

SENATE BILL NO. 273

INTRODUCED BY THAYER

BY REQUEST OF THE DEPARTMENT OF NATURAL  
RESOURCES AND CONSERVATION

IN THE SENATE

January 29, 1985	Introduced and referred to Committee on Natural Resources.
February 14, 1985	Committee recommend bill do pass. Report adopted.
February 15, 1985	Bill printed and placed on members' desks.
February 16, 1985	Second reading, do pass.
February 18, 1985	Considered correctly engrossed.
February 19, 1985	Third reading, passed. Ayes, 45; Noes, 0.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Natural Resources.
March 19, 1985	Committee recommend bill be concurrred in as amended. Report adopted.
March 22, 1985	Second reading, concurrred in.
March 25, 1985	Third reading, concurrred in.
	Returned to Senate with amendments.

IN THE SENATE

March 25, 1985

Received from House.

April 2, 1985

Second reading, amendments  
concurrent in.

April 4, 1985

Third reading, amendments  
concurrent in. Ayes, 50;  
Noes, 0.

Sent to enrolling.

Reported correctly enrolled.

1 *State* BILL NO. 273  
 2 INTRODUCED BY *SB*  
 3 BY REQUEST OF THE DEPARTMENT OF NATURAL  
 4 RESOURCES AND CONSERVATION  
 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING CONTRACT  
 7 REQUIREMENTS FOR THE CONSTRUCTION, REPAIR, ALTERATION,  
 8 IMPROVEMENT, MAINTENANCE, REHABILITATION, OR RECONSTRUCTION  
 9 OF A STATE WATER PROJECT; AMENDING SECTIONS 18-2-201 AND  
 10 18-2-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
 11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 13 NEW SECTION. Section 1. Contract requirements.

14 (1) For all works constructed, repaired, altered, improved,  
 15 maintained, rehabilitated, or reconstructed, the department  
 16 shall:

17 (a) review and approve all plans and working drawings  
 18 prepared by engineers or architects, if any;

19 (b) approve all bond issues or other financial  
 20 arrangements and supervise and approve the expenditure of  
 21 all money;

22 (c) solicit, accept, and reject bids and award all  
 23 contracts to the lowest qualified bidder considering  
 24 conformity with specifications and terms and reasonableness  
 25 of bid amount;

1 (d) review and approve all change orders;  
 2 (e) accept the works when completed according to  
 3 approved plans and specifications.

4 (2) Except as provided in subsection (3), the  
 5 department must solicit sealed, competitive bids before  
 6 awarding a contract under subsection (1) and may award a  
 7 contract only after receipt of at least one bid, if  
 8 reasonably available.

9 (3) The department may negotiate a contract, without  
 10 competitive bidding, with a contractor qualified to do  
 11 business in Montana if:

12 (a) the department rejects all bids for the work;

13 (b) an emergency threatening life or property exists;

14 (c) the proposed construction costs are less than  
 15 \$25,000; or

16 (d) an exigency exists.

17 (4) The provisions of Title 18, chapter 2, parts 2  
 18 through 4, apply to contracts awarded under this section,  
 19 except contracts for which the proposed construction costs  
 20 are less than \$25,000.

21 Section 2. Section 18-2-201, MCA, is amended to read:

22 "18-2-201. Bonding requirements. (1) Whenever Except  
 23 as otherwise provided in [section 1], whenever any board,  
 24 council, commission, trustees, or body acting for the state  
 25 or any county, municipality, or any public body shall



1 contract with any person or corporation to do any work for  
 2 the state, county, or municipality or other public body,  
 3 city, town, or district, such board, council, commission,  
 4 trustees, or body shall require the corporation, person, or  
 5 persons with whom such contract is made to make, execute,  
 6 and deliver to such board, council, commission, trustees, or  
 7 body a good and sufficient bond with two or more sureties  
 8 acceptable to the governmental body letting the contract, or  
 9 with a licensed surety company as surety, conditioned that  
 10 such corporation, person, or persons shall:

11 (a) faithfully perform all of the provisions of such  
 12 contract;

13 (b) pay all laborers, mechanics, subcontractors, and  
 14 materialmen; and

15 (c) pay all persons who shall supply such corporation,  
 16 person or persons, or subcontractors with provisions,  
 17 provender, material, or supplies for the carrying on of such  
 18 work.

