

House BILL NO. 407

INTRODUCED BY

Ernest

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "CONSTRUCTION SERVICES", "NONCONSTRUCTION SERVICES", AND "PUBLIC WORKS CONTRACT" FOR PURPOSES OF THE PREVAILING WAGE LAWS; PROVIDING THAT OTHER INFORMATION OR METHODS MAY BE CONSIDERED TO COMPUTE STANDARD PREVAILING WAGE RATES WHEN INADEQUATE DATA IS OBTAINED BY SURVEY; AUTHORIZING THE COMMISSIONER OF LABOR AND INDUSTRY TO ESTABLISH THE NUMBER OF DISTRICTS FOR PREVAILING WAGE RATES FOR THE CONSTRUCTION INDUSTRY; ELIMINATING THE REQUIREMENT THAT ALL STATE PUBLIC WORKS CONTRACTS BE SUBJECT TO LEGAL REVIEW; AUTHORIZING TEMPORARY STANDARD PREVAILING WAGE RATES; AMENDING SECTIONS 18-2-401, 18-2-403, 18-2-404, 18-2-409, 18-2-411, 18-2-421, 18-2-422, 18-2-432, AND 20-15-403, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 18-2-401, MCA, is amended to read:

"18-2-401. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) A "bona fide resident of Montana" is a person who, at the time of employment and immediately prior to the time of employment, has lived in this state in a manner and for a time that is sufficient to clearly justify the conclusion that the person's past habitation in this state has been coupled with an intention to make it the person's home. Sojourners or persons who come to Montana solely in pursuance of any contract or agreement to perform labor may not be considered to be bona fide residents of Montana within the meaning and for the purpose of this part.

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

(3) (a) "Construction services" means work performed by an individual in construction, heavy construction, highway construction, and remodeling work.

(b) The term does not include:

(i) engineering, superintendence, management, office, or clerical work on a public works contract;

1 or

2 (ii) consulting contracts, contracts with commercial suppliers for goods and supplies, or contracts
3 with professionals licensed under state law.

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

5 ~~(4)~~(5) "District" means a prevailing wage rate district established as provided in 18-2-411.

6 ~~(5)~~(6) "Heavy and highway construction wage rates" means wage rates, including fringe benefits
7 for health and welfare and pension contributions, that meet the requirements of the Employee Retirement
8 Income Security Act of 1974 and other bona fide programs approved by the United States department of
9 labor and travel allowance that are determined and established statewide for heavy and highway
10 construction projects, such as alteration or repair of roads, streets, highways, alleys, runways, trails,
11 parking areas, or utility rights-of-way.

12 (7) "Nonconstruction services" means work performed by an individual, not including management,
13 office, or clerical work, for:

14 (a) the maintenance of publicly owned buildings and facilities, including public highways, roads,
15 streets, and alleys;

16 (b) custodial or security services for publicly owned buildings and facilities;

17 (c) grounds maintenance for publicly owned property;

18 (d) the operation of public drinking water supply, waste collection, and waste disposal systems;

19 (e) law enforcement, including janitors and prison guards;

20 (f) fire protection;

21 (g) public or school transportation driving;

22 (h) nursing, nurse's aid services, and medical laboratory technician services;

23 (i) material and mail handling;

24 (j) food service and cooking;

25 (k) motor vehicle and construction equipment repair and servicing; and

26 (l) appliance and office machine repair and servicing.

27 ~~(6) "Labor" means all services in excess of \$25,000 performed in construction, maintenance, or~~
28 ~~remodeling work in a state, county, municipal, school district, or political subdivision project and does not~~
29 ~~include engineering, superintendence, management, or office or clerical work.~~

30 (8) "Public works contract" means a contract for construction services or nonconstruction services

1 let by the state, county, municipality, school district, or political subdivision in which the total cost of the
 2 contract is in excess of \$25,000.

3 ~~(7)~~(9) (a) "Standard prevailing rate of wages" or "standard prevailing wage" means:

4 (i) the heavy and highway construction wage rates applicable to heavy and highway construction
 5 projects; or

6 (ii) those wages, other than heavy and highway construction wages, including fringe benefits for
 7 health and welfare and pension contributions, that meet the requirements of the Employee Retirement
 8 Security Act of 1974 and other bona fide programs approved by the United States department of labor and
 9 travel allowance that are paid in the district by other contractors for work of a similar character performed
 10 in that district by each craft, classification, or type of worker needed to complete a contract under this part.
 11 In each district, the standard prevailing rate of wages ~~is~~ must be computed from a weighted average wage
 12 rate based on all of the hours worked on work of a similar character performed in the district unless the
 13 survey of employers in the district does not generate sufficient data. If the survey produces insufficient
 14 data, the rate may be established by the use of other information or methods that the commissioner
 15 determines fairly establish the standard prevailing rate of wages. The commissioner shall establish by rule
 16 the method or methods by which the standard prevailing rate of wages is determined.

17 (b) When work of a similar character is not being performed in the district, the standard prevailing
 18 rate of wages, including fringe benefits for health and welfare and pension contributions, that meets the
 19 requirements of the Employee Retirement Security Act of 1974 and other bona fide programs approved by
 20 the United States department of labor and the rate of travel allowance must be those rates established by
 21 collective bargaining agreements in effect in the district for each craft, classification, or type of worker
 22 needed to complete the contract.

23 ~~(8)~~(10) "Work of a similar character" means work on private or commercial projects as well as work
 24 on public projects."

25

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

27 **"18-2-403. Preference of Montana labor in public works -- wages -- tax-exempt project -- federal**
 28 **exception.** (1) In any every public works contract ~~let for state, county, municipal, school, or heavy and~~
 29 ~~highway construction, services, repair, or maintenance work under any law of this state,~~ there must be
 30 inserted in the bid specification and the public works contract a provision requiring the contractor to give

1 preference to the employment of bona fide ~~Montana~~ residents of Montana in the performance of the work.

