

SENATE BILL NO. 276

INTRODUCED BY S. HINEBAUCH

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO DISPATCH CITIES AND PREVAILING WAGE CALCULATIONS; PROVIDING THAT ANY MONTANA CITY WITH A COUNTY COURTHOUSE IS A DISPATCH CITY; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 15-6-163, 18-2-401, AND 18-2-411, MCA."

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

**Section 1.** Section 15-6-163, MCA, is amended to read:

**"15-6-163. Class eighteen property -- description -- taxable percentage.** (1) (a) Subject to subsection (1)(b), class eighteen property includes the land, improvements, furniture, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies, except those included in class five property under 15-6-135 of a green hydrogen facility, green hydrogen pipeline, or green hydrogen storage system.

(b) Power generation primary fuel sources must be at least 25% by volume derived from green hydrogen to qualify under this section.

(2) During construction, property not meeting the definitions in subsection (6) must be classified as class eighteen property if, prior to March 1 of the first tax year for which the classification will be applied, the taxpayer certifies to the department that the facility under construction will meet the definitions in subsection (6) within 2 years of the date of the certification.

(3) The taxable property of a green hydrogen facility, a green hydrogen pipeline, and a green hydrogen storage system must be locally assessed.

(4) Class eighteen property does not include a green hydrogen facility, pipeline, or storage system for which, during construction, the standard prevailing wages for heavy construction, as provided in 18-2-401(13), were not paid during the construction phase.

(5) (a) Except as provided in subsections (5)(b) and (5)(c), class eighteen property is taxed at 3% of its market value.

1 (b) Class eighteen property defined in subsection (1) or meeting the requirements of subsection (2)  
2 is taxed at 1.5% of its market value for the first 15 years from the time construction commences.

3 (c) Class eighteen property defined in subsection (1) for which the owners have made an  
4 additional investment of \$25 million or more is taxed at 1.5% of market value for the first 15 years from the time  
5 construction commences on the additional investment.

6 (6) As used in this section, the following definitions apply:

7 (a) "Green hydrogen" means hydrogen that is produced from nonfossil fuel feedstock sources and  
8 does not produce incremental greenhouse gas emissions during its production. The term does not include  
9 hydrogen produced using steam reforming or any other conversion technology that produces hydrogen from  
10 fossil fuel feedstock.

11 (b) "Green hydrogen facility" means the land, improvements, and personal property of a facility  
12 designed or modified:

13 (i) to produce green hydrogen through electrolysis technology;

14 (ii) to store or transport green hydrogen; or

15 (iii) to convert green hydrogen back to electricity through a hydrogen-capable power generation  
16 source with construction commencing after July 1, 2021.

17 (c) "Green hydrogen pipeline" means a pipeline used for the transport or storage of green  
18 hydrogen, with construction commencing after July 1, 2021.

19 (d) "Green hydrogen storage system" means the temporary storage of green hydrogen in a vessel,  
20 pipeline, or geologic formation."

21

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

23 **"18-2-401. Definitions.** Unless the context requires otherwise, in this part, the following definitions  
24 apply:

25 (1) (a) "Bona fide Montana resident" means an individual who, at the time of employment and  
26 immediately prior to the time of employment, has lived in this state in a manner and for a time that is sufficient  
27 to clearly justify the conclusion that the individual's past habitation in this state has been coupled with an  
28 intention to make this state the individual's home.

1 (b) Individuals who come to Montana solely in pursuit of a contract or an agreement to perform  
2 labor may not be considered to be bona fide Montana residents within the meaning and for the purpose of this  
3 part.

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

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

7 (b) The term does not include:

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

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

12 (4) "Contractor" means any individual, general contractor, subcontractor, firm, association,  
13 partnership, corporation, limited liability partnership, or limited liability company engaged in construction  
14 services.

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

16 (6) "Dispatch city" means any Montana city with a county courthouse that is closest to where the  
17 center of the job is located.

18 ~~(6)(7)~~ "District" means a prevailing wage rate district established as provided in 18-2-411.

19 ~~(7)(8)~~ "Employer" means any individual, firm, association, partnership, corporation, limited liability  
20 partnership, or limited liability company engaged in nonconstruction services.

