

SENATE BILL NO. 103

INTRODUCED BY HAGER, HARP

IN THE SENATE

JANUARY 14, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON LABOR & EMPLOYMENT RELATIONS.

FEBRUARY 18, 1987 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 19, 1987 PRINTING REPORT.

FEBRUARY 20, 1987 SECOND READING, DO PASS.

FEBRUARY 21, 1987 ENGROSSING REPORT.

FEBRUARY 23, 1987 THIRD READING, PASSED.
AYES, 44; NOES, 6.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 24, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & LABOR.

MARCH 12, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 14, 1987 SECOND READING, CONCURRED IN.

ON MOTION, TAKEN FROM THIRD READING
AND REFERRED TO COMMITTEE
ON APPROPRIATIONS.

MARCH 16, 1987 ON MOTION, TAKEN FROM COMMITTEE
ON APPROPRIATIONS AND REFERRED
TO THIRD READING.

MARCH 17, 1987 THIRD READING, CONCURRED IN.
AYES, 70; NOES, 23.

RETURNED TO SENATE.

IN THE SENATE

MARCH 18, 1987 RECEIVED FROM HOUSE.
SENT TO ENROLLING.
MARCH 20, 1987 ENROLLING REPORT.
SIGNED BY PRESIDENT.

IN THE HOUSE

MARCH 21, 1987 SIGNED BY SPEAKER.

IN THE SENATE

MARCH 21, 1987 DELIVERED TO GOVERNOR.
MARCH 26, 1987 RETURNED FROM GOVERNOR WITH
RECOMMENDED AMENDMENTS.
MARCH 30, 1987 ON MOTION, TAKEN FROM SECOND
READING AND REREFERRED TO
COMMITTEE ON RULES.
APRIL 2, 1987 COMMITTEE ON RULES REPORTED.
ON MOTION, PLACED ON SECOND READING
THE 75TH LEGISLATIVE DAY.
APRIL 3, 1987 ON MOTION, PLACED ON SECOND READING
THE 76TH LEGISLATIVE DAY.
APRIL 6, 1987 ON MOTION, TAKEN FROM SECOND READING
AND REREFERRED TO COMMITTEE ON RULES.
APRIL 7, 1987 COMMITTEE ON RULES REPORTED.
APRIL 8, 1987 SECOND READING, MOTION GOVERNOR'S
RECOMMENDED AMENDMENTS BE CONCURRED
IN. MOTION FAILED.
SECOND READING, MOTION GOVERNOR'S
RECOMMENDED AMENDMENTS BE NOT
CONCURRED IN. MOTION FAILED.
ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

APRIL 9, 1987

SECOND READING, MOTION GOVERNOR'S
RECOMMENDED AMENDMENTS BE CONCURRED
IN. MOTION FAILED.

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS NOT CONCURRED IN.

TRANSMITTED TO HOUSE.

IN THE HOUSE

APRIL 15, 1987

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

APRIL 16, 1987

THIRD READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

RETURNED TO SENATE.

IN THE SENATE

APRIL 22, 1987

RECEIVED FROM HOUSE.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 22, 1987

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

APRIL 23, 1987

FREE CONFERENCE COMMITTEE REPORT
REJECTED.

IN THE SENATE

APRIL 23, 1987

FREE CONFERENCE COMMITTEE REPORTED.

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

ON MOTION, FREE CONFERENCE
COMMITTEE DISSOLVED.

APRIL 23, 1987

ON MOTION, FREE CONFERENCE
COMMITTEE NO. 2 REQUESTED
AND APPOINTED.

APRIL 24, 1987

SENT TO ENROLLING.

1 Senate BILL NO. 103
 2 INTRODUCED BY Henry Hupp

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE METHOD
 5 FOR PAYMENT OF THE STANDARD PREVAILING RATE OF WAGES UNDER
 6 THE PROVISIONS OF THE "LITTLE DAVIS-BACON ACT"; AND
 7 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Method for payment of prevailing wages. (1)
 11 In order to fulfill his obligation to pay the standard
 12 prevailing rate of wages as provided in 18-2-403, a
 13 contractor, subcontractor, or employer may:

14 (a) pay the amount of wages and fringe benefits
 15 directly to the employee in cash;

16 (b) contribute payments to a fringe benefit fund
 17 pursuant to a collective bargaining agreement;

18 (c) pay to a trustee or to a third person the rate of
 19 contribution in accordance with a bona fide fringe benefit
 20 plan or program; or

21 (d) make payments of any combination of the methods
 22 set forth in subsections (1)(a) through (1)(c) so that the
 23 aggregate of payments and contributions is not less than the
 24 standard prevailing rate of wages, including fringe benefits
 25 for health and welfare and pension contributions and travel

1 allowance provisions applicable to the county or locality in
 2 which the work is being performed.