2 (2) All public works contracts under subsection (1), except those for heavy and highway
3 construction, must contain a provision requiring the contractor to pay:

4 (a) the travel allowance that is in effect and applicable to the district in which the work is being
5 performed; and

6 (b) the standard prevailing rate of wages, including fringe benefits for health and welfare and
7 pension contributions, that:

8 (i) meets the requirements of the Employee Retirement Income Security Act of 1974 and other
9 bona fide programs approved by the United States department of labor; and

10 (ii) is in effect and applicable to the district in which the work is being performed.

11 (3) In every public works contract for heavy and highway construction, there must be inserted a
12 provision to require the contractor to pay the heavy and highway construction wage rates established
13 statewide for the project.

14 (4) A contract, other than a public works contract, let for a project costing more than \$25,000 and
15 financed from the proceeds of bonds issued under Title 17, chapter 5, part 15, or Title 90, chapter 5 or
16 7, on or after July 1, 1993, must contain a provision requiring the contractor to pay the standard prevailing
17 wage rate in effect and applicable to the district in which the work is being performed unless the contractor
18 performing the work has entered into a collective bargaining agreement covering the work to be performed.

19 (5) A public works contract may not be let to any person, firm, association, or corporation refusing
20 to execute an agreement with the provisions described in subsections (1) through (4) in it, provided that
21 in public works contracts involving the expenditure of federal-aid funds, this part may not be enforced in
22 a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to
23 honorably discharged veterans of the armed forces and prohibiting as unlawful any other preference or
24 discrimination among citizens of the United States.

25 (6) Failure to include the provisions required by 18-2-422 in a public works contract relieves the
26 contractor from the contractor's obligation to pay the standard prevailing wage rate and places the
27 obligation on the public contracting agency."

28

29 **Section 3.** Section 18-2-404, MCA, is amended to read:

30 **"18-2-404. Approval of public works contract -- bond.** (1) All public works contracts under this

1 part ~~shall~~ must be approved in writing by the legal adviser of the contracting ~~state~~, county, municipal
 2 corporation, school district, assessment district, or special improvement district body or officer prior to
 3 execution by the contracting public officer or officers.

4 (2) In all public works contracts entered into under the provisions of this part, at least \$1,000 of
 5 the contract price ~~shall~~ must be withheld at all times until the termination of the public works contract."
 6

7 **Section 4.** Section 18-2-409, MCA, is amended to read:

8 **"18-2-409. Montana residents to be employed ~~on state construction~~ under public works contracts.**

9 (1) ~~On~~ Under any ~~state construction project~~ public works contract let by the state and funded by state or
 10 federal funds, except a project partially funded with federal aid money from the United States department
 11 of transportation or ~~where~~ when residency preference laws are specifically prohibited by federal law and
 12 to which the state is a signatory to the ~~construction~~ public works contract, at least 50% of the work must
 13 be performed by bona fide ~~Montana~~ residents of Montana, ~~as defined in 18-2-401.~~

14 (2) For any public works contract ~~awarded for a state construction project let by the state~~, except
 15 a project partially funded with federal aid money from the United States department of transportation or
 16 ~~where~~ when residency preference laws are specifically prohibited by federal law, there must be inserted
 17 in the bid specification and the public works contract a provision, in language approved by the
 18 commissioner ~~of labor and industry~~, implementing the requirements of subsection (1). The bid specification
 19 and the public works contract must provide that at least 50% of the workers on the project will be bona
 20 fide ~~Montana~~ residents of Montana. If there are two or more public works contracts and ~~due to~~ because
 21 of a lack of qualified personnel a contractor cannot guarantee that at least 50% of ~~his~~ the contractor's
 22 workers will be ~~Montana~~ bona fide residents of Montana, ~~his~~ the contractor's public works contract must
 23 provide that the percentage that the commissioner ~~of labor and industry~~ believes possible will be ~~Montana~~
 24 bona fide residents of Montana and one or more of the other public works contracts must provide for a
 25 higher percentage of ~~Montana~~ bona fide residents of Montana so that 50% of the workers on the project
 26 will be ~~Montana~~ bona fide residents of Montana.

27 (3) The commissioner ~~of labor and industry~~ shall enforce this section and investigate complaints
 28 of its violation and may adopt rules to implement this section."
 29

30 **Section 5.** Section 18-2-411, MCA, is amended to read:

1 **"18-2-411. Creation of prevailing wage rate districts.** (1) Without taking into consideration heavy
2 and highway construction wage rates, the commissioner ~~shall~~ may divide the state into ~~at least 10~~
3 prevailing wage rate districts.

4 (2) In initially determining the districts, the commissioner ~~must~~ shall:

5 (a) follow the rulemaking procedures in the Montana Administrative Procedure Act; and

6 (b) publish the reasons supporting the creation of each district.

7 (3) A district boundary may not be changed except for good cause and in accordance with the
8 rulemaking procedures in the Montana Administrative Procedure Act.

9 (4) The presence of collective bargaining agreements in a particular area may not be the sole basis
10 for the creation of boundaries of a district, nor may the absence of collective bargaining agreements in a
11 particular area be the sole basis for changing the boundaries of a district.

12 (5) For each prevailing wage rate district established under this section, the commissioner shall
13 determine the standard prevailing rate of wages to be paid employees, as provided in 18-2-401 and
14 18-2-402."

15
16 **Section 6.** Section 18-2-421, MCA, is amended to read:

17 **"18-2-421. Notice.** When a public works project is accepted by the public contracting agency, a
18 notice of acceptance and the completion date of the project ~~shall~~ must be sent to the department. However,
19 in the case of ~~projects~~ public works contracts that amount to \$50,000 or less in cost, the notice of
20 acceptance and the completion date of the project is not required unless the department requests that
21 information. The 90-day limitation for filing an action in district court, as provided in 18-2-407, does not
22 begin until the public contracting agency notifies the department of its acceptance of the public works
23 project."

24
25 **Section 7.** Section 18-2-422, MCA, is amended to read:

26 **"18-2-422. Bid specification and public works contract to contain standard prevailing wage rate.**
27 ~~All bid specifications and public works contracts for public works projects and the bid specifications for~~
28 those contracts must contain a provision stating for each job classification the standard prevailing wage
29 rate, including fringe benefits, that the contractors and subcontractors ~~must~~ shall pay during construction
30 of the project."

