

HOUSE BILL NO. 443

INTRODUCED BY KIMBLE, MULAR, LUEBECK, BRAND, GILLIGAN,
JOHNSON

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

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

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

"41-701. Preference of Montana labor in public
works--wage scale--not to conflict with federal statutes. In
all contracts hereafter let for state, county, municipal,
school, heavy highway or municipal construction, services,
repair and maintenance work or private construction
undertaken in any way with public funds under any of the
laws of this state there shall be inserted in each of said
contracts a provision by which the contractor must give
preference to the employment of bona fide Montana residents
in the performance of said work, and that the said
contractor must further pay the standard prevailing rate of

pension contributions, and travel allowance provisions in
effect and applicable to the county or locality in which the
work is being performed. "Standard prevailing rate of wages
including fringe benefits for health and welfare and pension
contributions, and travel allowance provisions, applicable
to the county or locality in which the work is being
performed," means those wages including fringe benefits for
health and welfare and pension contributions, and travel
allowance provisions which are paid in the county or
locality by other contractors for work of a similar
character performed in that county or locality by each
craft, classification or type of workman needed to complete
a contract under this act. When work of a similar character
is not being performed in the county or locality, the
standard prevailing rate of wages including fringe benefits
for health and welfare and pension contributions, and travel
allowance provisions shall be those rates established by
collective bargaining agreements in effect in the county or
locality for each craft, classification or type of workman
needed to complete the contract. No contract shall be let to
any person, firm, association or corporation refusing to
execute an agreement with the above-mentioned provisions in
it; provided that, in contracts involving the expenditure of
federal aid funds this act shall not be enforced in such a
manner as to conflict with or be contrary to the federal

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

18 (1) The Montana commissioner of labor may determine
 19 the standard prevailing rate of wages in the county or
 20 locality in which the contract is to be performed. The
 21 commissioner shall undertake to keep and maintain copies of
 22 collective bargaining agreements and other information from
 23 which rates and jurisdictional areas applicable to public
 24 works contracts under this act may be ascertained.

25 (2) Contractors, subcontractors, and employers who are

1 performing work or providing services under public works
 2 contracts as provided in this act shall post in a prominent
 3 and accessible site on the project or work area, not later
 4 than the first day of work, a legible statement of all wages
 5 to be paid to the employees employed on such site or work
 6 area.

7 (3) Any contractor, subcontractor or employer who
 8 shall pay his workmen or employees at less than the standard
 9 prevailing wage as established under the public works
 10 contract shall forfeit to the contracting agency the sum of
 11 twenty-five dollars (\$25) a day for each workman so
 12 underpaid. Whenever it shall appear to the contracting
 13 agency or to the Montana commissioner of labor that there
 14 are insufficient monies due to the contractor or the
 15 employer under the terms of the contract to cover such
 16 penalties, the Montana commissioner of labor may within
 17 ninety (90) days after the filing of notice of completion of
 18 the project and its acceptance by the contracting agency,
 19 maintain an action in district court to recover all such
 20 penalties and forfeitures due. Nothing in this section
 21 shall prevent the individual workman who has been underpaid
 22 from maintaining an action for recovery of the wages due him
 23 under the contract as provided in chapter 13 of this Title."

-End-

Approved by Committee
on Labor & Employment
Relations

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in the performance of said work, and that the said
contractor must further 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 county or locality in which the
work is being performed. "Standard prevailing rate of wages
including fringe benefits for health and welfare and pension
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to the county or locality in which the work is being
performed," means those wages including fringe benefits for
health and welfare and pension contributions, and travel
allowance provisions which are paid in the county or
locality by other contractors for work of a similar
character performed in that county or locality by each
craft, classification or type of ~~workman~~ WORKER needed to
complete a contract under this act. When work of a similar
character is not being performed in the county or locality,
the standard prevailing rate of wages including fringe
benefits for health and welfare and pension contributions,
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type of ~~workman~~ WORKER needed to complete the contract. No
contract shall be let to any person, firm, association or
corporation refusing to execute an agreement with the
above-mentioned provisions in it; provided that, in
contracts involving the expenditure of federal aid funds

1 this act shall not be enforced in such a manner as to
 2 conflict with or be contrary to the federal statutes
 3 prescribing a labor preference to honorably discharged
 4 soldiers, sailors and marines, and prohibiting as unlawful
 5 any other preference or discrimination among citizens of the
 6 United States. All public works contracts under this act
 7 shall be approved in writing by the legal adviser of the
 8 contracting state, county, municipal corporation, school
 9 district, assessment district or special improvement
 10 district body or officer prior to execution by the
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 12 ~~commissioner--of--labor-and-industry-shall-undertake-to-keep~~
 13 ~~and-maintain-copies-of-collective-bargaining-agreements--and~~
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 16 ~~ascertained.~~ Whenever the employer is not signatory party to
 17 a collective bargaining agreement, those moneys designated
 18 as negotiated fringe benefits shall be paid to the employee
 19 as wages.