21 ~~(8)(9)~~ "Fringe benefits" means health, welfare, and pension contributions that meet the requirements  
22 of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq., and other bona fide  
23 programs approved by the U.S. department of labor.

24 ~~(9)(10)~~ "Nonconstruction services" means work performed by an individual, not including management,  
25 office, or clerical work, for:

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

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

- 1 (c) grounds maintenance for publicly owned property;
- 2 (d) the operation of public drinking water supply, waste collection, and waste disposal systems;
- 3 (e) law enforcement, including janitors and prison guards;
- 4 (f) fire protection;
- 5 (g) public or school transportation driving;
- 6 (h) nursing, nurse's aid services, and medical laboratory technician services;
- 7 (i) material and mail handling;
- 8 (j) food service and cooking;
- 9 (k) motor vehicle and construction equipment repair and servicing; and
- 10 (l) appliance and office machine repair and servicing.

11 ~~(10)~~(11) "Project location" means the construction site where a public works project involving  
 12 construction services is being built, installed, or otherwise improved or reclaimed, as specified on the project  
 13 plans and specifications.

14 ~~(11)~~(12) (a) "Public works contract" means a contract for construction services let by the state, county,  
 15 municipality, school district, or political subdivision or for nonconstruction services let by the state, county,  
 16 municipality, or political subdivision in which the total cost of the contract is in excess of \$25,000. The  
 17 nonconstruction services classification does not apply to any school district that at any time prior to April 27,  
 18 1999, contracted with a private contractor for the provision of nonconstruction services on behalf of the district.

19 (b) The term does not include contracts entered into by the department of public health and human  
 20 services for the provision of human services.

21 ~~(12)~~(13) "Special circumstances" means all work performed at a facility that is built or developed for a  
 22 specific Montana public works project and that is located in a prevailing wage district that contains the project  
 23 location or that is located in a contiguous prevailing wage district.

24 ~~(13)~~(14) "Standard prevailing rate of wages" or "standard prevailing wage" means the rates established  
 25 as provided in:

- 26 (a) 18-2-413 for building construction services;
- 27 (b) 18-2-414 for heavy construction services and for highway construction services; and
- 28 (c) 18-2-415 for nonconstruction services.

1           (15) "Travel pay" is determined by measuring the road miles in one direction over the shortest  
 2 practical maintained route from the dispatch city or the employee's home, whichever is closest to where the  
 3 center of the job is located.

4           ~~(14)~~(16) "Work of a similar character" means work on private commercial projects as well as work on  
 5 public projects."  
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7           **Section 3.** Section 18-2-411, MCA, is amended to read:

8           **"18-2-411. Creation of prevailing wage rate districts.** (1) Without taking into consideration heavy  
 9 construction services and highway construction services wage rates, the commissioner shall divide the state  
 10 into not more than five prevailing wage rate districts for building construction services and nonconstruction  
 11 services.

12           (2) In initially determining the districts, the commissioner shall:

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

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

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

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

20           (5) For each prevailing wage rate district established under this section:

21           ~~(a)~~ the commissioner shall determine the standard prevailing rate of wages to be paid employees, as  
 22 provided in this part, which may include travel pay as defined in 18-2-401, but may not include zone pay. The  
 23 standard prevailing rate of wages for construction services, as determined by the commissioner in this  
 24 subsection, must be used for calculating an apprentice's wage, as provided in 39-6-108.

25           ~~(b)~~ zone pay must be determined by measuring the road miles in one way over the shortest practical  
 26 maintained route from the dispatch city to the center of the job; and

27           ~~(c)~~ the rate of travel allowances must be computed by measuring the road miles in one direction over  
 28 the shortest practical maintained route from the dispatch city or the employee's home, whichever is closest to

1 the center of the job.

2 (6) ~~As used in this section, "dispatch city" means the courthouse in either Billings, Bozeman, Butte,~~  
3 ~~Great Falls, Helena, Kalispell, Miles City, Missoula, or Sidney that is closest to the center of the job and within~~  
4 ~~the same prevailing wage district as the job."~~

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