1 **Section 8.** Section 18-2-432, MCA, is amended to read:

2 **"18-2-432. Penalty for violation.** (1) If a person, firm, or corporation fails to comply with the
3 provisions of this part, the state, county, municipality, school district, or officer of a political subdivision
4 that executed the public works contract shall retain \$1,000 of the contract price as liquidated damages for
5 the violation of the terms of the public works contract, and the money must be credited to the proper funds
6 of the state, county, municipality, school district, or political subdivision.

7 (2) Whenever a contractor or subcontractor is found by the commissioner to have aggravatedly
8 or willfully violated the labor standards provisions of this chapter, the contractor or subcontractor or any
9 firm, corporation, partnership, or association in which the contractor or subcontractor has a substantial
10 interest is ineligible, for a period not to exceed 3 years after the date of the final judgment, to receive any
11 public works contracts or subcontracts that are subject to the provisions of this chapter.

12 (3) Whenever an action has been instituted in a district court in this state against any person, firm,
13 or corporation for the violation of this part, the court in which the action is pending is authorized to issue
14 an injunction to restrain the person, firm, or corporation from proceeding with a public works contract with
15 the state, county, municipality, school district, or political subdivision, pending the final determination of
16 the instituted action."

17

18 **Section 9.** Section 20-15-403, MCA, is amended to read:

19 **"20-15-403. Applications of other school district provisions.** (1) When the term "school district"
20 appears in the following sections outside of Title 20, the term includes community college districts and the
21 provisions of those sections applicable to school districts apply to community college districts: 2-9-101,
22 2-9-111, 2-9-316, 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604, 7-6-2801, 7-7-123,
23 7-8-2214, 7-8-2216, 7-11-103, 7-12-4106, 7-13-110, 7-13-210, 7-15-4206, 10-1-703, 15-1-101,
24 15-6-204, 15-16-101, 15-16-605, 15-70-301, 17-5-101, 17-5-202, 17-6-103, 17-6-204, 17-6-213,
25 17-7-201, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18-2-401, 18-2-404, 18-2-432, 18-5-205,
26 19-1-102, 19-1-811, 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-3-104, 39-4-107, 39-31-103,
27 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 39-71-2206, 40-6-237, 41-3-1132, 49-3-101, 49-3-102,
28 53-20-304, 77-3-321, 82-10-201, ~~82-10-202~~, through 82-10-203, 85-7-2158, and 90-6-208 and Rules
29 4D(2)(g) and 15(c), M.R.Civ.P., as amended.

30 (2) When the term "school district" appears in a section outside of Title 20 but the section is not

1 listed in subsection (1), the school district provision does not apply to a community college district."
2

3 **NEW SECTION. Section 10. Transition for necessary prevailing wage rates.** (1) The commissioner
4 of labor and industry may adopt temporary standard prevailing wage rates for an occupation or trade for
5 which a standard prevailing wage rate has never been established but that is necessary to implement the
6 provisions of [this act].

7 (2) The commissioner may temporarily incorporate the federal Davis-Bacon Act wage rates
8 established for Montana as the state heavy and highway construction wage rates to provide uniformity
9 between federal and state standard prevailing wage rates for heavy and highway construction.
10

11 **NEW SECTION. Section 11. Severability.** If a part of [this act] is invalid, all valid parts that are
12 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
13 applications, the part remains in effect in all valid applications that are severable from the invalid
14 applications.
15

16 **NEW SECTION. Section 12. Effective date.** [This act] is effective July 1, 1997.
17

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0407, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

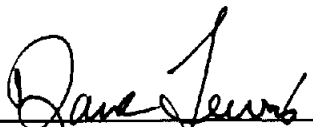
An act defining "construction services", "nonconstruction services", and "public works contract" for purposes of the prevailing wage laws; providing that other information or methods may be considered to compute standard prevailing wage rates when inadequate data is obtained by survey; authorizing the Commissioner of Labor and Industry to establish the number of districts for prevailing wage rates for the construction industry; eliminating the requirement that all state public works contracts be subject to legal review; authorizing temporary standard prevailing wage rates.

ASSUMPTIONS:

1. The proposed law codifies current practices and interpretations of a prior Attorney General opinion.

FISCAL IMPACT:

There is no fiscal impact to the state.

 2-3-97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 _____
DAVID EWER, PRIMARY SPONSOR DATE

Fiscal Note for HB0407, as introduced

HB407

1 HOUSE BILL NO. 407

2 INTRODUCED BY EWER, MOHL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "CONSTRUCTION SERVICES", "NONCONSTRUCTION
5 SERVICES", AND "PUBLIC WORKS CONTRACT" FOR PURPOSES OF THE PREVAILING WAGE LAWS;
6 PROVIDING THAT OTHER INFORMATION OR METHODS MAY BE CONSIDERED TO COMPUTE STANDARD
7 PREVAILING WAGE RATES WHEN INADEQUATE DATA IS OBTAINED BY SURVEY; AUTHORIZING THE
8 COMMISSIONER OF LABOR AND INDUSTRY TO ESTABLISH THE NUMBER OF DISTRICTS FOR
9 PREVAILING WAGE RATES FOR THE CONSTRUCTION INDUSTRY; ELIMINATING THE REQUIREMENT
10 THAT ALL STATE PUBLIC WORKS CONTRACTS BE SUBJECT TO LEGAL REVIEW; AUTHORIZING
11 TEMPORARY STANDARD PREVAILING WAGE RATES; AMENDING SECTIONS 18-2-401, 18-2-403,
12 18-2-404, ~~18-2-409~~, 18-2-411, 18-2-421, 18-2-422, 18-2-432, AND 20-15-403, MCA; AND PROVIDING
13 AN EFFECTIVE DATE."

