

1 Senate BILL NO. 398
 2 INTRODUCED BY *Hyatt Blaylock* *YNCH Robert*
 3 *Lee Brown* *Jas. Barber* *Norman McHenry*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CONTRACTORS *Healy Murphy*
 5 TO ACQUIRE SURETY BONDS TO INSURE WORKERS' WAGES." *Low*

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

7 Section 1. Definitions. As used in this act unless
8 the context clearly requires otherwise:

9 (1) "Commissioner" means the commissioner of labor and
10 industry.

11 (2) "Contractor" means any person, firm, association,
12 or corporation engaged in the construction business.

13 Section 2. Contractors -- bond required for wages.

14 (1) Any contractor who contracts with another to do any
15 work or perform any services for the other, except personal
16 services of the contractor not involving work of hired
17 employees, shall furnish a surety bond to the other which
18 shall be:

19 (a) approved by the commissioner;

20 (b) in an amount equal to the contractor's monthly
21 payroll as estimated by the commissioner;

22 (c) in the name of the state of Montana;

23 (d) for the purpose of insuring the wages of all
24 workers employed by the contractor for the contracted work;
25

1 (e) filed with the commissioner within one (1) week
2 of the making of the contract or the commencement of work
3 thereunder.

4 (2) Any person contracting with a contractor who fails
5 to require the contractor to acquire the surety bond
6 provided for in subsection (1) is liable to the employees of
7 that contractor for their wages on that particular job.

8 Section 3. Employees -- right to sue on bond. Any
9 employee employed by a contractor may bring an action on the
10 surety bond in his own name for unpaid wages.

11 Section 4. Powers of commissioner. The commissioner
12 shall promulgate any rules necessary to carry out the
13 provisions of this act.

-End-

Approved by Committee
on Labor & Employment
Relations

1 SENATE BILL NO. 398
2 INTRODUCED BY HAZELBAKER, BLAYLOCK, LYNCH, ROBERTS, LEE,
3 BROWN, FASBENDER, NORMAN, MEHRENS, HEALY, MURPHY,
4 MC CALLUM, R. SMITH, TOWE
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CONTRACTORS
7 TO ACQUIRE SURETY BONDS TO INSURE WORKERS' WAGES AND FRINGE
8 BENEFITS; AND PROVIDING FOR EXCEPTIONS."
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16 or corporation engaged in the construction business.

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18 FRINGE BENEFITS. (1) Any contractor who contracts with
19 another to do any work or perform any services for the
20 other, except personal services of the contractor not
21 involving work of hired employees, shall furnish a surety
22 bond OR OTHER FORM OF SECURITY to the other which shall be:

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- 24 (b) in an amount equal to the contractor's AVERAGE
25 monthly payroll as estimated by the commissioner;

- 1 (c) in the name of the state of Montana;
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3 BENEFITS of all workers employed by the contractor for the
4 contracted work;

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8 (2) Any person contracting with a contractor who fails
9 to require the contractor to acquire the surety bond
10 provided for in subsection (1) is liable to the employees of
11 that contractor for their wages AND FRINGE BENEFITS on that
12 particular job.

13 (3) ONLY ONE (1) BOND SHALL BE REQUIRED ON ANY
14 CONTRACTOR FOR EACH YEAR AND WHEN THE BOND IS FILED WITH,
15 AND APPROVED BY, THE COMMISSIONER, THE COMMISSIONER SHALL
16 CERTIFY TO ANY PERSON CONTRACTING WITH A CONTRACTOR THAT THE
17 BOND IS IN FULL FORCE AND EFFECT.

18 Section 3. Employees -- right to sue on bond. Any
19 employee employed by a contractor may bring an action on the
20 surety bond in his own name for unpaid wages AND FRINGE
21 BENEFITS.

22 SECTION 4. EXCEPTIONS. (1) THE PROVISIONS OF THIS
23 ACT DO NOT APPLY TO ANY RESIDENT CONTRACTOR WHO PRESENTS TO
24 THE COMMISSIONER A FINANCIAL STATEMENT CERTIFIED BY A
25 LICENSED CERTIFIED PUBLIC ACCOUNTANT ATTESTING TO A NET

1 WORTH OF THE CONTRACTOR IN EXCESS OF FIFTY THOUSAND DOLLARS
2 (\$50,000).

3 (2) FOR PURPOSES OF THIS ACT A RESIDENT CONTRACTOR
4 MEANS ANY PERSON WHO IS A BONA FIDE RESIDENT OF THIS STATE;
5 ANY PARTNERSHIP OR ASSOCIATION, THE MAJORITY OF WHOSE
6 MEMBERS ARE BONA FIDE RESIDENTS OF THIS STATE; OR ANY
7 CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE
8 STATE OF MONTANA.

9 Section 5. Powers of commissioner. The commissioner
10 shall promulgate any rules necessary to carry out the
11 provisions of this act.

12 SECTION 6. SEVERABILITY. IT IS THE INTENT OF THE
13 LEGISLATURE THAT IF A PART OF THIS ACT IS INVALID, ALL VALID
14 PARTS THAT ARE SEVERABLE FROM THE INVALID PART, SHALL REMAIN
15 IN FORCE AND EFFECT.

-End-

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REFERENCE BILL

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