

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF "PUBLIC WORKS CONTRACT"
5 TO INCLUDE CONTRACTS ENTERED INTO BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN
6 SERVICES FOR THE PROVISION OF HUMAN SERVICES; AND AMENDING SECTION 18-2-401, MCA."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9
10 **Section 1.** Section 18-2-401, MCA, is amended to read:

11 **"18-2-401. Definitions.** Unless the context requires otherwise, in this part, the following definitions
12 apply:

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

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

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

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

22 (b) The term does not include:

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

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

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

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

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

3 (7) "Employer" means any individual, firm, association, partnership, corporation, limited liability
4 partnership, or limited liability company engaged in nonconstruction services.

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

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

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

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

13 (c) grounds maintenance for publicly owned property;

14 (d) the operation of public drinking water supply, waste collection, and waste disposal systems;

15 (e) law enforcement, including janitors and prison guards;

16 (f) fire protection;

17 (g) public or school transportation driving;

18 (h) nursing, nurse's aid services, and medical laboratory technician services;

19 (i) material and mail handling;

20 (j) food service and cooking;

21 (k) motor vehicle and construction equipment repair and servicing; and

22 (l) appliance and office machine repair and servicing.

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

26 (11) ~~(a)~~—"Public works contract" means:

27 (a) a contract entered into by the department of public health and human services for the provision of
28 human services; or

