RESOLUTION 2020-

ESTABLISHING A MORE EQUITABLE NUMBER
AND
GEOGRAPHICAL DISTRIBUTION OF DISPATCH CITIES

It is the intent of the Montana Association of Counties to seek legislation that requires the Department of Labor to evaluate its selection process for naming dispatch cities in Prevailing Wage Rate determinations and at minimum add additional locations, namely in eastern Montana.

Whereas, Montana’s prevailing wage law applies to public works contracts above $25,000, entered into by counties; and

Whereas, the determination of prevailing wages, fringe benefits, and travel benefits all impact the cost of county contracts; and

Whereas, increases in costs to county public works contracts directly impacts county taxpayers; and

Whereas, within the four (4) Prevailing Wage Districts there exist seven (7) “Dispatch” cities from which Zone Pay and Travel Pay is determined

Whereas, each of Districts 1-3 have two dispatch cities and Zone 4 only one; and

Whereas, District 4 represents the largest geographical area of any District and has only one Dispatch city the impact on taxpayers in that region is disproportionate.

Now, Therefore Be It Resolved, that the Montana Association of Counties will seek legislation that mitigates or eliminates the arbitrary adverse impacts to local capital project costs in some areas of Montana as a result of the designation of, location of, and number of currently designated dispatch cities.
November 5, 2019

Labor Standards Bureau
Employment Relations Division
Department of Labor and Industry
ATTN: Mike Smith
PO Box 201503
Helena, MT 59620-1503

Via email MSmith3@mt.gov
Via postal mail

RE: Written Views and Arguments
Amendment to ARM 24.17.127
Prevailing Wage Rates for Public Works Projects
MAR Notice No. 24-17-350

Dear Sirs or Madams:

As invited by the Notice of Public Hearing on Amendment, MAR Notice No. 24-17-350, October 8, 2019, and by right pursuant to §§ 1, 2, 6, 8, and 9, art. II, Constitution of Montana (1972), and Title 2, chs. 3 and 4, Montana Code Annotated\(^1\), the Board of County Commissioners of Richland County, Montana submits these written views and arguments.

By its express terms, the Notice addresses only § 24.17.127, A.R.M. The amendments would be only to subsections (1)(e), (f), (g), and (h). In each of those subsections, the amendments would change only the year references from 2019 to 2020. Thus, those changes are formal.

The substantive changes occur in the proposed publications identified in Section 4 of the Notice as “preliminary building construction rates,” “preliminary construction rates,” “preliminary heavy construction rates,” and “preliminary nonconstruction [sic] rates.” Those publications appear separately from the Notice on the Department’s website.

In the development of those proposed substantive publications, heavy construction rates and highway construction rates are set on a statewide basis.\(^2\) For building construction services and non-construction services, the administrative rules establish four districts, and each district has one or more “dispatch cities” that determine the information used to develop the proposed prevailing wage rates.\(^3\) Thus, while the proposed amendment is only to § 24.17.127, A.R.M., that section cannot and does not operate by itself. It is dependent on

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\(^1\) See also, Fritz Snyder, *The Right to Participate and the Right to Know in Montana*, 66 Mont. L. Rev. 297 (2005).

\(^2\) § 18-2-414, M.C.A. and §§ 24.17.120 and 24.17.121, A.R.M.

\(^3\) §§ 24.17.107, 24.17.119, 24.17.122, and 24.17.193(11), A.R.M.
the provisions that establish the districts and the dispatch cities. Any amendment of prevailing wage rates involves issues about the districts and dispatch cities.

Richland County is in District 4. The dispatch cities are defined as:

“Dispatch city” is the courthouse in the city from the following list which is closest to the center of the job and within the same prevailing wage district, if any: Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, and Missoula.

All districts besides District 4 have at least two dispatch cities, reducing distances from a dispatch city to various parts of the respective districts. District 4 has only one dispatch city, Billings. District 4 is very large. Billings is in a corner of the district. Billings is substantially farther away from many parts of District 4 than is the distance from dispatch cities in other districts to the furthest point in those districts. Billings is 271 miles from Sidney, 340 miles from Scobey, and 354 miles from Plentywood. That distance is greater than the entire north-south axis of District 1 that has two dispatch cities.

Rates determined based on Billings as the only dispatch city in District 4 are not, as a matter of fact, actually the “prevailing” rates in substantial parts of the district. The lack of sufficient and dispersed dispatch cities in District 4 results in higher-than-prevailing costs to public projects. This is harmful to taxpayer and public interests. It makes projects more expensive in places like Sidney and Miles City than they should be.

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4 § 24.17.107(2)(d), A.R.M.
A letter from the Commissioner of the Montana Department of Labor & Industry to the Board of County Commissioners in Custer County dated May 21, 2019 alleges:

We were told Sidney and Miles City do not have a sufficient number of local contractors or the local expertise to complete the designed projects.

The grammar of we “were told” masks who told you that. The letter does not identify the sources. It does not identify the occasion of that communication. It does not say what invitation or notice to provide information was given by the Department, and hence whether anything like reasonably complete information was obtained about available local contractors. Richland County received no notice to provide such information.

In the past 10 years, Richland County has undertaken multiple substantial construction projects, and they were completed by local contractors and contractors much closer to us than Billings. Thus it is difficult for us to believe the alleged information.

We believe that the question of amending the dispatch cities in District 4 should be noticed to elicit the proper participation of the public in the operations of government in making decisions about prevailing wage rates. The procedure followed thus far is not really open to public participation when it does not allow consideration of adding dispatch cities to District 4 and yet the designation of dispatch cities is determinative of the resulting prevailing rates.

Sincerely,

_________________________    _________________________    _______________________
Loren H. Young          Shane Gorder          Duane Mitchell
Chairman                Commissioner         Commissioner

TRH:mmi

CC:  Board of County Commissioners
    Custer County, Montana
    1010 Main Street
    Miles City, MT 59301