14
15 STATEMENT OF INTENT

16 A STATEMENT OF INTENT IS DESIRED FOR THIS BILL BECAUSE IT AUTHORIZES THE
17 COMMISSIONER OF LABOR TO ADOPT RULES SPECIFYING THE METHOD OR METHODS OF
18 DETERMINING THE STANDARD PREVAILING RATE OF WAGES IN THE ABSENCE OF SUFFICIENT DATA
19 IN A DISTRICT. IT IS THE INTENT OF THE LEGISLATURE THAT THE COMMISSIONER OF LABOR ADOPT
20 RULES ESTABLISHING A PROCESS FOR DETERMINING WHEN THERE IS INSUFFICIENT DATA GENERATED
21 BY A SURVEY OF EMPLOYERS IN THE DISTRICT. IT IS THE INTENT OF THE LEGISLATURE THAT THE
22 RULES IDENTIFY AN AMOUNT OF DATA THAT CONSTITUTES INSUFFICIENT DATA UNDER THE
23 AMENDMENTS TO 18-2-401. IT IS THE FURTHER INTENT OF THE LEGISLATURE THAT METHODS FOR
24 IDENTIFYING THE PREVAILING WAGE IN THE ABSENCE OF SUFFICIENT DATA IN THE DISTRICT PROVIDE
25 FOR REVIEW AND INCORPORATION OF DATA FROM WORK OF A SIMILAR CHARACTER THAT IS
26 CONDUCTED AS NEAR AS POSSIBLE TO THE DISTRICT.

27
28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

29
30 **Section 1.** Section 18-2-401, MCA, is amended to read:

1 **"18-2-401. Definitions.** Unless the context requires otherwise, in this part, the following definitions
2 apply:

3 (1) A "bona fide resident of Montana" is a person who, at the time of employment and immediately
4 prior to the time of employment, has lived in this state in a manner and for a time that is sufficient to clearly
5 justify the conclusion that the person's past habitation in this state has been coupled with an intention to
6 make it the person's home. Sojourners or persons who come to Montana solely in pursuance of any
7 contract or agreement to perform labor may not be considered to be bona fide residents of Montana within
8 the meaning and for the purpose of this part.

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

10 (3) (a) "Construction services" means work performed by an individual in construction, heavy
11 construction, highway construction, and remodeling work.

12 (b) The term does not include:

13 (i) engineering, superintendence, management, office, or clerical work on a public works contract;

14 or

15 (ii) consulting contracts, contracts with commercial suppliers for goods and supplies, or contracts
16 with professionals licensed under state law.

17 ~~(3)~~(4) "Department" means the department of labor and industry provided for in 2-15-1701.

18 ~~(4)~~(5) "District" means a prevailing wage rate district established as provided in 18-2-411.

19 ~~(5)~~(6) "Heavy and highway construction wage rates" means wage rates, including fringe benefits
20 for health and welfare and pension contributions, that meet the requirements of the Employee Retirement
21 Income Security Act of 1974 and other bona fide programs approved by the United States department of
22 labor and travel allowance that are determined and established statewide for heavy and highway
23 construction projects, such as alteration or repair of roads, streets, highways, alleys, runways, trails,
24 parking areas, or utility rights-of-way.

25 (7) "Nonconstruction services" means work performed by an individual, not including management,
26 office, or clerical work, for:

27 (a) the maintenance of publicly owned buildings and facilities, including public highways, roads,
28 streets, and alleys;

29 (b) custodial or security services for publicly owned buildings and facilities;

30 (c) grounds maintenance for publicly owned property;

1 (d) the operation of public drinking water supply, waste collection, and waste disposal systems;

2 (e) law enforcement, including janitors and prison guards;

3 (f) fire protection;

4 (g) public or school transportation driving;

5 (h) nursing, nurse's aid services, and medical laboratory technician services;

6 (i) material and mail handling;

7 (j) food service and cooking;

8 (k) motor vehicle and construction equipment repair and servicing; and

9 (l) appliance and office machine repair and servicing.

10 ~~(6) "Labor" means all services in excess of \$25,000 performed in construction, maintenance, or~~
 11 ~~remodeling work in a state, county, municipal, school district, or political subdivision project and does not~~
 12 ~~include engineering, superintendence, management, or office or clerical work.~~

13 (8) "Public works contract" means a contract for construction services or nonconstruction services
 14 let by the state, county, municipality, school district, or political subdivision in which the total cost of the
 15 contract is in excess of \$25,000.

16 ~~(7)~~(9) (a) "Standard prevailing rate of wages" or "standard prevailing wage" means:

17 (i) the heavy and highway construction wage rates applicable to heavy and highway construction
 18 projects; or

19 (ii) those wages, other than heavy and highway construction wages, including fringe benefits for
 20 health and welfare and pension contributions, that meet the requirements of the Employee Retirement
 21 Security Act of 1974 and other bona fide programs approved by the United States department of labor and
 22 travel allowance that are paid in the district by other contractors for work of a similar character performed
 23 in that district by each craft, classification, or type of worker needed to complete a contract under this part.

24 In each district, the standard prevailing rate of wages ~~is~~ must be computed from a weighted average wage
 25 rate based on all of the hours worked on work of a similar character performed in the district unless the
 26 survey of employers in the district does not generate sufficient data. If the survey produces insufficient
 27 data, the rate may be established by the use of other information or methods that the commissioner
 28 determines fairly establish the standard prevailing rate of wages. The commissioner shall establish by rule
 29 the method or methods by which the standard prevailing rate or wages is determined. THE RULES MUST
 30 ESTABLISH A PROCESS FOR DETERMINING IF THERE IS INSUFFICIENT DATA GENERATED BY A SURVEY

1 OF EMPLOYERS IN THE DISTRICT THAT REQUIRES THE USE OF OTHER METHODS OF DETERMINING THE
 2 STANDARD PREVAILING RATE OF WAGES. THE RULES MUST IDENTIFY THE AMOUNT OF DATA THAT
 3 CONSTITUTES INSUFFICIENT DATA AND REQUIRE THE COMMISSIONER OF LABOR TO USE OTHER
 4 METHODS OF DETERMINING THE STANDARD PREVAILING RATE OF WAGES WHEN INSUFFICIENT DATA
 5 EXISTS. THE ALTERNATIVE METHODS OF DETERMINING THE PREVAILING RATE OF WAGES MUST
 6 PROVIDE FOR REVIEW AND THE INCORPORATION OF DATA FROM WORK OF A SIMILAR CHARACTER
 7 THAT IS CONDUCTED AS NEAR AS POSSIBLE TO THE ORIGINAL DISTRICT.

