

IN THE SENATE

APRIL 3, 1987

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

APRIL 7, 1987

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 14, 1987

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 16, 1987

CONFERENCE COMMITTEE REPORTED.

APRIL 17, 1987

SECOND READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

APRIL 20, 1987

THIRD READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE HOUSE

APRIL 21, 1987

CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE SENATE

APRIL 21, 1987

SENT TO ENROLLING.

1 Senate BILL NO. 360
 2 INTRODUCED BY Bishop Spauld
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE NOTICE
 5 REQUIREMENTS CONCERNING A SUPPLIER'S RIGHT OF ACTION ON A
 6 BOND UNDER A PUBLIC CONSTRUCTION CONTRACT; AMENDING SECTION
 7 18-2-206, MCA; AND PROVIDING AN APPLICABILITY DATE."
 8

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

10 Section 1. Section 18-2-206, MCA, is amended to read:

11 "18-2-206. Notice to contractor concerning
 12 subcontractor. (1) Every person, firm, or corporation
 13 furnishing provender, provisions, materials, or supplies to
 14 be used in the construction, performance, carrying on,
 15 prosecution, or doing of any work for the state or any
 16 county, city, town, district, municipality, or other public
 17 body shall, not later than 30 days after the date of the
 18 first delivery of--such--provender, material, supplies, or
 19 provisions to any subcontractor or agent of any person,
 20 firm, or corporation having a subcontract for the
 21 construction, performance, carrying on, prosecution or doing
 22 of such work, deliver or send by certified mail to the
 23 contractor a notice in writing stating in substance and
 24 effect that:

25 (a) such person, firm, or corporation has commenced to

1 deliver provender, provisions, materials, or supplies for
 2 use thereon, with the name of the subcontractor or agent
 3 ordering or to whom the same is furnished; and

4 (b) such contractor and his bond will be held for the
 5 same give a notice of a right of action on the bond.

6 (2) (a) The notice must be delivered personally or
 7 sent by certified mail to the public body, the contractor,
 8 and the licensed surety company.

9 (b) The notice must be in writing and state:

10 (i) that it is a notice of a right of action on the
 11 bond;

12 (ii) that the person, firm, or corporation giving the
 13 notice has commenced to deliver provender, provisions,
 14 materials, or supplies;

15 (iii) the name of the subcontractor or agent who placed
 16 the order or to whom the provender, provisions, materials,
 17 or supplies were delivered; and

18 (iv) that the contractor and his bond will be held for
 19 the unpaid price if the supplier is not paid.

20 (2)(3) No suit or action shall may be maintained in
 21 any court against the contractor or his bond to recover for
 22 such provender, provisions, material, or supplies or any
 23 part thereof unless the provisions of this part have been
 24 complied with."

25 NEW SECTION. Section 2. Applicability. This act



LC 1583/01

1 applies to contracts made on and after October 1, 1987.

-End-

APPROVED BY COMM. ON BUSINESS & INDUSTRY

SENATE BILL NO. 360

INTRODUCED BY BISHOP, SPAETH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE NOTICE REQUIREMENTS CONCERNING A SUPPLIER'S RIGHT OF ACTION ON A BOND UNDER A PUBLIC CONSTRUCTION CONTRACT; AMENDING SECTION 18-2-206, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 18-2-206, MCA, is amended to read:

"18-2-206. Notice to contractor concerning subcontractor. (1) Every person, firm, or corporation furnishing provender, provisions, materials, or supplies to be used in the construction, performance, carrying on, prosecution, or doing of any work for the state or any county, city, town, district, municipality, or other public body shall, not later than 30 days after the date of the first delivery of--such--provender, material, supplies, or provisions to any subcontractor or agent of any person, firm, or corporation having a subcontract for the construction, performance, carrying on, prosecution or doing of such work, deliver or send by certified mail to the contractor a notice in writing stating in substance and effect that:

{a}--such person, firm, or corporation has commenced to

~~deliver provender, provisions, materials, or supplies for use thereon, with the name of the subcontractor or agent ordering or to whom the same is furnished, and~~

~~{b}--such contractor and his bond will be held for the same give a notice of a right of action on the bond.~~

(2) (a) The notice must be delivered personally or sent by certified mail to the public body, the contractor, and the licensed surety company.

(b) The notice must be in writing and state:

(i) that it is a notice of a right of action on the bond;

(ii) that the person, firm, or corporation giving the notice has commenced to deliver provender, provisions, materials, or supplies;

(iii) the name of the subcontractor or agent who placed the order or to whom the provender, provisions, materials, or supplies were delivered; and

(iv) that the contractor and his bond will be held for the unpaid price if the supplier is not paid.

(3) TO HAVE A RIGHT OF ACTION AGAINST THE CONTRACTOR AND HIS BOND UNDER THIS PART, A PERSON, FIRM, OR CORPORATION MUST GIVE THE WRITTEN NOTICE REQUIRED BY THIS SECTION IN SUBSTANTIALLY THIS FORM. ANY OTHER TYPE OF ACTUAL OR CONSTRUCTIVE NOTICE IS NOT SUFFICIENT.

~~(2){3}(4)~~ No suit or action shall may be maintained in



1 any court against the contractor or his bond to recover for
2 such provender, provisions, material, or supplies or any
3 part thereof unless the provisions of this part have been
4 complied with."

