

1 HOUSE BILL NO. 616  
2 INTRODUCED BY M. CAFERRO

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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."

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

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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  
18 labor may not be considered to be bona fide Montana residents within the meaning and for the purpose of this  
19 part.

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

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

23 (b) The term does not include:

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

25 or

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

28 (4) "Contractor" means any individual, general contractor, subcontractor, firm, association,

1 partnership, corporation, limited liability partnership, or limited liability company engaged in construction  
2 services.

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

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

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

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

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

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

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

15 (c) grounds maintenance for publicly owned property;

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

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

18 (f) fire protection;

19 (g) public or school transportation driving;

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

21 (i) material and mail handling;

22 (j) food service and cooking;

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

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

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

28 (11) ~~(a)~~ "Public works contract" means a contract for construction services let by the state, county,

1 municipality, school district, or political subdivision or for nonconstruction services let by the state, county,  
 2 municipality, or political subdivision in which the total cost of the contract is in excess of \$25,000 or a contract  
 3 entered into by the department of public health and human services for the provision of human services. The  
 4 nonconstruction services classification does not apply to any school district that at any time prior to April 27,  
 5 1999, contracted with a private contractor for the provision of nonconstruction services on behalf of the district.

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

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

11 (13) "Standard prevailing rate of wages" or "standard prevailing wage" means the rates established  
 12 as provided in:

- 13 (a) 18-2-413 for building construction services;
- 14 (b) 18-2-414 for heavy construction services and for highway construction services; and
- 15 (c) 18-2-415 for nonconstruction services.

16 (14) "Work of a similar character" means work on private commercial projects as well as work on  
 17 public projects."

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