

STATE OF NEW YORK

2057--B

2021-2022 Regular Sessions

IN ASSEMBLY

January 14, 2021

Introduced by M. of A. REYES, DINOWITZ, McMAHON, LAVINE, JOYNER, CRUZ, BARNWELL, WALLACE, SEAWRIGHT, GOTTFRIED, DeSTEFANO, SIMON, SCHMITT, OTIS, JACOBSON, CARROLL, L. ROSENTHAL, STECK, DICKENS, GUNTHER, BRABEC, DAVILA, STERN, GALLAGHER, SILLITTI, BRONSON, BURDICK, THIELE, BRAUNSTEIN, EPSTEIN, GANDOLFO, DURSO, JACKSON, ENGLEBRIGHT, LAWLER, SEPTIMO, DARLING, MAMDANI, ZINERMAN, J. D. RIVERA, FORREST, KELLES -- Multi-Sponsored by -- M. of A. CAHILL, LUPARDO, McDONOUGH, B. MILLER -- read once and referred to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Labor in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to enacting the "roadway excavation quality assurance act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "roadway excavation quality assurance act".

3 § 2. The labor law is amended by adding a new section 224-e to read as
4 follows:

5 § 224-e. Workers on excavations. 1. For the purposes of this section:

6 a. "Covered excavation project" shall mean construction work for which
7 a permit may be issued to a utility company, or its contractors or
8 subcontractors by the state, a county or a municipality to use, exca-
9 vate, or open a street.

10 b. "Department of jurisdiction" shall mean the department of the
11 state, board or officer in the state, or municipal corporation or
12 commission or board appointed pursuant to law, whose duty it is to issue
13 a permit to a utility company, or its contractors or subcontractors, for
14 a covered excavation project.

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

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1 c. "Fiscal officer" shall mean the commissioner; except for covered
2 excavation projects performed pursuant to a permit issued by a city with
3 a population in excess of one million in which case the "fiscal officer"
4 shall be the comptroller or other analogous officer of such city.

5 d. "Utility company" shall have the same meaning as subdivision twen-
6 ty-three of section two of the public service law.

7 2. Each utility company, or its contractors or subcontractors, shall
8 be required to shall be required to pay not less than the prevailing
9 rate of wage in the same trade or occupation in the locality within the
10 state where such covered excavation project is situated to each laborer,
11 worker, or mechanic in the employ of the utility company, or its
12 contractors or subcontractors, performing work on the project in accord-
13 ance with sections two hundred twenty and two hundred twenty-b of this
14 article. No permit shall be issued for a covered excavation project
15 until an agreement confirming the payment of wages as required by this
16 section has been contractually mandated and filed with the department of
17 jurisdiction, and all permits issued after the effective date of this
18 section shall include therein a copy of this section.

19 3. The enforcement of any covered excavation project pursuant to this
20 section shall be subject to the requirements of sections two hundred
21 twenty, two hundred twenty-a, two hundred twenty-b, two hundred twenty-
22 three and two hundred twenty-four-b of this article and section two
23 hundred twenty-seven of this chapter and within the jurisdiction of the
24 fiscal officer; provided, however, nothing contained in this section
25 shall be deemed to construe any covered excavation project as otherwise
26 being considered public work pursuant to this article.

27 4. Notwithstanding the provisions of any general, special or local
28 law, or judicial decision to the contrary, a covered excavation project
29 shall exclude any construction work performed under a pre-hire collec-
30 tive bargaining agreement between the utility company or its contractors
31 and subcontractors and a bona fide building and construction trade labor
32 organization which has established itself as the collective bargaining
33 representative for laborers, workers, or mechanics who will perform work
34 on such a project, and which provides that only contractors and subcon-
35 tractors who sign a pre-negotiated agreement with the labor organization
36 can perform work on such a project, or construction work performed under
37 a labor peace agreement, project labor agreement, or any other
38 construction work performed under an enforceable agreement between a
39 utility company or contractor and a bona fide building and construction
40 trade labor organization.

41 5. The fiscal officer may issue rules and regulations governing the
42 provisions of this section. Any violation of this section shall be
43 grounds for determinations and orders pursuant to section two hundred
44 twenty-b of this article.

45 § 3. This act shall take effect on the thirtieth day after it shall
46 have become a law and shall apply to all contracts for construction
47 executed and permits issued on or after such date.