8 (b) When work of a similar character is not being performed in the district, the standard prevailing
 9 rate of wages, including fringe benefits for health and welfare and pension contributions, that meets the
 10 requirements of the Employee Retirement Security Act of 1974 and other bona fide programs approved by
 11 the United States department of labor and the rate of travel allowance must be those rates established by
 12 collective bargaining agreements in effect in the district for each craft, classification, or type of worker
 13 needed to complete the contract.

14 ~~(8)~~(10) "Work of a similar character" means work on private or commercial projects as well as work
 15 on public projects."

16

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

18 **"18-2-403. Preference of Montana labor in public works -- wages -- tax-exempt project -- federal**
 19 **exception.** (1) In ~~any every public works~~ contract ~~let for state, county, municipal, school, or heavy and~~
 20 ~~highway construction, services, repair, or maintenance work under any law of this state~~, there must be
 21 inserted in the bid specification and the public works contract a provision requiring the contractor to give
 22 preference to the employment of bona fide ~~Montana~~ residents of Montana in the performance of the work.

23 (2) All public works contracts under subsection (1), except those for heavy and highway
 24 construction, must contain a provision requiring the contractor to pay:

25 (a) the travel allowance that is in effect and applicable to the district in which the work is being
 26 performed; and

27 (b) the standard prevailing rate of wages, including fringe benefits for health and welfare and
 28 pension contributions, that:

29 (i) meets the requirements of the Employee Retirement Income Security Act of 1974 and other
 30 bona fide programs approved by the United States department of labor; and

1 (ii) is in effect and applicable to the district in which the work is being performed.

2 (3) In every public works contract for heavy and highway construction, there must be inserted a
3 provision to require the contractor to pay the heavy and highway construction wage rates established
4 statewide for the project.

5 (4) A contract, other than a public works contract, let for a project costing more than \$25,000 and
6 financed from the proceeds of bonds issued under Title 17, chapter 5, part 15, or Title 90, chapter 5 or
7 7, on or after July 1, 1993, must contain a provision requiring the contractor to pay the standard prevailing
8 wage rate in effect and applicable to the district in which the work is being performed unless the contractor
9 performing the work has entered into a collective bargaining agreement covering the work to be performed.

10 (5) A public works contract may not be let to any person, firm, association, or corporation refusing
11 to execute an agreement with the provisions described in subsections (1) through (4) in it, provided that
12 in public works contracts involving the expenditure of federal-aid funds, this part may not be enforced in
13 a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to
14 honorably discharged veterans of the armed forces and prohibiting as unlawful any other preference or
15 discrimination among citizens of the United States.

16 (6) Failure to include the provisions required by 18-2-422 in a public works contract relieves the
17 contractor from the contractor's obligation to pay the standard prevailing wage rate and places the
18 obligation on the public contracting agency."
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20 **Section 3.** Section 18-2-404, MCA, is amended to read:

21 **"18-2-404. Approval of public works contract -- bond.** (1) All public works contracts under this
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24 execution by the contracting public officer or officers.

25 (2) In all public works contracts entered into under the provisions of this part, at least \$1,000 of
26 the contract price ~~shall~~ must be withheld at all times until the termination of the public works contract."
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29 ~~**"18-2-409. Montana residents to be employed on state construction under public works contracts.**~~
30 ~~(1) On Under any state construction project public works contract let by the state and funded by state or~~

1 federal funds, except a project partially funded with federal aid money from the United States department
 2 of transportation or where when residency preference laws are specifically prohibited by federal law and
 3 to which the state is a signatory to the construction public works contract, at least 50% of the work must
 4 be performed by bona fide Montana residents of Montana, as defined in 18-2-401.

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18 (3) ~~The commissioner of labor and industry shall enforce this section and investigate complaints~~
 19 ~~of its violation and may adopt rules to implement this section."~~

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 21 **Section 4.** Section 18-2-411, MCA, is amended to read:

22 "**18-2-411. Creation of prevailing wage rate districts.** (1) Without taking into consideration heavy
 23 and highway construction wage rates, the commissioner ~~shall~~ may divide the state into ~~at least 10~~
 24 prevailing wage rate districts.

25 (2) In initially determining the districts, the commissioner ~~must~~ shall:

26 (a) follow the rulemaking procedures in the Montana Administrative Procedure Act; and

27 (b) publish the reasons supporting the creation of each district.

28 (3) A district boundary may not be changed except for good cause and in accordance with the
 29 rulemaking procedures in the Montana Administrative Procedure Act.

30 (4) The presence of collective bargaining agreements in a particular area may not be the sole basis

1 for the creation of boundaries of a district, nor may the absence of collective bargaining agreements in a
2 particular area be the sole basis for changing the boundaries of a district.

3 (5) For each prevailing wage rate district established under this section, the commissioner shall
4 determine the standard prevailing rate of wages to be paid employees, as provided in 18-2-401 and
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7 **Section 5.** Section 18-2-421, MCA, is amended to read:

8 "**18-2-421. Notice.** When a public works project is accepted by the public contracting agency, a
9 notice of acceptance and the completion date of the project ~~shall~~ must be sent to the department. However,
10 in the case of ~~projects~~ public works contracts that amount to \$50,000 or less in cost, the notice of
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12 information. The 90-day limitation for filing an action in district court, as provided in 18-2-407, does not
13 begin until the public contracting agency notifies the department of its acceptance of the public works
14 project."

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

17 "**18-2-422. Bid specification and public works contract to contain standard prevailing wage rate.**
18 All ~~bid specifications and public works contracts for public works projects and the bid specifications for~~
19 those contracts must contain a provision stating for each job classification the standard prevailing wage
20 rate, including fringe benefits, that the contractors and subcontractors ~~must~~ shall pay during construction
21 of the project."