19 (2) A copy of such bond shall be filed with the county  
 20 clerk and recorder of the county where such work is  
 21 performed or improvement made or, if to be performed in more  
 22 than one county, then with the county clerk of either  
 23 county, except in cases of cities and towns, in which case  
 24 such bond shall be filed with the city or town clerk  
 25 thereof.

1 (3) Notwithstanding the provisions of (1) and (2)  
 2 above, the state or other governmental entity may, in lieu  
 3 of a surety bond, permit the deposit with the contracting  
 4 governmental entity or agency the following securities in an  
 5 amount at least equal to the contract sum to guarantee the  
 6 faithful performance of the contract and the payment of all  
 7 laborers, suppliers, materialmen, mechanics, and  
 8 subcontractors:

9 (a) lawful money of the United States; or

10 (b) a cashier's check, certified check, bank money  
 11 order, or bank draft, drawn or issued by any banking  
 12 corporation incorporated under the laws of the state of  
 13 Montana or by a national banking association located in  
 14 Montana; or

15 (c) certificates of deposit or money market  
 16 certificates issued by any bank or savings and loan  
 17 association licensed to do business in Montana."

18 Section 3. Section 18-2-401, MCA, is amended to read:

19 "18-2-401. Definitions -- exemption. (1) Unless the  
 20 context requires otherwise, in this part the following  
 21 definitions apply:

22 ~~(1)~~(a) "Labor" is hereby defined to be all services  
 23 performed in the construction, repair, or maintenance of all  
 24 state, county, municipal, and school work and does not  
 25 include engineering, superintendence, management, or office

1 or clerical work.

2 ~~2~~(b) "Commissioner" means the commissioner of labor  
3 and industry provided for in 2-15-1701.

4 ~~3~~(c) "Department" means the department of labor and  
5 industry provided for in 2-15-1701.

6 ~~4~~(d) A "bona fide resident of Montana" is hereby  
7 declared to be a person who, at the time of his employment  
8 and immediately prior thereto, has lived in this state in  
9 such a manner and for such time as is sufficient to clearly  
10 justify the conclusion that his past habitation in this  
11 state has been coupled with intention to make it his home.  
12 Sojourners or persons who come to Montana solely in  
13 pursuance of any contract or agreement to perform such labor  
14 shall under no circumstance be deemed to be bona fide  
15 residents of Montana within the meaning and for the purpose  
16 of this part.

17 ~~5~~(e) ~~a~~(i) "Standard prevailing rate of wages,  
18 including fringe benefits for health and welfare and pension  
19 contributions and travel allowance provisions applicable to  
20 the county or locality in which the work is being  
21 performed," means those wages, including fringe benefits for  
22 health and welfare and pension contributions and travel  
23 allowance provisions, which are paid in the county or  
24 locality by other contractors for work of a similar  
25 character performed in that county or locality by each

1 craft, classification, or type of worker needed to complete  
2 a contract under this part.

3 ~~b~~(ii) When work of a similar character is not being  
4 performed in the county or locality, the standard prevailing  
5 rate of wages, including fringe benefits for health and  
6 welfare and pension contributions and travel allowance  
7 provisions, shall be those rates established by collective  
8 bargaining agreements in effect in the county or locality  
9 for each craft, classification, or type of worker needed to  
10 complete the contract.

11 (2) The provisions of this part do not apply to  
12 contracts for state water projects under [section 1] if the  
13 proposed construction costs are less than \$25,000."

14 NEW SECTION. Section 4. Extension of authority. Any  
15 existing authority of the department of natural resources  
16 and conservation to make rules on the subject of the  
17 provisions of this act is extended to the provisions of this  
18 act.

19 NEW SECTION. Section 5. Codification instruction.  
20 Section 1 is intended to be codified as an integral part of  
21 Title 85, chapter 1, and the provisions of Title 85, chapter  
22 1, apply to section 1.

