HOUSE BILL NO. 387

INTRODUCED BY ADDY

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

IN THE HOUSE

January 23, 1985	Introduced and referred to Committee on Business and Labor.
February 6, 1985	Fiscal Note requested.
February 8, 1985	Committee recommend bill do pass. Report adopted.
	Statement of Intent attached.
February 9, 1985	Bill printed and placed on members' desks.
	Second reading, pass consideration.
	On motion, taken from second reading and rereferred to Committee on Business and Labor.
February 12, 1985	Fiscal Note returned.
February 23, 1985	Committee recommend bill do pass. Report adopted.
,	Statement of Intent amended.
February 25, 1985	Bill printed and placed on members' desks.
February 26, 1985	Second reading, do pass.
	Considered correctly engrossed.
February 27, 1985	Third reading, passed.
	Transmitted to Senate.

IN THE SENATE

March 5, 1985

March 13, 1985

March 15, 1985

March 18, 1985

Introduced and referred to Committee on Labor and Employment Relations.

Committee recommend bill be concurred in. Report adopted.

Second reading, concurred in.

Third reading, concurred in. Ayes, 49; Noes, 0.

Returned to House.

IN THE HOUSE

March 19, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 387 1 2 INTRODUCED BY BY REQUEST OF THE 3 DEPARTMENT OF LABOR AND INDUSTRY 4 5 6 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE 7 COMMISSIONER LABOR AND INDUSTRY TO ADOPT RULES OF 8 IMPLEMENTING LAWS GOVERNING CERTAIN PUBLIC WORKS CONTRACTS; 9 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." 10 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 Section 1. Rulemaking authority. The commissioner may 13 adopt rules necessary to implement this part. 14 Section 2. Codification instruction. Section 1 is 15 intended to be codified as an integral part of Title 18, 16 chapter 2, part 4, and the provisions of Title 18, chapter 17 2, part 4, apply to section 1. 18 Section 3. Effective date. This act is effective on 19 passage and approval. -End-

> INTRODUCED BILL HB387

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STATE OF MONTANA

REQUEST NO. FNN 347-85

FISCAL NOTE

Form BD-15

In compliance with a written request received February 6, 19 85 , there is hereby submitted a pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Fiscal Note for H.B. 387 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:

An act to allow the Commissioner of Labor and Industry to adopt rules governing certain public works contracts.

ASSUMPTIONS:

1) Estimated there would be six rule making and six rate setting hearings in Fiscal Year 1986.

2) Estimated there would be six rate setting hearings in Fiscal Year 1987.

FISCAL IMPACT:

Expenditures:

	<u>FY 86</u>	<u>FY 87</u>
Current Law Proposed Law	\$ -0- 20,194	\$ -0- <u>4,547</u>
Increased Cost to General Fund	\$ 20,194	\$ 4,547

BUDGET DIRECTOR Office of Budget and Program Planning

12 Date:

HB 387

FN7:N/3

49th Legislature

HB 0387/si

APPROVED BY COMM. ON BUSINESS AND LABOR

1	STATEMENT OF INTENT
2	HOUSE BILL 387
3	House Business and Labor Committee
4	
5	Title 18, chapter 2, part 4, MCA, require

es that a 6 standard prevailing wage be paid for labor on all public 7 works contracts and that Montana labor receive a preference 8 for employment on all public contracts. The commissioner is 9 given the duty to determine the prevailing wage by locality 10 and to otherwise administer part 4. In early 1983, Judge Bennett found in Townsend Electric, Inc. v. Hunter, et al., 11 First Judicial District of Montana (No. 47160), that the 12 13 commissioner's determinations as to prevailing wage did not have the force of law because the legislature had never 14 15 granted the commissioner express rulemaking authority to 16 implement part 4. This bill is introduced to remedy this situation. 17

