

## 1 HOUSE BILL NO. 72

2 INTRODUCED BY G. HOLLENBAUGH

3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING BIDDERS ON STATE CONSTRUCTION CONTRACTS  
6 TO MEET CERTAIN WORKPLACE SAFETY REQUIREMENTS; REQUIRING SUBCONTRACTORS TO MEET  
7 THE SAME SAFETY REQUIREMENTS AS THE BIDDER; PROVIDING RULEMAKING AUTHORITY TO THE  
8 DEPARTMENT OF LABOR AND INDUSTRY; AND PROVIDING APPLICABILITY DATES."

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

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12 NEW SECTION. **Section 1. Workplace safety history requirements -- rulemaking.** (1) All public  
13 works contracts for construction services let by the state that are subject to the provisions of Title 18, chapter 2,  
14 part 4, must include a bid specification regarding disclosure of the bidding contractor's workplace safety history  
15 for the previous 3 years. The bidder shall provide the bidder's workplace safety history expressed as follows:

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(a) the bidder's workplace incidence rate; and

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(b) one of the following:

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(i) the bidder's workers' compensation experience rating, as defined in 33-16-1008;

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(ii) if the bidder does not have a workers' compensation experience rating, the bidder's loss ratio; or

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(iii) if the bidder does not have a workers' compensation experience rating or a loss ratio, an expression

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of workplace safety history determined pursuant to a methodology specified by department of labor and industry  
22 rule.

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(2) The state agency letting a contract for construction services shall consider the safety histories of the  
24 various bidding contractors as a factor in awarding the contract.

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(3) The state agency letting the contract may not award a contract to a bidder with:

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(a) a workplace incidence rate greater by 50% or more than the average incidence rate for the industry;

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and

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(b) one of the following:

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(i) an experience rating of 1.5 or more; or

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(ii) a loss ratio of 100% or more.

1 (4) A successful bidder that has an incidence rate above the average incidence rate for the industry, an  
2 experience rating of between 1 and 1.5, or a loss ratio of between 50% and 100% or that has submitted  
3 documentation pursuant to subsection (1)(b)(iii) shall obtain and satisfy the requirements of an appropriate onsite  
4 safety consultation from the department of labor and industry.

5 (5) Any subcontractor hired by a successful bidder is subject to the requirements of this section.

6 (6) The department of labor and industry may adopt rules to implement this section.

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8 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an  
9 integral part of Title 18, chapter 2, part 3, and the provisions of Title 18, chapter 2, part 3, apply to [section 1].

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11 **NEW SECTION. Section 3. Saving clause.** [This act] does not affect rights and duties that matured,  
12 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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14 **NEW SECTION. Section 4. Applicability.** (1) Except as provided in subsection (2), [this act] applies  
15 to public works contracts for construction services let by the state on and after March 1, 2012.

16 (2) [Section 1(5)] applies to public works contracts for construction services let by the state on and after  
17 October 1, 2012.

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