

SENATE BILL NO. 171

INTRODUCED BY G. VUCKOVICH

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PUBLIC CONSTRUCTION CONTRACT LAW; ~~AND~~ ALLOWING DIRECT PAYMENT OF SUBCONTRACTORS; AND AMENDING SECTION 18-2-123, MCA."

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

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10 NEW SECTION. **Section 1. Option for direct draw by subcontractors.** (1) In contracts for a public
11 project, a contracting public agency may agree to follow the payment provisions in subsection (2) or (3) in addition
12 to those in this title, whether or not the contractor furnishes a security as described in 18-2-201.

13 (2) The contracting public agency may, upon a signed agreement with the contractor, allow a direct
14 payment to a subcontractor whose work has been fully accepted by the contracting public agency, regardless
15 of the status of the remainder of the project. This subsection applies to multiple tiers of subcontractors as long
16 as the contractor agrees in writing.

17 (3) The contractor may, without regard to the retainage held by the contracting public agency, provide
18 for a direct draw by a subcontractor if the contractor:

19 (a) after receiving a progress payment, writes a check directly to a subcontractor in exchange for a
20 release against the security described in 18-2-201; or

21 (b) writes a check written directly from the contractor's account to be held by the contracting public
22 agency and provided to the subcontractor upon final acceptance of the work by the contracting public agency and
23 with concurrence of the contractor for the work done by the subcontractor. A check for a subcontractor must be
24 held at the contracting public agency office where the subcontractor may pick up the check in exchange for
25 providing a release against the security.

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27 SECTION 2. SECTION 18-2-123, MCA, IS AMENDED TO READ:

28 "**18-2-123. Payment of contractors and subcontractors.** ~~Notwithstanding any other provision of this~~
29 ~~title,~~ Unless the provisions of [section 1] apply, payment of a construction contractor or subcontractor, as those
30 terms are defined in 28-2-2101, for services performed by a construction contractor or subcontractor is governed

1 by the provisions of Title 28, chapter 2, part 21."

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

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