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23 **Section 7.** Section 18-2-432, MCA, is amended to read:

24 "**18-2-432. Penalty for violation.** (1) If a person, firm, or corporation fails to comply with the
25 provisions of this part, the state, county, municipality, school district, or officer of a political subdivision
26 that executed the public works contract shall retain \$1,000 of the contract price as liquidated damages for
27 the violation of the terms of the public works contract, and the money must be credited to the proper funds
28 of the state, county, municipality, school district, or political subdivision.

29 (2) Whenever a contractor or subcontractor is found by the commissioner to have aggravatedly
30 or willfully violated the labor standards provisions of this chapter, the contractor or subcontractor or any

1 firm, corporation, partnership, or association in which the contractor or subcontractor has a substantial
 2 interest is ineligible, for a period not to exceed 3 years after the date of the final judgment, to receive any
 3 public works contracts or subcontracts that are subject to the provisions of this chapter.

4 (3) Whenever an action has been instituted in a district court in this state against any person, firm,
 5 or corporation for the violation of this part, the court in which the action is pending is authorized to issue
 6 an injunction to restrain the person, firm, or corporation from proceeding with a public works contract with
 7 the state, county, municipality, school district, or political subdivision, pending the final determination of
 8 the instituted action."

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 10 **Section 8.** Section 20-15-403, MCA, is amended to read:

11 **"20-15-403. Applications of other school district provisions.** (1) When the term "school district"
 12 appears in the following sections outside of Title 20, the term includes community college districts and the
 13 provisions of those sections applicable to school districts apply to community college districts: 2-9-101,
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 16 15-6-204, 15-16-101, 15-16-605, 15-70-301, 17-5-101, 17-5-202, 17-6-103, 17-6-204, 17-6-213,
 17 17-7-201, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18-2-401, 18-2-404, 18-2-432, 18-5-205,
 18 19-1-102, 19-1-811, 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-3-104, 39-4-107, 39-31-103,
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 21 4D(2)(g) and 15(c), M.R.Civ.P., as amended.

22 (2) When the term "school district" appears in a section outside of Title 20 but the section is not
 23 listed in subsection (1), the school district provision does not apply to a community college district."

24
 25 **NEW SECTION. Section 9. Transition for necessary prevailing wage rates.** (1) The commissioner
 26 of labor and industry may adopt temporary standard prevailing wage rates for an occupation or trade for
 27 which a standard prevailing wage rate has never been established but that is necessary to implement the
 28 provisions of [this act].

29 (2) The commissioner may temporarily incorporate the federal Davis-Bacon Act wage rates
 30 established for Montana as the state heavy and highway construction wage rates to provide uniformity

1 between federal and state standard prevailing wage rates for heavy and highway construction.

2

3 NEW SECTION. SECTION 10. SAVING CLAUSE. [THIS ACT] DOES NOT AFFECT RIGHTS AND
4 DUTIES THAT MATURED, PENALTIES THAT WERE INCURRED, OR PROCEEDINGS THAT WERE BEGUN
5 BEFORE [THE EFFECTIVE DATE OF THIS ACT].

6

7 NEW SECTION. Section 11. Severability. If a part of [this act] is invalid, all valid parts that are
8 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
9 applications, the part remains in effect in all valid applications that are severable from the invalid
10 applications.

11

12 NEW SECTION. Section 12. Effective date. [This act] is effective July 1, 1997.

13

-END-

1 HOUSE BILL NO. 407

2 INTRODUCED BY EWER, MOHL

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "CONSTRUCTION SERVICES", "NONCONSTRUCTION
5 SERVICES", AND "PUBLIC WORKS CONTRACT" FOR PURPOSES OF THE PREVAILING WAGE LAWS;
6 PROVIDING THAT OTHER INFORMATION OR METHODS MAY BE CONSIDERED TO COMPUTE STANDARD
7 PREVAILING WAGE RATES WHEN INADEQUATE DATA IS OBTAINED BY SURVEY; AUTHORIZING THE
8 COMMISSIONER OF LABOR AND INDUSTRY TO ESTABLISH THE NUMBER OF DISTRICTS FOR
9 PREVAILING WAGE RATES FOR THE CONSTRUCTION INDUSTRY; ELIMINATING THE REQUIREMENT
10 THAT ALL STATE PUBLIC WORKS CONTRACTS BE SUBJECT TO LEGAL REVIEW; AUTHORIZING
11 TEMPORARY STANDARD PREVAILING WAGE RATES; AMENDING SECTIONS 18-2-401, 18-2-403,
12 18-2-404, ~~18-2-409~~, 18-2-411, 18-2-421, 18-2-422, 18-2-432, AND 20-15-403, MCA; AND PROVIDING
13 AN EFFECTIVE DATE."

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO SECOND READING COPY
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APPROVED BY COM ON LABOR
& EMPLOYMENT RELATIONS

1

HOUSE BILL NO. 407

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12 18-2-404, ~~18-2-409, 18-2-411,~~ 18-2-421, 18-2-422, 18-2-432, AND 20-15-403, MCA; AND PROVIDING
13 AN EFFECTIVE DATE."
14

15 STATEMENT OF INTENT

16 A STATEMENT OF INTENT IS DESIRED FOR THIS BILL BECAUSE IT AUTHORIZES THE
17 COMMISSIONER OF LABOR TO ADOPT RULES SPECIFYING THE METHOD OR METHODS OF
18 DETERMINING THE STANDARD PREVAILING RATE OF WAGES IN THE ABSENCE OF SUFFICIENT DATA
19 IN A DISTRICT. IT IS THE INTENT OF THE LEGISLATURE THAT THE COMMISSIONER OF LABOR ADOPT
20 RULES ESTABLISHING A PROCESS FOR DETERMINING WHEN THERE IS INSUFFICIENT DATA GENERATED
21 BY A SURVEY OF EMPLOYERS IN THE DISTRICT. IT IS THE INTENT OF THE LEGISLATURE THAT THE
22 RULES IDENTIFY AN AMOUNT OF DATA THAT CONSTITUTES INSUFFICIENT DATA UNDER THE
23 AMENDMENTS TO 18-2-401. IT IS THE FURTHER INTENT OF THE LEGISLATURE THAT METHODS FOR
24 IDENTIFYING THE PREVAILING WAGE IN THE ABSENCE OF SUFFICIENT DATA IN THE DISTRICT PROVIDE
25 FOR REVIEW AND INCORPORATION OF DATA FROM WORK OF A SIMILAR CHARACTER THAT IS
26 CONDUCTED AS NEAR AS POSSIBLE TO THE DISTRICT.
27

