

HOUSE BILL NO. 811

2/13 Introduced
2/13 Referred to Business & Labor
2/20 Hearing
Died in Committee

1 HOUSE BILL NO. 811
2 INTRODUCED BY Smill

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CONTRACTORS
5 AND SUBCONTRACTORS WORKING ON PUBLIC UTILITY PROJECTS TO PAY
6 THE PREVAILING WAGE IN THE COUNTY OR LOCALITY IN WHICH THE
7 WORK IS PERFORMED; AND PROVIDING AN APPLICABILITY DATE."

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

10 Section 1. Definitions. Unless the context requires
11 otherwise, the following definitions apply in [sections 1
12 through 10]:

13 (1) "Commissioner" means the commissioner of labor and
14 industry provided for in 2-15-1701.

15 (2) "Department" means the department of labor and
16 industry provided for in 2-15-1701.

17 (3) "Labor" includes all services performed in the
18 construction, repair, or maintenance of a public utility
19 project by employees of a contractor or a contractor's
20 subcontractor under a contract with a public utility
21 regulated under Title 69, chapter 3, except a public utility
22 that is owned by the state or a local government unit or
23 subdivision and which is subject to 18-2-401 through
24 18-2-408 and 18-2-421 through 18-2-424. "Labor" does not
25 include engineering, management, or office or clerical work.

1 (4) (a) "Standard prevailing rate of wages" means
2 those wages, including fringe benefits for insurance,
3 pension contributions, and travel allowance provisions, that
4 are paid in the county or locality by other contractors or
5 subcontractors for work of a similar character performed in
6 that county or locality by each craft or classification of
7 worker needed to complete a contract under [sections 1
8 through 10].

9 (b) If work of a similar character is not being
10 performed in the county or locality, the standard prevailing
11 rate of wages must be the rate established by a collective
12 bargaining agreement in effect in the county or locality for
13 each craft or classification of worker needed to complete
14 the contract.

15 Section 2. Determination of standard prevailing rate
16 of wages. (1) The commissioner of labor shall by rule
17 determine the standard prevailing rate of wages in the
18 county or locality in which the contract is to be performed.
19 The commissioner shall maintain copies of collective
20 bargaining agreements and other information from which rates
21 and jurisdictional areas applicable to labor under [sections
22 1 through 10] may be ascertained.

23 (2) The provisions of [sections 1 through 10] do not
24 apply if the standard prevailing rate of wages is determined
25 pursuant to federal law.



1 (3) If [sections 1 through 10] apply, the standard
 2 prevailing rate of wages may not be determined to be greater
 3 than the applicable rate of wages in the area for the
 4 particular work in question as negotiated under existing and
 5 current collective bargaining agreements.

6 Section 3. Payment of standard prevailing rate of
 7 wages. (1) Labor performed on a public utility project by
 8 employees of a project contractor or subcontractor must be
 9 compensated for at the standard prevailing rate of wages.

10 (2) Failure to include the provisions required by
 11 [section 7] in requests for bids for public utility projects
 12 relieves the contractor or subcontractor from his obligation
 13 to pay the standard prevailing wage rate and places such
 14 obligation on the public utility.

15 Section 4. Posting wage scale. Contractors and
 16 subcontractors performing work or providing services under
 17 public utility project contracts as provided in [sections 1
 18 through 10] shall post in a prominent and accessible site on
 19 the project or work area, not later than the first day of
 20 work, a legible statement of all wages to be paid to the
 21 employees employed on the site or work area.

22 Section 5. Penalty for violation. (1) A contractor or
 23 subcontractor licensed under Title 37, chapter 71, that is
 24 violating the provisions of [sections 1 through 10] shall
 25 have its license suspended in the manner prescribed by

1 37-71-301 for a period of 1 year after the date of final
 2 judgment of violation by a district court or, if judgment is
 3 appealed, after decision of the supreme court.

4 (2) If an action is instituted in a district court in
 5 this state against a contractor or subcontractor for a
 6 violation of [sections 1 through 10], the court may issue
 7 an injunction to restrain the contractor or subcontractor
 8 from proceeding with its work on the public utility project
 9 pending the final determination of the action.

10 Section 6. Notice. Whenever a public utility project
 11 is begun by a public utility, the utility must send the
 12 department a notice of the beginning and completion dates of
 13 the project. The notice is not required for projects
 14 costing less than \$50,000 unless the department requests the
 15 information.

16 Section 7. Bid specification to contain prevailing
 17 wage rate. All requests for bids for public utility projects
 18 must contain a provision stating for each job classification
 19 the standard prevailing rate of wages that the contractors
 20 and subcontractors must pay during construction of the
 21 project.

22 Section 8. Submission of payroll records. If a
 23 complaint is filed with the department alleging
 24 noncompliance with [section 8], the department may require a
 25 contractor or subcontractor to submit to it certified copies

1 of its payroll records for workers employed on the project.

2 Section 9. Enforcement. If a contractor or a
3 subcontractor refuses to submit payroll records requested by
4 the department pursuant to [section 8], the commissioner or
5 his authorized representative may issue subpoenas compelling
6 the production of those records.

7 Section 10. Applicability. This act applies only to
8 public utility projects that are begun after October 1,
9 1985.

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