5 NEW SECTION. Section 2. Applicability. This act
6 applies to contracts made on and after October 1, 1987.

-End-

SENATE BILL NO. 360

INTRODUCED BY BISHOP, SPAETH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE NOTICE REQUIREMENTS CONCERNING A SUPPLIER'S RIGHT OF ACTION ON A BOND UNDER A PUBLIC CONSTRUCTION CONTRACT; AMENDING SECTION 18-2-206, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 18-2-206, MCA, is amended to read:

"18-2-206. Notice to contractor concerning subcontractor. (1) Every person, firm, or corporation furnishing provender, provisions, materials, or supplies to be used in the construction, performance, carrying on, prosecution, or doing of any work for the state or any county, city, town, district, municipality, or other public body shall, not later than 30 days after the date of the first delivery of--such--provender, materials, supplies, or provisions to any subcontractor or agent of any person, firm, or corporation having a subcontract for the construction, performance, carrying on, prosecution or doing of such work, deliver or send by certified mail to the contractor a notice in writing stating in substance and effect that:

{a)--such person, firm, or corporation has commenced to

~~deliver provender, provisions, materials, or supplies for use thereon, with the name of the subcontractor or agent ordering or to whom the same is furnished, and~~

~~{b)--such contractor and his bond will be held for the same give a notice of a right of action on the bond.~~

{2} (a) The notice must be delivered personally or sent by certified mail to the public body, the contractor, and the licensed surety company.

{b) The notice must be in writing and state:

{i) that it is a notice of a right of action on the bond;

{ii) that the person, firm, or corporation giving the notice has commenced to deliver provender, provisions, materials, or supplies;

{iii) the name of the subcontractor or agent who placed the order or to whom the provender, provisions, materials, or supplies were delivered; and

{iv) that the contractor and his bond will be held for the unpaid price if the supplier is not paid.

{3} TO HAVE A RIGHT OF ACTION AGAINST THE CONTRACTOR AND HIS BOND UNDER THIS PART, A PERSON, FIRM, OR CORPORATION MUST GIVE THE WRITTEN NOTICE REQUIRED BY THIS SECTION IN SUBSTANTIALLY THIS FORM. ANY OTHER TYPE OF ACTUAL OR CONSTRUCTIVE NOTICE IS NOT SUFFICIENT.

~~{2}{3}~~{4} No suit or action shall may be maintained in



SB 0360/02

1 any court against the contractor or his bond to recover for
2 such provender, provisions, material, or supplies or any
3 part thereof unless the provisions of this part have been
4 complied with."

5 NEW SECTION. Section 2. Applicability. This act
6 applies to contracts made on and after October 1, 1987.

-End-

1 SENATE BILL NO. 360
 2 INTRODUCED BY BISHOP, SPAETH
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 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE NOTICE
 5 REQUIREMENTS CONCERNING A SUPPLIER'S RIGHT OF ACTION ON A
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 18 first delivery of--such--provender, material, supplies, or
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 24 effect that:
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1 deliver provender, provisions, materials, or supplies for
 2 use thereon, with the name of the subcontractor or agent
 3 ordering or to whom the same is furnished, and
 4 (b) such contractor and his bond will be held for the
 5 same give a notice of a right of action on the bond.
 6 (2) (a) The notice must be delivered personally or
 7 sent by certified mail to the public body, the contractor
 8 and the licensed surety company.
 9 (b) The notice must be in writing and state:
 10 (i) that it is a notice of a right of action on the
 11 bond;
 12 (ii) that the person, firm, or corporation giving the
 13 notice has commenced to deliver provender, provisions,
 14 materials, or supplies;
 15 (iii) the name of the subcontractor or agent who placed
 16 the order or to whom the provender, provisions, materials,
 17 or supplies were delivered; and
 18 (iv) that the contractor and his bond will be held for
 19 the unpaid price if the supplier is not paid.
 20 (3) TO HAVE A RIGHT OF ACTION AGAINST THE CONTRACTOR
 21 AND HIS BOND UNDER THIS PART, A PERSON, FIRM, OR CORPORATION
 22 MUST GIVE THE WRITTEN NOTICE REQUIRED BY THIS SECTION IN
 23 SUBSTANTIALLY THIS FORM. ANY OTHER TYPE OF ACTUAL OR
 24 CONSTRUCTIVE NOTICE IS NOT SUFFICIENT.
 25 (2)(3)(4) No suit or action shall may be maintained in

1 any court against the contractor or his bond to recover for
2 such provender, provisions, material, or supplies or any
3 part thereof unless the provisions of this part have been
4 complied with."

5 NEW SECTION. Section 2. Applicability. This act
6 applies to contracts made on and after October 1, 1987.

-End-

CONFERENCE COMMITTEE REPORT

Report No. 1

April 16, 1987

MR. PRESIDENT

We, your _____ Conference Committee on

Senate Bill 360

met and considered HOUSE COMMITTEE OF THE WHOLE AMENDMENT TO SENATE BILL

360, DATED MARCH 28, 1987.

We recommend as follows:

That the House amendment to SB 360, reference copy (salmon), be concurred in.

And that this Conference Committee report be adopted.

FOR THE SENATE

Al Bishop
Senator Bishop, Chairman

Michael Halligan
Senator Halligan

T. Thayer
Senator Thayer

FOR THE HOUSE

W. Glaser
Rep. Glaser

Swysgood
Rep. Swysgood

Spaeth
Rep. Spaeth

ADOPT REJECT

143

COMMITTEE OF THE WHOLE AMENDMENT

HOUSE

3-28-87

DATE

13:00

TIME

MR. CHAIRMAN: I MOVE TO AMEND SB 360

3rd reading copy (blue) as follows:
Color

- 1) Page 2, line 7.
Strike: :to the public body,"
Following: " contractor "
Strike: ", and the licensed surety company"

ADOPT

REJECT

3281300T.CW

Bud Campbell

Rep. Campbell