

SENATE BILL 111

IN THE SENATE

|                  |   |
|------------------|---|
| January 16, 1979 | Introduced and referred to<br>Committee on Labor and<br>Employment Relations. |
| January 17, 1979 | Fiscal note requested.  |
| January 23, 1979 | Fiscal note returned.   |
| April 20, 1979   | Died in Committee.  |

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*Sen. Bill* BILL NO. 111  
*Don Alt*  
*Manley*

INTRODUCED BY \_\_\_\_\_

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROCEDURES FOR ESTABLISHING THE STANDARD PREVAILING RATE OF WAGES; AMENDING SECTIONS 18-2-401 AND 18-2-402, MCA."

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

NEW SECTION. Section 1. Prevailing wage survey. (1) The Montana commissioner of labor shall determine the standard prevailing rate of wages for a locality by conducting a prevailing wage survey.

(2) The prevailing wage survey of a locality shall consist of:

(a) the name and address of all available contractors domiciled, presently working, or having worked in the locality within the past 12 months;

(b) a description of the type of construction, location, cost, date construction began and was completed, or the percentage of completion of all available projects within the locality during the preceding 12 months;

(c) an employee classification by craft, including the number of individuals employed on all available projects within a locality during the preceding 12 months; and

(d) a description of fringe benefits, including health

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and welfare, pension, vacation, and apprenticeship training benefits, on all available projects within the locality during the preceding 12 months.

NEW SECTION. Section 2. Eligibility for requesting standard prevailing wage survey. Any city, town, county, bona fide construction trade association, construction trade union, registered architect, registered engineer, or architectural or engineering society which is located or maintains an office for doing business within the boundaries of the state of Montana may request a standard prevailing wage survey.

NEW SECTION. Section 3. Appeals procedure. The Montana commissioner of labor shall establish adequate appeals procedures which allow a party to challenge an established standard prevailing wage rate or standard prevailing wage survey.

Section 4. Section 18-2-401, MCA, is amended to read:

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

(2) A "bona fide resident of Montana" is hereby declared to be a person who, at the time of his employment and immediately prior thereto, has lived in this state in

1 such a manner and for such time as is sufficient to clearly  
 2 justify the conclusion that his past habitation in this  
 3 state has been coupled with intention to make it his home.  
 4 Sojourners or persons who come to Montana solely in  
 5 pursuance of any contract or agreement to perform such labor  
 6 shall under no circumstance be deemed to be bona fide  
 7 residents of Montana within the meaning and for the purpose  
 8 of this part.

9 ~~(3) "Locality" means a county, city, or town within~~  
 10 ~~the boundaries of the state of Montana.~~

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

22 (b) When work of a similar character is not being  
 23 performed in the county or locality, the standard prevailing  
 24 rate of wages, including fringe benefits for health and  
 25 welfare and pension contributions and travel allowance

1 provisions, shall be those rates established by collective  
 2 bargaining agreements in effect in the county or locality  
 3 for each craft, classification, or type of worker needed to  
 4 complete the contract.

5 ~~(5) "Prevailing wage survey" means the survey~~  
 6 ~~conducted by the Montana commissioner of labor.~~

7 ~~(6) "Arithmetic average" means the total of all basic~~  
 8 ~~hourly wage rates paid in one job classification divided by~~  
 9 ~~the total employees in that job classification."~~

10 Section 5. Section 18-2-402, MCA, is amended to read:

11 "18-2-402. Standard prevailing rate of wages. (1) The  
 12 Montana commissioner of labor may determine the standard  
 13 prevailing rate of wages in the county or locality in which  
 14 the contract is to be performed. The commissioner shall  
 15 ~~undertake---to---keep---and---maintain---copies---of---collective~~  
 16 ~~bargaining---agreements---and---other---information---from---which---rates~~  
 17 ~~and---jurisdictional---areas---applicable---to---public---works~~  
 18 ~~contracts---under---this---part---may---be---ascertained. use the~~  
 19 ~~following procedures in determining the standard prevailing~~  
 20 ~~wage rate, fringe benefits, and travel allowances for a~~  
 21 ~~locality:~~