28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
29

30 **Section 1.** Section 18-2-401, MCA, is amended to read:

1 "18-2-401. **Definitions.** Unless the context requires otherwise, in this part, the following definitions
2 apply:

3 (1) A "bona fide resident of Montana" is a person who, at the time of employment and immediately
4 prior to the time of employment, has lived in this state in a manner and for a time that is sufficient to clearly
5 justify the conclusion that the person's past habitation in this state has been coupled with an intention to
6 make it the person's home. Sojourners or persons who come to Montana solely in pursuance of any
7 contract or agreement to perform labor may not be considered to be bona fide residents of Montana within
8 the meaning and for the purpose of this part.

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

10 (3) (a) "Construction services" means work performed by an individual in construction, heavy
11 construction, highway construction, and remodeling work.

12 (b) The term does not include:

13 (i) engineering, superintendence, management, office, or clerical work on a public works contract;

14 or

15 (ii) consulting contracts, contracts with commercial suppliers for goods and supplies, or contracts
16 with professionals licensed under state law.

17 ~~(3)(4)~~ "Department" means the department of labor and industry provided for in 2-15-1701.

18 ~~(4)(5)~~ "District" means a prevailing wage rate district established as provided in 18-2-411.

19 ~~(5)(6)~~ "Heavy and highway construction wage rates" means wage rates, including fringe benefits
20 for health and welfare and pension contributions, that meet the requirements of the Employee Retirement
21 Income Security Act of 1974 and other bona fide programs approved by the United States department of
22 labor and travel allowance that are determined and established statewide for heavy and highway
23 construction projects, such as alteration or repair of roads, streets, highways, alleys, runways, trails,
24 parking areas, or utility rights-of-way.

25 (7) "Nonconstruction services" means work performed by an individual, not including management,
26 office, or clerical work, for:

27 (a) the maintenance of publicly owned buildings and facilities, including public highways, roads,
28 streets, and alleys;

29 (b) custodial or security services for publicly owned buildings and facilities;

30 (c) grounds maintenance for publicly owned property;

1 (d) the operation of public drinking water supply, waste collection, and waste disposal systems;

2 (e) law enforcement, including janitors and prison guards;

3 (f) fire protection;

4 (g) public or school transportation driving;

5 (h) nursing, nurse's aid services, and medical laboratory technician services;

6 (i) material and mail handling;

7 (j) food service and cooking;

8 (k) motor vehicle and construction equipment repair and servicing; and

9 (l) appliance and office machine repair and servicing.

10 ~~(6) "Labor" means all services in excess of \$25,000 performed in construction, maintenance, or~~
 11 ~~remodeling work in a state, county, municipal, school district, or political subdivision project and does not~~
 12 ~~include engineering, superintendence, management, or office or clerical work.~~

13 (8) "Public works contract" means a contract for construction services or nonconstruction services
 14 let by the state, county, municipality, school district, or political subdivision in which the total cost of the
 15 contract is in excess of \$25,000.

16 ~~(7)~~(9) (a) "Standard prevailing rate of wages" or "standard prevailing wage" means:

17 (i) the heavy and highway construction wage rates applicable to heavy and highway construction
 18 projects; or

19 (ii) those wages, other than heavy and highway construction wages, including fringe benefits for
 20 health and welfare and pension contributions, that meet the requirements of the Employee Retirement
 21 Security Act of 1974 and other bona fide programs approved by the United States department of labor and
 22 travel allowance that are paid in the district by other contractors for work of a similar character performed
 23 in that district by each craft, classification, or type of worker needed to complete a contract under this part.
 24 In each district, the standard prevailing rate of wages ~~is~~ must be computed from a weighted average wage
 25 rate based on all of the hours worked on work of a similar character performed in the district unless the
 26 survey of employers in the district does not generate sufficient data. If the survey produces insufficient
 27 data, the rate may be established by the use of other information or methods that the commissioner
 28 determines fairly establish the standard prevailing rate of wages. The commissioner shall establish by rule
 29 the method or methods by which the standard prevailing rate of wages is determined. THE RULES MUST
 30 ESTABLISH A PROCESS FOR DETERMINING IF THERE IS INSUFFICIENT DATA GENERATED BY A SURVEY

1 OF EMPLOYERS IN THE DISTRICT THAT REQUIRES THE USE OF OTHER METHODS OF DETERMINING THE
 2 STANDARD PREVAILING RATE OF WAGES. THE RULES MUST IDENTIFY THE AMOUNT OF DATA THAT
 3 CONSTITUTES INSUFFICIENT DATA AND REQUIRE THE COMMISSIONER OF LABOR TO USE OTHER
 4 METHODS OF DETERMINING THE STANDARD PREVAILING RATE OF WAGES WHEN INSUFFICIENT DATA
 5 EXISTS. THE ALTERNATIVE METHODS OF DETERMINING THE PREVAILING RATE OF WAGES MUST
 6 PROVIDE FOR REVIEW AND THE INCORPORATION OF DATA FROM WORK OF A SIMILAR CHARACTER
 7 THAT IS CONDUCTED AS NEAR AS POSSIBLE TO THE ORIGINAL DISTRICT.

8 (b) When work of a similar character is not being performed in the district, the standard prevailing
 9 rate of wages, including fringe benefits for health and welfare and pension contributions, that meets the
 10 requirements of the Employee Retirement Security Act of 1974 and other bona fide programs approved by
 11 the United States department of labor and the rate of travel allowance must be those rates established by
 12 collective bargaining agreements in effect in the district for each craft, classification, or type of worker
 13 needed to complete the contract.

14 ~~(8)(10)~~ "Work of a similar character" means work on private or commercial projects as well as work
 15 on public projects."

