

HOUSE BILL NO. 271
INTRODUCED BY D. GALLIK

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE LIVABLE WAGE FOR FAMILIES ACT; REQUIRING AN EMPLOYER WHO RECEIVES PUBLIC FINANCIAL ASSISTANCE TO PROVIDE TO AN EMPLOYEE A WAGE THAT IS, AT A MINIMUM, EQUAL TO EITHER 100 PERCENT OF THE FEDERAL POVERTY LEVEL FOR A FAMILY OF FOUR IF THE EMPLOYER PROVIDES A BONA FIDE EMPLOYEE HEALTH INSURANCE PLAN OR 125 PERCENT OF THE FEDERAL POVERTY LEVEL FOR A FAMILY OF FOUR IF THE EMPLOYER DOES NOT PROVIDE A BONA FIDE EMPLOYEE HEALTH INSURANCE PLAN; PROVIDING DEFINITIONS; REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO MONITOR APPROVED APPLICATIONS FOR COMPLIANCE WITH THE WAGE REQUIREMENTS; PROVIDING PENALTIES FOR THOSE EMPLOYERS WHO RECEIVE PUBLIC FINANCIAL ASSISTANCE AND FAIL TO PAY A LIVABLE WAGE; AND PROVIDING AN APPLICABILITY DATE."

WHEREAS, the State of Montana provides grants, loans, tax incentives, and other forms of financial assistance to businesses, resulting in the creation, expansion, or maintenance of a wide variety of employment opportunities; and

WHEREAS, the State of Montana has limited taxpayer resources to devote to economic development; and

WHEREAS, the use of taxpayer dollars to promote the sustenance and creation of jobs paying livable wages can increase consumer income, decrease levels of poverty, and reduce the need for taxpayer-funded public assistance for families; and

WHEREAS, it is in the interest of the State of Montana and its people to target the limited resources available for economic development to those businesses that enable families to remain off the state's public assistance rolls by paying a livable wage.

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 4] may be cited as the "Livable Wage for Families Act".

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 4], the following definitions apply:

- (1) "Agency" has the meaning provided in 2-18-101.
- (2) "Department" means the department of labor and industry as provided for in 2-15-1701.
- (3) (a) "Employee" means a worker who works 35 hours or more during a scheduled 5-day workweek and is employed by an employer who is receiving public financial assistance.
 - (b) The term does not include the owner of the business.
- (4) "Employer" means the owner of a business that is receiving public financial assistance.
- (5) (a) "Livable wage" means a rate equal to:
 - (i) 100% of the federal poverty level for a family of four if the employer provides a bona fide employee health insurance plan; or
 - (ii) 125% of the federal poverty level for a family of four if the employer does not provide a bona fide employee health insurance plan.
 - (b) the federal rate prescribed in subsections (5)(a)(i) and (5)(a)(ii) is released annually in the Federal Register under the title "Annual Update of the Health and Human Services Poverty Guidelines" and must be converted to an hourly rate based on a minimum of 2,080 hours a year. The rate must be posted electronically on the state website homepage by the department and the department of public health and human services by April 1 of each year.
- (6) "Public financial assistance" means the total of any grant, loan, tax incentive, credit or abatement, bond financing, subsidy, or other form of assistance of \$40,000 or more in a calendar year that is provided by an agency or by a commercial lending institution authorized to participate in a state program to an employer for the initiation, continuation, or expansion of a business located in the state and that results in a direct financial benefit to the employer.