> SECOND READING HB 387



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HB 0387/02

1	HOUSE BILL NO. 387
2	INTRODUCED BY ADDY
3	BY REQUEST OF THE
4	DEPARTMENT OF LABOR AND INDUSTRY
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE
7	COMMISSIONER OF LABOR AND INDUSTRY TO ADOPT RULES
8	IMPLEMENTING LAWS GOVERNING CERTAIN PUBLIC WORKS CONTRACTS;
У	AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
10	
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	Section 1. Rulemaking authority. The commissioner may
13	adopt rules necessary to implement this part.
14	Section 2. Codification instruction. Section 1 is
15	intended to be codified as an integral part of Title 18,
16	chapter 2, part 4, and the provisions of Title 18, chapter
17	2, part 4, apply to section 1.
18	Section 3. Effective date. This act is effective on
19	passage and approval.



49th Legislature

HB 0387/si

RE-REFERRED AND APPROVED BY COMM. ON BUSINESS AND LABOR AS AMENDED

l	STATEMENT OF INTENT
2	HOUSE BILL 387
3	House Business and Labor Committee
4	
5	Pitle-187-chapter-27patt47MCA7requiresthata
6	standardprevailingwagebepaid-for-labov-on-all-public
7	works-contracts-and-chat-Montanu-labor-receive-apreference
8	foremployment-on-all-public-contractsr-The-commissioner-is
9	given-the-duty-to-determine-the-prevailing-wage-bylocality
10	andtootherwiseadministerpart-4,-Fn-early-19037-oudge
11	Bennett-found in Rownsend-Steckricy-Incr-ve-Huntery-et-alty
12	PiestJudicialBistrictOfMontana-(No47160);-that-the
13	commissioneris-determinations-as-vo-prevailing-wage-didnot
14	havetheforceoftawbecause-the-legislature-had-never
15	granted-the-commissioner-expressrulemakingauthorityto
16	implement part 4 Thisbill-is-introduced-to-remedy-this
17	situation-
18	THIS BILL REQUIRES A STATEMENT OF INTENT BECAUSE IT
19	EXPRESSLY DELEGATES RULEMAKING AUTHORITY TO THE COMMISSIONER
20	OF LABOR AND INDUSTRY.
21	TITLE 18, CHAPTER 2, PART 4, MCA, THE "LITTLE
22	DAVIS-BACON ACT", REQUIRES THAT A STANDARD PREVAILING WAGE
23	BE PAID FOR LABOR ON ALL PUBLIC WORKS CONTRACTS AND THAT
24	MONTANA LABOR RECEIVE A PREFERENCE FOR EMPLOYMENT ON ALL
25	PUBLIC CONTRACTS. THE COMMISSIONER IS GIVEN THE DUTY TO

Noncana Legislative Council

DETERMINE THE PREVAILING WAGE BY LOCALITY AND TO _OTHERWISE 1 ADMINISTER PART 4. IN EARLY 1983 JUDGE BENNETT FOUND IN 2 3 TOWNSEND ELECTRIC, INC. V. HUNTER, ET AL., FIRST JUDICIAL DISTRICT OF MONTANA (NO. 47160), THAT THE COMMISSIONER'S 4 DETERMINATIONS AS TO PREVAILING WAGE DID NOT HAVE THE FORCE 5 OF LAW BECAUSE THE LEGISLATURE HAD NEVER GRANTED THE 6 COMMISSIONER EXPRESS RULEMAKING AUTHORITY TO IMPLEMENT PART 2 4. THIS BILL IS INTRODUCED TO CLARIFY THAT THE LEGISLATURE 8 9 INTENDS, AND EAS SO INTENDED SINCE THE ADOPTION OF THE LITTLE DAVIS-BACON ACT IN 1931, THAT THE COMMISSIONER OF 10 LABOR AND INDUSTRY SET AND ENFORCE PREVAILING WAGE RATES 11 12 UNDER THAT ACT. THE RULEMAKING AUTHORITY EXPRESSLY DELEGATED TO THE 13 DEPARTMENT OF LABOR AND INDUSTRY BY THIS BILL AUTHORIZES THE 14 DEPARTMENT TO PROMULGATE THE PREVAILING WAGE RATES AS 15 "FULES" UNDER THE MONTANA ADMINISTRATIVE PROCEDURE ACT. 16 17 THE DEPARTMENT IS AUTHORIZED TO ADOPT RULES FACH YEAR ESTABLISHING THE VARIOUS PREVAILING WAGE RATES AND TO ADOPT 18 RULES SPELLING OUT THE PROCEDURES AND METHODS USED TO ARRIVE 19 AT THOSE RATES. IT IS THE INTENT OF THE LEGISLATURE THAT IN 20 ADOPTING THE RULES, THE COMMISSIONER SHALL CONSIDER THE 21 22 FOLLOWING: 23 (1) COLLECTIVE BARGAINING AGREEMENTS; 24 FEDERAL DAVIS-BACON ACT RATES; (2) (3) FEDERAL SERVICE CONTRACT ACT RATES; 25

