

SENATE BILL NO. 75

1/07 Introduced  
1/07 Referred to Labor & Employment Relations  
1/17 Hearing  
1/24 Minor Committee Report Not Adopted  
1/24 Major Committee Report Adopted  
1/24 Adverse Committee Report  
1/24 Bill Killed

1                                    SENATE BILL NO. 75

2    INTRODUCED BY AKLESTAD

3

4    A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT LOCAL

5    GOVERNMENTS FROM THE REQUIREMENT OF PAYING THE STANDARD

6    PREVAILING RATE OF WAGES ON LOCAL PROJECTS IN WHICH ONLY

7    LOCAL GOVERNMENT FUNDS ARE USED; AMENDING SECTIONS 18-2-402,

8    18-2-403, 18-2-407, AND 18-2-422, MCA; AND PROVIDING AN

9    IMMEDIATE EFFECTIVE DATE."

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

12        Section 1. Section 18-2-402, MCA, is amended to read:

13        "18-2-402. Standard prevailing rate of wages. (1) The

14    Montana commissioner of labor may determine the standard

15    prevailing rate of wages in the county or locality in which

16    the contract is to be performed. The commissioner shall

17    undertake to keep and maintain copies of collective

18    bargaining agreements and other information from which rates

19    and jurisdictional areas applicable to public works

20    contracts under this part may be ascertained.

21        (2) The provisions of this part do not apply:

22        (a) in those instances where the standard prevailing

23        rate of wages is determined pursuant to federal law; or

24        (b) to local government units in those instances in

25        which only local government funds are used to finance local

1    projects.

2        (3) In no instances where this part is applicable

3    shall the standard prevailing rate of wage be determined to

4    be greater than the applicable rate of wage in the area for

5    the particular work in question as negotiated under existing

6    and current collective bargaining agreements."

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

8        "18-2-403. Preference of Montana labor in public works

9    -- wages -- federal exception. (1) In any contract let for

10   state, county, municipal, school, or heavy highway

11   construction, services, repair, or maintenance work under

12   any law of this state, there shall be inserted in the bid

13   specification and the contract a provision requiring the

14   contractor to give preference to the employment of bona fide

15   Montana residents in the performance of the work and, except

16   as provided in 18-2-402(2)(b), to pay the standard

17   prevailing rate of wages, including fringe benefits for

18   health and welfare and pension contributions and travel

19   allowance provisions, in effect and applicable to the county

20   or locality in which the work is being performed.

21        (2) No contract may be let to any person, firm,

22   association, or corporation refusing to execute an agreement

23   with the above-mentioned provisions in it, provided that in

24   contracts involving the expenditure of federal-aid funds

25   this part may not be enforced in such a manner as to

1 conflict with or be contrary to the federal statutes  
 2 prescribing a labor preference to honorably discharged  
 3 veterans of the armed forces and prohibiting as unlawful any  
 4 other preference or discrimination among citizens of the  
 5 United States.

6 (3) Failure to include the provisions required by  
 7 18-2-422 in a public works contract relieves the contractor  
 8 from his obligation to pay the standard prevailing wage rate  
 9 and places such obligation on the public contracting  
 10 agency."

11 Section 3. Section 18-2-407, MCA, is amended to read:

12 "18-2-407. Forfeiture for failure to pay prevailing  
 13 wages. (1) Any contractor, subcontractor, or employer who  
 14 ~~shall--pay~~ pays workers or employees at less than the  
 15 standard prevailing wage as established under the public  
 16 works contract, whenever such a contract provision is  
 17 required, shall forfeit to the contracting agency the sum of  
 18 \$25 a day for each worker so underpaid.

19 (2) Whenever it shall appear to the contracting agency  
 20 or to the Montana commissioner of labor that there are  
 21 insufficient moneys due to the contractor or the employer  
 22 under the terms of the contract to cover such penalties, the  
 23 Montana commissioner of labor may, within 90 days after the  
 24 filing of notice of completion of the project and its  
 25 acceptance by the contracting agency, maintain an action in

1 district court to recover all such penalties and forfeitures  
 2 due. Nothing in this part shall prevent the individual  
 3 worker who has been underpaid from maintaining an action for  
 4 recovery of the wages due under the contract as provided in  
 5 Title 39, chapter 3, part 2."

6 Section 4. Section 18-2-422, MCA, is amended to read:

7 "18-2-422. Bid specification and contract to contain  
 8 prevailing wage rate. ~~All~~ Except as provided in  
 9 18-2-402(2)(b), all bid specifications and contracts for  
 10 public works projects must contain a provision stating for  
 11 each job classification the prevailing wage rate, including  
 12 fringe benefits, that the contractors and subcontractors  
 13 must pay during construction of the project."

14 NEW SECTION. Section 5. Effective date. This act is  
 15 effective on passage and approval.

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