

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."

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

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

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

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

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

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

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an 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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