

SENATE BILL 235

Introduced by Hager, et al.

1/25	Introduced
1/25	Referred to Labor & Employment Relations
1/26	Fiscal Note Requested
1/31	Fiscal Note Received
2/02	Fiscal Note Printed
2/09	Hearing
2/15	Committee Report--Bill Passed as Amended
2/17	2nd Reading Passed
2/20	3rd Reading Passed

Transmitted to House

2/21	Referred to Labor & Employment Relations
3/21	Hearing
3/22	Tabled in Committee
4/06	Motion Failed To Take From Committee Died in Committee

1 *Senate* BILL NO. *235*
 2 INTRODUCED BY *Hager Doyle Campbell*
 3 *W. H. Cody Smith Thomas*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A CONTRACTOR
 5 OR SUBCONTRACTOR TO PROVIDE HEALTH CARE AND RETIREMENT
 6 BENEFITS, LIFE INSURANCE, DISABILITY AND SICKNESS INSURANCE,
 7 OR OTHER BONA FIDE FRINGE BENEFITS TO WORKERS OR EMPLOYEES
 8 COVERED BY THE STATE PREVAILING WAGE LAW IN LIEU OF PAYING
 9 FRINGE BENEFITS AS WAGES IF THE CONTRACTOR OR SUBCONTRACTOR
 10 IS NOT A SIGNATORY PARTY TO A COLLECTIVE BARGAINING
 11 AGREEMENT; REPEALING SECTION 18-2-405, MCA; AND PROVIDING
 12 AN IMMEDIATE EFFECTIVE DATE."

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

15 NEW SECTION. Section 1. Method for payment of
 16 standard prevailing wages -- employer not party to
 17 collective bargaining agreement. (1) In order to fulfill his
 18 obligation to pay the standard prevailing rate of wages
 19 under 18-2-403, a contractor or subcontractor who is not a
 20 signatory party to a collective bargaining agreement may:

21 (a) pay the amount of fringe benefits and the basic
 22 hourly rate of pay, which is part of the standard prevailing
 23 rate of wages, directly to workers or employees in cash;

24 (b) make an irrevocable contribution to a trustee or
 25 to a third person pursuant to a fringe benefit fund, plan,

1 or program that has received a favorable determination by
 2 the United States department of labor or the internal
 3 revenue service of the United States department of the
 4 treasury; or

5 (c) make payments using any combination of methods set
 6 forth in subsections (1)(a) and (1)(b) so that the aggregate
 7 of payments in cash and contributions is not less than the
 8 standard prevailing rate of wages, including fringe benefits
 9 for health and welfare and pension contributions and travel
 10 allowance provisions, in effect and applicable to the
 11 district for the particular type of work being performed.

12 (2) The fringe benefit fund, plan, or program
 13 described in subsection (1) must provide benefits to workers
 14 or employees for health care, pensions on retirement or
 15 death, life insurance, disability and sickness insurance, or
 16 other bona fide fringe benefits.

17 (3) Nothing in this section relieves a contractor or
 18 subcontractor from paying workers or employees in cash the
 19 basic hourly rate of pay as required under 18-2-403.

20 NEW SECTION. Section 2. Repealer. Section 18-2-405,
 21 MCA, is repealed.

22 NEW SECTION. Section 3. Extension of authority. Any
 23 existing authority to make rules on the subject of the
 24 provisions of [this act] is extended to the provisions of
 25 [this act].

LC 0582/01

- 1 NEW SECTION. **Section 4.** **Effective date.** [This act] is
- 2 effective on 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 SB235, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled: "An act allowing a contractor or subcontractor to provide health care and retirement benefits, life insurance, disability and sickness insurance, or other bona fide fringe benefits, to workers or employees covered by the state prevailing wage law in lieu of paying fringe benefits as wages if the contractor or subcontractor is not a signatory party to a collective bargaining agreement; repealing section 18-2-405, MCA; and providing an immediate effective date."

ASSUMPTIONS:

There will be an increase in the depth of investigations relating to the enforcement of this proposed legislation, but the investigations per se are already factored into the cost of providing investigative services through the Investigations Bureau of DOLI. In other words, this proposed legislation will change some of the ways that some investigations are managed, but no dramatic fiscal impact is anticipated through the implantation of this proposed legislation.

Ray Shackelford 1/31/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
OFFICE OF BUDGET AND PROGRAM PLANNING

Tom Hager 2-1-99
TOM HAGER, PRIMARY SPONSOR DATE

Fiscal Note for SB235, as introduced

SB 235

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

SENATE BILL NO. 235

INTRODUCED BY HAGER, BOYLAN, THAYER,
CAMPBELL, WILLIAMS, CODY, SMITH, THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A CONTRACTOR OR SUBCONTRACTOR TO PROVIDE HEALTH CARE AND RETIREMENT BENEFITS, LIFE INSURANCE, DISABILITY AND SICKNESS INSURANCE, OR OTHER BONA FIDE FRINGE BENEFITS TO WORKERS OR EMPLOYEES COVERED BY THE STATE PREVAILING WAGE LAW IN LIEU OF PAYING FRINGE BENEFITS AS WAGES IF THE CONTRACTOR OR SUBCONTRACTOR IS NOT A SIGNATORY PARTY TO A COLLECTIVE BARGAINING AGREEMENT; REPEALING SECTION 18-2-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Method for payment of standard prevailing wages -- employer not party to collective bargaining agreement. (1) In order to fulfill his obligation to pay the standard prevailing rate of wages under 18-2-403, a contractor or subcontractor who is not a signatory party to a collective bargaining agreement may:

(a) pay the amount of fringe benefits and the basic hourly rate of pay, which is part of the standard prevailing rate of wages, directly to workers or employees in cash;

(b) make an irrevocable contribution to a trustee or

to a third person pursuant to a fringe benefit fund, plan, or program GOVERNED BY THE EMPLOYEE RETIREMENT INCOME SECURITY ACT that has received a favorable determination by the United States department of labor or the internal revenue service of the United States department of the treasury; or

(c) make payments using any combination of methods set forth in subsections (1)(a) and (1)(b) so that the aggregate of payments in cash 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, in effect and applicable to the district for the particular type of work being performed.