23 NEW SECTION. Section 6. Effective date. This act is  
24 effective on passage and approval.

-End-

APPROVED BY COMM. ON  
NATURAL RESOURCES

1 *Senate* BILL NO. 273  
2 INTRODUCED BY *SB 273*  
3 BY REQUEST OF THE DEPARTMENT OF NATURAL  
4 RESOURCES AND CONSERVATION

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING CONTRACT  
7 REQUIREMENTS FOR THE CONSTRUCTION, REPAIR, ALTERATION,  
8 IMPROVEMENT, MAINTENANCE, REHABILITATION, OR RECONSTRUCTION  
9 OF A STATE WATER PROJECT; AMENDING SECTIONS 18-2-201 AND  
10 18-2-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

13 NEW SECTION. Section 1. Contract requirements.

14 (1) For all works constructed, repaired, altered, improved,  
15 maintained, rehabilitated, or reconstructed, the department  
16 shall:

17 (a) review and approve all plans and working drawings  
18 prepared by engineers or architects, if any;

19 (b) approve all bond issues or other financial  
20 arrangements and supervise and approve the expenditure of  
21 all money;

22 (c) solicit, accept, and reject bids and award all  
23 contracts to the lowest qualified bidder considering  
24 conformity with specifications and terms and reasonableness  
25 of bid amount;

1 (d) review and approve all change orders;  
2 (e) accept the works when completed according to  
3 approved plans and specifications.

4 (2) Except as provided in subsection (3), the  
5 department must solicit sealed, competitive bids before  
6 awarding a contract under subsection (1) and may award a  
7 contract only after receipt of at least one bid, if  
8 reasonably available.

9 (3) The department may negotiate a contract, without  
10 competitive bidding, with a contractor qualified to do  
11 business in Montana if:

12 (a) the department rejects all bids for the work;

13 (b) an emergency threatening life or property exists;

14 (c) the proposed construction costs are less than  
15 \$25,000; or

16 (d) an exigency exists.

17 (4) The provisions of Title 18, chapter 2, parts 2  
18 through 4, apply to contracts awarded under this section,  
19 except contracts for which the proposed construction costs  
20 are less than \$25,000.

21 Section 2. Section 18-2-201, MCA, is amended to read:

22 "18-2-201. Bonding requirements. (1) Whenever Except  
23 as otherwise provided in [section 1], whenever any board,  
24 council, commission, trustees, or body acting for the state  
25 or any county, municipality, or any public body shall

1 contract with any person or corporation to do any work for  
 2 the state, county, or municipality or other public body,  
 3 city, town, or district, such board, council, commission,  
 4 trustees, or body shall require the corporation, person, or  
 5 persons with whom such contract is made to make, execute,  
 6 and deliver to such board, council, commission, trustees, or  
 7 body a good and sufficient bond with two or more sureties  
 8 acceptable to the governmental body letting the contract, or  
 9 with a licensed surety company as surety, conditioned that  
 10 such corporation, person, or persons shall:

11 (a) faithfully perform all of the provisions of such  
 12 contract;

13 (b) pay all laborers, mechanics, subcontractors, and  
 14 materialmen; and

15 (c) pay all persons who shall supply such corporation,  
 16 person or persons, or subcontractors with provisions,  
 17 provender, material, or supplies for the carrying on of such  
 18 work.

19 (2) A copy of such bond shall be filed with the county  
 20 clerk and recorder of the county where such work is  
 21 performed or improvement made or, if to be performed in more  
 22 than one county, then with the county clerk of either  
 23 county, except in cases of cities and towns, in which case  
 24 such bond shall be filed with the city or town clerk  
 25 thereof.

1 (3) Notwithstanding the provisions of (1) and (2)  
 2 above, the state or other governmental entity may, in lieu  
 3 of a surety bond, permit the deposit with the contracting  
 4 governmental entity or agency the following securities in an  
 5 amount at least equal to the contract sum to guarantee the  
 6 faithful performance of the contract and the payment of all  
 7 laborers, suppliers, materialmen, mechanics, and  
 8 subcontractors:

9 (a) lawful money of the United States; or

10 (b) a cashier's check, certified check, bank money  
 11 order, or bank draft, drawn or issued by any banking  
 12 corporation incorporated under the laws of the state of  
 13 Montana or by a national banking association located in  
 14 Montana; or

15 (c) certificates of deposit or money market  
 16 certificates issued by any bank or savings and loan  
 17 association licensed to do business in Montana."