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1 (4)	WAGE	INFORMATION	COMPILED	BY	THE	DEPARTMENT	OF

- 2 LABOR AND INDUSTRY;
- 3 (5) WAGE SURVEYS, AS APPROPRIATE AND AS RESOURCES
- 4 PERMIT; AND
- 5 (6) OTHER PERTINENT INFORMATION.

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HB 0387/02

1	HOUSE BILL NO. 387
2	INTRODUCED BY ADDY
3	BY REQUEST OF THE
4	DEPARTMENT OF LABOR AND INDUSTRY
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE
7	COMMISSIONER OF LABOR AND INDUSTRY TO ADOPT RULES
8	IMPLEMENTING LAWS GOVERNING CERTAIN PUBLIC WORKS CONTRACTS;
9	AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
10	
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	Section 1. Rulemaking authority. The commissioner may
13	adopt rules necessary to implement this part.
14	Section 2. Codification instruction. Section 1 is
15	intended to be codified as an integral part of Title 18,
16	chapter 2, part 4, and the provisions of Title 18, chapter
17	2, part 4, apply to section 1.
18	Section 3. Effective date. This act is effective on
19	passage and approval.



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HB 0387/si

L Montana Legislative Council

1	STATEMENT OF INTENT
2	HOUSE BILL 387
3	House Business and Labor Committee
4	
5	Title-18,-chapter-2,part4,MCA,reguiresthata
6	standardprevailingwagebepaid-for-labor-on-all-public
7	works-contracts-and-that-Montana-labor-receive-apreference
8	foremployment-on-all-public-contractsThe-commissioner-is
9	given-the-duty-to-determine-the-prevailing-wage-bylocality
10	andtootherwiseadministerpart-4fn-early-1983Judge
11	Bennett-found-in Townsend-Bleetrie,-IncvHunter,-etal.,
12	FirstJudicialDistrictofMontana-{No47160}7-that-the
13	commissioner's-determinations-as-to-prevailing-wage-didnot
14	havetheforceoflawbecause-the-legislature-had-never
15	granted-the-commissionerexpressrulemakingauthorityto
16	implementpart4Thisbill-is-introduced-to-remedy-this
17	situation.
18	THIS BILL REQUIRES A STATEMENT OF INTENT BECAUSE IT
19	EXPRESSLY DELEGATES RULEMAKING AUTHORITY TO THE COMMISSIONER
20	OF LABOR AND INDUSTRY.
21	TITLE 18, CHAPTER 2, PART 4, MCA, THE "LITTLE
22	DAVIS-BACON ACT", REQUIRES THAT A STANDARD PREVAILING WAGE
23	BE PAID FOR LABOR ON ALL PUBLIC WORKS CONTRACTS AND THAT
24	MONTANA LABOR RECEIVE A PREFERENCE FOR EMPLOYMENT ON ALL
25	PUBLIC CONTRACTS. THE COMMISSIONER IS GIVEN THE DUTY TO