20 (1) The Montana commissioner of labor may determine
 21 the standard prevailing rate of wages in the county or
 22 locality in which the contract is to be performed. The
 23 commissioner shall undertake to keep and maintain copies of
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1 works contracts under this act may be ascertained.
 2 (2) Contractors, subcontractors, and employers who are
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 7 to be paid to the employees employed on such site or work
 8 area.
 9 (3) Any contractor, subcontractor or employer who
 10 shall pay his-workmen WORKERS or employees at less than the
 11 standard prevailing wage as established under the public
 12 works contract shall forfeit to the contracting agency the
 13 sum of twenty-five dollars (\$25) a day for each workman
 14 WORKER so underpaid. Whenever it shall appear to the
 15 contracting agency or to the Montana commissioner of labor
 16 that there are insufficient monies due to the contractor or
 17 the employer under the terms of the contract to cover such
 18 penalties, the Montana commissioner of labor may within
 19 ninety (90) days after the filing of notice of completion of
 20 the project and its acceptance by the contracting agency,
 21 maintain an action in district court to recover all such
 22 penalties and forfeitures due. Nothing in this section
 23 shall prevent the individual workman WORKER who has been
 24 underpaid from maintaining an action for recovery of the
 25 wages due him under the contract as provided in chapter 13

HB 0443/02

1 of this Title."

-End-

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3 JOHNSON

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5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
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22 contract shall be let to any person, firm, association or
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24 above-mentioned provisions in it; provided that, in
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 24 underpaid from maintaining an action for recovery of the
 25 wages due him under the contract as provided in chapter 13

1 of this Title."

-End-

March 21, 1975

SENATE COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS
AMENDMENTS TO HOUSE BILL NO. 443

That House Bill No. 443, third reading, be amended as follows:

1. Amend title, line 10.
Following: "NONPAYMENT"
Insert: "; and providing an immediate effective date"
2. Amend page 5, section 1, line 1.
Following: line 1
Insert: "(4) The provisions of this act do not apply in those instances where the standard prevailing rate of wages is determined pursuant to federal law.

(5) In no instances where this act is applicable shall the standard prevailing rate of wage be determined to be greater than the applicable rate of wage in the area for the particular work in question as negotiated under existing and current collective bargaining agreements.

Section 2. This act is effective on its passage and approval."

March 26, 1975

SENATE COMMITTEE OF THE WHOLE

AMENDMENTS TO HOUSE BILL NO. 443

That House Bill No. 443, third reading, be amended as follows:

1. Amend page 1, section 1, lines 19 and 20.

Following: "work"

Strike: "or private construction undertaken in any way
with public funds"

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REFERENCE BILL

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 24 shall prevent the individual workman WORKER who has been
 25 underpaid from maintaining an action for recovery of the

1 wages due him under the contract as provided in chapter 13
2 of this Title.

3 (4) THE PROVISIONS OF THIS ACT DO NOT APPLY IN THOSE
4 INSTANCES WHERE THE STANDARD PREVAILING RATE OF WAGES IS
5 DETERMINED PURSUANT TO FEDERAL LAW.

6 (5) IN NO INSTANCES WHERE THIS ACT IS APPLICABLE SHALL
7 THE STANDARD PREVAILING RATE OF WAGE BE DETERMINED TO BE
8 GREATER THAN THE APPLICABLE RATE OF WAGE IN THE AREA FOR THE
9 PARTICULAR WORK IN QUESTION AS NEGOTIATED UNDER EXISTING AND
10 CURRENT COLLECTIVE BARGAINING AGREEMENTS."

11 SECTION 2. THIS ACT IS EFFECTIVE ON ITS PASSAGE AND
12 APPROVAL.

-End-