16
 17 **Section 2.** Section 18-2-403, MCA, is amended to read:

18 **"18-2-403. Preference of Montana labor in public works -- wages -- tax-exempt project -- federal**
 19 **exception.** (1) In ~~any every public works contract let for state, county, municipal, school, or heavy and~~
 20 ~~highway construction, services, repair, or maintenance work under any law of this state,~~ there must be
 21 inserted in the bid specification and the public works contract a provision requiring the contractor to give
 22 preference to the employment of bona fide ~~Montana~~ residents of Montana in the performance of the work.

23 (2) All public works contracts under subsection (1), except those for heavy and highway
 24 construction, must contain a provision requiring the contractor to pay:

25 (a) the travel allowance that is in effect and applicable to the district in which the work is being
 26 performed; and

27 (b) the standard prevailing rate of wages, including fringe benefits for health and welfare and
 28 pension contributions, that:

29 (i) meets the requirements of the Employee Retirement Income Security Act of 1974 and other
 30 bona fide programs approved by the United States department of labor; and

1 (ii) is in effect and applicable to the district in which the work is being performed.

2 (3) In every public works contract for heavy and highway construction, there must be inserted a
3 provision to require the contractor to pay the heavy and highway construction wage rates established
4 statewide for the project.

5 (4) A contract, other than a public works contract, let for a project costing more than \$25,000 and
6 financed from the proceeds of bonds issued under Title 17, chapter 5, part 15, or Title 90, chapter 5 or
7 7, on or after July 1, 1993, must contain a provision requiring the contractor to pay the standard prevailing
8 wage rate in effect and applicable to the district in which the work is being performed unless the contractor
9 performing the work has entered into a collective bargaining agreement covering the work to be performed.

10 (5) A public works contract may not be let to any person, firm, association, or corporation refusing
11 to execute an agreement with the provisions described in subsections (1) through (4) in it, provided that
12 in public works contracts involving the expenditure of federal-aid funds, this part may not be enforced in
13 a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to
14 honorably discharged veterans of the armed forces and prohibiting as unlawful any other preference or
15 discrimination among citizens of the United States.

16 (6) Failure to include the provisions required by 18-2-422 in a public works contract relieves the
17 contractor from the contractor's obligation to pay the standard prevailing wage rate and places the
18 obligation on the public contracting agency."
19

20 **Section 3.** Section 18-2-404, MCA, is amended to read:

21 "**18-2-404. Approval of public works contract -- bond.** (1) All public works contracts under this
22 part ~~shall~~ must be approved in writing by the legal adviser of the contracting ~~state~~, county, municipal
23 corporation, school district, assessment district, or special improvement district body or officer prior to
24 execution by the contracting public officer or officers.

25 (2) In all public works contracts entered into under the provisions of this part, at least \$1,000 of
26 the contract price ~~shall~~ must be withheld at all times until the termination of the public works contract."
27

28 **Section 4.** ~~Section 18-2-409, MCA, is amended to read:~~

29 "~~18-2-409. Montana residents to be employed on state construction under public works contracts.~~
30 (1) ~~On Under any state construction project public works contract let by the state and funded by state or~~

1 federal funds, except a project partially funded with federal aid money from the United States department
 2 of transportation or where when residency preference laws are specifically prohibited by federal law and
 3 to which the state is a signatory to the construction public works contract, at least 50% of the work must
 4 be performed by bona fide Montana residents of Montana, as defined in 18-2-401.

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 29 ~~rulemaking procedures in the Montana Administrative Procedure Act.~~

30 (4) ~~The presence of collective bargaining agreements in a particular area may not be the sole basis~~

1 ~~for the creation of boundaries of a district, nor may the absence of collective bargaining agreements in a~~
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 4 ~~determine the standard prevailing rate of wages to be paid employees, as provided in 18-2-401 and~~
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 27 the violation of the terms of the public works contract, and the money must be credited to the proper funds
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29 (2) Whenever a contractor or subcontractor is found by the commissioner to have aggravatedly
 30 or willfully violated the labor standards provisions of this chapter, the contractor or subcontractor or any

1 firm, corporation, partnership, or association in which the contractor or subcontractor has a substantial
 2 interest is ineligible, for a period not to exceed 3 years after the date of the final judgment, to receive any
 3 public works contracts or subcontracts that are subject to the provisions of this chapter.

4 (3) Whenever an action has been instituted in a district court in this state against any person, firm,
 5 or corporation for the violation of this part, the court in which the action is pending is authorized to issue
 6 an injunction to restrain the person, firm, or corporation from proceeding with a public works contract with
 7 the state, county, municipality, school district, or political subdivision, pending the final determination of
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 17 17-7-201, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18-2-401, 18-2-404, 18-2-432, 18-5-205,
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 21 4D(2)(g) and 15(c), M.R.Civ.P., as amended.

22 (2) When the term "school district" appears in a section outside of Title 20 but the section is not
 23 listed in subsection (1), the school district provision does not apply to a community college district."

24

25 **NEW SECTION. Section 8. Transition for necessary prevailing wage rates.** (1) The commissioner
 26 of labor and industry may adopt temporary standard prevailing wage rates for an occupation or trade for
 27 which a standard prevailing wage rate has never been established but that is necessary to implement the
 28 provisions of [this act].

29 (2) The commissioner may temporarily incorporate the federal Davis-Bacon Act wage rates
 30 established for Montana as the state heavy and highway construction wage rates to provide uniformity

1 between federal and state standard prevailing wage rates for heavy and highway construction.

2
3 NEW SECTION. SECTION 9. SAVING CLAUSE. [THIS ACT] DOES NOT AFFECT RIGHTS AND
4 DUTIES THAT MATURED, PENALTIES THAT WERE INCURRED, OR PROCEEDINGS THAT WERE BEGUN
5 BEFORE [THE EFFECTIVE DATE OF THIS ACT].

6
7 NEW SECTION. Section 10. Severability. If a part of [this act] is invalid, all valid parts that are
8 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
9 applications, the part remains in effect in all valid applications that are severable from the invalid
10 applications.

11
12 NEW SECTION. Section 11. Effective date. [This act] is effective July 1, 1997.

13 -END-