3 (2) Nothing in subsection (1) relieves a contractor,
 4 subcontractor, or employer from the obligation to pay fringe
 5 benefits as wages as required under 18-2-405.

6 Section 2. Extension of authority. Any existing
 7 authority of the commissioner of labor and industry to make
 8 rules on the subject of the provisions of this act is
 9 extended to the provisions of this act.

10 Section 3. Codification instruction. Section 1 is
 11 intended to be codified as an integral part of Title 18,
 12 chapter 2, part 4, and the provisions of Title 18, chapter
 13 2, part 4, apply to section 1.

14 Section 4. Effective date. This act is effective on
 15 passage and approval.

-End-



STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB103, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to clarify the standard method for payment of the prevailing rate of wages under the provisions of the "Little Davis Bacon Act", and providing an immediate effective date.

ASSUMPTIONS:

1. The Department of Labor and Industry is responsible for final approval of the trusts established under this act.
2. The Montana Department of Labor and Industry is secondarily liable for the proper receipt, disbursement and investment of funds in the trusts. The trustee or third party to whom the funds are deposited is primarily liable for receipt, disbursement and investment of funds.
3. The Montana Department of Labor and Industry will be responsible for having each trust reviewed for soundness before it is approved to be established. (Estimated cost for a contractor to make this review is \$500 per trust) The Department will also be responsible for the annual audit and actuarial review of each trust.
4. Contractors will be responsible for establishing the trusts as allowed by this act. These trusts must be established in accordance with the Administrative Rules that will be promulgated by the Department of Labor and Industry.
5. The cost of managing the trusts will be paid by the contractor for whom the trust is established or by the assets of the trust. It is estimated that the cost of administration of each fund will be \$1000 per year, plus \$5 to \$15 per year per participant in each trust. In addition, there may be an investment management fee of up to 1% of the trust per year.
6. An estimate of 200 pages of Administrative Rules will have to be adopted before the Department of Labor and Industry could start administering this act. This will result in the act not becoming operational until July 1, 1988.
7. In FY89, 10 trusts will be established under this act and there will be 5 to 10 complaints filed with the Department of Labor and Industry.

David L. Hunter DATE 2/4/87

DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

DATE _____
TOM HAGER, PRIMARY SPONSOR

Fiscal Note for SB103, as introduced.

SB 103

Fiscal Note Request, SB103, as introduced.

Form BD-15

Page 2

FISCAL IMPACT:

<u>Expenditures:</u>	<u>FY88</u>	<u>FY89</u>
Personal Services	\$29,332	\$55,619
Operating Expenses	16,500	31,500
Equipment	2,200	0
TOTAL	\$48,032	\$87,119

Funding:

General Fund	\$48,032	\$87,119
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Revenues:

N/A

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

None.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

None.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

Section 1(C)

"trust" should be identified as "trust company established to do business in Montana". This would ensure that the trust is operated by a sound financial institution.

"third party" should be required to be bonded. This would ensure that the third party had adequate financial resources and insurance to cover any problems that may result from the funds in the trusts being received, disbursed or invested in a manner that is inconsistent with the trust agreement.

