other preference or discrimination among
 3 citizens of the United States. All public works contracts
 4 under this act shall be approved in writing by the legal
 5 adviser of the contracting state, county, municipal
 6 corporation, school district, assessment district or special
 7 improvement district body or officer prior to execution by
 8 the contracting public officer or officers. ~~The Montana~~
 9 ~~commissioner of labor and industry shall undertake to keep~~
 10 ~~and maintain copies of collective bargaining agreements and~~
 11 ~~other information from which rates and jurisdictional areas~~
 12 ~~applicable to public works contracts under this act may be~~
 13 ~~ascertained.~~ Whenever the employer is not signatory party to
 14 a collective bargaining agreement, those moneys designated
 15 as negotiated fringe benefits shall be paid to the employee
 16 as wages."

17 Section 2. There is a new R.C.M. section numbered
 18 41-701.1 that reads as follows:

19 41-701.1 Commissioner to determine prevailing rate.
 20 The Montana commissioner of labor and industry may determine
 21 and enforce the standard prevailing rate of wages in the
 22 county or locality in which the contract is to be performed.
 23 The commissioner shall undertake to keep and maintain copies
 24 of collective bargaining agreements and other information
 25 from which rates and jurisdictional areas applicable to

1 public works contracts under this act may be ascertained.

2 Section 3. There is a new R.C.M. section numbered
 3 41-701.2 that reads as follows:

4 41-701.2. Wage statement posted. Contractors,
 5 subcontractors and employers who are performing work or
 6 providing services under public works contracts as provided
 7 in this act shall post in a prominent and accessible site on
 8 the project or work area, not later than the first day of
 9 work, a legible statement of all wages to be paid to the
 10 employees employed on such site or work area.

11 Section 4. There is a new R.C.M. section numbered
 12 41-701.3 that reads as follows:

13 41-701.3. Penalty. A contractor, subcontractor or
 14 employer who pays his workmen or employees at less than the
 15 standard prevailing wage as established under the public
 16 works contract shall forfeit to the contracting agency the
 17 sum of twenty-five dollars (\$25) per day for each workman so
 18 underpaid. Whenever it appears to the contracting agency or
 19 to the Montana commissioner of labor that there are
 20 insufficient moneys due to the contractor or the employer
 21 under the terms of the contract to cover such penalties, the
 22 Montana commissioner of labor may within ninety (90) days
 23 after the filing of notice of completion of the project and
 24 its acceptance by the contracting agency, maintain an action
 25 in district court to recover all such penalties and

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1 forfeitures due. Nothing in this act shall prevent the
2 individual workman who have been underpaid from maintaining
3 an action for recovery of the wages due him under the
4 contract as provided in chapter 13 of this title.

-End-

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