

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	Introduced and referred to Committee on Labor and Employment Relations.
March 13, 1985	Committee recommend bill be concurrent in. Report adopted.
March 15, 1985	Second reading, concurred in.
March 18, 1985	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.

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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."

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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**

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN 347-85

Form BD-15

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

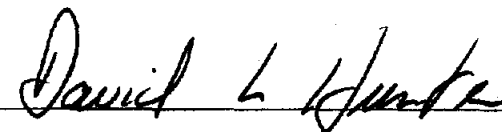
ASSUMPTIONS:

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



BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Feb 12, 1985

HB 387

1                   STATEMENT OF INTENT

2                   HOUSE BILL 387

3                   House Business and Labor Committee

4

5           Title 18, chapter 2, part 4, MCA, requires 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  
11   Bennett found in Townsend Electric, Inc. v. Hunter, et al.,  
12   First Judicial District of Montana (No. 47160), that the  
13   commissioner's determinations as to prevailing wage did not  
14   have the force of law because the legislature had never  
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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  
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-End-

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

STATEMENT OF INTENT

HOUSE BILL 387

House Business and Labor Committee

Title 18, chapter 2, part 4, MCA, requires that a standard prevailing wage be paid for labor on all public works contracts and that Montana labor receive a preference for employment on all public contracts. The commissioner is given the duty to determine the prevailing wage by locality and to otherwise administer part 4. In early 1983, Judge Bennett found in Townsend Electric, Inc. v. Hunter, et al., first judicial district of Montana (No. 47160), that the commissioner's determinations as to prevailing wage did not have the force of law because the legislature had never granted the commissioner express rulemaking authority to implement part 4. This bill is introduced to remedy this situation.

THIS BILL REQUIRES A STATEMENT OF INTENT BECAUSE IT EXPRESSLY DELEGATES RULEMAKING AUTHORITY TO THE COMMISSIONER OF LABOR AND INDUSTRY.

TITLE 18, CHAPTER 2, PART 4, MCA, THE "LITTLE DAVIS-BACON ACT", REQUIRES THAT A STANDARD PREVAILING WAGE BE PAID FOR LABOR ON ALL PUBLIC WORKS CONTRACTS AND THAT MONTANA LABOR RECEIVE A PREFERENCE FOR EMPLOYMENT ON ALL PUBLIC CONTRACTS. THE COMMISSIONER IS GIVEN THE DUTY TO

DETERMINE THE PREVAILING WAGE BY LOCALITY AND TO OTHERWISE ADMINISTER PART 4. IN EARLY 1983 JUDGE BENNETT FOUND IN TOWNSEND ELECTRIC, INC. V. HUNTER, ET AL., FIRST JUDICIAL DISTRICT OF MONTANA (NO. 47160), THAT THE COMMISSIONER'S DETERMINATIONS AS TO PREVAILING WAGE DID NOT HAVE THE FORCE OF LAW BECAUSE THE LEGISLATURE HAD NEVER GRANTED THE COMMISSIONER EXPRESS RULEMAKING AUTHORITY TO IMPLEMENT PART 4. THIS BILL IS INTRODUCED TO CLARIFY THAT THE LEGISLATURE INTENDS, AND HAS SO INTENDED SINCE THE ADOPTION OF THE LITTLE DAVIS-BACON ACT IN 1931, THAT THE COMMISSIONER OF LABOR AND INDUSTRY SET AND ENFORCE PREVAILING WAGE RATES UNDER THAT ACT.

THE RULEMAKING AUTHORITY EXPRESSLY DELEGATED TO THE DEPARTMENT OF LABOR AND INDUSTRY BY THIS BILL AUTHORIZES THE DEPARTMENT TO PROMULGATE THE PREVAILING WAGE RATES AS "RULES" UNDER THE MONTANA ADMINISTRATIVE PROCEDURE ACT.

THE DEPARTMENT IS AUTHORIZED TO ADOPT RULES EACH YEAR ESTABLISHING THE VARIOUS PREVAILING WAGE RATES AND TO ADOPT RULES SPELLING OUT THE PROCEDURES AND METHODS USED TO ARRIVE AT THOSE RATES. IT IS THE INTENT OF THE LEGISLATURE THAT IN ADOPTING THE RULES, THE COMMISSIONER SHALL CONSIDER THE FOLLOWING:

- (1) COLLECTIVE BARGAINING AGREEMENTS;
(2) FEDERAL DAVIS-BACON ACT RATES;
(3) FEDERAL SERVICE CONTRACT ACT RATES;



- 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/si

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