22 ~~(a) The standard prevailing wage rate and fringe and~~  
 23 ~~travel benefits of a locality shall be determined by~~  
 24 ~~utilizing the arithmetic average of the basic wage rates and~~  
 25 ~~basic fringe and travel benefits, by craft, found to be~~

1 ~~prevailing in the locality.~~

2 ~~(b) When no fringe or travel benefits are found to~~  
3 ~~prevail in a locality, the commissioner shall so certify.~~

4 ~~(c) When a state contract is advertised for bid with~~  
5 ~~wage rates or fringe benefits that are higher than those~~  
6 ~~actually being paid in the locality and the commissioner is~~  
7 ~~contacted by mail 7 calendar days prior to the bid award~~  
8 ~~date by a party eligible to challenge the wage rate in the~~  
9 ~~contract, the commissioner shall withdraw the contract from~~  
10 ~~bidding and determine the standard prevailing wage rate of~~  
11 ~~the locality by conducting a standard prevailing wage~~  
12 ~~survey.~~

13 ~~(d) When a state contract is advertised for bid and~~  
14 ~~contains no standard prevailing wage rate and the~~  
15 ~~commissioner is contacted by mail 7 calendar days prior to~~  
16 ~~the bid award date by a party eligible to challenge the wage~~  
17 ~~rate in the contract, the commissioner shall withdraw the~~  
18 ~~contract from bidding and determine the standard prevailing~~  
19 ~~wage rate of the locality by conducting a standard~~  
20 ~~prevailing wage survey.~~

21 ~~(e) In reaching a final standard prevailing wage rate~~  
22 ~~determination, the commissioner may use wage information~~  
23 ~~gathered by his department or by a party eligible to~~  
24 ~~challenge the standard prevailing wage rate of a locality~~  
25 ~~when the wage information meets the requirements of [section~~

1 ~~[(2)].~~

2 ~~(f) When a standard prevailing wage rate has been~~  
3 ~~established in a locality, the rate shall prevail for 12~~  
4 ~~months.~~

5 ~~(g) The commissioner may utilize other methods for~~  
6 ~~determining a standard prevailing wage rate when no~~  
7 ~~contractors are found to be domiciled, presently working, or~~  
8 ~~having worked in a locality within the preceding 12 months.~~

9 (2) The provisions of this part do not apply in those  
10 instances where the standard prevailing rate of wages is  
11 determined pursuant to federal law.

12 (3) In no instances where this part is applicable  
13 shall the standard prevailing rate of wage be determined to  
14 be greater than the applicable rate of wage in the area for  
15 the particular work in question as negotiated under existing  
16 and current collective bargaining agreements."

-End-

SB III

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 17, 19 79, there is hereby submitted a Fiscal Note for Senate Bill 111 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

## DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 111 is an act revising the procedures for establishing the standard prevailing rate of wages.

## ASSUMPTIONS:

1. The Act would be effective July 1, 1979.
2. Costs are based on surveying 1793 licensed contractors and making 1200 wage determinations annually.
3. Staff required will be as follows:
  - Four Grade 11, Step 1 - Compliance Officers;
  - Four Grade 12, Step 1 - Compliance Officers;
  - One Grade 13, Step 1 - Compliance Officer; and
  - One Grade 8, Step 1 - Word processing operator
4. Each staff member will travel 850 miles per week.
5. One FTE position will be added to the Centralized Services Program.
6. Personal services will increase 6% each year.

## FISCAL IMPACT:

|   | <u>FY 1980</u>   | <u>FY 1981</u>   |
|---|------------------|------------------|
| Personal Services                         | \$ 146,182       | \$154,953        |
| Operating Expenses                        | <u>147,006</u>   | <u>152,826</u>   |
| Total Expenditures Under Proposed Law     | 293,188          | 307,779          |
| Less: Expenditures Under Current Law      | <u>11,470</u>    | <u>12,158</u>    |
| Increased Expenditures Under Proposed Law | <u>\$281,718</u> | <u>\$295,621</u> |

The above costs will be funded from the State General Fund.

## LONG-TERM IMPACT:

The number of FTE positions required perhaps can be reduced after two years. This assumes that a backlog of work does not accumulate.

*Richard L. Dwyer*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/22/79