STATE OF NEW YORK

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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, BRABENEC, 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:

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

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

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

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

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

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

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

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

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

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

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

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

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