

OFFICE OF THE GOVERNOR  
STATE OF MONTANA

STEVE BULLOCK  
GOVERNOR



MIKE COONEY  
LT. GOVERNOR

**TO:** Montanans; all officers and agencies of the State of Montana  
**FROM:** Governor Steve Bullock  
**DATE:** November 2, 2020  
**RE:** Directive implementing Executive Orders 2-2020 and 3-2020 and waiving weekly pay requirements for ambulance service contracts entered into by the State of Montana

Executive Orders 2-2020 and 3-2020 declare that a state of emergency exists in Montana due to the global outbreak of COVID-19 Novel Coronavirus.

For the duration of a declared state of emergency, § 10-3-104(2)(a), MCA, authorizes the Governor to “suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or orders or rules of any state agency if the strict compliance with the provisions of any statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster.” Further, § 10-3-104(2)(c), MCA, authorizes the Governor to “control ingress and egress to and from an incident or emergency or disaster area, the movement of persons within the area, and the occupancy of premises within the area,” and § 10-3-305(2), MCA, provides that “all officers and agencies shall cooperate with and extend their services and facilities to the governor as the governor may request.”

The State Emergency Coordination Center must contract with emergency medical service transport providers for the transport of patients between hospitals and other medical facilities. This transport is essential to treat patients and to help ease the strain on local healthcare facilities under pressure from increased COVID-19 patient numbers. Contracts entered into by the State are considered public works contracts and are subject to our prevailing wage laws. Section 18-2-401(11)(a), MCA. Section 18-2-423, MCA, requires payment of public works contract wages on a weekly basis. Given current constraints on time and due to urgent patient needs, it is not feasible for some potential contractors to alter their business and bookkeeping processes from a biweekly to a weekly payroll system. I therefore find that strict compliance with the provision of § 18-2-423, MCA, requiring that employees paid an hourly wage be paid on a weekly basis would prevent, hinder, or delay necessary action in coping with the emergency presented by the COVID-19 pandemic.

In accordance with the authority vested in me under the Constitution, Article VI, Sections 4 and 13, and the laws of the State of Montana, Title 10, Chapter 3 and Title 50, Chapter 1, MCA, and other applicable provisions of the Constitution and Montana Law, I hereby direct the following, effective immediately:

- Section 18-2-423, MCA is waived as it relates to payment of employees on a weekly basis by emergency medical transport contractors for the State Emergency Coordination Center. All other public works contract requirements, including payment of established wage rates, remain in full force and effect.

**Authorities: Section 10-3-104, MCA;** Executive Orders 2-2020 and 3-2020; Montana Constitution, Art. VI, Sections 4 and 13; §§ 10-3-103, -302, and -305, MCA; §§ 50-1-202, -203, and -204, MCA; and all other applicable provisions of state and federal law.

### **Limitations**

- This Directive shall be implemented consistent with applicable law and subject to the availability of appropriations.
- This Directive is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the State of Montana, its departments, agencies, or entities, its officers, employees, or agents, or any other person.
- Nothing in this Directive shall be construed to limit, modify, or otherwise affect the authority granted by law to the Governor or any department, agency, political subdivision, officer, agent, or employee of the State of Montana, except as provided in this Directive or other Directives now in effect implementing Executive Orders 2-2020 and 3-2020.
- If any provision of this Directive or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Directive, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Directive are declared to be severable.
- This Directive is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the State of Montana, its departments, agencies, or entities, its officers, employees, or agents, or any other person.