

# STATE OF NEW YORK

1252

2021-2022 Regular Sessions

## IN SENATE

January 8, 2021

Introduced by Sens. GIANARIS, BAILEY, BROOKS, COMRIE, GAUGHRAN, GOUNARDES, HARCKHAM, HOYLMAN, JACKSON, KAMINSKY, KAPLAN, KAVANAGH, KENNEDY, LIU, MYRIE, RAMOS, RIVERA, SALAZAR, SANDERS, SAVINO, SKOUFIS, STAVISKY, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

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 28 to read as  
4 follows:

5 § 28. Workers on excavations. 1. All utility companies or their  
6 contractors, to whom a permit may be issued by the state, a county or a  
7 municipality to use, excavate, or open a street, shall be required to  
8 pay not less than the prevailing rate of wage in the same trade or occu-  
9 pation in the locality within the state where such project is situated  
10 to each laborer, worker, or mechanic in the employ of the utility compa-  
11 ny or its contractors performing work on the project for which such  
12 permit was issued. The prevailing rate of wage for the type and scope of  
13 work performed on a project for which a permit shall be issued shall be  
14 established by the fiscal officer pursuant to section two hundred twenty  
15 of this chapter. No permit shall be issued until an agreement confirm-  
16 ing the payment of wages as required by this section has been contractu-  
17 ally mandated and filed with the appropriate state, county or municipal  
18 agency, and all permits issued after the effective date of this section  
19 shall include therein a copy of this section. When permits are issued  
20 to utility companies or their contractors, the power to enforce the  
21 terms of this section shall be vested with the department consistent  
22 with the provisions of section two hundred twenty of this chapter.

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

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1 2. Notwithstanding the provisions of any general, special or local  
2 law, or judicial decision to the contrary, a utility company may require  
3 contractors or subcontractors of any tier awarded a contract, subcon-  
4 tract, or other agreement for a project subject to this section to be  
5 performed under a pre-hire collective bargaining agreement between the  
6 utility company or its contractors and subcontractors and a bona fide  
7 building and construction trade labor organization which has established  
8 itself as the collective bargaining representative for laborers, workers  
9 or mechanics who will perform work on such a project, and which provides  
10 that only contractors and subcontractors who sign a pre-negotiated  
11 agreement with the labor organization can perform work on such a  
12 project, or construction work performed under a labor peace agreement,  
13 project labor agreement, or any other construction work performed under  
14 an enforceable agreement between a utility company or contractor and a  
15 bona fide building and construction trade labor organization.

16 § 3. This act shall take effect on the thirtieth day after it shall  
17 have become a law.