NEW SECTION. Section 3. Payment of livable wage required for financial assistance -- notice of livable wage. (1) An employer who receives public financial assistance and who provides full health insurance coverage for part-time and full-time employees shall, within 6 months after receipt of the public financial assistance, pay each employee a wage that is, at a minimum, equal to a livable wage and shall, for each employee hired after receipt of the public financial assistance, pay the employee hired a wage equal to a livable wage within 6 months of the date of hire. The employer shall continue to pay a livable wage, revised annually, throughout the longest of:

- (a) the period in which the employer receives public financial assistance;
 - (b) the period in which the employer is making payments under the terms set forth for receiving the public financial assistance; or
 - (c) a period of 10 years.
- (2) Prior to providing public financial assistance, an agency or lending institution shall:
- (a) if the agency or lending institution does not have access to the state website homepage, contact the department by April 1 of each year to verify the livable wage for the calendar year; and
 - (b) include in any application materials for public financial assistance a statement that:
 - (i) an employer who receives public financial assistance is required to pay a livable wage as one condition of receiving the assistance; and
 - (ii) an employer who receives public financial assistance and fails to pay a livable wage is subject to penalties that include the loss of some or all of the public financial assistance.
- (3) When an application for public financial assistance is approved, an agency or lending institution shall forward a copy of the approved application to the unit of the department that is responsible for enforcing wage and hour laws.
- (4) If approved to receive public financial assistance pursuant to this section, an employer shall, upon receipt of the assistance, post in a conspicuous place at each worksite maintained by the employer a notice informing all employees that the employer is receiving public financial assistance and stating the hourly livable wage rate that the employer, at a minimum, is required to pay within 6 months as a condition of receiving the public financial assistance.
- (5) The department shall monitor the approved applications for those employers who receive public financial assistance from an agency or lending institution for compliance with [sections 1 through 4] and may institute actions as provided in this chapter if the department determines that the employer has not paid the livable wage.
- (6) On a form prescribed and provided by the department, the employer shall provide the department with information, including:
- (a) the name, social security number, and date of hire of each employee;
 - (b) the date the employer received the public financial assistance; and
 - (c) the length of the pay period and the rate of individual compensation.
- (7) For 2 years following receipt of public financial assistance, the employer shall file quarterly reports with the department. After the employer demonstrates compliance with the livable wage requirement for a 2-year

period, the department may, upon the employer's application for less frequent reporting periods, extend the reporting period to a period not to exceed 1 year.

(8) An employee who believes that an employer has failed to pay a livable wage as required under this section may file a wage claim with the department pursuant to this chapter.

NEW SECTION. Section 4. Enforcement -- penalties. (1) An employer who violates the requirement to pay a livable wage, in addition to any payments required under the terms of the public financial assistance, shall return to the appropriate agency or lending institution:

(a) for a first violation in any calendar year, 15% of the total public financial assistance received in the calendar year or 15% of the total public financial assistance, whichever is less;

(b) for a second violation in any subsequent calendar year, 30% of the total public financial assistance received in the calendar year or 30% of the total public financial assistance, whichever is less; and

(c) for a third violation in any 3 calendar years, all of the public financial assistance not returned as a result of a first or second violation, and the public financial assistance must be terminated. The employer is liable for back wages and penalties owed to each affected employee.

(2) An employer subject to the penalty provision in subsection (1)(c) is ineligible to apply for or receive public financial assistance for a period of 5 years.

(3) If the department determines that an employer receiving public financial assistance is not paying a livable wage as required under [section 3], the department shall:

(a) institute actions against the employer for the collection of unpaid wages and penalties for each affected employee; and

(b) notify in writing the appropriate agency or lending institution of its determination.

(4) Upon receiving written notification by the department that an employer is not paying the required livable wage, the agency or lending institution shall notify the employer in writing and require the employer to return the portion of the public financial assistance specified in subsection (1)(a), (1)(b), or (1)(c).

(5) An agency or lending institution may initiate legal action against an employer who violates the provisions of [sections 1 through 4] to obtain reimbursement of all or any portion of public financial assistance provided. The agency or lending institution is also entitled to reimbursement for attorney fees and court costs.

NEW SECTION. Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 39, chapter 3, and the provisions of Title 39, chapter 3, apply to [sections 1 through 4].

NEW SECTION. **Section 6. Applicability.** [This act] applies to applications for public financial assistance on or after [the effective date of this act].

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