SB 103

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

SENATE BILL NO. 103

INTRODUCED BY HAGER, HARP

A BILL FOR AN ACT ENTITLED: "AN ACT ~~CLARIFYING~~ REVISING THE METHOD FOR PAYMENT OF THE STANDARD PREVAILING RATE OF WAGES ~~UNDER THE PROVISIONS OF THE "LITTLE DAVIS BACON ACT" WHEN AN EMPLOYER IS NOT A PARTY TO A COLLECTIVE BARGAINING AGREEMENT; ELIMINATING THE REQUIREMENT TO PAY FRINGE BENEFITS AS WAGES; REPEALING SECTION 18-2-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."~~

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

Section 1. Method for payment of prevailing wages ~~WHEN THE EMPLOYER IS NOT A PARTY TO A COLLECTIVE BARGAINING AGREEMENT.~~ (1) In order to fulfill his obligation to pay the standard prevailing rate of wages as provided in 18-2-403, a contractor, ~~subcontractor,~~ ~~or~~ AN employer WHO IS NOT A SIGNATORY PARTY TO A COLLECTIVE BARGAINING AGREEMENT may:

(a) pay the amount of wages and fringe benefits directly to the employee in cash;

~~(b) contribute payments to a fringe benefit fund pursuant to a collective bargaining agreement;~~

~~(c)(B)~~ (B) pay to a trustee or to a third person the rate of contribution in accordance with a bona fide fringe benefit plan or program, PROVIDED THAT THE CONTRIBUTION IS

PAID IRREVOCABLY TO A FUND, PLAN, OR PROGRAM THAT HAS BEEN APPROVED BY THE UNITED STATES DEPARTMENT OF LABOR, THE INTERNAL REVENUE SERVICE, OR THE MONTANA COMMISSIONER OF INSURANCE; or

~~(d)~~ (C) make payments of any A combination of the methods set forth in subsections (1)(a) through ~~(1)(c)~~ AND (1)(B) so that the aggregate of payments and contributions is not less than the standard prevailing rate of wages, including fringe benefits for health and welfare and pension contributions and travel allowance provisions applicable to the county or locality in which the work is being performed.

(2) PAYMENT OF FRINGE BENEFITS AS PROVIDED FOR IN SUBSECTION (1) MUST BE ON A LINE-BY-LINE BASIS IN WHICH THE AMOUNTS DESIGNATED TO A PARTICULAR BENEFIT MAY NOT BE APPLIED TO OTHER BENEFITS.

~~(2) Nothing in subsection (1) relieves a contractor, subcontractor, or employer from the obligation to pay fringe benefits as wages as required under 18-2-405.~~

SECTION 2. REPEALER. SECTION 18-2-405, MCA, IS REPEALED.

Section 3. Extension of authority. Any existing authority of the commissioner of labor and industry to make rules on the subject of the provisions of this act is extended to the provisions of this act.

Section 4. Codification instruction. Section 1 is



1 intended to be codified as an integral part of Title 18,
2 chapter 2, part 4, and the provisions of Title 18, chapter
3 2, part 4, apply to section 1.

4 Section 5. Effective date. This act is effective on
5 passage and approval.

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

Section 1. Method for payment of prevailing wages WHEN THE EMPLOYER IS NOT A PARTY TO A COLLECTIVE BARGAINING AGREEMENT. (1) In order to fulfill his obligation to pay the standard prevailing rate of wages as provided in 18-2-403, a contractor, subcontractor, or AN employer WHO IS NOT A SIGNATORY PARTY TO A COLLECTIVE BARGAINING AGREEMENT may:

(a) pay the amount of wages and fringe benefits directly to the employee in cash;

~~(b) contribute payments to a fringe benefit fund pursuant to a collective bargaining agreement;~~

(c)(B) pay to a trustee or to a third person the rate of contribution in accordance with a bona fide fringe benefit plan or program, PROVIDED THAT THE CONTRIBUTION IS

PAID IRREVOCABLY TO A FUND, PLAN, OR PROGRAM THAT HAS BEEN APPROVED BY THE UNITED STATES DEPARTMENT OF LABOR, THE INTERNAL REVENUE SERVICE, OR THE MONTANA COMMISSIONER OF INSURANCE; or

~~(d)(C) make payments of any A combination of the methods set forth in subsections (1)(a) through (1)(c) AND (1)(B) so that the aggregate of payments and contributions is not less than the standard prevailing rate of wages, including fringe benefits for health and welfare and pension contributions and travel allowance provisions applicable to the county or locality in which the work is being performed.~~

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SB 0103/02

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(d)(C) make payments of any A combination of the methods set forth in subsections (1)(a) through (1)(c) AND (1)(B) so that the aggregate of payments and contributions is not less than the standard prevailing rate of wages, including fringe benefits for health and welfare and pension contributions and travel allowance provisions applicable to the county or locality in which the work is being performed.