18 Section 3. Section 18-2-401, MCA, is amended to read:

19 "18-2-401. Definitions -- exemption. (1) Unless the  
 20 context requires otherwise, in this part the following  
 21 definitions apply:

22 (a) "Labor" is hereby defined to be all services  
 23 performed in the construction, repair, or maintenance of all  
 24 state, county, municipal, and school work and does not  
 25 include engineering, superintendence, management, or office

1 or clerical work.

2 †2†(b) "Commissioner" means the commissioner of labor  
3 and industry provided for in 2-15-1701.

4 †3†(c) "Department" means the department of labor and  
5 industry provided for in 2-15-1701.

6 †4†(d) A "bona fide resident of Montana" is hereby  
7 declared to be a person who, at the time of his employment  
8 and immediately prior thereto, has lived in this state in  
9 such a manner and for such time as is sufficient to clearly  
10 justify the conclusion that his past habitation in this  
11 state has been coupled with intention to make it his home.  
12 Sojourners or persons who come to Montana solely in  
13 pursuance of any contract or agreement to perform such labor  
14 shall under no circumstance be deemed to be bona fide  
15 residents of Montana within the meaning and for the purpose  
16 of this part.

17 †5†(e) †a†(i) "Standard prevailing rate of wages,  
18 including fringe benefits for health and welfare and pension  
19 contributions and travel allowance provisions applicable to  
20 the county or locality in which the work is being  
21 performed," means those wages, including fringe benefits for  
22 health and welfare and pension contributions and travel  
23 allowance provisions, which are paid in the county or  
24 locality by other contractors for work of a similar  
25 character performed in that county or locality by each

1 craft, classification, or type of worker needed to complete  
2 a contract under this part.

3 †b†(ii) When work of a similar character is not being  
4 performed in the county or locality, the standard prevailing  
5 rate of wages, including fringe benefits for health and  
6 welfare and pension contributions and travel allowance  
7 provisions, shall be those rates established by collective  
8 bargaining agreements in effect in the county or locality  
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11 (2) The provisions of this part do not apply to  
12 contracts for state water projects under [section 1] if the  
13 proposed construction costs are less than \$25,000."

14 NEW SECTION. Section 4. Extension of authority. Any  
15 existing authority of the department of natural resources  
16 and conservation to make rules on the subject of the  
17 provisions of this act is extended to the provisions of this  
18 act.

19 NEW SECTION. Section 5. Codification instruction.  
20 Section 1 is intended to be codified as an integral part of  
21 Title 85, chapter 1, and the provisions of Title 85, chapter  
22 1, apply to section 1.

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24 effective on passage and approval.

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 15 \$25,000; or

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17 (4) The provisions of Title 18, chapter 2, parts 2  
 18 through 4, apply to contracts awarded under this section,  
 19 except contracts for which the proposed construction costs  
 20 are less than \$25,000.

21 Section 2. Section 18-2-201, MCA, is amended to read:

22 "18-2-201. Bonding requirements. (1) Whenever Except  
 23 as otherwise provided in [section 1], whenever any board,  
 24 council, commission, trustees, or body acting for the state  
 25 or any county, municipality, or any public body shall

1 contract with any person or corporation to do any work for  
 2 the state, county, or municipality or other public body,  
 3 city, town, or district, such board, council, commission,  
 4 trustees, or body shall require the corporation, person, or  
 5 persons with whom such contract is made to make, execute,  
 6 and deliver to such board, council, commission, trustees, or  
 7 body a good and sufficient bond with two or more sureties  
 8 acceptable to the governmental body letting the contract, or  
 9 with a licensed surety company as surety, conditioned that  
 10 such corporation, person, or persons shall:

11 (a) faithfully perform all of the provisions of such  
 12 contract;

13 (b) pay all laborers, mechanics, subcontractors, and  
 14 materialmen; and

15 (c) pay all persons who shall supply such corporation,  
 16 person or persons, or subcontractors with provisions,  
 17 provender, material, or supplies for the carrying on of such  
 18 work.

19 (2) A copy of such bond shall be filed with the county  
 20 clerk and recorder of the county where such work is  
 21 performed or improvement made or, if to be performed in more  
 22 than one county, then with the county clerk of either  
 23 county, except in cases of cities and towns, in which case  
 24 such bond shall be filed with the city or town clerk  
 25 thereof.

