STATE OF NEW YORK

1252--A

Cal. No. 832

2021-2022 Regular Sessions

IN SENATE

January 8, 2021

Introduced by Sens. GIANARIS, ADDABBO, BAILEY, BROOKS, BROUK, COMRIE, GAUGHRAN, GOUNARDES, HARCKHAM, HINCHEY, HOYLMAN, JACKSON, KAMINSKY, KAPLAN, KAVANAGH, KENNEDY, LIU, MANNION, MATTERA, MAYER, MYRIE, RAMOS, RIVERA, RYAN, SALAZAR, SANDERS, SAVINO, SKOUFIS, STAVISKY, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

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 28 to read as follows:

§ 28. Workers on excavations. 1. All utility companies or their contractors, to whom a permit may be issued by the state, a county or a municipality to use, excavate, or open a street, 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 project is situated to each laborer, worker, mechanic, or operator in the employ of the utility company or its contractors performing work on the project for which such permit was issued. The prevailing rate of wage for the type and scope of work performed on a project for which a permit shall be issued shall be established by the fiscal officer pursuant to section two hundred twenty of this chapter. No permit shall be issued until an agreement confirming the payment of wages as required by this section has been contractually mandated and filed with the appropriate state, county or municipal agency, and all permits issued after the effective

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

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date of this section shall include therein a copy of this section. When permits are issued to utility companies or their contractors, the power to enforce the terms of this section shall be vested with the department consistent with the provisions of section two hundred twenty of this chapter.

2. Notwithstanding the provisions of any general, special or local law, or judicial decision to the contrary, a utility company may require contractors or subcontractors of any tier awarded a contract, subcontract, or other agreement for a project subject to this section to be 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, mechanics, or operators 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.

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