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(2) Nothing in subsection (1) relieves a contractor, subcontractor, or employer from the obligation to pay fringe benefits as wages as required under 18-2-405.

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-End-

GOVERNOR'S AMENDMENTS
TO SENATE BILL 103
(Reference Copy)

1. Page 1, line 16.
Following: "18-2-403"
Strike: "a,"
2. Page 2, line 2.
Following: "LABOR"
Strike: ", "
Insert: "or"
3. Page 2, line 3.
Following: "SERVICE"
Strike: ", OR THE MONTANA COMMISSIONER OF INSURANCE"
Insert: "and provided that the employer also makes
contributions to that plan for his employees
whenever he is performing a private sector contract"

CONFERENCE COMMITTEE REPORT

Report No.1.....

April 23, 1987

MR. PRESIDENT

We, your FREE Conference Committee on

Senate Bill 103

met and considered Governor's amendments to Senate Bill 103.

We recommend as follows:

THAT SENATE BILL 103, reference copy, BE AMENDED AS FOLLOWS:

1. Page 1, line 16.
Following: "18-2-403"
Strike: "a"

2. Page 2, line 2.
Following: " LABOR "
Strike: " LABOR "
Insert: "or"

3. Page 2, line 3.
Following: " SERVICE "
Strike: " , OR THE MONTANA COMMISSIONER OF INSURANCE "

And that this Conference Committee report be adopted.

FOR THE SENATE

Tom Hager
HAGER, CHAIRMAN

Neuman
NEUMAN

LYNCH

ADOPT REJECT

FOR THE HOUSE

Swysgood
SWYSGOOD

Harp
HARP

HARPER

MK

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2 INTRODUCED BY HAGER, HARP

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6 ~~UNDER THE PROVISIONS OF THE "LITTLE DAVIS BACON ACT"~~ WHEN AN
7 EMPLOYER IS NOT A PARTY TO A COLLECTIVE BARGAINING
8 AGREEMENT; ELIMINATING THE REQUIREMENT TO PAY FRINGE
9 BENEFITS AS WAGES; REPEALING SECTION 18-2-405, MCA; AND
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16 standard prevailing rate of wages as provided in 18-2-403, a
17 ~~contractor, subcontractor, or~~ AN employer WHO IS NOT A
18 SIGNATORY PARTY TO A COLLECTIVE BARGAINING AGREEMENT may:

19 (a) pay the amount of wages and fringe benefits
20 directly to the employee in cash;

21 ~~(b) contribute payments to a fringe benefit fund~~
22 ~~pursuant to a collective bargaining agreement;~~

23 ~~(c) (B)~~ (B) pay to a trustee or to a third person the rate
24 of contribution in accordance with a bona fide fringe
25 benefit plan or program, PROVIDED THAT THE CONTRIBUTION IS

1 PAID IRREVOCABLY TO A FUND, PLAN, OR PROGRAM THAT HAS BEEN
2 APPROVED BY THE UNITED STATES DEPARTMENT OF LABOR, OR THE
3 INTERNAL REVENUE SERVICE, OR THE MONTANA COMMISSIONER OF
4 INSURANCE AND PROVIDED THAT THE EMPLOYER ALSO MAKES
5 CONTRIBUTIONS TO THAT PLAN FOR HIS EMPLOYEES WHENEVER HE IS
6 PERFORMING A PRIVATE SECTOR CONTRACT; or

7 ~~(d)~~ (C) make payments of any A combination of the
8 methods set forth in subsections (1)(a) through ~~(i)~~ (e) AND
9 (1)(B) so that the aggregate of payments and contributions
10 is not less than the standard prevailing rate of wages,
11 including fringe benefits for health and welfare and pension
12 contributions and travel allowance provisions applicable to
13 the county or locality in which the work is being performed.

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15 SUBSECTION (1) MUST BE ON A LINE-BY-LINE BASIS IN WHICH THE
16 AMOUNTS DESIGNATED TO A PARTICULAR BENEFIT MAY NOT BE
17 APPLIED TO OTHER BENEFITS.

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19 ~~subcontractor, or employer from the obligation to pay fringe~~
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22 REPEALED.

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24 authority of the commissioner of labor and industry to make
25 rules on the subject of the provisions of this act is

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