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I N   S E N A T E

June 13, 2014

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Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT relating to joint bidding on contracts for public work projects and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. This act shall only apply to a city with a population of  
2     one million or more.  
3     S 2. a. "Utility interference work" shall mean any work that is  
4     deemed necessary or desirable for the completion of a public work  
5     project that requires the maintenance, support, protection or other  
6     accommodation of energy, telecommunications or other private facilities  
7     or structures not publicly owned which are located within, traversing or  
8     adjacent to the construction area of such project, whether above, below  
9     or at ground level, including the removal, relocation, alteration,  
10    replacement, reconstruction or improvement of such facilities or struc-  
11    tures.  
12    b. "New York city utility interference work project" shall mean any  
13    public work project within the city of New York for which the city  
14    awards a contract which includes utility interference work in such  
15    contract.  
16    S 3. a. Notwithstanding any general, special or local law or rule or  
17    regulation to the contrary, the city of New York may include utility  
18    interference work in any contract for a public work project, provided  
19    however that chapter 357 of the laws of 1988, known as the "gas facility  
20    cost allocation act", shall continue to apply as set forth therein. If  
21    the city of New York undertakes a New York city utility interference  
22    work project, the city shall award the contract to the lowest responsi-  
23    ble bidder. In the event that the utility interference work is not  
24    included in the city's contract, nothing in this subdivision shall  
25    prevent the city from including provisions in its contracts requiring  
26    contractors to engage in alternate methods of dispute resolution regard-  
27    ing utility interference work. Further, nothing in this section is to be

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 deemed to alter, modify, amend, or revoke any of the rules presently  
2 existing that govern the responsibility between the metropolitan trans-  
3 portation authority and the public utilities for the payment of any of  
4 the costs required for the maintenance, support, protection, or other  
5 accommodation of any energy, telecommunication, or other private facili-  
6 ties or structures.

7 b. Notwithstanding any general, special or local law or rule or regu-  
8 lation to the contrary, when the city awards a contract for a New York  
9 city utility interference work project the city shall require contrac-  
10 tors and subcontractors to have, prior to entering into such contracts,  
11 a record of maintaining harmonious labor relations, a commitment to  
12 working with minority- and women-owned businesses through joint ventures  
13 or subcontractor relationships, and a record of protecting the health  
14 and safety of workers on construction projects and job sites demon-  
15 strated by their experience modification rates for each of the last  
16 three years. In addition, when the city awards a contract for a New York  
17 city utility interference work project that exceeds one million dollars,  
18 the city shall require contractors and subcontractors to have, prior to  
19 entering into such contracts, apprenticeship agreements appropriate for  
20 the type and scope of work to be performed, that have been registered  
21 with and approved by the commissioner of the department of labor, and  
22 that have been in successful operation for a period of not less than  
23 three years.

24 c. Contracts awarded pursuant to this act are contracts subject to the  
25 requirements of local law number 1 of the city of New York for the year  
26 2013.

27 d. A New York city utility interference work project shall not be  
28 subject to the provisions of this act where compliance with the  
29 provisions of this act would violate the terms or conditions of any  
30 applicable federal law or regulation.

31 S 4. Notwithstanding any provisions to the contrary in this act, any  
32 Lower Manhattan redevelopment project, as defined in section 3 of chap-  
33 ter 259 of the laws of 2004, known as the Coordinated Construction Act  
34 for Lower Manhattan, as amended, shall be governed by such act while  
35 such act remains in effect.

36 S 5. Severability. If any clause, sentence, paragraph, section or part  
37 of this act shall be adjudged by any court of competent jurisdiction to  
38 be invalid such judgment shall not affect, impair or invalidate the  
39 remainder thereof, but shall be confined in its operation to the clause,  
40 sentence, paragraph, section or part thereof directly involved in the  
41 controversy in which such judgment shall have been rendered. It is here-  
42 by declared to be the intent of the legislature that this act would have  
43 been enacted even if such invalid provisions had not been included here-  
44 in.

45 S 6. This act shall take effect immediately and shall expire and be  
46 deemed repealed December 31, 2024.