

SENATE BILL 8

IN THE SENATE

January 22, 1979	Introduced and referred to Committee on Labor and Employment Relations.
February 13, 1979	Committee recommend bill, as amended.
February 14, 1979	Printed and placed on members' desks.
February 15, 1979	Second reading, as amended.
February 17, 1979	Considered correctly engrossed.
February 19, 1979	Third reading, not passed.

1 Senate BILL NO. 8
 2 INTRODUCED BY Don Low

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE STANDARD
 5 PREVAILING RATE OF WAGES TO BE CONSISTENT WITH FEDERAL LAW;
 6 EXEMPTING STATE CONTRACTS UNDER \$50,000; AMENDING SECTIONS
 7 18-2-401 THROUGH 18-2-403, MCA."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 18-2-401, MCA, is amended to read:
 11 "18-2-401. Definitions. (1) "Labor" is hereby defined
 12 to be all services performed in the construction, repair, or
 13 maintenance of all state, county, municipal, and school work
 14 and does not include engineering, superintendence,
 15 management, or office or clerical work.

16 (2) A "bona fide resident of Montana" is hereby
 17 declared to be a person who, at the time of his employment
 18 and immediately prior thereto, has lived in this state in
 19 such a manner and for such time as is sufficient to clearly
 20 justify the conclusion that his past habitation in this
 21 state has been coupled with intention to make it his home.
 22 Sojourners or persons who come to Montana solely in
 23 pursuance of any contract or agreement to perform such labor
 24 shall under no circumstance be deemed to be bona fide
 25 residents of Montana within the meaning and for the purpose

1 of this part.

2 ~~(3) "Locality" means a county within the boundaries of~~
 3 ~~the state of Montana.~~

4 ~~(3)(4)~~ (a) "Standard prevailing rate of wages,
 5 including fringe benefits for health and welfare and pension
 6 contributions and travel allowance provisions applicable to
 7 ~~the county or~~ a locality in which the work is being
 8 performed", means those wages, including fringe benefits for
 9 health and welfare and pension contributions and travel
 10 allowance provisions, which are paid in the ~~county or~~
 11 locality by other contractors for work of a similar
 12 character performed in that ~~county or~~ locality by each
 13 craft, classification, or type of worker needed to complete
 14 a contract under this part.

15 (b) When work of a similar character is not being
 16 performed in the ~~county or~~ locality, the standard prevailing
 17 rate of wages, including fringe benefits for health and
 18 welfare and pension contributions and travel allowance
 19 provisions, shall be those rates established by collective
 20 bargaining agreements in effect in the ~~county or~~ locality
 21 for each craft, classification, or type of worker needed to
 22 complete the contract."

23 Section 2. Section 18-2-402, MCA, is amended to read:
 24 "18-2-402. Standard prevailing rate of wages. (1) ~~The~~
 25 ~~Montana commissioner of labor may determine the standard~~

1 ~~prevailing rate of wages in the county or locality in which~~
 2 ~~the contract is to be performed. The commissioner shall~~
 3 ~~undertake to keep and maintain copies of collective~~
 4 ~~bargaining agreements and other information from which rates~~
 5 ~~and jurisdictional areas applicable to public works~~
 6 ~~contracts under this part may be ascertained. The standard~~
 7 prevailing rate of wages and fringe benefits established for
 8 a locality pursuant to the Davis-Bacon Act, 40 USC 276a, is
 9 the standard prevailing rate for all contracts let for bid
 10 by the state of Montana in that locality.

11 ~~(2) The provisions of this part do not apply in those~~
 12 ~~instances where the standard prevailing rate of wages is~~
 13 ~~determined pursuant to federal law. A state contract valued~~
 14 at less than \$50,000 is exempt from the standard prevailing
 15 rate of wages provisions of this part.

16 (3) In no instances where this part is applicable
 17 shall the standard prevailing rate of wage ~~wages~~ be
 18 determined to be greater than the applicable rate of wage
 19 ~~wages~~ in the ~~area~~ locality for the particular work in
 20 question as negotiated under existing and current collective
 21 bargaining agreements."