1	DETERMINE THE PREVAILING WAGE BY LOCALITY AND TO OTHERWISE
2	ADMINISTER PART 4. IN EARLY 1983 JUDGE BENNETT FOUND IN
3	TOWNSEND ELECTRIC, INC. V. HUNTER, ET AL., FIRST JUDICIAL
4	DISTRICT OF MONTANA (NO. 47160), THAT THE COMMISSIONER'S
5	DETERMINATIONS AS TO PREVAILING WAGE DID NOT HAVE THE FORCE
6	OF LAW BECAUSE THE LEGISLATURE HAD NEVER GRANTED THE
7	COMMISSIONER EXPRESS RULEMAKING AUTHORITY TO IMPLEMENT PART
8	4. THIS BILL IS INTRODUCED TO CLARIFY THAT THE LEGISLATURE
9	INTENDS, AND HAS SO INTENDED SINCE THE ADOPTION OF THE
10	LITTLE DAVIS-BACON ACT IN 1931, THAT THE COMMISSIONER OF
11	LABOR AND INDUSTRY SET AND ENFORCE PREVAILING WAGE RATES
12	UNDER THAT ACT.
13	THE RULEMAKING AUTHORITY EXPRESSLY DELEGATED TO THE
14	DEPARTMENT OF LABOR AND INDUSTRY BY THIS BILL AUTHORIZES THE
15	DEPARTMENT TO PROMULGATE THE PREVAILING WAGE RATES AS
16	"RULES" UNDER THE MONTANA ADMINISTRATIVE PROCEDURE ACT.
17	THE DEPARTMENT IS AUTHORIZED TO ADOPT RULES EACH YEAR
18	ESTABLISHING THE VARIOUS PREVAILING WAGE RATES AND TO ADOPT
19	RULES SPELLING OUT THE PROCEDURES AND METHODS USED TO ARRIVE
20	AT THOSE RATES. IT IS THE INTENT OF THE LEGISLATURE THAT IN
21	ADOPTING THE RULES, THE COMMISSIONER SHALL CONSIDER THE
22	FOLLOWING:
23	(1) COLLECTIVE BARGAINING AGREEMENTS;
24	(2) FEDERAL DAVIS-BACON ACT RATES;
25	(3) FEDERAL SERVICE CONTRACT ACT RATES;

-2-

THIRD READING

HB 387

HB 0387/si

1	(4)	WAGE	INFORMATION	COMPILED	BY	THE	DEPARTMENT	OF

2 LABOR AND INDUSTRY;

3 (5) WAGE SURVEYS, AS APPROPRIATE AND AS RESOURCES

-3-

4 PERMIT; AND

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HB 0387/02

HOUSE BILL NO. 387 1 INTRODUCED BY ADDY 2 BY REQUEST OF THE 3 DEPARTMENT OF LABOR AND INDUSTRY 4 5 A BILL FOR AN ACT ENTITLED: ALLOWING 6 "AN ACT THE 7 COMMISSIONER OF LABOR AND INDUSTRY TO ADOPT RULES IMPLEMENTING LAWS GOVERNING CERTAIN PUBLIC WORKS CONTRACTS; 8 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 12 Section 1. Rulemaking authority. The commissioner may adopt rules necessary to implement this part. 13 14 Section 2. Codification instruction. Section 1 is intended to be codified as an integral part of Title 18, 15 chapter 2, part 4, and the provisions of Title 18, chapter 16 2, part 4, apply to section 1. 17 Section 3. Effective date. This act is effective on 18

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HB 0387/si

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10	andtootherwiseadministerpart-4in-early-1983;-otdge	10	LITTLE DAVIS-BACON ACT IN 1931, THAT THE COMMISSIONER OF
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24	PUBLIC CONTRACTS. THE COMMISSIONER IS GIVEN THE DUTY TO	25	(3) FEDERAL SERVICE CONTRACT ACT RATES:
25	PUBLIC CONTRACTS. III CONTROLOUS		

Montana Legislative council

REFERENCE BILL HO387

- 2 -

HB 0387/si

1 (4) WAGE INFORMATION COMPILED BY THE DEPARTMENT OF

2 LABOR AND INDUSTRY;

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HB 0387/02

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