(2) (A) The fringe benefit fund, plan, or program described in subsection (1) must provide benefits to workers or employees for health care, pensions on retirement or death, life insurance, disability and sickness insurance, or other bona fide fringe benefits.

(B) THE FRINGE BENEFIT FUND, PLAN, OR PROGRAM DESCRIBED IN SUBSECTION (1) MUST HAVE AT LEAST ONE HOURLY EMPLOYEE WHO IS A BENEFICIARY OF THE FUND, PLAN, OR PROGRAM ON THE COMMITTEE THAT SERVES AS THE PLAN ADMINISTRATOR OR TRUSTEE OF THE FUND, PLAN, OR PROGRAM.

(3) Nothing in this section relieves a contractor or subcontractor from paying workers or employees in cash the

1 basic hourly rate of pay as required under 18-2-403.

2 NEW SECTION. **Section 2. Repealer.** Section 18-2-405,
3 MCA, is repealed.

4 NEW SECTION. **Section 3. Extension of authority.** Any
5 existing authority to make rules on the subject of the
6 provisions of [this act] is extended to the provisions of
7 [this act].

8 NEW SECTION. **Section 4. Effective date.** [This act] is
9 effective on passage and approval.

 -End-

1 SENATE BILL NO. 235

2 INTRODUCED BY HAGER, BOYLAN, THAYER,
3 CAMPBELL, WILLIAMS, CODY, SMITH, THOMAS
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A CONTRACTOR
6 OR SUBCONTRACTOR TO PROVIDE HEALTH CARE AND RETIREMENT
7 BENEFITS, LIFE INSURANCE, DISABILITY AND SICKNESS INSURANCE,
8 OR OTHER BONA FIDE FRINGE BENEFITS TO WORKERS OR EMPLOYEES
9 COVERED BY THE STATE PREVAILING WAGE LAW IN LIEU OF PAYING
10 FRINGE BENEFITS AS WAGES IF THE CONTRACTOR OR SUBCONTRACTOR
11 IS NOT A SIGNATORY PARTY TO A COLLECTIVE BARGAINING
12 AGREEMENT; REPEALING SECTION 18-2-405, MCA; AND PROVIDING
13 AN IMMEDIATE EFFECTIVE DATE."
14

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

16 NEW SECTION. Section 1. Method for payment of
17 standard prevailing wages -- employer not party to
18 collective bargaining agreement. (1) In order to fulfill his
19 obligation to pay the standard prevailing rate of wages
20 under 18-2-403, a contractor or subcontractor who is not a
21 signatory party to a collective bargaining agreement may:

22 (a) pay the amount of fringe benefits and the basic
23 hourly rate of pay, which is part of the standard prevailing
24 rate of wages, directly to workers or employees in cash;

25 (b) make an irrevocable contribution to a trustee or

1 to a third person pursuant to a fringe benefit fund, plan,
2 or program GOVERNED BY THE EMPLOYEE RETIREMENT INCOME
3 SECURITY ACT that has received a favorable determination by
4 the United States department of labor or the internal
5 revenue service of the United States department of the
6 treasury; or

7 (c) make payments using any combination of methods set
8 forth in subsections (1)(a) and (1)(b) so that the aggregate
9 of payments in cash and contributions is not less than the
10 standard prevailing rate of wages, including fringe benefits
11 for health and welfare and pension contributions and travel
12 allowance provisions, in effect and applicable to the
13 district for the particular type of work being performed.

14 (2) (A) The fringe benefit fund, plan, or program
15 described in subsection (1) must provide benefits to workers
16 or employees for health care, pensions on retirement or
17 death, life insurance, disability and sickness insurance, or
18 other bona fide fringe benefits.

19 (B) THE FRINGE BENEFIT FUND, PLAN, OR PROGRAM
20 DESCRIBED IN SUBSECTION (1) MUST HAVE AT LEAST ONE HOURLY
21 EMPLOYEE WHO IS A BENEFICIARY OF THE FUND, PLAN, OR PROGRAM
22 ON THE COMMITTEE THAT SERVES AS THE PLAN ADMINISTRATOR OR
23 TRUSTEE OF THE FUND, PLAN, OR PROGRAM.

24 (3) Nothing in this section relieves a contractor or
25 subcontractor from paying workers or employees in cash the

SB 0235/02

1 basic hourly rate of pay as required under 18-2-403.

2 NEW SECTION. **Section 2. Repealer.** Section 18-2-405,
3 MCA, is repealed.

4 NEW SECTION. **Section 3. Extension of authority.** Any
5 existing authority to make rules on the subject of the
6 provisions of [this act] is extended to the provisions of
7 [this act].

8 NEW SECTION. **Section 4. Effective date.** [This act] is
9 effective on passage and approval.

 -End-