22 Section 3. Section 18-2-403, MCA, is amended to read:

23 "18-2-403. Preference of Montana labor in public works
 24 -- wages -- federal exception. (1) In all contracts
 25 hereafter let for state, county, municipal, school, or heavy

1 highway construction, services, repair, and maintenance work
 2 under any of the laws of this state there shall be inserted
 3 in each of said contracts a provision by which the
 4 contractor must give preference to the employment of bona
 5 fide Montana residents in the performance of said work and
 6 must further pay the standard prevailing rate of wages,
 7 including fringe benefits for health and welfare and pension
 8 contributions and travel allowance provisions in effect and
 9 applicable to the ~~county or~~ locality in which the work is
 10 being performed.

11 (2) No contract shall be let to any person, firm,
 12 association, or corporation refusing to execute an agreement
 13 with the above-mentioned provisions in it, provided that in
 14 contracts involving the expenditure of federal-aid funds
 15 this part shall not be enforced in such a manner as to
 16 conflict with or be contrary to the federal statutes
 17 prescribing a labor preference to honorably discharged
 18 soldiers, sailors, and marines and prohibiting as unlawful
 19 any other preference or discrimination among citizens of the
 20 United States."

-End-

Approved by Committee
on Labor & Employment
Relations

1 SENATE BILL NO. 8

2 INTRODUCED BY DOVER, LOWE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING--THE--STANDARD
5 PREVAILING--RATE--OF--WAGES--TO--BE--CONSISTENT--WITH--FEDERAL--LAW
6 TO CLARIFY CERTAIN DEFINITIONS RELATING TO THE STANDARD
7 PREVAILING RATE OF WAGES; EXEMPTING STATE CONTRACTS UNDER
8 \$50,000 FROM PROVISIONS OF PART 4 OF TITLE 18, CHAPTER 2;
9 AMENDING SECTIONS 18-2-401 THROUGH 18-2-403, MCA."

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

12 Section 1. Section 18-2-401, MCA, is amended to read:

13 "18-2-401. Definitions. (1) "Labor" is hereby defined
14 to be all services performed in the construction, repair, or
15 maintenance of all state, county, municipal, and school work
16 and does not include engineering, superintendence,
17 management, or office or clerical work.

18 (2) A "bona fide resident of Montana" is hereby
19 declared to be a person who, at the time of his employment
20 and immediately prior thereto, has lived in this state in
21 such a manner and for such time as is sufficient to clearly
22 justify the conclusion that his past habitation in this
23 state has been coupled with intention to make it his home.
24 Sojourners or persons who come to Montana solely in
25 pursuance of any contract or agreement to perform such labor

1 shall under no circumstance be deemed to be bona fide
2 residents of Montana within the meaning and for the purpose
3 of this part.

4 ~~(3) "Locality" means a county within the boundaries of~~
5 ~~the state of Montana.~~

6 ~~(3)(4)~~ (a) "Standard prevailing rate of wages,
7 including fringe benefits for health and welfare and pension
8 contributions and travel allowance provisions applicable to
9 the--county--or a locality in which the work is being
10 performed", means those wages, including fringe benefits for
11 health and welfare and pension contributions and travel
12 allowance provisions, which are paid in the county--or
13 locality by other contractors for work of a similar
14 character performed in that county--or locality by each
15 craft, classification, or type of worker needed to complete
16 a contract under this part.

17 (b) When work of a similar character is not being
18 performed in the county--or locality, the standard prevailing
19 rate of wages, including fringe benefits for health and
20 welfare and pension contributions and travel allowance
21 provisions, shall be those rates established by collective
22 bargaining agreements in effect in the county--or locality
23 for each craft, classification, or type of worker needed to
24 complete the contract."