1 (3) Notwithstanding the provisions of (1) and (2)  
 2 above, the state or other governmental entity may, in lieu  
 3 of a surety bond, permit the deposit with the contracting  
 4 governmental entity or agency the following securities in an  
 5 amount at least equal to the contract sum to guarantee the  
 6 faithful performance of the contract and the payment of all  
 7 laborers, suppliers, materialmen, mechanics, and  
 8 subcontractors:

9 (a) lawful money of the United States; or

10 (b) a cashier's check, certified check, bank money  
 11 order, or bank draft, drawn or issued by any banking  
 12 corporation incorporated under the laws of the state of  
 13 Montana or by a national banking association located in  
 14 Montana; or

15 (c) certificates of deposit or money market  
 16 certificates issued by any bank or savings and loan  
 17 association licensed to do business in Montana."

18 Section 3. Section 18-2-401, MCA, is amended to read:  
 19 "18-2-401. Definitions -- exemption. (1) Unless the  
 20 context requires otherwise, in this part the following  
 21 definitions apply:

22 (1)(a) "Labor" is hereby defined to be all services  
 23 performed in the construction, repair, or maintenance of all  
 24 state, county, municipal, and school work and does not  
 25 include engineering, superintendence, management, or office

1 or clerical work.

2       †2†(b) "Commissioner" means the commissioner of labor  
3 and industry provided for in 2-15-1701.

4       †3†(c) "Department" means the department of labor and  
5 industry provided for in 2-15-1701.

6       †4†(d) A "bona fide resident of Montana" is hereby  
7 declared to be a person who, at the time of his employment  
8 and immediately prior thereto, has lived in this state in  
9 such a manner and for such time as is sufficient to clearly  
10 justify the conclusion that his past habitation in this  
11 state has been coupled with intention to make it his home.  
12 Sojourners or persons who come to Montana solely in  
13 pursuance of any contract or agreement to perform such labor  
14 shall under no circumstance be deemed to be bona fide  
15 residents of Montana within the meaning and for the purpose  
16 of this part.

17       †5†(e) †a†(i) "Standard prevailing rate of wages,  
18 including fringe benefits for health and welfare and pension  
19 contributions and travel allowance provisions applicable to  
20 the county or locality in which the work is being  
21 performed," means those wages, including fringe benefits for  
22 health and welfare and pension contributions and travel  
23 allowance provisions, which are paid in the county or  
24 locality by other contractors for work of a similar  
25 character performed in that county or locality by each

1 craft, classification, or type of worker needed to complete  
2 a contract under this part.

3       †b†(ii) When work of a similar character is not being  
4 performed in the county or locality, the standard prevailing  
5 rate of wages, including fringe benefits for health and  
6 welfare and pension contributions and travel allowance  
7 provisions, shall be those rates established by collective  
8 bargaining agreements in effect in the county or locality  
9 for each craft, classification, or type of worker needed to  
10 complete the contract.

11       (2) The provisions of this part do not apply to  
12 contracts for state water projects under [section 1] if the  
13 proposed construction costs are less than \$25,000."

14       NEW SECTION. Section 4. Extension of authority. Any  
15 existing authority of the department of natural resources  
16 and conservation to make rules on the subject of the  
17 provisions of this act is extended to the provisions of this  
18 act.

19       NEW SECTION. Section 5. Codification instruction.  
20 Section 1 is intended to be codified as an integral part of  
21 Title 85, chapter 1, and the provisions of Title 85, chapter  
22 1, apply to section 1.

23       NEW SECTION. Section 6. Effective date. This act is  
24 effective on passage and approval.

-End-

# STANDING COMMITTEE REPORT

HOUSE

MARCH 18

19 85

MR. SPEAKER:

We, your committee on NATURAL RESOURCES

having had under consideration SENATE BILL Bill No. 273

THIRD reading copy ( BLUE )  
color

AN ACT ESTABLISHING CONTRACT REQUIREMENTS FOR THE CONSTRUCTION,  
REPAIR, ALTERATION, IMPROVEMENT, MAINTENANCE, REHABILITATION,  
OR RECONSTRUCTION OF A STATE WATER PROJECT

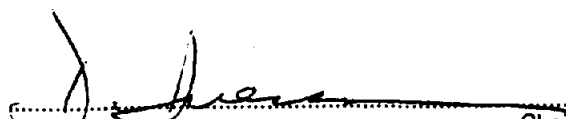
Respectfully report as follows: That SENATE BILL 273 Bill No. ....