25 Section 2. Section 18-2-402, MCA, is amended to read:

1 "18-2-402. Standard prevailing rate of wages. (1) The
 2 Montana--commissioner--of--labor--may--determine--the--standard
 3 prevailing--rate--of--wages--in--the--county--or--locality--in--which
 4 the--contract--is--to--be--performed. The commissioner shall
 5 undertake--to--keep--and--maintain--copies---of---collective
 6 bargaining--agreements--and--other--information--from--which--rates
 7 and--jurisdictional--areas---applicable--to--public--works
 8 contracts--under--this--part--may--be--ascertained. THE MONTANA
 9 COMMISSIONER OF LABOR MAY DETERMINE THE STANDARD PREVAILING
 10 RALE OF WAGES IN THE COUNTY OR LOCALITY IN WHICH THE
 11 CONTRACT IS TO BE PERFORMED. THE COMMISSIONER SHALL
 12 UNDERIAKE TO KEEP AND MAINTAIN COPIES OF COLLECTIVE
 13 BARGAINING AGREEMENTS AND OTHER INFORMATION FROM WHICH RATES
 14 AND JURISDICTIONAL AREAS APPLICABLE TO PUBLIC WORKS
 15 CONTRACTS UNDER THIS PART MAY BE ASCERTAINED. The--standard
 16 prevailing--rate--of--wages--and--fringe--benefits--established--for
 17 a--locality--pursuant--to--the--Davis--Bacon--Act--49--456--276a--is
 18 the--standard--prevailing--rate--for--all--contracts--let--for--bid
 19 by--the--state--of--Montana--in--that--locality.

20 (2) The--provisions--of--this--part--do--not--apply--in--those
 21 instances--where--the--standard--prevailing--rate--of--wages--is
 22 determined--pursuant--to--federal--law. THE PROVISIONS OF THIS
 23 PART DO NOT APPLY IN THOSE INSTANCES WHERE THE STANDARD
 24 PREVAILING RATE OF WAGES IS DETERMINED PURSUANT TO FEDERAL
 25 LAW. A state contract valued at less than \$50,000 is exempt

1 from the standard prevailing rate of wages provisions of
 2 this part.

3 (3) In no instances where this part is applicable
 4 shall the standard prevailing rate of wage wages be
 5 determined to be greater than the applicable rate of wage
 6 wages in the area locality for the particular work in
 7 question as negotiated under existing and current collective
 8 bargaining agreements."

9 Section 3. Section 18-2-403, MCA, is amended to read:
 10 "18-2-403. Preference of Montana labor in public works
 11 -- wages -- federal exception. (1) In all contracts
 12 hereafter let for state, county, municipal, school, or heavy
 13 highway construction, services, repair, and maintenance work
 14 under any of the laws of this state there shall be inserted
 15 in each of said contracts a provision by which the
 16 contractor must give preference to the employment of bona
 17 fide Montana residents in the performance of said work and
 18 must further pay the standard prevailing rate of wage,
 19 including fringe benefits for health and welfare and pension
 20 contributions and travel allowance provisions in effect and
 21 applicable to the county or locality in which the work is
 22 being performed.

23 (2) No contract shall be let to any person, firm,
 24 association, or corporation refusing to execute an agreement
 25 with the above-mentioned provisions in it, provided that in

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1 contracts involving the expenditure of federal-aid funds
2 this part shall not be enforced in such a manner as to
3 conflict with or be contrary to the federal statutes
4 prescribing a labor preference to honorably discharged
5 soldiers, sailors, and marines and prohibiting as unlawful
6 any other preference or discrimination among citizens of the
7 United States."

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9 the county or a locality in which the work is being
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9 COMMISSIONER OF LABOR MAY DETERMINE THE STANDARD PREVAILING
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25 LAW. A state contract valued at less than \$50,000 is exempt

1 ~~from--the--standard--prevailing--rate--of--wages--provisions--of~~
2 ~~this--part.~~

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4 shall the standard prevailing rate of wage wages be
5 determined to be greater than the applicable rate of wage
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-End-

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