BE AMENDED AS FOLLOWS:

- 1) Page 1, line 14.  
Following: "all"  
Insert: "state-owned"
- 2) Page 2, line 18.  
Following: "section"  
Strike: ", "  
Insert: "."
- 3) Page 2, line 19.  
Strike: "except"  
Insert: "The provisions of Title 18, chapter 2, parts 2 and 3,  
do not apply to"
- 4) Page 4, line 18, through page 6, line 13.  
Strike: Section 3 in its entirety  
Renumber: Subsequent sections

*KMC*  
~~XXXXPASS~~ AND AS AMENDED,  
BE CONCURRED IN

*In 3/19*

  
Rep. DENNIS IVERSON, Chairman.

## 1 SENATE BILL NO. 273

2 INTRODUCED BY THAYER

3 BY REQUEST OF THE DEPARTMENT OF NATURAL  
4 RESOURCES AND CONSERVATION5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING CONTRACT  
7 REQUIREMENTS FOR THE CONSTRUCTION, REPAIR, ALTERATION,  
8 IMPROVEMENT, MAINTENANCE, REHABILITATION, OR RECONSTRUCTION  
9 OF A STATE WATER PROJECT; AMENDING SECTIONS SECTION 18-2-201  
10 AND--18-2-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
11 DATE."  
12

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

14 NEW SECTION. Section 1. Contract requirements. (1)15 For all STATE-OWNED works constructed, repaired, altered,  
16 improved, maintained, rehabilitated, or reconstructed, the  
17 department shall:18 (a) review and approve all plans and working drawings  
19 prepared by engineers or architects, if any;20 (b) approve all bond issues or other financial  
21 arrangements and supervise and approve the expenditure of  
22 all money;23 (c) solicit, accept, and reject bids and award all  
24 contracts to the lowest qualified bidder considering  
25 conformity with specifications and terms and reasonableness

1 of bid amount;

2 (d) review and approve all change orders;

3 (e) accept the works when completed according to  
4 approved plans and specifications.5 (2) Except as provided in subsection (3), the  
6 department must solicit sealed, competitive bids before  
7 awarding a contract under subsection (1) and may award a  
8 contract only after receipt of at least one bid, if  
9 reasonably available.10 (3) The department may negotiate a contract, without  
11 competitive bidding, with a contractor qualified to do  
12 business in Montana if:

13 (a) the department rejects all bids for the work;

14 (b) an emergency threatening life or property exists;

15 (c) the proposed construction costs are less than  
16 \$25,000; or

17 (d) an exigency exists.

18 (4) The provisions of Title 18, chapter 2, parts 2  
19 through 4, apply to contracts awarded under this section,  
20 except THE PROVISIONS OF TITLE 18, CHAPTER 2, PARTS 2 AND 3,  
21 DO NOT APPLY TO contracts for which the proposed  
22 construction costs are less than \$25,000.

23 Section 2. Section 18-2-201, MCA, is amended to read:

24 "18-2-201. Bonding requirements. (1) Whenever Except  
25 as otherwise provided in [section 1], whenever any board,

1 council, commission, trustees, or body acting for the state  
 2 or any county, municipality, or any public body shall  
 3 contract with any person or corporation to do any work for  
 4 the state, county, or municipality or other public body,  
 5 city, town, or district, such board, council, commission,  
 6 trustees, or body shall require the corporation, person, or  
 7 persons with whom such contract is made to make, execute,  
 8 and deliver to such board, council, commission, trustees, or  
 9 body a good and sufficient bond with two or more sureties  
 10 acceptable to the governmental body letting the contract, or  
 11 with a licensed surety company as surety, conditioned that  
 12 such corporation, person, or persons shall:

13 (a) faithfully perform all of the provisions of such  
 14 contract;

15 (b) pay all laborers, mechanics, subcontractors, and  
 16 materialmen; and

17 (c) pay all persons who shall supply such corporation,  
 18 person or persons, or subcontractors with provisions,  
 19 provender, material, or supplies for the carrying on of such  
 20 work.

21 (2) A copy of such bond shall be filed with the county  
 22 clerk and recorder of the county where such work is  
 23 performed or improvement made or, if to be performed in more  
 24 than one county, then with the county clerk of either  
 25 county, except in cases of cities and towns, in which case

1 such bond shall be filed with the city or town clerk  
 2 thereof.

3 (3) Notwithstanding the provisions of (1) and (2)  
 4 above, the state or other governmental entity may, in lieu  
 5 of a surety bond, permit the deposit with the contracting  
 6 governmental entity or agency the following securities in an  
 7 amount at least equal to the contract sum to guarantee the  
 8 faithful performance of the contract and the payment of all  
 9 laborers, suppliers, materialmen, mechanics, and  
 10 subcontractors:

11 (a) lawful money of the United States; or

12 (b) a cashier's check, certified check, bank money  
 13 order, or bank draft, drawn or issued by any banking  
 14 corporation incorporated under the laws of the state of  
 15 Montana or by a national banking association located in  
 16 Montana; or

17 (c) certificates of deposit or money market  
 18 certificates issued by any bank or savings and loan  
 19 association licensed to do business in Montana."

20 ~~Section 3, Section 18-2-401, MCA, is amended to read:~~  
 21 ~~"18-2-401. Definitions. --- exemption --- (1) Unless the~~  
 22 ~~context requires otherwise, in this part the following~~  
 23 ~~definitions apply:~~

24 ~~(1)(a) "Labor" is hereby defined to be all services~~  
 25 ~~performed in the construction, repair, or maintenance of all~~

1 state, county, municipal, and school work and does not  
2 include engineering, superintendence, management, or office  
3 or clerical work.

4 (2)(b) "Commissioner" means the commissioner of labor  
5 and industry provided for in 2-15-1701.

6 (3)(c) "Department" means the department of labor and  
7 industry provided for in 2-15-1701.

8 (4)(d) A "bona fide resident of Montana" is hereby  
9 declared to be a person who, at the time of his employment  
10 and immediately prior thereto, has lived in this state in  
11 such a manner and for such time as is sufficient to clearly  
12 justify the conclusion that his past habitation in this  
13 state has been coupled with intention to make it his home.  
14 Sojourners or persons who come to Montana solely in  
15 pursuance of any contract or agreement to perform such labor  
16 shall under no circumstance be deemed to be bona fide  
17 residents of Montana within the meaning and for the purpose  
18 of this part.

19 (5)(e)-(a)(i) "Standard prevailing rate of wages,  
20 including fringe benefits for health and welfare and pension  
21 contributions and travel allowance provisions applicable to  
22 the county or locality in which the work is being  
23 performed," means those wages, including fringe benefits for  
24 health and welfare and pension contributions and travel  
25 allowance provisions, which are paid in the county or

1 locality by other contractors for work of a similar  
2 character performed in that county or locality by each  
3 craft, classification, or type of worker needed to complete  
4 a contract under this part.

5 (b)(ii) When work of a similar character is not being  
6 performed in the county or locality, the standard prevailing  
7 rate of wages, including fringe benefits for health and  
8 welfare and pension contributions and travel allowance  
9 provisions, shall be those rates established by collective  
10 bargaining agreements in effect in the county or locality  
11 for each craft, classification, or type of worker needed to  
12 complete the contract.

13 (2) The provisions of this part do not apply to  
14 contracts for state water projects under (section 1) if the  
15 proposed construction costs are less than \$25,000."

16 NEW SECTION. Section 3. Extension of authority. Any  
17 existing authority of the department of natural resources  
18 and conservation to make rules on the subject of the  
19 provisions of this act is extended to the provisions of this  
20 act.

21 NEW SECTION. Section 4. Codification instruction.  
22 Section 1 is intended to be codified as an integral part of  
23 Title 85, chapter 1, and the provisions of Title 85, chapter  
24 1, apply to section 1.

25 NEW SECTION. Section 5. Effective date. This act is

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1 effective on passage and approval.

-End-